

WAYS AND MEANS

COMMITTEE

of the

SUFFOLK COUNTY LEGISLATURE

Minutes

A regular meeting of the Ways and Means Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, Veterans Memorial Highway, Smithtown, New York, on Wednesday July 30th, 2008.

MEMBERS PRESENT:

Legislator Lou D'Amaro - Chairman
Legislator Brian Beedenbender - Vice-Chairman
Legislator Cameron Alden
Legislator Lynne Nowick
Legislator Vivian Vilorio-Fisher

ALSO IN ATTENDANCE:

George Nolan - Counsel to the Legislature
Gail Vizzini - Director, Budget Review Office
Barbara LoMoriello - Chief Deputy Clerk of the Legislature
Ben Zwirn - Deputy County Executive
Christine Malafi - County Attorney
Lynne Bizzarro - County Attorney's Office
Linda Bay - Aide to Minority Leader
Paul Perillie - Aide to Majority Leader
Kara Hahn - Aide to P.O. Lindsay
Debra Alloncius - AME
Joseph Imperial - SCCC
Russell Berse - American Honda Motors
Chris DeStio - John J. Foley Skilled Nursing Facility
Dorothy Kerrigan - John J. Foley Skilled Nursing Facility
Deborah Kelly - John J. Foley Skilled Nursing Facility
All other interested parties

MINUTES TAKEN BY:

Donna Catalano- Court Stenographer

(*THE MEETING WAS CALLED TO ORDER AT 10:09 A.M.*)

CHAIRMAN D'AMARO:

Okay. Good morning, Ladies and Gentlemen. Welcome to the Ways and Means committee of the County Legislature. Please rise and join the committee in the Pledge of Allegiance led by Legislator Nowick

SALUTATION

Once again, welcome. The first part of our agenda is the public portion. We have several cards this morning. I'd like to encourage everyone to come up and speak. When you do, please state your name and address for the record. And you will be given three minutes to address the committee. First person is Zabby.

MS. ZABBY:

The last time I was at this committee was in December when the bill to televise died at the end of the year. And I was told that Legislator Kennedy would introduce another one. And Bill Lindsay was here with -- in fact, to veto in case it had any chance of passing at all to make sure that it was a 3-3 vote, because he can -- in fact, I don't know why we have 18 Legislators. We should just have Mr. Lindsay, because he can then just determine what resolution gets out to the 18 of you. But rather than doing that -- he can just determine, I'm saying, what resolution gets done rather than having the 18 of you, let me rephrase that.

So in any case, I was told -- in fact, Mr. Lindsay said there was a study being done. Now, here we are in July. We are seven months after that, and nothing has been done except I heard that you wanted to censure the committee meetings. And that was the last thing I heard, because you, again, are working with misinformation. I was censured at that meeting, this last meeting of the Ways and Means Committee that I attended in December of 2007. And I was censured because I knew the answers. I've been deemed an expert in all of the East End towns and Brookhaven here and Smithtown. And this Committee Chairman, Mr. Lou D'Amaro, would not recognize me.

And also, I discovered at the end of the meeting, God is good, because at the end of the meeting I discovered Mr. D'Amaro is affiliated with Rifkin and Radler, a firm that represented Cablevision against the People of Huntington. And he should have recused himself, but in fact, he censured me. And just in October, he was very willing to send out an application that was written with the preferences of Cablevision. And instead, the law was circumvented. And George Nolan had a big responsibility in that as well.

And so still, I've been here -- and Mr. Romaine promised me in May of 2006, now, over two years, that he would get this televised. He finally dawdled and got a proposed proposal, not a resolution, to table. And the study has been going on --

CHAIRMAN D'AMARO:

Please wrap up, your time has expired.

MS. ZABBY:

Okay. The study has been going on since June of 2007, now over a year. And this board and this whole Legislature works inefficiently with our taxpayer dollars, and the people should see this.

CHAIRMAN D'AMARO:

Okay. The next speaker this morning is Chris DeStio. Mr. DeStio, good morning.

MR. DESTIO:

Good morning to everybody. My name is Chris Destio, I reside in Mastic Beach. And I'm here in

support of IR 1633. And anything to do with the sale or closing of the John J. Foley Nursing Facility should be considered with a great deal of thought and understanding. When a nursing home closes, there are profound human consequences; frail elders lose their homes, hardworking caregivers lose their jobs, and the community loses a valuable resource forever.

According to AARP, it is critical to take into account the importance of having family and friends close to visit and provide such needed care to residents. If additional nursing homes are forced to close, seniors will have to be forced to relocate to other facilities, possibly far away from friends and family. I have baby-boomer statistic here I'd like to also bring up here, and I've got copies if you want it to read for anybody.

Between 1946 and 1964, about 76 million children, the baby-boom generation, were born in the United States. The baby-boomers grew up during one of the longest periods of sustained economic growth in US history. The boomers represent disproportionately a large segment of the population, roughly 28%, and would soon swell the ranks of the elderly as they reach their retirement. By 2030, when the youngest boomers reach retirement age, the elderly population will nearly double what it is today. By 2050, the youngest survivor boomers will have grown more than 300%. And we are told we don't need the John J. Foley Nursing Facility.

I feel this is very needed vital information, and we need to have this facility for many reasons; for the upcoming baby boomers and the needy, the sick, and, of course, our vets coming back from Iraq. We need to have the resources here to take care of all kinds of people. And I grant you we can run more efficiently, but we need the tools to do it. We need the properly trained staff, and we need some of the positions to be filled, especially the ones who are leaving us to retire.

John J. Foley shouldn't have to wait to fill vital positions. And it's a shame that because we want to get a top bond rating, it will be on the backs of our residents at John J. Foley. Some people could argue that a private facility can provide the same quality care as John J. Foley, but I totally disagree with that statement. Even though the State has regulations that all nursing homes must follow, when a facility is profit-driven, money is its driving force, because it's ran like a business. When a facility is not-for-profit, the care is a lot better, and the care of the residents is the primary goal. So please keep an open mind when dealing with this issue. And I thank each and every Legislator here today for the continued support for our residents and staff. Thank you.

CHAIRMAN D'AMARO:

Yes. Legislator Alden had a question for you. Chris, if you'd just step back up for one moment, Legislator Alden did have a question. Thank you.

MR. DESTIO:

Yes, sir.

LEG. ALDEN:

You seem to be here all the time representing basically the people that work at Foley and also the people that are at Foley. And I don't know if you're in an official committee or a nonofficial, because some of the other people that are with you are very familiar faces too. Have you had an opportunity to see the reports that were done on Foley?

MR. DESTIO:

Yes. The HMM report? We actually -- well, we went through it, and we were more than concerned what was not in the report than what was in the report. You know, there's a lot of things that were not mentioned; you know, different statistics, like, you know, they had the agencies nurses, they only went up to 2005 and they could have went further, it was archived, they never looked into that.

LEG. ALDEN:

Is there any way you could just, you know, drop me a note or drop us note as a committee and then we can all look at that with your concerns of what wasn't in the report as opposed to even your

comments on what was in the report?

MR. DESTIO:

Yes. Yes, sir. We actually have -- if you give me about a week, we actually have everything together. We've just got it in form type, and I can do that for you.

LEG. ALDEN:

Well, you just have to watch out, because we seem to be moving pretty quickly on things here.

MR. DESTIO:

I'll get it as fast as possible, sir.

LEG. ALDEN:

Thank you.

CHAIRMAN D'AMARO:

Thank you, again, Chris. We appreciate your time. The next speaker this morning is Dorothy Kerrigan. Ms. Kerrigan, good morning and welcome.

MS. KERRIGAN:

Good morning. My name is Dot Kerrigan, I live in Ronkonkoma. One of our other members of our group will -- can talk a little bit more in depth about that, she is going to speak after me, I believe.

As a lifelong resident of Suffolk County, I am a little bit different than Abbey (sic), because I've never been prouder of our local elected officials. The Suffolk County Legislature could teach Washington a lesson as far as I'm concerned, because I know -- I've been here when there's been some heated discussions, but you all seem to work well together when it's -- when it's needed. There's a lot of compromise.

On behalf of myself and over 10,000 signators on the petition to keep John J. Foley County-owned and County-operated, I thank you each and every one of you. We realize that these are difficult times, and we've all had to make tough choices, but not on the backs of the sick and disabled. As a nurse, it is my one great wish for our society that no one goes without quality health care. It's a national crisis, we all know that.

Less than two months ago -- I'm just going to go into this one personal experience -- one of my residents on my unit passed away. He was a World War II Veteran, and he had documentation on his chart, he had lost a leg and was in kidney failure. His children needed him close to home. His younger son owns a business local to the facility. And although his three children were 100% cooperative, they had very limited resources, they were never able to get the insurance benefit he needed to be a resident in good standing at the Foley Center. You know, I've heard stories where people have spent six to \$7000 on a specialist to get them the Medicaid Benefits. It's hard to believe, but people who I know are not exaggerating have told me so.

After three years at our facility, this gentlemen went out to the hospital for the last time. Although he had no coverage, we took him back from the hospital, and he passed away two days later. As a widower he had met and married another John J. Foley long-time resident, and they shared a room. And it was his daughter's wish that he be reunited with his wife before he died. For his funeral services, a local businessman donated a beautiful suit which he was buried in.

This is an example -- this is one example of how the County nursing home runs. It's really as unique, and it's like no other. We all agree there's a need to be more efficient, but the County home is a not-for-profit home. The business end of it, it happens on the first in the administration offices. Floors two to five are the people's floors where the care is given, and I attest, it really is second to none. And it is a unique facility. And we really thank you for all the work you've done to help us stay a viable part of the community. Thank you.

CHAIRMAN D'AMARO:

Okay. Thank you. Next on the list this morning is Deborah Kelly. Ms. Kelly, good morning and welcome.

MS. KELLY:

My name is Deborah Kelly, and I'm a food service worker in the Dietary Department at the John J. Foley Skilled Nursing Facility. I have spoken before you several times regarding very important issues facing us at John J. Foley. I would like to take a moment to thank each of you for your continued commitment to such a great institution. I also thank you for speaking so highly about our facility, the residents who call John J. Foley home and the civil servants who take care of them daily. We truly are a unique facility.

We have brought to your attention many cost measuring -- we have brought to your attention cost-saving measures that should be implemented as they would drastically change our profitability. Thanks to the support of the entire Legislative body, we civil servants and residents who reside at John J. Foley now have a voice. With that voice, we are able to oppose the County Executive's intent to dismantle this facility that is cherished by so many.

The facts presented by the County Executive to the media have often been false and misleading. If the County Executive wants to be honest with his constituents, he should disclose all relevant financial facts pertaining to the mismanagement of this facility as disclosed in the John J. Foley financial statements and other management reports. It is up to this body to insist on full disclosure and set the record straight. We look forward to your continued support, which we know we can count on. Together, we will preserve the John J. Foley Skilled Nursing Facility for generations to come.

As far as the HMM report, we are comparing apples to oranges. We are comparing John J. Foley to for-profit and not-for-profit facilities, which we are neither. We are a County-run facility. If we aggressively pursued our accounts receivable, it would affect our financial bottom line. And we do all agree that changes need to be made, but we need someone in the facility to implement the changes. Thank you.

CHAIRMAN D'AMARO:

Okay, Ms. Kelly. Thank you, again, for your time. The last card that I have this morning is submitted by Debra Alloncius, representing the Association of Municipal Employees. Good morning.

MS. ALLONCIUS:

Good morning, Chairman D'Amaro, how are you this morning?

CHAIRMAN D'AMARO:

Fine.

MS. ALLONCIUS:

Good. I'm here to address the Legislature on two issues this morning. One issue is the software that the -- for the case management system for the District Attorney's Office. AME supports anything that will make it -- the job easier for any of our units. But we just -- I just have trepidation because we're buying software off the shelf. And the debacle that we had with the day care software, I think that we should make sure that this -- that this program will be -- will make it easier for the members and does, you know, make a good ends to the means. Because it can be a horror as we're exhibiting now.

And in answer to your questions regarding the committee that seems to be before you from John J. Foley, I have spoken in support of this group. They have been absolutely wonderful. There have been about 10 dedicated -- ten to 12 have been very dedicated and have been pursuing the -- to no

avail lately, the holding back of the sale of the J. J. Foley Nursing Home.

They all come to you with a bit of the piece of the puzzle. And I welcome Legislator Alden for asking for that input, because they're the people who could give you the input. And when they talk about the accounts receivable, in going over that HMM report, all of the things that HMM has instituted should have been followed all along. You're losing millions of dollars. You've got veterans there who aren't getting aid and attendance, that's, like, over \$2000 a month. You've never collected a penny for them. There's all sorts of programs. That maximization in Medicare was never done. You're not filing for Medicare Part B.

I venture to say you're looking at at least \$4 million a year lost revenue because we know how to follow through. And the Medicaid application is insane. It's our department, it's our own County. You know, we have people sitting in the hospitals. You could have a worker dedicated in the DSS Medicaid Unit to do that over in Chronic Care. There's no reason for that. It's not that hard to facilitate the Medicaid applications, especially for our own County facility to keep it running. My God, you know, how could we do that.

But I do want to say, again, that AME could not be prouder of the work that Chris DeStio has been doing. And I know he has met with many of you. And their ad hoc committee is very much appreciated. And we appreciate all the respect that you have given and the time and care that has been gone into trying to protect this asset. And I really would like to thank John Kennedy for trying to have the privatization law upheld. I think it's marvelous. We should. Thank you.

CHAIRMAN D'AMARO:

Okay. Deb, if you would just come back up. Legislator Vilorio-Fisher has a question. Please, go ahead.

LEG. VILORIA-FISHER:

Hi. Thank you for being here. Thank you, Mr. Chair. I'm referring back to IR 1600, because I had just been reviewing that as you began to speak, interestingly enough. And I do know the kind of problems that we had with Kinder-Track and Kinder-Attend. What leads you to believe that we would be having the same problems with this?

MS. ALLONCIUS:

Nothing. I'm just -- it's just a heads-up. Let's make sure. I did speak with the union, and they have -- they're very much in support of the program and having it done. I'm just saying that I think we really -- I just want to make sure that we don't have a problem like this again. They have said that they think that the program is ample, but I want to make sure -- give you a heads-up to make sure that it's vetted well.

LEG. VILORIA-FISHER:

To whom are you pointing when you're talking?

MS. LAURENTINO:

Paula Laurentino from the District Attorney's Office.

MS. ALLONCIUS:

And they're here in support of it today. And we're very much in support of having it done, but I just want to -- you know, after the problem --

LEG. VILORIA-FISHER:

With Kinder-Attend and Kinder-Track.

MS. ALLONCIUS:

Yes. I would not want to see them have to go through any of horrors that that other unit is going through.

LEG. VILORIA-FISHER:

Okay. Mr. Chair?

CHAIRMAN D'AMARO:

Yes.

LEG. VILORIA-FISHER:

When we get to this resolution, through the Chair, could we invite the representative from the DA's Office to come up and answer some questions, because this would be, you know, very important information that we could glean from her comments?

CHAIRMAN D'AMARO:

Of course.

LEG. VILORIA-FISHER:

Thank you, Mr. Chair.

CHAIRMAN D'AMARO:

I don't have any more cards. Is there anyone else present who would like to address the committee this morning? Also, just a note for the committee, I was informed that Esther Bivona, who is the Receiver of Taxes in the Town of Huntington may be on her way here to talk to the committee about IR 1651. If and when she arrives, I'd like to give her an opportunity to speak. She is just running late, and perhaps she could join us when we actually take the bill up on the agenda. Next section on the agenda is Tabled Resolutions.

Resolution 1054, Adopting Local Law No. 2008, A Local Law to strengthen competitive procurement procedures and maximize savings for taxpayers. (Eddington)

LEG. BEEDENBENDER:

Motion to table.

CHAIRMAN D'AMARO:

Motion to table by Legislator Beedenbender. I'll second. All in favor? Opposed? Abstentions?

Motion carries.

TABLED (VOTE: 5-0-0-0).

1158, Naming the Supreme Court Building in Riverhead the "Thomas M. Stark Supreme Court Building". (Romaine)

LEG. BEEDENBENDER:

Motion to table.

CHAIRMAN D'AMARO:

Motion to table. I'll second.

LEG. ALDEN:

On the motion.

CHAIRMAN D'AMARO:

On the motion, Legislator Alden.

LEG. ALDEN:

I think the reason why it was tabled last time was in the Naming Committee. Did we have any action out of there?

LEG. NOWICK:

The Naming Committee did meet a few times. We had a lot of discussion about that. There was no vote taken, there was no consensus on it.

LEG. ALDEN:

Thank you.

CHAIRMAN D'AMARO:

Okay. Thank you, Legislator Alden. There was motion to table with a second. I'll call the vote. All in favor? Opposed? Abstentions? Motion to table carries. **TABLED (VOTE: 5-0-0-0).**

1324, Creating the Asset Evaluation Review Board for the sole purpose of soliciting and reviewing proposal for the sale/lease back of the H. Lee Dennison Building. (Romaine)

LEG. BEEDENBENDER:

Motion to table.

CHAIRMAN D'AMARO:

Motion by our Vice-Chair Legislator Beedenbender to table, I'll second.

LEG. ALDEN:

On the motion.

CHAIRMAN D'AMARO:

On the motion, Legislator Alden.

LEG. ALDEN:

It looks like it's going to get tabled today, but we really should have some serious discussions about this, because I noticed that it looks like just for hot water heaters, one plus million dollars. And this building is quite expensive as far as going to our bottom line and where we want to really allocate our really very rare resources. So something really should be considered. We should give this serious consideration to maybe getting rid of such an expensive asset or -- and I'm not even going to call it an asset at this point, because it's a drain on operating funds.

And maybe somebody could correct me if I'm wrong, but isn't there something pending for over a million dollars worth of just hot water heaters for this building? And we just pumped tens of millions of dollars into renovations of the building. We put in windows and installation and some other kind of stuff. Right or wrong?

MR. ZWIRN:

Through the Chair. Yes, there have been a number of capital projects with respect to the H. Lee Dennison Building. And I think at some point the County Executive would say maybe it would not be -- you know, it might be a good idea to take a look at it, but right now, all the tenants in that building, so to speak, are the County Attorney's Office, the Comptroller's Office, the Treasurer's Office, our non-reimbursed agencies. And in the rented buildings that the County leases today, where you have the Health Department, Social Services, where the rent is reimbursed. So therefore, this would be one that if we lease this building back, it would be 100% County dollars that we would be putting into it.

LEG. ALDEN:

And that's good to know, but my point is this seems like a money pit. And we really should be looking at, you know, places in the County that are money pits. If we're going to look at one, we should look at all of them. And this really seems to be sucking down some dollars very quickly and very hard. I'm just mentioning it because I saw the resolution for hot water heaters.

MR. ZWIRN:

I think we would ask for it to be tabled at this time. But at some point, an evaluation probably ought to be done.

LEG. ALDEN:

Good.

LEG. KENNEDY:

Mr. Chair.

CHAIRMAN D'AMARO:

Legislator Kennedy, Legislator Vioria-Fisher asked first, and then, of course, we'll defer to you. Legislator Fisher.

LEG. VILORIA-FISHER:

Actually, Mr. Zwirn made my points.

CHAIRMAN D'AMARO:

Okay. Thank you.

LEG. VILORIA-FISHER:

But I did have one more point.

CHAIRMAN D'AMARO:

Okay. Go ahead.

LEG. VILORIA-FISHER:

Installation and new windows generally is capital improvement that results in better energy efficiency so that in the long run that it's a cost savings.

LEG. ALDEN:

Was that addressed to me?

LEG. VILORIA-FISHER:

Yes.

LEG. ALDEN:

Can I respond?

CHAIRMAN D'AMARO:

Of course, go ahead.

LEG. ALDEN:

If it's my house and I am looking at my budget, I'm in trouble if I have to keep dumping money into that building. This building is like a white elephant basically. And my point being, maybe all of us should sit down, and maybe we don't need that building, maybe we need a green building like what you suggested and passed legislation some place else in the county to house those County office, because this thing really is a money pit. But, you know, I think I made the point and you made your point. Thank you.

CHAIRMAN D'AMARO:

Thank you, Legislator Alden and Vioria-Fisher. Legislator Kennedy.

LEG. KENNEDY:

Thank you, Mr. Chair. Although I'm not a member of the committee, I've had an interest in the Dennison Building having been at one time or another an occupant of it for many years of my career here. But it occurs to me that one of the things that might help if we looked at whether or not we

could raise some revenue through a lease-back or some other arrangement is if we had an idea of the actual current market value. And we do have an Appraisal Unit, inhouse Appraisal Unit in the Division of Real Estate. Rather than speaking about the abstract, one of the things we might ask through the Chair to the administration, would it be possible to at least seek some general type of an idea of the market value of the property at this point. For what it's worth.

CHAIRMAN D'AMARO:

Well, I -- you know, I would imagine at some point it may be worthwhile doing that, but, you know, we just passed a budget bill, we have other budget adjustment matters coming up. This is something that I'd like to table at this point. Although as Mr. Zwirn indicated, we may want to take a look at this down the road. And certainly if we get to a point where we're going to consider it, I think we should do the appraisal so we know what we're talking about and we can address it at that time.

LEG. KENNEDY:

Okay.

CHAIRMAN D'AMARO:

Legislator Nowick.

LEG. NOWICK:

Just on this Dennison Building, is the lease up on it?

LEG. ALDEN:

We own it.

LEG. NOWICK:

We own it. So what's the sale or lease-back? We want to change that, is that what this --

CHAIRMAN D'AMARO:

Well, there's a transaction that this proposes where you would sell the building to a third party and then lease it back from that third party. So now instead of an owner, you're a tenant. And you get an upfront payment for the building, which helps your cash situation in the County.

LEG. NOWICK:

So we own the building that is like the money pit, and we want to sell it. We're going to really do well on selling it.

LEG. ALDEN:

Well, some people like money pits.

MR. ZWIRN:

We won't have Legislator Alden be the broker on this one.

CHAIRMAN D'AMARO:

All right. Thank you for that dialog. There is a motion pending, I believe, to table this resolution and it has a second. I'll call the vote. All in favor? Opposed? Abstentions? Motion carries.

TABLED (VOTE: 5-0-0-0).

1343, Adopting Local Law No. 2008, A Charter Law to change the Legislative term of office. (Cooper)

Requires further public hearing. Motion by Legislator Beedenbender to table, I'll second. All in favor? Opposed? Abstentions? Motion carries. **TABLED (VOTE: 5-0-0-0).**

Next is Resolution **1451, Authorizing the reduction of the purchase price for property sold at auction that subsequently was damaged by fire Purchaser: George Kuey (SCTM No. 0200-976.90-03.00-049.000). (Co. Exec.)**

This committee has considered this bill on several prior meetings. It's continually been tabled. I believe there's an ongoing investigation into the cause of the fire. Does anyone have any comment on that.

LEG. ALDEN:

Is there any final results of the arson investigation?

MR. KENT:

We don't have final results of the arson investigation yet. We did discuss it with the investigators, and it's still ongoing. I did go back to the successful bidder from the auction, Mr. Kuey, and pursuant to the request of this committee, I did ask if he would be willing to accept it with the continued condition of owner-occupancy after closing. He would not close with the owner-occupancy requirements. The premises are inhabitable any longer, okay. That's usually the condition of our owner-occupancy requirement, is that the premises be habitable. And in our determination based on our inventory investigation -- inspections, the place -- the premises are no longer habitable. So we could terminate the transaction and he could get his money back, and then we would offer it again at auction without an owner-occupancy requirement.

CHAIRMAN D'AMARO:

You could offer it, but we wouldn't necessarily approve it.

MR. KENT:

Okay.

CHAIRMAN D'AMARO:

Right?

MR. KENT:

What do you mean?

CHAIRMAN D'AMARO:

Well, what I mean is that if this purchaser would go ahead and purchase the property with the covenant, I'm sure the intention is to restore the property back to habitable space. So to me it seems as though if there's a fire, you're circumventing the County's policy of keeping these particular parcels owner-occupied. And I think that that's a circumvention that we shouldn't stand for. So I think what we should do is defeat this resolution, okay, let Mr. Kuey have his money back, and that's fine. And then, you know what, Mr. Kent? Bring another resolution, and we'll determine whether or not we want to impose that covenant at that time.

MR. KENT:

No. What I was saying is we would offer it at a subsequent auction. After the termination of this transaction, we would offer it as a subsequent transaction to the open market -- to the open bidding again.

CHAIRMAN D'AMARO:

Right. And you're going to offer it without the covenant.

MR. KENT:

Well, the premises are not habitable.

CHAIRMAN D'AMARO:

That's correct. But whoever buys at the next auction is going to buy with the intent of restoring it to

habitable property. So we're going to be exactly in the same position. What I would recommend that you do is when you auction this property, you auction it with the covenant and the understanding, this way it's very clear to potential buyer that whoever buys this property is going to rehab it and make it into habitable space.

MR. KENT:

Okay. I mean, that's a good suggestion, I'll look at it. I mean, either that or the County make the premises habitable. I mean, that's something that we've -- we've looked at in the past. But that requires different budgeting that we don't have. We don't have a line for that type of renovation work.

LEG. VILORIA-FISHER:

Can I just ask another question?

CHAIRMAN D'AMARO:

Yes. Legislator Fisher, please go ahead.

LEG. VILORIA-FISHER:

Chris.

MR. KENT:

We could withdraw the resolution at this time or table it for further -- until the investigation is completed by the arson --

LEG. VILORIA-FISHER:

Okay. But regarding future actions, don't we often have properties that we transfer and not-for-profit groups can build habitable homes on the -- you know, Habitat for Humanity or any of the other not-for-profits can use that property?

MR. KENT:

What usually happens is we create an auction inventory, and then we allow the Affordable Housing Division to offer them out to the towns from our inventory. So I'm saying if we -- if we -- right now, this is subject to a contract. If we terminate the contract, the property then could be put on the auction inventory and offered for auction. The Affordable Housing Unit would then review it and perhaps offer it to the Town of Brookhaven to see if they're interested in making it affordable housing. And even though it was auctioned for auction, it may end up being transferred to the town for no -- you know, for no compensation.

LEG. VILORIA-FISHER:

Okay. Thank you.

CHAIRMAN D'AMARO:

Yes. Legislator Alden.

LEG. ALDEN:

Through the Chair. Chris, when this was originally was put on the auction block, it had a restriction?

MR. KENT:

Yes.

LEG. ALDEN:

For owner-occupancy?

MR. KENT:

Yes.

LEG. ALDEN:

And I find it very interesting then that the successful bidder is not interested in -- in that restriction still staying on the property.

MR. KENT:

Well, I believe because of the amount of damage. We estimate it, in our office, to be about \$40,000 to restore the premises to a habitable condition.

LEG. ALDEN:

But the only way he'll buy it even at a reduced rate -- reduced price is that if that restriction is lifted.

MR. KENT:

That's correct.

LEG. ALDEN:

Now, did you share any of those discussions with the investigator?

MR. KENT:

Yes. We have our inventory people speaking -- speaking to the investigators, yes.

CHAIRMAN D'AMARO:

Thank you, Legislator Alden. And I just want to comment on what you said. I agree with you, and that's kind of my point as well, that it's not like we impose the condition on the buyer after the fact. The buyer knew going in what the condition was; yeah, there was a fire, but the price got reduced accordingly. So it just seems to me to circumvent the County policy because of the fire doesn't make any sense. Okay.

LEG. BEEDENBENDER:

Mr. Chair.

CHAIRMAN D'AMARO:

Yes. Legislator Beedenbender.

LEG. BEEDENBENDER:

I think, you know, the action that you had suggested would be better. And correct me if I'm wrong, Chris, but you had mentioned withdrawing it. If you withdraw it, you can't give this guy his money back. If we --

MR. KENT:

No. We can terminate the contract because the damage is greater --

LEG. BEEDENBENDER:

You can terminate it without us killing it?

MR. KENT:

Under the rules of the auction, if there is a fire -- there is actually a provision in our contract that if there is a fire and the sale price is going to be reduced greater than 10% as a result of the damage, that we have the ability -- either party has the ability to terminate the contract.

CHAIRMAN D'AMARO:

What's your preference, Mr. Zwirn or Mr. Kent?

MR. ZWIRN:

I think your policy has been made clear. We'll withdraw the bill and terminate the contract.

CHAIRMAN D'AMARO:

Okay. Thank you. **WITHDRAWN.**

1483, Sale of County-owned real estate pursuant to Local Law 13-1976 James A. Smith Sr., (SCTM No. 0500-292.00-02.00-127.000). (Co. Exec.)

This is a 50 by 100 lot in the Town of Islip. It is part of a residential subdivision. I'll offer motion to approve.

LEG. ALDEN:

Actually, Mr. Chairman.

CHAIRMAN D'AMARO:

Yeah. Let's get a second. Is there a second on that?

LEG. BEEDENBENDER:

I'll second.

CHAIRMAN D'AMARO:

Seconded by Legislator Beedenbender for purposes of discussion. Legislator Alden, go ahead.

LEG. ALDEN:

I had requested that this be tabled for a couple of cycles. I did contact the Town of Islip, and they're looking to see if they can actually build an affordable house on this -- on this parcel.

CHAIRMAN D'AMARO:

My apologies. You're right. I agree with you. I was thinking that we were on another part of the agenda. All right. I'll withdraw the motion to approve. Legislator Alden, would you like to make a motion to table?

LEG. ALDEN:

Motion to table. And we should have an answer pretty quickly.

MR. KENT:

If I can be heard on that.

CHAIRMAN D'AMARO:

Yes. Mr. Kent. I'll second the motion for the record. Go ahead please.

MR. KENT:

This was tabled at the last committee meeting. The Committee Chair requested that I secure a letter from the Town of Islip. And I received a letter from Paul Kink, the Executive Director of the Community Development Agency for the Town of Islip that they are not interested in the property for affordable housing because the lot has been determined by the town to be not buildable. I have the letter here. If you would like copies, I'd be glad to --

LEG. ALDEN:

That's fine. I withdraw my tabling motion.

CHAIRMAN D'AMARO:

All right. Mr. Kent, do you know if -- looking at the tax map, we're talking -- the lot in question here is Lot Number 127. Do you happen to know if along Montana Avenue if Lot 126 is developed with a residential dwelling.

MR. KENT:

Let me take a look. There's usually an aerial photo attached to the --

CHAIRMAN D'AMARO:

I have an aerial but it's indecipherable.

MR. KENT:

One second. Let me look at it. Lot 126 appears improved, yes.

CHAIRMAN D'AMARO:

Yeah, it appears improved. So can you just explain to me why the town would respond and say you can't develop this property?

MR. KENT:

I can't. But we did request the letter. It took them a long time. They called me back on the phone a couple of times and I said, I really need this in writing. And I did just receive this letter July 18th from them. It had been previously offered by the Affordable Housing Division to the town.

CHAIRMAN D'AMARO:

You know what's interesting here also is that the successful bidder of the lot -- for this lot is an adjoining owner, but it creates an L-shaped parcel. Tax Lot Number 130 is bidding. So what you're doing is you're giving a home that fronts on Madison Avenue a second street front, side yard that's going to extend into the front yard of Lot 126.

MR. KENT:

The corner Lot 127.

CHAIRMAN D'AMARO:

Lot 127, right. That's correct.

MR. KENT:

So they're just going to expand --

CHAIRMAN D'AMARO:

Just from my planning days, it just seems to me that if the owner of Lot 130, which fronts on Madison, is going to now have a side yard extending into the front yard of Lot 127, that, in my mind, is -- you know, you get into good neighbor policies and considerations when you do something like that. I mean, the property would have to remain undeveloped, but it could still be used for recreational purposes ancillary to the use of the dwelling on Lot 130. I mean, you could put a pool on that property, which would be in the front yard of your neighbor. Or at least, you can view from the front yard of your neighbor. And the Islip Code would probably require certain setbacks, but not enough to keep it out of that front yard, so. Anyone have any thoughts on that?

MR. KENT:

The property was offered to Lot 126 also. They were included in the offer.

CHAIRMAN D'AMARO:

Is there a motion pending to the clerk?

MS. LOMORIELLO:

Well, there are two motions going on right now.

CHAIRMAN D'AMARO:

Well, I withdrew my --

MS. LOMORIELLO:

You withdrew yours. There's a tabling motion and a second.

CHAIRMAN D'AMARO:

There is a tabling motion and a second. Does anyone want to change anything before I call that vote? He withdrew his tabling motion.

The price is \$8500, I think. It would be nice to get it back on the tax roll, but I think it's going to create more problems than it solves. I'm not going to support this particular resolution, but I'll entertain any motion.

LEG. ALDEN:

I'll make a motion to table. Give me one more shot at Islip.

CHAIRMAN D'AMARO:

Okay. Motion by Legislator Alden to table, seconded by Legislator Beedenbender. All in favor? Opposed? Abstentions? Motion carries. **TABLED (VOTE: 5-0-0-0)**.

1563, Amending the Rules of the Legislature of the County of Suffolk - Rule 6(B). (Pres. Off.)

This resolution had been previously tabled by committee pending some revisions. Those revisions have now been made. And I'm going to ask our Counsel, Mr. Nolan, just give us a brief explanation.

MR. NOLAN:

The rule in question is -- has to do with the discharge of legislation from committee, which everybody knows has been a source of some contention in recent months. What we're trying to do is clarify the rule so it reflects really the practice we've had here for the last couple of years, the way that I interpreted the rule and the way the Presiding Officer had interpreted rule. So that's it's going to be clear that for a bill to be discharged going forward, it has to receive a majority of those present and voting, and that has to represent a majority of the membership of the committee. But the rules states explicitly that in determining the entire membership of the committee and what that term means, it will not include the Presiding Officer. Okay.

So in practical terms what that means is if we have a five-member committee and the Presiding Officer participates and an Ex-Officio member, to get out of the committee that day -- and he's participating -- it would have to receive for votes -- a major of those present and voting, if all the members voted.

However, if one member abstained from voting that day particular or on a particular resolution, then it would need just the three votes -- it could be discharged on 3-2-1 vote, because it would constitute a majority of those present and voting and a majority of the entire membership of the committee, which was five. I know that's probably not crystal clear, but if you have any questions, I'll be glad to try to clarify it.

CHAIRMAN D'AMARO:

In other words, if you abstain, you're not -- you're present, but you're not voting, you're abstaining.

MR. NOLAN:

Exactly. Right.

CHAIRMAN D'AMARO:

So whether you have all five members at the committee or one person, let's say, is absent, in order to reach the requirement of four votes, you need the folks that are voting, the committee members that are voting, to not only be there, but to actually vote yes or no.

MR. NOLAN:

Correct. To give another example, let's say there's a five-member committee and one of the regular appointed members is missing that particular day and the Presiding Officer sits in that particular day, you would need three votes that day to discharge a bill from committee. You would need a

majority of those present and voting -- five are present and voting that, so three would be a majority, and three would also constitute a majority of the entire membership of the committee. It makes clear that when the Presiding Officer comes in to vote, he doesn't expand the size of the committee itself.

CHAIRMAN D'AMARO:

George, if I could just follow up on that. So it's really a two-part test. I'll take the second one first, says that the members of the committee are fixed, whether the Presiding Officer is in the room or not in the room, participating or not participating, it's a five-member committee, it's a five-member committee or a seven-member committee is a seven-member committee. That's one test. And then the second test is then you're looking at who is in the room and who is voting.

MR. NOLAN:

Right. You'd have to satisfy both to get the bill out of committee. And, again, this really reflects my understanding of the rule prior to this proposed amendment, but certain members of the Legislature have disagreed with that interpretation, and so we're trying to clarify what the rule means and what you have to do to get a bill out of committee.

CHAIRMAN D'AMARO:

And I'll defer to the committee members in one moment. Just one more comment. What we're getting at here is more of a case where you may have an absent member, because although the number of Legislators on a committee will never change, whether someone's absent or not, a five-person committee even if someone is out is still a five-person committee even if the Presiding Officer is in the room. Once the Presiding Officer steps in and someone is absent, then you're still going to need the majority of those present and voting, and he's included for that purpose.

MR. NOLAN:

Right. I think that's one of the purposes of the rules changes, to avoid the situation where one or even more members are absent, regular appointed members of the committee are absent, you have the Presiding Officer come in to try to conduct business. And certain Legislators are saying, well, now the size of the committee is six even though you have missing members, so now you need four votes to get a bill out of committee. And, you know, you could really run into a situation where the business of the Legislature is bogged down under that particular interpretation as well.

CHAIRMAN D'AMARO:

Well, it's bogged down if a Legislator is absent, because if you say now there are six members and in reality there's only -- the Presiding Officer has come in but let's say one or two members are absent, you could get to the point where the committee cannot act. So this is trying to correct that situation.

MR. NOLAN:

Right. And again, this is the way the rule has been interpreted the last several years, at least since I've been Counsel. And it's only come up in, I believe, two prior instances. And in both cases, this is the way we've interpreted it. But we're trying to make it express so everyone has a clear understanding of what the rule is.

CHAIRMAN D'AMARO:

Okay. Legislator Nowick, please go ahead and then Legislator Vilorio-Fisher and then Legislator Alden. Thank you.

LEG. NOWICK:

I think my brain is being fried. I keep making all these marks here. So just for an example, we have a five-man committee, one person is not there -- excuse me?

LEG. VILORIO-FISHER:

A five-person committee.

LEG. NOWICK:

We never have a five-woman committee, but that's besides the point. We have a five-person committee. One person is not at the committee meeting and the Presiding Officer walks in for a vote. The committee is still five people and you need three votes. Now -- but the Presiding Officer's vote then counts as a member of the committee? Okay. Now, the -- okay. So that would have been --

CHAIRMAN D'AMARO:

Legislator Nowick, just in your example, what the rule is accomplishing in that exact case is that by the Presiding Officer coming in and being now the fifth person voting, does not make that a six-person committee where you'd need four votes, okay?

LEG. NOWICK:

Okay. What if there were five people in the committee all present and the Presiding Officer comes in and votes and the votes were 3-3, then the Presiding Officer doesn't count, because the committee is still five, is that it?

MR. NOLAN:

No. He would count. Remember, it's a two-part test. To get it discharged in that situation you have six people voting now.

LEG. NOWICK:

Okay. But it's a still a five-man committee -- person committee.

MR. NOLAN:

It's a five-person committee, but the rule change says that in order to be discharged it has to be the entire membership of the committee, which will be three votes, but it also has to be a majority of those present and voting. So in that situation where you have six people voting, four people would have to support discharge in order for it to be discharged. So it's really --

LEG. NOWICK:

And if it's 3-3 it dies.

MR. NOLAN:

It would be defeated, yes.

CHAIRMAN D'AMARO:

The Presiding Officer coming into a committee only affects the present and voting number, not the standing number of committee members. And that helps you in a situation where Legislators may not be present.

LEG. NOWICK:

That's perfectly clear.

CHAIRMAN D'AMARO:

Legislator Viloría-Fisher.

LEG. VILORIA-FISHER:

Except for -- I don't agree with you, George, on part of what you described. I'm fine with the resolution, but your interpretation regarding someone who abstains, I don't believe that someone who abstains in the vote changes the number of those present and voting. Otherwise, on many votes that we have in the full Legislature where you have five people abstaining, then the majority vote would change when we have a General Meeting. So I don't think an abstention relinquishes you to be in absentia.

MR. NOLAN:

The interpretation I'm giving, like in a committee situation where somebody abstains is strict -- right out of Robert's Rules. But in order to -- in our Charter and under State Law, in order to -- for the full Legislature to act, it has to always be a majority of the entire membership of the committee. So it's always going to have to be ten votes when the full Legislature acts. No matter who abstains or who does what, we can't pass anything with anything less than ten votes when the full body is acting.

LEG. VILORIA-FISHER:

But I believe here where it says members present and voting, if you have five members who are present and they are voting during the committee meeting, they are present and voting, whether or not they vote on that particular resolution. And I always took an abstentions as their vote. You know, they abstain on the issue. But I really have a problem with that interpretation, because you have five bodies sitting around the horseshoe voting. And you are saying if someone abstains, it lowers that number to four. And I don't agree with that.

If that's the interpretation, I won't be able to support this resolution.

CHAIRMAN D'AMARO:

If I could just respond very quickly, Legislator Viloria-Fisher. That is certainly a point to think about, and I can agree with you, but also my interpretation of an abstention is that you're abstaining from voting. So it's a lack of participation in the votes. So under the strict interpretation of this language, present and voting, if you abstain, you're abstaining from voting, you're not voting.

But you know what? It still doesn't change the outcome, which you're making the point of. So I understand your point. Who was next? Legislator Alden? I'm sorry, Legislator Fisher, were you finished?

LEG. VILORIA-FISHER:

Perhaps we can just take the rule to say present. George, are you illuminating, or are you -- this is a pregnant pause.

MR. NOLAN:

I'm thinking. The only thing I would say is if you're concerned about the fact that following my interpretation, you know, it would reduce too low the number of votes that would be required to discharge a bill from committee, you would still need that majority of the entire membership of the committee to get it out of committee.

So you're always going to need three or you're always going to need four votes. You're not going to get into a situation where in a three-member committee -- five-member committee, two people can discharge a bill. It's always going to require a fair amount of support to get the bill discharged out of committee, applying both legs of the test as I -- the way I interpret it. I don't know -- I'd have to think again through it if it makes any difference taking that out. But we've been around this so many times, I'm not sure if it's going to make any difference.

LEG. VILORIA-FISHER:

I just want to reach a comfort level that we are counting all of those present. And although in strict terms an abstention is not a vote -- abstaining on a vote is not a vote, but it is because very often those who want to vote no but don't want to step up to a no vote use the ability to abstain to express that lack of support of a resolution.

MR. NOLAN:

It's still going to have that affect in terms of reaching the majority of the entire membership of the committee. If you abstain, you're obviously not providing a yes vote to reach the three or four vote minimum you need to get a bill out of committee in the Legislature.

CHAIRMAN D'AMARO:

Right. In effect, I think, Legislator Viloría-Fisher, your concern is backstopped or addressed by the second prong of the test, which you always require a majority of the sitting members of the committee. So even if there's an abstention and it has an affect on the present and voting, you're never going to defeat the fact that on a three-person committee -- on a five-person committee you still need three votes.

LEG. VILORIA-FISHER:

Well, I would just like to table it so that I can look at different scenarios regarding using that by particular interpretation by Counsel. And, I mean, it's not that -- we still have a pending lawsuit and all sorts of other things going on. So I'd rather take my time and do the right thing so that it has no holes.

CHAIRMAN D'AMARO:

Okay. I certainly don't have a problem with you wanting to spend more time thinking about it. I've done that already, and I'm comfortable with the bill, but I want everyone to be comfortable with it. Legislator Alden.

LEG. ALDEN:

Are there any opposing bills or something that proposes anything different that just got filed?

MR. NOLAN:

They were withdrawn.

LEG. ALDEN:

Secondly, this doesn't change the power of the Presiding Officer to change the makeup of a committee at any time anyway, is that not correct?

MR. NOLAN:

That's true.

LEG. ALDEN:

Okay.

MR. NOLAN:

The only thing I would say in terms of whether we should table it or not table is we're in a bit of a limbo right now because we have a rule, it's been challenged in court, the meaning of the rule may or not be -- will be decided by the Appellate Division. And just in terms of how we should act in discharging legislation, it's a little unclear right now, so the sooner we can clarify it, the better.

LEG. NOWICK:

I have a question.

CHAIRMAN D'AMARO:

Yes. Legislator Nowick.

LEG. NOWICK:

I almost hate to bring this up, but -- so let's go back to the Consumer Protection Committee, maybe I can understand it a little better. And I do hate to bring it up, but let's do that anyway. That Consumer Protection Committee that's in question now, one person was not present. In that case, the Presiding Officer did vote. That vote would have held if this law, this particular policy, was in affect, am I correct?

MR. NOLAN:

Right

LEG. NOWICK:

Okay.

MR. NOLAN:

This rule change, it clarifies and kind of ratifies what was done in the Consumer Protection Committee.

LEG. NOWICK:

Okay. And that makes it a little clearer for me.

LEG. ALDEN:

Through the Chair. The Presiding Officer always had the power to appoint himself as a member of a committee and go in and vote. And he could do that on an individual vote or he could do it on the whole committee basis. He chose to do it one way, and other Presiding Officers have done it a different way. So this codifies really the power that he's already got.

The only thing I do have a little bit of a problem with is if, as Legislator Viloría-Fisher brought up, if there is a full committee and one of them or two of them or three of the people that are on that committee decide to abstain on an issue, then having the Presiding Officer's ability to vote just on the original makeup, it does change an outcome or it can change an outcome.

CHAIRMAN D'AMARO:

No, I don't think it can.

LEG. ALDEN:

If you have five people on the committee, the Presiding Officer comes in, and you need three votes to pass something.

CHAIRMAN D'AMARO:

No. It depends on if all five regular sitting members of the committee are present and the Presiding Officer comes in, now you need four votes, because your majority of present and voting would be four.

LEG. ALDEN:

Unless one of the sitting members abstains, and then you still only need three.

CHAIRMAN D'AMARO:

Right, because -- that's correct, because then that person is not -- is present, but is not voting under Robert's Rules.

LEG. ALDEN:

But I would interpret it the same as Legislator Viloría-Fisher; some people use that as a vote, you know, to express an opinion of not support, but not strong nonsupport. But that's a minor point, because the Presiding Officer could at that point appoint himself to be a member of the committee and vote anyway.

CHAIRMAN D'AMARO:

I would just say in response to that that maybe it's time that we also clarify what an abstention actually is. An abstention is not a vote. It's, in fact -- well, okay. In my mind, if you're abstaining from a vote, you're not voting, you're choosing not to vote and you're letting whoever's listening know that you're choosing not to vote. So, you know -- but there's a practical affect to that, I agree with you. Anything else?

LEG. ALDEN:

I have comfort in knowing that I'm counted in the overall numbers when we sit at the Legislature as a whole, and that that abstention can influence an outcome.

CHAIRMAN D'AMARO:

But you'll know that going in.

MR. NOLAN:

I just think that the key point here is that in those situations where regular members are absent and the Presiding Officer comes in, that the size of the committee doesn't expand to six and then you need four votes to discharge a bill from committee.

CHAIRMAN D'AMARO:

Right.

MR. NOLAN:

I think the philosophy has always been that there's -- we lean towards letting bills get out of committee, at least historically in the Legislature, in letting the full Legislature look at a bill. That's the previous position, and I think that's what this rule change makes clear.

LEG. ALDEN:

Unless it's my legislation.

MR. NOLAN:

Then it gets zero votes and then we're nowhere.

CHAIRMAN D'AMARO:

All right. I think that, you know, we have all these different interpretations. I think Legislator Vilorio-Fisher raises the practical effect of that, Legislator Alden did the same. So why don't we table this for a cycle so we can all think it through again and address it once again? We're meeting in two weeks.

LEG. BEEDENBENDER:

Second.

CHAIRMAN D'AMARO:

All right. So I'll make that motion, seconded by Legislator Beedenbender. All in favor? Opposed? Abstentions? Motion carries. **TABLED (VOTE: 5-0-0-0).**

1584, Establishing legislative oversight of County funds expended for advertising and marketing. (Kennedy)

The sponsor is joining the committee today. Legislator Kennedy, I'd like to defer to you if you'd like a few moments.

LEG. KENNEDY:

Mr. Chair, thank you. Absolutely. As a matter of fact, I'm going to make the recommendation to the committee that this resolution get tabled today, because I've been working with Budget Review in an effort to try to gather some of the additional information that I'd like to bring forward to the members of the committee and to my colleagues.

But I introduce this on the spirit, I guess, of what we've seen in the past couple of days and past couple of weeks as we look at trying to further refine what it is that we as a body authorize and who picks up the check and who picks up the tab. Some of the research I've been able to do so far in the past year, most of the advertising expenses that we've had have been what I would call di minimus or incidental associated with legal publications and things such as that nature.

But we did have a couple of big-ticket items that are in excess of six figures. One of them was associated with the last Police Department exam, which I guess is a relevant and prudent expense and something certainly that I think every one of us would embrace. There also was a fairly

substantial expense, I believe 140, 150,000 associated with Stop DWI events. It went towards, I believe, some publications, pamphlets, perhaps some media advertisements.

The purpose of the bill is to go ahead and to give us the ability to decide in the first instance before contracts are inked or commitments are made, whether or not we can afford to do the advertising that's contemplated and whether or not there's a valid return on investment for the money that we spend. There may be a need to come up a little bit as far as threshold goes. I know we are the policy side of the equation, not the implementation, but I think this is a classic area where we have policy that's going to have to preempt or guide the implementation side of what departments do.

So that's my purpose with introducing. I'll try to come back to the committee in two weeks from now and circulate to yourself and the members more specifics associated with this resolution.

CHAIRMAN D'AMARO:

Okay. Thank you. I'll offer a motion to table at the request of the sponsor.

LEG. BEEDENBENDER:

Second.

CHAIRMAN D'AMARO:

Seconded by Legislator Beedenbender. All in favor? Opposed? Abstentions? Motion carries.

TABLED (VOTE: 5-0-0-0).

1587, Repealing in part Resolution No. 1010-1972 and lifting the ban imposed thereby on all assignments of real property tax liens by the County of Suffolk to third parties. (Co. Exec.)

MR. ZWIRN:

Mr. Chairman, we're going to withdraw IR 1587.

CHAIRMAN D'AMARO:

Thank you, Mr. Zwirn. That resolution will be withdrawn by the sponsor. That completes the Tabled Resolutions. Introductory Resolutions.

1594, Authorizing certain technical correction to Adopted Resolution No. 316-2008. (Co. Exec.)

This changes an appropriation number. I'll offer a motion to approve and place on the Consent Calendar.

LEG. BEEDENBENDER:

Second.

CHAIRMAN D'AMARO:

Seconded by Legislator Beedenbender. All in favor? On the motion, Legislator Alden.

LEG. ALDEN:

Just through the Chair, is there any significance to the appropriation number 4980 and 3199?

MS. VIZZINI:

Yeah. It's where the money would be paid from. The original resolution actually omitted the appropriation number. It just said Probation contracted services. So this makes it technically correct.

LEG. ALDEN:

And leaves in Probation?

MS. VIZZINI:

Yes.

LEG. ALDEN:

Okay.

CHAIRMAN D'AMARO:

I'll call the vote. All in favor? Opposed? Abstentions. Motion carries. **APPROVED** and placed on the **CONSENT CALENDAR (VOTE: 5-0-0-0)**.

1600, Appropriating funds in connection with the acquisition and implementation of a District Attorney Case Management System (CP 1136). (Co. Exec.)

This, in effect, is a bill that would implement a tracking system of defendants through the Suffolk Criminal Justice System in the DA's Office. It was mentioned earlier there was someone here from the DA's Office who would like to address the committee. Is that still the case?

LEG. VILORIA-FISHER:

She's still here, I think.

CHAIRMAN D'AMARO:

Good morning. If you will be kind enough to state your name for the record and then we'll go from there.

MS. LAURENTINO:

Paula Laurentino, the IS Project Manager, District Attorney Office.

CHAIRMAN D'AMARO:

Okay. Ms. Laurentino, welcome to the committee. Allen, you want to just note that you're here on the record.

MR. KOVESDY:

My name is Allen Kovesdy, representing the Steering Committee, which voted to approve this resolution. Also with me is Doug Miller. Doug is the Director of -- Acting Director of Information Services for the County. And he's also here to answer any questions on it.

CHAIRMAN D'AMARO:

Okay. Thank you. And, Ms. Laurentino, could you just state your position one more time for us?

MS. LAURENTINO:

Information Services Project Manager.

CHAIRMAN D'AMARO:

Would you like to address the committee or tell us a little bit about this?

MS. LAURENTINO:

Well, basically, we're replacing --

CHAIRMAN D'AMARO:

You can move that microphone closer.

MS. LAURENTINO:

We're replacing a very antiquated system that we have that's not functioning properly. We have no one to support that system right now.

CHAIRMAN D'AMARO:

Are you the person in the office responsible for this tracking?

MS. LAURENTINO:

I'm responsible for the IT Department.

CHAIRMAN D'AMARO:

The IT, that's what I meant. The actual maintenance of the system or whatever system is finally adopted. Okay.

MS. LAURENTINO:

Right. And we have no one right -- it's written in a very antiquated language. It was developed in 1992. It doesn't fit all the needs of the District Attorney's Office. So right now, we've been going through the process of an RFP, we have written -- we selected the National Center for State Courts, and they have written the RFP to get a system. So we did an RFP for an RFP. They are in the process now, the RFP is just about completed. That will be going out, and we hope to select a vendor by October.

CHAIRMAN D'AMARO:

So the system that you have in place right now is antiquated, cannot be upgraded, or it would be too costly to upgrade; is that correct?

MS. LAURENTINO:

Yes. And the functions aren't there that are needed.

CHAIRMAN D'AMARO:

And a more complex tracking system is what you'd be looking to purchase.

MS. LAURENTINO:

Right. In the past 15 years, a lot more has happened. You know, a lot of -- the technology has advanced.

CHAIRMAN D'AMARO:

Right. Right. So is the present tracking system inadequate?

MS. LAURENTINO:

Yes.

CHAIRMAN D'AMARO:

It is? Okay. Legislator Alden, go ahead.

LEG. ALDEN:

Do we have the expertise to develop our own system that would -- that would really provide all the things that we need?

MR. KOVESDY:

No, we don't. That's one of the reasons you have this resolution. It was tried using our own people three or four years ago in the District Attorney's Office, and it failed, therefore, we made the recommendation that the County go through the IS Department and bring in some professionals to do it. That's why; it was tried and it failed. So now we're doing it, what we consider, the right way.

LEG. ALDEN:

Now, do we anticipate taking something off the shelf, or are we going to have a custom creation?

MS. LAURENTINO:

Right now, it's an off-the-shelf RFP. We want to purchase something off the shelf. The National

Center for State Courts, this is what they do, they came around and did an analysis of our system. And they said that when they did the analysis, there were absolutely no show-stoppers, that this is done, you know, throughout the United States, and there are systems out there. And part of the RFP they have with us is they are going to sit with us and help us select a vendor.

LEG. ALDEN:

The reason why I bring up, and I didn't think of it, Debbie did from AME, so I just want to make sure that we don't buy something that, you know, then we need to buy amendments for it or some subsequent fixes to it. So the thing that we're going to buy will fit all our needs?

MS. LAURENTINO:

Yes.

LEG. ALDEN:

Good.

CHAIRMAN D'AMARO:

Legislator Fisher.

LEG. VILORIA-FISHER:

Thank you, Mr. Chair. Legislator Alden asked some of my questions. But, in other words, we have an RFP that's out there, so we haven't yet determined the software that we'll be buying for this?

MS. LAURENTINO:

That's correct.

LEG. VILORIA-FISHER:

Okay. And part of that RFP, of course, would be exploring which other municipalities and District Attorney Offices have used that software to see whether or not it has been successful, and we would be exploring what the success has been in the different municipalities?

MS. LAURENTINO:

Yes. Once we get responses from the RFP, we will also -- after we do a selection, we will probably narrow it down and have demos done, and then they also have, in their RFP, everyone that we can contact, all their clients, that we can talk to. We can even do site visits and watch the actual system in a different municipality.

LEG. VILORIA-FISHER:

Okay. And I have a question regarding budget. Gail, I see an amount here \$1,200,000 for this program. But knowing the time it takes to issue an RFP and have the responses, do this vetting, do the research, we wouldn't be spending this money in 2008.

MS. VIZZINI:

Well, this money is in the Capital Program. We addressed it when we adopted the current Capital Program, it's a million-five in total that's in there. This resolution would appropriate that money. As you know, in the Capital Program, as long as there's some activity within five years, it gives you the opportunity to spend those monies that are appropriated. So that's why -- that's why it's in the Capital Program. I would expect that they would be spending some of the money as early as 2009, but you would need to appropriate it.

LEG. VILORIA-FISHER:

And we don't start the clock ticking on the bonding until we appropriate, and that would be after all of the RFP work has been done, because I'm seeing something here --

MS. VIZZINI:

We won't bond until we need to --

LEG. VILORIA-FISHER:

To spend the money.

MS. VIZZINI:

Yes.

LEG. VILORIA-FISHER:

Okay. Thank you, Gail. Okay. And we will hear more about this as it moves along? I'll ask Allen that question.

MS. LAURENTINO:

If you want updates.

LEG. VILORIA-FISHER:

Yes, we would like updates on it, because as Ms. Alloncius said, we had seen a lot of snags with the Kinder-Track and Kinder-Attend in Social Services. It took a long time to get it up and running. And there were problems with that software. And it cost us a lot of staff time and money, resources. Okay. We just make sure it's fully vetted and that we've seen success in other municipalities. Thank you.

CHAIRMAN D'AMARO:

Okay. Are there any other questions from the committee on this resolution? I'll offer motion to approve, is there a second?

LEG. BEEDENBENDER:

Second.

CHAIRMAN D'AMARO:

Seconded by our Vice-Chairman Legislator Beedenbender. I'll call the vote. All in favor? Opposed? Abstentions? Motion carries. **APPROVED (VOTE: 5-0-0-0)**. Thank you very much for helping us out this morning. Appreciate it. You too, Allen.

1605, Adopting Local Law No. 2008, A Local Law amending the County Legislature organizational meeting date requirement. (Losquadro)

Requires a public hearing. I'll offer a motion to table, seconded by Legislator Beedenbender. All in favor? Opposed? Abstentions? Motion carries. **TABLED (VOTE: 5-0-0-0)**.

1606, Authorizing the extension of the lease of premises located at 250 Executive Drive, Edgewood, NY for use by the Department of Probation. (Co. Exec.)

This would be a ten year lease renewal with 3% increases in an existing office for the Department of Probation, and it was approved by Space Management. There's a motion by Legislator Viloria-Fisher to approve, I'll second. All those in favor? Opposed? Abstentions? Motion carries. **APPROVED (VOTE: 5-0-0-0)**.

1608, Adopting Local Law No. 2008, A Local Law to add hardship caused by military deployment as a basis for a Section 215 conveyance. (Beedenbender)

Requires a public hearing. Sponsor?

LEG. BEEDENBENDER:

Motion to table for the public hearing.

CHAIRMAN D'AMARO:

Motion to table, I'll second. All those in favor? Opposed? Abstentions? Motion carries. **TABLED (VOTE: 5-0-0-0)**.

1611, Authorizing the sale, pursuant to Local Law 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Four C's Custom Builders, Inc. (SCTM No. 0200-033.00-09.00-036.000). (Co. Exec.)

I'll offer a motion to approve this matter of right resolution and place it on the Consent Calendar, seconded by Legislator Vilorio-Fisher. All those in favor? Opposed? Abstentions? Motion carries. **APPROVED** and placed on the **CONSENT CALENDAR (VOTE: 5-0-0-0)**.

1612, Authorizing the sale, pursuant to Local Law 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Carlton M. Sellet, as to 50%, and estate of Maurice L. Sellet, as to 50%, by Carlton M. Sellet, as administrator (SCTM No. 0100-069.00-02.00-037.000). (Co. Exec.)

Once again, sale as a matter of right under our Charter. I'll offer a motion to approve and place on the Consent Calendar, seconded by Legislator Beedenbender. All those in favor? Opposed? Abstentions? Motion carries. **APPROVED** and placed on the **CONSENT CALENDAR (VOTE: 5-0-0-0)**.

1613, Sale of County-owned real estate pursuant to Section 72-h of the General Municipal Law - Town of Brookhaven - (SCTM No. 0200-339.00-05.00-040.002). (CO. Exec.)

This involves a small triangular parcel in the Town of Brookhaven being conveyed to the town for drainage purposes. I'll offer a motion to approve, seconded by Legislator Vilorio-Fisher. All in favor? Opposed? Abstentions? Motion carries. Resolution is **APPROVED (VOTE: 5-0-0-0)**.

Next is **1614, Sale of County-owned real estate pursuant to Local Law 13-1976 Joseph J. Donlon and Simone M. Donlon f/k/a Simone M. Biegel, as joint tenants with rights of survivorship (SCTM No. 0200-798.00-02.00-040.000). (Co. Exec.)**

Property is, I believe, an 80 by 100 lot being sold to an adjoining owner for \$6500. Mr. Kent, what's the size of the property?

MR. KENT:

It's 40 by 100, but I would request that we table this.

CHAIRMAN D'AMARO:

Then there's a mistake in the resolution, isn't there. Because maybe I'm reading this wrong, but the description says section block lot, Lot 39. Is it Lot 39 or is it --

MR. KENT:

No. There's a mistake either in the supporting documents -- I believe it's in the resolution. The supporting documents show it as Lot 40, and I believe that's the correct lot.

CHAIRMAN D'AMARO:

Right. Lot 40 is a 40 by 100, but Lot 39 is an 80 by 100.

MR. KENT:

That's correct. And if you look then at the purchaser, it's unclear whether the purchaser owns Lot 39 or 40. So I'd like to clarify that, and I'll provide the correct supporting documentation.

CHAIRMAN D'AMARO:

All right. I'll offer a motion to table.

LEG. BEEDENBENDER:

Second.

CHAIRMAN D'AMARO:

Seconded by Legislator Beedenbender. All in favor? Opposed? Abstentions? Motion carries.

TABLED (VOTE: 5-0-0-0). Thank you, Mr. Kent. If you would correct that, we'd appreciate it.

1615, Sale of County-owned real estate pursuant to Section 72-h of the General Municipal Law - Town of Brookhaven - (SCTM No. 0200-930.00-06.00-011.000). (Co. Exec.)

Property located in North Bellport being conveyed for \$1196 and change for landfill purposes. It's a 50 by 100 lot. Mr. Kent, could you just explain the landfill purposes.

MR. KENT:

Well, they requested it. This is adjacent to Brookhaven Town-owned land that is utilized for landfill purposes by the town. And there is a resolution submitted to us requesting that we convey this to the town so that they can add it to their landfill property.

CHAIRMAN D'AMARO:

Are there any questions? I'll offer a motion to approve.

LEG. BEEDENBENDER:

Second.

CHAIRMAN D'AMARO:

Seconded by Legislator Beedenbender. All in favor? Opposed? Abstentions? Motion carries.

APPROVED (VOTE: 5-0-0-0).

1616, Authorizing the sale, pursuant to Local Law 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Barbara Sukowa. (SCTM No. 0500-497.00-03.00-047.000). (Co. Exec.)

This is a matter of right. I'll offer a motion to approve and place on the Consent Calendar, seconded by Legislator Beedenbender. All those in favor? Opposed? Abstentions? Motion carries.

APPROVED and placed on the **CONSENT CALENDAR (VOTE: 5-0-0-0).**

1617, Authorizing the sale, pursuant to Local Law 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Jerry Kappatos (SCTM No. 0200-983.40-09.00-042.000). (Co. Exec.)

Same motion, same second, same vote. **APPROVED** and placed on the **CONSENT CALENDAR (VOTE: 5-0-0-0).**

1618, Authorizing the sale, pursuant to Local Law 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Arsilio Donofrio a/k/a Ersilio Donofrio and Velia Donofrio, his wife (SCTM No. 0200-402.00-01.00-017.001). (Co. Exec.)

Same motion, same second, same vote. **APPROVED** and placed on the **CONSENT CALENDAR (VOTE: 5-0-0-0).**

1621-2008. Directing the County Attorney to determine the feasibility of taking legal action against sub-prime mortgage lenders (Horsley).

LEG. VILORIA-FISHER:

I'll make a motion to approve.

CHAIRMAN D'AMARO:

There's a motion by Legislator Fisher to approve. Is there a second?

LEG. BEEDENBENDER:

Second.

CHAIRMAN D'AMARO:

Seconded by Legislator Beedenbender. I'd like to ask a few questions on this if the County Attorney's Office would please step up. Legislator Alden, do you have a question also.

LEG. ALDEN:

Yeah. I'll go on the list. I'll defer to you. You want me to go first?

CHAIRMAN D'AMARO:

Yeah. Go ahead, please.

MS. MALAFI:

Good morning.

CHAIRMAN D'AMARO:

Good morning.

LEG. ALDEN:

First, I mean, the obvious question, have you looked at the issue?

MS. MALAFI:

Yes. Hours and hours, yes.

LEG. ALDEN:

Well, also, it's an expanded issue now, because I see that the adjustable rate, the ARM Loans, they're looking at tremendous amounts of defaults on those too. And those can't be -- well, some of them can be classified as subprime, but most of them were not subprime, they were just people reaching for, like, a little bit more house than they could actually afford. They're going to have a tremendous number of defaults on those, and it looks like it's going to hit Suffolk County as hard if not harder than this initial round. So looking at both those issues, do we have any standing?

MS. MALAFI:

Two issues that I see. There's already six municipalities across the country suing on the issuance by the banks of the subprime mortgages, including the ARMs and the adjustable rate mortgages. There's two issues. One is that in every single one of those actions there is presently motions to dismiss pending as being barred by the Federal Banking Law. And the Federal Banking Law is very expansive.

So it is possible that any type of lawsuit based upon the subprime crisis will be held preempted by Federal Law, and they'll all be dismissed. So one of my recommendations when it comes to writing this report will be, "Let's wait and see what happens on those other six actions that already have these motions pending," because if it's preempted by Federal Law it would be silly to start a lawsuit now.

And the second thing is that we may have standing. The problem that -- the only problem I have with the IR is that it talks about us recouping costs, but it doesn't say what those costs are. And I haven't been able to determine what costs the actual County of Suffolk -- I cannot sue for the taxpayers of Suffolk, I can just sue for the County of Suffolk, the municipal entity.

And in the other cases, they are all municipalities -- they are either the state or the county or -- I'm sorry, cities. And the state and the cities have costs directly related to a house being vacant. For example, the City of Buffalo sued -- is one of the plaintiffs in one of these subprime mortgage actions. And they have empty houses that the banks in the City of Buffalo have literally just abandoned. They haven't even -- they boarded them up and don't want them, because they can't sell them for what they're owed -- what the banks are owed. And they've abandoned them. In some cases, in the City of Buffalo, they have actually had to go and demolish houses, because they've fallen in such a state of disrepair that they've become, not only eyesores, but dangerous.

The County -- when a house is boarded up, the County doesn't demolish, doesn't take care -- doesn't initially take care of the property. And usually, we don't because the taxes are always paid on the property. When there's a foreclosure of a house, the banks in Suffolk County pay the taxes. We are still made whole. It's very rare in Suffolk County that we will actually take a tax deed on a foreclosed piece of property. And even if we did, then in that case, if we did take a property and we had maintenance care and demolition costs, when we auction off the property, we're made whole. We never auction off a piece of property and get less than what we are owed for our tax lien and all of our expenses on the property. And we have penalties and fees that are added on to that. So we are really made whole once the property is auctioned off.

Our damages are really just having to hold the property for the six or seven years before we auction them off. But technically, we actually recoup those cost because we get it back when the property is auctioned off. Some of the other -- the other costs that may -- and I say, "may be" reimbursable to the County in these types of lawsuits would be added police protection that's needed in the area, things that I am unable to quantify. So I would need some assistance from either the sponsor of the bill or somebody else to determine what this has actually cost the County of Suffolk.

CHAIRMAN D'AMARO:

Okay. Legislator Nowick. Christine, maybe you could put on the record just a few things. I know the buzzwords lately are subprime mortgage, subprime mortgage. But I can't help thinking what is the County doing getting involved in lawsuits for subprime mortgages, but maybe there is a reason. Can you give me the definition of subprime mortgage for the record?

MS. MALAFI:

It depends on which complaint you look at and how people --

LEG. NOWICK:

-- tell me how it affects the -- as relates to the County, to us as Legislators. Who are you pointing to?

LEG. ALDEN:

Right there. Budget Review can tell you.

LEG. NOWICK:

Can you?

LEG. ALDEN:

Christine is an attorney. I mean, these guys are financial guys.

MS. MALAFI:

I can give you my interpretation of it.

CHAIRMAN D'AMARO:

I can give you a definition. Any mortgage that's not a prime mortgage.

LEG. NOWICK:

That's like a definition my daughter gives me when she wants to do certain things.

MS. MALAFI:

In the lawsuits, I can tell you that -- my definition of it in the context of the lawsuits are mortgages given by banks to people that the banks should know are never going to be able to repay them, and the banks have convinced these people that they can afford these mortgages. And they've -- usually it also includes inflating the appraisals on the houses so that they can give the people buying the houses more money towards purchase of the home.

LEG. NOWICK:

That's how I understand subprime mortgages.

CHAIRMAN D'AMARO:

That's a legal, like, kind of, like, plaintiff interpretation of a subprime.

LEG. NOWICK:

You two aren't going to argue about this, are you?

CHAIRMAN D'AMARO:

No, we're not arguing. I'm just going to supplement that by saying that from a banking perspective having represented a few in my day, subprime is actually a criteria; in other words, the banks know going in, if you're a borrower and you come to the bank, they have certain criteria they look at, whether it's credit scores or other assets, things like that, in their applications process. And you can qualify for a prime loan, which means you are less of a credit risk or a subprime loan --

LEG. NOWICK:

And a lower interest rate.

CHAIRMAN D'AMARO:

Right, which means, the lower the prime, the higher your rate will be to make up for the added risk. All right. So subprime is really an art term used in the banking industry to qualify or to label those that are more of a credit risk as determined by their criteria.

LEG. NOWICK:

Okay. And then the bank then takes a chance on people that take subprime mortgages.

LEG. ALDEN:

They sell them.

LEG. NOWICK:

They sell them immediately. But somebody takes a chance, because they sell them to another banking institution.

MS. MALAFI:

And that's what -- the economy is based upon, you know, if somebody buys these, they believe that they have an asset worth \$100,000, that's what's owed on the mortgage, and then once it collapses, they don't have that asset any more because no one is paying the mortgage. And if the house -- if the mortgage on the house is worth more than the house, when they auction -- when the banks auction these houses off, they're not getting their full -- what's owed to them, the full debt owed to them.

There's another section of this that sometimes is I believe -- when I read the IR is somehow intertwined with it and confused with it, there is a potential discrimination lawsuit, because usually the hardest hit zip codes are those with more minorities in them; for example, in -- the three most impacted zip codes in Suffolk County are Amityville, Brentwood and Central Islip, the three highest percentage zip codes in Suffolk County with respect to minorities. But that -- and that's as a result of the subprime mortgage collapse, but not necessarily something you could sue the banks to collect

the monies for. On the County level, it would be more like a complaint to the Human Rights Commission.

LEG. NOWICK:

Having said all that, although I respect Legislator Horsley and his legislation, I just don't know how the County can sue or have a -- according to this take legal action against subprime mortgage lenders. Do we have the authority? That's the banking industry, right?

MS. MALAFI:

Right. That's -- my two points are that this is very likely preempted by Federal Law and that we cannot take any action, and that there's about six or seven motions to dismiss other like actions pending. So I would want to wait to see what happens in those cases.

CHAIRMAN D'AMARO:

I want to point out that this resolution doesn't authorize litigation. It just simply requests that the County Attorney study the feasibility and look at all of these issues very closely and report back to the Legislature.

MS. MALAFI:

My only other comment is that it says the IR -- and I don't have a problem reporting back -- but the IR just says to recoup costs, it doesn't say what costs he means. And we've been looking at this for weeks. As soon as the IR is filed we pull it, because it requests me to do something. So we start right away. And I have about four feet of research on this, and I cannot figure out -- maybe -- I can't figure out an actual cost to the County that we don't recoup somewhere down the line already.

LEG. NOWICK:

Does it say, "cost to county," or "to recover taxpayers' funds"?

MS. MALAFI:

It says, "Taxpayer funds."

LEG. NOWICK:

Taxpayer funds. We certainly have no authority. And you cannot determine if there are any losses.

MS. MALAFI:

The second to last Whereas Clause says, "legal action may be feasible to recover such costs incurred by the County." So I just need assistance in determining what costs there are.

CHAIRMAN D'AMARO:

Well, I was going to ask, is that your report that you would present under the resolution should we pass it by the full Legislature, or would you need more time to get some clarifications and maybe refine the conclusions?

MS. MALAFI:

That would be my report at this time. The only thing that I would be waiting for is for the motion to dismiss in the pending subprime mortgage lawsuits to be decided so that I can tell you more definitively whether or not it's barred by Federal Law.

CHAIRMAN D'AMARO:

Legislator Vilorio-Fisher, question.

LEG. VILORIA-FISHER:

When I was looking at the Clerk's position a couple of years ago, this had come to my attention because of a workshop I attended by the Long Island Housing Services where I became very much aware of subprime mortgages particularly targeting people in minority districts or in lower-income districts. And as I studied it and I looked at it, I saw that it put paperwork in the Clerk's Office; the

liz pendens and then the foreclosures. Could that be considered added expenses to the County; the type of work that was added to the Clerk's Office regarding the huge liz pendens?

MS. MALAFI:

No, because to file a liz pendens you have to pay a fee.

LEG. VILORIA-FISHER:

You have to pay a fee.

MS. MALAFI:

The fees are paid --

LEG. VILORIA-FISHER:

And that fee defrays the cost?

MS. MALAFI:

Yes. I mean, I can tell you in my office, I handle -- the County of Suffolk is named in a lot -- most foreclosure actions as a potential interested party, whether it be for tax reasons or for people who are on Social Services, because we have a lien. The County has an extra added lien in addition to taxes when we pay someone Social Service benefits and they own a house. So in my office, we've seen it's got to be at least ten times the amount of foreclosure actions that we're handling, but we sort of monitor them, so it's negligible the additional -- like, I didn't have to hire another attorney to do that, to monitor those actions. So I wouldn't say that would be a recoverable cost.

LEG. VILORIA-FISHER:

Okay. Because that's where I thought that we would have had the expenses.

MS. MALAFI:

I don't believe so, because everybody who goes to file these liz pendens or foreclosure actions has to pay a fee to the Clerk's Office.

CHAIRMAN D'AMARO:

Thank you, Legislator Viloria-Fisher. I'm going to ask a question that the sponsor might have asked had he been here and say, "Well, what's the harm in passing this bill"?

MS. MALAFI:

Absolutely none.

CHAIRMAN D'AMARO:

Okay.

MS. MALAFI:

Like I said, I would like for it to at least say which cost so that I know I'm not missing anything or -- you know, that's what I need help on.

CHAIRMAN D'AMARO:

Okay. Legislator Kennedy, please.

LEG. KENNEDY:

Thank you, Mr. Chair. I would offer a suggestion. One of the places that, you know, the County Attorney might look for cost from an issue in my district over in the Ronkonkoma area where you have an abandoned house that we have had the Health Department go to now about a half dozen times because of insufficient board-up by the town and complaints of infestation with raccoons and wild animals. There's neighbors who are concerned. There has been a proliferation on the property, it's degraded seriously.

And so at my urging and ranting, the Health Department has sent sanitarians, I guess, out probably about four or five times to do on-site inspections, to do investigatory work and then do subsequent correspondence to the present mortgagee, I believe, Countrywide, who's the third or fourth flip on this transaction. So while we don't ordinarily capture hours or billable hours of a sanitarian going out into the field, if it was something incident to a foreclosure, that might be a quantifiable cost -- cost that you could capture. For what it's worth.

MS. MALAFI:

I agree with you, but a foreclosure doesn't necessarily mean that it's as a result of the subprime mortgage. Like, I would need more information. In order to quantify it, I need to know why that house went into foreclosure and when it went into foreclosure. So just -- every foreclosure would not fall within the subprime mortgage problem.

LEG. KENNEDY:

This is the other side of the equation. I agree with you, because on its surface, this didn't appear to be anything that actually involved A, B, C or D lender. This was basically a no-doc on the surface. However, there appears to have been fraudulent appraisals in the first instance. So the other side of this equation is probably as much as there's civil matters here, I'm assuming that you're in contact with the District Attorney's Office, because several of these probably approach outright fraud associated with the making of mortgages in the first instance.

MS. MALAFI:

We have gotten complaints, telephone calls and a few e-mails from people saying, "This is what my bank's doing to me, this is what the person who came in and tried to help me." We have had a few instances where companies have come in and said, "Listen, if you sign our house over to me, I'll get you out of foreclosure and then I'll give you your house back." And of course, they don't do it, and now this other person has the deed to the house. And we've referred all of those to the DA's Office.

But I can't refer anything to the DA's Office unless the person who owns the house you're talking about comes to me and tells me, "I can't get the appraisals on that house, I can't get any information on the purchase of that house or the foreclosure of that house without that person who owns it coming to me. And what I would encourage you, you could tell anyone who feels that they've been wronged can come to me, give me the documents, we look at it, and then we refer it to the DA's Office or wherever we need to refer to.

LEG. KENNEDY:

It's prudent advice, and it is something that, you know, if we can find an owner in the chain anywhere that you can speak to, that's good advice. As you've said, the problem many times is nobody wants to take responsibility for this dwelling anymore at all, because it's in an upsidedown position.

MS. MALAFI:

And an additional problem is that even though houses that are foreclosed, not with respect to the subprime mortgage problem, they are not being sold because the banks have too many of them. They can't do the paperwork fast enough. So that house may just be one of 100 that are not involved in the subprime mortgage with Countrywide, and they're just letting it go into disrepair because they can't -- they're not sending enough people out or doing the work they need to do.

LEG. KENNEDY:

For what it's worth.

LEG. ALDEN:

He's not even a member of the committee.

CHAIRMAN D'AMARO:

We miss him here on Ways and Means.

LEG. NOWICK:

Just one thought.

LEG. KENNEDY:

And I miss being here too, don't I?

LEG. NOWICK:

Oh, you're here. Christine, does that happen often where there is that type of a trick for the homeowner, you know, sign over your house?

MS. MALAFI:

Yes. It's been happening a lot. We've referred them -- I mean, I went for years not getting a single complaint, and I've gotten, you know, a handful, which is quadruple or tenfold of what I used to get. And I actually have seen the paperwork.

But the problem is that these predators who prey on these people who are in financial distress do it with a contract, they have the people sign the contract so it's really -- it's a private legal matter. And what has to happen is the DA's Office is going to have to get enough of them together to show that a crime has been committed. Just one bad contract with a homeowner is not going to do it.

LEG. NOWICK:

I just was going to ask you and anybody else that might have the answer, perhaps -- does the County Attorney or the District Attorney have any type of public notice; in other words, do they work with newspapers to -- for a public notice, newspaper stories, so people can read about the possibility? Because maybe it would be a good awareness kind of thing.

MS. MALAFI:

I never work with the newspapers, so, no, not me. I would say --

LEG. ALDEN:

Hey, I know somebody that does every day of his life.

LEG. VILORIA-FISHER:

Christine, I can answer that.

MS. MALAFI:

I am me and I don't.

LEG. NOWICK:

No. I'm just looking for a public --

MS. MALAFI:

If you would like a copy -- you know, I can take out names, because I wouldn't want to give anyone -- publish some of these names if somebody comes to us for help and we give it to the DA'S Office. But there are companies that are doing this. They go to people -- I don't know how -- they must check records on tax delinquencies and see -- I don't know how they get the information of the people who might go into foreclosure.

LEG. NOWICK:

I'm thinking of a public awareness campaign. And I know Vivian had a --

LEG. VILORIA-FISHER:

Well, there are not-for-profits that are out there putting out the information. I mentioned before the Long Island Housing Services. And they do do media alerts, they try to make people aware.

CHAIRMAN D'AMARO:

All right. Let's go back to the substance of this particular resolution then. I'm going to ask the County Attorney, is there -- or lack thereof. Is there -- I mean, is there any possibility at all that you may change your conclusion?

MS. MALAFI:

If I get help as to what the cost associated to the County are.

CHAIRMAN D'AMARO:

Okay. And all this resolution does really is ask you to continue what you have been in doing in exploring this potential liability and what damages the County may have incurred.

MS. MALAFI:

Yes. All it requires me to do is report within 60 days after it's passed and signed.

CHAIRMAN D'AMARO:

All right. Is 60 days enough time to complete that?

MS. MALAFI:

Well, I can always report. I may not have a definitive answer, but I can always report within 60 days. And as you know, I always do follow up, I don't just let it die.

CHAIRMAN D'AMARO:

Is there a motion pending, to the Clerk?

MS. LOMORIELLO:

Motion and a second, yes.

CHAIRMAN D'AMARO:

To approve. All right. If there's no further discussion, I'll call that vote. All in favor? Opposed? Abstentions? Motion carries. **APPROVED (VOTE:5-0-0-0).**

1633, Requiring Legislative approval to consider the sale of John J. Foley Skilled Nursing Facility. (Kennedy)

The sponsor has once again joined the committee. Mr. Kennedy, if you'd like to speak first, we'd like to hear what you have to say.

LEG. KENNEDY:

Sure. Thank you, Mr. Chair. I appreciate it. What prompted me to go ahead and bring this resolution forward is, again, we are considering many different things during the course of this year regarding economic adjustments; sales, lease-backs, what have you. This resolution was initially introduced by another Legislator. He and I have spoken though, we had a chance to go ahead and look at it. I know that about a month ago we passed Resolution 334 which requested that a study for management be done for John J. Foley. That was vetoed by the County Executive, and it was unanimously overridden. And my concern quite candidly, Mr. Chair, is the 2008 Operating Budget, when it was presented to us last fall, identified, I believe, 15 or \$16 million worth of revenue associated with the sale of the Suffolk Health Plan.

In a similar fashion, you better than most, and a couple of members on this committee know right now what the constraints are that we're facing budgetarily through your work in the working group. Nevertheless, we as a body, have expressed a desire at this point to look at focusing on efficiencies and doing some detailed work to look at what we might be able to do to keep John J. Foley running and running better in continuing to be a quality County-run health care facility. Therefore, I'm looking at something, if you will, that's belt and suspenders that sends a clear message to the

Executive that we will not entertain a budget coming forward that contains revenue associated with the sale of John J.

CHAIRMAN D'AMARO:

Okay. Legislator Beedenbender. Thank you, Legislator Kennedy.

LEG. BEEDENBENDER:

Thank you. Mr. Chairman. Just briefly, I just want to reiterate what I had said to the people from the nursing home that had come to my office a while ago, that I am not interested in closing the facility. I don't think that would be the right way to go. But I also said that should somebody come to me with an option that allowed us to keep the patients where they are and keep the employees, you know, I'd be interested in looking at those details. The concern I have with this resolution is that I believe -- I understand the sponsor's intent, but I believe that it might represent a little bit of -- for lack of a better way of saying it -- false hope in the sense that I know the bill says the County Executive can't do RFPs and RFQs and RFEIs before he puts it in the budget, but it doesn't -- nothing prevents the County Executive from simply putting in a closure in the budget.

This bill can't prevent that and it doesn't prevent that. My concern would be that this bill rather than making it less likely for that to happen, I think might actually make it more likely for that to happen, because if there is no -- if an RFP can't be done, an RFQ can't be done in a manner that would -- because like I said, I don't want to close this facility, and I will not cast a vote to close it at any point in time. But if we do this bill, I just feel like -- we've heard this County Executive's position very clearly. And I believe this would make the option of putting it in -- putting in the budget a closing nursing facility more likely than it is right now.

And I respect the intent of the sponsor's resolution here, but I just -- I really think that this doesn't solve that problem. I think that as a Legislature, if we do -- if everybody believes as I believe or if everybody believes whatever they believe, we're going to have our opportunity at some point to vote against closing this, if that comes before us, to vote for a sale or against the sale if it comes before us or if nothing comes before us. But I think this bill actually makes the end game that I am not interested in more likely than it would be without it. So given that, I don't think I can support this, because I don't want that to actually be the end game here.

CHAIRMAN D'AMARO:

Thank you, Legislator Beedenbender. I'd like to add also, John, especially while you're here, I appreciate your comments about it being put in the budget as well, but we're going to know that if it's put in the budget. And we really have the final say on the budget through the process of voting on an Omnibus resolution and then overrides.

So I hear you saying belts and suspenders. I think this is belts and suspenders, but I don't think the pants are falling down, I guess, might be the other analogy for that. I don't know, I just made that up. But anyway, the point I'm making is that you can -- as Legislator Beedenbender says, we have consistently voted in favor of continuing with the Foley Center as a Legislature. We've already overrode the County Executive's veto to bring in -- to let an RFP for new management there working- trying to make it -- turn around, if you will.

This bill seems to be addressing, you know, putting it in the budget in advance. Well, you know, what? The County Executive can put whatever he wants into a budget, we're going to review that, we're going to debate that budget. It's not that we don't have a say in taking it out of the budget if that's the will of the Legislature. And I just don't -- I don't mind sending messages, but I don't think that this is the way to do it. I think that we should send messages that have substance, for example, by supporting bills that put the management in there and try to turn that facility around.

LEG. KENNEDY:

Mr. Chair, if I can. I mean, obviously I want to hear the comments from all the members of the committee. And certainly my intention is not to, you know, waive a red cape in front of a bull.

Nevertheless, all we really have at our disposal at the end of the day is to do the best that we can as individual Legislators to advocate and to enact resolutions that have the force of law.

So to say that the County Executive will include something that we have actually gone ahead and said we don't want to see, I think is to presume something that I wouldn't necessarily say he would do. Despite the fact that we have significant differences of opinion, I still do believe at the end of the day, that if there is a resolution that we've adopted and there is a majority, he'll abide by it. You know, maybe I'm, you know, in a fairyland, but I don't think so. I do think that, you know, as vehemently as we advocate and that he goes in particular directions that, you know, there be a willingness.

I'll also share with this committee, though, a stringent concern that I have. And I'm going to ask, I guess, Mr. Zwirn to speak to this. I believe that the Health Department has submitted an application to receive \$20 million to facilitate the closure of John J. Foley despite the fact that we've adopted a resolution looking to empower a management committee to keep it open at this point. Has there been funding sought through the Health Department, through State Health?

MR. ZWIRN:

Yes.

LEG. KENNEDY:

Okay.

MR. ZWIRN:

The County Executive has a fiduciary obligation to the taxpayers of this County, if there's grant money in a situation like this from the State, to at least apply for it. I mean, before any action can be taken with respect to the John J. Foley, it would have to come back. The County Executive is scheduling hearings on the sale or closure of the facility. The County Legislature would also have to schedule their own hearings if that were going to go forward.

So there's still plenty of control that the Legislature has no matter what the County Executive's intentions are. But I have to tell you that in this -- in this economic climate, if the County Executive had not applied for the HEAL Grant, as it's called. I mean, you could say that he would be derelict in his duties. There's no guarantee we're going to get that money. There are a number of counties that are applying for that grant. It's about \$20 million.

But, you know, we're talking about structural imbalances in the budget. The John J. Foley Center is something that you can't ignore. I mean, the numbers there are extraordinary. You know, we talk tobacco securitization; we're looking at different ways where we can save money just about across the board. And this is something that the County Executive has to consider along with everything else, especially if there's -- if there's information out there that says that all the patients that are at the John J. Foley Center could be cared for privately in a very good manner, then I don't think the County Executive could ignore that on behalf of the taxpayers of the County.

CHAIRMAN D'AMARO:

All right. Legislator Beedenbender.

LEG. BEEDENBENDER:

I just wanted to respond to -- Legislator Kennedy, I didn't mean -- perhaps I wasn't clear enough. I didn't mean to suggest that the County Executive would willfully violate this. The suggestion I was trying to make is that, you know, the Resolved Clause talks about no RFPs, RFQs or RFEIs shall be granted by the County of Suffolk. And all I mean to suggest is that I believe it's within the power of the County Executive simply to submit a budget without the budget for it and he wouldn't need to do any of those.

So I wasn't suggesting that he would willfully violate the passage of this, but that even with the

passage of this, he could submit us a budget without it in there.

LEG. KENNEDY:

The issue becomes, just as we looked at with the 2008 Budget, if you will, which included 16 million from the sale of the Suffolk Health Plan, which became for all intent and purposes an insurmountable amount to replace from any other combination of fee raising, supporting of vacancies, any of the other things that we -- any of the other tools that we have at our disposal.

MR. ZWIRN:

That's not true.

LEG. KENNEDY:

Excuse me. Hold on a second.

MR. ZWIRN:

That's not true.

LEG. KENNEDY:

Actually, I was responding to Legislator Beedenbender. I will be happy to chat with you in a second, Ben. When we worked in the working group and amongst us as Legislators, there was no opportunity that we had to bring that amount forward. My concern is that if we're presented with a proposed budget that includes 20 million, 30 million, whatever, we'll be put into a position where if we elect to dismiss that and attempt to come forward with that amount in place, it will be almost insurmountable.

LEG. BEEDENBENDER:

And I agree with you, but the point I'm making is that I don't think this eliminates that possibility, that's all.

CHAIRMAN D'AMARO:

Legislator Vilorio-Fisher, go ahead.

LEG. VILORIA-FISHER:

As well intentioned as this is, John, and you know that I have certainly been a proponent --

LEG. KENNEDY:

Yes.

LEG. VILORIA-FISHER:

-- to keeping the facility open, this would not prevent the County Executive from doing exactly what you just said, which is putting it in the budget, putting the sale of the John J. Foley Center as part of his budget proposal. It wouldn't prevent him from doing it.

LEG. KENNEDY:

It occurs to me Mr. Chair -- and thank you. I appreciate that. And, I guess, you know, I'm always in need of a dose of reality from my colleagues. But I would ask Counsel then, what would be the net effect if we were to see something included in the budget coming forward and the interplay with the Administrative Code, 9-6?

MR. NOLAN:

Well, I think everybody recognizes that privatizing or closing Foley is subject to the Administrative Code Section A 9-6. That lays out a whole series of procedural things that are supposed to happen before something like that would happen including public hearings, an analysis by the Budget Review Office and a resolution of the County Legislature.

All of that would have to happen legally before it could go in the budget. A 9-6 says very clearly,

you should not and cannot and will not put it into his budget until all these other things are done. Now, what would happen if he put it in the budget and these things had not happened? Well, I think we'll see.

LEG. KENNEDY:

Then I guess what I would suggest is we would have been presented with a budget that was not a valid or legal budget because of that section of funding. Is that the interpretation?

MR. NOLAN:

Well I think it would be -- if you didn't comply with A 9-6, it would be subject to a legal challenge, but I think there would be a practical situation the Legislature will face where they have a budget, and there it is, it's in the budget. And then what does the Legislature do? Does it take it out or not. Like I said, we'll see in September, October, November.

LEG. KENNEDY:

Right. You know, Mr. Chair, look, I do -- I am not a member of this committee. I am here to go ahead and support the resolution. I don't want to work out the kinks and things like that on everybody else's time. I appreciate the comment. I would be happy to table this to go ahead and to perhaps have some more conversation with yourself and members of the committee outside of this venue. But my intention with this is, as I said, to try and avert what would, you know, in the alternative to me appear to be a train wreck situation associated with the budget.

CHAIRMAN D'AMARO:

I appreciate that. I just want to add, I guess, in conclusion that, you know, you referenced the Suffolk Health Plan being put in the budget by the County Executive and kind of handcuffing or getting the sense that there was no way out.

LEG. KENNEDY:

Uh-huh.

CHAIRMAN D'AMARO:

We consented to that, this body consented to that.

LEG. KENNEDY:

Yes, we did.

CHAIRMAN D'AMARO:

And there was a way out. You know, we could have raised taxes to the same amount or made -- did layoffs or made cuts. I mean, there were alternatives, but --

LEG. KENNEDY:

Yes, sir. Yep.

CHAIRMAN D'AMARO:

-- we felt as a policy position that was the best way to go.

LEG. KENNEDY:

That's agreed.

CHAIRMAN D'AMARO:

And my only point there is not to rehash that debate, but just to say that, you know, let the County Executive do whatever the County Executive wants to do in his proposed budget, because there's a process there, and when it comes to the Legislature, we vet it in our own way. And so I don't think we're losing any opportunity without this resolution. Legislator Alden.

LEG. ALDEN:

I want to compliment Legislator Kennedy, because all too often, we let issues -- and these are major issues -- we let them go far too long without establishing alternatives and looking at alternatives. And I'm just going to bring up an example, and it actually goes back to a prior administration, the Bay Shore Health Center was closed, and probably for legitimate reasons, but it never got reopened. Even though when the new administration came on, they said they were to make it one of their priorities, it still never got reopened.

So we really we have to be careful and we really need to take the extra amount of time. That's why it's good that it's only July, it's good that we're starting to talk about a lot of things. And we don't want to end up in a position that we've been in in the past where it's last minute and you've got to do something. And I'll point out to what happened in 2004. We refinanced -- we had an opportunity to refinance a real lot of our debt on favorable terms that could have been spread out over more of a period of time than it was, yet we chose an option where we took that savings upfront and now we're paying the price. As testimony from Budget Review, we pay approximately three million dollars a year in additional costs because of that refinancing and because of the election that we did where we took the money upfront. So I compliment you on getting the dialogue going. And I don't want to see another thing happen like what happened with the Bay Shore Health Center where it was closed. And like I said, that was a prior administration that closed it and never reopened it.

CHAIRMAN D'AMARO:

Okay. Then if I heard the sponsor correctly, you would request and I will offer the motion as a member of the committee to table.

LEG. ALDEN:

I will second it.

CHAIRMAN D'AMARO:

Seconded by Legislator Alden. All in favor? Opposed? Abstentions? Motion carries. **TABLED (VOTE: 5-0-0-0)**. Thank you, Legislator Kennedy.

1643, Authorizing certain technical corrections to Resolution No. 238-2008, authorizing the acquisition of land under the Suffolk County Multifaceted Land Preservation Program - Open Space Preservation Program - for the Wetzel property - Mastic/Shirley Conservation Area Phase I - Town of Brookhaven - (SCTM No. 0200-982.10-06.00-005.000). (Co. Exec.)

All of that simply means we're making a change to the Capital Project Number. I will offer a motion to approve and place on the Consent Calendar, seconded by Legislator Beedenbender. Legislator Alden?

LEG. ALDEN:

Through the Chair. This was open space -- is this the new quarter cent or is this the old open space?

MR. KENT:

This is being funded by multifaceted money. The resolution originally put it into the 2008 money. We're putting it back to 2007.

LEG. ALDEN:

So this is a bond issue that was in a prior budget?

MR. KENT:

What we're doing is we're expending 2007 monies rather than bonding new monies from the 2008 appropriated funds.

LEG. ALDEN:

Okay. But that's kind of a circle that is, you know, not with good results, because when you increase your -- when you increase your debt, it costs more money out of current operating expenses, whereas, the new -- the new quarter cent had a dedicated stream to pay for it. Maybe I'm wrong on what we're doing here. What are we doing?

MR. LIPP:

As what Mr. Kent said, the Multifaceted Program is a separate land acquisition program, it's separate from the Quarter Cent Sales Tax Program. And what the administration is doing is it's spending already authorized appropriations, in this case, from 2007 instead of using 2008 money.

So, yes, you're correct also that it is going to be, at the end of the day, some serial bonds that we have issue and there will be General Fund obligation. That is in addition to any quarter cent sales tax, but the administration's policy is let's not try to appropriate '08 multifaceted land acquisition money, let's just spend the money that we've already authorized from '07.

LEG. ALDEN:

Now I'm confused on the logic. If we go forward with this securitization, it's to pay down debt that we've incurred in the past and we're incurring now. So why would we increase the amount of debt that we have to pay off through the securitization? Why wouldn't we just go with money that's going to be paid back out of a dedicated stream? Why are we increasing our debt? I don't understand the logic to it.

MR. LIPP:

I guess the only alternative perhaps that you're eluding to would be instead to actually rescind existing authorizations.

LEG. ALDEN:

Right, which we can, we didn't borrow the money yet.

MR. LIPP:

Correct.

MR. ZWIRN:

We did.

MR. KENT:

This money was borrowed in 2007.

MR. LIPP:

I stand corrected.

LEG. ALDEN:

We already borrowed the money?

MR. KENT:

Yes. And it's sitting there ready to be spent. This -- mistakenly, this project was put in '08 -- using an '08 project number. It really should be purchased using the '07 money.

LEG. ALDEN:

All right. Then let's go back to a timetable. Why did we borrow money and have it sitting in an account for over a year? So we're actually incurring -- we're incurring costs on the money that we borrowed last year to have sitting in an account.

MR. ZWIRN:

That money is probably earning interest in accounts right now. But we over-appropriated on land

acquisitions, we took it as an offset, because at the end of the year we had to have money in the bank to make the offers. And we over-appropriated. And this is just -- these are some of the projects that didn't close. So we decided to use money that was -- that we appropriated that's still there as opposed to going forward. But everything that you said, we agree with. But this was -- we have the money already there, so we want to use it.

LEG. ALDEN:

All right. But also, something that you said, and I just want to question it, you said that the money is sitting in an account earning interest, but that's arbitrage, and I don't think we can --

MR. KENT:

It's not arbitrage unless you're earning more than you're paying.

LEG. ALDEN:

What?

MR. KENT:

It's not arbitrage unless you're earning more than you're paying.

LEG. ALDEN:

All right. So maybe we're breaking even.

MR. KENT:

Probably not.

LEG. ALDEN:

We're losing money?

MR. KENT:

Yes, but this is 35,000. What we're trying to do is take money --

LEG. ALDEN:

This is for how much.

MR. KENT:

Thirty-five thousand dollars. It's some leftover -- it's kind of surplus monies that were not expended from money that was bonded in 2007. We'd rather spend that money than have it sitting there. So rather than going to new debt in '08 under the '08 Capital Project --

LEG. ALDEN:

Can you give me a report then on -- on any of the money that's sitting there from these old programs that we've either appropriated money or that we've approved -- where we have borrowed or haven't borrowed, because we've got to see that picture?

MR. ZWIRN:

Absolutely.

LEG. ALDEN:

Thanks, Ben.

CHAIRMAN D'AMARO:

All right. There's a motion pending to approve and place on the Consent Calendar. I'll call the vote. All in favor? Opposed?

LEG. ALDEN:

Opposed.

CHAIRMAN D'AMARO:

One opposition, one opposed vote by Legislator Alden. The motion carries and the resolution is passed. **APPROVED** and placed on the **CONSENT CALENDAR (VOTE: 4-1-0-0 - opposed; Legis. Alden)**.

The last resolution on the agenda is **1651, Establishing a Truth and Accuracy Policy to reflect the impact of New York State Equalization on Suffolk County Real Property Tax Billing. (Co. Exec.)**

This is a resolution that I'm going to defer to counsel to give a brief explanation to the committee, and then we'll proceed from there. I note for the record we have received the fiscal impact statement.

MR. NOLAN:

This resolution basically would require the towns when they're preparing tax bills that the County portion of the tax bill would have -- right now it has two lines for the County-wide taxes; General Fund and Police. This would require four lines; General Fund, Actual, and then another line after New York State property value adjustment. And same for the Police District, Actual and then another with a number for after New York State property value adjustment. So four lines instead of two.

CHAIRMAN D'AMARO:

My interpretation -- thank you, Mr. Nolan. My interpretation is -- the experience that I've had in the last few budgets, voting on the last few budgets where we are working diligently to try and lower taxes to County taxpayers. We achieved that to what we call the average County taxpayer or the typical County taxpayer. Then that -- that package gets sent up to the State of New York where an equalization rate is applied for other purposes and it results in a completely different view of which towns had tax increases and decreases on the County level.

So to me that's an artificial or inaccurate presentation of what we are actually doing here on the County level when it comes to taxation and taxation of County residents. And I think it's just giving more information. I don't see how that could be a negative. You are saying to people who receive a tax bill, okay, well, you know, here's what the County has done and here's what happens after the equalization rate is applied. I think you still need to explain it, but at least have the documentation now on the tax bill so when we start our explanation we have something we can point to. Legislator Alden.

LEG. ALDEN:

I know it's not your bill, but did anyone check with the Receivers of Taxes as far as availability of lines on the tax bill, because they're getting pretty much filled up? And I agree with you, because part of the function is overassessment by a town. And if they lose a whole bunch of assessment challenges, tax certiori, then that evaluation is going to go up, and then we're going to look like, you know, the bad guys.

CHAIRMAN D'AMARO:

And then if I could -- just before you answer, Ms. Bizzarro, you know, we have no control over the equalization rate. I mean, in my mind, that's just as arbitrary as the different assessment practices going on in the different towns. I just think this throws out more information, it kind of points more towards what we've accomplished, and then we can talk about assessment rates. That kind of separates that debate from what we're doing.

LEG. ALDEN:

We should have been doing this for 10 years. Is there room?

MS. BIZZARRO:

I mean, I haven't spoken with the Receivers, but I've had the opportunity to review the tax bills for the towns in Suffolk County every year, and they have plenty of room. I don't think that's going to be a problem.

MR. ZWIRN:

We would think that this would have 18 cosponsors, because speaking anecdotally, I know that Legislator Schneiderman, who's my Legislator voted for -- voted for -- supported the budget -- then he sued against the budget, but that's another story -- but after he voted for it, you know, when the assessments came out, I think there was like a 24% increase in the Town of East Hampton even though he voted for, you know, a flat -- a flat General Fund property tax increase because of the different -- because the value of East Hampton property went up so high.

So is it fair that -- you know, in all fairness, somebody running against him in a future election could say, you gave East Hampton a 24% tax increase, when in reality, it had nothing to do with his vote here at the Legislature. And I think that would be fair. And it's going to go up and down, but at least that information will be on the bill. And I think that would be helpful to the entire County and to the entire Legislature.

CHAIRMAN D'AMARO:

And if there was a tax increase, it was something well beyond any one Legislator's ability to control. We have no control over that. We only have jurisdiction to control the tax rate when we work on our budgets and when it gets applied to --

LEG. ALDEN:

Although Ways and Means apparently has a lot of power over that tax bill, whether it goes up or down.

CHAIRMAN D'AMARO:

Yeah, right. Thanks, Cameron. With that said, I'll defer to Legislator Nowick.

LEG. NOWICK:

This is a subject I'm kind of familiar with. Just a comment on the amount of space. I know you said you've seen all the tax bills. I do remember when I was a Tax Receiver, there were quite a few towns that had no space. Smithtown, I know, does, we just form our tax bill a little different. I would really -- although, I think it's a great idea. I think our constituents know we're not really raising their taxes.

But two things I'm concerned about. I do think it would be a fair thing to ask the Tax Receivers if they have a problem with this. And if they do, we can maybe work it out with them. I think it's the right thing to do. But then there's another thing. Those tax bills that go out to the self-payers -- first of all, half the people don't read them or can they understand them. But if we put equalization rate, which is a wonderful idea, I think we need to explain to our constituency what the hell that means.

CHAIRMAN D'AMARO:

Yeah. We'll say it's a formula imposed by the State of New York.

LEG. NOWICK:

And that's going to -- it's got to be on there. I really believe that that needs to be on there somewhere, because I don't think people understand it.

MR. ZWIRN:

We agree. But we'd like to get this to the full Legislature, because we want to get -- we get this done in a timely manner, because, as you know, the tax bills have to be printed and everything else. So we'd like to just sort of --

LEG. NOWICK:

We're going to meet again in two weeks. I'm just going to request that we speak to Tax Receivers, maybe they can come to our full meeting.

MR. ZWIRN:

I don't expect a lot of them are going to be supportive, but needless to say --

LEG. NOWICK:

But maybe we should see what their problems are.

MR. ZWIRN:

I don't have -- we don't have any objection to that. But we would ask to just get it -- at least get it before the Legislature for the August 5th meeting, and then --

LEG. NOWICK:

And we can do that.

MR. ZWIRN:

-- invite whoever you saw --

CHAIRMAN D'AMARO:

All right. Dr. Lipp, did you want to add to the discussion?

MR. LIPP:

I think there's some technical problems with the resolution. Number one, it specifies General Fund and Police. The way most tax bills work, for instance, in the west end is they combine in the General Fund the College as well as the District Court. I think Smithtown is the only exception in the west end; they break out the District Court. All the others have an implicit College and District Court in there. So there's a source of confusion there.

Number two -- so that should be amended. Number two, the bill does not -- the resolution does not specify how to make this calculation. So it's a head-scratcher right there. Number three, what you should take into consideration also is you'd be having an additional line -- well, two lines that would have illustrative versus actual bill. So it would be confusing, number one, which one is the actual, which one is the illustrative.

And number two, every year, with the equalization rates, there will always be winners and losers, meaning, let's say for argument's sake, that there's a zero change in the General Fund or, let's say, all County property taxes, you will see some towns have actually higher bills, even though it was a zero change. And other towns will have lower bills. So depending upon the particular town in any given year, the illustrative bill may look better or worse. That will change from year to year. So it's not clear, you know, what you are going to wind up with. But clearly, the bill has some technical problems.

LEG. ALDEN:

Aside from that, you have any problems with it?

CHAIRMAN D'AMARO:

Ms. Bizzarro, one second. Just in my mind, if there's a way to put a line on a tax bill that accurately reflects what we're doing, I'm all for it. And I think this bill accomplishes that. I think Legislator Nowick is right, we need to explore with the Tax Receivers whether or not they have the capacity to do this and how quickly.

LEG. NOWICK:

Just as an aside. There have been other legislation -- other pieces of legislation in the past in reference to Tax Receivers and nobody ever spoke to the Tax Receivers. And one of them was

where we collected money for voluntary contributions. I mean, that was a disaster. So I think you need to talk to them and find out -- it doesn't mean we're not going to do it, but maybe they can help us do it the right way.

CHAIRMAN D'AMARO:

The Huntington Tax Receiver did reach out to me yesterday. We missed each other in phone calls, but I did get a chance to speak with her office I was informed that, you know, it's not about the policy, it's about the software in the office; you know, how do we do it and how quickly can we do it. Not saying that they can't do it. I would rather keep the feet to fire so to speak. So in that sense I agree with Mr. Zwirn. But, Ms. Bizzarro, did you want to chime in?

MS. BIZZARRO:

Thank you. Just in terms of the space on it, yes, it's not there's -- there's physically the space, a lot of times it's just the programming and the Receivers just have to figure out how to do the programming to get the additional information on.

With respect to Mr. Lipp's comments, actually, currently, if you look at the resolution, we're just amending an already existing resolution. There are two lines; there's the General Fund and the Police Department Fund. We're basically just taking those two lines and we're turning them into four lines. So the District Court and all those other lines that you're referring to, these lines do not affect those lines. So you're incorrect in saying that there's a technical problem with this. Right now, you have your General County Fund, your General Police District Fund.

Now all this bill will do is require the Receivers to state the actual County General Fund, which is the number we actually give out from this County. And then there's a reporting requirement by the Receivers then to give the actual number, which is adjusted number as a result of the equalization rate. And that's to be done for both the General Fund and the Police District.

With respect to telling the Receivers how to do the equalization rate, they do not establish the equalization rate, the State establishes it. Basically what it is is it's the assessed value of the individual town divided by the market value of the town. That is how they establish that rate. And all they do is give it to the municipality. The municipalities are the ones that deal with that. So for example, if you have two towns paying for one school district, one town's assessed value is closer to the market rate than the other town's. The one that is closer to the market rate will generally wind up paying a little bit less than the other towns as opposed to both towns paying the same. So what it's trying to do, it's trying to find some balance.

MR. ZWIRN:

You have individual assessors in all the towns as opposed to --

MS. BIZZARRO:

Correct. And they're all different.

MR. ZWIRN:

-- County-wide assessment.

CHAIRMAN D'AMARO:

It's supposedly -- it supposedly imposes a blanket of fairness in property taxation. But what's unfair to us is that it's not reflecting what we're doing, and it's a number we have no control over and it's arbitrary. And it's not presenting an accurate picture of what policy direction we're taking when it comes to taxation.

The other practical consideration I have here -- and I would like to get this to the floor of the Legislature -- is that bills need to be prepared. And if this is going to be implemented, I think the two weeks may make a difference.

LEG. NOWICK:

Why don't we call and find out?

CHAIRMAN D'AMARO:

One second. Dr. Lipp, yes.

MR. LIPP:

Okay. On those two points. What you're saying with the first one, and I assume you are correct, is that saying General Fund, it's implicit what happens with the College Fund and the District Court. So I suppose you are correct on that.

In terms of the equalization other part with the equalization rate, what the towns simply do is they get the tax warrant resolution from us, and then they figure out what the assessed value is. And implicit in the dollar amount from the tax warrant is the equalization rates already calculated in there. The point I'm trying to make is so they have what the actual bill is going to be, and they provide that to each of the taxpayers. But they don't have a formula for what it would be if there wasn't the equalization rate adjustment. That would have to be calculated. And unless there's a specific formula in the resolution, it's not clear how that would be calculated. I know how to do it, but -- or I have an idea of how I would do it. But it's not in here, so it's not clear how a particular town would. You would need a formula to determine that.

MR. ZWIRN:

I think Robert is talking about job security.

MR. LIPP:

Not at all.

LEG. BEEDENBENDER:

I'm going to make a motion to discharge it to the floor. We have some concerns, but at least we'll get it to the floor. If we can resolve them, we'll vote on it. If not, we'll table it. But at least we give ourselves a shot, and if not, we'll just be back in two weeks like we would if we tabled it anyway, so.

CHAIRMAN D'AMARO:

Right. I'll second the motion. I'll call the vote. All in favor? Opposed? Abstentions? Motion carries. **DISCHARGED WITHOUT RECOMMENDATION. (VOTE: 5-0-0-0).**

That concludes the agenda. Legislator Alden had a request before we adjourn.

LEG. ALDEN:

I guess it's to the County Attorney's Office. I guess last week or a couple of weeks ago we were discussing that mega-mall over in the Huntington area, whatever. What's the name of the shopping mall? Tanger. And they have an arrangement right now with Suffolk County to enlarge a parking field, but part of that contract wasn't available. So if you could get me a copy of, like, the whole contract and the terms and things like that, I just would like to see the whole thing. Thank you.

MS. BIZZARRO:

The one for the parking lot to give them some parking spaces?

LEG. ALDEN:

Yeah. The buses, you know, now they passed that, so, you know, we'll just see if we need more equipment as we go on. But, you know, what their responsibilities are, what our responsibilities are, that type of thing, what they're going to do, who's going to inspect it, timetables, things like that.

MS. BIZZARRO:

You got it.

CHAIRMAN D'AMARO:

No further business before the committee, I'll offer a motion --

MS. BIZZARRO:

Excuse me.

CHAIRMAN D'AMARO:

I'm sorry.

MS. BIZZARRO:

Thank you, Chairman. There was a mitigation report that was given out to all of the Legislators. I just want to confirm that you have it.

CHAIRMAN D'AMARO:

I received mine. Is that it?

MS. BIZZARRO:

Great. Thank you.

CHAIRMAN D'AMARO:

Okay. Motion to adjourn, seconded by Legislator Beedenbender. All those in favor? Opposed? Abstentions? We are adjourned. Thank you, everyone for your patience this morning. We'll see you in two weeks.

(*THE MEETING WAS ADJOURNED AT 12:30 P.M.*)

{ } DENOTES BEING SPELLED PHONETICALLY