

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, October 8, 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
Renee Ortiz - Chief Deputy Clerk of the Legislature
Ben Zwirn - Deputy County Executive
Gail Lolis - County Attorney
Debra Alloncius - AME
All other interested parties

MINUTES TAKEN BY:

Donna Catalano - Court Stenographer

(*THE MEETING WAS CALLED TO ORDER AT 10:38 A.M.*)

CHAIRMAN D'AMARO:

Ladies and Gentlemen, good morning and welcome to Ways and Means Committee of the Suffolk County Legislature. I'm going to ask everyone present to please rise and join the committee in the Pledge of Allegiance led by Legislator Cameron Alden.

SALUTATION

CHAIRMAN D'AMARO:

Please be seated. For the record, the committee has received some correspondence this morning which will be distributed to all the committee members. If you don't have it already, please just let me know. The first is from the Suffolk County Department of Economic Development and Workforce Housing. It delineates property transfer process under Section 72-H of our code. You should have a copy of that.

We also have a memorandum addressed to myself as Chair of the Ways and Means Committee from Commissioner Patrick Heaney, Department of Economic Development and Workforce Housing addressing some of the resolutions that have been either tabled here this in this committee or are coming up on today's agenda. So if you don't have copies of either one of those, please let me know and we'll be sure to get you a copy.

The committee has not received any cards this morning. Is there anyone present who would like to address the Ways and Means Committee this morning? For the record, there's no response. That brings us to presentations. Although there's nothing indicates on your agenda with respect to presentations this morning, I have asked Jill Rosen-Nikoloff who is the Director of Affordable Housing here in Suffolk County as well as Christopher Kent, Mr. Kent, to come up and have a dialog this morning with the committee concerning some of the properties that we will be addressing throughout the meeting as well as some of the properties that have been tabled, are proposed to be conveyed under the Section 13 or under the 72-H procedures in the Code. So if you could come up and join us at the table this morning, I would appreciate that.

MS. ROSEN-NIKOLOFF:

Thank you for inviting me.

CHAIRMAN D'AMARO:

Well, thanks for coming. We appreciate it. I thought maybe we would start off -- Jill, if you would just give us a very brief description of what you do with respect to these properties in the County, and then we'll go from there. I have some questions, and we can begin our dialog that way.

MS. ROSEN-NIKOLOFF:

Okay. Sure. First of all, it's called the 72-H Affordable Housing Transfer Program. And the way it works is our Real Estate Department sends over a notice to me that certain properties are available for affordable housing. And I do a quick analysis of them, I look at the tax maps, I look at the aerials, I look at the size and make a determination as to whether it's suitable to be built on, at which point, I then offer it to the applicable township or village. They then have 30 days to make a quick analysis as to whether they think they'll want it for affordable housing and must notify me within that 30 days. I then notify Real Estate and they hold it for affordable housing. The town -- the village or the -- the town has then 60 days to provide me with certified board resolutions indicating that they do want it for affordable housing. Upon receipt of those resolutions, I notify Real Estate, Real Estate prepares a resolution to be submitted to the Workforce Housing Committee. I've never seen one that hasn't passed. Once that happens, we prepare the deed and close with the towns.

CHAIRMAN D'AMARO:

Very good. That is the 72-H procedures in a nutshell.

MS. ROSEN-NIKOLOFF:

In a nutshell.

CHAIRMAN D'AMARO:

And we also have the Local Law 13 procedure where we offer properties to adjoining owners. Mr. Kent, would you just briefly in a nutshell tell us how that procedure goes?

MR. KENT:

Okay. This has to do with properties that we take for nonpayment of taxes. We have these properties appraised. And if we determine that they're less than -- by appraisal if they're determined to be less than \$20,000 in value, under Local Law 13, we have the right to offer it to adjacent property owners. We do -- at the time that we are making our analysis, we forward the information about the parcels to the Affordable Housing Division, and they let us know whether the towns are interested or not before we offer them to the adjoining property owner.

MS. ROSEN-NIKOLOFF:

I will say that even if -- even if undersized, meaning primarily for direct sale, I will go the town, because you don't know whether they may be able to either -- to buy the adjacent parcels and subdivide or whether the town own the parcel next door and they can combine them. So I do give the towns an opportunity to review those parcels as well.

CHAIRMAN D'AMARO:

Okay. Very good. What's happened here, and in my experience, is from this perspective, we are looking at some parcels that are brought before us by resolution to either convey to the towns for 72-H or through the Local Law 13 process[.]. [.]. And when I look at the tax maps and I look at the proposed property to be sold or conveyed to the town, it appears on the face of it that these parcels would be conducive to workforce housing.

Now, what we've always understood when looking at this -- these properties is that they have been vetted at your level prior to coming here. But I see so many of them that I begin to question whether or not that process is sufficient. And that's really what I'm questioning. And what I'm hearing is that when you have a property that you feel may support workforce housing, it's really going down to the towns for the town to review and determine whether or not it fits into a program, I guess, the town is running; is that correct?

MS. ROSEN-NIKOLOFF:

Yeah.

CHAIRMAN D'AMARO:

So the criteria that's being applied is not at the County level, it's really at the town level to determine whether or not workforce housing can be ultimately built on that parcel.

MS. ROSEN-NIKOLOFF:

Ultimately, it's the town's determination through their community development agencies, their planning departments and their zoning boards. They do their due diligence; they go out, they do site reviews, they take photos, they do title searches, that kind of thing. And they do it, you know, collaboratively within the town. I mean, I'm prone to offer them everything, because as I said, there are factors that I might not be aware of at the County level that they are much more aware of at the local level.

CHAIRMAN D'AMARO:

Right. And it's better to be inclusive. And as long as they're making decisions anyway and have their ear to the ground as to what they believe fits their programs or does not or their criteria, why not send them all or a good portion of them. But I wanted to ask you when you send these

properties down to the town, do you send properties that are substandard, that cannot be build on as a matter of right?

MS. ROSEN-NIKOLOFF:

Yes. As I said, I might be able to -- you know, I might in my mind say they can't build on this, but let me vet it completely and let the towns tell us -- somewhat for your information too -- that it just can't be build on. It's not just my determination. The town being where the buck stops has also told us not that it's not buildable. So, yes, I will send them substandard stuff.

CHAIRMAN D'AMARO:

So you do -- and I'm encouraged to hear that, because some of the properties that we are looking at here that are tabled in this committee are substandard. Although we don't really have single and separate searches, we don't know if they would get some kind of single and separate dispensation based on that. You know, there's a lot of criteria and factors that go into whether a lot is buildable or not buildable.

MS. ROSEN-NIKOLOFF:

May I say that that wasn't always the case. I think that at -- it stopped at the county -- the County would make the first determination, and if they determined that it wasn't buildable, they wouldn't send it to the town. I've expanded it because, you know, I don't know need any trouble should my determination be wrong, and there may be other factors at the local level.

CHAIRMAN D'AMARO:

Okay. Let me just get through a couple of things. All right. Good. So let me ask you this. You are the Director of Affordable Housing, I think, here in Suffolk County, right? And give me some numbers. You know, how many properties are we sending out to the towns? What percentage of those properties are being picked up? How successful have we been in running this program in Suffolk County and working and partnering with the towns? You know, that kind of -- is there a success story here?

MS. ROSEN-NIKOLOFF:

Oh, yeah. As of the end of last year, we transferred or were in the process in transferring 200. Let me -- I'll just give you some numbers as to where we are now. I can go through it by each township, but at the moment, we have 407 properties being processed, either -- either transferred to the town and not yet transferred to a non-for-profit or transferred to the town and then to a not-for-profit, but not yet sold to an ultimate owner or rented to an ultimate owner. So these are 407 active properties.

I will tell you that the towns have been somewhat remiss in moving on these properties, and we've made it a priority in my office to help them organize. And we now have complete up-to-date lists as to what each town has, and we are closing them systematically. I think in the last two months, we must have closed in conjunction with Real Estate about 27 properties. And that's -- they did like 27 in one year, you know, before I got here.

CHAIRMAN D'AMARO:

The ultimate goal, of course, being to get the housing built. Now, when you say there are 407 active properties, those -- and you're beginning to close on properties now to get ownership into the towns and into those programs, do we follow up?

MS. ROSEN-NIKOLOFF:

Yes.

CHAIRMAN D'AMARO:

How do we do that?

MS. ROSEN-NIKOLOFF:

We get an annual report from the town on it as to all the properties.

CHAIRMAN D'AMARO:

From each town?

MS. ROSEN-NIKOLOFF:

Yes.

CHAIRMAN D'AMARO:

Okay.

MS. ROSEN-NIKOLOFF:

Because we have to make sure that the people -- the occupants are still meeting the requirements in the case of renters. And in the case of homeowners, that they haven't sold it to someone who's not within the income guidelines; the 80% of HUD area median income. So we have to monitor it.

CHAIRMAN D'AMARO:

And what do those reports from the towns show? What percentage of properties that we have conveyed in the last few years actually resulted in occupancy, you know, having been built and occupied?

MS. ROSEN-NIKOLOFF:

Don't know the percentage per se. And reluctantly, I can't give you that specific number as to what has closed since this program began, because when I got here about a year and a half ago, I must say that it was quite difficult in collating the scattered information. So I'm just doing that now. I'd be happy to get back to you with that number as to exactly how many have closed.

CHAIRMAN D'AMARO:

If the town takes title and we close, and we're picking up on the closings now and getting them down to the towns, which is a positive step, what conditions are placed on the town? Are there any deadlines that they need to meet in order to get the home built and get it occupied?

MS. ROSEN-NIKOLOFF:

Yes.

CHAIRMAN D'AMARO:

What are those deadlines?

MS. ROSEN-NIKOLOFF:

The properties have to be constructed on, built on, within three years from the date of transfer from the town. However, I am permitted to grant them two two-year extensions, and that's necessary sometimes because they're trying to clear up title or they need variances or they don't have -- like in the case of Habitat, they don't have enough volunteers to finish it. But the extensions can only be given for good cause. They can't be given just because the towns forgot they had it and sat on. After that, I have to come back to the Legislature and get your approval.

CHAIRMAN D'AMARO:

Okay. So the towns have three years and then the possibility of extending that even further. What's been the success rate there in your experience?

MS. ROSEN-NIKOLOFF:

Success rate in terms of?

CHAIRMAN D'AMARO:

Meeting the deadline.

MS. ROSEN-NIKOLOFF:

Not so good, and that's why we're on them. That's why I've got this analysis right here, so I know -- I now know, which I do not believe my office knew before, how many properties were transferred to the town and were sitting there and not yet transferred to a non-profit, because as long as they sit with the town, they're never going to get built on. You have to get them to a non-profit, and you have to get them to the right non-for-profits, which is why, you know, we like to see the properties go the ones that are -- have a budget, have money, have volunteers; Long Island Housing Partnership, Habitat, EOC, Community Development Corporation. So we know how many properties have been transferred to the town and aren't sitting there, we know how many are over the three year limit, how many have already been given extensions, and we know how many have been transferred from the town to the non-for-profit and not yet been closed on. What we want to do is get to that ultimate closure with the final homeowner. That's where we want to get.

CHAIRMAN D'AMARO:

I envy your attention to detail. That's exactly what you should be doing, tracking the properties.

MS. ROSEN-NIKOLOFF:

It has to be that way. There's too many -- too many properties out there. And they're County assets, and they need to be dealt with.

CHAIRMAN D'AMARO:

Now, do you have any read on why the towns would take clear title to property from us, because we wouldn't convey it and close without clear title, and then do not meet these deadlines?

MS. ROSEN-NIKOLOFF:

I'm sure you can imagine. It's not anything intentional. I'm sure it's probably oversight. I know that, for instance, in the case of Brookhaven there was not a real focus on the program, and now under the Commissionership of {Alva Scardi}, who's the Commissioner of Community Development, she's made it a priority. And we have worked extremely well together to streamline it. Brookhaven is the largest, by far, of receiver of 72-H properties. So I can't answer that specifically for the towns, but, you know, things get -- things get lost, things get, you know, put on the back burner. But right now, I'm making sure that this is on the front burner for all of the towns.

CHAIRMAN D'AMARO:

Well, I'd like to help you and make sure also, can that data be made available to this committee for each of the towns?

MS. ROSEN-NIKOLOFF:

I do not see why not.

CHAIRMAN D'AMARO:

Okay. And that will show us the properties that have been conveyed down to the towns for workforce or affordable housing and the status of each property.

MS. ROSEN-NIKOLOFF:

Correct.

CHAIRMAN D'AMARO:

Length of time held --

MS. ROSEN-NIKOLOFF:

Date transferred.

CHAIRMAN D'AMARO:

Date transferred.

MS. ROSEN-NIKOLOFF:

Extension granted.

CHAIRMAN D'AMARO:

Right. And will it give us numbers or will it list each property?

MS. ROSEN-NIKOLOFF:

What do you mean numbers? It will give you the tax map, the address, the date transferred. I must admit though in some cases, the files were so empty that there will be some blanks in terms of a few of them that we're still trying to get through. But for the most part, we'll find all that.

CHAIRMAN D'AMARO:

I understand you can only give us a report that's as good as the data that underlies the report, I understand that. Give us an example.

Pick a town and tell us how many properties are pending on this report. What's the most -- pick -- give me the town that has the most properties pending.

MS. ROSEN-NIKOLOFF:

That would be Brookhaven, and they've got 47 transferred to non-for-profit and not yet sold to a family, 47.

CHAIRMAN D'AMARO:

Does that mean that they're built?

MS. ROSEN-NIKOLOFF:

They're probably in the process of building.

CHAIRMAN D'AMARO:

Well, that's good news. Okay.

MS. ROSEN-NIKOLOFF:

That's good news.

CHAIRMAN D'AMARO:

Forty-seven.

MS. ROSEN-NIKOLOFF:

And 46 were transferred to town and not yet transferred to a not-for-profit. Those are the ones we really have to move. In addition, between taking off 18 parcels from the 2007 auction, which Bellport requested for their visioning process and an additional 57 that we offered Brookhaven from other offerings, there's -- we are in the process now of systematically transferring 75 additional properties to them. So they have quite a number. But that's why I'm working with -- Chris has assigned RJ {Batt}. I have a new assistant, Nicole Christian. Their sole duty is to get these houses closed, and they're working very well together.

CHAIRMAN D'AMARO:

That's great. What's going to give the town the incentive to move not only the 40 some odd properties that they already have, but the 75 coming down the pipeline?

MS. ROSEN-NIKOLOFF:

Me.

CHAIRMAN D'AMARO:

Okay. Now, let me ask you this. When you get down to that town level, okay, and there are these workforce housing programs, is it in all cases that the workforce housing program -- the housing is not being built by the town, but the property is being conveyed to a not-for-profit?

MS. ROSEN-NIKOLOFF:

Not in all cases. East Hampton does it itself.

CHAIRMAN D'AMARO:

Okay.

MS. ROSEN-NIKOLOFF:

They bid it out because they have their separate Housing Authority. And also, I think, Southampton, they just formed a Housing Authority. Although they haven't built anything yet, they want to start.

CHAIRMAN D'AMARO:

Right. And it's through a Housing Authority that a town can kind of take it into its own hands.

MS. ROSEN-NIKOLOFF:

It's actually a separate non-for-profit.

CHAIRMAN D'AMARO:

Right. What keeps the properties affordable? How do we ensure when we convey that title that the properties will remain affordable?

MS. ROSEN-NIKOLOFF:

Covenants and restrictions in the deeds.

CHAIRMAN D'AMARO:

They go right into the deeds, correct?

MS. ROSEN-NIKOLOFF:

Yes. I mean, in the packet of information I gave you, there are some -- there's essentially some C and Rs that we put in our deed to the town, get passed along from the non profit, from the non profit to the ultimate owner.

CHAIRMAN D'AMARO:

Okay. Now, if -- right now, the code requires that property coming through your respective offices, if they are appraised for 20,000 or less, Mr. Kent, would then be -- are required to be offered to an adjoining owner through that process; is that correct?

MR. KENT:

We do offer them. I don't know if we're required to, but we -- when we have properties appraised that appraise for less than 20,000 we offer them to adjacent property owners once they've gone through the affordable housing vetting process and the towns are not interested in them for affordable housing. We've asked the towns to send us a letter expressing their non interest in the parcels before we will -- before we'll go forward with the sale to the adjacent property owner.

MS. ROSEN-NIKOLOFF:

And that's -- the reason we do that has to do with your concerns. You know, so that you can be comfortable and see in writing the precise reasons why they don't want it. You know, you don't have to just take our word for it.

CHAIRMAN D'AMARO:

All right. And the covenants get -- my question was, though, the properties appraised at 20,000 or less or under 20,000, whatever the rule is. Do they get considered for workforce housing as well or do they go right to that adjoining owner process?

MR. KENT:

Once the town has expressed that they -- has expressed that they don't have an interest in this

property, they are no longer being considered for workforce housing and they are conveyed to the adjacent property owner based on a bidding process that we do by mail. And then if there's more than one bidder, they're called in to do what we call a mini auction. That's an in-an-office auction between two or more adjacent property owners who've put in a written bid, then they're conveyed -- they're conveyed to the winning bidder.

CHAIRMAN D'AMARO:

The answer is yes, even though it may appraise for under \$20,000, it's still being reviewed for the workforce housing.

MR. KENT:

Oh, whether it's being reviewed. Yes, it is being reviewed. Yes, it is.

CHAIRMAN D'AMARO:

Right.

MS. ROSEN-NIKOLOFF:

That's why I said I pretty much offer them everything, even if it's ridiculous. And I put in my cover letter to them, look, you know, I just want you to know that, you know, I'm not blind here, I don't think you're going to be able to use this, but I'm sending it to you, make your analysis.

CHAIRMAN D'AMARO:

Does Suffolk County have a workforce housing program where we set the criteria, or is it always done at the town level?

MS. ROSEN-NIKOLOFF:

Set the criteria for what's buildable?

CHAIRMAN D'AMARO:

Yes.

MS. ROSEN-NIKOLOFF:

No. No, we don't have those powers.

CHAIRMAN D'AMARO:

And that leads me to the pending or tabled resolutions that we have today, okay? So it goes through that entire process -- and I really do appreciate that you're on top of it and I appreciate that you have the details down, that's very important -- but when the town says no, that's pretty much where the workforce housing analysis ends and the 72-H or the Local Law 13 process begins, then it comes here.

I look at this and I see properties that although the towns through their criteria have said no, I believe would support a yes. All right? So what I'm asking you today is can Suffolk County take those properties and impose the -- or record the covenants and restrictions against them and put them into our own Workforce Housing Program?

MS. ROSEN-NIKOLOFF:

If they're not buildable, why would we do that?

CHAIRMAN D'AMARO:

Buildable is a matter of perspective.

MS. ROSEN-NIKOLOFF:

No. It's actually a matter of what the towns will allow.

CHAIRMAN D'AMARO:

Well, okay. I don't disagree with that. But my point is that when you look at a lot, even though you cannot build on it -- build on it as a matter of right, it does not mean it's not buildable. In fact, most properties, especially in Western Suffolk County are not -- the property that's left is no longer buildable as a matter of right anyway. And even new subdivisions require variance relief to create housing, especially in Suffolk county -- especially in Western Suffolk county. So buildable as a matter of right, I agree with your statement. But if certain variances are granted that conform with the character of the surrounding community, it becomes buildable.

So my next question is when the towns vet the properties, even though you're sending down properties that may require variance relief, and I appreciate that you do that, do they ever take a property that requires variance relief or does their criteria say, no, if you can't build on it under present code, it's not going into the program? Which is it?

MS. ROSEN-NIKOLOFF:

Yes. They will take a property that may require variance relief if they think they can get that variance. And that has to do with several factors; character of the community, how many variances are needed. Islip, I just got a call from them today. It's undersized, but they -- they wanted extra time. You know, if the curtain comes down before -- you know, they have tell me they want it. If they want extra time because even though it's undersized and they normally couldn't build on it, they're going to try to negotiate to buy the house next door and then they could combine them. So, yes -- the answer to you question is yes.

CHAIRMAN D'AMARO:

Well, combining with the house next door is different than making an application to a zoning board, of course, unless you still need relief after you've combined two properties. But I don't want to get too technical. My only point really is, again, though, at the town vetting level, the determination as to whether or not a substandard parcel could fit into this program and whether or not it receive variance relief is a decision made by the town.

LEG. VILORIA-FISHER:

Would you suffer an interruption? I have a question about your line of questioning. Perhaps you can answer it or Real Estate. If there were to be a parcel in which there was an interest by the town or a not-for-profit, who then would present that variance to the town?

CHAIRMAN D'AMARO:

The not-for-profit, I believe. The town could make an application.

MS. ROSEN-NIKOLOFF:

The town could do it its own.

CHAIRMAN D'AMARO:

Excuse me.

MR. KENT:

The town could do it on its own application. I know that's what we did when I worked for the town.

CHAIRMAN D'AMARO:

I know in Babylon it's been done as well. The town -- I believe it has. And Ms. Bizarro is here, the former Babylon Town Attorney could answer this better than I could. But the fact is that the town would have standing as the owner of the property to bring that application. The not-for-profit as a contract vendee would have standing to bring that application.

LEG. VILORIA-FISHER:

So the town board would bring it before the Town's Zoning Board?

CHAIRMAN D'AMARO:

That's one route or the town could put it into the program with the not-for-profit subject to the not-for-profit applying for and getting the variance. It could be done either way.

LEG. VILORIA-FISHER:

Okay. Thank you.

CHAIRMAN D'AMARO:

And by the way, Suffolk County, as owner of the property, could also bring a variance request to any town as well. So just to kind of close out my questioning and then I'll defer to my colleagues -- just to close out my thought process, if we vet the properties at the County level and we impose the conditions of affordability on to the properties through covenants and restrictions, could that then lead to the County pursuing the application or working with these not-for-profits directly in creating workforce housing?

MS. ROSEN-NIKOLOFF:

I'll have to consult with our legal department. But I would -- I'm going to take a leap here and say that we probably could. I think it would have to -- it should be an intelligent choice as to what we pursue, not a 2000 square foot lot, because it will take the County time. But I'm going to defer the answer to that question until I speak with our legal department.

CHAIRMAN D'AMARO:

Our legal department happens to be here, so I'll put the question to either the County Attorney or the Chief Deputy whether or not that's something that -- do you see any legal obstacles to the County doing this on its initiative? Ms. Bizzarro, why don't you come on up? I mean, you are the former Babylon Town Attorney. I think it would be helpful.

LEG. ALDEN:

Did you just let somebody off the hook.

MS. BIZZARRO:

Yes, I am. And I think that the answer to your questions, all three of those, could make -- I think make the proper application for the variances. But I think under our Workforce Housing Program as it currently exists, I think something can -- I think this can be accomplished. I would have to look at the statute, I think it's Article 36 of the Code, but I think it allows it under the 72-H Program, perhaps even under the funding initiatives program that might already be there that would allow us to do something like. We make the application as owner of the property and go for the variance that way.

CHAIRMAN D'AMARO:

One more question to all three of you. And rather than getting involved in conveying the properties down to a non-for-profit, let's say, or laterally to a non-for-profit to build workforce housing and deal with all those issues that come up, is it also possible for us to take the properties and put them back into the auction process, but subject to constructing workforce housing? Is there any legal impediment to us doing that?

MS. BIZZARRO:

I don't think there is.

CHAIRMAN D'AMARO:

Okay. Good. All right. Legislator Alden, did you have a question?

LEG. VILORIA-FISHER:

I think Jill was trying to answer that.

CHAIRMAN D'AMARO:

I'm sorry. Go ahead, please. I'm sorry.

MS. ROSEN-NIKOLOFF:

I just want to point out that, you know, I think Lynne and I are probably correct and we could do that, but, you know, keep in mind that we make a great contribution to the affordable housing through simply the donation of the land, which is a huge contribution. You might want to weight the amount of time and effort it will take our Legal Department to do these things. And that's why I said we should be careful with respect to the properties that -- if we do this -- we elect to go through the variance process.

CHAIRMAN D'AMARO:

I appreciate that. And that's -- you know, that's the balancing act; is it -- you know, can we achieve a result that warrants the time and resources. And I don't disagree with that. But the way I see it is that, you know, the auction process may be the path of least resistance, where you're simply filing covenants, which is probably pro forma covenants that can be very easily filed against certain properties that they go to auction. If they don't sell, well, we have the authority to lift the covenants. And if they do sell, the covenants will include time restrictions and what have you in order to get the construction started. You don't even have to close on the properties. If there's a successful bidder at the auction, and, Mr. Kent, correct if I'm wrong. If there's a successful bidder at the auction, a deposit is put down. The terms of sale can be subject to obtaining the variance relief, if any, that's needed. And if the variance relief is denied, well, then we can just reverse the process, give the deposit back and lift the covenant. And then go into the adjoining owner sale.

LEG. VILORIA-FISHER:

I'm sorry, Lou, you lost me. Can you pass that by me again? If we have covenant restrictions and we put it on the auction block, that's what you are saying, if I as an individual register to go to the auction, then I go to the auction and I am the winning bidder on the house in 123 Main Street, I am then required to build my house so that it meets the affordable housing?

CHAIRMAN D'AMARO:

Right.

LEG. VILORIA-FISHER:

And would my -- we also criteria for who lives in affordable housing. So would that restrict the people who are bidding on the house to be at 150% of median -- you know, I'm wondering how we could fashion that to work within the covenants and restrictions that you're attaching to a house that's on the auction block.

MS. ROSEN-NIKOLOFF:

It's an excellent point. And, yes, it would have to be drafted very tightly, because not so much the purchaser has to be under a certain income, but the owner, the occupant, would have to be certified.

LEG. VILORIA-FISHER:

But I'm presenting myself as someone who is going out there to an auction --

CHAIRMAN D'AMARO:

No. No. Let me answer that.

LEG. VILORIA-FISHER:

-- to buy a property so that I can build a house for me to live in.

MS. ROSEN-NIKOLOFF:

I don't think we would require that they -- the one saying I'll bid 70,000 for it to meet the income requirements.

LEG. VILORIA-FISHER:

But if you're putting it on the deed -- if you're putting C and R on the deed, then --

CHAIRMAN D'AMARO:

The wording in the deed will make it clear that the -- and this is sum and substance. The wording will have to be worked on very carefully, but it would make it clear that if you purchase a property at auction, the ultimate owner-occupant of the home needs to meet the workforce housing criteria. You can't impose that condition on a builder if a builder is bidding on the lot, because the builder is certainly not going to meet that criteria.

LEG. VILORIA-FISHER:

I'm saying if an individual person can buy a lot and have a builder build a house for them --

CHAIRMAN D'AMARO:

Right.

MS. BIZZARRO:

And you give a certain amount of time that the builder can build a house, and then, you know --

CHAIRMAN D'AMARO:

Or a builder can purchase a lot and build a house and the covenants would address both scenarios.

LEG. VILORIA-FISHER:

But I don't think you're understanding the nuance of what I'm saying. Maybe I'm just not saying it clearly enough. I'm buying piece of property. I'm going to have a builder build a piece of property for me. We have criteria not only on property, we have criteria on who lives in the property.

CHAIRMAN D'AMARO:

Right.

LEG. VILORIA-FISHER:

If I am buying that piece of property that has these restrictions, then it also restricts who the buyer is if that buyer is someone who plans on living on that property.

CHAIRMAN D'AMARO:

I agree with you.

LEG. VILORIA-FISHER:

And where does that come in? Do we screen the bidders who --

MS. ROSEN-NIKOLOFF:

Their closing would have to be subject to certification.

CHAIRMAN D'AMARO:

Of course. Yeah. You wouldn't have to prescreen them. It would be part of the terms of sale. And I would anticipate these properties being looked at by builders.

And the way it works, just to get into one final detail in my mind, is that once you put the covenants on, then the auction price is going to be reflective of the fact that it's targeted for the workforce housing, and that will go into the mix of whether or not the builder can actually build a house, make the desired profit and also get the affordability occupant meeting the criteria into the home. So that's a market place kind of dynamic that needs to take place as well. Okay. Legislator Alden, did you have a question?

LEG. ALDEN:

The first one I have was just a clarification. Before you were testifying that you speak to people in the town. Traditionally, who is it that you speak to in the town?

MS. ROSEN-NIKOLOFF:

Community development directors.

LEG. ALDEN:

Okay. So that's one step removed from actually town government. And sometimes the communication aren't that good going up and down the ladder in there. And I've found over the course of maybe the last 20 years that sometimes property is not taken where a little bit of work has to be done on it, because the town doesn't want to do the work. Or one person that might be required to have that work done, they don't want to do the work. So they don't really -- they go back to, like, their town boards and say, I know we have this philosophy that we want to supply X amount of units of affordable housing. But word never reaches the town board that, you know, there are some parcels that are available, but we have to do a little bit of work to make them into affordable housing. So that was my first point of clarification. So you pretty much deal with Community Development Agency directors?

MS. ROSEN-NIKOLOFF:

Yeah.

LEG. ALDEN:

Directors, though, right?

MS. ROSEN-NIKOLOFF:

The directors and then -- then they -- you know, Brookhaven, I know, will confer with their Planning Department, their Zoning Boards and usually the Councilman for the district.

LEG. ALDEN:

Some towns don't have Community Development Agencies, right?

MS. ROSEN-NIKOLOFF:

They all do except for the villages. They kind of have a person who -- because the villages rarely get offerings anyway.

LEG. ALDEN:

The second thing was your look-back. You're going to give us a report on how the towns are performing when we give them the property and how fast they're actually getting them out and getting them built. Are you going to look back -- how far, three years, five years to see their performance?

MS. ROSEN-NIKOLOFF:

I'm going to show whatever is active, currently active. I think -- I know I can probably tell you there's probably some properties there from maybe 1999 that haven't been acted on.

LEG. ALDEN:

I mean, I don't want to rat the town out, but my town has some property that's still sitting there, and it was when I was the attorney for the CDA, so. But here were some problems with it, but, you know, I'm not suggesting that you go pull that -- that property back, because I think they are -- now they might be pursuing what --

MS. ROSEN-NIKOLOFF:

They all are now.

LEG. ALDEN:

Okay.

MS. ROSEN-NIKOLOFF:

They're cleaning up their roles.

LEG. ALDEN:

You're not doing a look-back, you're just doing whatever is active?

MS. ROSEN-NIKOLOFF:

What's in our system now that hasn't been closed on and somebody's in.

LEG. ALDEN:

Okay. But we're not going to look at property that we, say, deeded out five or eight years ago to see if there's still the restrictions on it that we wanted to see on it that we wanted to see on them.

MS. ROSEN-NIKOLOFF:

That's not what I'm going to give you initially.

LEG. ALDEN:

Okay. Are you going to do that eventually?

MS. ROSEN-NIKOLOFF:

Eventually I'd like to. That another -- I mean, this little -- this analysis here took about six months to collate all the information. We have to actually sit down with each town and say, this is what we have on our records, shows us what you have on your records, and then we have to, you know, flush it out.

LEG. ALDEN:

This is the plan though, right, to look back?

MS. ROSEN-NIKOLOFF:

That's the ultimate plan, yeah.

LEG. ALDEN:

Okay. And just one other quick comment. This needs a bigger look that what we're giving it today, and I think you'd agree with that. Lance, I know that a number of years ago, we passed some resolutions that put money or made money available for affordable housing projects, and that was expanded. At one time, it was just to do an infrastructure, but then I think we expanded it so you could do acquisitions. Is there still balances in those accounts? And you don't have to give me the answer today. I know I'm hitting you out of left field on that.

MR. REINHEIMER:

Yeah. We would have to get back to you on that.

LEG. ALDEN:

Good. But I think that we have to look at that also, because at one time, there was 20, 30, 40 million that was authorized.

MR. REINHEIMER:

Okay. And you're looking for what's left in purchasing of land for affordable -- for workforce housing?

LEG. ALDEN:

For workforce housing, and I know that there was another component of it that would provide money for --

MR. REINHEIMER:

For the infrastructure improvements, correct. We'll get back to you on that.

CHAIRMAN D'AMARO:

All right. Are there any other questions?

MS. ROSEN-NIKOLOFF:

May I just add something? With respect to your suggestion, Chairman D'Amaro, for the County to seek variances, would that applicable in a case, like, for example, IR 1483 where the town who has a lot of the experience has said, "We're definitely going to need three variances and we're lucky if we get one"?

LEG. ALDEN:

Can I jump in too?

CHAIRMAN D'AMARO:

Well, I'd like to answer that, but, Legislator Alden, please go ahead.

LEG. ALDEN:

Just from Islip's point of view, I've seen them grant more than three variances and actually do it over the past two or three years. So for them to just come out and blanket say three variances --

MS. ROSEN-NIKOLOFF:

Well, it's because he's saying of this -- it's a corner lot. And through experience, he does not -- and in speaking with the Planning Department, the Zoning department, they've said no because there's no other -- there are no other vacant corner lots to get any precedence for.

CHAIRMAN D'AMARO:

All right. Hold on. Hold on a second. The Zoning Board of Appeals is an independent body that the Planning Department would have a feel for where they tend to go, but that Zoning Board needs to make an independent determination based on statutory criteria. So that's number one.

Second of all, I'm looking at the corner lot. I asked to table this resolution, because right next to the corner lot are three more developed lots. And you know what? One of them is a corner lot. I think a Zoning Board would be extremely hard pressed -- is that not accurate?

MS. ROSEN-NIKOLOFF:

It's not developed.

CHAIRMAN D'AMARO:

Okay. But it's a four-lot subdivision. Okay? The Zoning Board would be hard pressed looking at this surrounding community given that subdivision not to approve that. I'm not saying they have to, but it would certainly be something that could be challenged in my mind.

So the only point I'm making, and I agree with Legislator Alden, is that, you know, again, it's the town criteria that is being applied in every case. Suffolk County is saying we have a Workforce Housing Program, which you head, but the fact of the matter is we don't make any decisions as to what gets built, what should get built. We don't -- we don't really have an impact other than as a conduit or a pass-thru for properties that happen to come into our hands.

MS. ROSEN-NIKOLOFF:

Which is huge. A huge impact. They wouldn't have any decisions to make.

CHAIRMAN D'AMARO:

Well, I'd like to have more of an impact. So that's my only point. I'm not -- I'm not downplaying what we're doing. I think it's a positive thing and we need to do it, although you're telling me here today that certain towns are not really moving forward once they are getting clear title to these properties for the intended purposes.

MS. ROSEN-NIKOLOFF:

They are now. They are now.

CHAIRMAN D'AMARO:

Well, that doesn't help me though, they are now, because the need for affordable housing has been here for 20 years, okay? So that does not make me feel warm and fuzzy in any way, shape or form. So my only point is that looking at this first property, I don't see -- I still don't -- you know, I know I get a letter -- and it's in the file -- that tells me the town has vetted this property and says no to workforce housing, but I don't agree with that. Just don't agree.

So what I'm asking you then is if we went the next step and became proactive and, you know, finally maybe fulfilling some of the promises that we make and we do through our existing programs but even going further to provide this workforce or affordable housing through our own program, I just want to make sure that that's something we can do legally, and then what would be the process. And that's what I'm trying to start to develop here today working with my colleagues, of course.

LEG. ALDEN:

And with a modest budget, I might be available to that in the future.

MS. ROSEN-NIKOLOFF:

I have no objection as long as it's not an exercise in futility for the County staff.

CHAIRMAN D'AMARO:

Well, why would you make a statement like that?

MS. ROSEN-NIKOLOFF:

Because the towns --

CHAIRMAN D'AMARO:

Do you think anyone here would disagree with a statement like that?

MS. ROSEN-NIKOLOFF:

No.

CHAIRMAN D'AMARO:

And I don't really view --

MS. ROSEN-NIKOLOFF:

I mean, maybe, possibly.

CHAIRMAN D'AMARO:

-- this as an exercise in futility.

MS. ROSEN-NIKOLOFF:

Possibly.

CHAIRMAN D'AMARO:

I view it as an obligation to my constituents to not only talk about workforce housing, but of course, to, you know, fulfill the commitment and goal of creating workforce housing. So I don't view this as an exercise in futility at all. In fact, you could make the argument that, you know, what's been going on so far has been borderline an exercise in futility only because there are so many backlog properties.

So I just don't think a comment like that is productive.

MS. ROSEN-NIKOLOFF:

Well, I didn't mean it to be unproductive. What I meant was that we should make sure that the properties that we, if we do this, that the County goes forward with variances are ones that are likely to succeed in getting, not, you know, a 20 by 100 parcel.

CHAIRMAN D'AMARO:

Okay. I appreciate that.

LEG. ALDEN:

But also, I think what the Chairman is suggesting is a border program that, you know, if you include the properties that are almost -- can be built on as-of-right and they're not being built on, maybe it would be a faster way to get affordable housing into people's hands if the County did it. So some of the properties that I envision what you were talking about before might be those very ones that are -- you know, it's a slam dunk that you can get a building permit on. So maybe the County should instead of letting a town sit on it for three, four, five years or ten years, maybe we should do something ourselves. We have to take a look at it, I agree with you.

CHAIRMAN D'AMARO:

It's not so much -- I agree with you also. It's not a criticism of the town or the existing program, it's an expansion is the way I see it. It's applying -- it's applying our own criteria. After all, we own the property. Applying our criteria and seeing if we can't build on the programs and procedures that are already in place.

MS. ROSEN-NIKOLOFF:

I personally don't have any trouble with it as long as the County Exec authorizes me to go forward and the Legal Department has no problem with it.

CHAIRMAN D'AMARO:

Mr. Kent, before we break from this, did you want to address the 72-H and development right issue or do you want to leave that for another time?

MR. KENT:

I could express those at the time we consider the resolutions, the individual resolutions.

CHAIRMAN D'AMARO:

Okay.

MR. KENT:

Just one last question on this. If we then got the permission -- if we went forward, it might be my division that does this, we go into the towns and seek the variances through the Zoning Board of Appeals.

CHAIRMAN D'AMARO:

Well, I'm not sure that's where we're going with this. That was an option, something -- you know, we're thinking out loud here, because the ultimate goal is we all want to create workforce housing where it's appropriate, but go ahead.

MR. KENT:

Well, the question would then be do we then contract with to have them built upon, or at that point are we going to convey them to the town or to a not-for-profit. It's just looking down the road I'm trying to visualize -- or are we just going to put a covenant restriction on the parcel and hold it in our inventory for an auction sale?

CHAIRMAN D'AMARO:

Those are the -- those are the different discussions that we need to have; you know, what's most cost effective, what would be most successful. And I would welcome your input on all of that.

MR. KENT:

Okay.

CHAIRMAN D'AMARO:

The purpose of asking you both here -- to be here today was to begin to explore that, make sure that it's something that -- I want to publically let everyone know this is what I'm thinking and also ask whether there are any, on the surface, legal impediments to doing any of this. I'm hearing that there are no legal impediments and that there are some different areas we can pursue. And I intend to pursue with them, and I will work with you and with Jill, of course, in doing that.

MR. KENT:

Okay.

CHAIRMAN D'AMARO:

Okay. Any other questions? I want to thank you both for your time and input. I appreciate it very, very much.

We're going to now move to the rest of the agenda. Next on the agenda is Tabled Resolutions. I'll call the first.

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

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. LEVY).

I'll offer a motion to table.

LEG. ALDEN:

Second.

CHAIRMAN D'AMARO:

Seconded by Legislator Alden.

MR. KENT:

If I could be heard on the motion.

CHAIRMAN D'AMARO:

Yes. Go ahead, please.

MR. KENT:

Mr. Smith is here today. He did speak to me before the meeting. And he wanted to let me know why he was interested in purchasing this piece and making it a part of his property. This has been an ongoing problem. He's been there for 20 years, and he wants to stop the dumping, the litter and the gathering of teenagers on the property. He says he's constantly having to clean it out and maintain it. He would like to cut the trees, to plant some -- plant some appropriate plantings, do some appropriate landscaping, put down some mulch and create -- make this part of his yard. And that way he could keep an area free of litter, dumping and assembly by children that have been causing damage to the property that's owned by the County. And that's his only interest in

purchasing -- in pursuing the property and making it a part of his yard, because he says he's been living with this situation for 20 years. And I have letters -- past letters that -- I looked in the file. There were past letters sent to us complaining of the dumping, complaining of the need for it to be cleaned up and maintained. And this goes back a number of years.

CHAIRMAN D'AMARO:

I'm going to assure Mr. Smith, if he is still here -- hi, Mr. Smith and welcome -- that I sympathize absolutely with -- with this. Problem vacant lots often have this problem. They're just not maintained, cared for, they are dumped upon. And I always try to take the perspective of how would I feel living next to that. So I appreciate that you are stepping up to the plate and willing to actually buy the property just for the sake of maintaining it. And that's extremely commendable. And what I will assure you here today is although we'll table this resolution today, I will move this as quickly as I can through the analysis if there's anything else we can do with this property. And if not, I'd be more than happy to support the resolution to get it over to you. Okay? All right. There's a motion pending to table. All in favor? Opposed? Abstentions? Motion carries. **TABLED (VOTE: 5-0)**

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

LEG. BEEDENBENDER:

Motion to table.

CHAIRMAN D'AMARO:

Motion to table, I'll second. All in favor? Opposed? Abstentions?

LEG. ALDEN:

Opposed.

CHAIRMAN D'AMARO:

One opposition, Legislator Alden. Motion carries. Resolution is **TABLED (VOTE: 4-1-0-0 Opposed; Legis. Alden)**

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. LEVY).

MR. KENT:

Can I make an application on that to withdraw that resolution? It has been replaced by Resolution 1843, which is being considered later in the agenda.

CHAIRMAN D'AMARO:

Okay. So it has not been formally withdrawn with the Clerk yet. So I'll motion to table, seconded by Legislator Beedenbender. All those in favor? Opposed? Abstentions? Motion carries. Mr. Kent, if you can just follow up on that so we can get it off the agenda, I'd appreciate it. **TABLED (VOTE: 5-0).**

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

I'll offer a motion to table.

LEG. BEEDENBENDER:

Second.

CHAIRMAN D'AMARO:

Seconded by Legislator Beedenbender. All those in favor? Opposed?

LEG. ALDEN:

Opposed.

LEG. NOWICK:

Opposed.

CHAIRMAN D'AMARO:

Two opposition. Motion carries. Resolution is **TABLED (VOTE: 3-2-0-0 Opposed; Legis. Alden and Nowick)**

1663, Sale of County-owned real estate pursuant to Local Law 13-1976 Mark Bakker (SCTM No. 0200-975.00-05.00-004.000). (Co. Exec. LEVY)

Mr. Kent, did you want to add anything on this? This is another one of the resolutions previously tabled. Please, go ahead.

MR. KENT:

Yes. I had a lengthy conversation with Mr. Baker regarding this property. There is an existing -- this was also vetted through the Town of Brookhaven. And they did not -- they weren't interested in the property based upon a fence encroachment. So I wanted to find out whose fence it was. This property at one time was owned by the prior owner of the property that Mr. Baker has purchased.

At the time he purchased the property, the prior owner gave him the impression that he owned not only the lot he was selling him with the house, but the side yard, which was -- is the lot that is now the subject premises. And when Mr. Baker purchased it, he later found that -- he thought he was purchasing both pieces. He later found out that he did not purchase this side yard, that, in fact, the prior owner had lost the side yard to the County for nonpayment of taxes. And Mr. Baker is now willing to pay the additional \$19,006 to acquire property that he thought he had acquired when he purchased his home.

CHAIRMAN D'AMARO:

I've seen that before in my private lawyering experience. It's very unfortunate. How -- tell me about the fence encroachment. Do you have any more information? Is it less than 12 inches or?

MR. KENT:

I don't have a survey on this piece.

CHAIRMAN D'AMARO:

Yeah.

MR. KENT:

We generally don't order surveys, because the price of the surveys sometimes would be great than the value of the property, so. I could ask Mr. Baker to give me a copy of his survey perhaps. The fence encroachment was first brought to our attention by the Town of Brookhaven.

CHAIRMAN D'AMARO:

I'm sorry, the what?

MR. KENT:

The fence encroachment situation was first brought to our attention by the Town of Brookhaven.

CHAIRMAN D'AMARO:

Right. The fence encroaching onto the subject project?

MR. KENT:

It's encroaching upon the parcel that's the subject of this resolution, yes.

CHAIRMAN D'AMARO:

But we don't know how far -- we don't know if there's any legitimacy to any claim of adverse possession or anything like that.

MR. KENT:

No. And if you look, there is an aerial photo attached to the packet -- the resolution in the packet. And you can see -- you can see the fence. It kind of goes -- it's perpendicular to the house coming off of the front east corner and going all the way to the east to the next property line. It's part of his yard.

CHAIRMAN D'AMARO:

It's tough to see. We're looking at the house on the right when you're looking at the photo?

MR. KENT:

You're looking at the house to the west. East of -- west of -- it would be to the left from the street view. It's kind of a dark house, and there's a big arrow pointing to the property -- the subject property. There's a fence that comes out from the side, that would be the southeast corner.

CHAIRMAN D'AMARO:

Oh, I see. That white line is actually a fence.

MR. KENT:

It's a fence that goes all the way over to here, almost to the next property line, if you can see that. It's kind of a shadow, which are trees, which are outside the fence.

CHAIRMAN D'AMARO:

Has the County sent a letter to the adjoining owner requesting removal of the fence?

MR. KENT:

No, we have not, but -- I wasn't even aware of the fence encroachment until I -- until we vetted this through the town, and the town said they would not want it because of this encroachment. The problem being if that fence existed more than ten years prior to our taking title to this piece, we don't have a right to ask them to remove it.

CHAIRMAN D'AMARO:

I'm not sure about that in the sense that if a municipality has title, I thought that defeats a claim for adverse possession.

MR. KENT:

Unless the adverse possession was -- well, it wouldn't be adverse in this case because it was owned by the same person that owned the house. At one time, the house and the property next door was owned by the same person. There's two separate lots probably right --

LEG. ALDEN:

He put up the fence.

MR. KENT:

Right. And he put up the fence, so he could not adversely possess against himself. So that would be the situation.

CHAIRMAN D'AMARO:

Correct. Okay. Good. So this is a parcel -- just to -- not to beat a dead horse, but, you know, is in a 50 by 100 neighborhood surrounded by homes that would support a dwelling if you just take the fence down. And again, I'm going to ask that we table this just to take a hard look at it and maybe put it through as one of our test cases in our program. I'll offer a motion to table, seconded by Legislator Beedenbender. All in favor? Opposed? Abstentions? Motion carries. **TABLED (VOTE: 5-0)**

1669, Adopting Local Law No -2008, A Charter Law to increase Legislative oversight of RFP process. (ROMAINE).

I'll offer a motion to table.

LEG. BEEDENBENDER:

Second.

CHAIRMAN D'AMARO:

Seconded by Legislator Beedenbender. I'll call the vote. All in favor? Any opposed?

LEG. ALDEN:

Opposed.

LEG. NOWICK:

Opposed.

CHAIRMAN D'AMARO:

Two in opposition. Three in favor. Motion carries. Resolution is **TABLED (VOTE: 3-2-0-0 Opposed; Legis. Alden and Nowick).**

1682-2008. Sale of County-owned Real Estate pursuant to Section 72-H of the General Municipal Law - Town of East Hampton (COUNTY EXEC).

The property, obviously, located in East Hampton, made up of three lots, has been previously tabled in this committee again with the workforce housing considerations. Mr. Kent, would you like to address this resolution?

MR. KENT:

Yes. We spoke to the Town of East Hampton. This property is being conveyed to them pursuant to a resolution that was adopted by the town board for open space purposes. What the proposal is now is that the County would strip the development rights off of this parcel, retain them as part of our TDR Program with the Planning Department and convey to the town a piece that doesn't have rights of -- any development rights. Since they're using it for open space preservation, they do not have a problem with that. So, I mean, the only reason I bring that up, we could do it without whether they would have a problem or not, except that we may not have their interest anymore in taking the property off our hands for value.

CHAIRMAN D'AMARO:

I appreciate the Commissioner coming up with this concept if -- of talking development rights and banking them, if you will, for properties that we send over to the towns through the 72-H procedure. Can you be a little more detailed on how exactly that would work?

MR. KENT:

No, I can't at this point, other than -- maybe Jill could. There is an existing program where we take -- it would be similar to the SOS Program where we take development rights and put them into a bank.

MS. ROSEN-NIKOLOFF:

Yeah. Essentially, we've already put this in place. We send it up to Planning, they do a yield analysis, it's put into the deed, and we bank them for use on affordable housing, just like we do with the SOS Program.

MR. KENT:

And we give those for free, right, to projects?

MS. ROSEN-NIKOLOFF:

Yes, we do.

CHAIRMAN D'AMARO:

So what you're banking is the yield that would meet the criteria under the sanitary code, right?

MS. ROSEN-NIKOLOFF:

Yes.

CHAIRMAN D'AMARO:

So since we don't really have that in place yet or maybe we do, would your preference be to table this or would you want it approved? You know, where are you at with that?

MR. KENT:

I think you could approve it, and I could have -- once -- after the committee decides to approve it, I'll have the Planning Department give me a yield analysis. They don't take very long to do that. And we'll put in the deed that the property is -- is free -- has no development potential.

CHAIRMAN D'AMARO:

So would this be the first property that we sent over by 72-H where we would be banking the development rights?

MS. ROSEN-NIKOLOFF:

No. There was another one just a couple of weeks ago. I don't know the yield that we got off it, but I could find out from Planning.

CHAIRMAN D'AMARO:

And can you assure us that the yield that would be banked would remain within the same zone, what is it, hydro geological zone?

MS. ROSEN-NIKOLOFF:

Groundwater management zone, hydro geological zone.

CHAIRMAN D'AMARO:

Would it stay within the zone?

MS. ROSEN-NIKOLOFF:

We can, and that's how -- the SOS Program, that's the preference, that it stays within the same groundwater management zone, because if you go out --

CHAIRMAN D'AMARO:

And what's the purpose of banking? I mean, ultimately it's to put the yield on to another property that's deficient but may support workforce housing, for example.

MS. ROSEN-NIKOLOFF:

Right. But it allows intra-groundwater management transfers of the two municipalities agree.

CHAIRMAN D'AMARO:

Counsel is also advising me that we may need a resolution to include the authority to bank that

yield. George, do you want to speak to that?

MR. KENT:

So you'd want a resolution that amends the Resolves Clause to add the additional language that would be included within the quit claim deed, is that what you are --

MR. NOLAN:

At the very least.

CHAIRMAN D'AMARO:

Yeah, at the very least. And I think it helps you down the road also. It just adds more legitimacy to what we are doing. And someone who comes along and would depend on that would have that expressed authorization in the resolution.

MR. KENT:

I'll work with the County Attorney's Office in coming up with the language.

CHAIRMAN D'AMARO:

Okay. Great. So for one more cycle, I'll offer a motion to table, seconded by Legislator Beedenbender. All in favor? Opposed? Abstentions? Motion carries. **TABLED (VOTE: 5-0)**

1684, Sale of County-owned real estate pursuant to Local Law No. 13-1976 Patrick R. Dillon (SCTM No. 0200-206.00-02.00-015.000). (Co. Exec. LEVY).

A 16 by 116 property located in Brookhaven, back-to-back with the proposed purchaser. I'm going to offer a motion to table this parcel as well for the same reasons we talked about earlier with respect to affordable housing. Is there a second. Seconded by Legislator Alden. Thank you.

MR. KENT:

Can I make a comment on this one?

CHAIRMAN D'AMARO:

Yes, please. Go ahead.

MR. KENT:

This property can never be developed. There are covenants and restrictions that have been filed as part of the subdivision of this property. And the language requires that the property either be dedicated to the County or transferred to an adjoining property owner subjects to the covenants on file, that no habitable structures may be built upon the parcel.

It's kind of hard to put together, because it was done in two separate C and Rs that have to be read in conjunction, but I do have copies of them here. And this property, as part of a subdivision that was -- map that was filed, cannot be developed. So that is the -- the intent was to convey it to an adjacent property owner pursuant to the covenants and restrictions of record.

CHAIRMAN D'AMARO:

So the covenants and restrictions preventing the property from being developed are contained in the deed to the property?

MR. KENT:

They're contained in a separate C and R that was filed at the time the subdivision map was recorded.

CHAIRMAN D'AMARO:

And not that we would, but what would be the procedure to lift the C and R?

MR. KENT:

The C and R -- we're not a party to the C and Rs. It not to our benefit -- - we're not the --

CHAIRMAN D'AMARO:

Well, as the owner of the property, we could bring a proceeding to lift the C and R, I would assume.

MR. KENT:

Let me get the C and Rs. I have them here.

CHAIRMAN D'AMARO:

Thank you.

MR. KENT:

We might be able to make an application, but I believe the town approved the development based on these properties remaining open and unimproved.

CHAIRMAN D'AMARO:

In other words, the C and Rs were mandated by some town approval, whether planning, zoning, town board?

MR. KENT:

I could defer the research to see if there's any way to lift this property from the C and R, but generally, that's like taking property out of the Farmland Development Rights Program.

CHAIRMAN D'AMARO:

I agree with you, Legislator Fisher. If it's something that's imposed by the town in connection with their planning process and also as part of the subdivision, I would agree, but I would just like to get a definitive answer.

MR. KENT:

Okay. I mean, I have them here. I have read them. I'll research them more carefully if you would like, and we can table it again. There's no emergency on this.

CHAIRMAN D'AMARO:

Okay. All right. I'll offer a motion to table this for one more cycle as well, seconded by Legislator Beedenbender. All in favor? Opposed? Abstentions? Motion carries. Thank you.

LEG. VILORIA-FISHER:

Mr. Chair, can you please note my opposition to the tabling. It's in my district, and I want it.

CHAIRMAN D'AMARO:

Okay. Please note Legislator Viloría-Fisher votes no on the last motion to table. Motion carries, and the resolution is **TABLED (VOTE: 4-1-0-0 Opposed; Legis. Viloría-Fisher)**

1688, Adopting Local Law No. -2008, A Local Law to strengthen competitive procurement procedures and maximize savings for taxpayers. (EDDINGTON).

This is the change proposed to the Local Preference Law presently pending on the books in Suffolk County. I'm going to offer a motion to approve.

LEG. BEEDENBENDER:

Second.

CHAIRMAN D'AMARO:

Seconded by Legislator Beedenbender. On the motion, explanation from Counsel. Sure. Mr. Nolan, if you don't mind.

MR. NOLAN:

This law would amend the County's Local Preference Laws in reference to the consulting contracts and contracts for the purchases of goods in Public Works. It would bring the definition of what it means to be located and doing business within Nassau and Suffolk. It would change the definitions and kind of simplify it to mean that if a business is maintaining a place of business in a staffed operational office within either Suffolk or Nassau and -- from which a majority of the employees perform in a contracted services are assigned, they would qualify to be awarded a contract and get the local preference.

Additionally, in terms of the consulting contracts only, right now, if there is a local vendor seeking a consulting contract and they are qualified, the County has to award the contract to them, notwithstanding what price they come in with. This would amend the law to give the County the flexibility if they come in -- if a local vendor comes in 10% higher or \$100,000 higher, whichever is higher, above another bid from a nonlocal vendor, the County could award the contract to a nonlocal vendor so that the cost -- right. That was where the issue arose, was with the Community College contract. But it would give the County more flexibility to seek a lower price. Those are the -- those are the major changes to the Local Preference Law.

CHAIRMAN D'AMARO:

Thank you, Mr. Nolan. And if I could just add to that, Legislator Nowick, I worked with the sponsor on tweaking some of the language in this bill. And the goal, though, of making the modification to the law that's on the books is to be more inclusive so that companies that do have a real presence and do employ local residents in Suffolk County would be in at least the running for that local preference status. And I believe that this resolution accomplishes that. Legislator Alden.

LEG. ALDEN:

Under this criteria, the contract that was let by Suffolk Community College, this would actually solidify their basis for letting that, because I think the next lowest bidder was either 10% or \$100,000 more expensive than the contractor that they ultimately chose.

MR. NOLAN:

Well, yeah, going forward -- yes. If a local vendor came in, you know, \$700,000 higher than a nonlocal vendor, then the County could award the contract to the nonlocal vendor. I think it's worth noting in terms of the Public Works contracts and purchasing goods, we already have language in that part of the statute that says that is a nonlocal vendor -- if the local vendor is 10% higher than a nonlocal vendor, the Commissioner of Public Works could award the contract to a nonlocal vendor. It's kind of taking that language and now applying it to consulting contracts.

LEG. ALDEN:

Okay. Because this becomes relative as the contract becomes larger. You know, \$100,000 on a five or \$10 million contract, that to me is not a real lot of savings if you're going to employ local rather than nonlocal. So I'm a little concerned. I'll take a better look at it then before we get to the -- - what is it, Tuesday?

CHAIRMAN D'AMARO:

I'm not following the concern. What's your concern?

LEG. ALDEN:

If you have a \$5 million contract and somebody is -- a local contractor is \$100,000 more than a nonlocal contractor, this would actually provide the ability to give that nonlocal --

MR. NOLAN:

Can I just make one correction, by the way? I think an earlier version had \$100,000. It's 10% for consulting contracts. If it's 10% higher than the ability to give a contract to a nonlocal vendor, that's when it kicks in. So disregard what I said about the \$100,000 about --

LEG. ALDEN:

Oh, okay. It's not either or, it's 10%.

MR. NOLAN:

It's 10%.

LEG. ALDEN:

And that's consistent with our other -- okay.

CHAIRMAN D'AMARO:

Right. Okay. There's a motion pending to approve. I'll call the vote. All in favor? Opposed? Abstentions? Motion carries. **APPROVED (VOTE: 5-0)**

1733, Adopting Local Law No. -2008, A Charter Law to protect taxpayers' interests by requiring individual legislative override votes on each budget amendment that is vetoed by the County Executive. (D'AMARO).

This is a resolution offered by myself, trying to avoid the all-or-nothing scenario when it comes to veto overrides with respect to our budget process.

LEG. NOWICK:

Motion to table.

CHAIRMAN D'AMARO:

There's a motion to table, is there a second?

LEG. VILORIA-FISHER:

Second.

CHAIRMAN D'AMARO:

Seconded by Legislator Fisher. All in favor? Opposed?

CHAIRMAN D'AMARO:

Opposed.

LEG. BEEDENBENDER:

Opposed.

CHAIRMAN D'AMARO:

Legislator Beedenbender. And the motion carries. The resolution is **TABLED (VOTE: 3-2-0-0 Opposed; Legis. D'Amaro and Beedenbender)**

1806-2008. Adopting a Local Law, a Charter Law to restrict hold-over period for certain appointed Department Heads (COOPER)

LEG. VILORIA-FISHER:

Motion to approve.

CHAIRMAN D'AMARO:

There's a motion made by Legislator Vilorio-Fisher to approve. Is there a second? I'll second the motion. Any discussion? If not, I'll call the vote. All in favor?

MS. BIZZARRO:

Chairman D'Amaro? Can I just put a quick statement on the record?

CHAIRMAN D'AMARO:

Sure. Ms. Bizzarro, go ahead, please.

MS. BIZZARRO:

Thank you so much. I appreciate it. I just want to make the committee aware that a permissive referendum is required for this resolution to be approved, and there is not one contained in it as it currently reads. So it would be my recommendation, you know, that permissive referendum be put in.

LEG. ALDEN:

Motion to table.

CHAIRMAN D'AMARO:

Let's let our Counsel address that. Thank you, Ms. Bizzarro.

MR. NOLAN:

Obviously, that's an issue we thought about in drafting the law, whether or not this represented a curtailment of the County Executive's authority. It's my opinion it does not, because it doesn't really interfere with his power to appoint who he likes to be Commissioner. It just deals with the situation where a termed person who requires Legislative approval cannot get Legislative approval. After 180 day period, the County Exec would have to come forward with a different name. I don't consider that a curtailment of the County Executive's authority. It's just dealing with a situation -- in fact, I think we may be dealing with a situation where the Legislature's authority is being curtailed because we have -- you can have the situation where a person was supposed to serve with Legislative approval is serving without Legislative approval for an extended period of time. That's my opinion;

MS. BIZZARRO:

If I can. That's just backwards, because that's the just way it stands now. If the legislative -- the Legislature's abilities are being curtailed, it is currently being curtailed. It's not being curtailed any further by this resolution. The problem with this resolution is that it is forcing the County Executive to come up with an appointment that may or may not exist. I mean, there's a reason that there are fixed terms that could be hold-overs and there is no time to have a new appointment. There is nothing in the Code that requires that, and there's nothing in the State Law requiring that.

By forcing the County Executive to now come up with someone that he or she may not otherwise have is certainly curtailing his powers to keep that persons that is perhaps doing a good job and just keeping the, you know, the job alive and doing the right thing for his or her department is forcing him to modify that and come -- as I say, come up possibly with somebody that is not well qualified for the position. So there is certainly a curtailment of power. In the {Marr V. Foster} Case, which is a long standing Court of Appeals case, it was a somewhat similar situation where you had their -- the law that was being proposed was found to curtail a County Legislature's powers to make appointments, because it altered the County Manager's term from being fixed with removed by the Legislature only for cause to fix -- to no fix term any removal for any reason.

So the factual scenario here is very similar to that found on the {Marr V. Foster} Case, which has been the leading Court of Appeals matter on this case. And in that case, they found definitely that there was a curtailment of power and that a permissive referendum was required.

LEG. ALDEN:

Mr. Chair.

CHAIRMAN D'AMARO:

Go ahead, Legislator Alden.

LEG. ALDEN:

Through the Chair, George, how many people do we have in Suffolk County right now that this

would apply to? Is it retroactive or is it -- or does take effect and go forward?

MR. NOLAN:

It applies only to those persons who are appointed to a fixed term, so it applies to four office. I think you are referring to one particular Commissioner who is serving in a hold-over status. The way -- the law was amend so that this 180 clock, which would be set by this law, would start to run with the law's effective date. So it's not going to go backwards and say -- as soon as the law is passed, the 180 days would start to run on the holdover who is serving now.

LEG. ALDEN:

Just one. How about the other three? So it was amended so it doesn't take those in? Because at first reading of this, it applied to, I thought, four or five people.

MR. NOLAN:

It applies to four -- four offices who are appointed under County or State Law to a fixed term with Legislative approval.

LEG. ALDEN:

So now the way it's been amended, it only applies -- it would apply to one.

MR. NOLAN:

No. It still applies to the four offices, but the people serving in the other three offices have been appointed and received Legislative approval timely.

LEG. ALDEN:

Okay.

CHAIRMAN D'AMARO:

Legislator Viloría-Fisher.

LEG. VILORIA-FISHER:

Hi. Thank you for presenting your opinion on this. But I believe, although I'm not an attorney, that it was your description that seemed to me backwards, because I completely concur with what our Counsel said, which is that if we have an individual who needs Legislative approval and the Legislature is not willing to approve that individual and time after time upon presentation of that appointment, the Legislature has indicated that it does not wish to approve, then power is being taken through that action from the Legislature. We are coequal branch of government.

What we're doing with this piece of legislation is not taking the ability of the County Executive to appoint someone subject to Legislative approval, but is forcing in good faith that County Executive to seek another appointee, and then bring that appointee before the Legislature. There's 180 days. That means that person who we have not approved, the County Executive has half a year to bring another name before us.

And I don't see any relationship between what's going on here and the case that you cited. There's absolutely no logical relationship between those two. I believe that in order for us to protect our institution as a Legislature, we should support this piece of legislation so that we can't have any County Executive thumb his nose at the rights of responsibilities of this Legislature to approve appointments.

CHAIRMAN D'AMARO:

Well, okay.

LEG. VILORIA-FISHER:

Other than that, I don't feel very strongly about it.

MS. BIZZARRO:

Again, I was just pointing out to the fact that, you know, this bill is curtailing a power.

LEG. VILORIA-FISHER:

But it's not. The lack of this bill is curtailing our power.

MS. BIZZARRO:

The lack of the bill, right?

LEG. VILORIA-FISHER:

The lack of the bill is curtailing this Legislature's power when we have any County Executive who is involved in a power grab and doesn't want to allow for the Legislature's power of approval.

MS. BIZZARRO:

And I agree with you on that. I said, but that's the way it is now.

LEG. VILORIA-FISHER:

And that's we will have to rectify it.

CHAIRMAN D'AMARO:

Yeah. Maybe what we're doing is -- I don't know. The County Executive under the Code presently can -- has no time restraints on -- on eliminating the hold over status of any appointed person and then replacing or at least bringing a person before the Legislature, nominating a person for that position, whereas this bill now says that you do have a time constraint in which to act.

MS. BIZZARRO:

It's forcing him do to something he otherwise did not have to do.

CHAIRMAN D'AMARO:

Right. But it doesn't -- it doesn't affect the County Executive's power to make the appointment. It's really just a time restriction, so. My other concern on this bill was what happens if in good faith a search is done and there is no person, candidate, meeting the statutory criteria. And I've spoken to the sponsor about that, and he's concerned about that as well and I believe will be following up with some more legislation to address that issue as well. But I'm prepared to move forward on this today. Legislator Beedenbender.

LEG. BEEDENBENDER:

George, it's Health Services, Social Services, Real Property Tax Service, and is the last one the Medical Examiner or is it the Civil Service?

MR. NOLAN:

Civil Service.

LEG. BEEDENBENDER:

Civil Service. The Medical Examiner isn't termed?

MR. NOLAN:

The Medical Examiner I don't believe -- is the Medical Examiner subject to Legislative approval?

MS. MALAFI:

Yes.

LEG. VILORIA-FISHER:

What about the Health Commissioner?

LEG. BEEDENBENDER:

I said Health. So the Medical Examiner would be a fifty one then, right?

MR. NOLAN:

That's correct. Yeah, anybody who is termed and subject to Legislative approval, I believe, is covered by this law.

MS. MALAFI:

Correct. The State -- when it's State position, Civil Service, DSS, the DSS Law on the hold-over status is one year. So there is a limit on how long somebody could hold over when there's a State appointment.

LEG. BEEDENBENDER:

Just as a kind of side note of what you just said. Christine, the reason we have termed Commissioners is because -- I know that the Commissioner of Social Services is considered an agent of the State of some sort.

MS. MALAFI:

Suffolk County Charter on the Department of Social Services does not even apply to her position. It's only State Law that applies to her position.

LEG. BEEDENBENDER:

And that's why we have Health, Real Property Tax -- that's why they all have terms, because it's a similar -- is it a similar function?

MS. MALAFI:

Yes. Because they perform State functions as well as County functions, so their position is governed by State Law. And in the case of, for example, the DSS Commissioner, when we did the research, I believe she can only hold over for one year. It might be two years, I don't remember off the top of my head, but there is a limit of how long she can hold over under the State Law.

MR. NOLAN:

I think that is incorrect, because that question did come up. And a number of people called and said I heard that the DSS Commissioner can only serve in a hold-over capacity for a year. I don't believe that's accurate. I think that section of the law that the County Attorney is referring to is if we put somebody in an interim appointment who may not meet the minimum credentials that are set forth in State Law, then they can only stay for a year. I believe, but I'm going off the top of my head.

MS. MALAFI:

I'm going off the top of my head too. I didn't know it was going to come up. But I know there is -- it may not be under the DSS, it might be under the hold-over status of the State Law. But the State Law does apply, she can't just stay there forever.

MR. NOLAN:

I don't know that there's any limit on the hold over. You know, when I look at Public Officer's Law, whether or not there's anything that limits the hold-over time, I couldn't find anything. I'd be glad to hear if there is.

MS. MALAFI:

No, it's definitely not in the DSS Law. It's the interm person.

CHAIRMAN D'AMARO:

Okay. Well, we don't have the exact answer here today to that. Actually, Legislator Beedenbender, Legislator Nowick had something.

LEG. BEEDENBENDER:

Well, can I just -- I just want to clarify.

CHAIRMAN D'AMARO:

Okay.

LEG. BEEDENBENDER:

So, George, you said the Medical Examiner would be included.

MR. NOLAN:

Well, actually, the law says and Commissioner or Department Head. I don't believe the Medical Examiner would -- the Medical Examiner is not a Department Head or Commissioner, so, no, it would not apply to them.

LEG. BEEDENBENDER:

Okay. Thank you.

CHAIRMAN D'AMARO:

Legislator Nowick, please.

LEG. NOWICK:

Legislator Viloría-Fisher explained it very clearly. And when you put it that way, it is more clear. But two things about this bill. One is that, on the other hand, for the Commissioner that's serving, maybe it gives them more of a finite time in which they know it's time to find another job rather than holding onto something. But my question to you, George, is what if the time period elapses -- and we talked about there's not going -- the County Executive -- any County Executive does not have candidate and comes back to the Legislature and says, "I don't have anybody." Who then takes over? What happens?

MR. NOLAN:

Well, the law just directs that the person -- until a new person is qualified to serve in that office the hold over continues to serve. This law by the Charter says that the County Executive, if he can't get that person through the Legislature within 180 days, he'll bring forth a new nominee. I don't know. It seems --

LEG. NOWICK:

But my question is what if he says, you know, what, I don't have anybody? Now, the 180 days are and they say I don't have anybody, what does this law say?

MR. NOLAN:

It doesn't say anything about that. At that point, you know --

LEG. NOWICK:

What happens to --

MR. NOLAN:

Somebody -- then the person would continue to sit there until somebody new is qualified. And then if the -- let's say the County Executive is not complying with this law, somebody could bring --

LEG. NOWICK:

Maybe this legislation is not ready.

LEG. BEEDENBENDER:

Actually, Legislator Alden just asked -- I think if the Legislature turns down a Commissioner, they have to leave. I don't think they can stay as a holdover if we turn down the appointment. Is that correct, George?

MR. NOLAN:

No. The way the Public Officer's Law reads it's till a new person is qualified.

LEG. BEEDENBENDER:

Really?

MR. NOLAN:

Yeah. So even if they brought forth a Commissioner and been voted down, until we get a new Commissioner qualified, that person cannot stay there.

CHAIRMAN D'AMARO:

If I could add to that. Go ahead, please. Go ahead.

LEG. NOWICK:

I just want to finish. I'm just a little concerned then that if any County Executive says, "I don't have anybody", that we're in the same boat as we're now. Is there a way to define that a little bit better and maybe make it a better piece of legislation, if that is the direction that this legislation intends to go?

CHAIRMAN D'AMARO:

Well, here's the thing. Looking at the language of the bill as proposed, what it says is after the six months runs, it says that after the expiration of the term of office, which is the six months, the County Executive shall immediately nominate and appoint a successor and seek to introduce a resolution to approve the appointment in accordance with County Charter. So it doesn't say that the persons serving as a holdover is no longer serving. It simply says that the County Executive must act.

LEG. NOWICK:

I understand that. And that's -- can the County Executive say, "But you know what? I don't have anybody that's qualified"? What happens then to the holdover?

CHAIRMAN D'AMARO:

The way I read this bill is the holdover would continue.

MR. NOLAN:

Yeah. That's exactly what would happen. The holdover would -- Public Officer's Law say that if a person is appointed, can stay in that position until his successor is qualified, in which case is getting a resolution and getting it passed over here at the Legislature.

CHAIRMAN D'AMARO:

But at a minimum, what this bill would accomplish in that circumstance, is although you would have the holdover continue, it would compel the County Executive to at least come forward and detail the efforts that are being made and explain why the six month cut off is not being met. Right now, there's no reason for the County Executive to do that. Go ahead. Legislator Nowick.

LEG. NOWICK:

I'm going to just go out on a limb and you'll probably say I'm a little crazy here. But is it possible to add to that legislation that -- and this might -- this might encourage the County Executive to come up with a nominee. Is it possible to say if the County Executive whomever that County Executive is does not come up with a candidate, the Legislature then has the ability to search for a candidate?

CHAIRMAN D'AMARO:

I think you have a separation of powers argument against that.

LEG. NOWICK:

I'm just trying to think of a way to have this finish out.

CHAIRMAN D'AMARO:

I want the County Executive to be comfortable with their person, and I want them -- after all, the County Executive is charged with running the day-to-day operations. I think the bill is a good one in that, as I said earlier, it just sets -- it sets a timeline, it tells, as mentioned, the person in that office, look, this is the finite number of days you're going to remain, it forces, I think -- compels the County Executive to conduct that diligent search. And if not meeting the deadline, at least explain what's going on and get us more into that loop. So, you know.

LEG. VILORIA-FISHER:

Mr. Chair.

CHAIRMAN D'AMARO:

Yes. Legislator Viloría-Fisher.

LEG. VILORIA-FISHER:

I have a question for counsel. George, can the language set that date, a determination date?

MR. NOLAN:

I think you would have a problem, because --

LEG. VILORIA-FISHER:

The Deputy couldn't step up? Because that's happened before. When Sylvia Diaz was Deputy, she took on the role. She was acting Commissioner until --

MR. NOLAN:

Well, the one thing you have to keep in mind with the Social Services Commissioner is that under State Law there are specific qualifications and requirement that person has to meet. So I think we -- it would be a mistake to say that the Deputy would then ascend to the office. And then I think you really would have a problem where the County Executive's power of appointment -- now you really are curtailing his authority to make the appointment. And then you're into the referendum issue totally at that point. I just think it's difficult to say in a law that a certain person would take over at that point. There are many parts of our Charter --

LEG. VILORIA-FISHER:

But can you say that the other person's job is over at that point?

MR. NOLAN:

I think it would conflict with the State Law that says -- that talks about holdovers and that they may serve as a holdover until a successor is qualified. I think we need to be consistent with the State Law.

LEG. VILORIA-FISHER:

So then this law really has no teeth.

MR. NOLAN:

Well, there are a lot of sections in the law that direct the County Executive or the Legislature or Commissioners to do things, and law doesn't say if they don't do it, then X, Y and Z is going to happen. You assume a certain amount of good faith on the part of elected officials and appointed officials that they're going to try to comply with the provisions of our Local Laws and the Charter. But that all we have to go with.

CHAIRMAN D'AMARO:

Okay. We're into the next committee's time, so I would like to move along. Clerk, is there a motion pending?

MS. LOMORIELLO:

Yes. A motion to approve.

CHAIRMAN D'AMARO:

There's a motion to approve. I'll call the vote. All in favor? Opposed?

LEG. ALDEN:

Opposed.

LEG. NOWICK:

Opposed.

CHAIRMAN D'AMARO:

Two opposed, three in favor. Motion carries, resolution is **APPROVED (VOTE: 3-2-0-0 - Opposed; Legis. Alden and Nowick)**.

Okay. The final section of the agenda.

1824, Sale of County-owned real estate pursuant to Local Law No. 13-1976 Jason E. Coyne and Adrienne C. Coyne (SCTM No. 0200-420.00-01.00-013.000). (Co. Exec. LEVY).

LEG. BEEDENBENDER:

I'll make the motion.

CHAIRMAN D'AMARO:

Brian -- Legislator Beedenbender offers a motion to approve, I'll second for the purposes of discussion. Just very quickly, Mr. Kent, what's the size of this parcel? I couldn't really tell when I reviewed it.

MR. KENT:

It's about 2000 square feet.

CHAIRMAN D'AMARO:

Two thousand. What's the dimension? Is it rectangular?

MR. KENT:

It's a little bit irregular, but it's approximately 40 by 50.

CHAIRMAN D'AMARO:

I'll call the vote. All in favor? Opposed? Abstentions? Motion carries **APPROVED (VOTE: 4-0-0-1 - Not Present; Legis. Alden)**

1827, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act estate of Ruth Bernknopf, by Kasriel B. Kastel, as administrator CTA (SCTM Nos. 0200-850.00-06.00-017.000, 0200-879.00-03.00-027.000, 0200-980.40-02.00-039.000). (Co. Exec. LEVY).

This is a Local Law 16, as a matter of right, a conveyance as a matter of right. I'll offer a motion to approve and place on the Consent Calendar, second by Legislator Beedenbender. All in favor? Opposed? Motion carries. **APPROVED and PLACED on the CONSENT CALENDAR (VOTE: 4-0-0-1 - Not Present; Legis. Alden)**

1828, Sale of County-owned real estate pursuant to Local Law No. 13-1976 Gerri A. Toman (SCTM No. 0200-051.00-04.00-059.000). (Co. Exec. LEVY).

Property located in Brookhaven proposed to be conveyed to the adjoining owner for \$2500. It's a 20 by 100. I'll offer a motion to approve, seconded by Legislator Beedenbender. All in favor?

Opposed? Abstentions? Motion carries. **APPROVED (VOTE: 4-0-0-1 - Not Present; Legis. Alden)**

1829, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Saul Bonilla (SCTM No. 0500-094.00-03.00-134.001). (Co. Exec. LEVY).

I'll offer a motion to approve and place on the Consent Calendar, seconded by Legislator Beedenbender. All in favor? Opposed? Abstentions? Motion carries. **APPROVED and PLACED on the CONSENT CALENDAR (VOTE: 4-0-0-1 - Not Present; Legis. Alden)**

1830, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act John Mannino and Caterina Mannino, his wife (SCTM No. 0500-255.00-01.00-025.000). (Co. Exec. LEVY).

Same motion, same second, same vote. **APPROVED and PLACED on the CONSENT CALENDAR (VOTE: 4-0-0-1 - Not Present; Legis. Alden)**

1831, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Warthog, Inc. (SCTM No. 0100-112.00-01.00-046.000). (Co. Exec. LEVY)

Same motion, same second, same vote. **APPROVED and PLACED on the CONSENT CALENDAR (VOTE: 4-0-0-1 - Not Present; Legis. Alden)**

1832, Sale of County-owned real estate pursuant to Section 72-h of the General Municipal Law Town of Brookhaven (SCTM No. 0200-929.00-02.00-009.001). (Co. Exec. LEVY).

This Involves property in Brookhaven for \$6200 being used for highway or municipal purposes, I believe. Mr. Kent.

MR. KENT:

Yes. Or it's drainage. I believe they're going to put in a recharge basin.

CHAIRMAN D'AMARO:

Okay. Very good.

LEG. BEEDENBENDER:

On the motion, Mr. Chairman.

CHAIRMAN D'AMARO:

Please, go ahead.

LEG. BEEDENBENDER:

Chris, the tax map number is 200-929, and if I remember correctly, that's not in Centereach. When I look in the backup, it's pictures -- even a memo from Commissioner Heaney says Bellport, and the pictures in the backup say Bellport, but the Brookhaven Town resolution that's attached to it says South Coleman road in Centereach. So either we have the wrong resolution or you have the wrong map.

MR. KENT:

No. It's Martha Avenue, Bellport. You might have the wrong --

LEG. BEEDENBENDER:

Yeah, but the town board resolution attached to the bill is for a piece of property on south --

MR. KENT:

It says in the Whereas Clause that --

LEG. BEEDENBENDER:

I know, but 929 isn't Bellport.

MR. KENT:

It is.

LEG. BEEDENBENDER:

But the town board resolution attached to the bill says South Coleman road in Centereach.

MR. KENT:

It's in their Whereas Clause. The town board resolution says in the Whereas Clause, South Coleman Road, Centereach, and then they identify the correct tax map number in the Resolved Clause, which the actual action taken by the town board. It's referring to the property by tax map number only. So it's referring to the property -- it's the correct tax map number in the Resolved Clause.

LEG. BEEDENBENDER:

All right.

MR. KENT:

It's the correct tax map number on both places, but in their Whereas Clause, they do mention a South Coleman Road, Centereach.

LEG. BEEDENBENDER:

Okay. Okay.

CHAIRMAN D'AMARO:

The operative clause is correct and accurate.

MR. KENT:

The operative clause is correct.

CHAIRMAN D'AMARO:

Could that cause any problem down the road for the town in change of title ownership?

MR. KENT:

I don't think so, but if you want to pursue the same type of arrangement here where I have the resolution recite the stripping of the development rights, we would have to table it, then I would have to put in an amended resolution, if that's your preference.

CHAIRMAN D'AMARO:

Is that your preference?

MR. KENT:

I'm trying to follow the policy to take the development rights off the property.

CHAIRMAN D'AMARO:

Right. But is this conducive to doing so?

MR. KENT:

I think so, because they are going to put in a recharge basin. I don't think that --

CHAIRMAN D'AMARO:

Well, that's whole other policy -- set of policy considerations. Why don't we table it for a cycle? At a

minimum, you can make the change and then add that language. Okay? We'll go from there. Okay. This is on Resolution 1832. I will offer a motion to table, is there a second? Anybody? Seconded by Legislator Vilorina-Fisher. All in favor? Opposed? Abstentions? Motion carries.
TABLED (VOTE: 4-0-0-1 - Not Present; Legis. Alden)

CHAIRMAN D'AMARO:

Mr. Kent, you'll put that language to --

MR. KENT:

We'll have to draft something with the Real Property Bureau of the County Attorney's Office to make sure that we can include in the deeds.

CHAIRMAN D'AMARO:

Okay.

1834, Approving payment to General Code Publishers for Administrative Code pages. (Pres. Off.)

I'll offer motion to approve and place on the Consent Calendar, seconded by Legislator Beedenbender. All in favor? Opposed? Abstentions? Motion carries **APPROVED and PLACED on the CONSENT CALENDAR (VOTE: 4-0-0-1 - Not Present; Legis. Alden)**

1837, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Carlo J. Larose (SCTM No. 0100-172.00-03.00-003.000). (Co. Exec. LEVY).

I'll offer motion to approve and place on the Consent Calendar, seconded by Legislator Beedenbender. All in favor? Opposed? Abstentions? Motion carries **APPROVED and PLACED on the CONSENT CALENDAR (VOTE: 4-0-0-1 - Not Present; Legis. Alden)**

1838, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act estate of Robert Graulich by Rose Graulich, as administrator (SCTM No. 0504-012.00-01.00-026.000). (Co. Exec. LEVY).

Same motion, same second, same vote. **APPROVED and PLACED on the CONSENT CALENDAR (VOTE: 4-0-0-1 - Not Present; Legis. Alden)**

1839, Sale of County-owned real estate pursuant to Local Law No. 13-1976 Robert E. Ryan (SCTM No. 0200-982.00-01.00-054.002). (Co. Exec. LEVY).

Property located in Brookhaven, 20 by 100, that landlocked for \$1000 to adjoining owner. I'll offer motion to approve, seconded by Legislator Beedenbender. All in favor? Opposed? Abstentions? Motion carries **APPROVED and PLACED on the CONSENT CALENDAR (VOTE: 4-0-0-1 - Not Present; Legis. Alden)**

1842, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act estate of Sid Farber a/k/a Sidney Farber by Nadia Farber, as administrator (SCTM No. 0200-973.90-01.00-027.000). (Co. Exec. LEVY).

I'll offer motion to approve place on the Consent Calendar second All in favor? Opposed? Abstentions? Motion carries.

APPROVED and PLACED on the CONSENT CALENDAR (VOTE: 4-0-0-1 - Not Present; Legis. Alden)

1843, Sale of County-owned real estate pursuant to Local Law No. 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. LEVY).

It's a 40 by 100 in Brookhaven, \$6500 is the proposed acquisition price to the adjoining owner. I'll offer a motion to approve, seconded by Legislator Beedenbender. All in favor? Opposed? Abstentions? Motion carries. **APPROVED (VOTE: 4-0-0-1 - Not Present; Legis. Alden)**

Last resolution, **1870, Requesting legislative approval of a contract award with Suffolk Federal Credit Union for the installation, administration and servicing of Automatic Teller Machines on County property. (Pres. Off.)**

LEG. BEEDENBENDER:

Motion.

CHAIRMAN D'AMARO:

Motion by Legislator Beedenbender to approve, I'll second the motion. Seems like a positive step in the right direction, making cash available on County property. All in favor? Opposed? Abstentions? Motion carries. **APPROVED (VOTE: 4-0-0-1 - Not Present; Legis. Alden).**

That concludes --

LEG. BEEDENBENDER:

Lance. Lance.

CHAIRMAN D'AMARO:

Yes, please.

MR. REINHEIMER:

I'd like to answer a question posed by Legislator Alden earlier in the day. He asked about the balance for the purchase of property for affordable housing. That's Capital project 8704. There's a balance of \$10 million. In addition, Capital Project 6411, which is infrastructure improvements for workforce housing, there's a \$5 million balance, no funds have been expended from that. And there's also an additional \$5 million scheduled in the 2008 Capital Program, which I understand the department will request appropriating. And I will send this information also out to Cameron Alden in an e-mail.

CHAIRMAN D'AMARO:

Lance, could you also e-mail that -- cc me on that e-mail. Have any of those funds --

MR. REINHEIMER:

I'll send that to the whole committee.

CHAIRMAN D'AMARO:

I would appreciate that. Has it been appropriated? Have any of those funds appropriated?

MR. REINHEIMER:

For infrastructure improvements, 5 million has been appropriated, nothing's been expended or incurred. And out of the other Capital Project, out of the \$9 million in the balance, \$200,000 has been expended. They have in a general value about \$15 million worth of properties that are in various states of negotiations. So they have a large number of properties that don't close. So that's -- that's regular.

CHAIRMAN D'AMARO:

Okay. Thank you. Is this a -- just very quickly. I know we have to go. Is this a Capital Project where funds are available for the County to acquire and develop workforce housing?

MR. REINHEIMER:

That's correct. They're both projects; one for infrastructure improvements, one for the purchase of property. They're both capital, the fund do not expire once they're appropriated as long as there's -- within five years, there's some action on those funds.

LEG. VILORIA-FISHER:

Mr. Chair, if I may.

CHAIRMAN D'AMARO:

Yes, of course.

LEG. VILORIA-FISHER:

Just to clarify something I'm recalling from several resolution going back about six, seven years where we provided incentives to builders of affordable or workforce housing where we would give incentives for infrastructure improvements. Would they come from these funds, from the infrastructure funds?

MR. REINHEIMER:

Yes, they would.

LEG. VILORIA-FISHER:

Okay. So it's not out -- it's not the County building the houses, it's the County providing incentives for infrastructure improvements to those builders who are building affordable housing.

MR. REINHEIMER:

That's correct. Generally, for subdivisions to put in the infrastructure improvements; water, sewage, utilities --

CHAIRMAN D'AMARO:

That's a different Capital Project than the 9 million.

MR. REINHEIMER:

That's the infrastructure.

CHAIRMAN D'AMARO:

Right. But the 9 million Capital Project that you cited is also for our own workforce housing?

MR. REINHEIMER:

That's for purchase of land.

LEG. VILORIA-FISHER:

That's for acquisition.

CHAIRMAN D'AMARO:

Right. Where are they -- Jill, thank you for sitting there through this whole meeting, I appreciate it. Where are the perimeters for that program contained?

MS. ROSEN-NIKOLOFF:

In Article 36.

CHAIRMAN D'AMARO:

Is that where it is?

MS. ROSEN-NIKOLOFF:

Yeah.

CHAIRMAN D'AMARO:

Okay. Thank you. Okay. If there is no other business before the committee this morning, thank you, everyone, for your patience. I apologize for running over time. Motion to adjourn, seconded. All in favor? We are adjourned. Thank you.

(*THE MEETING WAS ADJOURNED AT 1:00 P.M. *)

{ } DENOTES BEING SPELLED PHONETICALLY