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 November 20, 2008.

MEMBERS PRESENT:
Legislator Lou D'Amaro - Chairman
Legislator Brian Beedenbender - Vice-Chairman
Legislator Cameron Alden
Legislator Lynne Nowick
Legislator Vivian Viloria-Fisher

ALSO IN ATTENDANCE:
George Nolan - Counsel to the Legislature
Gail Vizzini - Director, Budget Review Office
Barbara LoMoriello - Deputy Clerk of the Legislature
Ben Zwirn - Deputy County Executive
Gail Lolis - County Attorney
Debra Alloncius - AME
Chief Robert Moore - SC Police Department
Robert Lipp - Budget Review Office
Christine Malafi - Suffolk County Attorney
Lynne Bizzarro - County Attorney's Office
Chris Kent - Director of Real Estate
Jon Kennedy - SC Legislator
Eric Proshansky - NYC Department of Law
All other interested parties

MINUTES TAKEN BY:
Donna Catalano- Court Stenographer

(*THE MEETING WAS CALLED TO ORDER AT 10:11 A.M.*)

CHAIRMAN D'AMARO:
Good morning. And welcome, everyone, to the Ways and Means Committee of the Suffolk County Legislature. I'd like to start the meeting by asking everyone to please rise and join the committee in the Pledge of Allegiance led by Legislator Cameron Alden.

SALUTATION

Okay. Once again, welcome. To the Clerk, do we have any requests for anybody to address the committee this morning?

MS. LOMORIELLO:
No.

CHAIRMAN D'AMARO:
All right. We haven't received any cards or written requests for anyone to address the committee this morning. Is there anyone here who would like to address the committee during our public portion? For the record, there's no response. I will turn to the next part of the agenda, which is correspondence.

I just want to note to my fellow committee members that we have received correspondence this morning from the Tribal Council Unkechaug Indian Nation. It is a two-page letter that addresses one of the resolutions that is on our agenda this morning, specifically Resolution Number 2029 of 2008. And in addition, this morning and the next part of our agenda, which is presentations, we are -- I'm pleased to announce that we're joined this morning by some representatives who are going to address the issues revolving around Resolution Number 2029. And at this time I'd like to call up our three presenters who would be Christine Malafi of the Suffolk County Law Department, Edward Heilig, who is the Bureau Chief of the Economic Crime Bureau of the Suffolk County District Attorney's Office, and also, Mr. Eric Proshansky who's a Deputy Chief with the New York City Corporation Council. So if you folks would please come on up.

Okay. Good morning and thank you for joining the Ways and Means Committee this morning. There is a bill that's been introduced into our committee, Resolution Number 2029 of 2008, that is -- if passed will authorize the Suffolk County Law Department to commence legal proceedings against the smoke shops located on the Poospatuck Indian Reservation located in Mastic.

The purpose of the litigation would be to enforce the Suffolk County sales tax, the collection of the Suffolk County sales tax when cigarettes and other tobacco products are sold from those smoke shops located on that reservation. It's my understanding that there's been a continuing issue as to whether or not these taxes -- well, it's pretty clear the taxes aren't being collected. The issue is how do we collect those taxes and how do we enhance that revenue stream here to Suffolk County.

The Suffolk County District Attorney's Office has been active in looking into this issue. The City of New York has been very proactive on this issue as well, has commenced its own legal proceedings to enforce the Suffolk County cigarette -- I'm sorry, the New York City cigarette tax. And that is why Mr. Heilig and Mr. Proshansky have joined us here this morning. Our own Law Department, of course, is working with both the City of New York as well as our own District Attorney's Office in pursuing the enforcement of our rights to collect our sales tax here in Suffolk County.

So with that said, I'd like to invite all of you if you would like to just briefly talk about what efforts you're making on this issue and bring the committee up to speed, I would appreciate that. And whoever would like to start, I'll leave that up to you.

MR. PROSHANSKY:
Thank you. Good morning. My name is Eric Proshansky, I'm Assistant Corporation Council, New

York City Law Department. New York City has faced a very significant problem with cigarettes being bootlegged into the City. And our investigations have shown that an enormous quantity of the bootlegged cigarettes are coming in from the Poospatuck Reservation located in Mastic.

We have begun a lawsuit against the smoke shops and against some of the individuals working in the smoke shops under a Federal Statute known as the Contraband Cigarette Trafficking Act, which basically outlaws the sale of cigarettes without tax stamps on them. We commenced that lawsuit several months ago, and we've tried to move rapidly because of the extent of the problem. And so we've made a motion for a preliminary injunction to require the stores in Mastic to stop selling cigarettes without tax stamps on them.

Just to give you idea of the problem, we've obtained figures from the State Department of Taxation and Finance -- and I can hand some of these out -- which show that in 2007, the stores on the reservation have purchased from wholesalers unstamped cigarettes in the amount of nearly ten million cartons. There are approximately 280 people who live on the Poospatuck Reservation. Native Americans are allowed to sell unstamped cigarettes, but they're only allowed to sell them to one another. So what you see here is ten million carton of cigarettes allotted among 280 people. It's pretty obvious that most of those cigarettes are going off the reservation.

And our investigations, and now, with the cooperation of both your Law Department and the District Attorney, have shown that a great many of those cigarettes are being bootlegged into New York City and used -- so that the reservation has basically become sort of a tax evasion haven. We've attacked the problem, but -- through our lawsuit, but these types of activities where cigarettes are moving either across county lines or across state lines always require cooperation among different jurisdictions. And I was extremely pleased when I was contacted by the Suffolk County Law Department and, you know, asked if Suffolk County could bring it's own suit, could participate with us in our suit, because these types of cross-border cooperations are very effective, allowing us to pool information, to pool expertise, and to pool manpower so that we can really bring a halt to what's a pretty flagrant set of illegal activities. So I thank you for interest in this and I'm happy to answer any questions.

CHAIRMAN D'AMARO:
All right. Mr. Proshansky, I thank you as well. I think what I would like to do perhaps is just ask Mr. Heilig if you would like to also just briefly bring us up to speed on the efforts of the District Attorney's office, and then we would go to questions with committee members.

MR. HEILIG:
Sure. Thank you. What I'd like to do is just bring you up-to-date with some of the statistics that we have. And although it's not only the Suffolk County District Attorney, the credit for the arrests we've done, the cases we've made also has to go to the Suffolk County Police Department, particularly 7th Precinct in whose jurisdiction the Poospatuck Reservation exists. They've been working very hard out there in their enforcement efforts and hand-in-hand with the District Attorney's Office in order to enforce the tax laws of the State of New York, particularly what we enforce is Section 1814 of the New York State Tax Law, which deals with the transportation of untaxed cigarettes.

And we do it by a number of means. We do it by the enforcement on and -- not on, but around the reservation where the 7th Precinct officers will stop vehicles that they see coming off the reservation clearly containing untaxed cigarettes and transporting them into other areas off of the reservation. The District Attorney's Office also has confidential investigations that we undertake involving this same problem.

And what I'd like to do now is just deal with some of the statistics that derive from both our records and the records of the Suffolk County Police Department. For the period of July 06 of 2007 (sic) through October 31st of 2008, there were approximately 80 arrests made for the transportation of untaxed cigarettes.

MR. HEILIG:
Looking at just a portion of those arrests for the time period of July of '07 through September of '07, that sample and the sample of July of '08 through October of '08, there were 26 arrests during that time period. An analysis of those 26 arrests shows that 20 of those defendants were from one of the one five boroughs of New York City. In total, those 20 individuals illegally purchased and transported the total of 1,629,800 untaxed cigarettes from the Poospatuck Indian Reservation. Now, that is clearly circumstantial evidence that the cigarettes are being moved from the reservation and being transported into New York City. It's not going into Suffolk County, it's not going to Nassau County. They're traveling into New York City with these untaxed cigarettes.

To further give you some more statistics with respect to the enforcements, in 2007 and 2008, the District Attorney's Office prosecuted and recovered monies from defendants who were caught transporting untaxed cigarettes from the Poospatuck Indian Reservation. And I'll give you a brief outline of those arrests. The total restitution that the District Attorney's Office recovered in those cases is $1.257 million. That's one million-two hundred and fifty seven. Rounding off, it's $1,258,000 in -- - in total taxes that were due on those cases.

Now, the important thing is that what we actually recovered, the monies that we were given by the defendants in the -- in the conclusion of the case, in the conclusion of the criminal case, is only $275,251. The rest of it was in restitution and judgments orders. And that is because the people that are being used to transport the vehicles have no assets, they have no money. And when we conclude the case, the disposition of the criminal matter, it's results in a restitution judgment order. I can almost guarantee you that we will never collect on those restitution judgment orders. So that money is lost for all intents and purposes.

The number of convictions for the cigarette tax evasion equals 89 in those two years. We've had 89 convictions to date. There are still some outstanding cases obviously. The number of cartons of cigarettes seized just in those cases is 83,971. The number of cigarettes translates to 16,794,255. Now, in discussing the loss of the sales tax revenue, what I did was go deeper into those statistics, and using both the records that the City of New York obtained and the records from the New York State Tax Department, approximately 9.8 million cartons of cigarettes were sold to or given to the Poospatuck Reservation. The distributors distributed approximately 9.8 million cigarettes to the Poospatuck Indian Reservation.

And the numbers we've all heard, it's actually listed in the complaint by the City of New York, which I would suggest that everyone read, because it is a very well written and succinct statement of the issues that face us with respect to these reservation sales. But we're expecting those -- the cartons of cigarettes that are sold, there are 279 approximately Indians on the reservation. Using this number, that means approximately 960 packs for each Indian per day have to be smoked if these are actual Native American to Native American sales.

With respect to the Suffolk County portion, Suffolk County's portion, as we all know, is 4.2% on the sales tax. If sales tax was charged on the sales of those 9.7, or 9.8 rounded off, million cartons, Suffolk County would have received approximately $21 million in sales tax revenue. That calculation is based on rounding off a $50 carton of cigarettes, that comes to -- let me just tell you how we get to that $50. It's based on a average price for a carton of cigarettes of $65. What you have to do is take off the State Excise Tax, which is $15 -- or I should say was $15. It went up to 27.50 as of June 1st of this year, June 1st of 2008. But we're only using the numbers prior to June 1st 2008 when the total excise tax was $15 on a carton.

So an average carton of cigarettes of $65, take off the $15 of the State Excise Tax, leaves you with $50. And then applying the 8.625 State Tax, which is the State Tax portion, the MTA portion and just using the 4.25 Suffolk County sales tax portion gives you that $20 million figure. Now, what I also want to point out and what the committee should know is that those numbers of arrest are a small portion of the actual amount of people that are coming off the reservation with the cigarettes. So that has to be taken into consideration. Those are the arrests that we've done in that two-year

period. Those involved the arrests that we've done with respect to the enforcement efforts within the 7th Precinct.

There are also a number of confidential investigations that we have going on. And with respect to one case, and I'm not at liberty to go into the specifics of the case, because it's still a pending investigation. But what I can do is talk about the numbers with respect to the cigarette sales. One shop on the reservation with respect to a six month period of January 1st of this year, 2008, to June 18th of this year, 2008, shows that in that period, there were sales of 535,355 cartons from one shop during that six month period.

Using that number, the total tax liability for the State, the County and the City is $15,538,457. The County's portion, the sales tax portion, using that same analysis is $1.13 million for that one shop for a six month period. And that's based upon the number of cigarettes that were sold to that shop based upon numbers given to us by suppliers of the cigarettes. So you can see that it is a problem. As far as we're concerned, we are here only to prosecute the violations of the tax law, and that's what we're doing. And that's our purpose in being involved in these enforcement efforts.

CHAIRMAN D'AMARO:
Mr. Heilig, thank you very much. The numbers are staggering. The amount of revenue that is being lost not only for Suffolk County, but the City of New York as well as the State of New York is overwhelming for this type of business that is clearly and flagrantly violating our tax laws, which in my opinion is extremely unfair to everyone else who is obeying the law, the other retailers out there that are charging these taxes. I want to clarify one thing just for everyone's information that -- and you gentlemen, please correct me if I'm wrong -- but the law does permit the sale cigarettes tax-free to residents members of a reservation for their own personal use and consumption; is that an accurate statement?

MR. HEILIG:
That is accurate.

CHAIRMAN D'AMARO:
It is. And so we're not trying to say that in recognition of sovereign nation status that resident members of an Indian Nation are not permitted to buy their cigarettes for their own use tax-free. What we're talking about here is a vast retail enterprise that is selling hundreds of thousands if not millions and millions of cartons of cigarettes throughout the Tri-State area in effect bootlegging those cigarettes to the ultimate purchaser and thereby circumventing our tax laws to the extent of the numbers that you just informed us.

That's the reason why, in addition to your effort and the District Attorney's Office as well as the 7th Precinct in addition to the City of New York, I think it's important that the County also seek to enforce its own rights for its own sales tax through our own Law Department, and that is the basis of the resolution that I brought today. There are -- Ms. Malafi, did you want to also make a statement?

MS. MALAFI:
I just wanted to make it clear that we're looking not only at bringing a lawsuit against the -- or joining in New York City's law suit against the smoke shops on the reservation, but also the manufacturers and the distributors of these cigarettes who know or should know that selling 11 million cartons of cigarettes to a little smoke shop on the reservation without tax stamps on them is wrong.

CHAIRMAN D'AMARO:
Right. Whatever effort we can make to help enforce this type of tax law, whatever jurisdiction it is, ultimately benefits our taxpayers. Just this morning on the radio, I heard Mayor Bloomberg speaking about layoffs in the City of New York. I myself just went through a gut-wrenching budget process that ended on Wednesday here in Suffolk County where our revenues are diminishing due to

an economy that's in free fall while our expenses and costs are going up geometrically. So if we have a legitimate source of revenue that can come into the County to give some relief to our taxpayers, I feel we should be pursuing it. And that's what this legislation and this action would be all about.

MS. MALAFI:
We've also been researching whether or not the amounts of money paid to the County under the master tobacco settlement had been reduced because of the sale of these cigarettes without the tax stamps on them.

CHAIRMAN D'AMARO:
That's interesting. There could be some liability there as well to the tobacco settlement. So that would be yet another source of revenue into Suffolk County. There are some questions from committee members if you would not mind hanging around a few more minutes. I'm going to start first with Legislator Cameron Alden.

LEG. ALDEN:
Thanks, Mr. Chairman. Thank you for coming down here and presenting before us. A number of years ago, I owned two grocery stores out in Suffolk County, and I always bought, you know, my tobacco products through a distributor where, you know, they were always stamped with the New York State tax stamp. Some of my competitors did not, and that gave them a leg up on me. I don't know if you could talk about this, but the process is cigarettes -- cartons of cigarettes were shipped from out-of-state to the reservation or were they buying it through local distributors or you can't talk about that?

MR. HEILIG:
No. There are mainly two distributors that distributed -- distribute to reservations in Suffolk County. I don't know the full names, but the names -- they're {Gottlieb} and {Penisia}, the two names of those distributors. As far as the reservations are concerned, I'm not sure about commercial distribution to grocery stores, shops, things like that. But as far as the reservations are concerned, I'm not sure about commercial distribution to grocery stores, shops, things like that, but as far as the reservation is concerned, there are two distributors on Long Island for those reservations. And that's it as far as I know. I don't know if you have further information on that.

LEG. ALDEN:
Okay. So the tobacco products were coming in from out-of-state, because we don't really don't do anything here, it's mainly down in the Carolinas, Virginia, they would come to these distributors, they wouldn't get the stamp on them because they were going ultimately to the reservation. Then from the reservation, people were coming with basically vans and taking them out to retail establishments in New York City and other locations in Suffolk County.

MR. HEILIG:
Correct. And that's what's happening with respect to the large bulk sales that are coming off the reservation. The other thing that has to be looked at are the internet sales. There are a number of -- a number of the shops on the reservation are involved in internet sales of large quantities of cigarettes, not the quantities we're talking about here, which are shipped off the reservation and picked up by box trucks from the US Postal Service.

LEG. ALDEN:
So they weren't drop-shipping them, going from the distributors and having them shipped out, they were actually taking position of the goods and then repackaging them and then sending them out from the reservation?

MR. HEILIG:
On the internet sales or the mail order sales, I'll put it that way. They would have to get possession

of them first to do that. It wouldn't be directly through the distributors.

LEG. ALDEN:
I'm glad we're just -- and this is the first step to cooperate with you, because there's really two products that really get bootlegged into Suffolk County; one of them is the cigarettes, and that has been going on forever; the other is gasoline, and that's been going on for a long time also. So maybe this cooperation can lead to -- and you're talking about millions of gallons of gasoline per month coming in here that's untaxed. The same way with the -- now we see the size of this problem with the untaxed cigarettes. I'm hoping that maybe we can revive that -- I think it was -- a Tri-State cooperative agreement to try to stop the untaxed gasoline coming in also.

MR. HEILIG:
Well, just to be clear, the cigarettes that are coming into the state and going to the reservations are done legally. They're legal shipments, they're legally being obtained by the Indians. It's the amount that's in question, but the actual process, and correct me if I'm wrong, of the Indians obtaining the cigarettes is a legal process.

LEG. ALDEN:
Right. And then reselling them. But it involves a shipment across county lines of things that aren't taxed, so that's where there's a big similarity I think in the two things. So hopefully we can have cooperation or revive cooperation on both of those, because if you are talking about -- with this -- you know, tens of millions of dollars just on our share, combine that with the gasoline and, you know, we might not have a budget problem.

CHAIRMAN D'AMARO:
Hence, my resolution. There you go. That's what it's about. Thank you. Next would be Legislator Viloria-Fisher.

LEG. VILORIA-FISHER:
Thank you, Mr. Chair. Actually, some of what puzzled me was just answered in response to Legislator Alden, which is I was trying to understand the progression of how the distribution occurred. And, Ms. Malafi, your comments actually spoke to some of my puzzlement, which is wherein lies the responsibility to stamp the cigarettes with the tax stamp. Is it on the distributors or -- I mean, the distributor would be where the stamping occurs, is it not?

MS. MALAFI:
I believe it's the manufacturer with the State when they come into the State. The State has to approve the packages of cigarettes, cartons of cigarettes, going out without the tax stamp on them. Is that right, Eric?

MR. HEILIG:
The distributors are required to put tax stamps on cigarettes, but they have an exception if they can show that they're selling to a Native American tribe.

LEG. VILORIA-FISHER:
Okay. So is it the manufacturer of the distributor?

MR. PROSHANSKY:
The distributor.

LEG. VILORIA-FISHER:
So it's the distributor. The distributor then obtains, let's say -- I'm just going to use a round number -- 10,000 cartons of cigarettes from the manufacturer, and the distributor needs to attest to a certain number going to a reservation so that those would not be stamped by the distributor.

MR. PROSHANSKY:

Correct.

LEG. VILORIA-FISHER:
So, Ms. Malafi, when you spoke to the criminality of the distributor, you know, looking to go after the distributor. Then there would be -- there would have to be evidence that that distributor knowingly accepted or went without stamping a certain number of those cartons knowing full well that there was no way that the number of people on that reservation justified the number of unstamped cartons of cigarettes. Is that what you were saying earlier?

MS. MALAFI:
Yes. And there's been -- because of the volume, the law -- the City Law Department and the DA's Office and the Suffolk County Police Department have been able to uncover that at one time there were at least three or four smoke shops on the reservation that literally were a sign stamped to a tree so that the distributors could sell to more than just one smoke shop selling 11 million packs of cigarettes a month or a year. So what they did was they created a falsity that there was five or six smoke shops on the reservation doing business, when in reality, I think there's photographs of -- it's literally the name of smoke shop on a piece of wood nailed to a tree.

LEG. VILORIA-FISHER:
Now, I haven't read the New York City complaint. Does the New York City complaint target just the smoke shops or the distributor as well.

MS. MALAFI:
Eric can answer that, but they have three separate lawsuits pending. They are excellently drafted and have been excellently prosecuted up until now. I don't want to steal his thunder since he did them.

MR. PROSHANSKY:
Thank you. We have a lawsuit against the wholesalers, and we have a lawsuit against the smoke shops.

LEG. VILORIA-FISHER:
And that would be based on the fact that they knowingly distributed unstamped cigarettes with the knowledge that there was no possibility that the number of people at the reservation could have smoked that number of cigarettes; is that what --

MR. PROSHANSKY:
That's correct.

LEG. VILORIA-FISHER:
-- basically it was based on? I just wanted to ask -- I'm sorry. I don't remember your name, our second speaker.

MR. HEILIG:
Ed Heilig from the District Attorney's Office.

LEG. VILORIA-FISHER:
Yes. Good morning. I wanted to ask you about a number which you threw out, which was that there was 9.8 million cartons and that so much of that revenue would have been coming to Suffolk County. But you had earlier said that there were the arrest of the -- I think there were 20 arrests, but they were selling the cigarettes within New York City. If they were selling the cigarettes within New York City, how would Suffolk County have reaped the benefits of the taxes on that? Because they came out of the reservation, is that --

MR. HEILIG:
That sales occurred at the reservation, so the sales tax would be due at the point of sale, which is in

Suffolk County.

LEG. VILORIA-FISHER:
Okay. All right. I just wanted to clarify that in my own mind, because I thought the distributor had funneled it through the reservation, but actually, the sale was occurring in New York City.

MR. HEILIG:
The distributor's part -- at least from what we've seen, the distributor's part ends once the cigarettes are on the reservation. The distributor has no further involvement with the fact that the cigarettes are coming off the reservation and being transported elsewhere, mostly to New York City.

LEG. VILORIA-FISHER:
Okay. I just have one more question, Mr. Proshansky, about the three lawsuits; one is the smoke shops, the other is the distributor, and the third?

MR. PROSHANSKY:
We have a third one against internet cigarette sellers that are actually located all across the country. And those are for cigarettes which City residents by over the internet and then they're mailed into New York City.

LEG. VILORIA-FISHER:
Okay. And I just have one more question. How would we tie in -- how does Suffolk County tie in to that through this legislation? I'm not sure if the sponsor would like to answer that or Ms. Malafi.

MS. MALAFI:
Tie into? I'm sorry.

LEG. VILORIA-FISHER:
To the complaint, to the New York City complaint through this resolution.

MS. MALAFI:
Right. How we- - since the investigation has revealed that a major bulk, 90% or more, of the sales from the Indian reservation go into the City, the City's proof that they've been able to obtain to date since everything comes from Suffolk County, and it's our position that the sales tax would be due because they're coming from Suffolk County, that if we do our own complaint in Federal Court and ask the court to tie it to the New York City complaint, the actions would proceed together.

LEG. VILORIA-FISHER:
So we would be tied into the New York City complaint?

MS. MALAFI:
I would say yes. That's what we're trying to do. Mr. Proshansky and I have discussed whether or not it would be better for -- in his perspective and the County's perspective to intervene in his lawsuit so that there's one lawsuit or to join in, start a separate lawsuit. And we've discussed it at length, and we believe that the best thing to do would be for Suffolk County to bring its own action in Federal Court. And there's an intake sheet that we have to do on our complaint for the Clerk's Office in the Federal Court, and we would put down the New York City lawsuit as a related action so that the court system would tie them together.

LEG. VILORIA-FISHER:
Okay. So we're not interveners in their lawsuit --

MS. MALAFI:
Correct.

LEG. VILORIA-FISHER:
We're just linking.

MS. MALAFI:
Because we have a little bit more -- there are -- since it's not the only way go out illegally, not only to the City, in speaking to the Police Department and the District Attorney's Office, there are -- the 7th Precinct puts a lot of manpower and time into this. So sometimes a lot of the arrests that are made are just somebody with a car full trunk load or a car full or a van full of cigarettes that don't make it into the City. So we would have a little bit more in the way of sales lost -- sales tax from the County than just the City. But because of the sheer volume, we feel it's the best to aid the City in their lawsuit also.

LEG. VILORIA-FISHER:
And going to the distributor would stop that flow so that our boots on the ground, our police, wouldn't have to be, you know, spending as much time on the trunks and searching trunks.

MS. MALAFI:
Correct. You'd save money that way too. And speaking with the Police Department -- I hope the DA's Office doesn't get mad at me -- but they put an awful lot of effort into this. And I met with numerous people at the Police Department who are very happy that -- that not only the District Attorney's Office is looking into it, but that we're looking into it too.

LEG. VILORIA-FISHER:
Thank you.

CHAIRMAN D'AMARO:
Thank you. Let me -- let me just pick up on that, and then I'll turn to Legislator Nowick just very quickly, one of the advantages to the County of Suffolk in coordinating our efforts is that we've done some investigation -- a lot of investigation on your own, especially with our District Attorney's Office. The City of New York has also conducted extensive investigation into the illegal activity occurring on the reservation so we could- - for lack of a better word -- piggyback on to some of those efforts which would be beneficial to the County as well. And, Christine, I wanted to ask you, would this -- the legal action brought by Suffolk County would be done inhouse; is that correct?

MS. MALAFI:
Yes.

CHAIRMAN D'AMARO:
Okay. I just want to make that clear, that your department is up and ready and capable and has the resources to conduct this type of action.

MS. MALAFI:
Yes.

CHAIRMAN D'AMARO:
Okay. Very good. One other point, there is a bill pending in the State of New York that would impose -- I'll just read from the synopsis of the bill -- it accomplishes the collection of the tax by prohibiting tobacco manufacturers from selling unstamped cigarettes to any distributor that has not provided a certification under penalty of perjury that the cigarettes will not be resold untaxed. This is estimated that this would generate for the State of New York $400 million annually. So it's not just our effort, it's not just the City of New York, it's not just our District Attorney, it's -- everyone is starting to focus on the fact that there is a massive circumvention of the tax laws going on here. And there are efforts being made at all different levels to try and collect this revenue, which should be coming into these various jurisdictions. Legislator Nowick, did you have a question?

LEG. NOWICK:

At this risk of repeating myself, I just want to be clear. A resident of the reservation can purchase cigarettes without a tax within the reservation for their own consumption. Can you and I go to the reservation, purchase, come back to Suffolk County or Nassau and smoke the cigarettes? That's not --

MS. MALAFI:
That's not allowed.

LEG. NOWICK:
But that's what they're doing in essence. And that's -- so you can't do that. I thought it was just for sale, you couldn't sell it. Okay. That's clear to me.

MR. HEILIG:
You can do it, you just have to pay the tax. You are liable to pay the tax on those cartons of cigarettes, packs of cigarettes.

LEG. NOWICK:
You're liable to pay the tax to who, the Indian reservation that you buy it from?

MR. HEILIG:
It doesn't happen, but you would be liable to pay that tax, the use tax on it.

LEG. NOWICK:
But they're not stamped.

MR. HEILIG:
But they're not stamped.

LEG. NOWICK:
Okay.

CHAIRMAN D'AMARO:
Let's just make another quick clarification here, and the experts are here to correct me if I'm wrong. However, there are -- we're two talking about two different taxes here. There's a stamp tax or a cigarettes tax, it's not a stamp tax. That's goes back to the Boston Tea Party. But they are stamped. There are cigarette taxes that involve putting a stamp on the sold cigarettes to establish that the tax has been paid. That's a cigarette tax collected by the State of New York and authorized also by State legislation for the City of New York to collect. Suffolk County does not collect a cigarette tax. We are not authorized to collect that tax, but we do collect our sales tax on retail sales like we do on everything else. So although we're really talking about two distinct taxes on cigarettes, the justification and the violations are all the same and the investigation is all the same; a tax is a tax is a tax.

LEG. NOWICK:
Actually, I was clearer before you started that. So let me just now clear this up again. You and I cannot go into the Indian reservation and buy cigarettes, not pay a tax and come back to our home or whatever and smoke cigarettes, that's -- unless, of course, you take that tax money and say, here, I'll put it in and envelope and I'll send it to Uncle Sam or to the County or wherever. Okay. I didn't realize that, that's number one. So the big problem is that -- let me just go back to something else. The distributor comes in and sells to the Indians?

MR. HEILIG:
Correct.

LEG. NOWICK:
Well, when they sell four thousand million (sic) packs to the Indians, do the Indians pay a sales tax

to the distributor? No, because they're on the Indian reservation.

MR. HEILIG:
Correct.

LEG. NOWICK:
Okay. So they don't pay a tax. I lost my train of thought here. Who goes to the reservation from the City and says, well, we're going to drive out to the reservation in Suffolk County, we're going to buy 4 million packs of cigarettes, we're not going to pay a tax on it, we're going to take them, we're going to put them in our, and we're going to go where and do what with them? They're going to go into the City, and are they going to sell them at a smoke shop without charging a tax? How does that work? What do they do?

MR. HEILIG:
That's basically correct. Without going into too much detail with investigations that we have going on now, but I can tell you based upon past investigations, what occurs is the smoke shop owner have contacts that are people in the City of New York. Those people in the City of New York will use what I'll call runners; they'll send people out in cars, but they don't use big trucks, it's cars, vans, large SUVs, whatever it might be. They will prearrange the meeting. The person -- the runner will then take whatever car it is, it could be a rental, it could be a car that's registered out-of-state, it could be any -- any type of vehicle. They will meet at a prearranged date and time at the reservation, at the smoke shop, many times it's off the smoke shop. There are places they meet off the reservation to do these transactions.

They will then meet, they will load the cartons of cigarettes that are normally placed in large black plastic bags, that's how they transport them -- nobody wants to see a million cartons loose in the back of an SUV -- they're in large plastic cartons. There will be eight or nine of those large cartons, as many as they can fit, put into the back of a SUV. Then the smoke shop owner will say, that's it, you're done, goodbye, give me the money. They'll accept the money from this runner who will get the money the money from their person in the City.

That truck, SUV, whatever it might be will then leave the reservation, go through Suffolk County, Nassau County and go into places in New York City. Now, I can't tell you, because our investigations, we have not had the opportunity yet to do a complete surveillance; in other words, from point of sale to point of sale in the City. But what oftentimes happens is there's a drop off somewhere in New York City. And then at that point, there's either a distribution warehouse or there's a distribution network that then takes that bulk of cigarettes and then distributes it to various stores within New York City; bodegas smoke shops, grocery stores, whatever you might have.

And the advantage to doing that in New York City -- the reason why it all goes to New York City is because New York City places another tax on cigarettes. So that's where you can make the money, because now at the end of the line, you're selling the cigarette, and you're selling it much cheaper than can be sold by a legitimate seller in New York City, as Legislator Alden mentioned before, when he was the legitimate seller out here, because now you're selling a cigarette that you've paid no sales tax at the point of sale, you've paid no State excise taxes on and you're not paying any City taxes on. So it's an advantage and there's millions of dollars there.

LEG. NOWICK:
And when they sell those cigarettes, do they pretend to charge a sales tax?

MR. HEILIG:
I am sure that the -- and Proshansky maybe able to answer this better than me. But I am sure once it gets to a location in New York city they are trying to sell it for as much they can. They don't pretend. They just sell it for what a pack of cigarettes will sell for.

LEG. NOWICK:
They sell it, and in other words, ostensibly, the purchaser thinks they're paying a sales tax. They don't know.

MR. PROSHANSKY:
Or they know -- they often know that they're getting something of a discount. There are people in the City known as "five dollar men" because they sell the cigarettes for $5 a pack. So people know they're unstamped and they're getting -- they're getting a small discount for it. And the stores that the cigarettes are distributed to will also sell it to their customer for a small discount so that the store is making a large profit --

LEG. NOWICK:
Sure. One last question.

MR. PROSHANSKY:
Sure.

LEG. NOWICK:
I'm sorry, Legislator Alden.

LEG. ALDEN:
No. Go ahead.

LEG. NOWICK:
Okay. Just one -- actually two questions. If they make -- if these deals are made over the telephone, the cell phone, over the internet, probably not by a mail, if they're made over the phone -- I don't know if this is a reach -- but is that a Federal crime then also?

MR. PROSHANSKY:
This is already a Federal crime if they're -- if they are buying more than 49 cartons of cigarettes without tax stamps on them.

LEG. NOWICK:
And quickly -- I know it has nothing to do with it, but -- because I was reading this letter here -- on the reservation -- excuse me -- the Indians don't pay taxes, but they do send all of their children to the public schools but do not have to pay any school taxes, is that how it works when you are on a reservation? And I know that's just as an aside. I was reading their letter, and they mention their kids go to public schools. And I wondered, they use the schools I guess?

MS. MALAFI:
I don't know.

MR. HEILIG:
They do use the schools, but I'm not aware of any of the taxation issues with respect to that.

LEG. NOWICK:
I guess there isn't, right. Property tax they don't -- we don't -- okay. Thank you. Cameron, I'm sorry.

CHAIRMAN D'AMARO:
Thank you, Legislator Nowick. Next on the list for questions is Legislator Brian Beedenbender. Mr. Beedenbender.

LEG. BEEDENBENDER:
Thank you, Mr. Chairman. Mr. Heilig, you had mentioned earlier in your opening statement about some investigations you had done in the past and that there was, I think you said, $1.2 million was

owed, in the end we got about a little under 300,000 simply because the people that owe it don't have any assets. So it would be reason enough to go forward with this lawsuit to stop the activity, but the money would -- I guess in my mind is the bonus after we stop the activity.

But do you have any sense of what we might be able to recoup? I mean, it would seem to me if the smoke shop owner -- if I'm a smoke shop owner that has been doing this for several years, I would have to have a substantial -- well, I would have to have substantial assets, because this is -- I mean, $15 a carton or $20 a carton over millions, that's not bad work if you can get it. So do you have any sense of what we might be able to recoup? You know, is it -- are these people going to be in a position to pay, you know, the full freight of what's owed or?

MR. HEILIG:
There are two different issues with respect to that question. The issue I spoke about is recovering the money from those people who are doing the transportation into New York City, the runners, so to speak. And every once in a while we have a distributor, one of the bigger people that are New York City, they'll come out and we'll have them.

It's difficult to collect the restitution figures from those individuals, because there are no identifiable assets. And that's one of the reasons they use the runners, is to avoid that, is to -- you know, you use the runner who has no assets, we can't collect from them. And what we generally do on these dispositions in the criminal cases, we offer a reduced plea for the payment of the money back. If they don't pay the money back, you know, we offer a higher plea, whatever it might be, on getting those restitutions. That's a different area than getting restitution from the smoke shops on the reservations for their involvement in this activity. We have not to this point gone after any of the assets of any of the smoke shops on the reservations. You would have to identify the assets. But we're not there yet with respect to that type of investigation.

LEG. BEEDENBENDER:
Okay.

MS. MALAFI:
I think I can help you with that too. From all of the meetings --

CHAIRMAN D'AMARO:
Yeah, well, someone is making all that money. There's no question.

MS. MALAFI:
Right. What I can tell you is that one of the smoke shop owners who was tried to Federal Court over the summer put up $56 million cash for bail during -- pending his appeal. They have -- there's assets all over. And also, once you start -- once, hopefully, if we are able to successfully prosecute a lawsuit against the manufacturers and the distributors, their businesses, ongoing business -- I can tell you that one of meetings that I was in, somebody calculated -- because the State of New York keeps track of every pack of cigarettes, every carton cigarettes sold in New York State even without the stamps on them. And somebody said that they did the math and that 12% of all cigarettes sold in New York State come from this Indian reservation, 12%.

CHAIRMAN D'AMARO:
My initial estimates of the revenue being lost in Suffolk County, which were publically stated, were off, but they were low, but intentionally so because we were trying to formulate what the numbers were. I didn't want to overstate the case. But Mr. Proshansky and Mr. Heilig today have given us more accurate figures on what the loss of revenue is not to Suffolk County, but to the City and to the State as well. And it's a staggering amount of revenue that -- that we're losing. Legislator Alden, did you have another question?

LEG. ALDEN:
Actually it's more of a statement. Years ago, it used to be that the vans and the trucks would come

in from North Carolina and from Virginia with -- because North Carolina's stamp that they put on the cigarettes almost look the same as New York. So you know, at a quick-blush look at it, you know, you might just, you know, gloss over it and say, okay, that's -- you know, that's been paid, the tax has been paid.

The big part here though is that they've been able to circumvent that because it was very expensive to send trucks down to the Carolinas and Virginia. So now they have them legitimately coming in and they can distribute it right from inside. And I don't think you could overstate the amount of money, because when you have a smoke shop and they get audited by whoever, the Federal Government or State of New York, they look at invoices. They don't have any invoices on this. These are all cash. This is part of that underground black market, whatever you want to call it, where materials is being sold and there should be tax paid on it, and it's not.

So there's a manufacturer's tax, and that's what I'm going to call the cigarette, a manufacturer's tax, and then there's a sales tax. So you are talking about -- when you add both of those up, that's a huge opportunity to New York State. But the black market, you know, I think that that's a problem that goes back forever also. Whenever we institute a sales tax, the black market is huge. And if we can just get everybody to pay their fair share, those that are actually paying their taxes legitimately, that would be reduced immeasurably. So I don't think you can understate the amount of money that is -- or opportunities being lost here by New York State and by us in Suffolk County.

CHAIRMAN D'AMARO:
Right. And the more I looked into the issue myself and brought myself up to speed, both legally and what was out there publically stated and with the cooperation of the District Attorney's Office and the corporation counsel, I came to the same conclusion that you did, that there's an awful lot of revenue, a staggering amount of revenue, being lost to these various levels and jurisdictions in government.

I just want to briefly state I had the pleasure yesterday of addressing or guest speaking at a class at Suffolk Community College yesterday evening in a Local Government Class, and I believe some of the members of that class, the students, are here today. So I want to thank you if you're here. How are you? I want to thank you for coming down today and observing our committee meeting. I appreciate that very much. All right. Is there anything else you guys would like to add? Any other questions from the committee on this particular issue?

LEG. ALDEN:
If that guy jumps bail, do we keep the 56 million?

MS. MALAFI:
That's a Federal case.

LEG. ALDEN:
Okay.

CHAIRMAN D'AMARO:
There's a clear need in my mind, and I hope my colleagues will agree as this resolution moves its way through the committee process and the full Legislature, that these -- this is just one effort in trying to enforce revenue that is due to Suffolk County through sales tax. There are other taxes involved with the City of New York, State of New York. But if we stand together, we stand strong, and that's really a stand that we're all taking for our respective taxpayers in our respective jurisdictions.

So, Ms. Malafi, Mr. Heilig and Mr. Proshansky, especially coming out from the City of New York today, this morning, I appreciate that very, very much. And we are going to continue to take a look at this resolution and hopefully pass it and then ask our Law Department to go ahead and commence those legal proceedings to enforce our sales tax at this reservation. Thank you. Thank

you very much.

Okay. And given that we just had this presentation, I'd like to ask the committee to consider a motion, which I'll make, to take Resolution Number 2029 or 2008 --

LEG. VILORIA-FISHER:
Second.

CHAIRMAN D'AMARO:
2029-2008. To take that resolution out of order, seconded by Legislator Viloria-Fisher. All in favor? Opposed? Abstentions? That motion carries.

Resolution 2029-2008, Directing the County Attorney to commence a sales tax enforcement action against the Poospatuck Indian Reservation Smoke Shops (D'AMARO) is now before the committee. Note I will offer a motion to approve. Is there a second? Seconded by Legislator Alden. All in favor? Opposed? Abstentions? Motion carries. Resolution is **APPROVED (VOTE: 5-0-0-0)**.

LEG. ALDEN:
List me as a cosponsor, please.

CHAIRMAN D'AMARO:
Please list Legislator Alden as a cosponsor. Thank you. There's another resolution I would like to also take out of order this morning. It's Resolution 1975, it's on Page 3 of your agenda.

1975-2008. Authorizing the Department of Information Technology to implement a Crime Stoppers Tip Line capable of receiving text and e-mail messages (HORSLEY).

It's a resolution where we do have some representatives from the Suffolk County Police Department here including Chief Moore with us today. And I'd like to take this out of order and give them an opportunity to go back and do what they do best, and that's protecting all of us. So I'll offer a motion to take that out of order, is there a second? Seconded by Legislator Beedenbender. All those in favor? Opposed? Motion carries. Gentlemen, good morning and thank you for coming down this morning. If you'd like to briefly introduce yourself and tell us what your position may be with respect to this particular legislation.

CHIEF MOORE:
Good morning, sir, ladies and gentlemen. I am Robert Anthony Moore, I am Chief of Department, Suffolk County Police Department. With me this morning is Deputy Inspector Cornelius McKenna. Inspector McKenna is the Executive Officer of the First Precinct. Some years ago, the Police Commissioner determined that we needed to better communicate with the public, and he decided one way to do that was by developing an e-mail system through our website that any constituent could reach out to the Police Department with any question, and we would get back to that individual within a reasonable time period and the answer the question or refer the question as best we could.

He tasked then Captain Cornelius McKenna with that task, and he's been doing it ever since. So Inspector McKenna is here to talk if you -- if you like about the current state with the e-mail system, the volume of calls, the source of inquires that are made and how we address them. With me too is Sergeant William Okula from our Homeland Security Office. And Sergeant Okula will be able to answer any technical questions that you may have about how this might operate in accordance with the resolution. Two is Gary Quinn. Mr. Quinn is the Chief Information Officer of the Suffolk County Department of Information Technology.

To begin with, the Police Commissioner would like to Legislator Horsley for introducing this resolution. The text messaging -- as you well know, Legislator Nowick also has an interest in

another arena -- is become more and more utilized by not only young people, but the public at large. So again, Suffolk County appears to be on the cutting edge when it comes to these issues.

The Police Department wants to stress, though, that this resolution is for nonemergency inquires and not for emergency inquires. This is our Tips Hotline, as you know. And the Tips Hotline is not staffed 24 hours a day, seven days a week. To implement the program as envisioned by the resolution would initially cost in the area of $3000, perhaps between three and five, let's say, to use a range, and that would be a yearly cost. If someone had it in mind to extend this and expand it to emergencies calls, then the cost would rise dramatically. That is because we would need adequate staffing to ensure that it's always used.

So our intention in advertising and announcing the program would be to be very clear that this would be for nonemergency use. And as a matter of fact, one of things that we're exploring doing is when an inquiry is made to this Tips Hotline through an e-mail or a text message or photos or video, that they receive an automatic response that tells them that if this is an emergency, you've really come to the wrong place, you need to call 911. So that's really why we're here. We do support the resolution for the Tips Hotline. And if you have specific questions, we'd be happy to answer them.

CHAIRMAN D'AMARO:
Okay. Thank you, Chief. I had just one question. We don't have this system in place at all, or have we been doing it on a pilot level with text messaging and all of that?

CHIEF MOORE:
Well, other than the e-mail system that we have through the website, no, I don't believe that we have --

CHAIRMAN D'AMARO:
So this would expand for nonemergency purposes. If I have my cell phone, which has text messaging and I see something that I feel should be reported on a nonemergency basis, this would enable me to text it in to the -- to the hotline.

CHIEF MOORE:
As long as you're doing it when you're not driving, yes.

CHAIRMAN D'AMARO:
Okay.

LEG. VILORIA-FISHER:
I was waiting for you to say that.

CHAIRMAN D'AMARO:
Legislator Alden.

LEG. ALDEN:
Hi, Chief.

CHIEF MOORE:
Good morning, sir?

LEG. ALDEN:
How does our Tips Hotline work right now? It's just on phone call basis, right?

CHIEF MOORE:
Yes, sir.

LEG. ALDEN:

And it would go to -- it's not 852-COPS, right?

CHIEF MOORE:
Yes, it is.

LEG. ALDEN:
Okay. So the 852-COPS was the old Tips Hotline --

CHIEF MOORE:
I'm sorry. They are two separate -- the Tips Hotline is exclusively run through the PAL, that's the individuals who have a tip about a crime. It's the rewards system; you call in a tip, you get a unique identifying number, and should that pan out, you receive an award. The 852-COPS is the nonemergency call that does go to our communications section.

LEG. ALDEN:
I was just at a community council meeting in Islip. That's with the Islip School District. And for, I guess, activity on the school property, they just put this system in place where somebody that notices, you know, a bunch of kids whatever doing damage, spray painting the school, they can anonymously send in and say, "Joe, Bobby and Cameron were spray painting on the walls." There's also a protection now that it's either going to scramble their identifiers or, you know, the communications back and forth will be scrambled. So is that similar to what we're going to think about doing here?

CHIEF MOORE:
I'm glad you asked that question. The Sergeant will be only too happy to answer it.

SERGEANT OKULA:
Yeah. This system uses a product called Soft Tips. And the Soft Tips service sends the text to a server out-of-state that then removes all identifying information and then forwards it to us or the subscriber. The school probably signed for a similar service. At that point, we can interact through the anonymous server with the person so we can answer them back and ask for additional information, but they remain completely anonymous. The way they collect their award at the end is at the beginning of the transaction, they're given a unique number so if there is a award at the end of the investigation they would be able to collect.

LEG. ALDEN:
How many hours a day is that manned, actually physical manned?

SERGEANT OKULA:
There are currently six officers assigned to Crime Stoppers, so you can do the math. It's Monday through Friday, three tours, which is all six people would allow you.

LEG. ALDEN:
So basically Monday through Friday.

SERGEANT OKULA:
Yes.

LEG. ALDEN:
Not 24 hours a day, seven days a week.

SERGEANT OKULA:
No. We're not currently staffed for that.

LEG. ALDEN:
Okay. And you made it clear before that you're going to give a -- there's going to be some kind of a

message go right back to the people that are texting that if this is an emergency, basically you're on the wrong line.

CHIEF MOORE:
Call 911. There will actually be three systems. There will be the 911, which is for emergency, the 852-COPS, which is 911 for nonemergencies and the Tips Hotline, which is strictly for information sharing; people who don't want to step forward, but want to share information with us.

LEG. ALDEN:
I would hope that as we go forward with it, you know, we're always looking at, you know, a fast and an affordable way to put all of it together, because eventually technology is going to catch up with us. And, you know, we should be able to blend all that in, even, you know, like, the emergency line, the nonemergency line and this Tips Hotline. But, you know, if we just keep our eye on it. And before you leave, I just have to talk to you off the record.

CHAIRMAN D'AMARO:
All right.

LEG. VILORIA-FISHER:
Can I ask a question?

CHAIRMAN D'AMARO:
Sure. Go right ahead.

LEG. VILORIA-FISHER:
You've thrown out a lot of different terms, and I -- is the Tips Hotline the same thing as Crime Stoppers?

CHIEF MOORE:
The Tips Hotline is run through Crime Stoppers, yes.

LEG. VILORIA-FISHER:
Okay. Now, what do you mean run through Crime Stoppers? What else does Crime Stoppers run? I'm just confused as to how they work, those two terms.

CHIEF MOORE:
Crime Stoppers is -- they used to call it the Bounty Hunter Program in other jurisdictions. And they felt on a national level that the terms was offensive, and they changed the term to Crime Stoppers. This is a program, a national program, that allows individuals to report crimes or report individuals who are committing crimes to the police. And they can receive a cash award depending on the nature of the offense and whether or not the information is viable.

LEG. VILORIA-FISHER:
So Crime Stoppers is what sets up this model.

CHIEF MOORE:
Yes.

LEG. VILORIA-FISHER:
And then you said the PAL was involved in this. Can you explain that?

CHIEF MOORE:
Well, PAL, as you know, is a not-for-profit organization that operates in close cooperation with Police Departments. In the Suffolk County Police Department, they oversee the Crime Stoppers, and they're the ones who provide the award money for the -- for the Tips Hotline.

LEG. VILORIA-FISHER:
Okay. And how do they get the award money?

CHIEF MOORE:
Some of it comes from the Legislature, some of it comes from donations.

LEG. VILORIA-FISHER:
Okay. The fundraising that PAL does?

CHIEF MOORE:
Yes.

LEG. VILORIA-FISHER:
Okay. Now, the changes that we've seen in the staffing of PAL, does it impact this at all, or is that a completely different set that we're talking about?

CHIEF MOORE:
That's a different function of PAL. I think you are referring to --

LEG. VILORIA-FISHER:
The athletic part of it.

CHIEF MOORE:
Yes. Yeah, that's not related to the Crime Stoppers.

LEG. VILORIA-FISHER:
Okay. And where are these people housed.

CHIEF MOORE:
In Police Headquarters.

LEG. VILORIA-FISHER:
In Headquarters.

CHIEF MOORE:
Yes.

LEG. VILORIA-FISHER:
Okay. Thank you.

CHAIRMAN D'AMARO:
Mr. Quinn, how's it going?

MR. QUINN:
Thank you for asking. It's going quite well.

CHAIRMAN D'AMARO:
How long you been with the County?

MR. QUINN:
I've been here two months and a couple of days.

CHAIRMAN D'AMARO:
Okay. And we're just -- everything is humming along as far as IT goes, I would assume.

MR. QUINN:
Smoothly. Smoothly. Things are going well. I've had an opportunity to meet a number of the different departments, including the Police Department on many different occasions. The Police Department has been working closely with us in providing availability to the County from a networking in expertise there with us. We're also looking to do a better job for the public safety organizations with their guidance.

And we actually did talk a little bit about this project about a month ago when I first had an opportunity to meet with them. So it's -- it's very -- as the Chief had mentioned, it's a very good program. I think it's something that we should be doing. I just think that everybody should be aware that it's not a 24 by 7 type of offering at this time, although it could be. And it depends on what kind of scenarios you're looking to allow people to text message. But as you all know, young people in schools, pretty much everybody texts, they don't really use a phone anymore, they communicate with each other. And that's something that, you know, the Police Department should make available to them in case of a nonemergency. But maybe down the road, we should also look at emergency situations for them.

CHAIRMAN D'AMARO:
All right. And you're comfortable with our -- with our abilities as far as inhouse to go ahead and implement this e-mail messaging system?

MR. QUINN:
Yes. Actually, I think it would -- could very easily be implemented with, as mentioned, minimal cost. If we're looking at this particular scenario of nonemergency events and only at certain points during -- timeframe during the day, I don't think there should be any issue with that.

CHAIRMAN D'AMARO:
Okay. Legislator Beedenbender.

LEG. BEEDENBENDER:
You brought up emergency situations, Gary, so I just wanted to ask Chief Moore, because when I think of an emergency situation, I think of exactly what I think you were referring to. God forbid you have a school situation. We you have a multitude of kids with cell phones that could probably provide the Police Officers with information, not that we want to encourage them to do things that are risky. But is something that the Police Department is currently capable of receiving, or is that something that would be addressed by doing this?

CHIEF MOORE:
At this juncture, no, we're not able to do that. That's something that would be, you know, well into -- well into the future.

LEG. BEEDENBENDER:
Okay. Thank you.

CHAIRMAN D'AMARO:
Okay. Chief Moore and Inspector McKenna and Sergeant Okula and Mr. Quinn, of course, I want to thank you all for coming down and giving us your thoughts on this particular bill, which is before the committee at this time. Are there any other questions? Okay. Gentlemen, thank you very much. All right. The bill is pending before the committee, so I will offer a motion to approve Resolution Number 1975-2008. All in favor? Opposed? Abstentions? Motion carries.
APPROVED (VOTE: 5-0-0-0).

All right. To move through the balance of our agenda, I'll call the first of the Tabled Resolutions, which is Section V of the printed agenda.

It's Number **1483-2008. Sale of County-owned real estate pursuant to Local Law 13-1976 James A. Smith, Sr. (COUNTY EXEC).**

This is a resolution that's been tabled several cycles. I do now have laid on the table my resolution that would try and move this parcel and a few others on the tabled agenda into a new Workforce Housing Program. So I offer a motion to table this one more time.

LEG. BEEDENBENDER:
Second.

CHAIRMAN D'AMARO:
Seconded by Legislator Beedenbender. All in favor? Opposed? Abstentions? Motion carries. **TABLED (VOTE: 5-0-0-0)**.

1584-2008. Establishing Legislative oversight of County funds expended for advertising and marketing (KENNEDY).

I'll offer a motion to table.

LEG. BEEDENBENDER:
Second.

CHAIRMAN D'AMARO:
Seconded by Legislator Beedenbender.

LEG. KENNEDY:
On the motion, Mr. Chair.

CHAIRMAN D'AMARO:
Yes. Legislator Alden, then Kennedy, please.

LEG. KENNEDY:
I think it's actually time we start discussing this because it looks like a substantial amount of money that goes out there, and we're really not privy to where it's going and to who and what process was even used as far as, you know, did you pick the lowest bid, did you pick the highest bid, did you tailor the specific advertising campaign. And I think at the last committee that we talked about this, we didn't even have a number as far as -- it could be a hundred million dollars, it could be, you know, $100,000. So is there somebody here that -- like, from the County Executive's Office that could address this; how extensive it is? Hi, Ben.

CHAIRMAN D'AMARO:
Mr. Zwirn, welcome and good morning. Before you answer that question, the sponsor of the resolution is here. Legislator Kennedy, thank you for joining us this morning. Just maybe you want to put on the record very briefly what -- - what you're trying to do with the bill and then we'll have a discussion about it.

LEG. KENNEDY:
Absolutely, Mr. Chair. And thank you. I appreciate you giving me the time to speak on the bill. My objective when I introduced this -- and actually this bill has been in for a while -- was some my initial research back in the summer were that there were a couple of what I thought were somewhat large-scale expenditures, expenditures that exceeded in excess of $100,000 for different types of advertising activities.

At that point, we had already made significant moves with the 2008 Budget to address what were economic shortfalls. It seems like we've lived a lifetime in these four or five short months with our sales tax receipts plummeting, as you mentioned when you opened the committee this morning I

think very aptly and very eloquently, a really gut wrenching and painful 2009 Budget process where we saw many, many organizations that we all work very actively with having to sustain some large-scale and significant cuts.

And so it occurs to me as we sit here today and look at what apparently have been several hundreds of thousands of dollars worth of advertising expenditures over the last 24 month period. Certainly nothing that I ever had a personal opportunity to go ahead and say yeah or nay to. I think every one of us as we walk down this road, which is going to be even more difficult than what we've contemplated so far should have the opportunity to say, we think this is prudent, or we can do without the advertising now, and put these precious monies to a different application. That's my -- that's my objective here, to have that ability to go ahead and have some decision making.

CHAIRMAN D'AMARO:
Part of the discussion at the last committee meeting when our Presiding Officer was here was about whether -- you know, we as a Legislature trying to get a handle on these contracts as well, whether or not they were filed with our Clerk's Office. And I think we're starting to look into that. Are there -- are there specific contracts in mind?

LEG. KENNEDY:
Well, one that I have right in front of me, Mr. Chair, actually is the amendment with the Stop DPW Funding. And there are -- actually, this contract contemplates I think 450,000 for expenditure over a 24 month period. Now, I'd be happy to share this with yourself and the rest of the committee members.

LEG. BEEDENBENDER:
What was that number again, Legislator Kennedy? I'm sorry.

LEG. VILORIA-FISHER:
Four-fifty.

LEG. BEEDENBENDER:
Four hundred and fifty thousand?

LEG. VILORIA-FISHER:
Yes.

LEG. BEEDENBENDER:
Okay.

LEG. KENNEDY:
Yes, 450,000.

LEG. BEEDENBENDER:
Okay. Thank you.

LEG. KENNEDY:
But that's just one of a variety of contracts that currently are in place that allow for media advertising. I believe this authorizes the purchase of radio buys and some print media. Look, I think every one of us would agree we'll do anything to avoid one single DWI death. I'm unconvinced at this point that there's metrics that are associated with $450,000 worth of expenditure that have decreased the number of DWI deaths that may be out there. And perhaps we may suggest we'd like to see, I don't know, 50,000 go to a youth program or some other type of an alternative. This is a commitment that was made that, again, I guess my point is, none of us have really had an opportunity to say, yes, we affirm this or no, we think we might want to commit this elsewhere.

CHAIRMAN D'AMARO:

But aren't we doing that in our budget?

LEG. KENNEDY:
Well, there's a question, mister --

CHAIRMAN D'AMARO:
I mean, it has to come out of the Operating Budget, all of these expenditures, and we are reviewing it. I'm sorry?

MR. ZWIRN:
If I might, Mr. Chairman. The money -- the Stop DPW Program, these are grants that come in, and it's prescribed how we can use it. This is not money that you can take, Legislator Kennedy, and put it toward soup kitchens. This money is prescribed for a particular purpose. And I know there was a lot of talk about how much money a particular vendor might get. That money is not going to the vendor, that money is going for the advertising buy as opposed -- they may get a percentage of what they -- what they -- they book, but they're not getting that entire contract.

I know you spoke at the -- at the Budget Meeting the other day -- at the General Meeting talking about, well, this money could be better spent going to other projects. Well, that very well may be, but this money cannot be used like that. It's not money that's coming out of the tax dollars of the General Fund tax revenue. It's coming out of State grants that we're getting going towards specific purposes, and that's -- that's the difference. It's not money we can just move around.

CHAIRMAN D'AMARO:
All right. First, thank you, Mr. Zwirn. Legislator Beedenbender.

LEG. BEEDENBENDER:
Thank you, Mr. Chair. Legislator Kennedy, I agree with you. The only question -- the discussion we had last time and the place that I'm trying to figure out -- Legislator Romaine has a bill later on on our agenda about the RFP process and Presiding Officer Lindsay has something. So as a Legislature I think we kind of have an agreement that there's information that not only do we want, we deserve to have.

My only question is with the figure in this bill and with Legislator Romaine's process, what I want to do is have as a Legislator all the information that I can get and as much review as possible. But what I don't want to do is go so far that we grind parts of government to a halt. And I'm not suggesting that your bill would do that, I'm just suggesting that -- I don't know -- like you, I have no idea how many advertising contracts are out there. So I don't know if $10,000 is the right number. I think that there is a number that we deserve to be -- have approval for. I just don't know what that is. So I am in no way opposed to the concept of your bill, I just want to get that one right, just like I want to get Legislator Romaine's bill right with the RFP process.

Where do we inject ourselves to make sure that we get the oversight that we as elected officials deserve without creating overly burdensome processes for our departments. So I don't know the answer to that question. But I agree with you in concept. And I just -- if we can get to there, I'd be more than happy to support going forward. I just don't know how we get from -- without doing this bill, I don't know how we get the information to make sure the numbers are right. It's kind of a Catch 22.

LEG. KENNEDY:
Mr. Chair, may I respond?

CHAIRMAN D'AMARO:
Yes, please.

LEG. KENNEDY:

Okay. I think you bring up a number of excellent points, and I will say that in even trying to get the information associated with large ticket expenditures -- my first query to BRO back in May was "show me advertising contracts if you can in excess of $100,000." That took some time, because apparently advertising contracts are not broken out into sub-objects that are easily identifiable or readily identifiable in our Operating Budget. They're generally coming from an object -- and I'm going to have to defer to Robert for this. They would be expenditures that would come from an object basically under "other" or something along those lines.

MR. LIPP:
There is a sub-object 3770 that does advertising. In '07, it was like $520,000 total.

LEG. KENNEDY:
How much?

MR. LIPP:
Five hundred and twenty thousand.

LEG. KENNEDY:
In '07.

MR. LIPP:
Yes.

LEG. KENNEDY:
My point here is, Mr. Chair, half a million dollars that's associated with advertising at a time where we just on Tuesday vetted a 246 page veto message for $300,000 worth of spending with our '09 Budget. I think that it's incumbent on us to move to at least vetting this.

We contemplate a Local Law 13 sometimes, Mr. Chair, that are in this committee that may be as little 2000 or $3000. My objective is not to bog this committee down nor any committee, but in an effort to begin to shine a brighter light on what kind of spending is going on in our departments, I think we may have to move to this level. If it proves unworkable, I'd be more than happy to step back to a higher level.

Look, I don't want to, as you said, Legislator Beedenbender, take every level of government and bring it to a halt because we can't communicate with golfers about fees or we can't communicate about maritime programs or summer youth opportunities. That's not the objective here, because that may very well be prudent, we may be doing it as expeditiously as possible, and as a government, it's our responsibility to communicate what's available there. But I do think that we need to look at this as we're looking at every other part of that budget in a much different way than we've had to in the four years that I've been here.

CHAIRMAN D'AMARO:
And this bill would only address contracts that relate to advertising or marketing expense.

LEG. KENNEDY:
At this point, yes, Mr. Chair. That's the area I looked at.

CHAIRMAN D'AMARO:
Do you know how many contracts would meet the $10,000 threshold just in those areas?

LEG. KENNEDY:
I do know at this point that -- you know, I know when I did the initial research that I had done with BRO, we had about four or five, I think, that exceeded that hundred thousand dollar limit. As we dropped down to this lower limit, in all honesty, at this point, I don't know what that answer is. I don't think we're talking about thousands of contracts if our universe is 520,000. But let's -- I don't

know. What else can BRO tell us? Do we have any idea? Or perhaps the County Executive's Office. Ben, do you know how many contracts we might have out there?

MR. LIPP:
We don't have that information right now. We could check into that, but I don't have that right -- available now.

CHAIRMAN D'AMARO:
I thought we were checking into that since the last committee. Maybe the Presiding Officer's Office working with the Clerk's Office might be looking at that for this bill as well as, I think, Legislator Romaine's bill where we're trying to get a handle on the RFPs as well.

Mr. Zwirn, you are saying that it doesn't involve many contracts and the money is presented to the County usually as pass-thru funds that are earmarked for specific purposes. Is that --

MR. ZWIRN:
With respect to the Stop DWI Program and many other programs, it comes through from grants for -- to promote different projects or -- like Stop DWI. I would be curious, and I don't know that answer offhand, is how much of the $520,000 that's budgeted goes for, you know, public notices to the local newspapers and the official County papers. It's an expensive proposition even though they're very small notices. Every time that we have a public meeting or anything like that, that money goes to the papers that the Legislature has picked. And I'm not sure if that's part of that. If it is, that would probably be a good -- a good portion of it. But, I mean, let's see if we can -- the next time we come back, let's break down, you know, the money that has been budgeted in that account to see where it's -- see where it's going. I mean, I don't think there's anything -- certainly not -- nothing wrong with that.

CHAIRMAN D'AMARO:
Legislator Alden.

LEG. ALDEN:
Ben, there's a couple of other areas too, just off the top of my head, the Stop Smoking Programs that we use. I don't know if that would be in that account or if it would come out of Health. But, you know, this could be, you know, across -- almost across the whole spectrum of County Government. So is there -- I don't know if there's an easier way to, you know, pick those things out and present them to us?

MR. ZWIRN:
Well, if you can identify the ones that you've seen, we can always ask about them particularly. But otherwise, we'll just get a breakdown of what -- where that budgeted amount goes. I think that would be a good first start.

LEG. ALDEN:
Good.

LEG. KENNEDY:
Mr. Chair, can I just -- and I agree with you that we should have as much specificity with this as well. And I appreciate the committee taking the time to go ahead and look at this. However, I have to ask Counsel about a procedural issue here. Are we coming up against a six month expiration with this bill, or do we -- if we table today, will we still have the ability to act on it in our next cycle?

MR. NOLAN:
Actually, you are bumping up against the Six Month Rule. It was filed -- laid on the table June 10th, so it will be stricken on December 10th. So, yeah, if it doesn't get out of committee in this cycle, it's probably going to end up stricken. You'll have to -- you could refile the bill and start the process over.

LEG. BEEDENBENDER:
Counsel, don't we have another committee?

MR. NOLAN:
December 2nd is our General. We have committee the following week. I am incorrect. I believe we do have committee meeting, and it could get out of committee.

LEG. BEEDENBENDER:
The meeting is on the 10th, Counsel. The next Ways and Means is on the 10th. We would have the ability to pass it that day or is it stricken as soon as we get to that day?

MR. NOLAN:
I believe if it gets out of committee that day you'll be okay.

LEG. KENNEDY:
It would be live that day? Okay. I will, Mr. Chair, make a commitment to this committee that I will make an effort to go ahead and gather as much of this information as well with an eye towards trying to answer some of the questions that you have, Legislator Beedenbender, as far as -- you know, again, a hundred contracts at $10,000 doesn't necessarily make so much sense. There may be a natural break as far as where we're going here.

Mr. Zwirn's point is well taken as well. If it is State-funded grant money limited to specific types of use, obviously, then we don't have the full range of decision making there. If it's more fungible, then perhaps we're able to get at it as well. But again, I think it's just something that it's incumbent on us to go ahead and scrutinize a little closer.

LEG. BEEDENBENDER:
And that's the suggestion I was just about to make, that maybe you put a provision in for the funded ones, that maybe those don't come to us, maybe they do. I don't know. But that would just be a suggestion.

LEG. KENNEDY:
Okay.

LEG. VILORIA-FISHER:
Mr. Chair.

CHAIRMAN D'AMARO:
Legislator Viloria-Fisher. I'm sorry. Legislator Nowick.

LEG. NOWICK:
I'm sorry. It's just a quick question. Would the County Attorney go after -- go over every contract? Does the County Attorney go over every contract?

MS. BIZZARRO:
We should be approving them for legality.

LEG. NOWICK:
You would probably have the numbers that we are talking about.

MS. BIZZARRO:
Not necessarily. I mean, we -- obviously, any contract that comes through our office, we have logged in -- you know, in some fashion. I don't know if we have any type of data base that could just pull out contracts dealing with, you know, marketing or advertising.

LEG. NOWICK:
You wouldn't have that? You wouldn't keep that in a year-to-year data base.

MS. BIZZARRO:
Not specific for absolutely every type and whether or not it was funded through the General Fund or through some type of a grant. We wouldn't have that information. But, you know, generally, yes, we would -- you know, if it goes through our office, we would have a record of it.

LEG. NOWICK:
You would have a record, but you don't -- but you couldn't dig it up.

MR. ZWIRN:
Not by amount or something -- however you entered it, it would probably just be --

MS. BIZZARRO:
It's probably through the department. You know, we'll have -- like, through Health Services, we have all of their contracts. We don't necessarily, you know, peg them as to what exact types of services they are for. It could be a monumental project. And I think I had said this in connection with Legislator Romaine's bill, we could certainly provide whatever assistance that you might need that could help. I'm just not sure sitting here that I can say to you that I can give you all of that information and it's all accurate indicating, okay, this department does X amount of contracts regarding advertising or marketing for the year, you know, 2008 and this is this is how much and this is what's State or Federally funded and this is what's County funded.

MR. LIPP:
So, Robert, then that would be more for your department. You would have all that information.

MR. LIPP:
YES. The detail would take a while to compile. It's on the intergraded financial management system, and it's painstaking, but yes.

LEG. NOWICK:
Okay. And I just wanted to say one thing. I heard before, "we don't want to bog down the committee with these contracts," but I think that if we did pass this bill, we could set up a criteria that would be very -- not unlike the Memorial and Sitings. You set up a criteria, and it would make it -- it would come -- it would start to go much easier once you check off it's good for this, this and this. So I think we could get over that bogged down sort of thing no matter what it is.

CHAIRMAN D'AMARO:
Legislator Nowick, I have to tell you that I'm not a big fan of proceeding that way. I think that, you know, if we're going to bring contracts or anything before the Legislature, I really think that we have to evaluate them on a case-by-case basis without the criteria. Just for example, with these -- with these -- with these land acquisitions, I'm not a big fan of the rating forms. I think there's built in bias no matter how objective you try to be in these ratings. I'm not sure --

LEG. NOWICK:
Wouldn't you be able to have some type of a guide to go by? I mean, you have to have some type of criteria. You can't just jump around all over the place.

CHAIRMAN D'AMARO:
Well, I think what this bill would accomplish is, you know, if a contract comes before the committee and the full Legislature, the inquiry and the question is whether or not to approve it. And we're all going to have our own criteria as we do on every bill. So anyway, I'm just making the point, I'm not a big fan of that.

LEG. KENNEDY:

Mr. Chair, if I can. One other point or a question, I guess, for Ms. Bizzarro. I get confused sometimes, Lynne, with the RFP requirements as far as monetary amounts. Is there -- we're looking at some kind of a natural break here or some level for our inquiry. Is there a dollar and cent amount that might trigger an RFP requirement? And is that something that we have in this whole realm of advertising?

MS. BIZZARRO:
Are you asking me if in connection with advertising or marketing is there a number threshold that you need to do an RFP for?

LEG. KENNEDY:
This contract example that I brought forward, this Stop DWI, is that something that would be subject to RFP?

MS. BIZZARRO:
I think it would, but again, I'm not familiar at all with that contract, but it should be. It sounds to me like it may be part of the RFP process.

LEG. KENNEDY:
Is there a threshold in general, Ben? In other words, do we break at a dollar and cent amount or?

MR. ZWIRN:
I believe there is a threshold, but out the top of my head, I don't know -- I don't know what it is. It's relatively low, as I recall. But I'll find out. I don't know.

MS. BIZZARRO:
It's set forth -- it's set forth in the Charter in the Administrative Code.

MR. NOLAN:
I'm having a hard time understanding your question. Are you talking about a dollar amount on the RFPs that end up coming to us?

LEG. KENNEDY:
No. No. No.

LEG. BEEDENBENDER:
No. A dollar amount that requires an RFP.

MR. ZWIRN:
Where they have to go to an RFP. When you have to do an RFP. You can't just award -- if I can understand Legislator Kennedy's question, we're all in trouble.

MR. NOLAN:
I think it's $10,000. If you hit $10,000, you're supposed to issue an RFP for consulting services.

LEG. KENNEDY:
So that's a natural break that we would have there. Okay.

CHAIRMAN D'AMARO:
So if there's threshold for 10,000 for issuance of an RFP, the RFP would go out, ultimately a consultant would be chosen, a contract would be signed off on and then presented under your bill to the Legislature for another round of review or scrutiny.

LEG. KENNEDY:
Again, but at our level, Mr. Chair, it's not a matter of do we have a vendor who's competent, capable, has a track record, has a history, has all the necessary requirements, whether it's the I-9s,

this, that or the other type of thing. The review that would be presented to us is are we as a body saying that we believe this is a prudent expenditure predicated on the amount in contrast to slashing programs, you know, doing all the other things that we've done to date and are hearing that we're going to have to do even more so into 2010 --'09 and '10. That's the end game. That's the goal.

CHAIRMAN D'AMARO:
Legislator Viloria-Fisher, you've been waiting very patiently. Thank you.

LEG. VILORIA-FISHER:
Yes, thank you. I just has a very quick comment on something that had just been stated regarding grants. I believe that even if the monies are pass-thru monies coming to us through grants, we should still have the ability to review, because often those grants have a broad scope and -- for example, the DWI case that you had brought up might be looking to achieve a particular goal, and we could do it in investigating with school programs where it's done that way, especially a large sum of money like that, almost half a million dollars, I would like to see that come before us.

CHAIRMAN D'AMARO:
Okay. Legislator Alden, so we did start to address this bill as per your request, but there is a motion today to tabled the bill pending; is that correct, to the Clerk?

MS. LOMORIELLO:
Lack of a second.

CHAIRMAN D'AMARO:
Okay. Is there a second on the motion?

LEG. ALDEN:
I'll second it until we get all the information.

CHAIRMAN D'AMARO:
All right. There is- - so a motion is pending to table the resolution. I'll call the vote. All in favor? Opposed? Abstentions? Motion carries. And, of course, Legislator Kennedy, I would welcome you to come back to our next committee if you have the time.
TABLED (VOTE: 5-0-0-0).

LEG. KENNEDY:
Thank you, Mr. Chair.

CHAIRMAN D'AMARO:
Thank you, sir. Thank you.

Resolution Number **1633-2008. Requiring Legislative approval to consider the sale of the 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 in favor? Any opposed? Abstentions?

LEG. ALDEN:
Opposed.

CHAIRMAN D'AMARO:

One opposed. Resolution is **TABLED (VOTE: 4-1-0-0 - Opposed: Legis. Alden)**.

1663-2008. Sale of County-owned real estate pursuant to Local Law 13-1976 Mark Baker (COUNTY EXEC).

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

1669-2008. Adopting a Local Law, a Charter Law to increase Legislative oversight of the RFP process (ROMAINE).

I'll offer motion to table.

LEG. ALDEN:
I'll second it.

CHAIRMAN D'AMARO:
Seconded by Legislator Alden. Legislator Alden, did you want to say something?

LEG. ALDEN:
Again, a lot of the discussion we just had is pertinent to this. If we can get that information, I really would like to at some point move something here. But I'll go along with the tabling until we get information.

CHAIRMAN D'AMARO:
I'll call the vote. All in favor? Opposed? Abstentions? Motion carries. **TABLED (VOTE: 5-0-0-0)**.

1682-2008. Sale of County-owned real estate pursuant to Section 72-h of the General Municipal law - Town of East Hampton (COUNTY EXEC).

This is a bill that has been tabled for a few cycles. It's property located in East Hampton. I think Real Estate was looking at the development rights issue. Mr. Kent, welcome.

MR. KENT:
Thank you. Good morning. I had distributed earlier a proposed amendment to 1832. I could amend this resolution also consistent with the language added to 1832 that would allow us to strip and retain the development rights that we convey out via 72-H and put them into the Workforce Housing and Development Rights Registry.

CHAIRMAN D'AMARO:
So you would chose to sanitize these properties on a case-by-case basis?

LEG. KENNEDY:
Yes. I think we need to do that way, because it depends on what the town requesting the property to be transfer to them, the purpose they're looking to place the property into.

CHAIRMAN D'AMARO:
If you can get that resolution laid on the table, we can consider it before the end of the year.

MR. KENT:
I wanted to make sure that the committee was in agreement with the language that's proposed for 1832, and then I will try to do the same for all the 72-Hs where it's appropriate and provide those copies to Ben Zwirn and just make sure that we're okay to present those at County Executive proposals.

CHAIRMAN D'AMARO:

1832 has now been amended, we've passed that out. This contains the language for the development rights issue.

MR. KENT:
No. That's just a draft. I wanted to make sure that the language was acceptable by the County Attorney's Office, by the committee. I would then -- I would then present it to the County Executive's Office for submission.

CHAIRMAN D'AMARO:
Okay. So we're going to need a little time to review this then. We'll table the resolutions for today and we'll move forward. I'll review it before the next cycle.

LEG. VILORIA-FISHER:
I have a question, Mr. Chair.

LEG. VILORIA-FISHER:
Legislator Viloria-Fisher.

LEG. VILORIA-FISHER:
Mr. Kent, regarding TDRs for affordable housing, how are we doing with the TDRs? Have they been used? You know we have sterilized lands with the $75 million from the SOS.

MR. KENT:
I'm not aware of how they're being used. The Planning Department has control over the registry, and they're used by the Affordable Housing Division.

LEG. VILORIA-FISHER:
But would you have any idea -- and perhaps before the next meeting, you could give us an update of how many credits there are, how many we have set aside as a result of the $75 million SOS how many have, in deed, been used for affordable housing purpose.

MR. KENT:
Last I knew, none of them had been used, but I don't know the total number that are in the bank, in the registry at this point, but I'll find out.

LEG. VILORIA-FISHER:
Okay. I thought that Jim Morgo had told me that some of the them had been used. So if you could check into that so that we could one answer. Thank you.

LEG. BEEDENBENDER:
Motion to table.

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

1733-2008. Adopting a Local Law, 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).

Is there a motion?

LEG. ALDEN:
Motion to table.

LEG. NOWICK:

Second.

CHAIRMAN D'AMARO:
Motion to table by Legislator Alden, seconded by Legislator Nowick. All those in favor? Opposed? I'm opposed.

LEG. BEEDENBENDER:
Opposed.

CHAIRMAN D'AMARO:
Legislator Beedenbender. Motion is carries. Resolution is **TABLED (VOTE: 3-2-0-0 - Opposed: Legis. D'Amaro and Beedenbender)**.

1832-2008. Sale of County-owned real estate pursuant to Section 720H of the General Municipal Law - Town of Brookhaven (COUNTY EXEC).

I'll offer a motion to table.

LEG. BEEDENBENDER:
Second.

CHAIRMAN D'AMARO:
Seconded by Legislator Beedenbender. All in favor? Opposed? Abstentions? Motion carries. **TABLED (VOTE: 5-0-0-0)**.

1895-2008. Adopting a Local Law, a Charter Law to establish a truth and honesty zone for clean campaign practices in Suffolk County by Banning improper fundraising (ALDEN).

The public hearing was recessed, so I'll offer a motion to table, Legislator Alden seconds. All in favor? Opposed? Abstentions? Motion carries. **TABLED (VOTE: 5-0-0-0)**.

1902-2008. Sale of County-owned real estate pursuant to Local Law 13-1976 SNZ Holding Corp. (COUNTY EXEC).

This property is located in Brookhaven. It's a 60 by 100, proposed to be sold to an adjoining owner for 11,500. Legislator Viloria-Fisher, did you have a comment?

LEG. VILORIA-FISHER:
Yes. As I spoke with you earlier, Mr. Chair, and I spoke with Mr. Kent, I took at a look at the property or as near as I could ascertain that the property was located. In the woods. It seems to be landlocked on all sides. It's behind a warehouse. And I think to get to it, you'd have to go very close to other properties. It just -- I can understand why Brookhaven didn't see it as a good candidate for an affordable housing site.

MR. KENT:
It's not landlocked, it's just that the streets surrounding it are not improved, they are paper streets.

LEG. VILORIA-FISHER:
Okay. As I said, I'm not looking at it with the kind of expertise you have. But it didn't look to me to be very accessible.

CHAIRMAN D'AMARO:
Legislator Viloria-Fisher, thank you for taking the time out to do that. I found that through my experience on Zoning Boards that, you know, if you go out and look at the property, it answers a lot of questions and helps you to make a decision.

As the committee knows, I have bill pending that would address some of these properties. It's going through our process now. It's open to public hearing at our next Legislative Meeting. But if you are convinced that this would not support workforce housing based on a site inspection, I'd be willing to support that position as well.

LEG. VILORIA-FISHER:
Thank you. I'll make a motion to approve.

CHAIRMAN D'AMARO:
All right. Motion to approve by Legislator Viloria-Fisher, I'll second.

LEG. ALDEN:
On the motion.

CHAIRMAN D'AMARO:
On the motion, Legislator Alden.

LEG. ALDEN:
Chris, have you talked to Brookhaven? Because what we did in Islip when we had a paper street situation and a lot of lots, sometimes we assembled that group and then actually did an affordable housing project. Brookhaven hasn't looked at this, or is it a whole bunch of different owners?

MR. KENT:
The way we proceed on these is I provide them to Affordable housing, and then they take them to the town and they get the letters back that say the town is not interested in ti and then it's conveyed to me and then we present the resolution -- we introduce the resolution.

LEG. ALDEN:
And I'm not -- I'm not going to vote against it, but I'm not so sure that I'm confident that Brookhaven did that kind of an analysis. Because if they can do an assemblage of property in a fairly quick or easy manner by, you know, just approaching a few of these --

CHAIRMAN D'AMARO:
And also just to pick up on that, under my bill if it were in place right now, a builder or developer could come in, look at this lot at auction and do an investigation and say, well, you know, the streets aren't in, but some other properties are available and make a go of it. So there is room for that type of analysis. But we're not sitting here today, I guess, in a position to do that. But going forward, I would encourage that, sure.

LEG. VILORIA-FISHER:
I don't think that wooded area is that large, Chris, to really sustain that much of a project. You know, but that's just me looking at woods. It's really not that big. By the time we put roads in -- it really isn't that big, and it's pretty industrial and commercial there.

LEG. ALDEN:
I'm not standing in the way of this one.

LEG. VILORIA-FISHER:
I just wanted you to -- because I'm very much in favor of affordable housing where we can put it. And this didn't look that amendable.

CHAIRMAN D'AMARO:
Look, you don't want to -- you don't want to generate workforce housing in an area that won't support it, and that's what you're saying here. It doesn't mean that, of course, you don't want to generate the housing where it's appropriate. Okay. There is a motion pending to approve which has received a second. I'll call the vote. All in favor? Opposed? Abstentions? Motion carries.

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

1947-2008. Authorizing certain technical corrections to Adopted Resolution No. 608-2008 (COUNTY EXEC).

This had been tabled at the last meeting based on a request from the Executive, I believe. Mr. Zwirn, is that -- are we prepared to go forward on this today?

MR. ZWIRN:
I'm not sure. Let's just table it.

CHAIRMAN D'AMARO:
All right. Once again, I'll offer a motion to table, is there a second?

LEG. ALDEN:
Second.

CHAIRMAN D'AMARO:
Seconded by Legislator Alden. All in favor? Opposed? Abstentions? Motion carries. **TABLED (VOTE: 5-0-0-0)**.

1970-2008. Adopting a Local Law, a Charter Law creating a County Department of Consumer Affairs (COUNTY EXEC).

I'll offer a motion to approve.

LEG. BEEDENBENDER:
Second.

CHAIRMAN D'AMARO:
Seconded by Legislator Beedenbender. On the motion, Legislator Alden.

LEG. ALDEN:
Could we get an explanation of -- because I was under the impression that we had something -- a Department of Consumer Affairs.

MR. NOLAN:
We have an office.

LEG. ALDEN:
An office. Okay.

MR. ZWIRN:
This would elevate it to its own department with a Commissioner that would be recommended by the County Executive subject to the approval of the Legislature. Right now, I guess there's a history here that certainly predates me where there was some political infighting back and forth, which rarely happens, I guess, here in Suffolk County or anywhere. But the head of Consumer Affairs was Charlie Gardner for many years, and he had a Civil Service title. He was the head -- he had the title of being head of Weights and Measures and Civil Service protected.

The County Executive feels -- we tried to upgrade the department to be at a Commissioner level so that there's more accountability to the Legislature as well, because, again, you'll have person subject to approve as opposed to a Civil Service appointment. I t breaks the department down, I think, into four separate areas. But it elevates it and makes it its own department in the County.

LEG. ALDEN:

Just a couple of questions, and I'm not -- I'm not trying to, you know, start a war or anything like that. Are we creating more jobs here for chiefs rather than Indians? Are we going to put more expense forward in the budget?

MR. ZWIRN:
No. I think you have -- you have a Director. Somebody will have to be in charge of weights and measures -- you will be adding a position as a Commissioner -- but hopefully that person will be more accountable. You know, it's a department that has, you know, has some troubles as of late. I know Charlie Gardner retired. Bruce Dragonette, who's been running the department, is about to retire. And you have good field people there, but it needs some leadership.

LEG. ALDEN:
That's fine, but, you know, I really -- after went through all this stuff with the budget and we're looking at, you know, nightmarish projections for future years, are we going to put something in place that's going to cost us a lot more money or even a little bit more money than the current --

MR. ZWIRN:
The County Executive was sensitive to this, and he was not -- you know, he had -- he tossed this back and forth. He thinks it's important to get this to a department level where a Commissioner that can come and be accountable to the Legislature on their own as opposed to somebody who's -- not to denigrate Charlie Gardner, he did a great job, but he had Civil Service protection. You have much more oversight when you have an appointed Commissioner.

LEG. ALDEN:
And Charlie was making -- because he was there for like 40 years or something, he was making quite a bit of money. Are we going -- are we looking at a model, like, a Commissioner, Deputy Commissioner, Assistant to the, you know, Commissions? Is that the type of model we're looking at?

MR. ZWIRN:
I don't think you're going to see a great deal of administrative costs going into this, but there will be a Commissioner's position that would be separate, would be in addition. Yes, there would be an additional cost there.

LEG. ALDEN:
Do we have a projection of what the new model is going to cost us as opposed to having it as a -- what is it now, a department?

LEG. BEEDENBENDER:
It's an office of the County Executive.

MR. ZWIRN:
I don't have the fiscal impact statement in front of me, but there probably was one filed, which would answer those questions.

MR. LIPP:
To my knowledge, we haven't seen the fiscal. I could be wrong, but the last few days I haven't seen one.

MR. ZWIRN:
It should have been filed with the Clerk's Office. Under the Legislature's own rules, we couldn't move forward if we didn't have a fiscal filed.

CHAIRMAN D'AMARO:
This would -- this would put this department -- this would elevate this to a department similar to the

other various departments. I'm going to support the bill, because, you know, I'm a bog fan of accountability and I think that you need to have the person's that are in positions higher up in the hierarchy of our bureaucracy need to be accountable directly to the Legislature and to the Executive. So I view this as a step in the right direction towards the accountability of the officials that are running Consumer Affairs as it is with the Health Department and Department of Public Works and all the other departments that we have. I think you will get better work performance out of the people who are running these departments if there is that accountability factor.

MR. ZWIRN:
And it's a revenue generating department.

CHAIRMAN D'AMARO:
Right. And it also generates revenue. So that does somewhat address the cost issue. Legislator Nowick, did you have a question?

LEG. NOWICK:
Ben, I just wanted to ask you, now Bruce is the Acting-Commissioner. Who is the Weights and Measures person?

MR. ZWIRN:
It's vacant right now. Because there's -- they're going to have to do -- they're going to have to do a test. Charlie retirement was unexpected to say the least. We didn't have any idea that -- you know, he's been here for so long, I don't think everybody even realized that he was Civil Service and not appointed to that spot, because nobody paid attention. The department was running fine when the new administration came in so nobody looked to make any --

LEG. NOWICK:
So, Ben, then he was Civil Service for Weights and Measures, but not Civil Service as Commissioner?

MR. ZWIRN:
But he held the title as Director of Consumer Affairs as well.

LEG. NOWICK:
But that wasn't Civil Service?

MR. ZWIRN:
No.

LEG. NOWICK:
If there were two positions like there are now, because -- let's say -- let's say we continued in that fashion. Would the Legislature still then be able to appoint a Commissioner? Where would the Commissioner come out of?

MR. ZWIRN:
Whoever is Director of Weights and Measures would assume that role. So you may have somebody who's done well on the Civil Service test, but might not have the administrative abilities to run the department.

LEG. NOWICK:
So the law is now that if they are Weights and Measures, they automatically become Commissioner.

MR. ZWIRN:
That's the way it's worked as long as Charlie has -

LEG. ALDEN:
But he's not a Commissioner.

MR. ZWIRN:
He's not a Commissioner, no.

LEG. NOWICK:
What was Charlie's title?

MR. ZWIRN:
His title really was Director of Weights and Measures.

LEG. NOWICK:
He was never the Commissioner.

MR. ZWIRN:
No. He was never even Director. There was no department. He was just the head of Weights and Measures.

LEG. NOWICK:
So there really never was a Department of Consumer Affairs.

MR. ZWIRN:
No. Well, there was -- there was, I think, back many years, and then it became part of a political football going back and forth.

LEG. NOWICK:
So when Charlie was appointed, was that for a term certain or that was just forever because he was Civil Service?

MR. ZWIRN:
Everybody just left it alone.

CHAIRMAN D'AMARO:
All right. Mr. Zwirn, there's a requirement in order to vote on the bill that we have a fiscal impact statement, and I don't have a copy of it. Do you -- is there -- should we skip over this? Do you need an opportunity to dig one up?

MR. ZWIRN:
If we can, yeah. At least we got a chance to debate the bill. And I'll find out where the fiscal impact statement is.

CHAIRMAN D'AMARO:
All right. Before we move on, is there any further question on the bill?

LEG. ALDEN:
The cost. I'm all for accountability, but that's part of it, cost.

MR. ZWIRN:
That's certainly a legitimate question. We have no problem. But I think it is going to be a little more costly than it is today, without question, but we think in this particular case it would be worth the -- it would be worth it.

CHAIRMAN D'AMARO:
Legislator Alden, I have no -- no issue with that. I was the one that put the bill in requiring the fiscal impact statement before we can vote. And I think that's right on.

MR. ZWIRN:
We supported that. So let's see if we can find where it is.

CHAIRMAN D'AMARO:
All right. Mr. Zwirn, our Clerk is indicating that we don't have it on file. So I'm going to skip over this for now and we'll come back to it. If you can come up with one by the end of the meeting, then we'd be happy to move it along.

MR. ZWIRN:
I appreciate that. If not, we'll just pass on it until we get it filed.

CHAIRMAN D'AMARO:
Thank you, sir. All right. Let's skip that for now. That completes the Tabled Resolutions. Section VI of the Agenda are Introductory Resolutions.

I'll call the first, **1974-2008. Authorizing certain technical corrections to Adopted Resolution No.517-2007 (COUNTY EXEC).**

I'll offer a motion to approve, seconded by Legislator Beedenbender and put on the Consent Calendar. All in favor? Opposed? Abstentions? Motion carries. **APPROVED** and placed on the **CONSENT CALENDAR (VOTE:5-0-0-0)**.

1976-2008. **Adopting a Local Law, a Charter Law to reform and reconstitute a professional and independent Suffolk County Ethics Commission (MONTANO).**

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

1978-2008. Sale of County-owned real estate pursuant to Local Law 13-1976 Aly and Manal Daoud, as husband and wife (COUNTY EXEC).

This is a 33 by 100 parcel located in the Town of Islip proposed to be sold to the adjoining owner for $6000. I'll offer motion to approve.

LEG. BEEDENBENDER:
Second.

CHAIRMAN D'AMARO:
Second by Legislator Beedenbender.

LEG. ALDEN:
On the motion.

CHAIRMAN D'AMARO:
On the motion, Legislator Alden.

LEG. ALDEN:
It's more on this whole program. And we do have the Deputy County Attorney here. Lynne, there's some properties in Suffolk County that exceed the threshold. We can only sell to adjacent owners on, I think, it's $20,000 or less of value. Is there any way that we can adjust that or fix that? Because there's going to be some properties that really don't fit into what we've been trying to do with affordable housing that might exceed -- and I'm aware of two or three that currently exist. Is there a way that we can raise that limit quickly?

MS. BIZZARRO:

I believe it's in the Administrative Code currently. And, yes, if you do an amendment to the Administrative Code, that could be done.

LEG. ALDEN:
Is that something you could do for us, or are you -- do you have an opinion one way or the other on it?

MS. BIZZARRO:
I have no opinion on it. We certainly can assist in that endeavor.

CHAIRMAN D'AMARO:
Well, when you say "could," could the County Attorney's Office draft the resolution making change?

MS. BIZZARRO:
Yes. We absolutely can assist in doing that for you, absolutely. I believe there's a resolution on -- I'm not sure if it's this committee -- yes, it is -- 2081-08, I believe, proposes an amendment to perhaps that section of the code you're referring to.

LEG. ALDEN:
And it's on today?

MS. BIZZARRO:
I believe so.

CHAIRMAN D'AMARO:
That bill addresses that section of the Code, the Local Law 13 procedure. So are you suggesting that we -- you know, I think I'd rather do a separate bill to raise the limit.

MS. BIZZARRO:
You're saying you want to raise the $20,000 limit?

LEG. ALDEN:
Yeah, because some of these -- you know, the parcel might be ten by, you know, 100, and it still won't qualify for affordable housing, but it still might come in at 40 -- 30, 40, $50,000. So I think we should have the ability to sell an adjacent owner, keep it on the tax roles and collect a lot more money.

CHAIRMAN D'AMARO:
Right. Remember, the thing you have to watch with raising that limit though is that it's taking these parcels out of the competitive bidding process as far as a general auction. And if a property is higher in value, you may in effect be limiting your universe of bidders to those who just live around the property as opposed to someone who might be willing to pay more. But you're --

LEG. ALDEN:
I mean, in reality, you know, if there is piece that's unbuildable and and it's, you know, sitting behind your property, not a lot of people are going to want to get on line to buy that just to sit with it and pay taxes.

CHAIRMAN D'AMARO:
Right. But I'm saying you have to be careful how you raise the threshold, because you might start to capture properties that should go to general auction. So all I am saying to you is what would be the number.

LEG. ALDEN:
In conjunction with your bill, if yours is going to weed out anything that's eligible for building, then it could be almost the sky's the limit, because we're going to take out potential buildable plot. What

we're left with is adjacent land that we keep on the tax roles.

CHAIRMAN D'AMARO:
My proposed bill would not include any properties that are under /TKER 5000 square feet with 50 feet of street frontage. So below that threshold it would just be the normal 13 procedure.

LEG. ALDEN:
That's pretty much --

CHAIRMAN D'AMARO:
It's not based on a dollar amount.

LEG. ALDEN:
That's pretty much a buildable lot.

CHAIRMAN D'AMARO:
That's right. That's why. Yeah. That's why I did that. So the question would be what would be the threshold number where we would still be capturing properties that only adjoining owners would be interested in, but at the same time, not taking out of the general auction process properties that may command a higher price.

LEG. ALDEN:
Maybe Mr. Kent -- is there something, like, that's apparent to you -- an amount there, 35,000, or?

MR. KENT:
We do have parcels that have appraised higher than 20,000 that I think would be appropriate to sell to an adjacent owner, if that's your question.

LEG. ALDEN:
And roughly what value?

MR. KENT:
I can think of two right off the top of my head that are in the $26,000 range.

LEG. ALDEN:
So if we bump this to thirty or 35,000 would --

MR. KENT:
I would think bumping it 30,000 might about an appropriate step. It hasn't been raised in a number of years. I think it goes back to the 1980s that it was raised to 20,000.

LEG. ALDEN:
Lynne, would you do that for us?

MS. BIZZARRO:
Absolutely.

CHAIRMAN D'AMARO:
And, of course, if an adjoining owner doesn't buy at the higher amount, then it goes through the general auction process anyway.

MR. KENT:
I think one of the appropriate changes might be -- this is just a suggestion -- the wording now in the Administrative Code said that I "shall offer" it to adjacent property owners. If you change that a "may offer," it would allow us discretion to put properties worth less than twenty into the Affordable Housing Program and properties even -- you know, in excess of 20 that I may want to sell to an

adjacent property owner if it's inappropriate to put in an affordable housing program.

LEG. ALDEN:
That's reasonable.

CHAIRMAN D'AMARO:

MR. LIPP:
Point of information.

CHAIRMAN D'AMARO:
Yes.

MR. LIPP:
If you wanted, we could calculate what the inflation growth would be from the 20,000 when it was last changed to what it would be now, and then make a determination if that's acceptable or not. If you want to go dollar limit. Just a suggestion.

CHAIRMAN D'AMARO:
It could provided a bench mark for us, a point of reference. That would be useful, I think.

MR. LIPP:
Yeah. A problem with a lot of laws, if there's dollar limits on things, they don't recognize that markets change.

CHAIRMAN D'AMARO:
Well, if we're going to say may instead of shall, we don't need a dollar amount.

MR. LIPP:
Correct.

LEG. ALDEN:
Yeah. Whichever way accomplishes, you know, getting back on the tax roles and be fair about it. If we need them for affordable housing, that gives us the ability to do that too.

MS. BIZZARRO:
So you're thinking of not doing the thirty thousand threshold, just modifying the language to give a little more discretion.

CHAIRMAN D'AMARO:
Again, it takes an objective standard and makes it subjective with the Direction to Real Estate. I would have to think about that a little bit more. Yeah.

LEG. ALDEN:
Well, we're going to get a draft, and then we can talk about it.

CHAIRMAN D'AMARO:
That's fine. Yeah. All right. So where are we? There's a motion pending to approve that has received a second. I'll call the vote. All in favor? Any opposed? Abstentions? Motion carries. **APPROVED (VOTE: 5-0-0-0)**.

1979-2008. Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Joyce Repecki (COUNTY EXEC).

This is a sale as a matter of right. I will offer a motion to approve and place on the Consent Calendar.

LEG. BEEDENBENDER:
Second.

CHAIRMAN D'AMARO:
Seconded by Legislator Beedenbender. All in favor? Any opposed? Abstentions? Motion carries. **APPROVED** and placed on the **CONSENT CALENDAR (VOTE:5-0-0-0)**.

1980-2008. Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under the Suffolk County Tax Act Carl J. Derenberg, III (COUNTY EXEC).

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

1981-2008. Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Charles V. Brewster and Ruby Brewster, his wife (COUNTY EXEC).

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

1982-2008. Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Kirk Davidson and Yasmin Davidson, his wife (COUNTY EXEC).

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

1983-2008. Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act James N. Ireland Investment Co. (COUNTY EXEC).

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

1986-2008. Authorizing the acquisition and approving and accepting the conveyance of a portion of certain parcels of real property having Suffolk County Tax Map Identification Numbers of District 0400-Section 104.00 Block 01.00 Lot 045.005 and District 0400 Section 104.00 Block 01.00 Lot 045.006 for Public highway purposes from the Town of Huntington, Suffolk County, New York pursuant to Section 125 of the New York State Highway Law (COUNTY EXEC).

This is the County acquiring property from the Town of Huntington for highway purposes. Mr. Kent, did you have any further information on this?

MR. KENT:
Well, this is not our resolution. I believe it came out Department of Public works. But I would think we are taking it for road improvement.

CHAIRMAN D'AMARO:
Okay. I'll offer a motion to approve, seconded by our Vice-Chair Legislator Beedenbender. All in favor? Any opposed? Abstentions? Motion carries. **APPROVED (VOTE: 5-0-0-0)**.

1987-2008. Authorizing the conveyance of County-owned surplus unused right of way fronting a parcel of land having Suffolk County Tax Map Identification Number of District 0200 Section 726.00 Block 07.00 Lot 006.000 pursuant to Section 125 of the New York

State Highway Law (COUNTY EXEC).

This is a conveyance for $45,000 for an unused right of way. Legislator Beedenbender.

LEG. BEEDENBENDER:
I'll offer a motion it approve, but I did have question after that.

CHAIRMAN D'AMARO:
I second the motion. Go ahead with your question.

LEG. BEEDENBENDER:
You didn't do this one, right, Chris?

MR. KENT:
No.

LEG. BEEDENBENDER:
Well, my question is, it's -- the value that we are selling it to them for is far in excess of what the owner got in appraised value. They are willing to pay this, they just wanted some answers as to why. So I guess -- I guess -- with this opportunity, we can put it to the floor and we can ask the questions of DPW, since this was a DPW-based resolution at the floor of the meeting. Cause the owner -- it's a constituent of mine -- and they want this piece of property and they're willing to pay the 45, but they were never able to get concrete answer as to why that number came in so high.

CHAIRMAN D'AMARO:
And they have their on appraisal for less?

LEG. BEEDENBENDER:
Yes.

CHAIRMAN D'AMARO:
They do. You want to table it here?

LEG. BEEDENBENDER:
This is has been -- this situation started back when I was a candidate in probably May of last year. So this has been going on forever, and they would like to move this forward. So I would like to get it to the floor. And if we have to table it there cause we don't get good answers, that will be -- we will do that. But I just like to get it moving, because they've been trying to -- they have had some money tied up trying to do this for a while.

CHAIRMAN D'AMARO:
Okay. Legislator Alden.

LEG. ALDEN:
Through the Chair, Brian, what kind of -- are they building a house or do they have a business?

LEG. BEEDENBENDER:
No. There's a curve in the road by Patchogue-Holbrook Road. They have house, and then there's a chunk of land that is very oddly shaped and it's wooded, and it's right next to their house. And what happens is a lot of people dump on it and they leave stuff. And the owner of this house wants to take that and put a fence around it and just keep the trees and -- so there won't be as much debris and stuff there, so.

LEG. ALDEN:
It's not that he has plans to add on to his house?

LEG. BEEDENBENDER:
He couldn't, it's not a buildable lot. And according to the State Highway Law, because of the way the parcel was kept, they can only give it to somebody, but they can't build on it.

LEG. ALDEN:
I'm just trying to think of why the value would be that high.

LEG. BEEDENBENDER:
I don't understand either, because it's an oddly shaped parcel that has really little access and it's just trees.

LEG. ALDEN:
And there's drainage on it?

LEG. BEEDENBENDER:
Not that I know of. No. There's absolutely no -- there is no recharge basin on it, no. So if we can just put it to the floor and I could ask DPW those questions at the meeting.

CHAIRMAN D'AMARO:
Sure. There's a motion pending to approve that has received a second. I'll call the vote. All those in favor? Opposed? Motion carried. **APPROVED (VOTE: 5-0-0-0)**.

2018-2008. Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Cantaberry Tails, LLC (COUNTY EXEC).

This is a conveyance as a matter of right under our Code. I will offer a motion approve and place on the Consent Calendar, seconded by Legislator Beedenbender. All in favor? Any opposed? Abstentions? Motion carries. **APPROVED** and placed on the **CONSENT CALENDAR (VOTE:5-0-0-0)**.

2019-2008. Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Atlantic 1784 Corp. (COUNTY EXEC).

I will offer a motion to approve and place on the Consent Calendar, seconded by Legislator Viloria-Fisher. All in favor? Motion carried. **APPROVED** and placed on the **CONSENT CALENDAR (VOTE:5-0-0-0)**.

2020-2008. Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Ralph J. Benicasa, having a 1/4 interest, and Catherine Benincasa, his wife, having a 3/4 interest (COUNTY EXEC).

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

2021-2008. Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Kimble Lewis as administrator to the estate of Billie Ann Lewis Franklin, a/k/a Billie ann Lewis a/k/a Billie Franklin, as to 50% interest, and (COUNTY EXEC).

Same motion, same second, same vote. **APPROVED** and placed on the **CONSENT CALENDAR (VOTE:4-0-0-1 - Not present: Legis. Beedenbender)**.

2022-2008. Amending the 2008 Operating Budget, accepting 100% grant funds in the amount of $75,000 from the New York State Department of Education and appropriating

funds for a Geographic Information Systems Enterprise Address Management System for Suffolk County Government (COUNTY EXEC).

I will offer a motion to approve and place on the Consent Calendar. Is there a second?

LEG. VILORIA-FISHER:
Yes.

CHAIRMAN D'AMARO:
Legislator Viloria-Fisher offers a second. All on favor? Any opposed? Abstentions? Motion carried. **APPROVED** and placed on the **CONSENT CALENDAR (VOTE:4-0-0-1 - Not present: Legis. Beedenbender)**.

2023-2008. Authorizing the sales of surplus property sold at the October 23, 2008 auction pursuant to Local Law 13-1976 as per Exhibit "A" (Omnibus Resolution) (COUNTY EXEC).

Mr. Kent, was this the result of the general auction?

MR. KENT:
Yes. This was the auction that was just conducted in October, general auction of surplus County-owned land.

CHAIRMAN D'AMARO:
What was the total raised through that auction?

MR. KENT:
The total amount of bids was $2,536,250. The total of out County investment in those properties was 1,478,758. And the gain that we'll realize if we close on all sales would be a million fifty-seven thousand four ninety-one.

CHAIRMAN D'AMARO:
Well, congratulations on a successful auction. I'll offer a motion to approve. Is there a second?

LEG. ALDEN:
Second.

CHAIRMAN D'AMARO:
Seconded by Viloria-Fisher. Legislator Alden.

LEG. ALDEN:
Chris, did that auction include the parcel that we reversed the auction results on down there in Bay Shore on Clinton Avenue?

MR. KENT:
No, it did not, because I'm going to commence -- I'm going to request the County Attorney's Office to commence a bar claim proceeding.

LEG. ALDEN:
Okay. Thanks.

CHAIRMAN D'AMARO:
Okay. Motion to approve is pending and has received a second. I'll call the vote. All those in favor? Opposed? Abstentions? Motion carries. **APPROVED (VOTE:4-0-0-1 - Not present: Legis. Beedenbender).**

2024-2008. Resolution of the County of Suffolk, New York rescinding Resolution No. 377-2008 adopted May 28, 2008 which appropriated $700,000 in connection with the storm water remediation to Green Creek at County Road 85, Montauk Highway (COUNTY EXEC).

I will offer a motion to approve, seconded by Legislator Alden, but I will ask Counsel to give a brief explanation of why we're rescinding this resolution.

MR. NOLAN:
Because it is -- it's really a duplicate of another resolution that accomplishes same -- the same purpose. So we -- it was inadvertently proposed and adopted, so we don't need both.

CHAIRMAN D'AMARO:
Okay. Just to clean up the record so to speak. All right. A motion is pending, it has received a second. All in favor? Opposed? Abstentions? Resolution is adopted. **APPROVED (VOTE: 5-0-0-0)**.

2081-2008. Adopting Local Law, a Local Law to promote the development of residential dwellings for first time home buyers (D'AMARO).

Requires a public hearing. I'll offer a motion to table.

LEG. ALDEN:
Second.

CHAIRMAN D'AMARO:
Seconded by Legislator Alden. All those in favor? Opposed? Abstentions? Motion carries. **TABLED (VOTE: 5-0-0-0)**.

2085-2008. Accepting and appropriating a grant in the amount of $64,164 from the New York State Division of Criminal Justice Services and a 10% local match, to provide enhanced defense representation for cases referred to the Legal Aid Society of Suffolk County by the Sex Offender Court with 90% support (COUNTY EXEC).

I'll offer a motion to approve.

LEG. ALDEN:
Second.

CHAIRMAN D'AMARO:
Seconded by Legislator Alden. All those in favor? Opposed? Abstentions? **APPROVED (VOTE: 5-0-0-0)**.

That concludes the agenda. Oh, no. I'm sorry.

MR. ZWIRN:
Mr. Chairman, IR 1970, the fiscal hasn't been filed yet, so we'll ask for it to be tabled. If we get the fiscal in -- it will probably be in a very -- in a short -- probably within the hour. I would just ask if we can entertain a discharge petition subsequent to today's meeting. But for right now, it should be tabled pursuant to the rules of the Legislature. We concur.

CHAIRMAN D'AMARO:
Okay. Well, thank you for that. I'd be happy to sign off on the discharge petition. I support the resolution. I will recall **1970-2008, a Charter Law creating a County Department of Consumer Affairs (COUNTY EXEC)** and offer a motion to table.

LEG. VILORIA-FISHER:
Second.

CHAIRMAN D'AMARO:
Seconded by Legislator Viloria-Fisher. All those in favor? Opposed? Abstentions? Motion carries. **TABLED (VOTE: 5-0-0-0)**.

Now, that concludes the agenda.

MR. ZWIRN:
It's up to you. If you want to leave it tabled, and we'll --

CHAIRMAN D'AMARO:
Let's do now. Do you have a copy for us? I mean, we should really look at it before we vote on the bill.

MR. ZWIRN:
Leave it and we'll do it by discharge petition.

CHAIRMAN D'AMARO:
I'm sorry. I thought it was coming to us right now. All right. Then that concludes the agenda for today. I want to thank everyone for helping us out here today at the Ways and Means Committee. I'll offer a motion to adjourn, seconded by Legislator Viloria-Fisher. On that tabling motion of 1970-2008, all those in favor? Opposed? Abstentions. Motion carries. **TABLED (VOTE: 5-0-0-0).**

LEG. VILORIA-FISHER:
Oh, we didn't call the vote on that?

CHAIRMAN D'AMARO:
I'll offer a motion to adjourn, seconded by Legislator Viloria-Fisher. All those in favor? Opposed? Abstentions? We are adjourned. And once again, thank you.

(*THE MEETING WAS ADJOURNED AT 12:50 P.M.*)

{ } DENOTES BEING SPELLED PHONETICALLY