

**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, January 28, 2009 at 10:00 a.m.

MEMBERS PRESENT:

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

NOT PRESENT:

Legislator Lynne Nowick - Excused

ALSO IN ATTENDANCE:

George Nolan - Counsel to the Legislature
Gail Vizzini - Director, Budget Review Office
Benny Pernice, Budget Review Office
Barbara LoMoriello - Deputy Clerk of the Legislature
Ben Zwirn - Deputy County Executive
Ed Hennessy - County Executive's office
Lynne Bizzarro - County Attorney's Office
Chris Kent - Director of Real Estate
Jack Caffey - Legislative Aide to Presiding Officer Lindsay
Tom Ryan - Legislative Aide to Legislator Vilorio-Fisher
Ryan Attard - Legislative Aide to Legislator Beedenbender
Lou D'Amarino - Legislative Aide to Legislator Kennedy
Justin Littell, Legislative Aide to Legislator D'Amaro
Debra Alloncius - AME Legislative Director
Gail D'Ambrosio - SC Probation Officers Association/President
Lance Gumbs - Shinnecock Indian Nation
Fred Bess - Shinnecock Nation
William Tymann - Big Brothers Big Sisters of Long Island
All other interested parties

MINUTES TAKEN BY:

Alison Mahoney - Court Stenographer

MINUTES TRANSCRIBED BY:

Kim Castiglione - Legislative Secretary

(The meeting was called to order at 10:13 A.M.)

CHAIRMAN D'AMARO:

Good morning, ladies and gentlemen. Welcome to the Ways and Means Committee, the first meeting of 2009. Please rise and join the committee in the Pledge of Allegiance led by Legislator Alden.

Salutation

Please remain standing just for a moment of silence for the unfortunate passing of Legislator Nowick's father, Eugene Cannataro, keeping Legislator Nowick, and of course her family, in our hearts and in our prayers.

Moment of Silence

Thank you. Once again, good morning. The committee has not received any correspondence. We will go right to the public portion. We do have one card this morning. When your name is called please step up to the podium, state your name for the record, and you'll have three minutes to address the Ways and Means Committee this morning. The first person is William Tymann. Sir, good morning and welcome.

MR. TYMANN:

Thank you. Thank you for giving me the opportunity to speak. My name is William Tymann. I'm the CEO for Big Brothers and Big Sisters of Long Island. We provide professionally supervised long-term one to one mentoring relationships to children who are at risk. Independent studies have shown over the years that our agency and our services are extremely effective in keeping young people out of the juvenile justice system.

Right now we serve 209 children in Suffolk County through our mentoring services. We presently have 73 children waiting for the service. It costs us, our agency, about \$2,000 a year to provide the services to each child. About 15% of that is taxpayer's money; the rest we raise on our own. It cost the taxpayers around \$90,000 to keep a child or young person incarcerated for a year, and I believe that's all taxpayer money.

The Suffolk County Youth Bureau over the years has funded the agency and we've I think put the money to very good use. We were funded in the amount of \$52,000 last year, representing services to approximately 26 of our youngsters of the 209 we serve in Suffolk County.

If we were to prevent one child out of the 26 that Suffolk County funds from going into the juvenile justice system, the taxpayers would save around \$40,000. If, in fact, we were able keep 26 children of the 209 we serve out of the juvenile justice system, the taxpayers would save well over \$2 million.

I'm just here simply to request at this point for you to consider looking into the potential to find a way and the means to consider restoring the money that we were funded through the Suffolk County Youth Bureau. I think the numbers speak for themselves and I thank you for the opportunity to make the request and to point out some of the statistics that we have been able to prove and provide over the years. Thank you.

CHAIRMAN D'AMARO:

Thank you, sir. Is there anyone else who would like to address the committee this morning? For the record, there's no response. We'll turn to our agenda. First our tabled resolutions. I'll call the first.

Tabled Resolutions

1669-2008, Adopting Local Law No. 2008, A Charter Law to increase Legislative oversight of RFP process. (Romaine). I'll offer a motion to table.

LEG. BEEDENBENDER:

Second.

CHAIRMAN D'AMARO:

Seconded by Legislator Beedenbender. All in favor? Any opposed? Abstentions? Motion carries. **(Vote: 4-0-0-1 Not Present: Legislator Nowick).**

Next is resolution **1682-2008, Sale of County-owned Real Estate pursuant to Section 72-h of the General Municipal Law - Town of East Hampton (SCTM No. 0300-058.00-08.00-005.000 et al).** (Co. Exec.)

LEG. BEEDENBENDER:

Motion to table.

CHAIRMAN D'AMARO:

There's a motion to table. I'll second. Is the Department of Real Estate here this morning?

MS. GREENE:

Good morning.

CHAIRMAN D'AMARO:

Oh, okay. Come on up.

D.P.O. VILORIA-FISHER:

We're not used to seeing you in the Department of Real Estate.

MS. GREENE:

Pamela Greene, Division of Real Estate.

CHAIRMAN D'AMARO:

Ms. Greene, welcome.

MS. GREENE:

Thank you very much, Chairman.

CHAIRMAN D'AMARO:

This resolution had been tabled a couple of cycles by this committee. We were looking for any additional information. I had -- I think this is the one where I had contacted the town myself and mentioned to them that it was coming down as a 72-h as opposed to perhaps workforce housing. I was told by one of them that, by one of the town employees, that they weren't aware of the parcel. Do you have any further information on this one?

MS. GREENE:

As you know, we work with Economic Development on the 72-h parcel. I'm sure Mr. Kent has the file on that. He is on his way. If you would like a further explanation we can give you what has happened from Division of Economic Development.

CHAIRMAN D'AMARO:

All right. That would be fine. I spoke to a Tom Ruhle, who is the Director of the Office of Housing and Community Development in the town, and I just wanted to know if Mr. Kent had any further communication with him. So perhaps we'll pass over this and wait for him. You said he was on his

way?

MS. GREENE:

Yes.

CHAIRMAN D'AMARO:

Okay. Great. Thank you.

MS. GREENE:

Thank you, Mr. Chairman.

CHAIRMAN D'AMARO:

Okay. **1733-2008, Adopting Local Law No. 2008, A Charter Law to protect taxpayers' interests by requiring individual legislative override votes on each budget amendment that is vetoed by the County Executive. (D'Amaro).** I'll offer a motion to table.

LEG. BEEDENBENDER:

Second.

CHAIRMAN D'AMARO:

Seconded by Legislator Beedenbender. All in favor? Any opposed? Abstentions? Motion carries. **(Vote: 4-0-0-1 Not Present: Legislator Nowick).**

Next is **1832-2008, Sale of County-owned real estate pursuant to Section 72-h of the General Municipal Law Town of Brookhaven (SCTM No. 0200-929.00-02.00-009.001). (Co. Exec.)**

This, again, had been tabled for the purposes of an amendment to remove the development rights from the parcel. That amendment has been submitted and I believe as per Counsel it can be voted on this morning by the committee. I will offer a motion. Excuse me?

D.P.O. VILORIA-FISHER:

There was a problem with the wrong address also, right?

CHAIRMAN D'AMARO:

Yeah, and the resolution has been corrected. As Legislator Viloría-Fisher said, there was another problem that's been also corrected. So I will offer a motion to approve 1832 of 2008.

D.P.O. VILORIA-FISHER:

Second.

CHAIRMAN D'AMARO:

Second by Legislator Viloría-Fisher. All in favor? Any opposed? Abstentions? Motion carries. **(Vote: 4-0-0-1 Not Present: Legislator Nowick).**

1895-2008, Adopting Local Law No. 2008, 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 is still open. Legislator Alden?

LEG. ALDEN:

Motion to table.

CHAIRMAN D'AMARO:

Motion to table. I'll second. All in favor? Any opposed? Abstentions? Motion carries. **(Vote: 4-0-0-1 Not Present: Legislator Nowick).**

1947-2008, Authorizing certain technical correction to Adopted Resolution No. 608-2008. (Co. Exec.). I'll offer a motion to approve and place on the consent calendar.

LEG. BEEDENBENDER:

Second.

CHAIRMAN D'AMARO:

Seconded by Legislator Beedenbender.

LEG. ALDEN:

For the record, what is it?

CHAIRMAN D'AMARO:

For the record, the -- George, do you have the explanation on the technical correction?

MR. NOLAN:

Yeah. It's amending a Capital Budget resolution. It changes the use from planning to furniture and equipment and changes the project number.

LEG. ALDEN:

Which one is this?

MR. NOLAN:

This project is -- hang on. I'm sorry. This is a 477 water quality transfer into the Capital Program and the Long Island Native Grass Initiative Land Stewardship Project. This is one we previously approved but the uses for the money have been amended. It was for planning, and now it's for furniture and equipment.

LEG. ALDEN:

How much is the total amount on that?

MR. NOLAN:

Twenty-two thousand seven-hundred dollars.

LEG. ALDEN:

It's a small amount, but I'm going to vote against it because I believe the 477 funds, that's an improper use for furniture -- and who is that for? It's office expense basically? I think we can do better than that with the 477 money.

D.P.O. VILORIA-FISHER:

You know, hearing that clarification I totally agree with Legislator Alden. I don't think it's a proper use of 477 monies, especially because it was -- did you say on invasives, Counsel? Because that's not clear here. It just says land stewardship project.

MR. NOLAN:

The underlying resolution, the project title is Long Island Native Grass Initiative.

D.P.O. VILORIA-FISHER:

Okay. And we have -- we have an active native grass initiative going on in Suffolk County. I don't know why money would be taken out of that project.

MR. NOLAN:

I think it's still in that project, Legislator, but instead of planning it's furniture and equipment.

D.P.O. VILORIA-FISHER:

So maybe it's equipment for that project and not furniture.

MR. NOLAN:

It could be, but the resolution --

D.P.O. VILORIA-FISHER:

But there is nobody here to tell us that?

MR. NOLAN:

I don't know.

D.P.O. VILORIA-FISHER:

Can we skip over that and see if we can get that information because we don't want to hold up that project if, in fact, it is equipment. Mr. Chair, is it possible to try to have somebody --

CHAIRMAN D'AMARO:

Yeah. Mr. Zwirn, are you prepared to address that?

MR. ZWIRN:

No, but I'll go check on it.

D.P.O. VILORIA-FISHER:

The people at Soil and Water would know because that's where we've been working on that Native Grasses Program, in the Soil and Water District.

CHAIRMAN D'AMARO:

All right. Why don't we -- should we pass over it or just table it for one cycle?

D.P.O. VILORIA-FISHER:

If he's getting the answer.

CHAIRMAN D'AMARO:

Okay. Let's pass over it for now.

D.P.O. VILORIA-FISHER:

Thank you, Mr. Chair.

CHAIRMAN D'AMARO:

Sure. So where are?

D.P.O. VILORIA-FISHER:

1976.

CHAIRMAN D'AMARO:

Okay. Thank you. Next is resolution number **1976-2008, Adopting Local Law No. 2008, A Charter Law to reform and reconstitute a professional independent Suffolk County Ethics Commission. (Montano)**. The public hearing is still open.

D.P.O. VILORIA-FISHER:

Motion to table.

CHAIRMAN D'AMARO:

Motion by Legislator Viloría-Fisher to table. I'll second.

LEG. BEEDENBENDER:

Second.

CHAIRMAN D'AMARO:

Seconded by Legislator Beedenbender. All in favor? Any opposed? Abstentions? Motion carries. (Vote: 4-0-0-1 Not Present: Legislator Nowick).

2149-2008, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act estate of Mary E. Dodson a/k/a Mary Dodson, by Bernadette Parks as executor (SCTM Nos. 0200-546.00-01.00-011.002). (Co. Exec.)

LEG. BEEDENBENDER:

Motion to approve.

D.P.O. VILORIA-FISHER:

Second.

CHAIRMAN D'AMARO:

Motion to approve by Legislator Beedenbender, seconded by Legislator Viloría-Fisher. On the motion, Legislator Alden.

LEG. ALDEN:

Why did we table it the last time?

LEG. BEEDENBENDER:

If I remember correctly, Legislator Alden, the last time we tabled it I think we had a discussion about some legal questions, but those questions I don't -- I don't want to say they were unfounded, but there's no concern that was expressed to me by -- there's no concern that -- the concerns that we had were not founded I guess is the best way to say it. So we should move forward.

LEG. ALDEN:

I didn't make the motion to table it last year, but --

LEG. BEEDENBENDER:

We did. I did. So I made the motion to approve.

LEG. ALDEN:

Okay. But what concern was it that you brought forward that's unfounded?

CHAIRMAN D'AMARO:

The concern was the past owner, the estate of Mary E. Dodson, and their --

LEG. ALDEN:

Well, the property was in disrepair.

CHAIRMAN D'AMARO:

Their ownership of other properties and there was concern among some Legislators about how they managed their properties within communities and they're not good neighbors and that type of concern.

LEG. ALDEN:

So has this property been cleaned up, because that was one of the questions that had been raised about the actual condition of the property.

CHAIRMAN D'AMARO:

I don't know the answer to that. When I voted to table it, it was not based on the condition of the property. When I voted to table it, it was more based on concerns that other Legislators had had and just wanted a cycle to take a closer look at it. I've been told that the concerns, although they

are still there, it's not enough to warrant holding up this Local Law 16.

LEG. ALDEN:

It was an illegal rental, wasn't it?

CHAIRMAN D'AMARO:

I don't know. I don't know. I didn't have those concerns.

LEG. ALDEN:

I didn't either. I thought it was condition of property and illegal rental. But -- all right.

CHAIRMAN D'AMARO:

All right. There's a motion to approve. I'll call the vote. All in favor? Any opposed? Abstentions? Motion carries. **(Vote: 4-0-0-1 Not Present: Legislator Nowick)**. Next section on the agenda is Introductory Resolutions.

Introductory Resolutions

2217-08, Authorizing the sale pursuant to Local Law 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act estate of Mary E. Dodson a/k/a Mary Dodson, by Bernadette Parks as executor (SCTM No. 0200-527.00-01.00-020.000). (Co. Exec.). I'll offer a motion to approve and place on the consent calendar.

LEG. BEEDENBENDER:

Second.

CHAIRMAN D'AMARO:

Seconded by Legislator Beedenbender. All in favor? Any opposed? Abstentions? Motion carries. **(Vote: 4-0-0-1 Not Present: Legislator Nowick)**.

I'd like to revisit 2149-2008. I will make a motion to reconsider. I want to get it on the consent calendar. Seconded by Legislator Beedenbender. All in favor? Any opposed? Abstentions? Motion carries.

We'll now **reconsider 2149-2008**. I'll offer that motion to approve and place on the consent calendar. Seconded by Legislator Beedenbender. All in favor? Any opposed? Abstentions? Motion carries. Thank you.

(Vote: 4-0-0-1 Not Present: Legislator Nowick).

Next is **2218-2008, Authorizing the sale pursuant to Local Law 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Matthew Carragher (SCTM No. 0900-123.00-04.00-014.000). (Co. Exec.)**. Once again, this is a conveyance as a matter of right. I'll offer a motion to approve and place on the consent calendar.

LEG. BEEDENBENDER:

Second.

CHAIRMAN D'AMARO:

Seconded by Legislator Beedenbender. All in favor? Any opposed? Abstentions? Motion carries. **(Vote: 4-0-0-1 Not Present: Legislator Nowick)**.

2221-2008, Authorizing the sale pursuant to Local Law 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Jamshid Kerendian and Jahanshah Keredian a/k/a Jahanshah Keredian, as joint tenants with right of survivorship (SCTM No. 0200-609.00-02.00-021.000). (Co. Exec.)

I'll offer a motion to approve and place on the consent calendar. Seconded by Legislator Beedenbender. All in favor? Any opposed? Abstentions? Motion carries. It's as of right. **(Vote: 4-0-0-1 Not Present: Legislator Nowick).**

Next is resolution number **2222-2008, Authorizing the sale pursuant to Local Law 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Neil M. Theisen and Joanne M. Theisen, his wife (SCTM No. 0200-051.00-06.00-051.000). (Co. Exec.)**

Once again, as a matter of right. I'll offer a motion to approve and place on the consent calendar.

LEG. BEEDENBENDER:

Second.

CHAIRMAN D'AMARO:

Seconded by Legislator Beedenbender. All in favor? Any opposed? Abstentions? Motion carries. **(Vote: 4-0-0-1 Not Present: Legislator Nowick)**

Resolution **2223-2008, Authorizing the sale pursuant to Local Law 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Alan Sefardy and Jahanshah Kerendian a/k/a Jahanshah Keredian, as tenants in common (SCTM No. 0200-793.00-01.00-015.001). (Co. Exec.)**

How about same motion, same second, same vote. **(Vote: 4-0-0-1 Not Present: Legislator Nowick)**

2224-2008, Authorizing the sale pursuant to Local Law 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Alan Sefardy and Jahanshah Kerendian a/k/a Jahanshah Keredian, as tenants in common (SCTM Nos. 0200-793.00-01.00-017.001 and 0200-793.00-01.00-019.001). (Co. Exec.)

Once again a Local Law 16, as a matter of right. I'll offer the same motion, same second, and same vote. **(Vote: 4-0-0-1 Not Present: Legislator Nowick)**

Resolution **2225-2008, Authorizing the sale pursuant to Local Law 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Tiana Feliciano (SCTM No. 0500-055.00-04.00-060.000). (Co. Exec.)**

Same motion, same second, same vote. **(Vote: 4-0-0-1 Not Present: Legislator Nowick)**

Resolution number **2248-2008, Adopting Local Law No. 2008, A Local Law to promote corporate sponsorship or sale of naming rights of suitable County facilities, parks, or roads. (D'Amaro)**

The public hearing is open. I'll offer a motion to table.

LEG. BEEDENBENDER:

Second.

CHAIRMAN D'AMARO:

Seconded by Legislator Beedenbender. All in favor? Any opposed? Abstentions? Motion carries. **(Vote: 4-0-0-1 Not Present: Legislator Nowick)**

Next is resolution number **1006-2009, Directing the County Attorney to commence a sales tax enforcement action against Shinnecock Indian Reservation Smoke Shops. (Browning)**

LEG. BEEDENBENDER:

Motion.

CHAIRMAN D'AMARO:

Motion by Legislator Beedenbender. I'll second. This is a resolution that mirrors the resolution that we just passed and the County Executive signed into law seeking a sales tax enforcement action against a second Indian reservation here in Suffolk County. Ms. Bizzarro, did you want to say anything on this resolution?

MS. BIZZARRO:

Yes, I would just briefly. Christine Malafi was on her way here, she apologizes. She's gotten stuck with the weather. But I just wanted to put on the record that the County Attorney spoke with the Southampton Police as well as the State Police, and neither has done an investigation on the matter. Basically there have only been several arrests for the sale of the untaxed cigarettes, and it's been only over the course of the last two years, so we're just wondering if an amendment could be made to the bill to indicate who would be doing the investigation because we can't do it on our own. We just wanted to see if there could be an amendment to the bill just to, you know, give us some more -- you know, so that we can get more evidence in terms of preparing the complaint, because right now we do not have enough.

CHAIRMAN D'AMARO:

The complaint would be -- this would be a Federal District Court action I think?

MS. BIZZARRO:

You know, I'm not sure. We actually started to put together the complaint and we've been looking into how much investigation was done. I'm not sure if it was State or Federal Court, but we're geared up.

CHAIRMAN D'AMARO:

Well, either way, though, you need to have a reasonable basis for the allegations in any complaint.

MS. BIZZARRO:

Correct. Yes.

CHAIRMAN D'AMARO:

It requires an attorney's signature and certification.

MS. BIZZARRO:

Certification, right, that it's -- there's merit to the action, etcetera. So we're just looking to get all that backup.

CHAIRMAN D'AMARO:

The investigation that was conducted in connection with my bill was over several years, both by the County as well as by the City of New York. There was -- much of that investigation was public record through the litigation that had already been commenced against the City of New York and was on file in the Federal District Court and available, including affidavits, sworn affidavits, by witnesses and undercover agents. You don't have any investigation here similar to that or do you know what the County has done as far as investigating so far?

MS. BIZZARRO:

We have not done any investigation as of yet. We were trying to reach out to other sources to see what investigation had been done. Unfortunately we basically came up to a brick wall and no investigation has been done, so we have none of that. We don't have affidavits, we just don't have any of it, and we want to get it.

CHAIRMAN D'AMARO:

And what amendment would you like to see to the bill?

MS. BIZZARRO:

Basically just, you know, who is going to do this investigation, how the County Attorney's Office can get some assistance in that regard, you know, in order to put together what is needed to move forward, just as it was done in the Poospatuck matter where there were various entities that were out there doing the investigation, affidavits gotten -- received by -- from third parties. That's what we're going to need as well.

CHAIRMAN D'AMARO:

I see. Legislator Alden and then Legislator Vilorio-Fisher.

LEG. ALDEN:

Before you said that there might be some evidence of arrests or --

MS. BIZZARRO:

There were five arrests over the period of two years for untaxed cigarettes. It's just not enough to go on.

LEG. ALDEN:

For the Shinnecock?

MS. BIZZARRO:

For Shinnecock, yes. Correct.

LEG. ALDEN:

Okay. Then maybe a suggestion to go use the model that Lou used, have the DA do a criminal investigation and then after we're done with the criminal prosecutions, then we can go after them on a civil basis because this would authorize a civil suit, not a criminal suit.

MS. BIZZARRO:

Correct.

LEG. ALDEN:

So I think if we pass this we're really putting the, you know, the cart before the horse.

CHAIRMAN D'AMARO:

You are absolutely right, Legislator Alden. This would authorize an enforcement action for sales tax, which is a civil matter, civil in nature.

LEG. ALDEN:

But we basically don't have any complaints.

CHAIRMAN D'AMARO:

Right. There was a criminal action as well involving the Poospatuck and there were well documented sales of millions of bootleg cigarettes going through that reservation. So I believe when I had that discussion with respect to my bill with the County Attorney's Office, there was a sufficient or reasonable basis to draft and submit a complaint to the court.

MS. BIZZARRO:

Correct.

CHAIRMAN D'AMARO:

It doesn't mean it's not happening here at Shinnecock, but we need to have some valid basis to draft these allegations. Ms. Bizarro, who would you suggest does the investigation and can you quantify it? What do you need in order to bring the complaint? I mean, I know anyone can visit the reservation now and purchase cigarettes without paying sales tax, so how extensive an

investigation? Do you have any idea of what you would be comfortable with in order to have the complaint issued?

MS. BIZZARRO:

I think at a minimum, you know, unfortunately I am not that close with the Poospatuck matter, but I'm thinking at a minimum we would need to hire or have certain investigators go out there and do surveillance and, you know, have the proper legal authorities there, whether it be the District Attorney's Office or the Police Department there, to issue whatever violations are necessary so that we can create the record that we'll need to bring a complaint.

CHAIRMAN D'AMARO:

Okay. Legislator Alden quickly and then Viloría-Fisher.

LEG. ALDEN:

The act of selling cigarettes without a tax, that's a criminal act. What we're looking to do is recoup the money that would have been paid to us had they acted in a legal manner. So I think really you have to go with the DA, you know, let him develop a criminal case, so to speak, and see if there is any -- if there's fire here where we're smelling smoke. Then we'd have to go after them for the civil action if they can prove that there was a criminal act. But I don't think we should be hiring investigators to do a civil investigation if it involves a criminal act. We're all set up right now to do that. That's either the Attorney General or our District Attorney.

MS. BIZZARRO:

We're open to whatever. As I said, we already reached out to the Southampton Police and the State, and we've been, you know, told that they have not done an investigation. Perhaps we need to prompt them to follow through and assist.

LEG. ALDEN:

And also we have firearms, alcohol and tobacco, right? They would come in and do an investigation or they should. That's their jurisdiction. So I would suggest we go on the criminal before we spend a lot of money on the civil thing. You know, go with a criminal action because we're all set up to do that without any additional cost.

MS. BIZZARRO:

The County Attorney's Office just wants enough evidence and enough documentation for it to put together a complaint and we do not feel comfortable doing that at this juncture.

CHAIRMAN D'AMARO:

Let me just quickly state for the record that I agree with you that we need an investigation. I'm not sure we need an actual criminal investigation to bring our own sales tax enforcement, but we do need something.

MS. BIZZARRO:

Right.

CHAIRMAN D'AMARO:

We do need some investigation with let's say statements, undercover statements under oath, giving us a reasonable basis to claim that the sales tax is being circumvented and not paid and collected. Legislator Viloría-Fisher.

D.P.O. VILORIA-FISHER:

Actually, Mr. Chair, you just segued into my question, which is if this is a -- if this particular resolution is looking for a civil action, do we have to enumerate in the resolution what kind of investigation there should be? The County Attorney is being directed to try to collect the sales taxes that are due. Apparently there are some kind of statistics saying that the Shinnecock's are buying x number of cartons of cigarettes, right? Isn't that on the record how many cigarettes are going into

the Shinnecock Nation? The numbers say that if there are 504 members of the Nation and if they were to smoke the number of cigarettes that they're bringing into their reservation they would have to smoke 15 cigarettes per hour, each person, to smoke that many themselves?

CHAIRMAN D'AMARO:

If I could respond to that. Those -- there might be some investigation that's been done out there. I don't know the source of that information. What I did know with my bill was that we had ATF, FBI, Suffolk County Police, New York City investigators, all well documented and we had access to all of that, so.

D.P.O. VILORIA-FISHER:

But do we need to instruct the County Attorney in a resolution to do that? We don't need to do that.

CHAIRMAN D'AMARO:

I think what you would need -- well, if we direct the County Attorney to commence the action here they can only -- the County Attorney's Office, Department of Law, can only commence the action if it has a reasonable basis to believe that the allegations are strong enough or sufficient to go forward. So someone has to do an investigation, so it might just be as simple as amending the resolution to direct -- you know, I don't know that we would do it through the County Attorney's Office. I would defer to your department, Ms. Bizzarro, to give us a little guidance here on who could do it. It could be a very simple amendment.

MS. BIZZARRO:

Right.

CHAIRMAN D'AMARO:

You don't want a resolution that says start the lawsuit when you don't have the backup to do it.

MS. BIZZARRO:

And that's what it's saying right now, unfortunately, Legislator Viloría-Fisher. It's --

D.P.O. VILORIA-FISHER:

But, you know, I think my question is -- I am not an attorney, but the DA carries on investigations all the time and we don't have to have that in a resolution. So my question is if there's a -- you know, if we're looking at what happened with the Poospatuck and those investigations, then couldn't the DA just begin an investigation of the Shinnecock's because there is evidence that there might be because of the numbers of cigarettes that are coming in? Again, I don't know where these statistics came from.

CHAIRMAN D'AMARO:

I would suggest this. I tend to agree with you that we don't necessarily have to have a directive in a resolution to do the investigation, but what we do need to know is that something's been done and it's sufficient and rises to the level to support a complaint.

MS. BIZZARRO:

Yes. We --

CHAIRMAN D'AMARO:

If we pass the resolution today and then again on Tuesday, you are not going to be able to go forward without knowing whether or not you have sufficient backup.

MS. BIZZARRO:

Right. We're going to be directed to file a lawsuit and we're going to come back to you in 90 days and say we didn't have enough investigatory material, we don't have enough to file the action. We don't want to not violate the resolution.

CHAIRMAN D'AMARO:

Has your office looked into whether or not there is or has been an investigation by the County?

MS. BIZZARRO:

Yes, we have.

CHAIRMAN D'AMARO:

And the answer was?

MS. BIZZARRO:

No, there was not.

D.P.O. VILORIA-FISHER:

Or Southampton Police?

MS. BIZZARRO:

Correct. In fact, Ms. Malafi spoke to Major Heesch at the State and he stated unequivocally that no investigation has begun or has been done. So that's our problem. We just want the resolution to read to give us enough time that assuming we get the investigatory material we need, we then can file the complaint. We have no problem with that. Absolutely.

D.P.O. VILORIA-FISHER:

So couldn't -- what -- I just don't see that we need to direct an investigation.

MS. BIZZARRO:

I would agree with you as well.

D.P.O. VILORIA-FISHER:

But I understand what you are saying about the time element. So I think the amendment -- it would be a better amendment simply to give the County Attorney's Office more time.

MS. BIZZARRO:

More time, right.

D.P.O. VILORIA-FISHER:

So that there can be an investigation that's commenced.

MS. BIZZARRO:

Right.

D.P.O. VILORIA-FISHER:

I just don't see it being our purview to instruct the DA to start an investigation.

CHAIRMAN D'AMARO:

No, it's not. I agree with you.

D.P.O. VILORIA-FISHER:

So I would say our amendment should just be to give it more time.

CHAIRMAN D'AMARO:

More time or as Counsel is suggesting to me, to change the wording to say -- for the -- directing the County Attorney to determine whether or not there is a sufficient basis to bring the lawsuit, and if there is, then to commence the lawsuit.

MS. BIZZARRO:

Then to commence. I agree.

D.P.O. VILORIA-FISHER:

Right. I just, as I said, didn't feel comfortable with saying this is how you have to go about doing this and instructing the DA to do an investigation. If there is a criminal activity going on, we shouldn't have to put it in a resolution.

CHAIRMAN D'AMARO:

I think everyone here would agree that it shouldn't necessarily be in a resolution directing the DA to conduct an investigation. Yes, go ahead.

LEG. ALDEN:

I'm just going to put on the record why I'm going to vote against this. Basically we're taking an ad out and telling them that if you're conducting yourself in an illegal manner or conducting illegal activities, we're already looking on the civil end of it. Contrary to the way you went about it, Legislator D'Amaro, there was already the criminal evidence, there was already a criminal action, and we were looking to recoup the civil, not penalties, but our losses, our damages. This -- there's no action. We're going to end up in Newsday saying we're going to go after the Shinnecock Nation for illegal activity. You think they're going to sit there and not cover up if they are doing something illegal? We're not going to get anything out of it.

D.P.O. VILORIA-FISHER:

Head's up, guys.

CHAIRMAN D'AMARO:

Legislator Alden, though, that's exactly the concern that we're addressing by suggesting that it be amended to see whether or not there is a sufficient basis to support the lawsuit.

LEG. ALDEN:

I would say table it subject to call. We'll call the DA and we'll ask the DA if he can get out there and do a criminal investigation. If he turns up something then we pass a law later on to try to recoup.

CHAIRMAN D'AMARO:

I think an amendment that directs to determine whether or not there's sufficient basis would probably prompt the County Attorney's Office and the Department of Law to have that discussion with the DA. I would be willing to table it for a cycle, reach out to the sponsor and ask for that amendment, but I don't think we need to do it subject to call. I mean, I think we just need to make it very clear that we don't want a lawsuit commenced unless there is a valid basis to bring the lawsuit. That's what we're basically doing.

LEG. ALDEN:

That's why I'm shocked that here we're looking at a resolution to bring an action against the Shinnecock Indian Reservation with no basis basically, just a supposition that they might have to smoke a lot more cigarettes, and that's pretty weak if you are alleging illegal conduct. So I just think that, you know, this was ill timed and really ill crafted. Why would you want to put them on notice that we're going to come after you if you're doing something illegal on the civil basis. I just -- I'm perplexed at that.

MS. BIZZARRO:

Well, we're willing to move forward assuming that we have the investigatory material we need, so that's our position.

CHAIRMAN D'AMARO:

As you should. If the sales tax is being circumvented --

MS. BIZZARRO:

Absolutely.

CHAIRMAN D'AMARO:

-- then we should bring the same enforcement action as we brought in the other matter.

MS. BIZZARRO:

That's what we're looking to do.

CHAIRMAN D'AMARO:

The problem here is that we just need a little more time to determine whether or not there is an investigation and if not, what do we do about it. All right.

LEG. BEEDENBENDER:

I'll withdraw my motion to approve, then, and offer a motion to table.

CHAIRMAN D'AMARO:

All right. Motion to table by Legislator Beedenbender. I will second. All in favor? Any opposed? Abstentions? Motion carries. **(Vote: 4-0-0-1 Not Present: Legislator Nowick)**

Resolution number **1007-2009, Requiring legislative approval to consider the sale of the John J. Foley Skilled Nursing Facility. (Kennedy).**

You know, we keep seeing this resolution. I wanted to ask Counsel one more time for the record, Mr. Nolan, if the Foley facility could be sold without legislative approval. You know, without this bill, in effect.

MR. NOLAN:

No, I think everybody agrees that if the facility is sold that it is going to require the approval of the Legislature. I don't think there's any dispute about that.

LEG. ALDEN:

On the motion.

CHAIRMAN D'AMARO:

There is no motion, but go ahead. It's all right.

LEG. ALDEN:

I think what the concern is, and I don't mean to speak for Legislator Kennedy because he's not here, but we did have a discussion about this last year. I think his concern is a statement by the County Executive that he has the ability to close the facility without us even voting on that, and possibly dispose of the asset after that. So I think that that's the concern on the part of Legislator Kennedy.

CHAIRMAN D'AMARO:

George, is that your understanding?

MR. NOLAN:

Well, that was the debate that went on at the end of last year when the discussion regarding Foley was going on. The County Executive had taken a position that they could simply close Foley, shut it down, without going through the process that's laid out in the Administrative Code, which has many, many procedural requirements if the Foley facility had been sold. So the County Executive's Office has taken the position yeah, if we sell it we have to go through this process, but if we just close it we don't. That argument did happen at the end of last year. I disagreed with the County Executive's position or the County Attorney's Office on that point, but that was part of the discussion.

LEG. ALDEN:

Okay.

LEG. BEEDENBENDER:

Motion to table.

CHAIRMAN D'AMARO:

Motion to table. I'm going to second the motion. I don't think anything is going to happen with the Foley center without us without this Legislature approving it or not approving it, so I'm going to second that motion. I'll call the vote. All in favor? Any opposed? Abstention? Motion carries.

(Vote: 4-0-0-1 Not Present: Legislator Nowick)

Resolution 1011-2009, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Luann Leggon and Sue E. Mason, as joint tenants with rights of survivorship (SCTM No. 0600-124.00-01.00-012.003). (Co. Exec.)

I'll offer a motion to approve and place on the consent calendar. This is a 16, as a matter of right.

LEG. BEEDENBENDER:

Second.

CHAIRMAN D'AMARO:

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

(Vote: 4-0-0-1 Not Present: Legislator Nowick)

Resolution 1016-2009, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Jeffery W. Clevenger (SCTM No. 0200-299.00-01.00-017.002). (Co. Exec.)

I'll offer the same motion, same second, and same vote. **(Vote: 4-0-0-1 Not Present: Legislator Nowick)**

Resolution number 1018-2009, Establishing legislative oversight of County funds expended for advertising and marketing. (Kennedy)

At the request of the sponsor I'll offer a motion to table.

LEG. BEEDENBENDER:

Second.

CHAIRMAN D'AMARO:

Seconded by Legislator Beedenbender. All in favor?

LEG. ALDEN:

On the motion.

CHAIRMAN BEEDENBENDER:

I'm sorry. Go ahead, Legislator Alden.

LEG. ALDEN:

This one is another, I guess, issue that came up last year. And one of the reasons why I believe we couldn't go forward with it last year was it was very difficult to track all the monies because they come out of different budget lines. So, through the Chair to Budget Review, are we having any success in tracking the amount of money that's spent for advertising?

MS. VIZZINI:

Well, there is a specific sub-object for advertising in each of the departments, so we only have it in the aggregate, which was the information that was provided to the sponsor. In this regard the sponsor is seeking to have any expenditure over \$10,000 approved by a separate resolution.

LEG. ALDEN:

Did we know how many times last year or the year before we spent more than \$10,000 on advertising?

MS. VIZZINI:

My recollection is probably that there were three instances. I think some of it had to do with DWI funds that were expended for the 311 line or something like that?

MR. ZWIRN:

The 852-COPS.

MS. VIZZINI:

Yeah, for 852-COPS. There were two other instances. I'm sure there's more, but we were not asked the question that you are asking me now.

LEG. ALDEN:

Do you know how much was spent for 852-COPS in advertising?

MS. VIZZINI:

I can get that for you.

LEG. ALDEN:

You know, just the top three or four expenses that we had.

MS. VIZZINI:

I'll get that for you.

LEG. ALDEN:

All right. Thanks.

CHAIRMAN D'AMARO:

All right. There is a motion pending to table that has received a second. I'll call the vote. All in favor? Any opposed? Abstentions? Motion carries. **(Vote: 4-0-0-1 Not Present: Legislator Nowick)**

We had skipped over two resolutions. Let's go back first to **1947-2008**. Legislator Viloría-Fisher.

D.P.O. VILORIA-FISHER:

Mr. Chair, as Legislator Alden and I had indicated, we were concerned about that line moving from 477 account to furniture and equipment, but upon inquiring it will be used for equipment for that Native Grasses Program and that is something that is directly impacting, you know, water management and land management. And it's part of the Soil and Water District impetus and project so I'm in favor of it.

LEG. ALDEN:

Mr. Chairman.

CHAIRMAN D'AMARO:

Legislator Alden.

LEG. ALDEN:

What equipment, because this is an ongoing project. So they found out that after a year or two years of doing this that they needed some extra equipment?

D.P.O. VILORIA-FISHER:

Well, actually the project hasn't been ongoing that long. The Native Species Native Grass Program is only a year and a half old. They first had to determine and sort the seeds that were the correct seeds that are native species and that would thrive and where they were going to be putting them.

Ben just came to the microphone so he might have more information, but I know in Soil and Water we've discussed this a great deal. In fact, our technician went out of state to a training program on how to do the native species program and so probably the equipment that she requires for this wasn't something that she had anticipated when she first started the program. She's learned what kind of equipment she needs to do this.

MR. ZWIRN:

If I might, Mr. Chairman. What happened was the Budget Office wanted to have the expenditure better reflected in the budget so they changed the budget code. It is exactly what Legislator Viloria-Fisher has stated. It's not equipment or -- it's equipment, not furniture, office furniture. It's in that furniture and equipment line, but it is for equipment and it's for -- it's wheat fabric for screening out weeds from seeds, harvesting equipment, containment and storage supplies, propagation supplies, and some power tools which will be used for cultivation and then storage equipment. This is all part of the effort required to develop a Long Island Native Grass Seed Bank. That's what it is being used for and it's just a budget code so it better reflects the purpose for which it will be spent.

LEG. ALDEN:

Through the Chair. Ben, so what's their total budget and what's their plans, to go and repopulate some of the marshes with some of these grasses? Because if it is screening out the -- and that's the normal way that a marsh works. It screens out some of the contaminants that come off the land before they go into a major body of water. So in that regard I might be persuaded to support a 477 expenditure, but for the most part, you know, I do think that 477 was crafted to stop the pollution before it got into the bay. But this actually would work as a filter, so I might be persuaded. How big is the program?

D.P.O. VILORIA-FISHER:

Can I just say a little bit more about it? What it also does is discourages the invasive species, and as you know, it's the invasive species that choke our waterways and create anaerobic environments in the water. As they decay they, you know, absorb all the oxygen and the fish die and, you know, they're belly up in our waters. So putting in the native grass discourages the invasives. That's why this study has gone on, to try to protect our waterways from the invasives that are choking our marshes and our waterways.

LEG. ALDEN:

How much of a program is it?

D.P.O. VILORIA-FISHER:

Well, that -- I don't have those numbers, but I think it's pretty extensive because it's beginning here, but what we're trying to do is produce enough of the native grasses so that we can -- it's labor intensive so we're beginning and then continuing to other areas where we feel there is the greatest need. Part of it is also connected to what the Nature Conservancy is doing with the mapping program, which is mapping throughout the County where we have the greatest need because we have the greatest invasive species population. So it's integrated with a lot of other programs and land stewardship and managing our waterways.

LEG. ALDEN:

Through the Chair. Budget Review, do you have a line item for that? And here's another consideration. If we do what I think was originally intended for the 477, and that's build these, and I'm going to call them filters, so that the road runoff goes through a filter, we're actually putting people to work because there's construction involved there. With this -- and this might be a real great program. I think I did vote for it, but --

D.P.O. VILORIA-FISHER:

You did.

LEG. ALDEN:

-- to take 477 money that we could get people working with and put to what, I'm not really sure where it fits in as far as economic recovery, and I'm not sure how much it overlaps with how much we're spending for whatever you want to call it, this whole native grass --

D.P.O. VILORIA-FISHER:

It is putting people to work because they can't do the work unless they have the equipment.

MR. ZWIRN:

Right.

D.P.O. VILORIA-FISHER:

The technician can't work without the equipment.

LEG. ALDEN:

But I had asked the question and I didn't get the answer. How many people or how big of a program? So --

D.P.O. VILORIA-FISHER:

Okay, but --

LEG. ALDEN:

Maybe Budget Review has the answer to that.

MR. ZWIRN:

I will get it for the next meeting if you like. But it's --

D.P.O. VILORIA-FISHER:

It's understaffed so it's not enough people.

MR. ZWIRN:

I'll get that information. This is a small -- this just was a clarification, a budget amendment, just to try to -- they changed the code by I think .005 just so it would be in the right column. But I will get all of that other information for Legislator Alden between and now probably -- hopefully before the General Meeting.

LEG. ALDEN:

Good. Thanks, Ben.

CHAIRMAN D'AMARO:

All right.

D.P.O. VILORIA-FISHER:

I'll make a motion to approve, Mr. Chair.

CHAIRMAN D'AMARO:

All right. There's a motion to approve by Legislator Viloría-Fisher. I'll second the motion and call

the vote. All in favor?

MR. ZWIRN:

Should this go on the consent calendar because it's just -- I mean, I'll get the information for Legislator --

LEG. ALDEN:

You're not going to get it on consent calendar because I'm going to object.

MR. ZWIRN:

Oh, okay.

CHAIRMAN D'AMARO:

We purposely, in recognition of Legislator Alden's concerns, we'll keep it off the consent calendar. All in favor? Any opposed? Abstentions?

LEG. ALDEN:

Opposed.

CHAIRMAN D'AMARO:

One in opposition, three in favor. The motion carries. The resolution is approved. **(Vote: 3-1-0-1 Opposed: Legislator Alden; Not Present: Legislator Nowick)**

The other resolution we skipped over was resolution number **1682-2008, which is the sale of County-owned Real Estate pursuant to Section 72-h of the General Municipal Law - Town of East Hampton**. Mr. Kent, if you wouldn't mind coming up? Good morning. We had tabled this resolution, I think, for at least a cycle, maybe two. I had reached out to the Town of East Hampton, spoke to the Director of Housing out there who wasn't aware that it may have been available for some workforce housing considerations. Have you had any further communication with them?

DIRECTOR KENT:

My understanding was that Tom Ruhle had spoken to Jill Rosen-Nikoloff about this. This property is being transferred to the town at their request for open space purposes. We have a resolution from the town.

As far as transferring it for affordable housing, my understanding was that their intent was to take this property and transfer the development rights from this property to another property where they are developing affordable housing.

I prepared an amended resolution that would, at the request of this committee, to amend the resolution so that the County would strip the development rights and put them into our workforce housing registry. So that resolution, that amended resolution, was filed with the Clerk, I believe, on Monday.

CHAIRMAN D'AMARO:

Right. I have a copy. It's amended copy as of January 26th of 2009, I believe.

DIRECTOR KENT:

There was a prior amended resolution that I had handed out to the committee, but this is the official amended one that came through the County Executive's Office.

CHAIRMAN D'AMARO:

Oh, all right. Well, I'm not sure then -- I have it, then, one twenty-six. Okay.

DIRECTOR KENT:

It's identical.

CHAIRMAN D'AMARO:

Well, wouldn't then the provision that you have added on the development rights would conflict with what the town's intent was for the property?

DIRECTOR KENT:

I prepared the amended resolution as requested. The town is -- I'm not sure what the town exactly is doing. They're asking for it to be transferred to them for open space purposes and now they're saying something different. So if we want to limit them to using this property for affordable housing, it would be a completely different resolution.

CHAIRMAN D'AMARO:

Well, they were just going to use the development rights.

DIRECTOR KENT:

If you would like to table it one more cycle I think I could probably clarify the situation with the town.

CHAIRMAN D'AMARO:

The town resolution says the purpose of said acquisition is preservation of open space and community character, so that's pretty vague.

DIRECTOR KENT:

That's vague. So if we want to tie them down to using the property or the development rights from the property for affordable housing purposes, I would require another resolution from the Town of East Hampton so that we could do that.

CHAIRMAN D'AMARO:

All right. Well, I'm prepared to table on that basis, provided you are prepared to go forward and try and get that accomplished.

DIRECTOR KENT:

I will try to get that accomplished through the town.

CHAIRMAN D'AMARO:

Okay. Is that acceptable?

MR. NOLAN:

You'll have to refile.

CHAIRMAN D'AMARO:

All right, you'll have to refile. The resolution is going to be stricken after this cycle, but that's not necessarily a bad thing in this case.

DIRECTOR KENT:

Not a bad thing because the town has -- either they were not being completely open with us about what they were going to use the property for, or once we called them on the use for open space and that we were going to strip the rights, now they're saying that they intended to use it for development rights to be transferred to an affordable housing project within the town.

CHAIRMAN D'AMARO:

All right. So this needs more time to evolve anyway. All right. I will offer a motion to table 1682 of 2008.

LEG. BEEDENBENDER:

Second.

CHAIRMAN D'AMARO:

Seconded by Legislator Beedenbender. All in favor? Any opposed? Abstentions? Motion carries.
(Vote: 4-0-0-1 Not Present: Legislator Nowick)

Is there anyone else here who would like to address the Ways and Means Committee this morning?

LEG. ALDEN:

Mr. Chairman.

CHAIRMAN D'AMARO:

Legislator Alden.

LEG. ALDEN:

I just have a quick question of Lynne. Lynne, did you prepare the resolution that would raise the limit for adjacent homeowners or adjacent land owners?

CHAIRMAN D'AMARO:

I can answer that. The resolution that I have amended for workforce housing, which is pending before the full Legislature, includes that amendment now.

LEG. ALDEN:

Okay, because you told me you weren't going to include it.

CHAIRMAN D'AMARO:

I know, but since I had to amend anyway, I went ahead and put it in. Okay?

LEG. ALDEN:

Thank you.

CHAIRMAN D'AMARO:

All right. Then no further business before the committee. Motion to adjourn. Seconded by Legislator Viloría-Fisher. We stand adjourned. Thank you, everyone, and have a good morning.

(The meeting was adjourned at 11:02 A.M.)