

## **WAYS & MEANS COMMITTEE**

**Of the**

### **Suffolk County Legislature**

A regular meeting of the Ways & Means Committee was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, 725 Veterans Memorial Highway, Smithtown, New York on March 18, 2009.

#### **Members Present:**

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

#### **Also in Attendance:**

George Nolan - Counsel to the Legislature  
Renee Ortiz - Chief Deputy Clerk/Suffolk County Legislature  
Justin Littell - Aide to Legislator D'Amaro  
Michael Pitcher - Aide to Presiding Officer Lindsay  
Paul Perillie - Aide to Majority Leader Cooper  
Thomas Ryan - Aide to Legislator Vilorio-Fisher  
Greg Moran - Aide to Legislator Nowick  
Allen Kovesdy - County Executive's Budget Office  
Brendan Chamberlain - County Executive Assistant  
Ed Hennessy - County Executive Assistant.  
Lynne Bizzarro - Chief Deputy County Attorney  
Basia Braddish - County Attorney's Office  
Debra Alloncius - Legislative Director/AME  
Traci Barnes - Assistant Commissioner/Department of Social Services  
Pat Shaw - Facilities Space Manager/Department of Social Services  
Chris Kent - Director/Real Property, Acquisition & Management  
The Honorable Judge Alfred Lama  
Rick Brand - Newsday  
Mary McLaughlin - Suffolk County League of Women Voters  
Jonathan Keyes - Town of Babylon/Planning Department  
All Other Interested Parties

#### **Minutes Taken By:**

Alison Mahoney - Court Stenographer

#### **Minutes Transcribed By:**

Alison Mahoney & Donna Catalano

(\*The meeting was called to order at 10:05 AM\*)

**CHAIRMAN D'AMARO:**

Would everyone please rise for the Salute to the Flag?

***Salutation***

No cards.

**MS. MAHONEY:**

No.

**CHAIRMAN D'AMARO:**

Okay. I believe there's an Executive Session that's been requested which we'll have after the public portion of our meeting.

Once again, welcome to everyone. The public portion will commence now. We do not have any requests by way of cards for anyone to address the committee this morning. Is there anyone here that would like to address the Ways & Means Committee? For the record, there's no response, then we'll proceed right to the agenda. Section V of the agenda is Tabled Resolutions and I'll call the first.

**Tabled Resolutions**

***Resolution No. 1895-08 - 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 fund-raising (Alden).*** Legislator Alden?

**LEG. ALDEN:**

It has to be tabled because the Public Hearing is still open.

**CHAIRMAN D'AMARO:**

Okay. Motion by Legislator Alden to table, I'll second. All in favor? Any opposed? Abstentions?

Motion carries. ***Tabled (VOTE: 4-0-0-1***

***Not present: Legislator Vilorio-Fisher).***

**(The following was transcribed by Donna Catalano - Court Stenographer\*)**

***Resolution 1976-08 - Adopting Local Law No. 2008, a Charter Law to reform and reconstitute a professional independent Suffolk County Ethics Commission (Montano).*** I'm going to make a motion to table this resolution. Is there a second?

**LEG. BEEDENBENDER:**

Second.

**CHAIRMAN D'AMARO:**

Seconded by Legislator Beedenbender. Also, Judge Lama, I understand -- I see that you're here.

**JUDGE LAMA:**

I just wanted to say a few words, if I could.

**CHAIRMAN D'AMARO:**

Yeah, and I had a few questions on this also. Why don't you please come up. And thank you for coming down today.

**JUDGE LAMA:**

Yes. I just wanted to address --

**CHAIRMAN D'AMARO:**

Judge, good morning. And if you can just use the microphone so we could all hear you, I'd appreciate that,

**JUDGE LAMA:**

Better? Good morning, Mr. Chairman.

**CHAIRMAN D'AMARO:**

Good morning.

**JUDGE LAMA:**

Good morning, Members of the Ways & Means Committee. I just wanted to make a quick statement. I know I've spoken before on this, but I had the -- I was just reviewing the Legislative Intent of this particular bill, and there's a statement that says that it requires expansion, further diversity and complete and unfettered perception of independent rulings; I think I made a statement initially in the beginning that that's what we have now. But there's also a requirement to increase the membership to five. And I just wanted to address a practical problem, which I, as the Executive Director, have in connection with something along those lines.

First of all, to be able to find a number of people who fit the qualifications of this bill would be interesting, okay, if not almost impossible. Second of all, if we do find those people, to get them to come to an individual meeting of the commission would be difficult task. Right now we have three gentlemen who I think are excellent; two of them are attorneys, one of them is an educator, a doctor. And it's quite a task to get them to come down for a meeting, because of their own business and their private lives and their -- you know, their own difficulties with their families. So it would be almost impossible to get five of these gentlemen to come down.

And the concept is that if we have five, there will be a little bit -- there will be more independent rulings. Would be -- what's interesting is that because of the five people, we would probably have to rely upon a forum or a quorum rather more than anything else, and the quorum would more likely be three of the people anyway, of the Commission, so we would have the same thing we have right now.

I think it's an impractical bill. I think it's going to cost the County money. And I don't see in this environment that we are in least right now that this would be a wise move on the part of the Ways & Means Committee.

**CHAIRMAN D'AMARO:**

All right. Thank you, Judge. I agree with you. I also had a question for you. And thank you for coming down today. Looking at that legislative intent, it raises some issues and questions in my mind as to the way the present Ethics Commission is operating. And I just want to clarify this for the record, because I believe the legislative intent as its stated in this bill is incorrect, but you would be in a better position to know that. It says in the third paragraph that the commission needs a full time executive director and independent counsel with no reporting requirements or supervision by the Department of Law. Does the Department of Law -- do you have to report to the Department of Law? Is there a requirement that you report to the Department of Law?

**JUDGE LAMA:**

Absolutely not. We are independent.

**CHAIRMAN D'AMARO:**

Okay. So I don't understand that wording. Does the Department of Law or anyone supervise what the -- what the Commission does, or are they acting as your Counsel?

**JUDGE LAMA:**

The only one who supervises the commission or me really as part of the commission is the Chairman of the Commission himself and the commission generally. That's my only supervisor. And as I -- I think I indicated this before, we have excellent Counsel that's there now. They're paid no doubt by the County, but basically they're there to advise the commission as to what the code stands for and how it can be interpreted. And the commission itself makes its own rules.

You know, and I think it's important for me to say that we don't just meet for 15 minutes and decide this is it, this is the way it's going to go. We stay in session for hours. We'll meet sometimes at three o'clock in the morning -- or rather three o'clock in the afternoon and we won't get out until 7:00. Or if we meet at 5:00 in the afternoon depending upon how I can get the Commissioners to come to the meeting, depending on their obligations, we'll stay until 7:20, eight o'clock, nine o'clock. Many of times we adjourn at 9:30 or so. We're not giving these questions that come before us short shrift.

Each one of the gentlemen are dedicated to what they do, okay, as far as I'm concerned anyway. In the six -- four years I have been involved, I haven't seen anyone of the commissions that I have been happy to serve do anything else than follow what the law is as far as the code of the County of Suffolk is all about.

**CHAIRMAN D'AMARO:**

The fourth paragraph of the legislative intent talks about making this commission more independent. I'm not quite sure, you know, whether -- either you are independent or you are not. But more independent to me means that somehow you are not really independent now. What's your view on that, sir?

**JUDGE LAMA:**

That's what I don't understand in the legislation myself, Mr. Chairman. That's why I think the legislation is not worthy of being passed.

**CHAIRMAN D'AMARO:**

All right. The last thing I want to ask you about, Judge, is the request in this bill for independent Counsel, independent in the sense of not using in-house Counsel. Are there any issues or concerns or problems you have with working with the Department of Law as your Counsel?

**JUDGE LAMA:**

Well, I have none because I know that the two people who are working there, and both them are --

**CHAIRMAN D'AMARO:**

Who are they? Who's assigned to you?

**JUDGE LAMA:**

Well, you have John {Halownia} who has been Counsel to the Commission since 1999, and you have Jessica Hogan, who is a County Attorney. Both of them are County Attorneys, but Jessica comes from the City of New York. And she had worked with the New York City Commission for six years. Both of them are excellent lawyers, they both are highly experienced as far as the Ethics Law and our Ethics Law and certainly the ethics -- the general ethics in the State of New York as well as in the City. So we have heavy duty Counsel as far as I'm concerned.

**CHAIRMAN D'AMARO:**

Uh-huh.

**JUDGE LAMA:**

And I don't understand how you would want to, you know, pay for more counsel, make more expenditures in this kind of an environment we're facing now where we're talking maybe about layoffs for people in the County of Suffolk. It just doesn't make sense to me.

**CHAIRMAN D'AMARO:**

And I can appreciate that. Yesterday we had before the Budget and Finance Committee a presentation from both our Budget Review as well as the County Executive's Budget Office telling us about, you know, tremendous fiscal problems we have here in Suffolk. And, of course, we're all experiencing this on national level. And at this time, to propose hiring yet more lawyers who are not the cheapest to hire these days at a time when we're reeling with financial difficulties coupled with your own testimony and what I believe to be is an independent Ethics Commission, just don't seem to be really justified at this time.

**JUDGE LAMA:**

And I can't agree with you more.

**CHAIRMAN D'AMARO:**

Okay. All right. Does anyone have any questions for Judge Lama this morning? Legislator Alden.

**LEG. ALDEN:**

I just have a quick comment and maybe it ends up with a question. We have the prime drafter of this legislation with us today, so if the Chairman would actually recognize him, then I don't really have to speak too much. But just one quick thing. When we heard testimony, and it was at a prior -- I'm thinking that it was.

**JUDGE LAMA:**

A couple of months ago.

**LEG. ALDEN:**

It was either at a General Session or --

**JUDGE LAMA:**

It was General Session, I think.

**LEG. ALDEN:**

Right. So it was the public hearing on this. It came to light that there is a difference of opinion among some of the people that are either of counsel or serving on the Ethics Commission in that one of them came in and very emphatically testified that there should be no political activity and that he does not engage in any political activity. Yet, another attorney came in and testified that he actually does participate in political activity. And I found that a little bit disturbing from my point of view that he could be asked to sit in judgment of somebody that is either a Legislator or another elected official, and he's on the Ethics Commission engaging in political activity, including supporting candidates and providing monetary support for candidates.

And it's not something that we're going to resolve today, but if you could take a look at that and see if there's some way that we can have a uniform type of policy within the Ethics Commission that there is no political activity, because I think that is something that really shows -- and it's maybe not impropriety, but there's appearance of impropriety at the very least. So that's my statement.

**JUDGE LAMA:**

You know, you have a Democrat and Republican and, I guess, an Independent, I believe, now that's on the council or the commission. And everybody has their own political outlook. Okay. We can't stop that, that's what we're all about. As the saying goes, you get three people in the bathroom and you have politics.

I have noticed in my experience, okay, that the three gentlemen who are the Commissioners put

aside their political -- obviously, Legislator Alden, everybody knows what's going on. I mean, if they didn't know what's going on politically, you might as well say, you know, thanks a lot, we don't need you. Obviously, they're intelligent people. They know what's going on in the world. But you would be surprised that they can put that aside, all right, and they can say this is -- "has this man done this? Has this man done that? Or this lady done this." And they make their determination based not on how many dinners they've gone to, okay, or how many contributions they've made. They make their determination based upon what they think the proper law is as far as the Code dictates, all right?

So I say to you, I mean, you and I know each other, okay, and God forbid, I should see any kind of a problem with you ethically, I'm not going to consider our friendship per se to tell me that I have to vote in your favor. You understand what I'm saying?

**LEG. ALDEN:**

Yep.

**JUDGE LAMA:**

Okay. And I think the Legislature -- the Commission has that same attitude. They put aside, from what I've seen, all right, I can't go in the individual mind of a person, but from what I've seen in the way they've voted and the way they've acted, they put aside their political feelings and they vote on what the law, the Code, says. That's it. If you violate the Code, you violated the Code, regardless of whether you are a Democrat or Republican or an Independent or whatever, okay? And that's what they go by, really, seriously.

**LEG. ALDEN:**

Just to go one step further --

**JUDGE LAMA:**

Your upsetment is that somebody goes to goes to a dinner and buys a ticket for a dinner. You know, okay. I personally used to do that. I don't do that now, because I feel maybe, you know, somebody like yourself would say, "What is he doing there?" Okay? But I don't think it necessarily says that that person is going to vote for the person I just paid, you know, \$250 to go. Maybe he wants that person to be elected, but that doesn't necessarily mean if that person commits something that's against the Ethics Law that he's going to vote for that person. You know what I'm saying?

**LEG. ALDEN:**

I hear what you are saying. But unfortunately, the testimony of these two gentlemen was completely opposite. And if we could get some kind of policy that would make it more uniform -- one of them felt that they shouldn't be involved in politics at all, and the other one thought that it was okay to go and support even somebody who might make a complaint on one of the people on this Legislative Body. That's my point. And that brings up appearance, I think, of impropriety.

So if the person -- and this is the way it would go down. If the person that is being supported politically brings a request to investigate or a request to censure or do something further than that, this person that's on the board would actually have already an established prior relationship. And I can say without --

**JUDGE LAMA:**

You are saying there's an appearance problem.

**LEG. ALDEN:**

There's an appearance problem, I think. But just if you look at it and give it a little bit more thought, I think that --

**JUDGE LAMA:**

If I tell whoever these people are who do this that they can't do go to the \$350 dinners, I'm sure they would be crushed.

**LEG. ALDEN:**

I know they will be crushed. But I'm just saying that if you ask them to hold themselves to the same standard that you're holding yourself to, I think that maybe that's the way to go, maybe it's not. But if you could, you know, just give it a little thought and see if some kind of rule might be in --

**JUDGE LAMA:**

Well, I will take your concerns definitely to the Commission, and I will mention it. I absolutely will.

**LEG. ALDEN:**

Thank you.

**JUDGE LAMA:**

Okay.

**CHAIRMAN D'AMARO:**

I think -- Legislator Alden, I think you make a great point. Similar to judges really have restrictions on political activity and it comes with the territory, and I think that is something that should be considered. What's interesting though in trying to depoliticize an ethics Commission, which should be -- always be our goal, the fact is that this bill says that the two Legislative appointees shall represent the two dominant political parties.

So the bill is in effect recognizing fact that there needs to be balance here in the representation on the Commission, but I think we have that now. I think that's required now, if I'm not mistaken. And it also goes on to say that no member shall hold office in any political party, and I think we have that as well at this time. I don't think that's anything new. But Legislator Alden, I think, makes a valid point; we're always trying and striving to completely divorce ourselves from even an appearance of impropriety with something as important as this. And I think that's probably not a bad idea, to at least examine that with the members of the Commission.

**JUDGE LAMA:**

Yes.

**CHAIRMAN D'AMARO:**

But my real overriding purpose here today looking at this legislation is to find out is there a problem with this Commission? Do we need to spend more money on lawyers? You know, what's -- the legislative intent seems to be saying that the Ethics Commission as it stands now is not independent and is reporting.

**JUDGE LAMA:**

That's unfortunately not true. There's an assumption that's made, the unfettered perception of independent rulings. You know, that's -- somebody wrote that. It's nice. But it doesn't necessarily -- they don't have any scientific background, they don't have any background for it that they can say that this is the case, all right?

**LEG. MONTANO:**

If I may.

**JUDGE LAMA:**

So, you know, it's -- it's not an appropriate bill under these circumstance. There's nothing to be fixed right now. Maybe, God help us in the future, but the way I see it, it's -- this is an unnecessary piece of legislation.

**CHAIRMAN D'AMARO:**

Okay.

**LEG. ALDEN:**

I have one final point.

**CHAIRMAN D'AMARO:**

Yes. And then Legislator Montano.

**LEG. ALDEN:**

On the cost. There's two, I think two attorneys that actually work for the County Attorney and -- in some way, shape or form, right?

**JUDGE LAMA:**

Right.

**LEG. ALDEN:**

Okay. So the cost would actually pretty much balance out, because right now there's a cost to have those people working for the County Attorney's Office and working for the Ethics Commission. If they weren't doing the work of the Ethics Commission, they could be assigned other tasks within the County Attorney's Office, which would make it possible for us to maybe forego the hiring of another attorney. So that's a shifting of cost. So I don't see it as a new cost requirement going forward.

**LEG. MONTANO:**

If I may, Mr. Chairman.

**CHAIRMAN D'AMARO:**

Yes, Legislator Montano.

**LEG. MONTANO:**

On the cost issue, just to interject, this bill really doesn't contemplate any cost issue. We can simply take the structure as it is and move someone independently. So the cost -- let's take the cost issue off the table, because that's not a legitimate concern with respect to this bill. We do not anticipate -- if this bill were to pass, there is no cost associated with moving an attorney to duties solely within the Ethics Committee and being independent. So let's -- that argument, I think, really doesn't need to be made, because that's not -- that's not a real issue. There are other issues that maybe we can address. But I just want to take that off the table.

**CHAIRMAN D'AMARO:**

Right. Legislator Montano, just to clarify that, though, I think the aim of your bill is to hire outside counsel, isn't it?

**LEG. MONTANO:**

Not necessarily. We can take one of the positions from the County now and move it over. So we really haven't gotten to that point yet. But there's no cost factor. We can eliminate a position within the County Attorney's Office and move a position over to the Ethics Committee and have net gain or net loss of zero.

**CHAIRMAN D'AMARO:**

And so that attorney working then moving the position over to the Ethics Commission, you would have an attorney working within that department so to speak.

**LEG. MONTANO:**

So to speak, yes.

**CHAIRMAN D'AMARO:**

So what's the -- what does that attorney do for help, assistance, backup? How does that work?

**LEG. MONTANO:**

Well, right now you have two attorneys that are working. I don't envision that you need more than one full-time attorney on this job, do you?

**JUDGE LAMA:**

No.

**LEG. MONTANO:**

Okay.

**JUDGE LAMA:**

You don't have a consistent run of business that would require a full-time attorney to be there, the truth of the matter.

**LEG. MONTANO:**

Let me ask you this, Judge. With respect to the attorneys you have now, they're both within the Department of Law. I mean, they're attorneys within a department in the County now working under the control of or supervision of the County Attorney. That's really the structure. Whether or not they communicate with the County Attorney is irrelevant. The bottom line is that they're selected by and they work for the County Attorney; is that not correct?

**JUDGE LAMA:**

That's correct.

**LEG. MONTANO:**

You don't see an issue with that in terms of perception of whether or not you can be independent, particularly when there may be issues that pertain to the department and other departments that are interrelated? You don't see that perception that maybe there's a, you know, potential appearance of somehow that someone can be influenced by a decision? Not that it happens. I'm not saying that it happens. But you don't see that as an appearance issue?

**JUDGE LAMA:**

You know in a perfect world --

**LEG. MONTANO:**

No. In this world. In Suffolk County.

**JUDGE LAMA:**

In a perfect world, it would be nice to be able to have separate counsel that we could put in if you want -- I mean, really if you want to do it. What we're talking about now is something that's going to be cost effective. And there is -- there is a cost involved, regardless of, you know, you can't really put it aside, because you are still going to have to pay an attorney whose an outside counsel to come in and do what he has to do. Okay?

**LEG. MONTANO:**

If I may, let us worry about the cost issue. That's something that I think we'll deal with in a budgetary sense.

**JUDGE LAMA:**

Okay.

**LEG. MONTANO:**

What I'm asking is the appearance issue. And let me -- let me ask you another question if I may.

**JUDGE LAMA:**

But you see. Let me give you --

**LEG. MONTANO:**

Go ahead.

**JUDGE LAMA:**

If you are talking about the County Attorney, she doesn't come in on these meetings whatsoever. Okay? She stays away from these meetings as far as that goes. You know, and we don't feel -- at least I think the Commissioners feel that way and I do, that, you know, she has no undo influence on what we do and how we do it, because she's also guided by the question of what the Ethics Law says. So how is she going to tell us that we have to do something against somebody on a political basis, if you want the get right down to it --

**LEG. MONTANO:**

Right.

**JUDGE LAMA:**

When the Ethics Law says you can't do that because A, B and C is what's necessary?

**LEG. MONTANO:**

Well, if it were done, all right -- I mean, the Ethics Law -- if I may. And I don't want to argue with you, Judge. I have the --

**JUDGE LAMA:**

We're a committee that's run by -- we're run by the law.

**LEG. MONTANO:**

Right. I don't want to argue with you, I have the utmost respect for you. But the point you make is that it would be a violation for a County Attorney or anyone to do something like that, but we know that violations occur all the time. And how do you correct it? I mean, let's say that it were to happen. You can't use the argument that there's -- you created a firewall, I guess, between the County Attorney and the Ethics Attorney, is that what you are telling me?

**JUDGE LAMA:**

Yes.

**LEG. MONTANO:**

Okay. And side issue, are you aware of the issues that are being raised with respect to the Ethics Committee at the State level and the dilemma that's going on there with respect to the potential leak that happened during the Spitzer-Gate investigation and the lawsuits that -- have you been -- have you been following that issue?

**JUDGE LAMA:**

I have not, but I'd be delighted to be educated by you.

**LEG. MONTANO:**

You should. No, no, just Google it and you'll see that there are issues involved at the State level on this very issue. Because from what I understand, one of the subjects of the inquiry in the Spitzer-Gate is alleging that there were communications, improper communications, between the Ethics Committee Chairman and government officials. Now, I don't know what the end result of that, but these are issue that do come up in the real world, not in the perfect world.

So, you know. With respect to the question I asked you earlier, you don't have a problem with the appearance that if somebody is writing the decision who works for someone, as if my staff were writing a decision for me, that I would have a complete firewall and somehow that appearance would not -- that wouldn't give the appearance of impropriety or undo influence; you don't see that?

**JUDGE LAMA:**

Because --

**LEG. MONTANO:**

Because.

**JUDGE LAMA:**

Because the two attorneys who work for the Commission do not make the decision. The decision is made by the three Commissioners. And we have arguments in the meetings -- too bad we have to have these on a confidential basis; I'd love you to be in -- come in with these meetings.

**LEG. MONTANO:**

Yeah, I would love to be in those, too.

**JUDGE LAMA:**

And I'd love you to see what goes on.

**LEG. MONTANO:**

In fact, I think I'd love to see all the decisions that you issue. I know you issued one with respect to me the other day that I asked for, and I appreciate your getting back to me so quickly, and I'd be willing to release that.

**JUDGE LAMA:**

But you understand that that's going to be your determination, not mine.

**LEG. MONTANO:**

Yes, I understand that. I understand that.

**JUDGE LAMA:**

Okay? And if somebody here says, "Did you write an opinion for Legislator Montano?" I'm going to say, "What are you talking about?"

**CHAIRMAN D'AMARO:**

Right. You know, I --

**JUDGE LAMA:**

"I don't know from nothing about that. What are you talking about?" Okay?

**CHAIRMAN D'AMARO:**

Judge, if I could also just add to that. You know, this is the problem we have in this bill, in debating this bill, is that we throw out examples of other misconduct with former Governor Spitzer, somehow that applies to Suffolk County. We talk about, in the Legislative Intent, reporting requirements that don't exist, supervision that doesn't exist, decisions written by lawyers when they're not, they're decided and written by the Commission with the lawyers acting as -- this is the problem with all this disinformation.

**LEG. MONTANO:**

Well, that's not disinformation, if I may.

**CHAIRMAN D'AMARO:**

Well, it is.

**LEG. MONTANO:**

That's actual fact.

**CHAIRMAN D'AMARO:**

It's not.

**LEG. MONTANO:**

But the bottom line is that, Judge, did you see the decision or the opinion by the Long Island League of Women Voters supporting this bill?

**JUDGE LAMA:**

No, I haven't.

**LEG. MONTANO:**

Did you get a chance to read that?

**JUDGE LAMA:**

No. I remember there was somebody who spoke --

**LEG. MONTANO:**

Well, they actually wrote a letter to that effect, and they had their counsel review it. And they actually endorsed the bill and they wanted it to go a little further.

**JUDGE LAMA:**

Would they be willing to pay for it?

**LEG. MONTANO:**

You keep bringing up the cost, Judge.

**JUDGE LAMA:**

But that's going to be what you're going to have.

**LEG. MONTANO:**

With all due respect, the cost is our issue, we will deal with that.

**JUDGE LAMA:**

Okay.

**LEG. MONTANO:**

You know, put that aside. I don't know where you got that in your head that we should talk about cost. We could do this without cost. We do a lot of things in this Legislature that, you know, the cost issue is brought up and we do a lot of things that people say we shouldn't be doing anyway. But the bottom line is I'm not going to debate this with you all day. I appreciate you're coming here. You have some issues with respect to the intent of the bill?

**JUDGE LAMA:**

Yeah.

**LEG. MONTANO:**

All right, I missed the first comments. What about the body of the bill? Forget about the intent.

**JUDGE LAMA:**

When you say "the body of the bill," what do you mean?

**LEG. MONTANO:**

The actual bill. The intent is just Legislative mumbo jumbo which can be changed.

**JUDGE LAMA:**

I don't know if you were --

**LEG. MONTANO:**

What about the body, the substance of the bill? What objections do you have to the substance of bill?

**JUDGE LAMA:**

Well --

**LEG. MONTANO:**

Because the intent is not the bill. The intent is just the language that we use and sometimes we got flowery --

**JUDGE LAMA:**

Okay.

**LEG. MONTANO:**

-- and that can be changed. And if there's anything in there that's offensive, I apologize, we can certainly clarify that.

**JUDGE LAMA:**

Okay. But when you look --

**LEG. MONTANO:**

But what about the body of the bill; what are your objections?

**JUDGE LAMA:**

When you look at the bill, and I understand when you say it's flowery, but if you read it, okay --

**LEG. MONTANO:**

Well, point out to those sections --

**JUDGE LAMA:**

-- it almost looks like an indictment against the existing Commission.

**LEG. MONTANO:**

You shouldn't take these things personal, Judge.

**JUDGE LAMA:**

I don't, but I'm --

**LEG. MONTANO:**

We're not -- no one is looking to indict anybody, we don't have that authority.

**JUDGE LAMA:**

But the impetus is that we are not doing what our job is supposed to be, that we're not being fair; that's what the impetus seems to be. Okay?

**LEG. MONTANO:**

Let's go beyond the intent, Judge.

**JUDGE LAMA:**

Okay.

**LEG. MONTANO:**

What about where it says "Amendment, Article 30, Ethics Commission"; what specific objections do you have to the bill?

**JUDGE LAMA:**

Article 30.

**LEG. MONTANO:**

Because that aspect could be changed. And if you have --

**JUDGE LAMA:**

But you don't need -- you don't need five Commissioners, that's number one.

**LEG. MONTANO:**

Well --

**JUDGE LAMA:**

You don't need five Commissioners. And I don't know if you were here at the time when I explained to the committee, that it's difficult enough for me from a practical point of view of getting three Commissioners to meet, all right, who have their own businesses that they have to attend to.

**LEG. MONTANO:**

I understand that.

**JUDGE LAMA:**

So five -- number one, five is --

**LEG. MONTANO:**

How many Commissioners --

**JUDGE LAMA:**

-- an overly burdened group.

**LEG. MONTANO:**

How many Commissioners do you need to make a decision? You have three now; is it a 2-1 decision?

**JUDGE LAMA:**

You can make a decision with two, but it very seldom happens, because nobody wants to make that -- they usually have -- we're fortunate to have three people show up most of the time, okay. After we do a little juggling back and forth, because this guy's got to have a trial and this guy has to go someplace else.

**LEG. MONTANO:**

All right. So with a body of three, you need two to make a decision, but with a body --

**JUDGE LAMA:**

That's the quorum.

**LEG. MONTANO:**

Excuse me?

**JUDGE LAMA:**

That's the quorum

**LEG. MONTANO:**

Right. Well, it's -- the quorum would be two.

**JUDGE LAMA:**

Right.

**LEG. MONTANO:**

All right. But with a body of five, you would only need three to make a decision; am I correct?

**JUDGE LAMA:**

It depends upon what you set up as a quorum.

**LEG. MONTANO:**

Well, the quorum is done by Construction Law, so the quorum would be three and you need at least three to make a decision on a five member committee.

**JUDGE LAMA:**

Which is what you have now.

**LEG. MONTANO:**

Well, you have three members now.

**JUDGE LAMA:**

Yeah, but you have -- you could have -- I just got finished saying, Legislator Montano, that we have three people that show up, okay?

**LEG. MONTANO:**

Right.

**JUDGE LAMA:**

All the time unless there's a sickness, and those three are the ones who make the decisions now. So you're not gaining anything by giving us five.

**LEG. MONTANO:**

You need two to make a decision, you go with three, but under the law you need two; am I correct?

**JUDGE LAMA:**

But all the decisions that I've seen, with rare exception, except if there's -- if there is a Commissioner who has, for some reason, left the Commission because he's resigned or died, okay, then we work with two; that's been happening in the past. But that's not a good thing.

**LEG. MONTANO:**

Okay. So you would object to -- you think that five members is too many.

**JUDGE LAMA:**

I do.

**LEG. MONTANO:**

All right. What other objections would you have to the body of the bill?

**JUDGE LAMA:**

I don't think we need -- it's nice to have independent counsel, but I think we're functioning very well without having independent counsel.

**LEG. MONTANO:**

Would independent counsel hurt the Commission in any way?

**JUDGE LAMA:**

Would what?

**LEG. MONTANO:**

Would it hurt it the Commission in any way?

**JUDGE LAMA:**

No, it wouldn't hurt it.

**LEG. MONTANO:**

Would it be -- you're saying that it wouldn't matter if the counsel was independent or not.

**JUDGE LAMA:**

Let me interrupt you for a minute.

**LEG. MONTANO:**

Go ahead.

**JUDGE LAMA:**

You want to give us independent counsel? Terrific, go ahead.

**LEG. MONTANO:**

Excuse me?

**JUDGE LAMA:**

If you wish to give us independent counsel and spend for independent counsel, make that as a budget, that's fine. I don't think you'll have, you know, a problem with that.

**LEG. MONTANO:**

Okay. So you don't have a problem with independent counsel.

**JUDGE LAMA:**

Give us independent counsel.

**LEG. MONTANO:**

Okay.

**CHAIRMAN D'AMARO:**

Well, let me ask --

**LEG. MONTANO:**

Wait, wait, wait, I'm not done, Mr. Chairman. Mr. Chairman, I'm not done.

**CHAIRMAN D'AMARO:**

No, I just want to clarify one point. How is the counsel -- independent of what? I just want to get clear; independent of the County? Because what you have now are County employees.

**JUDGE LAMA:**

Somebody who is independent who is paid by another source, I guess.  
If that's what we're talking about.

**LEG. MONTANO:**

Well, he didn't write the bill, I wrote the bill, so why don't you ask the question to me.

**JUDGE LAMA:**

Because you're going to have to have --

**LEG. MONTANO:**

Judge, if I may, please? I think that's a question more in my purview. What is your -- you're talking about an independent counsel. Would you repeat --

**CHAIRMAN D'AMARO:**

Well, independent of what; independent of Suffolk County?

**LEG. MONTANO:**

Independent of any department within the County.

**CHAIRMAN D'AMARO:**

Well, but right now --

**LEG. MONTANO:**

But we went through this.

**JUDGE LAMA:**

They're going to be hired by somebody.

**CHAIRMAN D'AMARO:**

-- it's really about --

**LEG. MONTANO:**

We're having a three-way here.

**CHAIRMAN D'AMARO:**

We have counsel now that's County employees. It would still be a County employee, though.

**LEG. MONTANO:**

It would still be a County employee.

**CHAIRMAN D'AMARO:**

Okay.

**LEG. MONTANO:**

Absolutely.

**CHAIRMAN D'AMARO:**

All right.

**JUDGE LAMA:**

Okay?

**LEG. MONTANO:**

Okay. So you wouldn't have a problem -- I just want to be clear.

You wouldn't have a problem if the counsel were independent of any other department, would you?

**JUDGE LAMA:**

No.

**LEG. MONTANO:**

Okay. What other -- so you don't have an objection to that part of the substance of the bill; am I correct?

**JUDGE LAMA:**

Yes.

**LEG. MONTANO:**

What -- so aside from the five members that you think is too many, what are your other substantive objections to the body of the bill?

**JUDGE LAMA:**

I think that's the whole body of the bill. Ask me a question and I'll see what my position is on it.

**LEG. MONTANO:**

Well, I just did; I asked you if you had any objections to the body.

**JUDGE LAMA:**

But what body are you talking about? You just can't say there's a body of the bill; tell me which one you want me to answer.

**LEG. MONTANO:**

Judge, the parts of the bill that are underlined are the amendments to the existing Ethics Committee legislation. What I'm asking you is if you've had a chance, if you've looked at it, what objections do you have to the new amendments to the Ethics Bill? That's all I'm asking you. And I don't mean to be -- you know, to be argumentative with you.

**JUDGE LAMA:**

I just don't know where you're going to get five people with the requirements that you've set up.

**LEG. MONTANO:**

Well, what if we brought it back to three; you wouldn't have a problem with that, right?

**JUDGE LAMA:**

I think you have it right now. I think you have these people right now who are -- who fit the bill --

**LEG. MONTANO:**

But there are other parts --

**JUDGE LAMA:**

Who fit your bill right now.

**LEG. MONTANO:**

There are other parts of the bill that are underlined. Do you have any objections?

**JUDGE LAMA:**

Tell me which ones you're talking about.

**LEG. MONTANO:**

Excuse me?

**JUDGE LAMA:**

I'm not going to guess with you.

**LEG. MONTANO:**

What was that?

**JUDGE LAMA:**

Tell me which one you're talking about.

**CHAIRMAN D'AMARO:**

Legislator Montano, if I can make a suggestion.

**LEG. MONTANO:**

Go ahead, Mr. Chairman.

**CHAIRMAN D'AMARO:**

Yes, thank you. I think what you're referring to is the bill basically goes -- expands it from three to five and it talks about independent counsel, and then it sets qualifications for the various appointees and by whom they're appointed.

**LEG. MONTANO:**

Right. Do you have objections to that, Judge?

**CHAIRMAN D'AMARO:**

In other words -- well, just to clarify so Judge Lama knows what we're talking about. In the body of the legislation as proposed, there are now qualification requirements. For example, there's an individual appointed by the County Executive that must be a former Judge or an academetician -- academien, sorry; is that how you say it?

**D.P.O. VILORIA-FISHER:**

Uh-huh.

**CHAIRMAN D'AMARO:**

With expertise and speciality in the field of ethics; then you need an individual now appointed by the County Clerk, who has to be a law professor or an attorney whose expertise and speciality is in the field of Ethics Law; then you need somebody appointed by the Comptroller who has to be a private lawyer whose background and expertise consists of ten years of prior experience working as a lawyer in the public or private sector dealing with ethics and compliance issues; and then two individuals appointed by the Legislature who have to represent the two dominant, political parties with some other qualifications. That is a change from the existing procedure where I believe you have three members; one appointed by the County Executive, one by the Legislature and one by the Presiding Officer of the Legislature.

So what the bill is doing is imposing further qualifications to hold a position on the Ethics Commission, and that's what the body of the bill is doing. Has that been an issue or a problem with the expertise or the abilities on the Commission?

**JUDGE LAMA:**

If you can find those people --

**LEG. MONTANO:**

Judge?

**JUDGE LAMA:**

-- and if they're willing to work for nothing, God bless you.

**LEG. MONTANO:**

Judge, would you be willing to, you know, let me know what objections you have to those underlined sections; would that be a problem?

**JUDGE LAMA:**

I just said it; God bless you.

**LEG. MONTANO:**

Excuse me?

**JUDGE LAMA:**

If you can get these people to come in, if you can find those people to come in and serve as the members of a commission with those qualifications, you have my blessing.

**LEG. MONTANO:**

Okay.

**JUDGE LAMA:**

How do you find them? I don't know where they are, but how do you find them?

**LEG. MONTANO:**

You don't think they're around?

**JUDGE LAMA:**

I don't think you're going to find them around that are going to work for nothing the way the existing Commission does.

**LEG. MONTANO:**

All right. Judge, I want to thank you very much.

**JUDGE LAMA:**

Okay.

**CHAIRMAN D'AMARO:**

Okay. Thank you, Legislator Montano. Legislator Beedenbender had asked to be heard and then Legislator Nowick.

**LEG. BEEDENBENDER:**

Judge?

**CHAIRMAN D'AMARO:**

Judge Lama? Judge, Legislator Beedenbender has a question.

**LEG. BEEDENBENDER:**

Just really quickly. I did have occasion to speak to the Commission once, but could you just give me a brief outline of how this works? Somebody requests an opinion of the Ethics Commission, and what happens from there?

**JUDGE LAMA:**

Well, usually its in the form of a letter, okay, that comes to us. It's an inquiry.

**LEG. BEEDENBENDER:**

Yeah, they send you a letter requesting your opinion.

**JUDGE LAMA:**

All right? We consider it, we make copies of it. That is disseminated amongst the three Commissioners, Counsel gets a copy of it, okay. And then we schedule a hearing, we put it on the agenda for whenever the next meeting is going to be and it's discussed in the meeting. Sometimes it's determined at that meeting and sometimes it's not, because there are questions which arise

where I'm asked to find out some more information, which I do. And then, you know, if it's a serious question that requires some more information, there are times where we actually call the individual in, himself or herself, to come before the Commission so that we can get some, you know, face-off information, if possible. That's the procedure generally.

**LEG. BEEDENBENDER:**

What role does counsel have? You said the Commissioners get it -- what does the current -- the current counsel, the two County Attorneys, Ms. Hogan and Mr. {Halongia}, what -- what do they do then? What is their function, research?

**JUDGE LAMA:**

Basically research, yes, and the interpretation of the laws, the council law. But obviously, each man who is a councilman has -- I mean, who is a --

**LEG. BEEDENBENDER:**

Commissioner.

**JUDGE LAMA:**

A Commissioner, has his own book, they have their own -- you know, we set it up in such a manner that they actually have a looseleaf folder that they can go through with each case, and they have their own -- they have their own understanding what the code is about. And counsel will guide them as to what they think is the way it's going, but nine out of ten times we have an argument, that's why we work so late. And questions are asked, heavy questions, you know.

**LEG. BEEDENBENDER:**

Now, when -- if you were to bring somebody before the Commission to ask for more information or whether it's you're trying to figure out exactly what happened in a situation, is it the Commissioners that will be the ones questioning that individual?

**JUDGE LAMA:**

Usually -- yeah, usually it starts with the Chairman and then the individual Commissioners themselves will ask questions.

**LEG. BEEDENBENDER:**

Does counsel?

**JUDGE LAMA:**

Counsel will sometimes ask a question to clear something up, yes.

**LEG. BEEDENBENDER:**

Okay, but generally the investigatory questions would come from the Commissioners.

**JUDGE LAMA:**

Are all done by the commission itself.

**LEG. BEEDENBENDER:**

All right. Thank you.

**CHAIRMAN D'AMARO:**

Okay, thank you. Legislator Nowick.

**LEG. NOWICK:**

Good morning, Judge Lama. How are you?

**JUDGE LAMA:**

Oh, sorry.

**LEG. NOWICK:**

I'm just sitting here listening to testimony and trying to decide which way to go, even though this bill has been tabled. Just one question, and either for you, Judge Lama, or perhaps for Legislator Montano. How long has this Commission been in existence, this Ethics Commission, the way it is now?

**JUDGE LAMA:**

You mean with the existing men that have been on it?

**LEG. NOWICK:**

Yes; how many years?

**JUDGE LAMA:**

I would say that they're there now at least for about two years, if memory serves me right, because they are appointed at different times.

**CHAIRMAN D'AMARO:**

I don't think that's what you meant.

**LEG. NOWICK:**

Well, no. What I mean is not who's on the Commission, but the Commission itself, the Ethics Commission has been for how many years?

**JUDGE LAMA:**

It's existed for -- I think since the 80's, the Commission has been on.

**MR. NOLAN:**

Eighty-eight, but there was something before that.

**LEG. NOWICK:**

Since the 80's.

**JUDGE LAMA:**

Yeah.

**LEG. NOWICK:**

And since the '80's, has it been set up this way; three Commissioners, two attorneys?

**JUDGE LAMA:**

As far as I know, yes. Well, actually not two attorneys, we've always had one attorney. Some of them -- I don't know where the other attorneys come from, to be honest with you. I guess maybe they're appointed, but there's usually one attorney. You have to go back into the history to find out, you know, how the Commission was back --

**LEG. NOWICK:**

And I know Mr. {Halownia} has been there for several years and I know he's excellent at what he does.

**JUDGE LAMA:**

Since 1999, yeah.

**LEG. NOWICK:**

So I think my question is to either one of you. Has there been any reason that this legislation has come about? In other words, has there been a problem of some sort? Was there a complaint of

some sort? Was there an issue that I don't know about that would have -- and maybe, Legislator Montano, you can tell me. I just -- I'm trying to figure out where it came from. Is there a reason -- is there something that has been in the past many issues, one issue?

**LEG. MONTANO:**

You mean a specific reason to say --

**LEG. NOWICK:**

Yeah. Is there something --

**LEG. MONTANO:**

No.

**LEG. NOWICK:**

Have there been complaints? I'm just trying to figure out why this has come about.

**LEG. MONTANO:**

It's come about because I looked at the structure of the bill and I figured that it needed some amendments, so I asked someone to work on some amendments that we would make it -- give an appearance of total independence. That's why it came about.

**LEG. NOWICK:**

Okay. So --

**LEG. MONTANO:**

Let me ask you this, Judge, in line with what Legislator Nowick answered. You said that the Commission has been around since 1980, but was it always -- did it always have a director?

**JUDGE LAMA:**

Actually, probably --

**LEG. MONTANO:**

Because I was under the impression that there was a period there where there was no director, that there were problems with the Commission. And I even think -- was there someone that was at the Commission that was not rehired or not paid? Was there an issue with that, George?  
I have a vague recollection of that.

**MR. NOLAN:**

My understanding is that the current structure was set up in the late '80's where we overhauled the Ethics Code. We set up a new Commission with -- you know, the three member Commission. We put in the law then that there would be an Executive Director, but for the following 12 or 14 years it was never funded until 2003-2004, and I think Judge Lama is the first Executive Director of the Commission.

**LEG. MONTANO:**

You're the first, exactly. My understanding is you're the first Director, even though structurally it's been there for years.

**LEG. NOWICK:**

If I could just --

**LEG. MONTANO:**

Go ahead, Legislator Nowick, I didn't mean to interrupt.

**LEG. NOWICK:**

If I could just finish. Who are the other two Commissioners, just for the record?

**JUDGE LAMA:**

You mean the three Commissioners now.

**LEG. NOWICK:**

Well, it's you, you're the Director.

**LEG. MONTANO:**

He's not --

**LEG. NOWICK:**

You're the Director.

**JUDGE LAMA:**

But I'm not a Commissioner.

**LEG. NOWICK:**

Okay. Who are these three?

**JUDGE LAMA:**

They're -- you have -- Tom Nolan is an attorney and he is the Chairman of the Commission.

**LEG. NOWICK:**

Okay.

**JUDGE LAMA:**

Mike Kennedy is an attorney and he is one of the other Commissioners. And then you have Dr. Laria who is an educator who presently is a Superintendent, I think, in the Hempstead School District.

**LEG. NOWICK:**

And these three Commissioners were appointed by the Legislature?

**JUDGE LAMA:**

They were appointed by A -- the Chairman was appointed by the County Executive, Mike was appointed by the Legislature, and I believe Dr. Laria was appointed by the Chairman of the Legislature.

**CHAIRMAN D'AMARO:**

The Presiding Officer.

**LEG. NOWICK:**

The Presiding Officer.

**JUDGE LAMA:**

Right, Presiding Officer.

**LEG. NOWICK:**

Okay.

**JUDGE LAMA:**

So that's the way it sets up now. But the Legislature itself -- and if you recall, when Mike came before the group back in, I don't know, a couple of months ago, he explained -- he said, "Gentlemen and Ladies, you know, you are the people who picked me. And I went through some kind of, you know, a vetting to let you know what I do, what I am, how I am, what my background is." So the Legislature itself actually was the one who made the vet -- did the vetting and actually picked him,

selected him. So that's the way it is. The Legislature is involved, the P.O. is involved and the County Executive is involved.

**LEG. NOWICK:**

All right. And I just want really actually wanted to know why the new legislation, why the new structure, just so I could be more clear on it. Thank you, Legislator Montano. Thank you, Judge.

**LEG. MONTANO:**

All right. I'm going to -- if I may, Mr. Chairman. I just want to thank you very much for giving the opportunity to speak. I'm going to ask, as the sponsor, that you table the resolution. Judge, I'd like you to take a look at the qualifications issue and let me know, if you can, why, you know, you don't think that we can find someone, or maybe for perspective appointments what you're looking for in terms of -- by the way, how long are these terms that people serve?

**JUDGE LAMA:**

Four years.

**LEG. MONTANO:**

Four years, okay. And, you know, whatever objections you have, would you please let me know in terms of the substance of the bill? I'll take a look at it and maybe we'll make some amendments. I'll ask that the committee table it. And with that, I want to thank you. Thank you very much.

**JUDGE LAMA:**

Thank you. Thank you, Mr. Chairman.

**CHAIRMAN D'AMARO:**

Judge, thank you also. But just for the record, I think you made it pretty clear today on the record what your objections are to the bill, but I do urge you to communicate with Legislator Montano as the prime sponsor of the bill. And I also want to thank you for coming down and answering all our questions today. The committee appreciates that very much.

**JUDGE LAMA:**

Thank you for the time.

**CHAIRMAN D'AMARO:**

Thank you, sir. Okay. There is a motion to table that has received a second; I'll call the vote. All in favor? Any opposed? Abstentions? Motion carries. **TABLED (VOTE: 5-0-0-0)**. Legislator Montano, if you can hear me, thank you for coming down as well. Okay.

**MS. BIZZARRO:**

Mr. Chair, if I could just put something on the record regarding that bill, it's not really directed to the bill, but a comment that Legislator Montano made regarding the fact that it was -- there was really no costs that was involved in the bill. I just wanted to let the committee know that I spoke to the County Attorney and she basically needs all of her spots and is unable to give an attorney to that spot. So if you were going to designate a spot, it would have to be a new spot from the County Attorney's Office in order to, you know, be involved with the Ethics Commission. I just wanted to put that on the record. Thank you so much.

**CHAIRMAN D'AMARO:**

All right.

**LEG. ALDEN:**

Question on that.

**CHAIRMAN D'AMARO:**

Ms. Bizzarro, before you leave --

**MS. BIZZARRO:**  
Sorry.

**CHAIRMAN D'AMARO:**  
-- Legislator Alden did have a question on that.

**MS. BIZZARRO:**  
Yes.

**LEG. ALDEN:**  
We have two attorneys from the County Attorney's Office that are working on that commission right now.

**MS. BIZZARRO:**  
Right.

**LEG. NOWICK:**  
Doesn't he want private, doesn't he want private?

**MS. BIZZARRO:**  
But he wants -- he was, I believe the conversation was revolving around perhaps not hiring an attorney from an outside firm, but perhaps taking a spot from inside and just having that attorney dedicated I'm guessing like solely to the Commission.

**LEG. ALDEN:**  
Well, actually Judge Lama answered that and said that he doesn't really need somebody full-time, you do -- there's time slots when do you need somebody. So I think that's to be determined. But you already have two slots that are dedicated to that now, or partial.

**MS. BIZZARRO:**  
I was going to say, not really dedicated, I mean they do a lot of other things. So that's --

**LEG. ALDEN:**  
Okay.

**CHAIRMAN D'AMARO:**  
Well, no, but wait a minute. What the discussion, Legislator Alden, if I could just put what's in my head and maybe I'm wrong, but I thought the discussion was that whatever counsel wound up with the Ethics Commission would not be an attorney with the Department of Law, it would be an attorney with the Ethics Commission. Therefore that attorney would be dedicated solely to that commission so you would have to remove a position from the Department of Law.

**MS. BIZZARRO:**  
Right. That was in the impression I got, right.

**CHAIRMAN D'AMARO:**  
And it's also my understanding that the Department of Law is tight. I don't want to use the word understaffed because I know that it's --

**MS. ALLONCIUS:**  
No, but we need everybody we can -- we have right now. And Mr. {Halownia} does a great job running the Family Court Bureau and Jessica Hogan does great work doing a lot of other things.

**CHAIRMAN D'AMARO:**

Well, yeah, the attorneys assigned to the Ethics Commission now have other duties and responsibilities with respect to the Department of Law. What Legislator Montano was talking about and I think what Legislator Alden, what you are referring to when you say independent, and that's why I clarified this, independent of the Department of Law, in other words, dependent only and responsible only to the Ethics Commission.

**LEG. MONTANO:**

Right.

**CHAIRMAN D'AMARO:**

Therefore, you would need a full-time position there. You'd have to remove from one from the Department of Law.

**MS. BIZZARRO:**

Correct.

**CHAIRMAN D'AMARO:**

Okay.

**MS. ALLONCIUS:**

Right. And we just can't do that.

**LEG. ALDEN:**

I think that's to be determined because right now there's got to be a time reporting or allocation between work that's done for the County Attorney's Office and work that's done on the Ethics Commission. So as long as we could look at those, you know, the accounting on that it might be a simple adjustment of a few dollars or whatever it would be -- whatever would be the requirement and than might even be up to Judge Lama as far as many how many hours does he need, you know, an attorney assigned there, so.

**CHAIRMAN D'AMARO:**

Right, but that attorney could not work in the Department of Law.

**LEG. ALDEN:**

Right, but if you take the two slots that the Department of Law already is dedicating partially to the Ethics Commission --

**CHAIRMAN D'AMARO:**

Right.

**LEG. ALDEN:**

-- they're going to receive a benefit. So they're going to be able to do more work and we can actually quantify it by an hourly basis. So they're going to actually get a benefit, they might not have to hire an new attorney part-time or full-time or whatever, they can reassign, and that would be a cost savings, which could possibly be applied to the Ethics Commission and an independent counsel.

**MS. BIZZARRO:**

I'm just saying, you'd have to add a new slot for that.

**CHAIRMAN D'AMARO:**

Yeah, let, let --

**MS. BIZZARRO:**

We're not able to give up a slot to do that. That's my point.

**CHAIRMAN D'AMARO:**

Yes. Let's not belabor it.

**MS. BIZZARRO:**  
Right.

**CHAIRMAN D'AMARO:**  
In my mind to get a truly independent staff attorney for the Ethics Commission, you either have to hire someone to do that or you have to take someone to do that and replace them.

**MS. BIZZARRO:**  
Right.

**CHAIRMAN D'AMARO:**  
So that's the way I see it working. Because that person who winds up with the Ethics Commission cannot work for anybody else.

**LEG. ALDEN:**  
That's fine.

**CHAIRMAN D'AMARO:**  
Okay.

**LEG. ALDEN:**  
But now as far as the accounting end of it, you're already using resources from the County Attorney's Office for the Ethics Commission so you would actually get those back -- there'd be a plus side to that. That's my point.

**MS. BIZZARRO:**  
That's fine, but we were talking about costs. I'm just saying from the County Attorney's perspective they can't -- she can't lose a spot.

**LEG. ALDEN:**  
And I think what we're spending on whatever this turns out to be, this is way too much time. We've got major --

**MS. BIZZARRO:**  
It was just a throw in comment, I apologize.

**LEG. ALDEN:**  
No thanks, I appreciate it.

**MS. BIZZARRO:**  
I didn't mean to make it into something bigger than it is. Thanks.

**CHAIRMAN D'AMARO:**  
Thank you, Ms. Bizzarro.

**MS. BIZZARRO:**  
Thank you.

**CHAIRMAN D'AMARO:**  
Okay. Moving on the agenda. Did I call that vote? I did not?

**MS. ORTIZ:**  
For the commission, yes.

**CHAIRMAN D'AMARO:**

I did.

**MS. ORTIZ:**

Ethics? Yes.

**CHAIRMAN D'AMARO:**

Thank you.

**LEG. ALDEN:**

1976 is tabled. Right?

**MS. ORTIZ:**

Yes.

**CHAIRMAN D'AMARO:**

Yes, it is.

*(The following was taken & transcribed by  
Alison Mahoney - Court Stenographer\*)*

All right, the next resolution is **2248-08 - 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)**. This is legislation that I have proposed to the committee. It is, in effect, a revenue enhancement bill that would give the Naming Committee the authority to consider requests for corporate sponsorship or naming of areas within our parks for -- in exchange for consideration. It is not the naming of the parks themselves, it is naming only of areas.

The bill goes on further to require the Parks Department to come up with suitable locations to have some kind of promotion program to let people in Suffolk County know that corporate sponsorship and/or naming is available. But the important part of the bill is the layers of review, because we don't want to do anything that doesn't fit or is not appropriate. And so it would not only go through the Naming Committee, any proposed sponsorship, it would also go through the Board of Trustees of the Parks as well as this Legislature.

So I think there are enough layers there to ensure that anything that we do permit as far as naming or corporate sponsorship would be done appropriately and it would be done responsibly. And with that, I'll offer a motion to approve.

**D.P.O. VILORIA-FISHER:**

I just want to ask a question.

**LEG. BEEDENBENDER:**

Second.

**CHAIRMAN D'AMARO:**

Seconded by Legislator Beedenbender. And Legislator Viloría-Fisher, please go ahead,

**D.P.O. VILORIA-FISHER:**

Yes. I'm just trying to see what authority the Parks Trustees have; is it a recommendation or --

**CHAIRMAN D'AMARO:**

No.

**D.P.O. VILORIA-FISHER:**

It's an approval.

**CHAIRMAN D'AMARO:**

Yes. If you look at Section F of the bill -- well, Section II, Subsection F, it says, "In addition to the review herein required by the committee, the Board of Trustees of Parks, Recreation & Conservation shall also review all requests to name or rename a facility in exchange for monetary consideration."

**D.P.O. VILORIA-FISHER:**

Yeah, I don't have the latest iteration because I don't have an "F", okay, that may be the problem.

**CHAIRMAN D'AMARO:**

Oh, you don't have that? Yeah, that's been amended.

**D.P.O. VILORIA-FISHER:**

Okay. Sorry, I don't have the latest iteration. Okay, good, that's what I was looking for, because they're a more independent body.

**CHAIRMAN D'AMARO:**

Yeah, and that was important to me. I don't want to -- what I have in my mind is a dog park might be sponsored by a --

**LEG. ALDEN:**

Puppy Chow, Purina.

**CHAIRMAN D'AMARO:**

-- Petco, correct, and it has to be done right. And we've been on a committee, I know Legislator Nowick has chaired that committee where we look at these things and there are criteria set out in the bill to make sure that if it's going to be done that there's a length of time assigned to it, that it's done tastefully, appropriately and that there's some nexus or link between the naming and corporate entity that wants to sponsor.

So I'm trying to put as much levels and regulation on that and layers of review just to ensure that we don't just do the stuff out of hand, but that we -- that if we're going to do naming and we're going to get some revenue from it, that it still has to be done appropriately and properly.

**LEG. NOWICK:**

Can I ask a question?

**CHAIRMAN D'AMARO:**

Legislator Nowick.

**LEG. ALDEN:**

Put me on the list.

**LEG. NOWICK:**

I think this is a great idea, a good way to raise money. We hadn't come up with any -- we haven't determined any fee for this yet, I assume?

**CHAIRMAN D'AMARO:**

No. The fee -- you know, it's really what the market will bear and that's why I direct the Parks Department to put the program together and report back and tell us at least annually what the suitable areas are and how is it going.

**LEG. NOWICK:**

Actually, I was just talking about this the other day to my aide.

I -- must it be just corporate sponsorship? From what I see in other states is that this goes on, for

example, the doggy parks where you see -- where you'll see a box with plastic bags right at the doggy parks and that's sponsored maybe by an individual, a dog lover or something. I mean, can it be other than -- does it have to go through the criteria which we did, remember, in the signing commission that we had? We went through a pretty extensive criteria to name a park; this doesn't sound like it's the same kind of process.

**CHAIRMAN D'AMARO:**

Well, the bill uses the word "corporate" or "business sponsorship", but when you get down to the criteria, it's really any request.

**LEG. NOWICK:**

Yeah, that's what I'm wondering, can it can be an individual?

**CHAIRMAN D'AMARO:**

Yes.

**LEG. NOWICK:**

Can it be someone who just loves dogs. Can we go further with it and build a little patio and let them buy bricks with the names on it, "I love my dog," or "Snoopy" or whatever.

**CHAIRMAN D'AMARO:**

Yes. The bill contemplates --

**LEG. NOWICK:**

I'm thinking of just extending it and extending it.

**CHAIRMAN D'AMARO:**

Right, sure. The bill contemplates requests, anyone can make a request and then it would go through the same review process. But the trend has been, I think, as -- you know, it's kind of like a win/win; it's good for business because businesses, of course, get their name out to a targeted audience, and of course taxpayers who get the benefit of the revenue. But could an individual put in a request under this bill? The answer is yes.

**LEG. NOWICK:**

Yeah. And the only reason I asked is you remember when we sat in those meetings, we had such criteria -- we had such criteria for naming.

**CHAIRMAN D'AMARO:**

Right.

**LEG. NOWICK:**

But this wouldn't be quite so --

**D.P.O. VILORIA-FISHER:**

Vigorous?

**LEG. NOWICK:**

Yeah, right. Okay, thank you.

**CHAIRMAN D'AMARO:**

You're welcome. Any other questions?

**LEG. ALDEN:**

I have a question.

**CHAIRMAN D'AMARO:**

Legislator Alden.

**LEG. ALDEN:**

When you came on to the Legislature, was Commissioner Foley still in place at Parks?

**CHAIRMAN D'AMARO:**

Yes.

**LEG. ALDEN:**

Because in the Parks Department, with Commissioner Foley, we were trying to use the model that New York State has and they have something that -- and I'm not sure of the name of it, but something similar to Friends of the Parks. And it was a whole structure that they would try to actually raise money for either construction in the parks or adopt-a-park, things like that. It's a little bit different approach than this, but it would bring in people that are accustomed to raising money and putting together even fund-raisers, things of that nature. Did you give any thought to that type of a structure for this?

**CHAIRMAN D'AMARO:**

Yeah. That's a great question and it's another way to raise revenue. And it's my understanding that the County is going ahead with trying to put that together. I can't tell you the exact status. Mr. Nolan, did you say you know?

**MR. NOLAN:**

I do know that there was an establishment of a Parks Foundation to try to raise money from private sources to fund park operations, and I believe somebody was even hired to oversee that effort within the County. Where it is exactly I couldn't say, but I know that --

**D.P.O. VILORIA-FISHER:**

They're still active, George.

**MR. NOLAN:**

Yeah?

**D.P.O. VILORIA-FISHER:**

Yeah. There's a Parks Foundation and they are active.

**LEG. ALDEN:**

So to the sponsor, you see them working together? This would provide just another avenue to raise money?

**CHAIRMAN D'AMARO:**

Yeah. The Parks Foundation, my understanding, I have limited knowledge of it, is that it's, in effect, an independent organization that would have a contractual relationship with the County, but targeting raising revenue to supplement the revenue for our parks. This is a little bit different. The County holds the naming rights, so the County really is not going to -- this Parks Commission, what is it called?

**MR. NOLAN:**

Foundation.

**CHAIRMAN D'AMARO:**

Parks Foundation --

**D.P.O. VILORIA-FISHER:**

Tom is --

**CHAIRMAN D'AMARO:**

Right, would not have the authority to go ahead and sell the corporate sponsorship or naming rights anyway. So this supplements that, this supplements that.

**LEG. ALDEN:**

Right. Because the way it was structured by Commissioner Foley -- or the way he presented it to the Parks Department, we were working on it a little bit -- would be that they would come up with ideas, it would ultimately be our choice, though, to tell them to go forward with a fund-raiser. And that we would name, if they came up with the idea that, you know, say just Bernie Madoff wants to put his name on a park --

**CHAIRMAN D'AMARO:**

Or the prison.

**LEG. ALDEN:**

-- and he's going to give us a million dollars to do that, it would be up to us to look at that and then decide yes or no. This will work in conjunction with --

**CHAIRMAN D'AMARO:**

Yes.

**LEG. ALDEN:**

-- not against it.

**CHAIRMAN D'AMARO:**

Oh, no, no, no. This is like a parallel course to revenue, if you will.

The other thing I want to point out about this bill is that any revenue raised from the corporate sponsorship or naming for a fee, that fee must be put back into that facility.

**LEG. ALDEN:**

Good.

**CHAIRMAN D'AMARO:**

And in the discretion of the Commissioner, if the fee exceeds what's required for the facility, it has to at least remain within the parks, maintenance, you know, revenue. So we are not just adding into the General Fund, we're really trying to help the parks. If we're going to sell some naming rights or corporate sponsorship, we'd want the parks to benefit from it.

**LEG. ALDEN:**

Good.

**CHAIRMAN D'AMARO:**

Legislator Nowick?

**LEG. NOWICK:**

Just one other question. I don't want to get Legislator Alden too upset about this, but would this include --

**D.P.O. VILORIA-FISHER:**

Golf courses?

**LEG. NOWICK:**

Well, not the course. I'm thinking about sponsoring holes on the golf course.

**LEG. ALDEN:**

Oh, absolutely, that should be part of it.

**LEG. NOWICK:**

You know, it would be the "Cameron Alden Par 3" that he's aced 42 times.

**LEG. ALDEN:**

I've never -- I don't have an ace, but --

**CHAIRMAN D'AMARO:**

That would be the 19th hole.

*(\*Laughter From Panel\*)*

**LEG. ALDEN:**

One hundred percent correct; I ace that every time.

**CHAIRMAN D'AMARO:**

That's a good point.

**LEG. NOWICK:**

And I guess we'd have to speak to the managers of the golf courses, just to see which --

**CHAIRMAN D'AMARO:**

Legislator Nowick, to answer your question, Section 3 just at the very beginning says, "The Commissioner of the Department of Parks, Recreation & Conservation shall, one, create and maintain a listing of all facilities or areas within County active or passive parkland suitable for corporate sponsorship or naming." So that would be all inclusive of getting down right to particular tees and golf fairways, whatever it may be.

**LEG. NOWICK:**

Legislator Alden's hole, the Legislator Nowick hole.

**CHAIRMAN D'AMARO:**

That could be the first order of business, in fact.

**LEG. ALDEN:**

As long as you're coming up with the money.

**LEG. BEEDENBENDER:**

Can we name the woods to the side of the fairway after me?

**CHAIRMAN D'AMARO:**

That would be the out-of-bounds areas, yeah. Well, in any event, that's a great point. We're not thinking out of the box here today, you are.

**LEG. NOWICK:**

Well, I've been thinking about this for weeks.

**CHAIRMAN D'AMARO:**

That's right. And --

**LEG. ALDEN:**

You were probably in Florida playing golf.

**CHAIRMAN D'AMARO:**

When I drafted the bill, I didn't want to come up with a list myself, because I don't think I'm really in

a position to do that. I think the Parks Department has the familiarity with the areas that would be more susceptible to naming and sponsorship.

But the real genesis of the bill for me was that I do have a dog park in my district, in West Hills County Park, and I thought -- you know, I do get calls from time to time from constituents who are using it and they're very cooperative and amicable, but telling me, "Hey, there's a problem with this or a problem with that," and, you know, you try to address it. But I thought that, you know, if a pet food company came in there and helped us pay for it, it would be a great thing.

**LEG. NOWICK:**

There's bags there.

**CHAIRMAN D'AMARO:**

Yeah.

**LEG. NOWICK:**

I can see them all the time.

**CHAIRMAN D'AMARO:**

As long as it's done right.

**LEG. NOWICK:**

I can show you pictures of it.

**LEG. ALDEN:**

You've got to get out there more. I'll take you around to some of the courses.

**CHAIRMAN D'AMARO:**

Yeah, I do have to get out more. All right, are there any other questions? All right, there is a motion pending, it has received a second; I'll call the vote. All in favor? Any opposed? Abstentions? Motion carries, and I thank the members of the committee.

***Approved (VOTE: 5-0-0-0).***

***Resolution 1006-09 - Directing the County Attorney to commence a sales tax enforcement action against Shinnecock Indian Reservation Smoke Shops (Browning).*** I'm going to offer a motion to approve.

**LEG. ALDEN:**

I'm going to offer a motion to table.

**CHAIRMAN D'AMARO:**

All right, there's a motion to table. Are there any seconds?

**LEG. NOWICK:**

I'll second the approval.

**CHAIRMAN D'AMARO:**

Okay.

**MR. NOLAN:**

Mr. Chairman?

**CHAIRMAN D'AMARO:**

Yes.

**MR. NOLAN:**

I just would like to notify the committee that there was an amendment made Monday to the bill which, in conformance with the discussion of a prior committee meeting, makes it more of a directing the County Attorney to just determine the feasibility of bringing such an action, it's not directing her to bring the action, it's asking her to determine the feasibility of bringing such an action.

**CHAIRMAN D'AMARO:**

Right. That's an amended copy I think I received yesterday, and thank you, Mr. Nolan, for bringing that to our attention. We did have a discussion about this bill previously where we talked about the bill that had been passed with respect to the Poospatuck Indians where the investigation had already been done, in effect, so we knew we had some valid legal basis to commence the action. However, we did not feel we had the appropriate feasibility study done here, but that is now what the bill is calling for, and I think that's an appropriate way to proceed here.

I also want to bring to the committee's attention, there was a decision issued two days ago by the Federal District Court ruling that the smoke shops do not have the benefit of solvent immunity. So in effect, now, all of these smoke shops are subject to enforcement actions and collection of sales tax and cigarette tax; very contrary to some of the testimony we heard here when we were debating the bill that I had sponsored. Go ahead.

**LEG. ALDEN:**

Mr. Chairman, that might be specific, though. Because I think there was some language that the Judge used that said as far as that Indian reservation, it wasn't owned or cast a benefit to all the people on that reservation, it was pretty much the owners of the smoke shops were individuals.

**CHAIRMAN D'AMARO:**

Absolutely correct, yeah.

**LEG. ALDEN:**

So, I mean, by extension, if that's the same case or the same fact pattern in this reservation, we might be able to have that same ruling.

Just on this bill, I think that -- and I'm going to ask a question. Was there a complaint, a formal complaint made, or are we aware of a complaint either to the Federal, State or our District Attorney?

**CHAIRMAN D'AMARO:**

To my knowledge, I don't -- no, the answer is not to my knowledge, but I don't know if any complaints have been made. I don't know the extent to which sales tax may be evaded with these particular smoke shops, but what I do know is the bill now calls to make that independent investigation to determine whether or not we have some valid basis for the action.

**LEG. ALDEN:**

Okay, then I'll just renew my opposition to it. Because I think that the District Attorney is actually charged with that responsibility and so are the State authorities, where there's an illegality going on, that's their bailiwick or whatever you want to call it, that's their point where they are supposed to be operating already.

**CHAIRMAN D'AMARO:**

Well, let me make --

**LEG. ALDEN:**

For us to now call on the County Attorney's Office to make a determination whether there's illegal activity or not, I think that that's a little bit outside of their authority, they would probably have to go to the District Attorney anyway to get investigators assigned. So I think that a call to the District

Attorney's Office is going to be even more productive than a resolution like this.

**CHAIRMAN D'AMARO:**

I do know, based on purchases at these smoke shops, that sales tax is not being collected, nor paid to the State and then, of course, to the County, indirectly. So I don't know that you need more investigation than that at this point, because there's no solvent immunity claim for the smoke shops.

**LEG. ALDEN:**

And where does that evidence lie? Was that just an individual or an observation or --

**CHAIRMAN D'AMARO:**

Yeah. It's not a formal investigation, but that's been the practice at these smoke shops as well as what's -- the same thing on the Poospatuck Reservation; no sales tax is ever remitted from these smoke shops to the State. Now, these smoke shops with no solvent immunity stand in exactly the same position as every other smoke shop in Suffolk County when it comes to collecting and paying taxes, and it's not being done. So do we need to formal that investigation? Yeah. I don't think it takes much effort or resource to do that.

**LEG. ALDEN:**

Well, it takes a phone call to the District Attorney and he'll send --

**CHAIRMAN D'AMARO:**

Well, that may be what the County Attorney does. The District Attorney is very active with respect to the Poospatuck, I don't know the extent of their interest or activity with respect to the Shinnecock Indians. But clearly, with the ruling waiving -- not waiving, but stating that there's no solvent immunity, I think the District Attorney would almost be obligated at this point to take a look at all the smoke shops.

**LEG. ALDEN:**

Through the Chair, can I ask Lynne a question on that?

**CHAIRMAN D'AMARO:**

Of course.

**LEG. ALDEN:**

Lynne? The question would be, and it would apply to anybody, if we felt that a dealer in cigarettes or tobacco products in Suffolk County, if we felt that they weren't collecting the sales tax or the proper sales tax, would that be an inquiry that would go to your office? Who would be the primary responsive -- person primarily responsible for investigating that type of allegation?

**MS. BIZZARRO:**

Well, I think in this case, I think you're in Southampton, and we had looked into whether or not the Southampton Police or the State Police had investigated into the Shinnecock smoke shops. I think I spoke probably on this bill about a month ago or so, and at that time we were told by the State that they had not done an investigation. And Southampton had done several arrests, but they were done quite some time ago and we did not feel that that would necessarily give us a basis to go forward with a lawsuit.

I don't know if anything since has been done. I don't know if the DA's Office has made any contact, we certainly can call the DA's office and check into that as well. And we'll look into whatever we need to look into to report back to you to advise you whether or not it's feasible to move forward with a lawsuit.

**LEG. ALDEN:**

Two sides of it, and you hit on it. One is a criminal investigation, right, because if somebody is selling cigarettes to a minor or something like that, that's a criminal act. The other act, though, is

selling cigarettes without the proper tax stamp on it, so that's a civil crime. .

**CHAIRMAN D'AMARO:**

Right; we don't have jurisdiction on that, though.

**MS. BIZZARRO:**

Right, because we're in Southampton, so that's why we had looked to Southampton as well as the State to see if anything had been done and they -- and at that time they did not.

**LEG. ALDEN:**

Primary jurisdiction is going to be, number one, the Town of Southampton?

**MS. BIZZARRO:**

Southampton, yes.

**LEG. ALDEN:**

Not the State of New York?

**MS. BIZZARRO:**

Correct. I don't know --

**LEG. ALDEN:**

Because it's a State tax stamp that goes on --

**MS. BIZZARRO:**

Yeah, the State would have involvement as well, they just hadn't done anything. I believe they were more focused on the other matter, but I don't know that for sure; you know, maybe they thought they were getting more on that end. I mean, I think a surveillance needs to be done by somebody, somehow.

**LEG. ALDEN:**

What's the department in New York State if you don't feel that someone is collecting the taxes or they're selling cigarettes from North Carolina which don't have the New York State tax stamp on it, or they're selling cigarettes without a tax stamp on it; who in New York State, who has jurisdiction, primary?

**MS. BIZZARRO:**

Well, I don't know personally what that department is, but we did have a contact person, it was a Major Hesch and he had indicated he had not done -- they had not done an investigation.

**LEG. ALDEN:**

That's State Police.

**MS. BIZZARRO:**

Right, but, I mean, he was aware of whatever department would have had to have done the investigation and he said nothing had been done at that time.

**LEG. ALDEN:**

Did we give him a -- did we make a formal complaint to him or request to do an investigation?

**MS. BIZZARRO:**

The County Attorney's Office? No, we have not done anything. We have not looked into this. We have not done an investigation on our own.

**LEG. ALDEN:**

Okay, thanks.

**MS. BIZZARRO:**

Okay?

**CHAIRMAN D'AMARO:**

All right, thank you, Legislator Alden. Was there a motion on this?  
I think there was a motion to approve and a motion to table.

**LEG. ALDEN:**

I'll withdraw my motion to table, I'll just go with your motion.

**MS. ORTIZ:**

You need a second.

**D.P.O. VILORIA-FISHER:**

I'll second the motion.

**CHAIRMAN D'AMARO:**

Okay, thank you. Legislator Alden has withdrawn his motion to table. I've made a motion to approve, seconded by Legislator Nowick. I'll call the vote; all in favor? Any Opposed?

**LEG. ALDEN:**

Abstain.

**CHAIRMAN D'AMARO:**

One abstention, Legislator Alden. The motion carries, ***the legislation is approved (VOTE: 4-0-1-0 Abstention: Legislator Alden).***

***Resolution No. 1007-09 - Requiring Legislative approval to consider the sale of the John F. 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? Motion carries.

**LEG. ALDEN:**

Opposed to tabling.

**CHAIRMAN D'AMARO:**

One opposition and the motion carries. ***Tabled (VOTE: 4-1-0-0 Opposed: Legislator Alden).***

***Resolution 1018-09 - 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. All in favor? Any Opposed? Abstentions? Motion carries.  
***Tabled (VOTE: (VOTE: 5-0-0-0).***

### **Introductory Resolutions**

First is ***Resolution No. 1121-09 - Adopting Local Law No. 2009, a Charter Law to increase Legislative oversight of the RFP process (Romaine).*** It requires a Public Hearing. I'll offer a motion to table.

**LEG. BEEDENBENDER:**

Second.

**CHAIRMAN D'AMARO:**

Seconded. All in favor? Any Opposed? Abstentions? Motion carries.

**Tabled (VOTE: 5-0-0-0).**

***Resolution 1128-09 - Sale of County-owned real estate pursuant to Local Law No. 13-1976 Frank J. Santo and Irene Santo, his wife.***

***(SCTM No. 0902-004.00-02.00-067.000) (County Executive).*** This involves, I believe, a 25 X 120 foot lot. Is Mr. Kent here?

I had a quick question on this.

**LEG. ALDEN:**

There he is. Stepping up, Your Honor.

**CHAIRMAN D'AMARO:**

Good morning, Mr. Kent.

**DIRECTOR KENT:**

Good morning.

**CHAIRMAN D'AMARO:**

Thank you for coming today. Am I right on the dimensions? It's like a narrow lot.

**DIRECTOR KENT:**

If you look at it, it's a small piece of the road. It's the extension of, I believe, Box Tree Road in Quogue and it's selling -- this is from the center line to the north or northwest side of the road.

**CHAIRMAN D'AMARO:**

The successful bidder, though, is lot 2.42.

**DIRECTOR KENT:**

Two four two, so I guess they're using it as a driveway. If you look at the aerial photo, you can see that that will become direct access to the rear of the property.

**CHAIRMAN D'AMARO:**

Okay. All right, because otherwise I was looking at it and we're really selling a parcel that's not behind or really that connected to the successful bidder's parcel, but as a driveway it makes sense.

**DIRECTOR KENT:**

Right. The person that I thought would have bid on it did not bid, the property that's directly adjacent, the Smith's did not bid on it.

**CHAIRMAN D'AMARO:**

Okay.

**LEG. ALDEN:**

Mr. Chair?

**CHAIRMAN D'AMARO:**

Legislator Alden?

**LEG. ALDEN:**

Is this part of the paper road?

**DIRECTOR KENT:**

If it is, it's been abandoned. I believe it was a private -- this portion of the road was privately held and we took it for non-payment of taxes.

**LEG. ALDEN:**

Good. Thanks.

**CHAIRMAN D'AMARO:**

Right. All right, I'll offer a motion to approve. Is there a second?

**LEG. BEEDENBENDER:**

Second.

**CHAIRMAN D'AMARO:**

Second by Legislator Beedenbender. All in favor? Any Opposed? Abstentions? And the motion carries. ***Approved (VOTE: 5-0-0-0).***

***1131-09 - 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 Lillian Gonzales, a/k/a Lillian A. Gonzalez, a/k/a Lillian Gonzales, by Administrator Patricia Gonzales, a/k/a Patricia Gonzalez, f/k/a Patricia Ramon (SCTM No. 0200-925.00-03.00-053.000). (County Executive).*** Got that?

**MS. MAHONEY:**

Yes.

**CHAIRMAN D'AMARO:**

This is a Local Law 16, it is a redemption 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).***

***1135-09 - Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act, Estate of Sid Farber, a/k/a Sidney Farber by Nadia Farber, as Administrator (SCTM No. 0200-973.90-01.00-020.000) (County Executive).*** I'll offer a motion to approve and place on the Consent Calendar.

**LEG. BEEDENBENDER:**

Second.

**CHAIRMAN D'AMARO:**

Seconded.

**LEG. ALDEN:**

As-of-right?

**CHAIRMAN D'AMARO:**

As-of-right. All in favor? Any opposed? Abstentions? Motion carries. ***Approved and placed on***

***the Consent Calendar (VOTE: 5-0-0-0).***

***Resolution 1141-09 - Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act, Ronkonkoma Bowl, Inc., by Eleanor DeBear, President (SCTM No. 0200-688.00-02.00-010.000) (County Executive), this is also a Local Law 16 as-a-matter-of-right. Same motion, same second, same vote. **Approved and placed on the Consent Calendar (VOTE: 5-0-0-0).*****

***1142-09 - Sale of County-owned real estate pursuant to Local Law No. 13-1976 Delson Equities Corp (SCTM No. 0200-960.00-02.00-043.000) (County Executive).*** This is a parcel located in Brookhaven, sold to an adjoining owner for \$5,500. Mr. Kent, it's a 50 X 100. Just would this be covered by the new Workforce Housing Law?

**DIRECTOR KENT:**

Yes, it would. And I went to some length to provide you with copies of aerial photos. I did a character of the community analysis, and in looking at it, the adjoining properties are developed on lots that have either 70, 80 or 90 feet of road frontage. This is along a paper street and a row of unimproved, vacant, residential land.

So in looking at the close-up view which I attached, hopefully you have that aerial photo attached, I put road frontages on the aerial photo. And then if you look at the next page, there's even a larger -- a more -- the best way to describe it is I zoomed out on the neighborhood and you can see the lots across the street are even on -- have even more road frontage.

**CHAIRMAN D'AMARO:**

So although it meets the strict criteria, 50 X 100, 5,000 square feet under the new Workforce Housing Law, in your discretionary authority, you took a look at the neighborhood and you feel that this is not really conforming to the character of the neighborhood.

**DIRECTOR KENT:**

No, I don't believe it conforms to the character of the neighborhood. And the adjoining property owner that purchased it, it appears that they also own a 50 X 100 next door and it looks like they'll probably develop it as a 100 X 100.

**CHAIRMAN D'AMARO:**

So, in fact, that would be more conforming to the 70's, 80's and 90's that you have right now.

**DIRECTOR KENT:**

That's correct.

**CHAIRMAN D'AMARO:**

All right, I appreciate that you made that analysis. Thank you. I'll offer a motion to approve.

**LEG. BEEDENBENDER:**

Second.

**CHAIRMAN D'AMARO:**

Seconded by Legislator Beedenbender. All in favor? Any opposed? Abstentions? Motion carries, ***approved (VOTE: 5-0-0-0).***

**LEG. ALDEN:**

Mr. Chair?

**CHAIRMAN D'AMARO:**

Legislator Alden?

**LEG. ALDEN:**

Before Mr. Kent goes, are we going to be seeing any resolutions on those properties that could sell for a larger amount of money to adjoining owners. That was approved, wasn't it?

**DIRECTOR KENT:**

We will be seeing -- we have a couple in the pipeline, but we're waiting for the money now. You're talking about the properties where we could direct-sale them, but the appraisal came in at greater than 20 and less than 30?

**LEG. ALDEN:**

Right.

**DIRECTOR KENT:**

There will be a little bit of a time on that, because we didn't even offer those. So now we have to offer them to the adjoining owners.

We have to get the money -- the bids in, the money received before the resolutions would come forward.

**LEG. ALDEN:**

Okay. What kind of time line? Because I have a constituent that's --

**DIRECTOR KENT:**

We're probably looking at three months.

**LEG. ALDEN:**

About three months?

**DIRECTOR KENT:**

I think it's from -- we didn't really start doing it until the Local Law is filed in Albany, that's when it becomes effective. And I have made a request, I haven't recently, but about a month ago I asked the Clerk what the time timetable was and they said it hadn't been filed yet but it would be.

**LEG. ALDEN:**

Oh, okay. So that's the hold up.

**DIRECTOR KENT:**

So I'll make that inquiry again as to the timing of the effective date of the Local Law. It becomes effective when it gets filed in Albany.

**LEG. ALDEN:**

What's your extension?

**DIRECTOR KENT:**

My phone number? 853-5928.

**LEG. ALDEN:**

Good. Thanks.

**CHAIRMAN D'AMARO:**

All right, thank you, Legislator Alden.

Next is Resolution ***No. 1158-09 - Authorizing the extension of a lease of County premises located at the Honor Farm in the Town of Brookhaven, NY, for use by Long Island lighting Company D/B/A LIPA.***

***(County Executive)***. This is property used as an electrical substation, it is a lease renewal through October of 2025, with revenue to the County of 17,500 a year with a 3% escalation clause.

And this lease, just for the committee's information, has been approved by the Space Management Steering Committee of which I am a member. I'll offer a motion to approve.

**LEG. BEEDENBENDER:**

Second.

**CHAIRMAN D'AMARO:**

Seconded by Legislator Beedenbender. All in favor? Any opposed? Abstentions? Motion carries. ***Approved (VOTE: 5-0-0-0).***

***Next is Resolution No. 1167-09 - Approving payment to General Code Publishers for Administrative Code pages (Presiding Officer Lindsay).*** This is an update to our Administrative Code here in the County for \$2,400. I'll offer a motion to approve and place on the Consent Calendar.

**D.P.O. VILORIA-FISHER:**

Second.

**CHAIRMAN D'AMARO:**

Seconded by Legislator Viloría-Fisher. All in favor? Any opposed? Abstentions? Motion carries. ***Approved and placed on the Consent Calendar (VOTE: 5-0-0-0).***

Next is ***Resolution 1168-09 - Approving payment to General Code Publishers for Administrative Code pages (Presiding Officer Lindsay).*** Similar to the prior resolution, it's a Code update for \$5,000. Same motion?

**D.P.O. VILORIA-FISHER:**

Same.

**CHAIRMAN D'AMARO:**

Same second, same vote; thank you. ***Approved and placed on the Consent Calendar (VOTE: 5-0-0-0).***

***Resolution 1195-09 - Authorizing certain technical corrections to the 2009 Adopted Operating Budget for the Family Counseling Services (Schneiderman).*** I believe this change is a unit number which would move the funds into a chemical dependency program. I'll offer a motion to approve.

**D.P.O. VILORIA-FISHER:**

Second.

**CHAIRMAN D'AMARO:**

Seconded by Legislator viloria-Fisher. Legislator Alden?

**LEG. ALDEN:**

And this is Omnibus money?

**D.P.O. VILORIA-FISHER:**

Uh-huh.

**CHAIRMAN D'AMARO:**

Yes.

**LEG. ALDEN:**

Okay.

**CHAIRMAN D'AMARO:**

Okay, thank you, sir. I'll call the vote; all in favor? Any opposed? Abstentions? Motion carries. *Approved (VOTE: 5-0-0-0).*

Next is *1198-09 - Authorizing the lease of premises located at 3500 Sunrise Highway, Great River, NY, for use by the Department of Social Services (County Executive).* This is a lease for additional space that the County needs to staff our new Medicaid Examiners. I believe the cost of those examiners is a hundred percent reimbursed, this would provide the new office space for them.

The Space Management Steering Committee looked at several locations and had lengthy discussions over the various locations that were available. This, I believe, turned out to be the cheapest, I believe there's an extended period of abatement of rent as well giving the County enough time to get the premises improved to house the new employees.

Is there anyone here who could speak to the lease specifically? Oh, Basia. Good morning. And while you're coming up, I'm just going to make a motion to approve for discussion purposes.

**LEG. BEEDENBENDER:**

Second.

**CHAIRMAN D'AMARO:**

Legislator Beedenbender will second. Legislator Alden, did you have a question?

**LEG. ALDEN:**

Yes.

**CHAIRMAN D'AMARO:**

Go ahead.

**LEG. ALDEN:**

You want to go first?

**CHAIRMAN D'AMARO:**

No, I'm fine.

**LEG. ALDEN:**

So comparatively, this is less expensive for us than other locations?

**MS. BRADDISH:**

Absolutely. In addition --

**CHAIRMAN D'AMARO:**

Just turn on the mike.

**MS. BRADDISH:**

It's -- I want to start, we do have Brian Lee, the broker who assisted us in this. But I know that there's been some questions about not all of the leases going through the RFP process, so just as a little background.

In this instance we were very time pressured. However, we had advertised and actually had almost no responses except for a facility that we were vacating who the landlord wanted to work with us. And using the broker, they actually brought, I believe, over another six sites to us from landlords who never responded to the advertisement, so that was really significant.

And in addition, this is what they produced for the Space Management Steering Committee, just so you can see. It was a very in-depth analysis which included spread sheets, cost analysis, per

employee cost over the term of the lease. So that we really went into it with an extensive analysis of the costs associated with the lease.

**LEG. ALDEN:**

The broker prepared that for us?

**MS. BRADDISH:**

Yes.

**LEG. ALDEN:**

Okay.

**MS. BRADDISH:**

In this instance, this landlord has agreed to, I think it's a seven year lease. However, there is a cancellation provision in the event that the funding is terminated at any time during the lease and the landlord consented to that.

This property is located in the New York Empire Zone which means there are tax benefits that, although we're the County, they are essentially transferred to us in the lease, so that's a benefit. The landlord is allowing us to move in in increments and during that time period is covering the cost of that, of leasing the space. They're preparing the property as turn-key, which means the work stations are being prepared. And they've also consented to a provision where we -- upon full occupancy, the first twelve months are rent-free.

**LEG. ALDEN:**

How much of the rent is Suffolk County reimbursed?

**MS. BRADDISH:**

I believe it's a hundred percent.

**MR. REINHEIMER:**

Yes.

**MS. BRADDISH:**

Yes. And that's why we added the cancellation provision, so that in the event that --

**LEG. ALDEN:**

And what type of an office was Suffolk County looking for?  
Not something that the public was going to go to, right?

**MS. BRADDISH:**

Right, this is back -- back office administrative.

**LEG. ALDEN:**

All right, I just want that on the record.

**MS. BRADDISH:**

Yes. I don't know if you know where the facility is, it's the old --  
I think it's the old Grumman at the Sunrise Highway.

**LEG. ALDEN:**

I used to chase cows in there. Okay, go ahead.

**CHAIRMAN D'AMARO:**

That was before electricity.

**D.P.O. VILORIA-FISHER:**

Were you tipping them?

**LEG. ALDEN:**

That was a working milk farm, actually; absolutely. So it's really -- it's not appropriate and it wasn't evaluated for public access to this as a back room -- back room is not a bad connotation, right? And it's a support service type of facility.

**MS. BRADDISH:**

Correct.

**LEG. ALDEN:**

And it --

**MS. BRADDISH:**

Public access was not a consideration for this site.

**LEG. ALDEN:**

And it couldn't be converted to public access?

**MS. BRADDISH:**

Um --

**LEG. ALDEN:**

We have no -- or do we have any intention of possibly converting it for public access?

**MS. BRADDISH:**

Well, they have a lot of available space at the site and -- you know, DPW has actually some administrative office space leases that will be coming up in the next few years.

**LEG. ALDEN:**

Administrative office I'm not really --

**MS. BRADDISH:**

Right.

**LEG. ALDEN:**

I'm not worried about, and support services I'm not really worried about.

**MS. BRADDISH:**

Yes. No, we didn't --

**LEG. ALDEN:**

I don't think the site lends itself to public access.

**MS. BRADDISH:**

Yeah. At this point, that was not what we were looking for.

**LEG. ALDEN:**

If we sign this lease, do we have the ability to change the use of it?

**MS. BRADDISH:**

Yeah, we almost always include that for all governmental purposes, allowable under the zoning as well. So health facilities can't go just anywhere.

**LEG. ALDEN:**

Just to be on the record, then, I'm totally opposed to the use of this other than for what you've brought forward today.

**MS. BRADDISH:**

For administrative offices, yeah.

**LEG. ALDEN:**

Right.

**CHAIRMAN D'AMARO:**

Okay. And I don't think back -- what did you say, back room? I think that's only a bad word if you're making deals and you're in politics.

**LEG. ALDEN:**

And the smoke is going, right.

**CHAIRMAN D'AMARO:**

And the smoke is -- someone's smoking a cigar. All right, thank you very much for that testimony. Just to add, you know, again, we did vet this extensively at the Space Management level as well. Legislator Alden, many of the concerns that you raised here today were also raised at that level, so I appreciate that.

**LEG. ALDEN:**

Thank you.

**CHAIRMAN D'AMARO:**

All right, there is a motion pending to approve; I'll call the vote. All in favor? Any Opposed? Abstentions? The motion carries.  
***Approved (VOTE: 5-0-0-0).***

That concludes the public portion. I'll offer a motion to go into executive session.

**CHAIRMAN LAVALLE:**

Second.

**MR. BRAND:**

For what reasons?

**CHAIRMAN D'AMARO:**

For the purposes -- let me just find my letter -- of considering litigation, possible settlement of litigation.

**MR. NOLAN:**

You need a motion and a second.

**CHAIRMAN D'AMARO:**

I made the motion, seconded by Legislator Alden. All in favor? Any opposed? Abstentions? Okay, we'll now retire into executive session. We'll be back on the record momentarily. Thank you.

***(\*EXECUTIVE SESSION: 11:30 AM - 12:12 PM\*)***

**CHAIRMAN D'AMARO:**

Okay, back on the record. Just to report back from Executive Session, in the case of --

**MR. LITTELL:**

You have no quorum.

**CHAIRMAN D'AMARO:**

I don't think I need one. I don't think I need one?

**MR. LITTELL:**

You don't?

**CHAIRMAN D'AMARO:**

I don't think so. I'm not taking a vote.

**LEG. BEEDENBENDER:**

You got one.

**CHAIRMAN D'AMARO:**

In the case of Jennifer {Mangy} v. County of Suffolk, no action was taken in Executive Session and discussions are continuing.

I'll offer a motion to adjourn.

**LEG. ALDEN:**

Second.

**CHAIRMAN D'AMARO:**

Seconded by Legislator Alden. All in favor? Opposed? Abstentions? Thank you.

*(\*The meeting was adjourned at 12:13 P.M. \*)*

*{ } - Denotes Spelled Phonetically*