

WAYS AND MEANS
COMMITTEE
of the
SUFFOLK COUNTY LEGISLATURE
Minutes

A regular meeting of the Ways and Means Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, Veterans Memorial Highway, Smithtown, New York, on Wednesday, June 2, 2010.

MEMBERS PRESENT:

Legislator Lou D'Amaro - Chairman
Legislator Jon Cooper - Vice-Chairman
Legislator Kate Browning
Legislator John Kennedy
Legislator Lynne Nowick

ALSO IN ATTENDANCE:

George Nolan - Counsel to the Legislature
Gail Vizzini - Director - Budget Review Office
Robert Lipp - Deputy Director - Budget Review Office
Renee Ortiz - Chief Deputy Clerk of the Legislature
Ben Zwirn - Deputy County Executive
Pam Greene - Director - Department of Real Estate
Lynne Bizzarro - County Attorney's Office
Paul Perillie - Aide to Majority Caucus
Linda Bay - Aide to Minority Caucus
Justin Littell - Aide to Legislator D'Amaro
Brian Beedenbender - Town of Brookhaven
Legislator DuWayne Gregory - 15th Legislative District
Legislator Rick Montano - 9th Legislative District
Legislator William Lindsay - PO of the SC Legislature
Bob Martinez - Aide to Legislator Montano
Allen Kovesdy - County Executive's Budget Office
Gilbert Anderson - Commissioner SC DPW
Carolyn James - Press Club of Long Island
Judie Gorenstein - League of Women Voters
Dot Kerrigan - AME
All other interested parties

MINUTES TAKEN BY:

Donna Catalano- Court Stenographer

(*THE MEETING WAS CALLED TO ORDER AT 10:16 A.M.*)

CHAIRMAN D'AMARO:

Okay. Ladies and Gentlemen, if we can all take a seat, I'd appreciate that. Welcome to the Ways and Means Committee of the Suffolk County Legislature. We're going to start the committee meeting at this time. I'd ask everyone to please rise and join in the Pledge of Allegiance led by our Vice-Chair Legislator Jon Cooper.

SALUTATION

All right. A couple of items this morning before we get to the agenda. If you would like to address the committee this morning and haven't already done so, please fill out one the yellow cards and hand it to the Clerk at the front table, and we'll be happy to hear you during the public portion. Also, for the committee's information, there will be an Executive Session immediately following the public portion of our meeting this morning.

And we have received -- the committee has received some correspondence which I will read into the record at this time. First is a statement that's been issued by Carolyn James, Press Club of Long Island, past president; second is a letter from the Suffolk County Ethics Commission dated May 27th, 2010, and that letter signed by Thomas G. Nolan, the Chairman of the Ethics Commission as well as members Michael C. Kennedy and Joseph A. Laria, both Commissioners of the Ethics Commission.

I've also received a copy of correspondence from Long Island Cares, Incorporated. It's dated June 1, 2010, and it's signed by Michael W. {Haynes}, Coordinator of Government Affairs and Public Policy. That will be included in our record as well. And finally, the committee has received this morning a memorandum from the Department of Law, Christine Malafi, County Attorney, addressing Introductory Resolution 1372 of 2010, which involves the County instituting a lawsuit in opposition to the MTA payroll tax. Those items will all be included in our record.

With that said, I'd like to go to Section III of our agenda, which is public comments and call the first. Pleased to have with us this morning one of our former colleagues, Legislator -- former Legislator Brian Beedenbender. Mr. Beedenbender, welcome. Please come on up.

LEG. NOWICK:

Honorable.

MR. BEEDENBENDER:

It's not the Honorable, Lynne, but thank you. Good morning, everybody. I'm here before you to talk about Project Sunlight, IR 1003, I believe. And just for a little bit of history, this is something that what while I was here, I had championed and worked pretty hard with. I know that there was a lot of questions about this last year when we were first passing the resolution to start the feasibility study, and then we passed the feasibility with 17 votes, one not present. And we got the study back from IT, from Commissioner Quinn. We had a lot of questions at the time. And basically what we arrived at was it was going to cost us \$110,000 in software and hardware costs to develop this website which would allow the public to go online, see how we spend our money, see who we are taking money from and if there's any correlation between the two.

When we put this in the Capital Budget, the Capital Budget was adopted with 17 votes, one not present. So this wasn't vetoed by the County Executive either. I did check. So this was passed with almost unanimous consent of the Legislature. So I guess we are here today -- this has kind of been tabled for a while. And I just wanted to remind everybody that the point of this project was to allow the public to come and look at the website and be able to see how we spend our money.

Now, I know we've been talking about the budget a lot lately, both at the Town of Brookhaven and you guys have continued to talk about it here at the Legislature. But in difficult budget times, I in

my personal opinion, think it's even more important that the public can take a look and see how we're spending their money. I hear so much about Tea Parties and how -- you know, the government -- the government shouldn't hide anything. And I think -- you know, not that I'm a Tea Party person, but the idea that the government can always show the people what they are doing I think is important.

So, you know, I saw a press release the other day that blamed this Legislature for pretty much everything including the oil spill. And in that press release, there was a whole paragraph that stated, you know, the County -- the sales tax numbers are falling, the county has no money and it's a terrible situation. The one thing that I didn't see in that press release was any note that this Legislature lowered irresponsible sales tax numbers or the number would be even worse.

So what am I suggesting? I'm suggesting that the Legislature should get a little credit for some of that money. And if the numbers that are being suggested which I don't think -- which I think are a little higher than really exist are true, get a little credit for that money and use that money to pay for this program, because I believe it's probably close to \$30 million difference between what was proposed and what the Legislature eventually did.

So this is an important program. And I think that the \$110,000 in the budget allows IT to spend a year to develop the program. There may be some assistance from the Attorney General through Legislator D'Amaro's efforts. So I encourage you -- you know, 17 Legislators here voted for it. And I have personally contacted my Legislator to ask him to be the 18th. As I am sure you can imagine, that was a wonderful conversation. So I would ask that everybody support this.

I know that there's been some suggestions by the administration that we can't afford this at this time. But I'll just ask you one last thing, because I can hear the beep even though Lou is trying to muffle it. Ask yourself why last year the feasibility bill was signed. Ask yourself why in the Capital Budget when everything was vetoed, this wasn't vetoed. And then ask yourself what changed between then and now. If the budget is what you are concerned about, then I would say think of the all the man hours and work that could be saved responding to FOIL requests from the media about the gubernatorial campaign if this website was just up. If your concern is the budget, I would ask how could you say I'm going to such a good guardian of your money that I'm not even going to vote for a project to let you see what I do with your money? So I would just ask for you to support this. Don't let it die in committee. Let it move forward. This is a good project for Suffolk County. So, thank you.

CHAIRMAN D'AMARO:

Thank you, Brian. Before you go, if you have a minute for us. First thing, we're going to be taking this bill up first on the agenda, so if you have the time to stick around that would be great if we have anymore questions.

But I wanted to ask you because it's very unusual, of course, that we have someone available to come and speak on the bill who actually sponsored the bill. This whole Project Sunlight, which is being done on the State level is similar to what's being proposed here, is supposed to give easy access to government information that is scattered right now and difficult for people to kind of cull in one place and connect the dots from A to B to see what their government officials are doing when it comes to contracts, campaign contributions, campaign finance and things like that.

I sat on the committee with you when we talked about this. We had extensive debate and discussion over the bill, especially with the Department of Information Technology. And I wonder if you can just inform the committee a little bit about that chronology about how you worked with IT. And I know at some point we put off or pushed forward or back the timeline to actually implement the bill for budgetary reasons. Could you speak to that a little bit.

MR. BEEDENBENDER:

Well, in the report -- I have a copy. I think everybody should -- well, most of you should still have

the copy and the Clerk should have one that IT put together. And in that report, there's a listing of the meetings that we had. But the essential history of it was I wanted to get this right, so myself and Adam Santiago who now works for the Presiding Officer had several meetings with IT to discuss how we move this forward. We looked at it, we had them look at the State website. The people from the Attorney General's Office were nice enough to meet with IT on at least one, if not two occasions, to try to explain how their program worked. And basically in the end, we came up with -- this is what the cost of the hardware is.

And I wanted to do things on a much more aggressive timetable, but Commissioner Quinn at the meeting said had said, "Well, if we do this outside, it's going to cost us a lot of money. If you want me to do this in house with my people, I'm going to need a year." So I said, "Well, that's reasonable." We can't afford the other. I don't want to spend 300,000, we could do for 100. So the discussion I had at the time was I'll get -- take the fight to put it in the Capital Budget, and I was successful at the time. And once it's in there, come January, if I'm still here, I will put the Capital Budget resolution in right away, we'll pass it, and then you'll have a year to work on the project. If it takes a little more, it takes a little more.

But I guess where we are now is that -- you know, I read the transcript of the meeting, the first committee meeting. And there was a suggestion of \$300,000 plus \$100,000 a year. From what I can gather, that \$300,000 number referred to if we did it outside. And the carrying costs, I guess for lack of a better way to describe it, was basically a computation of the salary of the people that would do it that are already here.

CHAIRMAN D'AMARO:

So at the time that the bill was debated and initially passed, cost was a factor, and you addressed that and you went from, if I understand what you're saying, 300,000 if we contracted outside help to develop the website, but based on your discussions with department, it was decided to put out of the project for several months but with the understanding that it could done a lot cheaper inhouse. And that's what we're looking at today to appropriate the funds to do it inhouse, the 110,000.

MR. BEEDENBENDER:

That's correct. And we were hoping that if everything went well, and you know, not everything goes well, that we could have the project unveiled in January of '11 or somewhere around there, giving an entire year to work on it and iron out the kinks.

CHAIRMAN D'AMARO:

Okay. Legislator Nowick.

LEG. NOWICK:

Did I understand that we passed this 17 -- I don't know if somebody wasn't here or just 17 of us passed it -- and then what happened? We passed it in a different form, and now it's back before us? I don't understand why it's back before us if we passed it.

MR. BEEDENBENDER:

Legislator, at the time, the Legislature a feasibility study, which --

LEG. NOWICK:

It's a feasibility study.

MR. BEEDENBENDER:

-- which produced this report.

LEG. NOWICK:

And this is the actual implementation.

MR. BEEDENBENDER:

And the report said we needed \$110,000 in hardware and software in order for them to develop this website. So in the Capital Budget -- when the Legislature adopted the Capital Budget last year, there was \$110,000 included in this for this program. So Legislator D'Amaro was kind enough in January to introduce this piece of legislation to appropriate the money in the Capital Budget, which would allow this to go forward. I believe it was passed out of committee, and then it was on the floor for a cycle or two, then it came back to committee, and we find ourself here today.

LEG. NOWICK:

Thank you.

CHAIRMAN D'AMARO:

Right. I had, on the floor of the Legislature, made the motion to recommit to committee so we could have some more discussion on it, and that's why we are here today. So the Presiding Officer would like to ask a question.

P.O. LINDSAY:

Thanks, Brian. Thanks for coming down and helping us out with this. It's good to see your passion again.

MR. BEEDENBENDER:

I'm just waiting for Ben to say something so I can really get fired up.

P.O. LINDSAY:

One of the things that's been portrayed is if we go forward with this, when the State does there's this will be just a duplication. You want to comment on that.

MR. BEEDENBENDER:

Well, there have been some changes to the way the State is reporting campaign finance stuff. So, you know, the project will be a little bit different than originally envisioned. But campaign finance stuff wasn't the only portion of this project. As all of us know, you know, you can go to the Suffolk County website right now or the State website and see all the campaign finance. But what it was more about and what the Attorney General's original focus was on, and he added all this campaign finance stuff in later, it was a focus on these are the people that the State does business with. These are the people -- and at the State level it's even more complicated -- all the people who have met with State Legislators. And then in the same box, you can link how did they vote on the bill that they're asking about.

P.O. LINDSAY:

But our system here won't include that on the State website. We will have a local website just for the same connections that you are looking for.

MR. BEEDENBENDER:

Exactly. And I think -- you know, when I think back over the past year of this Legislature -- actually year and a half, this last six months has been kind of interesting -- there have been many, many bills sponsored by Republicans, Democrats, Independents and whatever else is here now.

P.O. LINDSAY:

Working Families.

MR. BEEDENBENDER:

Working Families. I'm sorry, Kate. To get more information.

Mr. Presiding Officer, you sponsored a bill to put the Legislature on the RFP Waiver Committee. That is because you said you felt -- and the Legislature agreed with you -- the Legislature should have more information about how the County's money is being spent. There's been numerous pieces of legislation; I think Legislator Montano had one, Legislator Schneiderman has one now, I think,

Legislator Cooper had one at one point that would give the Legislature more information and more input into this entire process.

So I think this, while not the original intent, would certainly be part of that, not only just the Legislature, but the public. And if the Legislature is having difficulty getting this information, imagine how difficult it would be for the public to get it.

CHAIRMAN D'AMARO:

Right. And just to piggyback on that, the State system, which would be similar to what we're trying to do here in Suffolk County, is focusing, as Legislator Beedenbender said --

MR. BEEDENBENDER:

Former.

CHAIRMAN D'AMARO:

Former Legislator Beedenbender. Not only campaign finance, but lobbying agency, contracts, member items, legislation, votes on legislation, donors, contractors doing business with Suffolk County. So it would pull all of that information specific to Suffolk onto a user friendly -- hopefully user-friendly website. None of that information which relates to Suffolk County would be available on the Attorney General's -- the State site that's presently up and running.

So there's really no overlap other than the campaign finances aspect of what we would do here in Suffolk, but that's an integral part of the disclosure process because you want to hook and link the campaign finance to all the other areas that would be disclosed on the website.

And that's the direction we're trying to move; to make it user-friendly, take some information that's really scattered and very difficult to retrieve, and make it easily accessible too ur residents in Suffolk County for Suffolk County-specific information. I think that would be very a useful cause, especially in today's day and age when a little more disclosure and transparency does not hurt. So are there any other questions. No? All right. Legislator Beedenbender, thank you very much for coming down.

MR. BEEDENBENDER:

Former.

CHAIRMAN D'AMARO:

Former Legislator Beedenbender, thank you very much for coming down. Again, I invite you to just stay a few moments. We'll get to the bill shortly. Thank you.

CHAIRMAN D'AMARO:

Okay. Next speaker is Carolyn James representing the Press Club of Long Island on Resolution number 1584. Ms. James, good morning and welcome. You have to hold the button down continuously on that microphone. And please, go ahead, you have three minutes to address the committee.

MS. JAMES:

Thank you. Mr. Chairman, Members of the Committee, Legislators Gregory and Montano, thank you for this opportunity this morning. My name is Carolyn James. I'm here on behalf of the Press Club of Long Island, a chapter of the National Society of Professional Journalists.

I'm here concerning Introductory Resolution 1584, and I thank you for your time. The resolution as far as I understand it seeks to remove the weekly newspaper, the Smithtown Messenger, from the County's list of official newspapers, thereby, removing it from the list of newspapers that receive County legal advertising. The move by lawmakers DuWayne Gregory and Ricardo Montano is a reaction to the newspaper's decision to run an editorial cartoon that many, including the lawmakers found to be offensive, racist, filled with, I quote, a hatred that cannot be tolerated.

In part, it depicted President Barack Obama and the First Lady as characters from the sitcom Sanford and Son. Even the newspaper's publisher, Philip Sciarello, commented that he was mindful that the satire seemed to some to be in poor taste.

Before I raise our point, I want to say that we respect the opinions and sentiments of Legislators Gregory and Montano as well as those of many others who were offended by the cartoon. We are not here to diminish nor dismiss their points of view. They have raised legitimate concerns worthy of discussion and debate. This is not the issue, however.

What we are concerned about is a move by an official government body to apply economic sanctions on the basis what a newspaper prints. I will not be so presumptuous as to stand before you today and lecture about our First Amendment and its pivotal role in maintaining our free and democratic society. But clearly, when elected officials, who in the name of protecting the public from what they determine to be offensive, critical, unfair, objectionable or racially, ethnically, sexually or socially unacceptable commentary tread upon that amendment, they raise a grave concern.

There are some, even within our own industry, who defined this controversy simply as one in which a consumer, in this case, Suffolk County, is exercising its right to advertisers where and when it pleases. I would respond that government, unlike a consumer operating in the free marketplace, is bound by the limits of the First Amendment. Others point out, and rightfully so, that there have been elected and public officials at every level of government over decades who have used legal advertising to newspapers both at carrots and a stick. We are not so naive to think that this doesn't happen.

But recognizing the reality that there are some who have been misguided and use their office for personal or political gain, does not mean that we sanction it, nor that we consider this past behavior to be a precedent to perpetuate that wrong, however innocent or noble the intentions might be. Is a newspaper guaranteed rights under the First Amendment ever accountable for its actions, its broadcast, its publication? Absolutely and without question. Rights and privileges never come without responsibility.

But the press is accountable to the people, not the politicians and certainly not government. People who oppose the newspaper's position and its point of view have the power to impose their own economic sanctions; they can cancel their subscriptions, they can bypass the newspaper on the newsstand, they can pull their advertising, they can picket the corporate offices, and they can use the newspaper's own editorial pages to express their outrage, their disgust and their anger. That's how the system should work. And we're here today to ask you to see that it does and that this resolution be denied. I thank you for your time and your consideration.

CHAIRMAN D'AMARO:

Thank you, Ms. James for your statement. A copy will also be included in our record.

MS. JAMES:

Thank you.

CHAIRMAN D'AMARO:

Okay. The next person to address the committee this morning is Judy Gorenstein. Ms. Gorenstein is here this morning to address IR 1003 of 2010. Good morning and welcome.

MS. GORENSTEIN:

Good morning, Chairman, and Members of the Committee. I am Judy Gorenstein, Voter Service Chairperson of the League of Women Voters of Suffolk County, President of the League of Women Voters of Huntington, and I also have the League of Huntington's phone in my house. So I receive numerous calls with numerous people frustrated and complaining about what's going on in government.

However, even if I was not a member of the League, I certainly would still be aware of the dissatisfaction and lack of trust that people have in our government and our elected public officials. One needs only to listen to the news, read a paper or hear people's conversations to note the mistrust that exists which extends from national to local to state politics. However, there is a ray of hope, a glimmer of sunshine out of Albany with Project Sunlight, a website that offers transparency with its easy access to information on individual elected officials, campaign finance activities, legislations, lobbyists, etcetera.

Suffolk County now has the opportunity to have a similar website, and you have the opportunity to approve the funding for it. The cost for this is estimate at \$110,000 with a chance for the amount to be less if there's a licensing agreement with the State. Although even \$110,000 which could be done through Suffolk County bonds, is not a very large expense, I am aware that at this time of looming deficits everywhere, there is a need to show fiscal restraint. Some might ask how could this project with its cost be approved now. I ask how can it not. At a time when there is so much misinformation and disinformation spread on blogs, on Twitter on Facebook, how can Suffolk County not have a website where people can go to easily find out the facts.

The League of Women Voters supports transparency in government. The League of Women Voters encourages active and informed participation in government. The League of Women voters of Suffolk County supported and was so pleased when Suffolk County became the first county in the state to pass the legislation approving an independent nonpartisan redistricting commission. Rather than elected officials choosing their voters, the voters would be able to choose their elected officials. Let us make sure that these same voters will be able to assess factual information about their County and representatives by approving this appropriation. Thank you.

CHAIRMAN D'AMARO:

Okay. Thank you, Ms. Gorenstein. The next speaker is Commissioner of Public Works, Gilbert Anderson. Gil, good morning and welcome.

COMMISSIONER ANDERSON:

Good morning. Thank you. Good, Legislators. I'd like to take a few minutes to discuss IR 1408 which adopts a Charter Law to increase Legislative oversight of the RFP process and is before you this morning.

The concerns of the Department of Public Works are that the revisions proposed to the County Charter will make the contractual process burdensome and cause unneeded delays to the many projects that we currently have planned and are already underway. At present, Article 30 of the Suffolk County Charter provides guidance as to when legislative approval is required for RFPs. Specifically, oversight is required when a sole bidder is awarded a contract.

The legislation before you would require all contracts, contract amendments, contract extensions or contract modifications in excess of \$50,000 to receive legislative approval. Most of our amendments and modifications and such are above that limit. The Department of Public Works uses Requests for Proposals continuously to procure services of consulting engineers and architects as well as other specialty fields pertinent to the works to be undertaken.

There are two processes by which we receive proposals from consultants. The first is to let the work through our Purchasing Department, making the process open to the public to receive proposals from anyone in the public that wants to vie for the work. The second avenue is to obtain a waiver from the public letting process and request proposals from a select number of these specialists. Both avenues already receive legislative oversight. All Legislators are notified of contracts processed through our Purchasing Department. Similarly, both the Presiding Officer and a representative of the County Executive sit on the Waiver Request Committee.

As you are aware, the legislation before you would require legislative approval be obtained prior to

any execution, amendment, extension or modification of a contract. The procurement process that DPW uses to award a contract -- the procurement process that DPW uses awards a contract to the proposer who provides evidence of being best suited specialist for the task at hand. This in combination with a review of the overall estimate fees is used to determine who gets the contract with the County.

Most contracts are awarded and are multi-phased having a number of preliminary, final and construction phases within the development process. We normally execute a contract based on the first phase of the project with anticipation of contract modifications to occur in subsequent phases as we progress with the project. This is the most efficient way to ensure control over cost and the scope of the work of the contract that generally changes.

Based on the number of projects that the department has in development on an annual basis as well as the number of times we need to modify a contract to meet the unknown, we have the potential to come back to the well to seek approval more than a few times during the course of a contract. Given the amount of time that is required under the legislative process, projects will likely be delayed in terms of years, months rather than weeks. Delays would likely incur increased costs as well as projects become protracted. The legislation would require processing similar to of our neighbors to the west in Nassau County. I can tell you from firsthand experience that their contract is notoriously slow even with the limited work they are doing.

In conclusion, the current RFP process has significant legislative oversight. Besides the Capital Program where planning funds are approved and the current procurement process, Legislators are involved in project development such as visioning and should be aware of cost. While we would do whatever is required, I will warn that any further restrictions on our abilities to complete our task will only result in further delays to the massive workload we presently have to deal with. Thank you for your time. Have a great day.

CHAIRMAN D'AMARO:

Thank you, Commissioner. Just note for the record that Legislator Kennedy has contacted us, and he's been delayed due to an ongoing constituent matter that he is working on in his district and as such has an excused absence from today's committee proceedings, although he is trying to make it down here. Is there anyone else who would like to address the committee this morning during our public portion? For the record, there's no response.

That said, we will turn to Section Five, Tabled Resolutions, and I will call the first before the committee.

Resolution 1003, Appropriating funds in connection with the implementation of a County database for taxpayer access (CP 1650). (D'Amaro).

Joining us this morning also is the director -- Commissioner of Information Technology, Mr. Quinn. If you wouldn't mind coming up to the committee this morning if there are any questions. Good morning. Thanks for coming down.

COMMISSIONER QUINN:

Thank you.

CHAIRMAN D'AMARO:

There was some testimony from Legislator Beedenbender. Initially, I think you were here during that testimony, he addressed the cost issue. Is there anything you can add to that? You know, is the department prepared to do this? Are the cost numbers we are hearing this morning accurate? And what is your view on that?

COMMISSIONER QUINN:

Actually we did present a proposal last, I think, about the middle of last summer to this committee

regarding this project. The department is looking forward to moving ahead with the project. You know, the issue is funding for the project. And I think your initial request is more than adequate to purchase the initial equipment. I think we can do a little better on search engine. We originally were looking at the Attorney General's search engine. We have been able to find something else that would be just as suitable for less cost. And I think we should still pursue the Attorney General to see if we could potentially somehow either license their site in the future or somehow share technologies together.

I mean the functionality that we are providing will be local to Suffolk County with campaign finance being supported by the State and Suffolk County, but all the other functionality is specific to the County. But with that being said, you know, if there was a way somewhere down the road for both of us to get together on a project and do it in a bigger fashion, that would be wonderful. But at the moment, I think we should move ahead with what was presented last summer.

CHAIRMAN D'AMARO:

So moving ahead would be to appropriate the funding in this bill, which I believe is \$110,000. And what would that enable your department to do in the process?

COMMISSIONER QUINN:

Basically, we could buy all the infrastructure for the website; the software, the hardware, any requirements to make it similar to the New York State site, which was some learning video tutorials, web design, all that would be done inhouse. So we would not have any outside personnel costs to complete the project.

CHAIRMAN D'AMARO:

So we're doing it completely inhouse. And I believe when the bill was initially proposed or the concept was initially proposed in your discussions with Legislator Beedenbender, he said that you needed more time -- I think I was on that committee as well -- you needed more time because the department had some other projects that were going on, but your preference was to do inhouse if we could delay it to this point. You'd be able to fit it into the schedule given the current workforce you have right now; is that correct?

MR. QUINN:

That's correct.

CHAIRMAN D'AMARO:

Okay. Are there any questions of the Commissioner on this bill? Okay. Mr. Zwirn.

MR. ZWIRN:

I just came up here to aggravate former Legislator Brian Beedenbender.

CHAIRMAN D'AMARO:

Is it working, Brian?

MR. BEEDENBENDER:

Nope.

CHAIRMAN D'AMARO:

All right. All of that said, with the Commissioner here explaining that this would enable you to go forward and actually start the software, the hardware, it doesn't mean that you won't continue to work with the Attorney General. You mentioned you may have found even a cheaper or better source of hardware than the AG's Office.

COMMISSIONER QUINN:

I mean, due to the time constraints that we had to deliver the feasibility study, we basically mirrored what the Attorney General was doing for both their infrastructure, how they built the site, their

organization, and then they had bought an outside search engine to search the site of all the information.

After doing a couple of other projects inside the County that we've been working on, we found some other search software that's a little less expensive. And we would be able to use that for this site. So I think the cost will come down, you know, pretty dramatically.

CHAIRMAN D'AMARO:

Then for the purposes of this bill, I'll offer a motion to approve.

LEG. COOPER:

Second.

CHAIRMAN D'AMARO:

Seconded by Legislator Cooper. On the motion, anyone? All in favor? Opposed? Abstentions? Motion carries. **APPROVED (VOTE: 4-0-0-1 - Not present, Legis. Kennedy).**

Commissioner, I thank you for coming down this morning. And, Legislator Beedenbender, it's always nice to see you. Thank you. And same for the League of Women Voters.

We have a bill on the agenda this morning that would appoint a new member to the Suffolk County Ethics Commission. And the nominee is here. And rather than ask him to wait, I'm going to offer a motion to take Resolution 1590-2010 out of order, seconded by Legislator Nowick. All in favor? Opposed? Abstentions? Motion carries.

1590, Appoint member to the Suffolk County Ethics Commission (Craig J. Tortora). (Pres. Off.)

Mr. Tortora, good morning. Please have a seat.

MR. TORTORA:

Good morning, Chairman, Legislators.

CHAIRMAN D'AMARO:

Thank you for coming down this morning. And there's a resolution pending to appoint you to the independent Suffolk County Ethics Commission. And I'd like to give you an opportunity to take a few minutes and tell us a little bit more about your background and why you feel you'd want to serve on this commission.

MR. TORTORA:

Well, I know of some of you. For those of you I don't, I am a practicing attorney with my main office in Commack. I graduated from Hofstra Law School in 1993 and have had my own law practice since 1997. I have been a member of the Nassau County Grievance Committee as well as presently the Suffolk County Bar Association's Grievance Committee. I am an investigating attorney for the Grievance Committee as well and am responsible for conducting investigations into various complaints and perceived misdoings on the part of my colleagues in Suffolk County. I've been entrusted to do that, and over the years have found that the ability to serve the public has been an interest of mine for quite some time.

When this opportunity presented itself, I did not hesitate to agree to come before this committee and offer my services. I do have experience in this area. And knowing that Justice Lama with his guidance, I certainly feel that I contribute not only to the taxpayers of Suffolk County but also to hopefully be a resource to all of you as politics and government are becoming more contentious not less. And all of you with your reputations for representing the interest of the taxpayers so zealously, I know that all of you would like to continue -- I mean, you talked about the bill before that you just

passed. This goes further toward accountability for your actions and to actually just present things in a light that allows you to function in an environment where you aren't constrained by these ethical considerations, but instead that you go forward with the knowledge that the actions that you are doing are both appropriate and would be perceived to be so by the public. And with that confidence, I believe that you could do your jobs much more efficiently. And that's hopefully what I want to bring to this commission.

CHAIRMAN D'AMARO:

Thank you, Mr. Tortora. You are presently working in -- you're in private practice in Commack.

MR. TORTORA:

In Suffolk County.

CHAIRMAN D'AMARO:

In Suffolk County. And you are a resident of Suffolk County.

MR. TORTORA:

Correct.

CHAIRMAN D'AMARO:

All right. And you are working also with Nassau with the Grievance Committee.

MR. TORTORA:

Not any more. I mean, when I moved my main office from Nassau to Suffolk county, I transferred to the Suffolk County Grievance Committee.

CHAIRMAN D'AMARO:

So in what capacity -- are you on the Grievance Committee or are you counsel?

MR. TORTORA:

I'm the Professional Ethics and Grievance Committee for the Suffolk County Bar Association, and I'm also an investigating attorney for the Grievance Committee for the Bar Association. They are two separate committees.

CHAIRMAN D'AMARO:

How long have you been doing that?

MR. TORTORA:

I started with the Nassau County Grievance Committee approximately 12 years ago.

CHAIRMAN D'AMARO:

And presently you said you serve on the Suffolk County Bar Association Grievance Committee.

MR. TORTORA:

Yes, for years. And then once I was admitted for ten years, I was asked -- there is a ten year requirement of admission before you can become an investigating attorney for the Grievance Committee for the Suffolk County Bar Association.

CHAIRMAN D'AMARO:

When you served on that committee or as the attorney, the Grievance Committee reviews proceedings against lawyers, but also some of those may include ethical considerations as well.

MR. TORTORA:

They usually always do. What happens shortly is that when an individual files a grievance or a complaint against member of the Bar, it either goes through the 10th Judicial District for character

and fitness. If it is not anything that is a clear violation, then it goes to the local Bar Association, in this case, Suffolk County, and it's assigned to an attorney to determine the level of punishment, if any, and to address the level of concern of the individual who filed the complaint. And that's what my responsibility is.

CHAIRMAN D'AMARO:

Okay. And that would cover legal ethics. This, of course, would broaden the scope to include public officials, not necessarily legal ethics per se, but other areas of ethical considerations as well, which -- which may overlap legal ethics but could be different at times as well.

MR. TORTORA:

Absolutely.

CHAIRMAN D'AMARO:

Okay. Legislator Nowick.

LEG. NOWICK:

I'm just curious if there was relation to Rich Tortora?

MR. TORTORA:

No, there isn't.

LEG. NOWICK:

Okay. I'm trying to think of where I met you before.

MR. TORTORA:

Smithtown. I ran for --

LEG. NOWICK:

You did?

MR. TORTORA:

Yes, I did.

LEG. NOWICK:

Counsel?

MR. TORTORA:

Correct.

LEG. NOWICK:

I knew it. And you were a very good candidate too.

MR. TORTORA:

Thank you.

LEG. NOWICK:

You were counsel --

MR. TORTORA:

For counsel in Smithtown.

LEG. NOWICK:

On the Democratic line?

MR. TORTORA:

Yes.

CHAIRMAN D'AMARO:

Mr. Tortora, there's just some basic rules or qualification criteria that you cannot be a member of political organization as a member of the Ethics Committee, have you had a chance to review the qualifying rules?

MR. TORTORA:

Yes. And I am no longer a member of any political organization or committee.

CHAIRMAN D'AMARO:

All right. Any other questions? Okay. Then I thank you for your testimony this morning. I will offer a motion to approve.

LEG. COOPER:

Second.

CHAIRMAN D'AMARO:

Seconded by Legislator Cooper. All in favor? Opposed? Abstentions? Motion carries. The resolution is **APPROVED (VOTE: 4-0-0-1 - Not present; Legis. Kennedy)**. Mr. Tortora, your nomination to the Ethics Commission will now proceed to the full Legislature. You do not have to be present at that meeting, but if you want to come down, you're more than welcome.

MR. TORTORA:

Thank you.

CHAIRMAN D'AMARO:

Thank you for your willingness to serve. All right. The next resolution on the agenda is **1004-2010, Adopting Local Law No. -2010, A Charter Law to strengthen the independence of the Ethics Commission. (Montano)**

I note for the record this morning that the bill's sponsor, Legislator Montano, has joined the committee. Okay. Also -- Legislator Montano, did you want to say saying for the record?

LEG. MONTANO:

No. Actually, I just came in case there were any questions about the bill, I'd be more than happy to address them, but I didn't come to speak before the committee. Thank you anyway.

CHAIRMAN D'AMARO:

At the beginning of the proceedings, I received and read into the record correspondence from the Ethics Commission. Asked they've me to read this into the record. This is correspondence it's not too long just bear with me there is correspondence addressed to myself as Chairman of Ways and Means. It's dated May 27th, 2010, addressing a Charter Law to strengthen the independence of the Ethics Commission.

The letter reads as follows: "Dear chairman D'Amaro, the Commissioners of the Suffolk County Ethics Commission have reviewed Introductory Resolution Number 1004 of 2010, a Charter Law to strengthen the independence of the Ethics Commission. Initially, it is our position that the Ethics commission is, in fact, independent and its credibility has never been questioned. Although the Commission utilizes counsel provided by the Department of Law, the decisions of the commission reflect our independent judgement and are not dictated or directed by Counsel."

"If the Legislature believes, however, that the commission would be better served by the appointment of outside counsel, the commission would have no objection to such a process with one very important caveat. The Legislature's desire to retain outside counsel to advise the commission can only be implemented if the enabling local law also provides for a permanent annual budget

appropriation for the provision of counsel, staff, equipment and office space. Such a budget appropriation must be separate from that of the Department of Law."

"As presently drafted, IR 1004 of 2002 does not either legally or practically provide for the funding or appropriation for outside counsel and staff to be hired. The IR only indicates that the power to appoint the Executive Director, independent counsel and support staff, quote, shall be subject only to available appropriations provided therefore on the County Operating Budget, closed quote. However, since the legislation as presently drafted provides no appropriation for counsel, the County Attorney, pursuant to General Municipal Law Section 808-2, must serve as the commission's counsel. Section 802-2 provides that the commission shall have the advice of counsel employed by the board, or if none, the County Attorney."

"Thus, the lack of an accompanying budget appropriation in the IR would result in the county Attorney remaining as counsel even though the stated purpose of the IR is to sever the ties between the Ethics Commission and the County Attorney's Office in order to enhance the appearance of the commission's independency and credibility."

"We are hopeful that the Ways and Means Committee and the Legislature as a whole will carefully consider our concerns in the deliberations and vote upon Introductory Resolution Number 1004-2010."

That letter is signed by the three commissioners; Thomas G. Nolan, the chairman of the ethics Commission; Michael C. Kennedy, Commissioner; and Dr. Joseph A. Laria, Commissioner as well. Please note for the record that Legislator Kennedy has joined the committee this morning.

LEG. KENNEDY:

Good morning, Mr. Chair.

CHAIRMAN D'AMARO:

Well, there's not a motion, but based on this letter, it seems to me that there are concerns about, even if the law passes, whether or not there is sufficient funding included in the bill. It might need to be reworked. I'll offer a motion to table for a two-week cycle to give the sponsor an opportunity to address what's in this letter, seconded by Legislator Nowick.

LEG. COOPER:

I'll make a motion to approve.

LEG. KENNEDY:

I'll second that motion.

CHAIRMAN D'AMARO:

Okay. There's a motion to approve by Vice-Chairman Cooper, seconded by Legislator Kennedy. And just on the motion, the funding seems to be an issue here. If you're going to be able to hire outside counsel, you have to provide an appropriation to do so. And apparently, this bill does not do that, in which case, under the State Law it seems according to this letter, the coverage would default back to the Department of law. So Legislator Kennedy.

LEG. KENNEDY:

As a matter of fact, I got an opportunity to read that opinion last night, Mr. Chair. And I didn't get a chance to look at the section of law, but I have no reason to not think that that's what the default reference is. Nevertheless, my recollection is that we would be looking to reconfigure and establish the presence of outside counsel I believe going forward into the beginning of next year.

So if that's the case, then certainly in the process of adopting out 2011 Operating Budget, I believe that we would be able to make the satisfactory appropriations in order to be able to retain outside counsel. I've spoken at length actually with Judge Lama, and I personally have regard for our Ethic

Panel. I think every one of us here knows the importance of having an Ethics Panel that we can turn to, because it seems that much of what we do many times can be fraught with certain decisions that we personally ourselves need to have to ability to turn to get a clean clear objective and arm's length guidance.

That being said, I do think that in order to have that level of independence that we all absolutely have to have in order to be able to operate, I think this is a prudent measure. Certainly, Counsel, as you know, Mr. Chairman, as many of us do, is an important function. And I think that this bill goes a long way to help us bolster and enforce the operations of the Ethics Board. So I'm happy to second.

LEG. COOPER:

Mr. Chair.

CHAIRMAN D'AMARO:

Legislator Cooper, then Legislator Nowick.

LEG. COOPER:

I wanted to address this to Counsel, George. Do you think that the lack of an explicit budgetary appropriation at this time should preclude the passage of this bill, or are you not sure of that concern?

MR. NOLAN:

I think the budgeting part needs to be done separately. This is amending the Charter in terms of the structure of the Ethics Commission. So I think this bill could go forward in its present form. But the Legislature is going to have to address the budgetary piece at a certain point. This will go into effect January 1st, 2011. And if for that time, the Legislature does not provide the money in the budget to hire outside counsel, then the County Attorney will continue to advise the Ethics Commission.

I point out one other thing presently, the Ethics Commission is housed on the sixth floor with the Department of Law, and they have a secretary supplied through the Department of Law's budget, so you're probably going to need to also provide a secretary. And if the intention is to move them out of the Department of Law physically, there may be some space and equipment considerations as well.

CHAIRMAN D'AMARO:

Thank you, Mr. Nolan. Legislator Nowick.

LEG. NOWICK:

I think the point of the tabling was that why -- we have another committee meeting in two weeks. Why pass this legislation if we can give the sponsor two weeks to just give us an idea if we could appropriate money, otherwise it sounds like we're spinning our wheels; we're passing legislation with no money to back it up, which is not anything new, but I'm not going to go there. Soit's just a two week thing. And maybe the sponsor could work with Budget Review to find some type of --

LEG. MONTANO:

If I may?

LEG. NOWICK:

Yes.

MR. REINHEIMER:

If I understand from Counsel, this bill takes effect January 1st. There's nothing we can do in the mean time to appropriate money until 2011. Amending the 2010 Operating Budget wouldn't impact

this bill. So this, I would think, would be something that the Legislature would consider when they're adopting the 2011 budget.

LEG. MONTANO:

If I may, Mr. Chairman.

CHAIRMAN D'AMARO:

Go ahead, Legislator Montano.

LEG. MONTANO:

Thank you. The bill was amended to make the date January 1st of next year specifically to allow the Legislature through the budget process to make the appropriate appropriations at the appropriate time. So this bill does not change the actions of the commission between now and January 1st. An in consultation with Counsel, and I'm sure that if I'm inaccurate, he'll correct me, the appropriation is a separate item that will taken up, and there's no need to amend the Operating Budget at this point, because it's not going to be affected this year.

CHAIRMAN D'AMARO:

Thank you. Legislator Nowick.

LEG. NOWICK:

What happens if we pass this bill and come January 1st, we do not find the money to -- does it then revert back to the Law Department? How does that work? Does the bill just -- what happens then?

MR. NOLAN:

Correct. It's under -- the letter from the Ethics Commission pointed to a section of State Law that says if we don't provide money for an independent counsel, then by default the County Attorney would provide the legal advise to the commission next year.

CHAIRMAN D'AMARO:

The letter doesn't necessarily object to the bill itself, it's just concerned about funding within the bill, which is a legitimate concern and cab ne addressed during the budget process.

I want to talk a little bit about -- more substantively to the bill and the cost of the bill. You know, having -- replacing one set of lawyers with another is not to me ethics reformed. If ethics need to be reformed, it's the people who commit the transgressions that need to be reformed, not the commission. And before we go ahead and pass this bill and have to incur cost of implementing it and hiring outside counsel, I just want to throw out to the committee whether or not there is an instance where we haven't received what Legislator Kennedy calls clean, clear objective and arm's length guidance from the commission.

The commission says in it's letter that they're independent of their counsel, counsel does not advise with respect to the substance of opinions. I, myself, don't know of any instance where that is the case. The commission is not asking us to pass this bill. So the very people that are sitting on this commission are not requesting the independent counsel or the outside counsel. And before we incur the expense, I guess to the sponsor, I'd like to ask why -- why now? Why the need, Legislator Montano, if you don't mind addressing that issue where the commissioners themselves are not requesting the change of counsel, why are we imposing that?

LEG. KENNEDY:

Mr. Chair, I'd like an opportunity to respond to that as well. Certainly, I want to defer to the sponsor. But the point that I would bring forward to you, Mr. Chair, is that absolutely I believe that my assessment and my words and my statements about the Ethics Commission are valid, but I also point out to you, as you know, the very nature of the way the Ethics Commission functions is in complete confidentiality. As a matter of fact, the opinions that are rendered by them are confidential as to the requester. As a matter of fact, my recollection, and I think Counsel can

confirm this, even the fact that an opinion is sought is confidential so that my assessment may not be what my 17 colleagues are, or for that matter, any other many persons throughout County Government who have that opportunity to seek guidance from the Ethics Panel. And as a matter of fact, by its very nature, there really should be no reason for them to have to even comment or opine as to the nature of what was sought, what was rendered and what their sense was of the way that it, in fact, functioned.

We are working with, I guess, what is probably something that is extremely unique as to our function. And collectively, all of us know that it is critical that we have that body being able to operate at the absolute highest standard possible. So I want to make certain that my assessment is a personal assessment and I feel very comfortable with that assessment, but I don't know that my assessment is relevant or applicable to any other requestor at this point, because I have no way of knowing what it was that was sought, nor what was given.

CHAIRMAN D'AMARO:

But, you know, just to play devil's advocate on that, if I understand what you're saying, we really don't even know how the Ethics Commission is operating because of its independence. What I would look to in this particular situation is what the commission itself feels it needs because they have intimate knowledge of what's going on with their own commissioner.

And the Ethics Commission not asking us to go out and spend the money to hire further counsel or further staffing or further space. And they are, they meaning the members of the commission, feel that they are operating to the higher standard and appropriately and properly. So again, you know, my question is -- it doesn't do harm to have one set of lawyers replace another. I don't think it has any bearing on whether or not the Ethics Commission does its job or not, but yet, we're increasing expense to County taxpayers in order to get the outside counsel when the commission is telling us that there's no request for that outside counsel.

When this bill was filed last year, I think Judge Lama was here, and, in fact, on the record strenuously that there's no need to incur this expense, we operate just fine, and we are independent. So even the Executive Director is of the opinion that the commission is operating properly and appropriately and to the highest standards that it can. So, you know, again, just from a budgetary perspective, to go out now and spend an unknown amount of funding to get the ethics counsel when the commission itself is not requesting that, how do we justify the cost is really what I'm asking.

LEG. KENNEDY:

I think the cost issue is one that is something that obviously we always have to be cognizant of, but at the same time, in this category, is very much a justified or needed cost, if you will. As a matter of fact, it's a basic function associated with the County Attorney's Office that I don't want to say frequently, but in the regular course of business, outside counsel is sought for a whole variety of different reasons, either because there's particular expertise that's needed, like our LIPA litigation, as a matter of fact, that we as a Legislature have retained a specialist, conflict, as you know, if there are multiple parties that are involved, and the County Attorney's Office is directly involved, there may just be conflict where outside counsel has to be sought.

CHAIRMAN D'AMARO:

Let me suggest on that, and then Legislator Cooper had a comment. You know, what you're doing here is you are talking, I believe, the counsel assigned to the Ethics Commission now has at least -- I don't know -- 20 years experience working with the commission, you are taking someone with institutional knowledge or working knowledge of the commission, someone who knows the boundaries of the commission and what's appropriate and what's not appropriate, and you're going to replace that with an unknown. In fact, the argument could be made that by doing this, you're, in fact, weakening the Ethics Commission, because once you retain outside counsel, that counsel is not going to be solely dedicated to the commission itself; they're going to be outside lawyers motivated by a profit motive and may not always be as assessable or available or as knowledgeable as the

individual who's presently assigned to that commission.

So again, if the Ethics Commission was coming here and saying, "We need this and here's why," I'd be willing to listen that before. But, you know, before we go out and spend money and take away the expertise that this commission already gets from the attorneys that are assigned inhouse, I am finding it difficult to justify the cost without any -- no one really giving me a real reason why this is needed now.

LEG. KENNEDY:

Again, I'm trying to recall, but I think the counsel that's actually assigned to the Ethics Commission from our County Attorney's Office is not full time with the Ethics Commission. As a matter of fact, I know for certain Mr. Holownia performs a number of functions out of the County Attorney's Office. And, yes, he's an excellent lawyer and there's absolutely no doubt that he has institutional knowledge as to the functions of Suffolk County Government.

But as you also know, Mr. Chair, the function of furnishings ethics opinions, particularly associated with the role of an elected official at a county level or for that matter principles within our County departments is something that arises out of a body of law that we have and spar a decisis that's been in place for quite some time. Any prudent attorneys versed in municipal practice should be able to go ahead and rise to that level and furnish a good counsel to the Commissioners themselves.

Let me also say that I think that -- I'm not surprised that the Commissioners of the Ethics Board are not here before, because they're a creature created by us to go ahead and render function. So if collectively there's a sentiment amongst this body that we'd like to see the additional benefits that might be had by bringing in counsel in no way, shape or form connected to the County of Suffolk other than through a retainer, I think that's something that at least bears vetting and is, you know, prudent for us to look at.

CHAIRMAN D'AMARO:

Just one last quick question, and then, Legislator Cooper, I know you're waiting patiently. Thank you. To Budget Review Office, is there a fiscal impact statement? Do we know the cost going into next year of implementation of retaining outside counsel? Is there an estimate of the impact to the budget?

MR. REINHEIMER:

I will have to check on that. This is changing the Charter Law, so the financial impact would have to be determined as to how many hours in billing hours for outside attorney. I'll check to see if this specific had a financial impact attached to it that had a monetary value. I'll get back to you on that.

CHAIRMAN D'AMARO:

All right. I appreciate that. You know, I just think that we are taking attorneys that are knowledgeable, capable and ethical in dealing with this commission and just swapping them with a set of lawyers that are not as experienced and are more unknown at a cost to County taxpayers without any real justification. I question that. Legislator Cooper, please go ahead.

LEG. COOPER:

Thank you. Actually, one of my points was eloquently made by Legislator Kennedy, but I did want to just also point out that I think it's important for us as a Legislative body to take steps to avoid even the appearance of a potential conflict of interest. And my concern is that counsel to the Ethics Commission right now being assigned by the County Attorney's Office, there could at least be that perceived conflict. I'm not implying that any legal decisions that were made in the past were tainted in any way. I have no way of knowing any details about those decisions, but I do think it's clear that an impartial observer focusing on this issue could indeed see a potential conflict of interest. And that's why I will be supporting this resolution.

CHAIRMAN D'AMARO:

Legislator Cooper makes a very, in my mind, valid point. You know, we never, especially as government officials, want to even have an appearance of conflict or impropriety, but this is the way Suffolk County has been operating since, I think, the Charter was enacted. I don't really have knowledge of that, but for some time, at least. You have to ask yourself the question, you know, what is a perceived conflict? Is it a perceived conflict when an attorney on a County payroll as an attorney who's not on the County payroll advises an independent board, and when the commission members are telling us that they don't even perceive any conflict?

It's one thing to say perception is a bad thing. It is a bad thing. We want to avoid appearance of conflict or even a perception of conflict of interest. But again, I don't see that by simply having one set of lawyers as opposed to another set of lawyers. You know, it really turns down to the individual attorney, whether they're acting ethically and properly and fulfilling their function in advising the Ethics Commission, whether or not they're crossing any lines for lack of a better phrase.

The Ethics Commission is telling us that's not occurred and it's not happening. And in fact, when we approve the members of the Ethics Commission, they go and perform their functions and do their job. They're very well aware of the fact that counsel's role is limited. So, you know, if there was a perception, I would agree. I don't see it. I don't see that there's been any transgression at all. And I don't know what the cost of this bill is going to be. Mr. Zwirn, did you want to add something?

MR. ZWIRN:

I think you've made most of the arguments. But I would ask if it's possible to table this one cycle, maybe bring in the members of the Ethics Commission, get their view of how the commission is working so you can get -- because they're not the ones who've asked for this reform.

The County Executive and the Legislature funded and appointed an Executive Director of the Ethics Commission, I mean, they revitalized the Ethics Commission during the past couple of years. I mean, ethics has been an important issue. As far as I'm aware, and I think everyone else knows, everything seems to be working the way it's supposed to be. So when you have tough economic times and you're looking for ways not to spend additional money unless it's critically important, and if there were problems that were brought to the attention of the Legislature and the County Executive, I think it would be a little bit different, but when we don't, I think the letter that Judge Lama gave to the board really spells out the county Executive's position on this.

And, again, I would just say that maybe you want to have Judge Lama come back before the committee or have members of the Ethics Commission come back and just, you know, find out in general how things are working, if they feel they need more independence and they need bigger budget. That certainly couldn't hurt. We have a quick turn around this particular month. There's another meeting in the middle of June, so I would just suggest maybe bring them in ask them to give their views.

CHAIRMAN D'AMARO:

I'm not necessarily opposed to that. I'm a little -- they had an opportunity to come down today, they presented a letter instead. I don't know why, maybe it was just scheduling conflicts, maybe it was an unwillingness to come down. I don't really know why they're not here today. You know, tabling for one cycle is fine with me, you know, whether the committee agrees with that or not, I'll leave up to the committee. Legislator Browning.

LEG. BROWNING:

I just wanted to say, you know, I don't object to passing this out of committee today, putting it on the floor next week, and if Judge Lama or anyone from the Ethics Commission would like to next week and speak their case in front of all 18 of us, I think that might be a good idea.

And again, going back to the budget issue, I know we are all going to face tough Operating Budget this year, but I think it's already been explained that if we don't put it in the budget, it defaults to the County Attorney anyway. So for future use, I think this bill is a good idea.

MR. REINHEIMER:

Mr. Chairman, I'd like to follow up on your question concerning the financial impact. Our financial impact of this legislation does not assign a dollar amount, but states that the limit is to the extent that there is appropriations. I would feel that if this was adopted, the Legislature would get input from the Ethics Commission as to what that potential cost would be. But the bill does restrict it to available appropriations, so it would be a policy decision as to how much you appropriate and then possibly that would be contingent upon the extent to which they use outside attorneys.

CHAIRMAN D'AMARO:

All right. And also, I agree with Legislator Browning that if we go into the budget cycle and feel that, one, we should not be funding this for whatever reason or, two, there's not a need to fund it, we still reserve that right to do so in the fall.

MR. REINHEIMER:

I'd just like to add one more thing, that in our opinion, there would be a financial impact. Right now it's an opportunity cost using existing staff as needed in the County Attorney's Office. So there would be an additional financial impact.

CHAIRMAN D'AMARO:

Okay. Legislator Cooper.

LEG. COOPER:

Yes. Thank you. I just want to say without going into detail at this point that it's come to my attention that there will be a media report coming out probably over the next couple of days concerning a potential problem -- as Ben referred to -- a potential problem with a decision made by the Ethics Commission. And whether that decision, which I believe was an incorrect decision, was based on advise of Counsel provided to them, I have no way of knowing. But this issue is very troubling to me.

So anyway, since I believe that there will media coverage of this issue, which will allow us to discuss it openly by Tuesday's Legislative Meeting, I will support either -- I believe I already have a motion to approve, but failing that, at least a motion to discharge without recommendation so we can get it to the floor for the General Legislative Meeting.

CHAIRMAN D'AMARO:

All right. I'm not adverse myself to getting it to the floor of the Legislature, so I'd be willing to withdraw my motion to table at this time. And that leaves the motion to approve, I'll call the vote, all in favor? Opposed? Abstentions? Motion carries.

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

1034, Adopting Local Law No. -2010, A Charter Law to provide notice of appointments to commissions and boards. (Montano)

LEG. COOPER:

Motion to table.

CHAIRMAN D'AMARO:

Second. All in favor? Opposed? Abstentions? Motion carries. **TABLED (VOTE: 5-0-0-0).**

1163, Adopting Local Law No. -2010, A Local Law to streamline procedures for selecting the County Legislature's Presiding Officer and Deputy Presiding Officer. (Cooper)

LEG. KENNEDY:

Motion to table.

CHAIRMAN D'AMARO:

Motion to table by Legislator Kennedy.

LEG. COOPER:

Motion to approve.

CHAIRMAN D'AMARO:

There's a second on the motion to table by Legislator Nowick. Motion to approve by Legislator Cooper, seconded by Legislator Browning. I'm going to ask Counsel to give us a brief synopsis of this bill and what it proposes to do.

MR. NOLAN:

I'll do the best I can. There is a Rule 28 which lays out some of this stuff. But basically under the current law, when the Legislature meets in January to select a Presiding Officer and Deputy Presiding Officer, the law provides that if we're deadlocked, if the Legislature is deadlocked by January 15th, the County Clerk selects the Presiding Officer and the Deputy Presiding Officer.

Under this law, in the event of a deadlock as of January 15th, the Clerk would continue to select the Presiding Officer. However, the law would require that the Clerk make his or her selection regarding the Presiding Officer by January 22nd of the subject year and allow the Legislature the opportunity to elect a Deputy Presiding Officer by January 25th. And that in the event the Legislature's membership was unable to agree on a Deputy Presiding Officer by January 25th, then the Presiding Officer would be empowered to make that selection.

So this would -- instead of allowing the Clerk to make both selections for Presiding Officer and Deputy Presiding Officer, it would limit the Clerk to selecting the Presiding Officer and empowering the Legislature to select who the Deputy Presiding Officer would be. The proposed law would also eliminate an existing provision that states that in the event of a tie vote for the election of Presiding Officer, nine votes in favor of a candidate and nine votes against -- actually, this is for the Deputy Presiding Officer -- and I apologize -- there's a provision that says if there's a tie vote, the Presiding Officer then could select the Deputy Presiding Officer. This law would eliminate that provision.

The proposed law provides that in the event the Office of Presiding Officer becomes vacant, the County Legislature will fill the vacancy within 60 days and that if the Legislature is unable to elect a new Presiding Officer by a majority vote within 60 days of the vacancy occurring, the Deputy Presiding Officer will assume the Office of Presiding Officer.

The law further provides that the Deputy Presiding Officer will exercise all the powers, duties and functions of the Presiding Officer until the vacancy is filled, because right now, the law doesn't really spell out what happens in terms of a vacancy. Our rules provide that we have to act within 60 days, but doesn't really spell out what happens if we fail to select a new P.O. within 60 days. So this would add a provision.

It also states that in the event the Office of Deputy Presiding Officer becomes vacant, the County Legislature will fill the vacancy within 60 days. And in the even no Legislator is elected within that time period, the Presiding Officer will appoint the Deputy Presiding Officer. So it's really an attempt to fill in some gaps in our law regarding the filling of the Offices of Presiding Officer and Deputy and the filling of vacancies that may incur during the year after we have elected a P.O. and D.P.O.

LEG. NOWICK:

George, did I understand you to say if a Presiding Officer was not elected, it could possibly take up to 60 days before that position is filled with the caveats in here?

MR. NOLAN:

Right now -- you are talking about a vacancy or at the beginning of the year?

LEG. NOWICK:

I'm talking at the beginning of the year.

MR. NOLAN:

No.

LEG. NOWICK:

Okay. I misunderstood that.

MR. NOLAN:

At the beginning of the year, if the Legislature is unable to elect a Presiding Officer by January 15th, if we're just deadlocked and no one can get a majority, the law would still provide that the Clerk, the County Clerk, would select the Presiding Officer, and that's the law now.

Under the current law, the Clerk also is really empowered to select both. What this laws tries to do is say, "Yes, the Clerk has to break the deadlock and select a Presiding Officer, but would return the authority to elect a Deputy Presiding Officer to the Legislature," and make that clear that that authority would be with the Legislature.

LEG. NOWICK:

And then if they're deadlocked on the Deputy, then the Presiding Officer makes that --

MR. NOLAN:

Correct.

CHAIRMAN D'AMARO:

Just to clarify that. So the Clerk would continue to make an appointment by January 15th in the case of deadlock.

MR. NOLAN:

Right. She would have to make that selection by the -- if we're deadlocked for Presiding Officer, she would have to make that selection --

CHAIRMAN D'AMARO:

Let's just stop right there. And then with the Presiding Officer, again, if there is a vacancy with respect to Presiding Officer, then the Legislature votes within 60 days to appoint a new Presiding Officer, which is it fails to do so, it goes back to the Clerk?

MR. NOLAN:

No. No. For vacancy with the Presiding Officer under this law, the Deputy Presiding Officer would assume all the duties and responsibilities of the Presiding Officer and would exercise those during the 60 day period after the vacancy. The Legislature would have the authority to select a new Presiding Officer during that time period, that 60 day period. But if they fail to do so, the Deputy would just assume the responsibilities for the rest of the year.

CHAIRMAN D'AMARO:

Okay. Good.

LEG. NOWICK:

What is it now?

MR. NOLAN:

Right now there's nothing in the Code, but our rules provide that we are supposed to fill within 60 days, however, the rules really don't address what happens if we fail to fill it within 60 days. And there really is no provision for who -- it doesn't state explicitly that the Deputy Presiding Officer

would step in during that period. So again, we're attempting to try to clarify some of these issues.

CHAIRMAN D'AMARO:

Well wouldn't it work right now that if there was a vacancy in the Presiding Officer's Office that the Clerk -- not the Clerk -- the Deputy Presiding Officer would step up and continue for the remainder of the term? Is that what would happen?

MR. NOLAN:

I'm sorry, say that again.

CHAIRMAN D'AMARO:

Presently, if there was a vacancy in the Presiding Officer's Office, the Deputy Presiding Officer would assume that office and fulfil the remainder of the term.

MR. NOLAN:

It's really not stated expressly anywhere that that is what would happen. Our rules just say that we are going to fill the vacancy within 60 days.

CHAIRMAN D'AMARO:

Our rules say that? Our rules say that?

MR. NOLAN:

That's what our rules say. I think the practical thing to do is have the Deputy step in. But this tries to fill in some of the gaps.

CHAIRMAN D'AMARO:

Legislator Kennedy.

LEG. KENNEDY:

Thank you, Mr. Chair. My question goes to Counsel, again, as to what the powers and what the authority is right now under our current operating laws. We are -- have been led very well by the Presiding Officer. And as a matter of fact, it's a decision that we make at the beginning of each term in essence to cede an important part of how our body functions through him as we go through our term.

And, yes, we do have a Deputy Presiding Officer that is elected. If for some reason that Deputy Presiding Officer becomes unable to fulfill his or her duties, I believe that the current rules give the Presiding Officer the authority to pass that function to any one of us for a particular period of time. If for some reason he's not able to go ahead and fulfil duties even during a General Meeting, there is an ability right now to pass a gavel to any one of us for the purposes of transacting or conducting business. I think I see this as a solution in search of a problem. We have a way to function now. Is that not so?

MR. NOLAN:

I think during a regular meeting if the Presiding Officer steps out or is unable to make that meeting, the Deputy Presiding Officer can certainly chair a meeting. This is really addressing the issue what happens if there is a vacancy; if the Presiding Officer for whatever reason leaves office or the Deputy Presiding Officer, what happens? Right now, the only thing that addresses that issue is in our rules, and the rules -- at least in the opinion of the sponsor don't go far enough, because basically it says you fill the vacancy for those offices within 60 days.

It doesn't say expressly who is going to be running or moving to that slot during that 60 day period. So this law tries to fill that in. The rules don't say what happens if a Legislator cannot get ten votes to be the new P.O. or Deputy Presiding Officer. And so, again, this law tries to address that question if those situations ever come to pass.

CHAIRMAN D'AMARO:

All right. Thank you, Mr. Nolan, for that brief and laser-focused explanation of this bill. We have two motions pending. One is a motion to table, which has received a second and also a motion to approve, which has also received a second.

P.O. LINDSAY:

I'd like to comment.

CHAIRMAN D'AMARO:

Sure. Mr. Presiding Officer, please go ahead.

P.O. LINDSAY:

I guess, Jon, this bill went through some revisions a couple of times.

LEG. COOPER:

Yes, it did.

P.O. LINDSAY:

There's no longer the coin flip?

LEG. COOPER:

No. Actually, for the record, there was a more radical proposal -- I won't say by who, fine it was me -- that would provide an alternate method for breaking a tie vote. And for the record, it was flip a coin.

P.O. LINDSAY:

I was outside practicing flipping too.

LEG. COOPER:

And you have to use my coin.

P.O. LINDSAY:

The only thing I can say -- and, you know, if this bill is the solution, it does at times present a bit of a problem. In my tenure here, I've experienced twice that once where the Presiding Officer was incapacitated for an entire year, and the Deputy ran all the meetings without any hitch at all. But as I recall, I don't think we had anybody filling in the Deputy spot. And then in my tenure, we had a resignation of the Deputy, and for about six months, we couldn't resolve that. And I was unaware that I could appoint somebody on a temporary basis. It would have been much better for my kidneys, because I tried to stay in the room the entire time. So, you know, maybe we need some clarification, that's all. And I don't know -- whatever you want to do with it is fine by me.

CHAIRMAN D'AMARO:

Okay. Thank you. There are two motions pending. I'll call -- the motion to table takes precedence. I'll call -- the motion to table takes precedence first. All in favor? Opposed?

CHAIRMAN D'AMARO:

Opposed.

LEG. COOPER:

Opposed.

LEG. BROWNING:

Opposed.

CHAIRMAN D'AMARO:

Okay. The motion does not carry. The motion to approve, I'll call next. All those in favor?

Opposed?

LEG. KENNEDY:

Opposed.

LEG. NOWICK:

Opposed.

CHAIRMAN D'AMARO:

Two opposed. The motion carries, the resolution is approved and moves to the full Legislature.

APPROVED (3-2-0-0 - Opposed; Legis. Kennedy and Nowick).

1335, Directing the Department of Information Technology to provide the services, customizations, and functionalities on the County's web servers to effectuate the creation, implementation, and maintenance of a webpage to serve as a clearing house where Suffolk County Citizens can exchange surplus items. (Losquadro)

LEG. COOPER:

Motion to table.

CHAIRMAN D'AMARO:

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

The next resolution I've recused on, so I'll turn our proceedings over to our Vice-Chair Legislator Cooper.

LEG. COOPER:

1370, Adopting Local Law No. -2010, A Charter Law to increase the accountability of department heads (Cilmi). I'll make a motion to table. Is there a second?

LEG. BROWNING:

Second.

LEG. COOPER:

Thank you. We have a motion to table and a second. All in favor? Opposed? Abstentions? 1370 is **TABLED (VOTE: 4-0-0-0-1 - Legislator D'Amaro recused).**

1372, Directing the County Attorney to determine the feasibility of Suffolk County bringing an action against New York State regarding the MTA payroll tax. (Schneiderman)

The committee has received a memorandum this morning which I previously read into the record addressing this issue. And I'm going to ask if there's anyone from the County Attorney's Office who would like to briefly give us a summary of your conclusion? We had requested this at the last meeting. Yes, Ms. Bizarro, thank you.

MS. BIZZARRO:

I hope I gave it out today. I hope everybody had an opportunity to at least take a look at our conclusion. I really rather not go through it in open committee regarding our conclusions. I wanted you read them. And I suggest that if anyone have any questions that we go into Executive Session. I do know that there are some lawsuits out there. And, you know, it would be troubling perhaps for them if we were to have an open dialog on this. So that would be my suggestion. And I know that we have Executive Session in any event, so I can address any questions you have at that time. But we have complied with the resolution notwithstanding that it has not been adopted. So the information is before you. And as I said, if you have any questions, I would say that we should go into Executive Session.

CHAIRMAN D'AMARO:

All right. We will have an Executive Session after the public portion. I'll offer a motion to table.

LEG. COOPER:

I'll second.

CHAIRMAN D'AMARO:

Seconded by Legislator Cooper.

LEG. KENNEDY:

Mr. Chair.

CHAIRMAN D'AMARO:

Yes, Legislator Kennedy.

LEG. KENNEDY:

On that motion, and I appreciate Ms. Bizzarro's question to us and so I'll look forward to a conversation in Executive Session. But are we -- this is a simple question. Do we have any time constraints? Do we change our position if we table now and wait to address this again in two weeks from now?

MS. BIZZARRO:

No. There's no time constraints.

LEG. KENNEDY:

Okay. So we'll be in the same position. Fine. Thank you.

CHAIRMAN D'AMARO:

All in favor of the motion to table? Any opposed? Motion carries. **TABLED (VOTE: 5-0-0-0).**

1408, Adopting Local Law No. -2010, A Charter Law to increase legislative oversight of RFP process. (Romaine).

LEG. KENNEDY:

I make a motion to approve.

CHAIRMAN D'AMARO:

Motion to approve by Legislator Kennedy.

LEG. COOPER:

I'll make a motion to table.

CHAIRMAN D'AMARO:

Motion to table by Legislator Cooper. I'll second the motion to table. Is there a second on the motion --

LEG. NOWICK:

I'll second the motion to approve.

CHAIRMAN D'AMARO:

I'm sorry. I misspoke. What did I say? I'll second the motion to table and you'll second the motion to approve. Legislator Nowick seconds the motion to approve. On the motion, Legislator Lindsay.

P.O. LINDSAY:

Yeah. I just got a memo this morning from the County Comptroller who has been involved in this

whole process, and he would like it tabled for one session so he could meet with Public Works to review some of the issues here.

LEG. KENNEDY:

And that's certainly something that we should be cognizant of. And I'll be happy to go ahead and withdraw my motion. But I will tell you, Mr. Chair, I think it's absolutely critical that we get a handle on what's going on here.

Each time I see the RFP process that's going forward, some of the items that I'm seeing at this point are extremely troubling. I know that we just recently had an RFP about, once again, adopting a County-based prescription program. Certainly a very noble and worthy type of thing, but at the same time if NYSAC and NAPO offer a similar type of a program -- what really troubled me was a used underwater recovery vehicle. When I saw that, I said to myself -- you know, we're being hammered at every step with our budgetary issues being read about, you know, statements of possible layoffs 750 employees, and at the same time, we have an administrative function that seems to be going on on its merry way without any particular oversight whatsoever. And I am concerned, so I'd be happy to table.

P.O. LINDSAY:

If I might, Mr. Chairman. I don't necessarily disagree with you at all, but when we passed some of the procurement policies that we did last year -- and I know that the Comptroller has developed a book on procedures on how we let things, and I think we have to approve that I think in this next group. But, you know, I'd like to see that meeting take place. We will be happy to sit in on it. And we'll be together again in two weeks to say how that went.

LEG. KENNEDY:

Okay.

CHAIRMAN D'AMARO:

There was a motion to table that takes precedence. I'll call the vote. All in favor?

LEG. KENNEDY:

I said I would withdraw my motion to approve. I'm happy to go with the tabling.

CHAIRMAN D'AMARO:

Okay. For the record, the motion to approve has been withdrawn. I'll call the vote on the motion to table. All in favor? Opposed? Abstentions? Motion carries. **TABLED (VOTE: 5-0-0-0).**

1410, Adopting Local Law No. -2010, A Local Law requiring broader dissemination of auction information. (Browning)

LEG. BROWNING:

Motion to approve.

LEG. COOPER:

Second.

CHAIRMAN D'AMARO:

Okay. All in favor? Opposed? Abstentions? Motion carries. **APPROVED (VOTE: 5-0-0-0).**

1415, Adopting Local Law No. -2010, A Local Law to establish a prompt contracting policy for not-for-profit organizations. (Gregory)

I note for the record the sponsor of the bill has joined the committee this morning. Welcome, Legislator Gregory.

LEG. GREGORY:

Thank you.

CHAIRMAN D'AMARO:

Mr. Kovesdy, did you want to offer any testimony on this bill?

MR. KOVESDY:

We'd be happy to answer any questions. Deputy County Executive Ken Crannell sent a letter to Legislator Gregory and copied all of the Legislators. I just want you to know since the public hearing, our office undertook a study of, number one, all the people who had come to the meeting and voiced any concerns or comments, and we went to the five largest departments of the County; Social Services, Probation -- contract-wise, I mean -- Youth Bureau, Health, and we polled all their contracts, found out how many contracts they had, we had them age the contract to determine if there really was any need on our behalf to move the process.

And we found very happily that, number one, all the agencies that spoke to you in front of the Legislature had their contracts done in a -- done on time. It's listed in the letter. Number two, that all those agencies that came in front of you were paid promptly. The vast majority got advances. That there were no complaints for any of those agencies that came before you and spoke.

Additionally, we found that the Department of Social Services, Health, Youth are on top of it, and we really don't have any complaints. I'm talking the vast majority. There might be an exception here and there. In addition, I'm not sure if the Legislature is aware, we have evoked a triplicate system if there is a complaint. If there's a contract complaint, it goes to the County Attorney who makes sure that their attorneys get on it. If there's a complaint as far as the basis of what services are involved, the County Executive has someone on staff on the 12th Floor who deals with that. And if there's a complaint as to contracts being expeditiously paid, it comes to me and the staff in the Budget Office, and we intercede.

So since the days when contracts took forever and payments took forever, we have put a system in place to prevent that from happening. And I have gotten no phone calls this year whatsoever; anybody who has complained. You know, the idea of prompt payment and prompt contracting is an excellent idea, but I think the County has gone and rectified the situation that was in the past. And I don't think there's any need for this at this particular time.

CHAIRMAN D'AMARO:

I think much of the testimony at least that heard during, I think, the public hearings was in agreement with that; that the County is doing a pretty good job of going into contract and of making payment. But it seems to me that this would pretty much codify your efforts; you know, setting some deadlines. And at least if you don't meet a deadline, explaining in writing why not.

MR. KOVESDY:

Our only problem with that is that if -- you would basically have to send letters out, especially in the Health Department where you have contracts for services for handicapped children and things like that which take a lot of time to audit those contracts; you have to check child by child. Even with Social Services, you have to check on the service. We'd have to send a letter to everybody saying to extend the timeframe. That would take staff, and staff costs money. And our biggest concern is, number one, we don't think the system is broke; and number two, this would require additional staff on our end and would definitely consider additional staff on the County Comptroller. And as you know, the County Comptroller is 100% County cost. Other departments like the Youth Bureau is 100% County cost. We don't think the system is broke. If it was broke, we would take the prerequisite action. But to force the county under the terms of this to send a letter to anybody who is going to go over the 30 days would take valuable time away from staff.

MR. ZWIRN:

If I might add, Mr. Chairman. One of the things we have to be careful of is that, you know, you can put a contract in front of somebody and they can sign it without proper review. And that's what may happen. You know, an unintended consequence of this is that we're going to be so concerned about moving the paper, that we're not going to do our due diligence to make sure -- there are lots of requirements that have to be checked before, including whether 20% is going towards administrative costs versus -- you know, where the money is going. So we do our due diligence and we go through it.

We're also cognizant of the fact that the Legislature has, you know, wanted these contracts to be moved along. But we're in a delicate balance. You know, everybody got the message. The not-for-profits came in, they asked for it to be moved along. We had a special signing day. We were going to have a second special signing day, nobody showed up. They cancelled the second one because everybody who would get their contracts done was taken care of in a timely manner.

We're trying to find ways that we can save the County money, not penalize the County. You know, the workforce is doing the best they can. We are not certainly overstaffed in any department. We're putting a lot of pressure on the AME workers and the administration to try to get these things done.

On the prompt payment one, which is a companion bill which is at the end of the agenda, you know, sometimes we don't get paid by the State. You notice the State has withheld certain payments to the school districts to try to help with their cash flow. You're putting an awful lot of pressure and penalizing the County right now when we're trying to just take a deep breath to get through these economic times. We hear the message. We hear it from the non-for-profits. I think we have addressed it in a very responsible way. We just don't want to push the balance where you're going to have people pressured to get these things done so quickly that we don't take the proper care that the contracts have been complied with. And then we're going to read a big story about money that got passed through to an organization that was not in compliance, and we're going to say, "Well, you know, we were trying to get the contract done in such a way that we missed a step."

So we're just asking you to understand that there's got to be a balance reached and that the complaints are not there. We have met our responsibilities. And I know you talked about codifying it. It's putting a lot of pressure on the administration and the different department heads and the departments to get this stuff done. And we just ask you to bear with us especially through these tough economic times. We are doing the best we can. And so far, we have -- we have met our responsibilities.

LEG. NOWICK:

Your testimony was that everybody that spoke here has been -- the contracts have been signed and everything is up to par. Is that what you said earlier?

MR. KOVESDY:

Yes. I don't know if you got the letter. We met with or we checked on contracts of all the people who gave testimony at the open meeting of the Legislature. Two of them we actually sat down and reviewed the contracts in great detail. The other one, Ms. Wallerstein, we went through all of her contracts and checked them out.

LEG. NOWICK:

See but here's the thing; if there was not a problem, this probably would not come to the forefront. There had to have been some type of a problem along the way. And when you say that everybody that spoke here, all those situations have been fixed, that's wonderful, congratulations. But in my opinion, I'm thinking that just by listening to what Ben said, there might be a time when there's a problem, there's a caveat and we don't want to be held to a certain time date, and it's tough economic times. We are a big organization, we are the County, we are a big organization. Tough economic times are hard. But the non-for-profits, they're small organizations. And not to get paid on time hurts them, I'm going to say that it hurts them more than us. However, if you are saying

that we are really doing our job, everything is getting done on time, then there's no down side to this for you.

MR. KOVESDY:

I don't think you understood me. Maybe I can correct myself. First of all, the four people who spoke, we didn't correct any problems. There were no problems that were existing, number one. Number two, is all -- there are two sets of contracts. The contracts that the County Executive deals with are the ones that are in the printed budget, okay. They fall into two categories; there's 4980, which are contracted services which are listed specifically by name; there's another group that are fees-for-services; and there's a third group which you handle independently through your legislation.

The ones that are formalized in the budget either through the omni process or the through the County Executive, the vast majority of those get an advance. If they're existing contracts, they get a two month advance. The majority of those got the advance within the month of January. So they got -- they got money in advance so that while the contract process was going on, they would have money to operate. That was number one. Number two is it's the concern that you have wording in the legislation that if anything goes over a certain point in time that there's a penalty to the County. In order not to have a penalty there has to be formal writing or formal communications between the parties. That is an added workload.

LEG. NOWICK:

Just not to interrupt you on that. If there is a way that if there was a letter to go out because of that, isn't there a way to create a form letter of all the possibilities and speed up that process if it had to be? Is there not a way to do it, just generate a letter with every possible missing document or whatever it is that --

MR. KOVESDY:

I won't speak for the County Attorney, but they have a package that goes to the back end. The majority of departments send out the budget request beginning of December. You pass the budget basically end of November after all the resolutions and vetoes. At that point, the majority of departments send out a budget to the departments to move the process along. A lot of the delays are getting the budget back and having the budget reviewed because the budget becomes the amendment to the contract. Legislator Nowick, I just want you to appreciate there are thousands upon thousands of contracts that the County deals with. You only had four people come to the meeting and offer a suggestion or reach out to Mr. Gregory, Legislator Gregory. But there are thousands upon thousands of contracts the County deals with and deals with satisfactorily that don't come to light. I think the important thing you know is the system is working. If there was a problem, there's a mechanism to deal with that problem. And to codify this would just cause problems.

LEG. NOWICK:

But what would you say is the percentage of non-for-profits that are not getting timely payments based on how many thousands of contracts you have? Because I'm just trying to get an idea of what the real problem is.

MR. KOVESDY:

I would say, because I haven't had any complaints myself this year and I get people calling me all the time, I would say that over 99% are without problems. The ones that we looked into, there are legitimate reasons as to why these take a little bit of time. The other thing you have to realize is some contracts are not calendar-year contracts, they're state-year contracts. So a lot of contracts don't start until the state budget is passed. So those people are caught in between. Like the Aging contracts are State contracts. If they don't have an appropriation, we cannot formalize a contract, because there's no budget. So the ones that deal with the state-calendar year are delayed until the state has a budget. But we're constricted on those.

LEG. NOWICK:

And if this gets passed, those would be the ones that you have to write a letter to.

MR. KOVESDY:

Right.

LEG. NOWICK:

But wouldn't that letter be a fast letter: The State budget hasn't been passed, boom, check it off"? So what i'm getting at is if 99 of the contracts are timely, say there's a 1000 contracts, and a 100 of them are not timely, would you be able to write letters, form letters, and perhaps be able to institute this legislation? Do you think that your office could do that?

MR. KOVESDY:

It would be all the departments. Plus it would be the fact that you have County Comptroller having to write a letter on any particular voucher that might come in that he has to investigate, because the county -- after the step is it goes to the department, the department reviews, the department approves. Some of the vouchers then go to the County Comptroller to review the claims and to sign off on them. I don't want to speak for the County Comptroller, but they've got a massive amount of claims that come in. Some of them take a lot of time to review, some of them are perfunctory. So they would have to send something out that your claim is being reviewed, it will take X amount of time. So there's a lot of added paperwork.

I don't think the system is broke. If the system was broke like it was years ago, then this legislation would be a step in the right direction. But the County Executive has taken action. You have taken action by what you did with the daycare by putting the Department of Social Services on notice to get their bills done. Everybody is doing their job. In this case, you don't have to fix something that's not broken.

CHAIRMAN D'AMARO:

All right. Legislator Gregory, go ahead, please.

LEG. GREGORY:

Thank you, Mr. Chair. I don't even know where to begin. I feel like i'm in an alternate universe. First of all, this letter, to me, is a farce. It was done under duress, and I'm just going to end with that. We have -- I spoke with the Comptroller's Office, and there are over 350 contract agencies that would comply with this that may -- the contracts themselves may be in the thousands, as Mr. Kovesdy said.

But, you know, my argument is if the system -- we're not trying to fix the system. If you're saying you're doing to it right, we're just trying to codify what you're doing. You want to account for four or five agencies that have come forward, all of which are not addressed in this memo. There was a woman from, I believe, Alternatives out in East Hampton who spoke who had not been paid since October. The State budget was passed on time last year, she wasn't paid since October. Not less than -- no less than 24 hours later, she -- let me back up.

Since October to April 28th or whatever that meeting was, zero communication with the County why she wasn't paid. Less than 24 hours later, she was cut a check for \$150. There's another organization who came before us, their contracts were addressed. They didn't state what the problem was, what the issue was, "Here's your check." The others in this memo stated that there's misunderstandings. There's no misunderstandings. These people are professionals, some of which are a professional CPA who's worked with New York City contracts for over 20 years. They understand the system as best as the system can be understood.

The County has had some reluctance to move to codify what they say they're already doing. I don't understand that. There are other agencies, probably four or five at least in my district, that have contact me. I was in a deli getting a sandwich and one of my youth agencies said, "DuWayne, what's going on? We gotten our contract this year." I said, "Really?" I said, "I have a bill to

address this very same issue." He said, "Well, we were scared, we didn't want to bother." It's not my issue. I'm not doing it. They've been a contract agency for ten years now. They provide vital services to keep kids off of streets and out of gangs, and they haven't gotten their contract signed yet.

You know, there are organizations -- and a lot of these organizations, they're afraid to come forward, because when they come forward, they don't get the information that they need. Some are intimidated, and I brought that issue up to the County Attorney. I don't know if she's looking into, if she's investigating it. I haven't been made aware that she's done anything about it. Then, you know, there's an undercurrent or an understanding out in the not-for-profit community that if you come forward, the squeaky wheel gets delayed, the squeaky wheel doesn't get greased, the squeaky gets delayed. So they're afraid to come forward, and that's unfortunate.

We are a government. And a lot of services that we're -- we're not only asking them to provide, we're mandated to provide, and we can't provide those services ourselves. And they're coming to us doing us a favor as a County, and they're not getting paid. They have to take out lines of credit. These are not-for-profits. We're not talking about BP, you know, makes billions of dollars. These are people that operating on their margins. You know, very little income. And one agency, they had to pay almost \$30,000 in interest for a line of credit they had to take because they didn't get their contracts in six months. That's a problem to me. We ask them to provide a service. They're coming to us, and they're financially worse off than before they came to us. That's a problem. They're doing us a service.

So at any rate, I spoke to the Comptroller's Office, they're fine. They understand it's going to -- you know, just like the daycare bill, you know, it's going to cause some issues. They're going to have to make sure that they comply with the law. But it's the law. And we should pay our bills on time and contract time with those agencies that ask to provide services.

So, you know, I don't know what else to say. You know, we cannot focus on -- you know, I think you are coming from a standpoint that it should be complaint driven. No. This should be a policy-driven situation where we as a policy say that we contract with the agency, we're going to have your contract on time. And those that have contracted with us on time, we're going to pay them in the rate and the manner which we say we already pay them. And if they don't and if we can't contract with them on time, their excuse is built into the law. Now these excuses should be already given to the agencies. Now, you're telling me writing a letter is an extra burden.

Well, as a contract agency, if I don't have my contract, I should have something in writing that says, oh, I don't have my contract because I, agency, haven't submitted the property paperwork. You should be already doing that. You should just duplicate that memo to who it calls for, the Presiding Officer, myself as the Chair or whoever will be the Chair of Budget and Finance, and the others that are delineated in the bill. That's not additional, that communication should already be forthcoming.

I had an agency, when I worked for Legislator Mystal two years ago, come to me and said their organization's contract -- this was 2008 -- they hadn't had an approved contract since 2005. And I met with them in February. And that same, very same issue, was not addressed from two years prior. So they're operating on budgets year to year. You know, these are the things that -- because I don't want to make it about a specific organization. Again, it should be a policy that we do. I don't want to divert resources to a specific situation -- to a specific organization and say, well, we fixed it. No. It should be an overall general policy.

And just to end with this, I'm a little offended with Mr. Zwirn's comments that the County would not do its due diligence. These organization that we do business with are upstanding organizations, they do things that we're not capable of doing, they're doing State-mandated services for the most part. Yes, there are some situations -- actually, a situation about ten years ago in my district with the emergency shelter provider, those are far and few between. So to insinuate that if we as a policy establish prompt contracting that we're going to --

that these criminally-minded or unethical organizations are going to get money that they're not due, most of these organizations have been doing business with the County for years.

So I think if there are some type of unethical performance in their duties or their work with us, we would have discovered that. But I think for the most part, these are great organizations, and they need to be and should be and deserve to be paid on time and contracted in a timely manner.

MR. ZWIRN:

Mr. Chairman, if I just might respond to just a couple of things.

CHAIRMAN D'AMARO:

Okay. You respond and then I have Legislator Kennedy, Legislator Cooper, and then, Denis, did you also want to say something?

MR. BROWN:

I really would just like to give a little --

CHAIRMAN D'AMARO:

Let me just hold you right there. Go ahead, Mr. Zwirn, quickly, and then we'll go back to the Legislators.

MR. ZWIRN:

We're not disparaging the not-for-profit agencies, but there are certain requirements that have to be fulfilled. And as I made one example -- it has nothing to do with ethics -- you are not allowed -- we have County rules where how much money can go to administrative costs versus how much money gets paid to an individual organizations. That has to be checked. There are audits done by the Comptroller's Office on a regular basis that review all of these contracts and vendors who do business with the County, including the not-for-profits.

Sometimes some of these groups are not in compliance. Some of them can get into compliance, some of them -- and while they're not in compliance, we can't pay them. And if we do, then we have not done our due diligence and upheld our fiduciary obligation to the taxpayers of this County whose money this is. And I didn't mean to offend, that was not my purpose to say that they're ethically challenged, not at all. I know these organizations personally, and they do wonderful work.

We're also \$200 million behind in State payments, as much as nine months. How do we handle that? You're talking about prompt payment. We sometimes act as a pass-through to these different organizations. Do you want the County to front that money or do we send a letter out saying as soon as we get paid by the State we'll pass it through? A lot of times right now, the County is advancing money to these organizations. We've done it to some of the organizations that you've mentioned.

And with respect to being complaint driven, it's important for us as a government to know if somebody has been overlooked or been mistreated that we know which organization that that is to find out what the problem is, be it a fundamental problem that we can correct so it won't happen again. There may be some issue with respect to some of the paperwork that has to be done. But it's not to be punitive. If we can find out -- and you mention a number of organizations in your district. Let us know. The organizations don't have to call us. That's why they have you as their representative, you can call our office, you can call me, you can call the Budget Office, call the departments heads and find out and get to the bottom of it. I mean, there's never been a situation where we're trying to be punitive. We're trying to get the money to these people as quickly as possible. And I think by and large we have done an excellent job.

The County Attorney spent a long time coming up with forms that could be used that could be uniform to simplify process more so than ever done before. And they deserve a lot of credit. We came in here in the very beginning, I think when Legislator D'Amato first came in as head of Ways

and Means, we had a few people come in that from the different groups that were complaining. They don't come in anymore. And when people don't come in, that means generally that they're not having something to complain about. It means we've done something well. Nobody comes back in to say congratulations.

We're just saying that we have to -- I don't want somebody to have a contract put on their desk, and because they're so pressured on time constraints that they don't do their due diligence. In the end, this is taxpayer money that we're spending. And we have an obligation to the taxpayers to make sure that money is spent the way it's required to be spent. And that's all I'm saying. I'm not trying to disparage or cast, you know, any kind of aspersions on the organization that are doing business with the County.

CHAIRMAN D'AMARO:

All right. Thank you, Mr. Zwirn. Legislator Kennedy.

LEG. KENNEDY:

Thank you, Mr. Chair. I think that we -- well let me ask a question first. Let me ask Mr. Brown. Mr. Kovesdy spoke about the fact that we may have thousands of agencies that we contract with in order to do County functions throughout the County. Do we have any idea how many?

MR. BROWN:

Sure. In 2009, there were over 500 line item contracts which were funded. By March 31st, 2009, 200 of those contract were executed. We held two early contract signing days last year. One was early in February, and the other was in March. At the first contract signing day, 67 agencies appeared, and at the second contract signing day, approximately 18 agencies appeared. So of the 200 contracts that were execute in the first year, we had approximately 80 executed at the early contract signing days.

This year we had only one contract signing day. And we only had one contract signing day early in March. And the reason why we only had one contract signing day is because as it was reported back to the Law Department is that the agencies were not interested in attending the contract signing day. Instead, they wanted to execute their contracts by mail. When we did the contract signing days, we had two attorneys up in the County Executive's Office, and when the agencies came up, they had -- they left with executed contracts. We did the same thing this year. Less agencies, approximately a third less, and we only had one County Attorney.

Now, also, I can add that two years ago it was -- it instituted administratively to promptly get contracts to the agencies once the budget was passed. So when the budget was first passed -- well, actually, before the budget was first passed. So two years ago, we had developed a model along with model to try and alleviate some of the complaints that were made by the agencies two years ago. The model also allowed for a reduction of some of legislative requirements forms which were being -- which are necessary to the contract as well. Also two years ago, there was an open forum to all the agencies. They were invited to apprise them of how the new expedited contract process would take place. And there was a meeting held in the Media Room at the H. Lee Dennison Building.

LEG. KENNEDY:

I know that there has been a move by the administration for, you know, looking to streamline a process that clearly was abysmal. It has gotten better in some respects, but as Legislator Gregory points out, there are still agencies that for whatever reason are having issues and having problems. The biggest benefit that I see from this bill is that -- look, you must have some type of a tickler system when you commence. When our budget gets adopted mid November, the latter part of November, right then and there, the County Attorney's Office knows, okay, we have 400, 500, 600 entities, you know, alpha through zeta, and they're going to go ahead and have numbers in the system; 1, 2, 3, 4 through whatever. And you start the process to go ahead and do a tickler on them.

So I find I somewhat incredulous that we are creating a process that now is going to involve multiple armies of humans to generate correspondence about a very regimented process. You start, you know, the entity you are going to contract with, you generate a contract by the middle of January, it goes out in the mail, they go ahead and review it, ask for requests, sign it, return it to you, somebody in your office or the Budget Office is updating that contract process in some type of a system. And if we're not, we need that piece of software.

MR. BROWN:

I can give you a little bit of background about how it does work once the budget is passed. The budget is passed, a model contract goes to all of the departments. And that occurs -- we try and get it out by the beginning of December. The departments, after the budget is passed, contract the agencies and the information needed to complete the contract. The budget aspect and the services aspect of the contract is requested by the departments from the agencies. And as that information comes in from the departments -- and that includes filling our legislative requirement forms -- as that information comes to the departments, the departments complete the contracts based on our model form.

And we have streamlined the model form also so that there's only one or two exhibits in each contract that only gets worked on. This way when it comes to us, we can look at it in a streamlined fashion, only those one or two exhibits. It gets -- there's also a contract, a barcoded contract tracking system that's been instituted through IT two years ago as well. It comes from the department, it's scanned into the system. It comes to our department, it's scanned into the system. We have one dedicated full-time employee that does nothing for practically the first half of the year except track contract through Budget to the County Executive's Office back our office and back to the departments. So we try and get them out very quickly. And in most times, they are turned around very quickly. And then it's scanned to the system when it goes to Budget. And then whatever occurs at the Budget level and also at the County Executive's Office. But then it comes back to us.

LEG. KENNEDY:

Well, my point is obviously we're making the best use of technology as we can at this point. So it's a simple process to query the system for any uncompleted contracts on any given day. And therefore, the next step to generate a simple letter as to why we don't have execution is an equally automated technology-based process and not something that's going to require massive amounts of labor. Because I'll tell you something, if there's an agency in my district and they have not picked up the phone like some agencies don't do if for whatever reason, I want to know about it, because I'll be calling them saying, "Where's the issue? Did you not assemble things properly? Did you not describe in detail the exhibit? Did you fail the reach out to the department?"

The notification that comes is beneficial for everybody. Let's assume that you're, you know, making every effort by and through all the departments to go ahead and get things executed, because what we're all talking about is interest that these agencies have to pay that they don't have the money for.

MR. BROWN:

I think that there are really only a couple of degrees of separation between the Law Department and your point in that a simple inquiry can be made as to the status of the contract. But I would always tend to bet that if there's a delay -- there is first the initial communications between the agency and between the department. So when it comes to our office, we get it out pretty quickly. But I would say if there is delay from the beginning of the year, January, to the time the contract is executed -- and I'm not so sure if delay is the correct word to use -- if there is any length of time that passes, it is usually because of the communications between the agency and the department in resolving the budget and in resolving how the budget is going to be allocated to the services as well as overhead and the services in general.

But most of the time, it's because of communications between the department and between the

budget for the agency on the services that its to perform.

LEG. KENNEDY:

So what it seems to me that we're all peeking about is a generally common agreement for the lion's share of this. I think what the sponsor's purpose is to say, "Let's make sure that we have system-based notification for those that don't achieve the execution timeframes for whatever the reason," whether it's an agency who may be the best counselors in the world, but they can't add, or it may be a department that for whatever reason hasn't spoken to the agency. Let's take it out of the subject of individualized who's going to run down there and systemize it, that's all.

MR. BROWN:

And you know, from our perspective, because we do do it, this our business that we do everyday, it would also be helpful -- there are certain deadlines and protocols being imposed upon the departments and on the County. It would also be helpful if some protocols were imposed upon the agencies, because I would say that in the vast majority of the circumstances, we would reply with a letter or the departments would reply with a letter saying that some bit of information was missing from the agency. But if you really want to impose deadlines and have contracts executed within the first quarter, because I think the outside deadline is March 15th in the bill --

CHAIRMAN D'AMARO:

That's only for new --

MR. BROWN:

For new agencies?

CHAIRMAN D'AMARO:

February 1 is the drop dead date.

MR. BROWN:

So if you really wanted to make that date, there would probably be -- the bill could probably be made better if some burden was also imposed on the agencies to make sure that information is delivered to the department in a timely fashion as well, the department administering the funding.

LEG. KENNEDY:

I don't want to monopolize the discussion anymore. You have been gracious and the Chair has been gracious in giving me the time. Clearly, that's for the sponsor to go ahead and consider --

MR. BROWN:

It's true. It's true.

LEG. KENNEDY:

-- whether or not there's a choice to go ahead and amend. But I would also say to you, Denis, think about this in perspective. You have got a County Government, an entity that's a \$2.6 billion entity, that's got almost infinite resource at its disposal and you have an agency that maybe like Pederson-Krag, a large agency, or it may be a simple two or three person counseling entity. Should there be some degree of accountability? Absolutely. But to think that somehow they're going to have to be compelled to function at the same level that this municipal entity functions is very unrealistic. We're talking about trying to equalize and bring our resources to the level that they need to do the job we ask them to do.

MR. BROWN:

If the agency cannot get the information to us and there's any delay in them getting the contract, as Allen indicated earlier, they do get two months advance in January.

CHAIRMAN D'AMARO:

Okay.

LEG. KENNEDY:

All right. I'll yield.

CHAIRMAN D'AMARO:

All right. Legislator Cooper?

LEG. COOPER:

Just very briefly I wanted to respond to something that Mr. Zwirn had said. Ben, you said, I'm paraphrasing, that people no longer come to Ways & Means because they have nothing to complain about. And I wish that was the case. But what's trouble to me is that I've met over past few weeks with heads of at least a half dozen contract agencies who have -- again, I'm getting it from them -- but who have recounted stories of being threatened and bullied by Suffolk County -- I won't name names -- that if they came forward publicly, there would be dire consequences. A half dozen agencies that came to me separately recounting the same sorry. And they're credible organizations that I have dealt with in the past. So it's of concern to me. So I'm just saying it may be that they're not coming because there are no problems or it may be that they're not coming because they are indeed being intimidated. So I just wanted to put that out there. And I know there are two sides to every story.

MR. ZWIRN:

I'm just saying, you know, it's hard to respond --

LEG. COOPER:

I realize that.

MR. ZWIRN:

-- without knowing who's making the complaints that they've been intimidated. I think we would like to know that on some level so that we can get through. That's not the role of Suffolk County Government to try to intimidate indicate not-for-profits. We work together with them, we advance them money, we recognize them, we want -- they're partners with us in providing services to the people of this County. So when I hear that, it's very distressing. I would like to know so we can find out, maybe something has been misinterpreted. But if someone has deliberately tried to intimidate --

CHAIRMAN D'AMARO:

We're not going to resolve that here today. I just want to move it along, because we've been here almost two-and-a-half hours. Mr. Brown, something quickly.

MR. BROWN:

I just wanted to say that in response to Legislator Cooper, two years ago, we held an open seminar. And we asked the agencies to come down and indeed many of them did come down and they were invited to participate in the contract signing day. And every single agency could have their consider signed if they came on the contract signing day.

LEG. COOPER:

Okay.

CHAIRMAN D'AMARO:

To the Clerk, do we have a motion pending on this bill?

MS. HOWARD:

No.

CHAIRMAN D'AMARO:

There are no motions pending?

MS. HOWARD:

No.

LEG. COOPER:

I'll make a motion to approve.

CHAIRMAN D'AMARO:

All right. Motion to approve by Legislator Cooper, I'll second. All in favor? Opposed? Abstentions? Motion carries. **APPROVED (VOTE: 5-0-0-0).**

1431-2010, Adopting Local Law No. -2010, A Local Law to encourage the sale of substandard properties in the County's inventory to adjacent property owners. (Cilmi)

LEG. BROWNING:

Motion.

CHAIRMAN D'AMARO:

This bill would raise the limit to 50,000 to auction to adjoining owners as opposed through the regular auction process.

LEG. BROWNING:

I make a motion.

CHAIRMAN D'AMARO:

Motion by Legislator Browning to approve.

LEG. COOPER:

I'll second.

CHAIRMAN D'AMARO:

Seconded by Legislator Cooper. All in favor? Opposed? Abstentions? Motion carries. **APPROVED (VOTE: 5-0-0-0).**

1451-2010, Adopting Local Law No. -2010, A Local Law to enact a Campaign Finance Reform Act to limit campaign contributions from County contractors. (Schneiderman)

This law would prohibit giving or accepting contributions from those doing business with the County pursuant to a contract in excess of -- what was it -- I think 10,000. It would limit those contributions to \$500.

LEG. NOWICK:

I'll make a motion to table.

CHAIRMAN D'AMARO:

Motion to table by Legislator Nowick.

LEG. KENNEDY:

Second.

LEG. KENNEDY:

Seconded by Legislator Kennedy.

LEG. BROWNING:

I make a motion to approve.

CHAIRMAN D'AMARO:

Motion to approve by Legislator Browning. Is there any second?

LEG. COOPER:

I'll second the motion to approve.

CHAIRMAN D'AMARO:

All right. There's a second to approve by Legislator Cooper. The motion to table takes precedence.

MR. ZWIRN:

Mr. Chairman, can I just be heard just briefly on this?

CHAIRMAN D'AMARO:

Mr. Zwirn, please go ahead.

MR. ZWIRN:

We have some problems with this bill. And it leaves out unions again. You know, and the sponsor of this bill happens to be my Legislator. If he were here today I would ask him this question. His office is in a building owned by his largest contributor. Prior to his being elected, the Legislative Office was in a public building where there was no rent paid by the County, it was a County-owned building at Gabreski Airport.

When my Legislator got elected, he asked to move into a building that had just been purchased by, again, the man who was his largest individual contributor. The County paid for the renovations and now pays the rent every year. Does that -- I mean, how does that square with this legislation? And I'm not sure if there's conflicts built in. But again, this is not all comprehensive with respect to the fact that it leaves out unions --

CHAIRMAN D'AMARO:

Well, I think that's what you're really addressing. This bill would not address that situation, but you're making the point --

MR. ZWIRN:

But you vote on contracts -- you vote on union contracts. You vote on the wages and salaries and benefits of individual groups that are now being, you know, excluded from this. If we could find a comprehensive campaign finance bill -- the County Executive has put forth a couple in the past. This is not it, in our opinion, and it leaves a lot -- so many loopholes that it really doesn't accomplish what I think it may have intended to.

CHAIRMAN D'AMARO:

Well, I agree with you that this more going to a piecemeal approach. It's not a comprehensive reform of our campaign finance system. It leaves a lot to be desired. The bill, it's interesting, I read it this morning again. It speaks in the Whereas Clauses with respect to special interests, but then it only addresses one special interest or potential special interests which would be contractors. But there are many, many others that would have no limits other than the limits on the State Finances Law, but no additional limitations on how much those other special interest can contribute into the process.

And it seems to me that we have to make a decision which direction we want to go. Do we want to try to accomplish this reform, because I think everyone would favor the reform of the process; to take the money out of play and the money out of the system. I think that's where we need to go. But do we want to do it piecemeal or do we want to do it comprehensively to level the playing field for everyone?

That's kind of the debate raging in my own mind about this particular bill. While I think it's a good idea and a step in the right direction, you know, what about all the other special interests, what

about all the other situations that are not being addressed? Legislator Cooper.

LEG. COOPER:

I just want to agree with you that I think that this is a step in the right direction and certainly could be strengthened further, but, you know, my concern is if we continue to wait to enact a comprehensive bill that will attempt to cover every possible contingency, we're never going to get anything approved. So I think that this is an important first step. Perhaps we should go further, and I would be amenable to supporting that as well. But I see no reason at all not to support this at least as an interim measure. And that's why I will be voting today to support it.

CHAIRMAN D'AMARO:

The other issue or question I had on the bill was, you know, why \$500? It seems to me, you know, under even our own individual races there's a formula set for contributions limits, there's a separate formula for a larger County-wide office. This limits all of the contributions even for County-wide office to an arbitrary number it seems. I 'm not saying we shouldn't pick a number, I was just kind of curious, you know, whether we feel that number is appropriate, not appropriate, whether or could we ban the contributions out right? I don't know constitutionally if we could do something like that. I don't think we can.

It just seems to me that this may need to be worked a little bit further to take into account that while one County candidate may be running in a Legislative District as opposed to a County-wide District with several County officials that are elected County-wide. I don't see any justification in the bill itself for the limitation. So it's just a practical consideration that I had with respect to the bill as well. Anyone else? All right. Was there a motion. I'm sorry. Hi, Lynne, go ahead.

MS. BIZZARRO:

Thank you. That just goes to the legal problem with the bill, that it's preempted by Election Law. Basically limitation on campaign contributions and receipts are already delineated in section -- in Article 14 of the Election Law. And basically, our municipal Home Rule states that a County Charter cannot supercede that. And as I believe Legislator Nowick and perhaps the Chair already recognized, there's already a formulary set forth in that regarding the contributions. And the \$500 is a clear contradiction of that contribution that's already allowed in the State Law.

CHAIRMAN D'AMARO:

But wouldn't it be more restrictive?

MS. BIZZARRO:

It is more restrictive, but in this -- in this instance, as I said, because the Municipal Home Rule Law specifically states that we cannot supercede. Whether we make it more restrictive or less restrictive, we cannot contradict State Law as it stands. And that's exactly what this bill is doing. So that's a big problem. I mean, the AG's Office opined in 1998 and prior thereto that this just cannot be done.

There are avenues that you can do. For example, the County Exec's bill, if I can point out, that's a voluntary program. That does not contradict State Law in any fashion, it doesn't do anything that the State Law says you can or cannot do, and therefore, that's acceptable.

CHAIRMAN D'AMARO:

That's where a candidate would voluntarily agree to limitations --

MS. BIZZARRO:

Correct.

CHAIRMAN D'AMARO:

Okay.

MS. BIZZARRO:

Then you would just voluntarily do it.

CHAIRMAN D'AMARO:

You know, even before I got here, I know this Legislature has had this debate from time to time. And it always seems to me that when something is finally enacted, it's usually a voluntary -- not enacted, but even proposed -- for that very reason; that the entire area seems to be preempted and that this would be unenforceable. If challenged, it would be struck down. I'm just going to ask our own counsel his opinion on that well.

MR. NOLAN:

In the past -- I mean, we've had similar legislation before us previously, and I believe I put on the record that on that preemption issue that the County Attorney's Office raised, I believe it's an AG's opinion, an Attorney General opinion, which states they were asked about a law similar to this that was proposed somewhere else, and the Attorney General opined that the entire area in terms of contribution limits was a preempted area.

CHAIRMAN D'AMARO:

So you agree?

MR. NOLAN:

I agree.

LEG. COOPER:

Based upon that ruling from Counsel, I'm going to withdraw my seconding motion.

LEG. BROWNING:

I guess I'll have to withdraw my tabling motion.

CHAIRMAN D'AMARO:

And just, you know, if I could be indulged for a moment to speak for even I think everyone in the room, the committee, we all want the reform, but let's do it in a way that at least it would sustain a challenge. So I think we need to table this, revisit it and come up with something that works. With that said, there is a motion pending then only to table which has received a second. I'll call the vote, all in favor? Opposed? Abstentions? The motion carries, the resolution is **TABLED (VOTE: 5-0-0-0)**.

1454-2010, Approval of auction rules for the disposition of surplus property acquired under the Suffolk County Tax Act. (Co. Exec.)

This is a pro forma approval of our auction rules every year. Mr. Zwirn, I believe last cycle you had asked that this be tabled. Have the corrections been made or the revisions been made?

MS. BIZZARRO:

I just nodded my head. Yes, they have. And our office took a look at them, made a few more changes, and it's fine.

CHAIRMAN D'AMARO:

All right. Are there any substantial revisions from what we've enacted in the past? Anything you want to put down on the record?

MS. BIZZARRO:

Nothing substantial. You know, I'm just thinking, I know that Ms. Pam Greene is out in the audience. She can probably speak better to the substance of it. I think there was one part that dealt with notification from the owner to -- you know, what? Let her speak to it better.

CHAIRMAN D'AMARO:

Okay. That's fine. Welcome.

MS. GREENE:

Good morning, I think.

CHAIRMAN D'AMARO:

Good morning.

MS. GREENE:

No. Close.

CHAIRMAN D'AMARO:

Any substantial revisions you'd like to point out?

MS. GREENE:

Nothing substantial. We're taking out -- striking the words "natural as opposed for children" and adding "children."

CHAIRMAN D'AMARO:

Okay.

MS. GREENE:

And we're also requiring written notification, but nothing substantial from last year.

CHAIRMAN D'AMARO:

All right. So it's very similar in form and content to what we've passed -- what we've approved in the past.

MS. GREENE:

It is.

CHAIRMAN D'AMARO:

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

LEG. COOPER:

Second.

CHAIRMAN D'AMARO:

Seconded by Legislator Cooper. All in favor? Opposed? Abstentions? Motion carries. **APPROVED (VOTE: 5-0-0-0).**

1489, Adopting Local Law No. -2010, A Local Law to establish a notification requirement for consultant contracts. (Montano)

LEG. KENNEDY:

I'll make the motion to approve.

CHAIRMAN D'AMARO:

All right. There's a motion to approve by Legislator Kennedy, seconded by Legislator Nowick.

LEG. COOPER:

I'll make a motion to table.

CHAIRMAN D'AMARO:

Motion to table by Legislator Cooper, I'll second. On the motion? If not, I'll call -- the motion to table takes precedence. All in favor? Opposed? Abstentions? Motion carries. Resolution is

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

1490, Adopting Local Law No. -2010, A Local Law to extend prompt payment policy for not-for-profit contract agencies. (Gregory)

This would require payment of invoices within 30 days of receipt for various non-for-profits contracting with the County. Otherwise, if there is failure to make that payment within 30 days without a legitimate reason for failing to do so, the County would be incurring an interest payment. This is the payment policy, not the contracting policy.

LEG. KENNEDY:

I'll make the motion to approve, Mr. Chair, and on the motion.

CHAIRMAN D'AMARO:

Motion to approve by Legislator Kennedy, I'll second the motion. On the motion, Legislator Kennedy, go ahead.

LEG. KENNEDY:

This is very similar to issues that we had before us with the child care services. And I think more importantly, it just speaks to a broader responsibility on our part that when we contract for anything, I don't care whether it's provision of services in the form of health care counseling or for that matter procurement of pencils, it's the responsibility of government to go ahead and pay any vendor, any provider of service and to do so in a timely manner. So I see it as just a very basic, once again, reaffirmation of what we all know our responsibilities are.

CHAIRMAN D'AMARO:

Thank you. I'm call the vote. All in favor? Opposed? Abstentions? Motion carries. **APPROVED (VOTE: 5-0-0-0).**

Part Six of the agenda, Introductory Resolutions.

1516-2010, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Hickory Run Estates, Corp. (SCTM No. 0800-027.00-07.00-004.004 and 0800-027.00-07.00-004.005). (Co. Exec.)

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

1517-2010, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Jose A. Melendez and Ana Bernarda Melendez, his wife (SCTM No. 0504-013.00-02.00-100.000). (Co. Exec.)

Same motion, same second, and without objection, same vote. **APPROVED** and placed on the **CONSENT CALENDAR (VOTE: 5-0-0-0).**

1518-2010, 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 Eugene Clegg by Tyler C. Sterck, as administrator CTA and Gary A. Hahl, as executor, (as Co-Fiduciaries) (SCTM No. 0502-001.00-03.00-039.000). (Co. Exec.)

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

1519-2010, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Maria Bustamante (SCTM No.

0500-269.00-01.00-009.006). (Co. Exec.)

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

1520-2010, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Jeffrey Zaita, Ellen Zaita and Vincent Auletta, as joint tenants (SCTM No. 0200-369.00-05.00-004.001). (Co. Exec.)

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

1521-2010, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Xiu Zhen Yang (SCTM No. 0206-008.00-03.00-002.000). (Co. Exec.)

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

1522-2010, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Joseph Brewer (SCTM No. 0100-150.00-02.00-051.000). (Co. Exec.)

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

1523-2010, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Jocelyn Jean (SCTM No. 0100-131.00-03.00-061.000). (Co. Exec.)

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

1524-2010, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Haresh Shah a/k/a Haresh Kumar Shah (SCTM No. 0100-129.00-03.00-010.001). (Co. Exec.)

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

1525-2010, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Miriam Cisneros (SCTM No. 0100-063.00-02.00-035.000). (Co. Exec.)

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

1526-2010, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Ted C. Nicolai and Kim Nicolai (SCTM No. 0100-046.00-03.00-009.000). (Co. Exec.)

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

1527-2010, Sale of County-owned real estate pursuant to Local Law No. 13-1976 Brian and Doreen Besemer (SCTM No. 0102-005.00-02.00-135.009). (Co. Exec.)

This is a Local Law 13, auction sale to an adjoining owner. This is 14 by 365 foot parcel in the Village of Babylon. It appraised for \$2000 and sold for 2555. I'll offer a motion to approve, seconded by Legislator Cooper. All in favor? Opposed? Abstentions? Motion carries. **APPROVED (VOTE: 5-0-0-0)**.

1528-2010, Sale of County-owned real estate pursuant to Local Law No. 13-1976 Mark and Marianne Reuter (SCTM No. 0900-013.00-01.00-084.000). (Co. Exec.)

Fifty by 100 in Sag Harbor, appraised for 5000, sold for \$5001. Same motion, same second, same vote. **APPROVED (VOTE: 5-0-0-0)**.

1529-2010, Sale of County-owned real estate pursuant to Local Law No. 13-1976 Robert J. Downs and Eileen P. Healy (SCTM No. 0900-298.00-03.00-017.029). (Co. Exec.)

This is a three foot by 681 foot parcel in Hampton Bays. It appraised for \$2000 and sold for 2750. Same motion, same second, without objection, same vote. **APPROVED (VOTE: 5-0-0-0)**.

1530-2010, Sale of County-owned real estate pursuant to Section 72-h of the General Municipal Law - Town of Smithtown - (SCTM No. 0800-019.00-02.00-053.001). (Co. Exec.)

This is a 7200 square foot parcel in Smithtown, sold for \$2100 and change to be used for a town cemetery -- in connection with a town cemetery. I'll offer a motion to approve.

LEG. KENNEDY:

Second.

CHAIRMAN D'AMARO:

Seconded by Legislator Kennedy. All in favor? Opposed? Abstentions? Motion carries. **APPROVED (VOTE: 5-0-0-0)**.

1538-2010, Authorizing the transfer of property to Suffolk County Department of Parks, Recreation and Conservation (SCTM No. 0200-461.00-03.00-029.000). (Co. Exec.)

This is one acre in Manorville that will become part of the existing nature preserve in Robert Cushman Peconic River County Park. I'll offer a motion to approve, seconded by Legislator Kennedy. All in favor? Opposed? Abstentions? Motion carries.

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

1544-2010, Amending the 2010 Capital Budget and Program and appropriating funds in connection with Fiber Cabling Network and WAN Technology Upgrades (CP 1726). (Co. Exec.)

I'll offer motion to approve. Is there a second?

LEG. BROWNING:

Second.

CHAIRMAN D'AMARO:

Seconded by Legislator Browning.

LEG. KENNEDY:

On the motion, Mr. Chair.

CHAIRMAN D'AMARO:

On the motion, Legislator Kennedy, please go ahead.

LEG. KENNEDY:

Can you tell us anything about this Ben? What is this? I don't know much about it either. Fiber optics and WAN. Sounds like, you know --

CHAIRMAN D'AMARO:

It's placing switches and routers in the County's wide area network with the funding taken from two other capital projects, I believe.

LEG. KENNEDY:

What are the offsets? Maybe BRO can tell us. Lance, can you tell us what are the offsets that they're taking it from?

MR. REINHEIMER:

Yeah. I think the offset is renovations to Building 50 which is the IT Building. That's reflected in the proposed Capital Program. And I assume that the department is in agreement with that.

MR. KOVESDY:

If you know the back of the building, there's a loading dock in the back. The costs became considerably less so they were able to -- that's free money.

LEG. KENNEDY:

But then where -- I don't mean this facetiously. I've seen a lot of this lately. Where is that -- presumably our County employees are using the Wide Area Network or is this something you're making available for the general public?

MR. KOVESDY:

I think this is just upgrading to make sure the system is working and meeting the load. This was in the Capital Budget. It came through the Steering Committee and we all voted for it. This is general operation we do from time to time.

LEG. KENNEDY:

I know we put employees out there; like Probation Officers use laptops and they have to connect to the net and other folks. Is that what this thing is? Does anybody know?

CHAIRMAN D'AMARO:

Ben, do you want to hold off two weeks on this and maybe we can get some answers?

MR. ZWIRN:

If we can just pass it. Legislator Kennedy, your questions are -- we have them before the meeting. So you'll know before the General Meeting what this specific project is.

LEG. KENNEDY:

Okay. Fine. Then I'll support it to go out of committee, but, again, you know, I need to have some idea where this is going, particularly if we're looking to offset other existing projects.

CHAIRMAN D'AMARO:

All right. You want to do it by discharge without recommendation and go from there?

LEG. KENNEDY:

Yeah. Actually, I'll make the motion to discharge without recommendation.

CHAIRMAN D'AMARO:

All right. I'll second the motion. And, Mr. Zwirn, if you can communicate with Legislator Kennedy, we appreciate that. I'll call the vote. All in favor? Opposed? Abstentions? Motion carries.
DISCHARGED WITHOUT RECOMMENDATION (VOTE: 5-0-0-0).

1545-2010, Appropriating funds in connection with the acquisition of a Disaster Recovery Project (CP 1729). (Co. Exec.)

This is appropriating \$500,000 to purchase restoration software in the event of a disaster.

LEG. COOPER:

Motion to approve.

CHAIRMAN D'AMARO:

Motion to approve by Legislator Cooper, I'll second. All in favor? Opposed? Abstentions? Motion carries. **APPROVED (VOTE: 5-0-0-0).**

1555-2010 also requires my recusal. I will again ask our vice chair Legislator Cooper to take over the proceedings. I apologize.

1546-2010, Appropriating funds in connection with the acquisition of an Upgraded Payroll System Database (CP 1740). (Co. Exec.)

This appropriates \$250,000. I'll offer a motion to approve.

LEG. COOPER:

Second.

CHAIRMAN D'AMARO:

Seconded by Legislator Cooper. All in favor? Opposed? Abstentions? Motion carries. **APPROVED (VOTE: 5-0-0-0).**

1556-2010, Adopting Local Law No. -2010, A Charter Law to clarify procedure for removal of certain appointed department heads and board members. (Cooper)

This resolution requires a public hearing, so I make a motion to table.

LEG. KENNEDY:

Second.

LEG. COOPER:

Is there a second?

LEG. KENNEDY:

Second.

LEG. COOPER:

Thank you. We have a motion and a second. All in favor? Opposed? Abstentions? IR 1556 is **TABLED (VOTE: 4-0-0-0-1 - Legislator D'Amaro recused).**

1568-2010, Appropriating funds in connection with the acquisition of renovations to Bldg. 50, Hauppauge (CP 1765). (Co. Exec.)

LEG. BROWNING:

Motion.

CHAIRMAN D'AMARO:

Capital Project 1765. Legislator Browning offers a motion to approve, I'll second. All in favor? Opposed? Abstentions? Motion carries. **APPROVED (VOTE: 5-0-0-0)**.

1576-2010, Adopting Local Law No. -2010, A Charter Law creating a program for Public Financing of County Campaigns and the banning of certain donations to curb potential conflicts of interest. (Co. Exec.)

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

1577-2010, Adopting a Procurement Policy Manual for Consultant Services. (Pres. Off.)

I believe there's a request from the Comptroller and DPW mutually requesting again to table to work out some items. Mr. Zwirn, are you aware of this?

MR. ZWIRN:

I had an opportunity to speak to Terry Pearsall, because that was my understanding of what the Comptroller said. What happened was that originally the Comptroller was going to come back because they were going to try to work out some of the differences that they might have had. And Jeff Szabo at that time was working on the County Executive's behalf and then left the County's employ to go to the Water Authority. So I think that there was --

P.O. LINDSAY:

Just to short circuit this. Is this the one the Comptroller wanted tabled?

MR. PERILLIE:

Yes.

LEG. LINDSAY:

So we're all in agreement. I'll offer a motion to table, seconded by Legislator Browning. All in favor? Opposed? Abstentions? Motion carries, resolution is **TABLED (VOTE: 5-0-0-0)**.

1581-2010, Clarifying the use of procedural motions by the Legislature. (Co. Exec.)

LEG. KENNEDY:

I'm going to make a motion to strike for an improperly filed resolution, Mr. Chair.

CHAIRMAN D'AMARO:

I'll have to refer that motion to Counsel for an opinion on whether it's valid before the committee.

LEG. COOPER:

I make a motion table subject to call.

LEG. BROWNING:

I'll second.

CHAIRMAN D'AMARO:

Motion to table subject to call by Legislator Cooper, seconded by Legislator Browning. All those in favor? Opposed? Abstentions? Motion carries. **TABLED SUBJECT TO CALL (VOTE: 5-0-0-0)**.

1584-2010, Designating the Smithtown News for publication of notices. (Gregory)

LEG. NOWICK:

Motion to table.

LEG. COOPER:

Motion to approve.

CHAIRMAN D'AMARO:

All right. There's a motion to table by Legislator Nowick, a motion to approve by Legislator Cooper.

LEG. KENNEDY:

I'll second the motion to table.

CHAIRMAN D'AMARO:

Second on the motion to table by Legislator Kennedy.

LEG. BROWNING:

Second to approve.

CHAIRMAN D'AMARO:

And second to the motion to approve by Legislator Browning. Anyone on the motion?

LEG. GREGORY:

Yes.

CHAIRMAN D'AMARO:

Legislator Gregory, the sponsor, has joined us. Legislator Gregory, please go ahead.

LEG. GREGORY:

Thank you, Mr. Chair. I would just like to state that I met with Mr. Sciarello -- I believe that's how you pronounce his last name last week. You know, we met I guess for a half hour or so. Seems nice enough of a gentleman. You know, he stated that, you know, this was -- this picture was something that's been floating around on the internet for a year, he picked it up, decided to put it in this pictorial, no racial or stereotype undertones were meant. It was just a political think.

You know, I stated to him that -- you know, I don't tend to use the term "racist" loosely, and I didn't use in this case, but I certainly thought that it played to some stereotypes that are not nice, let's put it that way, as I spoke to my children when they were young. I think as a County, you know, we take the position that when we contract with newspapers that, you know, it's an implicit endorsement. We can look back to the Don Imus situation where he -- when he referred to the Rutgers Basketball Team. You know, the reverse situation where sponsors pulled out because they didn't want to be associated with that. So I think that in our -- it wouldn't be in the reverse -- I would think it's similar in that situation that as a contractor we have the right to say, "Well, you know, you can publish what you want, but we don't have to endorse that and we will take our business elsewhere."

CHAIRMAN D'AMARO:

Well said. Okay. There is a motion pending to table -- no -- and approve, right, both. I'll call the vote on the motion to table first.

LEG. KENNEDY:

On the motion to table, Mr. Chair.

CHAIRMAN D'AMARO:

I'm sorry. Yes, Legislator Kennedy.

LEG. KENNEDY:

I have had extensive conversations with Mr. Sciarello. And as a matter of fact, I have spoken at length with Legislator Gregory. I do not condone, endorse or support any of the matter or the method which Mr. Sciarello elected to go ahead and conduct his political satire. But without lecturing this body -- and my colleagues are all extremely knowledgeable and well versed -- our

Founding Fathers actually codified in the United States Constitution as well as our New York State Constitution the freedom of the press. And as a matter of fact, every one of us around this table knows New York Times versus Sullivan.

It is one of the most basic elements of our nation that our press expresses opinions sometimes that may be controversial and it can be -- they can run counter to mainstream thinking, they can run in a variety of different ways. I, quite candidly, don't know what point Mr. Sciarello and his editorial board were attempting to achieve by running this. But nevertheless, the editor characterized this as merely an attempt to go ahead and portray, I guess, what some of the challenges are of elected office and how it may sometimes have an affect on an individual, and I would agree with that 100%.

That being said, I do not think that it is prudent or responsible to have a retaliatory reaction regarding a particular opinion that's expressed in any media alternative at this point, unless we're talking about things that clearly move into boundaries that have been codified already. I think it would put us on a slippery slope. So for that reason, I'm happy to cosponsor the motion to table. And I believe that it's prudent for us to go ahead and not attempt to extract a monetary concession for behavior.

CHAIRMAN D'AMARO:

Legislator Cooper, then Legislator Nowick.

LEG. COOPER:

I think that anyone would agree that in this instance any individual has the right to cancel his or her subscription to the Smithtown Messenger as a way to express disappointment in their printing of this cartoon. I see this resolution as the equivalent of Suffolk County cancelling our subscription to the paper. So if it's okay for an individual to express outrage or disappointment in that manner, I think it's entirely appropriate for the County to do the same.

Let's keep in mind that we're not spending our private dollars for this, we're spending taxpayer dollars. I've heard from a number of my constituents uniformly calling upon me to support this resolution. I have not received a call or e-mail from a constituent asking me to oppose this. So, again, I see this as Suffolk County cancelling our subscription to the Smithtown Messenger, and I think that's entirely appropriate.

CHAIRMAN D'AMARO:

Thank you, Legislator Cooper. Legislator Nowick, please go ahead.

LEG. NOWICK:

The reason I made the motion to table is that I know the editor of the Smithtown Messenger, I have known him for years and I probably know him just as well as Legislator Kennedy. And I do know that -- I agree with Legislator Kennedy, there's no way that I approve of what I read. But knowing the editor, a very -- this was poor taste, to say the least. Unfortunately, an attempt at humor, which we've all time and time and time and again over the years, we've read it, political satire, political humor. I can't count the amount of comics about George Bush. We all know that. It was not humor in good taste, but I know that it wasn't meant to be anything but that. Whether it was at Ronald Reagan or George Bush, it was a presidential thing. I don't think it was anything else. Maybe I am wrong.

I asked for the tabling so maybe -- maybe that you can all sit down with the editor if you haven't and get to know the person and know I'm sure that was not the intention, I'm sure an overreaction to punish someone economically before sitting down and talking to them maybe just a little bit faster than I would like it to go. So that's why I'm asking for a tabling. Again, there's no way that I approve of this, but I do believe it was in poor taste, done only for humor, but not at a particular race. It was a political thing, unfortunately. So I'm asking you to support a tabling motion, get a chance to call over there, find out who we're dealing with and maybe reconsider.

CHAIRMAN D'AMARO:

Legislator Browning.

LEG. BROWNING:

You talk about newspapers and their First Amendment Rights. And, you know, I think the fact that -- they are funded by Suffolk County taxpayers. And the Suffolk County taxpayers in my district, say, for example, Gordon Heights and the Bellport area, minority communities, they're also funding that paper. It's their tax dollars too that are paying for that paper to operate. And I know that they're offended by it. So he has a right to do whatever he wants. I mean, if he put that in his paper and he wasn't receiving any taxpayers' dollars, then nobody would have an issue with it.

But I think that all of the papers that receive any money from Suffolk County should realize that that money is coming from every single taxpayer in Suffolk County, white black, whatever. It's all of the tax dollars from all of the taxpayers in Suffolk County, not one specific race. And that's why I will support to pass the bill. And also, all of us voted for these papers at the beginning of the year, and I definitely think it's something that should be on the floor next week to let all of us decide where it should go.

LEG. NOWICK:

Lou, if I may. This is not just legislation to take away our subscription, as Legislator Cooper said. This is actually legislation to appoint another newspaper without giving opportunity for -- I mean, we all know that we get equal opportunity at legal notices. So if we could table it, and if the idea from all of you is that you don't want this particular publication to have the legal notices, give all of us an opportunity to choose a different newspaper.

CHAIRMAN D'AMARO:

Presiding Officer, yes.

P.O. LINDSAY:

I think a lot of you know how I feel about this whole issue with the local newspapers. I think we waste more time on the local newspapers than sometimes it's worth; arguing over which one is going to get the notices, what this one did wrong, are they really a newspaper. I mean, we went through this debate last year. You know, I suggested something last year and forwarded it to our State representatives, gives us the ability to publish our own notice on the internet and eliminate them altogether. It would save hundreds of thousands of dollars. We wouldn't have this whole issue of freedom of the press. Because it's ludicrous. I think Counsel is here. If I'm not mistaken, Mr. Sciarrello's papers have two contracts with us; they're the selected Republican paper, am I correct, George? And they're also one of the ten town papers.

MR. NOLAN:

Correct. At the beginning of the year, we designate two official County newspapers.

LEG. LINDSAY:

And this resolution only deals with them being one of the ten town papers.

MR. NOLAN:

Right. The Smithtown paper.

P.O. LINDSAY:

We're not -- you know, I don't think the majority is trying to implement on the minority the selection of their designated paper. And I don't think any of us want to go down that road. It just bothers me that we spend so much time on this whole newspaper issue. I just wish the State would unwrap our hands and let us appropriately advertise the legal notices in a venue that I might add many, many more people could access than with some of these local papers with very limited and regional

circulation.

CHAIRMAN D'AMARO:
Legislator Kennedy.

LEG. KENNEDY:

You bring up good points, Mr. Presiding Officer. And as a matter of fact, that may be something collectively we look to petition our State delegation to explore. But I was actually going to turn to Counsel, because it is somewhat unclear from this resolution how it is the section of law that we point to, 214 of State County Law, actually makes to mention whatsoever about this process of identifying ten town papers for the purposes of publication.

So, you know, we are -- we're clearly not looking to terminate the minority paper that's mentioned in the statute, but we're talking about terminating something that actually has no basis in statute to begin with. So then perhaps we should be terminating all ten of the contracts, because there really nothing in here that supports us going to any particular paper in any particular town. And if we are really needing to be cognizant of that cost aspect and some of the other elements that we go to, how is it that we even begin to put forward a resolution based on science and no guidance whatsoever in that State statute? What say ye, Counsel?

MR. NOLAN:

Well, you're right. The State Law only talks about the two official newspapers. But going back many, many, many years, we always designate a paper in each of the ten towns, because under other laws, there are certain notices that have to be published in, not County-wide, but in certain towns. So it's limited the amount of money we spend for localized notices, but we have to designate somebody in each town to take care of those few instances where we have to advertise in just a part of the County in a specific town. And that's why we do it.

LEG. KENNEDY:

I would ask then, through the sponsor, if we can entertain at least one cycle for tabling, because I'm going to speak to Counsel to find out what those other laws are. And as a matter of fact, I'd be willing to go ahead and cosponsor with you to terminate all ten. As a matter of fact, the Presiding Officer brings up an excellent point. And perhaps the State Legislature would look to go ahead and join us for pilot purposes for at least this basic function that we do.

I become very concerned when I'm compelled to act on the amorphous other laws. I like to be able to see where the source is that we have to go for to function. Right now, I can't find it. It's not there.

CHAIRMAN D'AMARO:

Okay. Just to say my peace on this. You know, I think -- I don't disagree. I don't know the individual who owns the paper. If there needs to be further investigation as the legal basis of all of these contracts, we should do that. But I think what we need to do is pass this legislation and then work towards those other issues.

You know, this particular publication sent what in my opinion is a vile and inappropriate message that they certainly have a right to publish, but it doesn't mean that it impinges on the County's right to contract either. We have a right to choose not to do business with certain entities for reasons that we find appropriate. So in the future does it mean that there can't be further explanation, further investigation, further discussion? No, it doesn't mean that at all. But I think what we need to do is send the right message here that we're not going to spend the County taxpayers' dollars endorsing messages such as this that play to racial stereotypes and then work from there to see what corrective action can be taken. Okay. With that said, I'll call the vote. The motion to table takes precedence. All in favor? Opposed?

CHAIRMAN D'AMARO:

Opposed.

LEG. COOPER:

Opposed.

LEG. BROWNING:

Opposed.

CHAIRMAN D'AMARO:

Motion does not carry. I'll call the motion to approve. All in favor? Opposed?

LEG. KENNEDY:

Opposed.

LEG. NOWICK:

Opposed.

CHAIRMAN D'AMARO:

Two in opposition. The motion carries. The resolution is **APPROVED (3-2-0-0 - Opposed; Legis. Kennedy and Nowick)**. 1590 we've already dealt with. There is an Executive Session. I'll offer a motion to go into Executive Session to discuss possible settlement of lawsuits. Is there a second? Legislator Browning. All those in favor? Opposed? Abstentions? Okay. We will be back on the record shortly. Thank you.

(*AN EXECUTIVE SESSION WAS HELD FROM 1:11 P.M. UNTIL 1:34 P.M.*)

CHAIRMAN D'AMARO:

Okay. The committee has completed Executive Session and we're back on the record. Two announcements, the committee has set in Executive Session the following two actions; Kyle {Court} against the County of Suffolk; and the second action is {Susan Sheffhauser} against the County of Suffolk. No further business before the committee, I'll offer a motion to adjourn, seconded by Legislator Nowick. All those in favor? Opposed? We are adjourned. Thank you for your patience today.

(*THE MEETING WAS ADJOURNED AT 1:34 P.M.*)

{ } DENOTES BEING SPELLED PHONETICALLY