

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 16, 2010.

MEMBERS PRESENT:

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

MEMBER NOT PRESENT:

Legislator Lynne Nowick - Excused Absence

ALSO IN ATTENDANCE:

George Nolan - Counsel to the Legislature.
Legislator Tom Cilmi - 10th Legislative District
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
Lynne Bizzaro - County Attorney's Office
Gil Anderson - Commissioner DPW
Paul Perillie - Aide to Majority Caucus
Linda Bay - Aide to Minority Caucus
Justin Littell - Aide to Legislator D'Amaro
Dot Kerrigan - AME
All other interested parties

MINUTES TAKEN BY:

Donna Catalano- Court Stenographer

(*THE MEETING WAS CALLED TO ORDER AT 10:17 A.M.*)

CHAIRMAN D'AMARO:

Good morning ladies and gentlemen. Welcome to the Ways and Means Committee. We'll start the meeting with the Pledge of allegiance led by Legislator Nowick.

SALUTATION

For the record, there's no correspondence this morning. Section III of the agenda this morning is public comments. We've received one card, Gil, Gilbert Anderson. Come on up. You have three minutes. Good morning.

COMMISSIONER ANDERSON:

Good morning. I'm here to speak briefly on two resolutions that were tabled at the last committee meeting; specifically IR 1408 and 1577. IR 1408 increases Legislative oversight of the RFP process. While it was revised to address concerns that were raised by myself, I just want to advise and state for the record that this legislation will slow down the process and progress of DPW projects that are initiated through the RFP process. The Legislature has a number of opportunities to provide input into the capital process, specifically those RFPs that we obtain waivers on are not excluded under this legislation. As the Presiding Officer is a sitting member of this committee, further Legislative oversight seems to be overkill.

Lastly, I would note that if the Legislature is going to pursue this avenue, these requirements might be incorporated into the procurement policy manual that the County Comptroller is pursuing under IR 1577, which I'd just like to address briefly now. We have had the opportunity to sit with the staff of Audit and Control and want to thank them for that opportunity. We are comfortable with the document as it has been revised is presently -- in its present form. Audit and Control crafted a document that was intended to all apply to all departments not just DPW. While we have some concerns over the language, I believe it's more disagreements and nomenclature than process.

I'm still going to continue to review the document. Only that we only started reviewing it - not at any fault of Audit and Control, but I was only able to start reviewing it over the past few days. If there are any other issues, we will certainly come back to the committee or if it moves on the general Legislature, let the general Legislature know. However, we feel the document -- we are comfortable with the document in its present state. I just wanted to let you know. Thank for the opportunity and have a good day.

CHAIRMAN D'AMARO:

Okay. Thank you, Commissioner Anderson. Is there anyone else here this morning that would like to address the committee? For the record, there is no response. No presentations today, so we will turn to Tabled Resolutions.

The first is Resolution Number **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:

Motion to table by Vice-Chair Legislator Cooper, I'll second. All in favor? Opposed? Abstentions? Motion carries. **TABLED. (VOTE: 4-0-0-1 Not Present: Legislator Kennedy)**

1335-2001, 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)

I'll offer a motion to table, seconded by Legislator Nowick. All in favor? Opposed? Abstentions? Motion carries. **TABLED. (VOTE: 4-0-0-1 Not Present: Legislator Kennedy)**

The next resolution is ***1370 - Adopting Local Law No. -2010, A Charter Law to increase the accountability of department heads. (Cilmi)***

Note for the record that Legislator Cilmi has joined the committee this morning. As Chair, I have previously and continue to recuse on this resolution, therefore I'm going to ask our Vice-Chair Legislator Cooper to chair the proceedings for this resolution.

LEG. COOPER:

Thank you. 1370, Adopting Local Law No. -2010, A Charter Law to increase the accountability of department heads. Legislator Cilmi, would you like to speak on this resolution?

LEG. CILMI:

Yes. Thanks very much, Mr. Chair. I'm here to sort of advocate for the passage of this bill out of committee. The Legislature clearly is trying to send a message that we are a coequal branch of government to the County Executive. This bill would allow this body to reinterview every four years each department head and commissioner who does not have a term required by New York State. It would require them to come before the body and sort of ask to be reconfirmed, talk to us about what they have done in support of the policies that this body has set.

I want to be clear that this bill is not in any way a reflection on our current administration or County Executive, it is not in any way a reflection on any one commissioner or department head in the County. This is not about the past, nor will it affect any of the other measures that are before this Legislature in terms of dealing with the Police Commissioner, for example, or any other department head for that matter.

So I would ask the committee to consider the future and to either approve or discharge this resolution without recommendation so that the full Legislature can debate it on Tuesday. Thank you very much.

LEG. COOPER:

Thank you. Would anyone else like to comment on this resolution?

MS. BIZZARRO:

Legislator Cooper. Department of Law.

LEG. COOPER:

Hi, Lynne. I heard a disinvited voice, but I wasn't looking at the audience.

LEG. BROWNING:

Actually, could I ask a question, Jon?

LEG. COOPER:

Please.

LEG. BROWNING:

I know that you have a resolution, I believe -- let me think -- it's 1556, to clarify our procedure for removal of certain appointments. I was wondering how those two bills can -- you know, can they

work together? Are they two bills that, I guess, would kind of help our process in what we're trying to accomplish?

LEG. COOPER:

If I may before George responds. What I was trying to do through my fixed-term bill and also through IR 1556 is to try to increase accountability of appointed department heads, commissioners and board members that are currently serving, because my concern was that the balance of power has shifted over the years from the Legislative Branch to the Executive Branch. And these commissioners and department heads are answerable to the County Executive, their at-will employees that could be fired at any time by the County Executive, but the Legislature -- it was less clear whether the Legislature had that authority.

I know that George Nolan argued in the past that we did under the Charter have the ability to remove appointed department heads, but I'm also aware that the County Attorney had a different opinion, which is why I introduced 1556, to clarify this once and for all that the Legislature does have the ability to remove appointed department heads and board members for cause at any time even in the middle of their term.

What Legislator Cilmi is attempting to address would be not what occurs during a term but at the end of the four year term, they would have to come back to the Legislature for reapproval. So I'm thinking that perhaps if both resolutions were approved, they're sort of complimentary, and Legislator Cilmi's reso accomplishes part of what my goal had been. This other resolution accomplishes another part. So it sort of brings us 80% of the way towards what my original goal was. So I wouldn't support 1370 on its own, but I might be willing to support 1370 in conjunction with IR 1556 as companion bills. But anyway, now I'll pass it on to George or Lynne.

MS. BIZZARRO:

Thank you very much, Legislator Cooper. I just wanted to put on the record that the Law Department feels that this IR is inconsistent with the current Charter provisions. I think we've made this argument before that it raises some legal concerns and some practical concerns.

There are various Charter provisions that allow the County Executive to appoint commissioners or department heads to serve at his pleasure. And by imposing this limitation now, it takes away the right of the County Executive to have -- you know, to still be able to have his people serve at his pleasure. Those appointments will no longer be serving at his pleasure if he must take a formative action to retain them every certain numbers of years. And that's the problem. I can cite you some of the sections; Department of Fire, Rescue and Emergency Services, the Police Commissioner, the Planning Commissioner, they all serve at the pleasure of.

So what this bill is requiring is that basically it's stating that if the Legislature doesn't approve of that person's role as commissioner or department head, then the County Executive, it states, shall immediately nominate or appoint a successor, someone else to bring forward. So if the Legislature decides to do nothing, basically again, it's taking away something the County Executive already has. It's also the short time period in which an incumbent must be reconfirmed or a successor appointed does not leave the County Executive sufficient time to search for and vet candidates. So you might wind up having some candidates before you that are really not qualified for the job. So we have some legal problems with it and some practical measures.

LEG. COOPER:

But, Lynne -- then we'll go to Legislator Cilmi -- but how would you propose addressing the situation that we had with Janet DeMarzo? And I know that she had a fixed term under State Law, but where we had a commissioner, we had a department head that clearly lost the confidence of the Legislature. I don't want to go into details about the reasons. But Janet DeMarzo no longer had the support of the vast majority of Legislators.

(Legislator Kennedy entered the auditorium)

So if you had your druthers, that person would stay in place even though one of the two coequal branches of government has lost confidence in that individual. But because, in that case, she had a fixed term and the County Executive could not build sufficient support for her reappointment, what happened? The County Executive worked in conjunction with the Legislature and he worked with me, we kicked around ideas, we came up with an alternate name, put it forth, Greg Blass. I think he was ultimately approved unanimously by the Legislature with the support of the County Executive. Morale was up at DSS, they're operating much more efficiently than before. It was a win-win-win. So now, that's the goal certainly of my bill, IR 1566, but I believe the goal of Legislator Cilmi as well in IR 1370.

MS. BIZZARRO:

I don't absolutely know the answer to that, but I do know that it took quite some time to vet a proper candidate for that job; I remember months and months and months. And the concern here is that basically, you know, perhaps this position is going to remain vacant until they find someone. And it says that the County Exec shall immediately nominate somebody.

LEG. COOPER:

But I assume in the interm measure, the Deputy Commissioner would fill in, whether it's the Police Department or whether it's DSS or whether it's Health, what have you. There won't be a void with no one filling the position.

MS. BIZZARRO:

If you recall with Commissioner DeMarzo, it did take some time. And I think that that's an important component that it's time consuming.

LEG. COOPER:

But I think it was filled within the six month period. So I mean, there wasn't a time when we had no one. There's a little of time pressure. But again, the point is the County Executive and the Legislature, we've worked together hand in hand, we found common ground, and in the end, it was a win-win that everyone could support.

So my goal it's not to take power away from the County Executive, it's to give a little bit of power back to the Legislature that I think -- whether it was lost over the years or we're now rectifying an imbalance that always existed, I'm not sure, because I haven't been here for four decades. But, you know, we are a coequal branch of government, and I think that we should have an equal say in who runs County Government, these various departments. And if we have a situation for whatever reason where the Legislature has lost confidence in a department head, that's not good. So that's what my bill is seeking to address and I think Legislator Cilmi's.

MS. BIZZARRO:

Yeah, and I think I can make those same arguments regarding IR 1556. The problem is that we have a big consistency between this proposed legislation before you and the existing Charter provisions that say that these individuals serve at the pleasure of the County Executive. I mean, back in 1969, there was a voter referendum that emphasized the separation of powers between the County Executive and the Legislature. That went to the voters, and there was a clear intent that the Charter -- there was a full amendment of the Charter done at that time, it was a comprehensive amendment regarding the County Executive roles and the Legislator's roles. And this IR and unfortunately, 1556 it undermines the separation of powers that was clearly established by voters back in 1969.

So, you know, I don't know the answer to the problem. And I understand you and I hear, you know, what you are saying and I understand that. I just don't know what to do with that. You know, I see inconsistencies and, you know, they are what they are.

LEG. COOPER:

Lynne, I mean, that's the reason that I introduced 1556, that there is, I guess, is this inconsistency where George Nolan is reading the Charter one way, Christine Malafi is reading it honestly in another way. So I guess the only way to resolve this inconsistency is to amend the County Charter, which is exactly what I'm trying to do with IR 1556 and Legislator Cilmi is proposing to do with IR 1370. So if we were to take this action, it wouldn't be a conflict anymore, because the Charter will have been amended.

MS. BIZZARRO:

You're still going to have those existing Charter provisions that specifically spell out in the Charter that these commissioners serve at the pleasure of the County Executive, and you can't get away from that.

LEG. COOPER:

Legislator Cilmi, I did want to ask George Nolan to respond, but did you want to go first?

LEG. CILMI:

Thank you very much. With respect, Lynne, to what you just said and with respect to the Charter, the County Attorney took the position initially with regard to some of this legislation, not this particular bill, but some other legislation that while the Charter may have initially given this body the right to remove a commissioner, that a subsequent revision to the Charter effectively took that right away in language that described that the Police Commissioner sat at the pleasure of the County Executive.

So, therefore, these laws, Charter Laws, would effectively revise -- this is by your own logic, not you personally, but the County Attorney's own logic -- these laws would revise the Charter accordingly. You know, and with respect to the merits, I mean, the fact of the matter is that when the County Executive chooses a department head or a commissioner, this body has the ability to confirm or not to confirm that commissioner. I don't think it's unreasonable to every four years allow this body to review how that commissioner has performed with respect to carrying out the policies that this body sets forth.

Likewise, it's a means by which the people of Suffolk County can hold those commissioners accountable to them through us as opposed to exclusively through the County Executive. So again, I think the four year timeframe is not an unreasonable timeframe to ask the commissioners to come back before this Legislature as they did initially for confirmation, to ask them to come back before this Legislature and be reconfirmed and basically describe what they've done over the past four years and sell themselves. Thank you.

LEG. KENNEDY:

Mr. Chair. Mr. Vice-Chair.

LEG. COOPER:

Yes. Legislator Kennedy.

LEG. KENNEDY:

Thank you. If I can just weigh in on this. I guess between the two pieces of legislation, we're discussing implementation of a concept, if you will, but something more than a concept. Lynne, you spoke about the separation of powers and about the present status with the County Exec to execute and carry out the executive function of government.

We're here today deliberating policy. And clearly under the separation of powers, policy is the province of the Suffolk County Legislature. The Suffolk County Legislature adopts, enacts, modifies, changes and puts forward policy as reflective of the electorate. And then the County Executive as

the Chief Executive Officer implements as that policy is set. So clearly between these two pieces of legislation, it seems that the sponsor's intention here, and I'm speaking about Legislator Cilmi's bill, is to make it very clear that that vetting function that we perform every time a new commissioner is put forward -- as a matter of fact, I think that's going to occur this afternoon in Legislator Nowick's Committee, in Parks. There is a new Parks Commissioner that is being brought forward.

Each one of us does our best to ascertain what type of manager that individual will be going down from the Executive. As you well know, we go about what we need to do for our districts, and if it comes to a time where it appears the manager may no longer be functioning in a way that was initially represented, it's incumbent on us to be able to go ahead and take another look at it.

A reaffirmation or reconfirmation process actually seems to be a very healthy thing at this point, notwithstanding the fact that the commissioners serve at the pleasure of. We all know that. We live in this business, we understand what it's all about. Administratively, they would take direction and move forward to execute those tenants that the Chief Executive Officer delivers to me. But the broader policy is something that the Chief Executive Officer is taking from this body. So that's why as we look at both these bills, I think it's really a very healthy thing to make it crystal clear about the very important function of reaffirming or reconfirming the policy aspect, and then with Legislator Cooper's bill, given great specificity to a process to actually unseat a commissioner for cause. I find both of them actually to be good pieces of legislation. I commend the sponsors.

LEG. COOPER:

Thank you. George, did you want to weigh in on this?

MR. NOLAN:

I would just say if the Legislature by a Charter Law changes the Charter to state that commissioners have to be reconfirmed after four years of service or if they spell out a way to remove commissioners, that's within our rights. What happened initially, as you pointed out, was, you know, there was a resolution to remove a commissioner, the County Attorney came in and stated that the Charter says the commissioner serves at the pleasure of the County Executive. And at that point, we decided to clarify the ambiguity or inconsistency with the Charter with your particular law. That's what the Legislature decides to do and the law is enacted, that's the law.

MS. BIZZARRO:

I'm not stating that the Legislature doesn't have the ability to set policy. And that is definitely in your purview. But this is going beyond that. This is encroaching on the County Exec's powers to have his appointees, because the Legislature doesn't have the ability to appoint, it just has the ability to confirm, and the County Exec is the one who does the appointing. And these certain individuals are to serve at his pleasure.

So you are really, you know, having the Legislature encroach upon the County Exec's current roles in being able to run his departments the way he wants to run them and with the people that, you know, he wants in those seats. 1370 takes that right away, because they could basically -- the Legislature can just not confirm someone and then the seat is vacant, so it's almost likened to firing somebody. And that was specifically in the 1969 referendum that went before the voters of this County to vote on and say, "We need a separation of the powers. The Legislature has this role, the County Executive has that role." And we are confirming that. And that's where they set out all this separation of powers. And the County Exec had an ability to appoint, have it confirmed by the Legislature and have those certain roles in place to serve at his or her pleasure. So that's the problem that I'm having with it.

LEG. COOPER:

I mean, I understand your point, but, you know, the ability to appoint remains with the County Executive and the ability to confirm remains with the Legislature. We're just saying that if for whatever reason a department head has lost the confidence of the Legislature, that the County

Executive needs to appoint someone else working with us in finding common ground. I don't see any downside to that. I think it facilitates good government actually.

LEG. KENNEDY:

Mr. Chair.

LEG. COOPER:

Legislator Kennedy.

LEG. KENNEDY:

I apologize for arriving late, but I didn't have the benefit of hearing the initial discussion on this resolution. Do we have a motion yet on this? If not, I make a motion to approve.

LEG. NOWICK:

I'll second.

LEG. COOPER:

We have a motion to approve and a second. Legislator Kennedy, did you want to speak to this?

LEG. KENNEDY:

I would just say, Mr. Chair, I think that, you know, we've heard robust and exhaustive discussion on this. And there comes a time with every resolution that it's time to vote.

LEG. COOPER:

But I am having so much fun.

LEG. KENNEDY:

I can see that. Far be it for me to be deprived of you fun.

LEG. COOPER:

Ben, did you want to add anything to this?

MR. ZWIRN:

I just was going to point out what this does de facto, it makes all the commissioners that need approval to have a four year fixed term. I mean, whether that's the intent, but they have to come back every four years. It's the same thing with the terms that are fixed now, they have to come back to be reaffirmed. It just makes it a four year fixed term.

LEG. COOPER:

George, want to explain why that's not the case?

MR. NOLAN:

That's not the case, because the bill states expressly that this doesn't affect County Executive's authority to terminate somebody before the four year run. So you know, he still retains his authority to dismiss a commissioner.

LEG. COOPER:

In a fixed term, the Commissioner can only be removed for cause by the Legislature.

LEG. CILMI:

Mr. Chairman.

LEG. COOPER:

Legislator Cilmi.

LEG. CILMI:

I would add, with all due respect that Legislator Cooper's bill makes it more difficult for this body to remove a commissioner then we believe we currently have the authority to do. So I completely agree with Legislator Cooper that both of these resolutions in tandem are fair and give this body the right to oversee to some extent albeit not to the extent of the County Executive, but to some extent, the workings of our government.

LEG. COOPER:

Thank you.

LEG. BROWNING:

You know, I think we all know why we're doing this, and it's due to a lack of confidence in certain individuals. And I think that both bills are clearly given those commissioners the opportunity to be a little bit more independent and hopefully to be a bit more vocal. That's basically what I see as what's happening here. You know, I look at each and every commissioner and I think, you know, in my opinion, he's an advisor, he's part of his cabinet, he's an advisor to the County Executive also, because they're the experts in what they do.

For example, the Police Commissioner, County the Executive was never a police officer, he doesn't know anything about public safety, the Police Commissioner does. And when it comes to DPW, I know we have Gil Anderson here, he's an expert in what he does, and it's up to him to advise. But I think the problem is these days is that we see a County Executive who no matter what they say, he tells them, "No, you can't do that." And I understand that there's budget issues, but sometimes it's getting to the point where it's gone too far.

You know, if things weren't going the way they are today, these bills wouldn't be in existence. So I think we're at a point now where we have to do something. We want to give those commissioners an opportunity to be more independent and be able to speak up. And that's why I think these bills are a good idea.

LEG. COOPER:

Thank you, Legislator Browning. And just before we vote, I do want to reiterate that I believe that both of these bills have everything to do with increasing accountability and -- of our department heads and facilitating good government, and that's what I'm here for. So why don't we -- I'm sorry, Ben, did you want to add anything.

MR. ZWIRN:

I just wanted to respond quickly to Legislative Browning, and you hit it on the head. The County Executive is the Chief Budget Officer for this County. And when department heads come to him and commissioners come to him and they have a list of things that they would like and personnel they would like, the County Executive has to balance everything Countywide with respect to the revenues and the money that we have to pay for it. So a lot of times the County Executive is the last word having to say no. And it's not an easy job to do, but that's his responsibility. I just wanted to put that on the record.

LEG. BROWNING:

And to get back to that, absolutely. And I think we are all in the same situation. We all agree that there's sometimes we just have to say no to something, and we do do that. However, when say, for example, there's a safety issue, a public safety issue, where the safety of the public is in jeopardy because of a lack of resources, and I'm not just talking Police Department, I'm talking, say, DPW, DPW needs to do something that -- we have bridges, for example, that need to be fixed; Smith Point Bridge. These are things that have to be done. So it's about not jeopardizing what needs to be done. Sometimes you can say, "You know what? We're going to put it off, put it off, put it off." It winds up costing us more money in the end. So, yeah, I understand that he is the Chief Executive Officer of the budget, but we all are on the same page when it comes to that.

We're just saying that sometimes it's going too far where we see that basically the house of cards is going to fall.

LEG. COOPER:

Thank you. And we're going to move to a vote, but Legislator Kennedy had one more comment.

LEG. KENNEDY:

You know, I was going to speak about the budget process and about the fact that every November we go through a -- actually from September through November we go through an extremely exhaustive process in which the County Executive puts forward his proposed budget, we modify, he vetoes, we override, and that becomes the document actually that's the underpinning of the operations of the County for the whole next fiscal year.

So while the County Executive may take a look at where things are at when there's a request to implement, what collectively we've adopted, again, as a policy and a direction to go in, it was done so with this body and in the collaborative process. I think we've probably beaten this horse as about as dead as it can go. And as a cosponsor, I guess I'll just reaffirm, let's move the bill. I think it needs to be in front of everybody, and I think it's reflective of a necessity to have accountability from those commissioners as we look to implement that budget document.

LEG. COOPER:

Thank you, Legislator Kennedy. So we have a motion to approve and a second. All those in favor of IR 1370? Opposed? Abstentions?

CHAIRMAN D'AMARO:

Recuse.

LEG. COOPER:

We have one recusal. IR 1370 is **APPROVED**. (VOTE: 4-0-0-0-1 Recused: Legis. D'Amaro)

CHAIRMAN D'AMARO:

Okay. Thank you, Legislator Cooper. Moving to the next bill. ***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)***

LEG. COOPER:

Motion to table.

CHAIRMAN D'AMARO:

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

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

I believe Commissioner Anderson addressed this during the public portion. I'm going to offer a motion to table.

LEG. COOPER:

I'll second.

CHAIRMAN D'AMARO:

Seconded by Legislator Cooper. On the motion, Legislator Kennedy.

LEG. KENNEDY:

Thank you, Mr. Chair. Again, my apologies, I didn't hear what Commissioner Anderson's comments were. Was there anything substantive that he put forward, notwithstanding the fact that Legislator Romaine did make this recent amendment to do away with change orders, modifications or other items more incidental with implementing the procurement process? I really feel strongly about this bill. And I'm going to offer a motion to approve, because I see that our procurement process has been going on almost irrespective of any of the realities of our \$120 million budget hole. So I guess I would just ask if --

CHAIRMAN D'AMARO:

Legislator Kennedy, if I could just take the liberty of briefly -- if my memory serves me correct, Commissioner Anderson, despite the amendments recently made, was not in favor of the bill. Just when he spoke this morning, he mentioned that it's not really oversight of the process, it's more like participation in the process. It didn't encompass contracts that were produced through the waiver process. And he also said that this would, for the record, it would delay -- I believe I'm paraphrasing, of course -- but he said it would delay the contracting process unnecessarily. And I think the last point that he made was that he is satisfied with the procurement manual, which is coming up on our agenda shortly, and he thought that what this required -- what this bill required could perhaps be folded into somehow the procurement process manual. So I think that's a synopsis of what he said on the record. If anyone wants to correct me, you know, please, go ahead.

LEG. KENNEDY:

Again, a couple of points. Thank you, Mr. Chair, I appreciate you capsulating his comments and bringing them forward. As far as integrating this into some type of a procurement manual that's put out there, as specifics associated with the mechanics associated with procurement are always a beneficial thing, delay in the procurement process, I don't know that at this point, faced with a \$120 million budget shortfall, delay is the worst thing in the world.

I'll note that most recently I saw one of the RFP items that's been put out there is for procurement of a used underwater retrieval device. And I've yet to be able to find out on whose behalf we're seeking to procure that, how it might be implemented and why, in fact, in this current environment there's any degree of urgency to procure a piece of equipment such as that.

Quite candidly, I think delay in some of the function that's going on by and through Purchasing might not be imprudent at all, because in every other aspect of what we do as a governmental entity, we're taking a very intensive look at what we do. So much so that we've had a piece of correspondence put out by the County Executive very recently intimating that there will be 500 layoffs through AME. So I can't think of any better time to, quite candidly, not only slow the procurement process down, but for all intent and purposes, possibly even seek moratorium on anything other than the most critical items for us to procure.

We are purchasing 50 highly complex Stryker beds for John J. Foley, the RFP was just put out. Now, I know that's being done with \$3 million worth of grant funds. But for knowing that, one would certainly question why would we be looking to go ahead and acquire brand new state-of-the-art equipment at a multimillion dollar price tag as there's a purported offer to purchase and privatize a public facility. It kind of defies logic, Mr. Chair. So I think this piece of legislation brought forward by Legislator Romaine is timely, prudent and certainly very much in need. And I note that Legislator Nowick did second the motion to approve.

CHAIRMAN D'AMARO:

Thank you, Legislator Kennedy. I have a few comments, but I'll defer to my colleague, Legislator Cooper.

LEG. COOPER:

I just wanted to say, I'm going to be supporting this not only because of concerns that were

expressed by Gil Anderson, but also I know at the last committee meeting we had gotten word that the Comptroller, the Suffolk County Comptroller had concerns about the bill as well and had asked us to table the resolution. And I haven't heard that his concerns were assuaged. So I would suggest tabling this for one cycle, because I would like to get -- have a conversation with Sawicki on this.

LEG. KENNEDY:

Okay. I would equally do so. We don't have anybody in the auditorium today from the Comptroller's Office prepared to speak on it, do we?

AUDIENCE MEMBER:

I'm not prepared to speak on the issue, though.

LEG. KENNEDY:

Through the Chair -- all right. Well, if the Comptroller has concerns then I guess we ought to hear them out. But I do believe that this piece of legislation is certainly timely and merited. If there are concerns from another independently elected, then I'll withdraw my motion to approve for the cycle, But I'll certainly be prepared at our next committee meeting at the end of July to move it forward.

CHAIRMAN D'AMARO:

All right. Thank you, Legislator Kennedy. I just want to point out on this bill that I believe we passed legislation here where we have a Legislative appointment to the RFP Committee or committees, or whenever they're formed, we participate in the process much earlier on, which I think makes a lot more sense than going through the entire RFP process, vetting the contractors, negotiating a contract, and then at the very end of the process, bringing that contract if it's \$50,000 or more to the Legislature for a vote. I think it's too little too late, frankly. If you want to have more say in the process, I think you need to have more say much earlier on.

Second, I believe whether it's by law or resolution, I'm not sure how, I believe we are now requiring that all Legislators are notified of RFPs. I think we get them through e-mail if I'm not mistaken. So when an RFP is let, if you have an objection to the substance of the RFP or the content or the request, and by virtue of the fact that we have a representative on the RFP Committee, it would seem to me that that would address most if not all of your concerns rather than have late in the day review after a tremendous amount of County resources may have been expended to get to the contract point.

So I don't necessarily disagree with your concerns about the process. And as Legislators, we should know what RFPs are going out and what they're seeking to do, but I think we do participate in that process already. And I really don't see the need for this particular bill. But since you've agreed to table --

LEG. KENNEDY:

Yes.

CHAIRMAN D'AMARO:

-- we can defer that conversation until the next committee unless you'd like to add to that.

LEG. KENNEDY:

No. As a matter of fact, the only thing I will ask is that I will have to I guess do a query to the Presiding Officer's Office because I'm unaware of who our representative on -- is it a standing RFP Committee or do we convene for each item that we're looking to acquire?

CHAIRMAN D'AMARO:

George.

MR. NOLAN:

I think the law is that the Presiding Officer can appoint a representative to RFP Committees. It doesn't have to be the same person. I think Adam Santiago sits on a lot of those RFP Committees. In terms of the Waiver Committee, I think it's the Presiding Officer or his representative. So on both those entities, there is Legislative representation. We did a fairly substantial overhaul of the RFP process for consultants, I believe last year, and those were new provisions.

MS. BIZZARRO:

If I can just add in, that separate committee that's designated to make the award is for contracts of \$25,000 and over, not 50,000. So it actually is an even lower amount. There's also -- it's Section 708 of the Code. The RFPs relating to health insurance benefits, including attorneys and consultants related thereto are awarded by a separate committee, the Suffolk County Labor Management Committee. So there's what looks like a contradiction what this law is crafting and what we already have in place.

In addition, I might just bring out in Section B there's reference to an RFEI. And if an RFEI is -- where's there's only one person responds, it should require the approval of at least two-thirds of the entire membership. I don't entirely get that. An RFEI is really just a request for expressions of interest. There's no way of technical award. You know, I mean, there might be. I am just laying that out there for you to look at. I'm not sure I entirely understand that.

CHAIRMAN D'AMARO:

And also, I would point out that as a member of this committee, Ways and Means, jurisdiction of day-to-day functioning of County Government, if you're notified of an RFP that you may take issue with, why are we asking for this service or this contract, it can certainly be brought to this committee and it can be discussed. There's nothing that hinders the authority or jurisdiction of this committee to ask respondents questions, to question the RFP, to ask the departments why are you doing this.

So, you know, you want a process where we are fully informed. I think you have representation, I think you have notification to the Legislature rather than have to approve every single contract at the end of the process. When you get electronic notification of an RFP which you have an issue with, I think we have a mechanism right here in place where we can have oversight and question as much as we want to the content of that RFP. So again, I just see this is putting it late in the day to start that whole review process when we've already negotiated a contract and we're coming here for the last step. I would rather that we question it much earlier on, and I think we have those mechanisms in place.

LEG. KENNEDY:

Mr. Chair, as a matter of fact, I appreciate that offer on the behalf of your Chair. And if there is a subsequent RFP that comes forward that I have questions on, I'll take the opportunity to request by and through the Chair that we get some departmental explanation as to the purpose of the process.

CHAIRMAN D'AMARO:

All right. There is a motion to table that has received a second. I'll call the vote. All in favor? Opposed? Abstentions? Motion carries. **TABLED. (VOTE: 5-0)**

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

LEG. COOPER:

Motion to table.

CHAIRMAN D'AMARO:

Motion by Legislator Cooper to table, second by Legislator Nowick. We did have an at-length

discussion about this bill on the record at the last committee meeting. I'll call the vote. All in favor? Opposed? Abstentions? Motion carries.

LEG. COOPER:

And just for the record, I want to reiterate that at the last meeting I'm making a motion to table this not because I object to the basic concept, but because we are assured by Counsel that this is preempted by State Law.

CHAIRMAN D'AMARO:

Right, which is always a guiding principle when we act.

LEG. COOPER:

Absolutely.

LEG. COOPER:

I make a motion to table subject to call.

CHAIRMAN D'AMARO:

I'll offer a motion to reconsider Resolution 1451-2010, second by Legislator Cooper. All in favor? Opposed? Abstentions? Motion carries. Resolution 1451 is now before the committee.

LEG. COOPER:

I make a motion to table subject to call.

CHAIRMAN D'AMARO:

Motion to table subject to call, second by Legislator Nowick. All in favor? Opposed? Abstentions? Motion carries. **TABLE SUBJECT TO CALL. (VOTE 5-0)**

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

LEG. BROWNING:

Motion to table.

LEG. COOPER:

I'll second.

CHAIRMAN D'AMARO:

All right. I'm going to ask just for a brief explanation, George, if you would.

MR. NOLAN:

This law actually goes back a bit. It's been filed previously. It says that that department heads are going to notify the County Legislator in writing when the department hires and contracts for consulting services. And the law further states that notification be made whether or not the consulting serves results from a request for proposals or not, and the notification will be made upon the execution of a contract for consulting services.

CHAIRMAN D'AMARO:

All right. And the notification is required to be made to the Clerk of the Legislature or is it to the individual?

MR. NOLAN:

Each member of the County Legislature.

CHAIRMAN D'AMARO:

So a department head when hiring a consultant, when that takes place, the department head would have to then notify each Legislator individually in writing.

MR. NOLAN:

In writing.

CHAIRMAN D'AMARO:

Mr. Zwirn, just by way of information, or maybe, Ms. Bizzarro, if you know, how many notifications are we talking about here in any given time period? Is this an extensive amount of additional burden?

MS. BIZZARRO:

I think it's going to be quite onerous, especially because the Presiding Officer is on both the Waiver Committee and the RFP Committee. He gets all of the documentation that has all this information contained within it. He receives copies of all the RFPs, all the waiver requests, and that's from the get go. So he knows before these contracts are even approved.

I think it would probably would be an easier mechanism to have the Presiding Officer's Office share with the 18 Legislators as a result of having the individual departments have to, you know, sort of reiterate this information. There's also a requirement in the bill that the department heads have to kind of basically go back in time, find out all the contracts that are in existence even before the bill is approved and go and enumerate all this information. It's going to be quite a task for some of the departments. I know that. So, you know, it might just be more practical to have the documentation made available to whichever Legislators want to review it or have some type of an e-mail system perhaps. But doing this, I see it as being onerous.

CHAIRMAN D'AMARO:

I missed your first point. Are you saying that the Presiding Officer's Office is already notified of consulting contracts?

MS. BIZZARRO:

He receives all of the RFPs and all the waivers requests because he sits on the committees.

CHAIRMAN D'AMARO:

He's on the committees.

MS. BIZZARRO:

Or his designated person sits on the committee. So he is in possession of all these documents. And all these documents have this information contained therein because the committee has to vote on these contracts, so they know the name of the business, the amounts, whether it's resulting from a request for proposal, if no requests for proposals, use an explanation why it was not used. I know with my own when I do attorney consultant ones, you know, I explain the whole process right in my waiver requests. So, you know, and I think all departments follow suit. So it seems to be somewhat redundant.

CHAIRMAN D'AMARO:

You know, the last thing I want to do is make additional work for departments or department heads or department staff. If there is already a notification procedure that's in place and the information is readily available to every Legislator, I really, again, don't see a need for this type of legislation. One other point, if you know, wasn't there at one time an agreement -- Ben, maybe you know -- to post this somewhere on the County system? The T-drive?

MR. ZWIRN:

I think it was a question of which drive it was going to go on the computer. But I think historically we have provided this information to the Clerk of the Legislature on a regular basis. I think it was

just hard -- I think at one time it was just hard to find on your computers, but I think that has been resolved.

CHAIRMAN D'AMARO:

All right. And one other point I want to make, we are going forward with our own local version of Project Sunlight. And I believe that this type of information would yet, again, be posted when that site is up and running as well. Was there a motion on this bill?

LEG. BROWNING:

I made a motion to approve.

MS. ORTIZ:

There was a motion and a second.

LEG. BROWNING:

However, I guess I've received some information; the Clerk's Office has some concerns with staffing issues as far as being able to implement this. So at this time, I'll withdraw my motion to approve and find out what the Clerk's position is on this.

CHAIRMAN D'AMARO:

Okay. Legislator Browning for the record has withdrawn her motion to approve. I will offer a motion to table. Is there a second?

LEG. NOWICK:

Second.

CHAIRMAN D'AMARO:

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

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

Once again, I need to recuse. I'm going to ask our Vice-Chair Legislator Cooper to chair the proceedings?

LEG. COOPER:

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

LEG. BROWNING:

Second.

LEG. COOPER:

We have a motion to approve and a second.

MS. BIZZARRO:

I'm not looking to reiterate my comments in IR 1370.

LEG. COOPER:

Sure.

MS. BIZZARRO:

If I can just put on the record though, and I know Legislature Cooper spoke with Christine D'Amaro on this, there's still no definition of the "for cause." And we think that's very important, because you're talking about people losing their jobs here. So again, there's just no definition of it. So it

could be whatever they want it to be, and we're concerned about that.

LEG. COOPER:

Thank you. I did speak to Legislative Counsel about that. I'll let him address that. But we're actually making it more difficult to remove department heads. Right now, we can fire someone because we don't like the color of their tie. This now only allows us to say -- and Ben, I have to say that tie needs some work. No, I'm joking, it's a very nice tie. But this will make it clear that we can only remove a department head for cause now. As to whether we need to further define "cause", I'll defer to Legislative Counsel.

MR. NOLAN:

You could if you wanted to define what "cause" is, but it's not atypical to just say "for cause" without providing that further definition. As you noted, this arose out of the thing with the Police Commissioner. County Attorney pointed out rightly that there is some inconsistency in the Charter in that it says that certain commissioners serve at the pleasure. And the County Attorney made the argument that that basically obviated our removal power that was also in the Charter. So we're trying to deal with that inconsistency. The old Charter provision said, you know, people who were serving at the pleasure, we could just remove. It didn't say with cause or with written charges, so we've added that. We made it clear that the removal of authority only applies to department heads and no other appointed officers. And those are my comments.

LEG. KENNEDY:

Mr. Chair.

LEG. COOPER:

Legislator Kennedy.

LEG. KENNEDY:

Can I ask Counsel too, "cause" is defined in other areas of State Law particularly when we look at general performance of duties for a civil servant, things along those lines, my recollection is that categorically if an individual is convicted of a felony or there are other types of, you know, generally egregious acts on a part of an individual, that automatically rises to cause.

MR. NOLAN:

Right. There are provisions of State Law, Public Officers Laws, that state that if certain things happen, like being convicted of a felony, you are out. And there are certain laws in the State that do define what "cause" is, but there are others that do not, and then it's left to the -- really to the Legislature to determine what "cause" is, and that's what the old law was. For people who were termed, it said we could only remove them for cause, so we continue that language. But we talk about for people who serve at the pleasure, that there has to be written charges, there has to be an opportunity to be heard. We clarified that any resolution removing a person has to go to the County Executive so he can either approve or veto. So it actually tightens down the existing law, makes it consistent with other sections of the Charter, it talks about Commissioners serving at the pleasure.

LEG. KENNEDY:

Let me just go one step further. Not that I necessarily anticipate this would be a matter occurring, but we're doing this for the purposes of clarity, if we were of a mind to bring charges, how -- what's the mechanics associated with that? How would the charge document be drawn? To whom is it presented? How does it originate? And how would we look at the process?

MR. NOLAN:

The law doesn't spell that out. In the past, there was a process on a couple of occasions where the Legislature attempted to remove board members. I don't think anybody was ever removed through

that process. But that's something we would have to develop exactly. But this law does not spell out the mechanics per se.

LEG. KENNEDY:

I do remember -- I recall there was an unfortunate set of circumstances associated with a Suffolk County Water Authority Board Member, I believe, at one point where it was necessary to go forward with an actual termination process, if you will. So is that what we envision?

MR. NOLAN:

We envision a process that gives a person who is the subject of a possible removal where they know what the reason is that we're seeking the termination and they're given an opportunity to come to the Legislature and be heard before we act. I would just state that currently under the law, only people serving a term have those rights. And this law would extend those rights, those kind of due process rights, to everybody who would be subject to removal.

LEG. KENNEDY:

Okay. Thank you.

LEG. COOPER:

Thank you. So we have a motion to approve and a second. All those in favor? Opposed? Abstentions? One recusal again, Legislator D'Amaro. IR 1556 is **APPROVED. (VOTE: 4-0-0-0-1 Recused: Legis. D'Amaro)**

CHAIRMAN D'AMARO:

Okay. Thank you, again, Legislator Cooper. The next resolution is ***1576 - 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.)***

LEG. BROWNING:

Motion to table.

LEG. COOPER:

We have motion to table by Legislator Nowick, and a second by Legislator Browning. I'm sorry, I forgot you are back. I just got into this.

CHAIRMAN D'AMARO:

Obviously I'm not having an impact. That's fine.

LEG. COOPER:

I defer to the Chairman.

CHAIRMAN D'AMARO:

That's fine. Thank you, Legislator Cooper. There is a motion to table that has received a second as pointed out. Legislator Browning, please go ahead.

LEG. BROWNING:

Well, I just see this, I wonder if this is really something the County Executive should be doing, maybe not the Legislature. I kind of look at this as kind of closing the barn doors after the horses got out. That's the way I see it. I mean, we have all filed our campaign finance this year. So I believe this should be something done by the Legislators.

And also, I still see one of the issues I had in the past was we have three people here at the Legislature from minor parties. Why can't the minor parties have some say in this? We have Conservative, Independence, Working Families. Why can't they play a role in this? So, again, the

barn door is being closed and the horses are already out. So, sorry, I can't support it right now.

CHAIRMAN D'AMARO:

Thank you. One second, Legislator Nowick. I just want to say for the for the record I'm going to support this bill. The way I read it, it creates a voluntary system that is not taxpayer funded. It's funded privately by contractors deriving a direct benefit from Suffolk County taxpayers. And if you implement this system, which is voluntary, it would make campaigns more competitive in the sense that more individuals would have access to financing to run a level playing field campaign, so it would open it up in that respect.

It would also limit, but not prohibit, the influence that donations can have in campaigns, especially from entities that are doing business with Suffolk County. While I think it is a defect that minor parties are not included, I think we have to start somewhere, and I think that's what this bill attempts to accomplish. Again, it's a voluntary system whereby -- not at taxpayer expense, whereby if you can raise I think \$10,000 through donations of \$500 or less, you can opt in and receive a match -- not a matching, but you can receive financing of 20,000. And I think it limits the amount to be spent on campaigns which are becoming more and more expensive. It would limit each candidate to \$50,000 total.

And although it's voluntary, if an opponent decides not to opt into the system, the so-called penalty for not opting in where one person does and one person does not, is that the person who does opt in would get the 20,000 matching -- the \$20,000 match from the Finance Committee, but at the same time, not be subject to the \$50,000 limit on donations. So there is an incentive where one party opts in for both parties to opt in. And I think that that's a direction that we need to go. Everyone knows how expensive campaigns are. Everyone is very down and rightfully so on the undue influence that money plays in the process, and I think this is a very big step and would be a very big step in the right direction. It's not perfect, but I think it's a good start. Legislator Nowick.

LEG. NOWICK:

I think in theory it's a good piece of legislation. However, we've tried volunteer campaign finance before, we've tried it, and nobody took advantage of it. Not that there was ever any money in it, but nobody ever -- I don't know of a candidate that ever took advantage of it.

The other problem that I have with it is that businesses, they would have to contribute if they had a County contract, I understand that premise. But businesses in this economy are just about keeping their head above water and I would hate for the government to say you have to now donate to governmental campaigns, to political campaigns. I just don't think that's a good road to go through.

I think that for myself, I would love to not have to raise funds and just take advantage, but believe me, they've tried this, they've tried voluntary contributions. They've tried it through the public, they've tried it through the tax bills. No money ever came in. Yeah, you'll get money, but nobody wants to take advantage of it, because those that can raise money will continue to raise money. I just think it's a slippery slope here to set a fee. So I don't think right now that this is something that I'll be supporting. I'll support the tabling motion and continue to read this legislation and see if I can find a reason to vote for it, because right now I can't.

CHAIRMAN D'AMARO:

Legislator Cooper.

LEG. COOPER:

I have to admit that I think a similar bill or identical bill was proposed several years ago. And at that point, I was a supporter -- and actually I was the one who suggested having different tiers for the fees that would be imposed upon the County contractors depending on the size of the contract. But I'm now not going to support this. This really does -- I'm concerned. It is still taxpayer

funded, it's just that it's indirectly funded by taxpayers, because I don't think there's anyone that would think that if a contractor knew that his costs were going to increase \$50,000 if he fulfilled a County contract, he's just going to add that cost to what the bid is, and it's going to be passed along to contractors.

So if we want to do this more honestly, then I think we should go back to another proposal that was kicking around several years ago and just add a line item to the budget and properly fund a public campaign finance system. I think the cost was about 50 cents per taxpayer. It was a nominal amount. But at that time, the Legislature did not have the will to do that. I actually would support that alternative, because I am a strong proponent of public campaign financing. But I don't think that this is the way to accomplish that goal. And also, the resolution is way too complicated. It, what, 26 pages, 28 pages long. So I'm going to make -- I'm going to support the motion to table.

MR. ZWIRN:

If I might, Mr. Chair, just jump in.

CHAIRMAN D'AMARO:

Sure, Mr. Zwirn, go ahead.

MR. ZWIRN:

This is the County Executive's. We have done this before. Legislator Cooper is right. We've introduced legislation almost identical to this in the past. There has been a lot of complaints from the public and the media about the appearance of pay-to-play in politics, that if you give, you get. The County Executive recognizes what Legislator Nowick said, the taxpayers do not want to voluntarily contribute. There was a bill passed by referendum about donating money. The Receiver of Taxes Offices were collecting the money and they collected very little money from taxpayers who were willing to pay for it.

The thought is that contractors -- you know, the thought is that they're giving money anyway. And this is a way for them not to have to make those contributions and have a level playing field. If they do business with the County, the money will go to all candidates running for public office, and it would be funded that way. Is there a perfect way to do this? Probably not.

Legislator Cooper suggested, you know, that we fund it through the budget, through taxpayer dollars. We don't -- that's already gone through referendum, and we don't think there's going to be support for that. I think if we did, it would be something that we would consider. This is what we think is the best of the alternatives. The reason minor parties weren't considered is because just the amount of money that would be raised. If you wanted to amend the bill to try to increase it, that's something that is the prerogative that can be recommend by the Legislature. But this is a good faith honest attempt to try to level the playing field because of the disparity and how difficult it is to raise money as a candidate for office. I mean, a lot of times people give money, and a lot of them are people who do business with different municipalities. I mean, it's a fact. Why do they do it? You have to ask them why they do it. Some of them believe that the candidates they're supporting are good government candidates, like people who make contributions privately.

So this is a -- this is not -- you know, this is a good faith effort to try to level the playing field and to try to get some sort of public financing to make it fair for people to run. It is perfect? I don't think anybody has the perfect bill yet, but as I say, if there were suggestions made to try to improve it, we would be welcome to that.

CHAIRMAN D'AMARO:

Thank you, Mr. Zwirn. Legislator Nowick.

LEG. NOWICK:

I know that the system is broken and I know that we have to fix it. I just -- I'm thinking this could

be a reverse -- how I might interpret it, not that I will, but I might say -- as a constituent of mine might say, "Well, so these people are doing business with Suffolk County. And in order to do business with Suffolk County, take your pocketbook out and campaign to political funds." That may not be a particularly good way to do it. Voluntary contributions were a good idea. They don't work.

I have to tell you, I don't think people at this point want to give any money to political campaigns. It's hard to raise moneys. Companies, again, are just about eeking out a living. To hit them now with political campaigns, I can imagine the conversations in the back room. Again, it sounds to me like if you want to do business with Suffolk County, take your checkbook out. I'm not in favor of it.

CHAIRMAN D'AMARO:

Okay. Anyone else on the motion? There is a motion pending to table, it has received a second. I'll call the vote. All in favor? Opposed? Chair is opposed. Abstentions? Motion carries. The resolution is **TABLED. (VOTE: 4-1-0-0 Opposed: Legis. D'Amaro)**

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

LEG. COOPER:

I'll make a motion to table. I believe that the Comptroller is working with DPW and had some outstanding concerns. So unless I'm wrong on that point, I'd make a motion to table again.

LEG. BROWNING:

Can I jump in? I know that the Presiding Officer has been talking with the Comptroller on this. I just don't know if he had finished that conversation.

LEG. COOPER:

Actually, I have just been informed that the Comptroller is okay with the resolution at this point as is DPW. So I'm going to withdraw my motion to table and instead make a motion to approve IR 1577.

LEG. KENNEDY:

On the motion.

CHAIRMAN D'AMARO:

Are you seconding the motion?

LEG. BROWNING:

I'll second.

CHAIRMAN D'AMARO:

All right. Legislator Browning. And Legislator Kennedy, on the motion, go ahead, please.

LEG. KENNEDY:

I am going to ask a simple question, I guess, for Counsel. This resolution will authorize the creation of the manual and policy or do we have --

MR. NOLAN:

It approves the manual. The manual -- the proposed manual is attached to the resolution as an exhibit. It was updated, I believe, after a conversation between the Comptroller's Office and DPW. DPW had some concerns about the manual as proposed originally. The manual was updated, it was filed. So just to go back, when we revised the RFP process for consultants last year, one of the provisions of the law was that the Comptroller would develop a manual, Rules and Regulations, for all the departments to follow. And when he did that, they would have to come back here for approval. So that's why this resolution is here and that's why the manual is here.

LEG. KENNEDY:

Okay. So I'll speak to Clerk's Office. I don't recall seeing that manual, but I'll try to familiarize myself with it between now and Tuesday.

CHAIRMAN D'AMARO:

Okay. There's a motion to approve, it has received a second. All in favor? Opposed? Abstentions? Motion carries. **APPROVED. (VOTE: 5-0)** Section Six on the agenda, Introductory Resolutions.

1593 - Authorizing certain technical corrections to Adopted Resolution No. 333-2010. (Co. Exec.)

This bill changes a fund number in a Resolved Clause. I'll offer a motion to approve and place on the Consent Calendar.

LEG. COOPER:

Second.

CHAIRMAN D'AMARO:

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

1594 - Authorizing certain technical corrections to Adopted Resolution No. 48-2010. (Co. Exec.)

I'll offer the same motion.

LEG. COOPER:

Second.

CHAIRMAN D'AMARO:

Same second, and without objection, same vote. **Approved and Placed on the Consent Calendar. (VOTE: 5-0)**

1596 - 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. 0502-001.00-03.00-038.000). (Co. Exec.)

CHAIRMAN D'AMARO:

I'll offer a motion to approve and place on the Consent Calendar.

LEG. COOPER:

Second.

CHAIRMAN D'AMARO:

Second by Legislator Cooper. All in favor? Opposed? Abstentions? Motion carries. **Approved and Placed on the Consent Calendar. (VOTE: 5-0)**

1597 - 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. 0500-269.00-01.00-009.001). (Co. Exec.)

Same motion, same second, and same vote. **Approved and Placed on the Consent Calendar. (VOTE: 5-0)**

1598 - Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Diana E. Sokolowski (SCTM Nos. 0200-182.00-03.00-025.000 and 0200-182.00-03.00-026.000). (Co. Exec.)

And I'll offer the same motion, same second, same vote. **Approved and Placed on the Consent Calendar. (VOTE: 5-0)**

1599 - Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Joseph M. Abbondandolo (SCTM No. 0200-324.00-01.00-005.001). (Co. Exec.)

Same motion, same second, same vote. **Approved and Placed on the Consent Calendar. (VOTE: 5-0)**

1600 - Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Aaron Thompson and Kaylar Thompson, husband and wife (SCTM No. 0100-093.00-01.00-078.000). (Co. Exec.)

Same motion, same second, same vote. **Approved and Placed on the Consent Calendar. (VOTE: 5-0)**

1601 - Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Carl E. Myers and Jennifer A. Myers, his wife (SCTM No. 0200-982.80-05.00-052.000). (Co. Exec.)

Same motion, same second, same vote. **Approved and Placed on the Consent Calendar. (VOTE: 5-0)**

1602 - Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Matthew Daniels and Dorothea Daniels, his wife (SCTM No. 0200-109.00-04.00-017.000). (Co. Exec.)

Same motion, same second, same vote. **Approved and Placed on the Consent Calendar. (VOTE: 5-0)**

1603 - Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act John Marino and Dawn Marino (SCTM No. 0200-732.00-05.00-002.000). (Co. Exec.)

Same motion, same second, and same vote. **Approved and Placed on the Consent Calendar. (VOTE: 5-0)**

1605 - Authorizing certain technical correction to Adopted Resolution No. 299-2010. (Co. Exec.)

This changes a tax map number in a Resolved Clause. I'll offer a motion to approve and place on the Consent Calendar.

LEG. COOPER:
Second.

CHAIRMAN D'AMARO:
Second by Legislator Cooper. All in favor? Opposed? Abstentions? Motion carries. **Approved and Placed on the Consent Calendar. (VOTE: 5-0)**

1607 - Ensuring the safety of Suffolk County's Digital Information. (Pres. Off.)

LEG. COOPER:

Motion to approve.

CHAIRMAN D'AMARO:

All right. There's a motion to approve. I'll second. I just would like a brief explanation from Counsel if possible.

MR. NOLAN:

This is to, you know, establish a policy regarding photocopy machines, fax machines, other business machines that the County leases, that it's going to be our policy to erase all information from the hard drives of those machines leased or owned by the County at the time the machines are decommissioned. The concern is if you don't do that, the information that's stored on the hard drives can fall into the hands of the wrong people and be disseminated. That's what the law intends to do.

CHAIRMAN D'AMARO:

All right. Thank you. There's a motion pending to approve, it received a second. I'll call the vote. All in favor? Opposed? Abstentions? Motion carries. **APPROVED (VOTE: 5:0)**.

I'd like to, at this time, take a resolution out of order. It is the last resolution on the agenda. It is Resolution 1670-2010. I'll offer a motion to take that resolution out of order, seconded by Legislator Cooper. All in favor? Opposed? Abstentions? Motion carries.

1670 - Declaring Yaphank property surplus to County needs and authorizing property sale at public auction (Kennedy) is now before the committee.

LEG. KENNEDY:

Mr. Chair, did I need to take this out of order?

CHAIRMAN D'AMARO:

There was a request from our Vice-Chair to do so.

LEG. KENNEDY:

Okay. It's my intention to move forward with this. However, I have a structural impediment as we sit here, and I'm going to let Counsel speak to that. We don't have SEQRA clause. If we could move it out of committee, nevertheless, we have no ability to go ahead and act on it on Tuesday. If this would facilitate comment, I'll ask that the committee discharge -- I guess, I could make a discharge without recommendation, because the failure to have a SEQRA determination on the resolution, while it's not fatal, is still a necessary element.

I am mindful of the fact that many of the parties in interest who may chose to spoke on a resolution, it might be more convenient for them to attend our General Meeting in Riverhead on Tuesday rather than having to move here to Hauppauge. And I'm always mindful of an opportunity to facilitate public comment. Certainly, this is an important bill. It's an important measure as we go forward, and again, offer it as an opportunity to try to help with realizing desperately needed revenue and hopefully not something subject to a \$5 million oops. So I'll bring forward that motion to discharge without recommendation with those caveats.

LEG. COOPER:

I'll second that motion.

CHAIRMAN D'AMARO:

Legislator Kennedy, is this resolution not only declaring surplus, but is there also a contract in place that we're approving under this resolution?

LEG. KENNEDY:

No, absolutely not, Mr. Chair. As a matter of fact, when I worked with Legislative Counsel, we were specifically mindful. One of the things that I have been fairly vocal on my criticism with Legacy Village is the fact that it elect to do a surplus declaration as well as approve contract for sale and implementation. And it's been my position throughout this process that that resolution is in fact structurally defective and void on its face in that it violates General Municipal Law Section 20 sub 3 by not going through the declaration process first.

I think it fails to give the opportunity for CEQ to make a determination as to the environmental consequences of the surplus declaration. I believe that is a separate and independent act on the part of that body to advise us. This resolution would do the surplus declaration and then would direct the Division of Real Estate to offer the property for sale much as they do with any other type of property transaction that we offer at this point. Our annual auction is conducted in the same manner. So this is designed specifically to adhere as close as possible to the normal process that we have in place for disposition of property.

CHAIRMAN D'AMARO:

All right. On its face, it does appear to be a very straight forward resolution in that it's declaring a certain 95 acres surplus, but it's a little more complex because we've already passed resolutions to start the process moving forward and paying for a process on the much larger parcel, the Legacy Village parcel, if you will. And I believe that process is moving forward. So we need to contemplate how this would mix with that particular process that's going forward right now; is it overlapping, is it inappropriate to do both at the same time? The other point that comes across my mind, and maybe Counsel could speak to this, is that I believe that this would have to receive and be vetted -- receive CEQ approval and needs to go to CEQ. And I think usually what we do as procedure is not act on resolution until CEQ has taken a position. But, George, I'll defer to you.

MR. NOLAN:

Yeah. The resolution even has a Resolved Clause indicating that SEQRA is not done yet. So it has to go before CEQ. It won't -- that won't happen until at least July, maybe August. I mean, we could discharge it, but the normal practice is if SEQRA is not done, we generally don't move them out of committee. But that's up to the pleasure of the committee.

LEG. KENNEDY:

What I would say if I can Mr. Chair, in response to that is I have completed the lion's share of the EAF, I've spoken with the Planning Department, we'll have it on the agenda for July. But nevertheless, the conformity with the CEQ process, while absolutely something that is important for ever function that we do, I will remind everybody that is advisory to us and that ultimately, it is our decision whether to concur or to disagree with the recommendation that comes from CEQ. We are the body that's charged with making the ultimate determination regarding an environmental consequence, a negative dec, a pos dec. As for that matter, even whether or not we concur with a Type I or Type II or unlisted recommendation for a particular act.

So the fact that we do not necessarily have that recommendation back from CEQ, I don't want to minimize it, I don't want to step on a process that works very well for us and that obviously we're going to continue to embrace, but at the same time, I find that there's a certain sense of urgency that we have as we move ever further throughout the year with our budgetary shortfall and crisis.

CHAIRMAN D'AMARO:

Right. I agree. We couldn't vote on this resolution on Tuesday anyway without CEQ acting first.

LEG. KENNEDY:

Agreed.

CHAIRMAN D'AMARO:

All right. One other point I want to make is that if we only declare surplus without any further contract in place, so what we're saying -- the County is saying this is surplus property, there's no limitation put on how that property can be used. So whereas with the Legacy Village, I think the contract was in place because we very clearly defined what the plan is. And I think that's appropriate to do. Here we're declaring surplus, but we're not saying, "How will you use this property?" And I think it leaves it very open ended.

I mean, you ultimately could have the County then perhaps selling this property for a purpose other than what we're thinking of today. I think it's a more healthy process when we're going to declare a property surplus to at least have some sense of what's the plan for the property and what are the limitations imposed on any potential development of the property. And I think we need to have that in place before we take the initial act. That's my first point.

My second point is we can't vote on this in Tuesday anyway. There's a SEQRA process going forward on the full parcel right now which is being paid for by the County. And I just don't see that there's a need to rush this out of committee today, especially when we can't act on it on Tuesday.

LEG. KENNEDY:

The three things I would offer, Mr. Chair, to your points. One being philosophical difference perhaps as to what the end use might be for subject property. As you well know probably better than most any of us around the horseshoe here, zoning ultimately determines what the prospective use for any particular properties are. And as I know you know, this property right now is currently zoned by the Town of Brookhaven for an industrial or business use.

As a matter of fact, amongst any of the 255 acres that are the subject of Legacy Village, this is the least controversial and perhaps harmonizes, at least in my opinion, a best with the possibility of taking fallow land and turning it into productive industrial areas. As you know, this property shares a common border with a fireworks factory and is surrounded by heavy industrial uses, including a landfill. And so to give the business opportunity -- business community opportunity to bring forward projects for development, I think will be, again, a recognition that it is important for us not to stifle the business community, but in fact, to facilitate them with offering the property.

I have strong reason to believe that this will be neg dec'd. And as a matter of fact, that will be the crux of my arguments to CEQ, because there's, quite candidly, nothing associated with the offering of this parcel that would compromise current environmental conditions with property that is already business and industrial zoned.

Secondly -- secondly, as I said, my offer to move this forward is really a recognition of giving the community the opportunity to be able to speak. We have heard many, many hours of testimony associated with Legacy Village. And each time we're doing that, we are compelling residents to travel a fairly significant difference from the surrounding communities.

Part of my offer to have the bill on the agenda on Tuesday in Riverhead is a recognition that we should do everything in our power to facilitate comment on the part of the public. Third, I'd mindful of the fact, as I said, that we very much want to hear the recommendations from CEQ, but ultimately, concurrence or a discussion otherwise rests solely and exclusively with us. CEQ exists only and totally through the delegation by this Legislature to that body to perform that function. So I think we have a valid basis to go forward, and that's how I offer my recommendation.

CHAIRMAN D'AMARO:

I appreciate those comments. We have a procedure. We can't vote on it on Tuesday anyway. The law requires that we have at least a neg dec or some indication before we can vote on this on

Tuesday. I'm not looking to inconvenience anyone. Obviously, it's not on the agenda on Tuesday, no one is going to be inconvenienced. And it doesn't mean that the public cannot be accommodated down the road when we follow the procedure that we follow on every other bill and not vote them from the committee when they're not ripe for a decision.

So I would urge, just as a procedural matter, we don't have to talk about the merits, that we not move this to an agenda in the Legislature and just have it sit there. I just don't see the need to do that. Legislator Nowick.

LEG. NOWICK:

While I understand why my colleague wants to get this out of committee, my only fear is that you do set a precedent when you change things around. So once you do something, you have set a precedence. And that would be my only fear with getting it out of committee.

LEG. COOPER:

I think I had seconded the motion to discharge. I'm going to withdraw that motion.

CHAIRMAN D'AMARO:

All right. I'm going offer a motion to table. Is there a second?

LEG. COOPER:

I'll second.

CHAIRMAN D'AMARO:

Seconded by Legislator Cooper. So that is the only motion pending at this time. I'll call the vote. All in favor? Opposed? Abstentions?

LEG. KENNEDY:

Opposed.

LEG. NOWICK:

Abstention.

CHAIRMAN D'AMARO:

One in opposition, one abstentions, Legislator Nowick. The motion carries. **TABLED (VOTE: 3-1-1-0 Opposed: Legis. Kennedy - Abstention: Legis. Nowick)**

1611 - Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Romoc, Inc., A Domestic Corporation (SCTM No. 0500-139.00-03.00-034.000). (Co. Exec.)

I'll offer a motion to approve and place on the Consent Calendar, seconded by Legislator Browning. All in favor? Opposed? Abstentions? Motion carries. **Approved and Placed on the Consent Calendar. (VOTE: 4-0-0-1 Not Present: Legis. Cooper)**

1612 - Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Hun-East, LLC (SCTM No. 0200-327.00-03.00-021.000). (Co. Exec.)

Same motion, same second, same vote. **Approved and Placed on the Consent Calendar. (VOTE: 4-0-0-1 Not Present: Legis. Cooper)**

1613 - Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Alicia Rodriguez (SCTM No. 0500-247.00-03.00-052.000). (Co. Exec.)

Same motion, same second, same vote. **Approved and Placed on the Consent Calendar.**
(VOTE: 4-0-0-1 Not Present: Legis. Cooper)

1614 - Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Frederick T. Rurup and Leslie J. Hansome n/k/a Leslie J. Rurup (SCTM No. 0200-452.00-03.00-005.000). (Co. Exec.)

Same motion, same second, same vote. **Approved and Placed on the Consent Calendar.**
(VOTE: 4-0-0-1 Not Present: Legis. Cooper)

1615 - Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Philip J. Covello, Jr. And Martha Covello, his wife (SCTM No. 0100-161.00-01.00-038.000). (Co. Exec.)

Same motion, same second, and without objection, same vote. **Approved and Placed on the Consent Calendar.** (VOTE: 4-0-0-1 Not Present: Legis. Cooper)

1616 - Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Larreyetta Fraser (SCTM No. 0100-170.00-02.00-030.000). (Co. Exec.)

Same motion, same second, same vote. **Approved and Placed on the Consent Calendar.**
(VOTE: 4-0-0-1 Not Present: Legis. Cooper)

1617 - Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Middle Island Road Track Two LLC, as to a ½ interest and Renee A. Alleyne, individually and as administrator of the estate of Edward W. Alleyne, Edward Alleyne, individually and Jenine Alleyne, individually as to a ½ interest (SCTM No. 0200-575.00-01.00-014.000). (Co. Exec.)

Same motion, same second, same vote. **Approved and Placed on the Consent Calendar.**
(VOTE: 4-0-0-1 Not Present: Legis. Cooper)

1618 - Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Middle Island Road Track One LLC, as to a ½ interest and Renee A. Alleyne, individually and as administrator of the estate of Edward W. Alleyne, Edward Alleyne, individually and Jenine Alleyne, individually as to a ½ interest (SCTM No. 0200-575.00-01.00-013.000). (Co. Exec.)

Same motion, same second, same vote. **Approved and Placed on the Consent Calendar.**
(VOTE: 4-0-0-1 Not Present: Legis. Cooper)

1619 - Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Navin Gupta and Roma Gupta, his wife (SCTM No. 0200-761.00-03.00-084.000). (Co. Exec.)

Same motion, same second, same vote. **Approved and Placed on the Consent Calendar.**
(VOTE: 4-0-0-1 Not Present: Legis. Cooper).

1622, Authorizing certain technical corrections to Adopted Resolution No. 335-2010. (Co. Exec.)

This changes a project number in a Resolved Clause. I'll offer a motion to approve and place on the Consent Calendar, seconded by Legislator Browning. All in favor? Opposed? Abstentions?

Motion carries. **Approved and Placed on the Consent Calendar. (VOTE: 4-0-0-1 Not Present: Legis. Cooper).**

1659, Authorizing the sale of County-owned real estate pursuant to Section 72-h of the General Municipal Law (Town of East Hampton) (SCTM No. 0300-058.00-08.00-005.000 et al). (Co. Exec.)

This is three parcels totaling approximately one half acre, sold for \$4788.88 for open space and parkland purposes to the Town of East Hampton. I'll offer a motion to approve, seconded by Legislator Browning. All those in favor? Opposed? Abstentions? **APPROVED (VOTE: 4-0-0-1 Not Present: Legis. Cooper).**

1660, Authorizing the sale of County-owned real estate pursuant to Local Law No. 13-1976 Joseph and Melissa Waldman (SCTM No. 0500-433.00-02.00-032.000). (Co. Exec.)

It's a 18 by 151 foot parcel in Bayport appraised for 4500 and sold for \$15,832.14. I'll offer a motion to approve, seconded by Legislator Browning. All those in favor? Opposed? **APPROVED (VOTE: 4-0-0-1 Not Present: Legis. Cooper).**

1661, Authorizing the sale of County-owned real estate pursuant to Local Law No. 13-1976 Frank Fisher (SCTM No. 0900-120.00-03.00-039.003). (Co. Exec.)

A 25 by 200 parcel in Riverhead appraised and sold at \$1100. I'll offer a motion to approve, seconded by Legislator Browning. All in favor? Opposed? Abstentions? Motion carries. **APPROVED (VOTE: 4-0-0-1 Not Present: Legis. Cooper).**

1662, Authorizing the sale of County-owned real estate pursuant to Section 72-H of the General Municipal Law Town of Brookhaven (SCTM No. 0200-900.00-03.00-010.000). (Co. Exec.)

It's a 50 by 100 parcel that sold for \$22,492.72 for waste management purposes to the Town of Brookhaven. Motion to approve, seconded by Legislator Browning.

LEG. BROWNING:

On the motion.

CHAIRMAN D'AMARO:

On the motion, please.

LEG. BROWNING:

I'm sorry, Pam, I would have usually contacted you beforehand. I didn't get a chance to. Can you give me some idea where that property is?

MS. GREENE:

North of Sunrise Highway. Do you have a Hagstrom with your backup materials?

LEG. BROWNING:

I'm sorry.

MS. GREENE:

If you're familiar with the Suffolk County Cooperative Library System Building on the north side, it's further east of that, west of the current landfill. I can provide you with the Hagstrom if you'd like.

LEG. BROWNING:

So it's actually going to be part of the landfill?

MS. GREENE:

I can't speak to what the ultimate use will be by the Town of Brookhaven, but that's the purpose they're requesting the land for.

LEG. BROWNING:

Do they own that surrounding property around that, or who owns that?

MS. GREENE:

It wasn't a direct sale. It's a 72-H, so they're not purchasing it as adjacent owners necessarily, they're purchasing it as a request for a municipal partner.

LEG. BROWNING:

I guess I'll go ahead with that second on the motion. No. We will go ahead and I will ask the Town of Brookhaven about it for next Tuesday.

CHAIRMAN D'AMARO:

All right. There is a motion to approve, it has received a second. I'll call the vote. All in favor? Opposed? Abstentions? Motion carries. **APPROVED (VOTE: 4-0-0-1 Not Present: Legis. Cooper).**

1669, Consenting to the acquisition of additional land at Marinold Way, Town of Southampton, County of Suffolk, State of New York, by the Quogue Cemetery Association, Inc. For cemetery expansion purposes. (Schneiderman)

This would be our consent to the condemnation of 20,102 square feet and the acquisition of 25,680 square feet for cemetery expansion purposes.

MR. NOLAN:

Mr. Chairman, I just point out the last Resolved Clause states that the property cannot be acquired by condemnation, they have to be by deed. We had speakers who came down to the public hearing and who expressed concern about the condemnation provision. And the petition under State Law will allow to place conditions on our approval, and that's what we have done.

CHAIRMAN D'AMARO:

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

LEG. BROWNING:

I'll second.

CHAIRMAN D'AMARO:

Seconded by Legislator Browning. All in favor? Opposed? Abstentions? Motion carries. **APPROVED (VOTE: 4-0-0-1 Not Present: Legis. Cooper).**

We've already addressed Resolution 1670-2010. There being no further business before the committee this morning, I want to thank everyone for their patience. I'll offer a motion to adjourn, seconded by Legislator Browning. All in favor? Opposed? Abstentions? We are adjourned. Thank you again.

(*THE MEETING WAS ADJOURNED AT 11:57 A.M.*)

{ } DENOTES BEING SPELLED PHONETICALLY