

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, July 28, 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
Legislator William Lindsay - Presiding Officer
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
Gail Lolis - County Attorney's Office
Paul Perillie - Aide to Majority Caucus
Linda Bay - Aide to Minority Caucus
Justin Littell - Aide to Legislator D'Amaro
Kathleen Malloy - AME
Lee Zeldin
All other interested parties

MINUTES TAKEN BY:

Donna Catalano- Court Stenographer

(*THE MEETING WAS CALLED TO ORDER*)

CHAIRMAN D'AMARO:

Okay. Good morning, ladies and gentlemen. Welcome to the Ways and Means Committee of the Suffolk County Legislature. I ask to commence our proceedings that everyone please rise and join the committee in the Pledge of Allegiance led by Legislator Browning.

SALUTATION

Item II on the agenda relates to correspondence. The committee has received one item of correspondence this morning. It's a memo from Pamela J. Greene, the Division Director of the Department of Environment and Energy and Real Property and Acquisition Management. The memo is dated July 27th, 2010, and it's directed to myself and members of this committee. And it deals with certain properties that have been in the pipeline to be acquired for more than two years. So this is a required report. And Ms. Greene, I invite you up if you'd like to present the memo to the committee. Good morning, welcome.

MS. GREENE:

Good morning, Mr. Chairman and members of the committee. As we are required by law, the Division Director from the Division of Real Property is required to appear before the Ways and Means Committee and also the EPA committee when recommended and approved acquisitions have exceeded the two year time frame from the date of the authorizing resolution. So we bring to you notification of four such properties.

The first is a property located on Shelter Island that is being purchased through the Legacy Funding because it is a 50/50 partnership with the Town of Shelter Island. The second and third, Randall Lecky Leighton are in the Village of -- in the Town of Smithtown. That's being purchased with multifaceted. Both of those, since our appearance before the EPA Committee on Monday, have received the required Health Department approval for the subdivisions. So they were waiting for those. Now, there are other issues that must be tended and then we will be able to close on those. And the last one, the Grigonis Farm, is located in the Town of Riverhead. And that will be coming to its two year timeframe shortly. So the law just requires that we make the members of the committee aware of that so we may proceed with the acquisition.

CHAIRMAN D'AMARO:

All right. And the two properties located in Smithtown have now received the Health Department approval. So your memo indicates that was awaiting Health Department approval, but that's happened just yesterday, I guess.

MS. GREENE:

Between Monday and today, yesterday.

CHAIRMAN D'AMARO:

Okay. I guess the intent behind the legislation to report back to the Legislature -- to this committee, we don't specifically require a vote of the committee for you to move forward. I think the triggering event for you to continue with the acquisition process is simply coming here and reporting to us giving us an opportunity to question why we've gone beyond two years after passing a resolution authorizing the purchase.

I guess what I would look for from you is what is your expectation with respect to these four properties when the acquisition will actually occur?

MS. GREENE:

The first one, the Brandenstein acquisition is presenting to be a bit more problematic. On Shelter

Island, fresh drinking water is difficult to access. Therefore, in order to subdivide, there has to be a finding that there is appropriate water source, drinking water, for the remaining parcels. So I know the Health Department has been very active in testing. So that still is deep in that phase.

The next two, now that we have the Health Department subdivision, there are some other minor issues, but those should be proceeding now quickly. And the Grigonis Farm, other than the fact that the applicant, the seller, has had to apply for this subdivision through the town, thus triggering the Health Department requirement, has also just presented more of a time delay. And I can't point to the fact if right now the issue is with the seller, the Health Department, somewhere in between.

Oftentimes, as the committee may be aware, in acquisitions, the seller wishes to retain a certain portion of the land. They wish to cut out the house that they're living on or they wish to provide for future use of additional land adjacent nearby. So they aren't in the position to sell the entire piece of property as it presently exists. So they must do a subdivision of it in order to sell off to the acquisition program what's going to remain as open space.

CHAIRMAN D'AMARO:

Do you know if any of these acquisitions have obtained subdivision approval from the respective town that the parcel is located in?

MS. GREENE:

I don't. I can certainly report next time to the committee on that.

CHAIRMAN D'AMARO:

Well, is there any reason why -- is there anything to your experience or to your knowledge that has changed in the last two years that would warrant the County considering not purchasing these properties?

MS. GREENE:

I don't. I believe the question would be --

CHAIRMAN D'AMARO:

We're locked into a -- we're in a contract? We are in contract.

MS. GREENE:

The seller has agreed to sell the property, and the County has agreed purchase the contractor, correct.

CHAIRMAN D'AMARO:

By contract?

MS. GREENE:

Yes.

LEG. NOWICK:

All four?

MS. GREENE:

Correct.

CHAIRMAN D'AMARO:

Is the contract -- any provision of the contract provide an escape clause for the County due to the passage of time?

MS. GREENE:

There's a provision if the funding is not available. So that's always a requirement.

CHAIRMAN D'AMARO:

But by authorizing the purchase, we have made the funding available.

MS. GREENE:

We will make funding available when we close the property.

CHAIRMAN D'AMARO:

Right. So what I'm asking is is there any way for the County to unilaterally cancel any of these contracts?

MS. GREENE:

Yes.

CHAIRMAN D'AMARO:

Under what provision?

MS. GREENE:

The county would state that they no longer wish to commence to closing due to either lack of funding or any presence of an impediment to the contract, such as the existence of any pollutants on the property.

CHAIRMAN D'AMARO:

Right. But I mean, is there any clause that applies here? In other words, if we looked at that first -- let's say we reviewed the Shelter Island property and the committee believed that it was wise to purchase it two years ago but perhaps not today, could we unilaterally cancel that contract?

MS. GREENE:

I believe the committee would then have to make that recommendation to the EPA Committee and then the full Legislature. But I believe you always have -- it's a voluntary program, but you, the Legislature and the County Executive always have the final say on when the contract becomes fully executed.

CHAIRMAN D'AMARO:

Okay. I'm just asking whether there's the legal right under the contract to do that. There would be a procedure to do that and the full Legislature would have to vote on it, I understand that.

MS. GREENE:

And I welcome Bureau Chief Gail Lolis to weigh in if she wishes to as far as the legality of the division when residing the contract.

CHAIRMAN D'AMARO:

I'm only asking because I'm trying to get the scope of our review. In other words, if you're coming to us and saying, look, it's been two years or more on these certain acquisitions, that's good, we should know that. That would prompt us to review and take a look at the property again. But do we have the opportunity to reevaluate to the extent of saying we decided we don't want to go through with this?

MS. GREENE:

Again, I don't mean to be evasive, I believe you do. But I would certainly -- as the director of the division, I would certainly want the County Attorney to be the one to make that call.

CHAIRMAN D'AMARO:

Good morning, Ms. Lolis, welcome.

MS. LOLIS:

Good morning.

CHAIRMAN D'AMARO:

Do you happen to know the answer to whether or not under these contracts we could unilaterally cancel?

MS. LOLIS:

If the contracts were fully executed by both sides, the Legislature has already approved the acquisition, the only way we could get out of it is if there are various provisions in the contract; if there is something in the contract, for example, which was raised in terms of environmental concerns, has not been met, then we could get out. But it would have to be something in the contract.

If the Legislature has not already -- the full Legislature has not already approved the acquisition and it would never be signed unless the Legislature -- it would never be signed on behalf of the County unless this body approved the acquisition, then we could unilaterally get out of it at any point for any reason.

CHAIRMAN D'AMARO:

Just repeat that. We could get out of a contract at any point for any reason under what circumstance?

MS. LOLIS:

If the full Legislature has not approved the acquisition.

CHAIRMAN D'AMARO:

Right. But we have. We have. Okay. All right. I'm not looking for a reason under the contract to terminate, I'm just wondering whether or not the lapse of time itself would give us the right to terminate under these contracts.

MS. LOLIS:

I'd have to look at the terms, but generally, from what I understand from our contracts, the answer to that would be no. You would have to look at the terminology in the contract. And unless something was not being met, we would need to proceed or face litigation.

CHAIRMAN D'AMARO:

I agree with Ms. Greene that often when we purchase land, we're subdividing, also, because there's certain portions of the parcel that's omitted from the County purchase. But we may want to consider putting into these contracts to purchase a time limitation on the time in which a seller has to obtain the subdivision and all the necessary approvals to go to closing. It's just something we might want to look at.

One more thing. The flip side of it is I think it would be more helpful on a memo such as this to have a basic chronology attached to each one so that this committee could look at date that we passed the authorizing resolution and what has happened since then. I'm not looking to make work for you. Just a basic chronology of when applications were submitted, you know, what's pending, how long. I think that would be helpful because then it would be easier for us to discern where the delay is occurring. And, you know, sometimes things just take time. I understand that. So it's not for the purpose of making an accusation. But I think we need a little more information than just the name of the property and the tax map number, okay?

MS. GREENE:

We've including the date of the approval of the authorization resolution, so what additional

information would you find most helpful?

CHAIRMAN D'AMARO:

Well, what happens after we pass an authorizing resolution? I mean, there has to be a chronology that follows where applications go to the Health Department, application goes into the town if a subdivision required, you know, that type of thing, so that we can just have a better feel for why it's taken two years or more to get this to closing. I mean, the vast majority we close within two years, but it would just be helpful.

MS. GREENE:

We appreciate your suggestion, Mr. Chairman. This has been unusual in that purchases have become more complex. Again, the vast areas of land to purchase that have raw land without encroachments, without properties on them, have become more rare. So this is why we're seeing these properties now taking a bit longer. This is our first presentation to the committee. We'd be happy to supply whatever information you prefer.

CHAIRMAN D'AMARO:

I'd appreciate that information. With that, Legislator Nowick, did you have a question?

LEG. NOWICK:

Two of the properties are in my district, and I know I've been working for years. Just curiously, awaiting Health Department approval, is that because of seller is so slow getting information in, or is that the Suffolk County Health Department was slow or is it a combination? I mean, two years.

MS. GREENE:

I think each individual application is different as far as the process of it. And in some instances, it has been the part on the seller to get the required information. So I can't speak to this specific acquisition which volley, you know, occurred and what the dates were for all. But we wanted to make you aware that they have received Health Department now, so it should be --

LEG. NOWICK:

So it's ready to go. And I also think, Lou, too, and I think you are right about that, we also have to careful if it is that the seller is waiting for the Health Department to move along, which we know they always move very rapidly, we have to be careful when we do it what you're implying we do, and I think that's a good idea. Okay. Thank you.

CHAIRMAN D'AMARO:

Okay. Thank you. Are there any other questions? Okay. Thank you for the presentation of the memo. If you could just get us a little more backup on it, I'd appreciate that.

MS. GREENE:

Yes.

CHAIRMAN D'AMARO:

Okay. And we will go from there. Public portion, we have received two cards this morning. I'll call the first. Ms. Kathleen Malloy representing the association on Municipal Employees. Ms. Malloy, good morning and welcome to the committee. You'll have three minutes to address the committee this morning. Please go ahead.

MS. MALLOY:

Thank you. Thank you for letting me speak. My name is Kathleen Malloy. I'm here today on behalf of AME President Cheryl Felice. When governor Paterson offered the County executives throughout New York State the opportunity to sign on to the Early Retirement Incentive Package, known as the ERIP, he provided the approved bill, but left many of the particulars of eligibility up to the County Executives.

The time period for the ERIP, can however, can and should be extended by the Legislature to 60 days. Local Law 35-2010, which was also Introductory Resolution 1724, adopted July 7th in Suffolk County, gave Mr. Levy the full power under the State Law to designate who can participate in the ERI.

This is where the problems began for our Suffolk County workers, because the only limitation placed on that eligibility in Local Law 35 was a prohibition of ERI for employees funded at least 50% by State and/or Federal aid. An exception to that 50% rule was also provided in Local Law 35 for five designated positions in the Office of the Aging and for employees in the Departments of Health and Social Services.

When Mr. Levy issued his AEM Number 21 on July 14th, he listed 13 categories of ineligible titles, such as the entire Department of Consumer Affairs, law enforcement, lawyers, and the entire employee group at the John J. Foley Skilled Nursing Facility. This means that it is Mr. Levy, not the Local Law or the County Legislators who is ultimately and unilaterally blocking certain people from being able to participate in this Early Retirement Incentive.

Legislators should be aware that Mr. Levy's AEM contradicts the Local Law in the section wherein he states, quote, those employees whose salary is at least 50% funded with Federal and/or State aid most likely will not be approved for inclusion, end quote. Local Law 35 did not grant any such discretion.

AME asks our 18 member Legislature is your own expressed language is being ignored and contravened by the County Executive. And even more disturbing, Mr. Levy was the sponsor of the legislation that is being ignored. On June 22nd, after addressing the Suffolk County Legislature in Riverhead on AME's endorsement of this ERI and our encouragement to the Legislators for the full inclusion of all County workers, AME President Cheryl Felice held a full-house union membership meeting that evening, again, notifying members of the ERI, its benefits and its sever limitation to many County workers due to Mr. Levy's restrictions.

In the public sector, workers work at the direction of elected officials, the County Executive and our 18 member Legislature. President Felice advised our AME members to call their respective Legislators to advise you all of their desire to retire with full participation under the ERI Package. Introductory Resolution 1726 sponsored by Mr. Levy and pending before the Legislature links the expansion of the open period from 30 to 60 days. Oh, I'm at the best part. Can I have another 30 seconds please?

CHAIRMAN D'AMARO:

Go ahead, please.

MS. MALLOY:

Thank you. Links the expansion of the open period from 30 to 60 days to September 21st to the sale of the nursing home. This bill is very misleading, because the title of the bill and the accompanying backup documentation create the impression that the bill is enlarging the number eligible for participation. That is not so. The bill only deals with expanding the open period from 30 to 60 days. And we feel the reason why is because the County Executive's Budget Office is overwhelmed with the large amount or retirees -- prospective retirees.

How to resolve the dilemma? AME asks our Legislative Body to simply extend the ERIP to 60 days. As I close, as the union that represents just about 7000 working workers with a large amount expressing interest in this ERI Package, AME President Felice seeks your help in eliminating any unnecessary anxiety and any mistakes that can be innocently be made based on incorrect, confusing and misleading information. On behalf of the AME Offices and our members, your assistance to the workers who make Suffolk work is now and has always been appreciated. Thank you. If anyone

has any questions, I have copies for everyone and the stenographer.

CHAIRMAN D'AMARO:

Thank you Ms. Malloy. Our Presiding Officer Legislator Lindsay does have a question for you.

P.O. LINDSAY:

Ms. Malloy, we went down this road of trying to identify who could retire, and we were very clearly shut out of the process by the Comptroller's ruling that only the Executive can pick who can retire. I guess we could -- Counsel, can we extend the time period, or is that only within the purview of the Executive as well?

MR. NOLAN:

The Legislature could extend the period. That's within our purview. It would be subject to a County Executive veto. The other thing is we'd have to accomplish it by a Local Law, which would be very difficult to do before the time period runs out for the original 30 days.

P.O. LINDSAY:

So I don't know -- I mean, even if we were to extend the retirement period, I don't know whether that would help your members. I mean, what most of your members want is to be able to participate that had been excluded.

MS. MALLOY:

AME is asking at this point our Legislative Body to simply extend the period to 60 days. My other comments were merely for your information. Thank you.

P.O. LINDSAY:

Okay.

CHAIRMAN D'AMARO:

Okay. Thank you, Mr. Presiding Officer. Thank you, Ms. Malloy. Next speaker is Lee Zeldin. Mr. Zeldin, good morning, sir, and welcome. You have three minutes to address the committee. And I remind you to please hold your finger on the mike there.

MR. ZELDIN:

Thank you, Chairman D'Amaro, Presiding Officer Lindsay and all Legislators. I appreciate the opportunity to come here this morning to talk in support of Legislator Schneiderman's with regard to the MTA tax. I've had a chance to talk a lot of residents across Suffolk County, whether they run businesses or they're school board members or they're hospital administrators, they run non-for-profits or local governments.

The MTA tax has hurt all of us on so many different levels. Our local governments have stood up for the towns by filing their litigation. Businesses have stood up for their businesses by filing litigation against the MTA tax. School districts have stood up for their school districts by filing litigation against the MTA tax. It should have never been passed in the first place. It's crushing Suffolk County businesses and schools and hospitals and non-for-profits and local governments.

And I support Legislator Schneiderman's effort, and hopefully the County Legislature passes this bill up and the County Attorney looks into the feasibility of filing litigation. Just this morning, there was a story in our Newsday talking about a 9.4% increase for fares of those riding the Long Island Rail Road. You could go to hospitals with 2000, none ride the Long Island Rail road. I spoke to the comptroller at the Atlantic Auto Mall. They paid one million dollars in the MTA payroll tax in 2009, yet they don't have one employee that rides the Long Island Rail Road to work. It should have never been passed in the first place.

As I guess as a resident, I pay the MTA tax as a small business owner, and each and every one of

you from all the legislative districts that you represent have a lot of people that have been adversely impact that aren't riding the Long Island Rail Road. There needs to be -- due to the politics and the patronage for so many different reasons, the payroll tax was used to balance a budget deficit. Turns out that the books were cooked and they came right back with another doomsday scenario just a few months later. Now, we have a \$900 budget deficit with the MTA. You have to get to the route of the problem and fix it.

And what the MTA wants to do is get more money through the MTA payroll tax. If you read the story, if you look at the fine print of those that are quoted, they actually would be willing to increase the payroll tax on all of us. We have to make a stance right now. We as a County need to stand up, whether you're a Republican or Democrat, whether it's your race, gender, socioeconomic status, we need to stick together, because Long Islanders are hurting. And our property taxes and our school taxes, our business taxes, we have the highest property taxes in the entire country right here in New York State, Suffolk County being one of highest in New York State. We have the highest corporate and individual marginal income tax rates in the entire country right here in New York, and Suffolk County businesses are hurting. So I thank you all for hopefully standing up for the Suffolk County taxpayers and passing Legislator Schneiderman's bill. Thank you.

CHAIRMAN D'AMARO:

Thank you, Mr. Zeldin. Just before you go, for your information, we have asked the County Attorney, while we've debated that bill in the past, to take a look at whether or not -- just more on an informal basis before we pass the resolution, whether or not it makes sense. I believe we're expecting a report back from the County Attorney's Office in Executive Session. So we will consider your comments as well.

MR. ZELDIN:

Thank you, Chairman D'Amaro.

CHAIRMAN D'AMARO:

Thank you, sir. There are no presentation this morning. We will go to Section V of the agenda, Tabled Resolutions.

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)

I'll offer a motion to table.

LEG. COOPER:

I'll second.

CHAIRMAN D'AMARO:

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

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)

Ms. Lolis, just before we entertain any motions, I wanted to ask you -- I don't know if it was you or Denis Brown that was looking into this. Do you have information for us today?

MS. LOLIS:

Yes. Actually, we had already completed the study. I believe that Chief Deputy Lynne Bizzarro distributed the opinion to everybody at the meeting, I was under the impression, but I can provide

the committee another copy.

CHAIRMAN D'AMARO:

I don't recall seeing it myself. I apologize if I did. Do you know -- is it for public dissemination that memo or not?

MS. LOLIS:

No. And we would recommend that any discussion on it be in Executive Session.

CHAIRMAN D'AMARO:

Okay. Including the conclusion? Not that I want to put you on the spot here.

MS. LOLIS:

I think it would be best to have it discussed in Executive Session first.

CHAIRMAN D'AMARO:

Why is that, because it involves pending litigation?

MS. LOLIS:

Because there's pending litigation, and we certainly don't want to put anything on the record that jeopardize anybody else's lawsuit.

CHAIRMAN D'AMARO:

Right. Should we decide one way or the other whatever is in that memo may have a bearing on ultimately if we did join the lawsuit.

MS. LOLIS:

Exactly.

CHAIRMAN D'AMARO:

I understand. Thank you.

LEG. KENNEDY:

Mr. Chair. Actually, I'll yield to the Presiding Officer first. But I've got a question that's somewhat germane, I think, to the litigation issue and whether we have capacity.

CHAIRMAN D'AMARO:

All right. Presiding Officer Lindsay.

P.O. LINDSAY:

The only thing I wanted to point out, unless I misunderstand the resolution, we are doing what the resolution suggests without passing the resolution. I mean, what Ms. Lolis eludes to a document that assesses the feasibility of our entering the lawsuit. Am I correct?

CHAIRMAN D'AMARO:

That's my understanding, yes. And I think the preference was to do it that way --

P.O. LINDSAY:

Rather than pass the resolution.

CHAIRMAN D'AMARO:

Right, because, you know --

P.O. LINDSAY:

Okay.

CHAIRMAN D'AMARO:

-- we wanted to look at it less formally and consider it, because the litigation is already pending.

P.O. LINDSAY:

Okay.

CHAIRMAN D'AMARO:

Legislator Kennedy.

LEG. KENNEDY:

Without getting into the particulars or doing anything that would be advisory or confidential, wasn't one of the threshold issues here that the office had to look at as to whether or not there was even a capacity for the County to commence an action?

MS. LOLIS:

Exactly.

LEG. KENNEDY:

And so you've addressed that issue, and that something that needs to remain confidential or is that a simple yes or no?

MS. LOLIS:

I don't think the conclusion has to be confidential. The reasons behind it, we would recommend be discussed in Executive Session.

LEG. KENNEDY:

Okay. I'll abide by that. So then does that mean that we can get, like, yes, we can or, no, we can't?

CHAIRMAN D'AMARO:

I would prefer not to do that, only because if we collectively decide to go ahead and join the litigations, I just -- I think it's in our best interest as a litigant at that point not to state conclusions or rational backing up any conclusions.

LEG. KENNEDY:

I agree with you to a certain extent, Mr. Chair. I'm also, as you can see, I guess I'm disagreeing. I'll yield, I don't want to split hairs there, but, you know, a determination based on the statutes as to whether or not there's just simple capacity to commence is not something that I think necessarily points to a particular litigation strategy. But, you know, what? I'll yield.

CHAIRMAN D'AMARO:

I don't -- you know, what if we disagree with the conclusion is my point. We are having Executive Session today. We will continue that discussion in Executive Session. On 1372-2010 which is before the committee, I'll offer a motion to table at this time.

LEG. COOPER:

Second.

CHAIRMAN D'AMARO:

Seconded by Legislator Cooper. 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)

LEG. KENNEDY:

I'll make a motion to approve.

LEG. COOPER:

I'll make a motion to table for one more cycle.

CHAIRMAN D'AMARO:

I'll second the motion to table.

LEG. KENNEDY:

Let me ask on the motion to table, we are cycling it awaiting -- the Comptroller is going to be giving us some information that will help us.

LEG. COOPER:

Yes. We have a call out to the Comptroller's Office. And I'm expecting a response imminently. If it's not forthcoming by the 17th, then I'm prepared to vote on this. But in deference to Comptroller's Office, I'd like to wait two more weeks.

LEG. KENNEDY:

Fair enough. Okay. Thank you.

CHAIRMAN D'AMARO:

Okay. There's a motion to table that's received a second. Legislator Kennedy, did you make a motion to approve?

LEG. KENNEDY:

I did. I'll withdraw.

CHAIRMAN D'AMARO:

Thank you. I'll call the vote on the motion to table. All in favor? Opposed? Abstentions? Motion carries. **TABLED (VOTE: 5-0).**

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

LEG. KENNEDY:

I'll make a motion to approve.

LEG. NOWICK:

I'll second.

CHAIRMAN D'AMARO:

Motion to approve by Legislator Kennedy, seconded by Legislator Nowick. Mr. Presiding Officer, please go ahead.

P.O. LINDSAY:

It's my understanding that the Law Department at the meeting, which I don't think I was at, made a presentation that -- that the Presiding Officer being on the RFP Committee and the Waiver Committee has this information now, and that isn't totally correct. We do not see all of the RFPs. And I believe what this calls for is upon contract. At times we might approve an RFP and for some reason it doesn't go to contract. And the other thing is anything under \$25,000 we don't see at all. And the whole Public Works contracts don't go through us, don't go through that committee. It's

really only the specialty contracts. So there's a whole -- a lot of money we're spending that this body isn't aware of.

CHAIRMAN D'AMARO:

Thank you. My question on this bill -- one of the questions I have is about just the logistics of how it would work; who's going to notify who in the process? If a department of the County decides to hire a consultant, this bill requires that within 15 days of execution of that contract for the consultant that we be notified. And the we, I assume, would be the Clerk's Office. Is that what -- I'll ask Counsel. Is that the bill calls for?

MR. NOLAN:

The law states that department heads will notify each member of the Suffolk County Legislature in writing. So I wouldn't think it would be -- it would go to the Clerk. It would have to go to each member of the County Legislature.

CHAIRMAN D'AMARO:

And do we have any idea of how many notifications we're talking about in a month or a year or a week, George?

MR. NOLAN:

Well, it's consulting contracts. I don't know how many consulting contracts there are in any given year, probably -- if I had to estimate, probably a couple of hundred.

CHAIRMAN D'AMARO:

A couple of hundred.

MR. NOLAN:

That's a guess. I think the Department of Law might have a better idea how many consultant contracts that come down every year.

MS. LOLIS:

It's probably in that area. And not only that, just for the record, the bill just doesn't require notification for contracts from now moving forward. This is also asking the departments to go back to all contracts that have been previously executed and provide notification to each Legislator for that too. And we believe that would be somewhat of an onerous responsibility to undertake with all the other duties that we have.

And just if I may respond to something that Presiding Officer Lindsay said, one thing that our office does with the consultant contracts, if it's not going through the RFP, we seek waivers on all consultant contracts to the Waiver Committee. We don't look at the monetary amount. Everything would go the Waiver Committee.

CHAIRMAN D'AMARO:

On every consultant contract, if there's no RFP issued, a waiver is sought?

MS. LOLIS:

Yes. By our department.

CHAIRMAN D'AMARO:

Or if a consultant contract is pursuant to and RFP, there's already procedures in place that require we all get notified of the RFPs.

MS. LOLIS:

Yes. Whatever the requirements are. Then there's an RFP Committee.

CHAIRMAN D'AMARO:

And then there's a committee. But this is really at the time of contract. This is after that process is complete, this would require notifications to the 18 Legislators of this information after the contract is signed?

MS. LOLIS:

Yes. It's just an additional notification.

CHAIRMAN D'AMARO:

It seems to me though if we're not voting on it and we don't -- if we want to affect the process, we should affect it before the contract is signed. I'm not sure what purpose this is serving.

LEG. KENNEDY:

If I can speak to some of what I think the sponsor might have been able to achieve and certainly what I would like to see brought about by this. And I was just reviewing the bill. The language, I believe, directs the department head to be responsible for the notification component. That's why I'm a little uncertain where the County Attorney's Office just said that it would be an additional burden upon them. They may elect to effectuate the language, but it's the department heads that actually have the -- would have the responsibility to provide notification.

I also think that the notification is important. You know, in a perfect world, I agree with you, Mr. Chair, that if we had notification pre-execution, it would give us an opportunity to weight in. But then it also occurs to me we may be blurring that line between policy and actual administration. However, as we set out policy directives to the various departments, I think it's important for us to see how things may be manifested.

I'll give a perfect example. In the John J. Foley Nursing Home right now, we have an abundance of agency personnel that are being utilized out there despite the fact that we've spoken at length and lobbied vociferously to bring on board our direct personnel. Being made aware of those agency contracts which I've done on my own through the contract process with the Health Department, it's really illuminating. There are agency personnel in there that are going upwards of 80 dollars an hour for direct-care personnel, when, in fact, our own County employees would be earning far less when you combine salary and benefits.

So I think the illustrations that would come to us by the entities that actually are engaged by departments would be very illuminating, and it would give us an opportunity when we craft the budgets to make sure that we characterize funding in proper categories and lines to carry out policies that we set. So I think the bill is merited, and I'm comfortable to stand with the approval.

P.O. LINDSAY:

Just to come back at Ms. Lolis' comment. I mean, I have an RFP before me right now out of Public Works. It never comes before us, never comes before us. So I don't know what you are talking about. We do not, on the RFP Committee, see anything out of Public Works as far as engineering is concerned. We do not see anything that's under \$25,000. So I just don't know what you are talking about.

I hear your comments about the bill talks about going back in time for all existing contracts. That might become very, very onerous, because how far back in time? And we certainly don't want to tie up every department with a chore of researching old contracts. But I think the bill has merit, maybe it needs to be tweaked a little.

CHAIRMAN D'AMARO:

I agree with Legislator Lindsay that, you know, notification -- I mean, if a department enters into a consulting contract, I don't really see any harm in notifying the Legislators of what's going on. More

information is always a good thing. But I agree that it could be onerous to go back in time. And on that basis, because we have a short cycle, I would offer a motion to table for that cycle.

LEG. COOPER:

I'll second that motion.

CHAIRMAN D'AMARO:

And we'll reach out to Legislator Montano and ask him to consider that.

P.O. LINDSAY:

And, you know, to cut down on the amount of work that the departments would have to do with this. If he changed it to notify the Clerk, I would make sure that the Clerk notifies all 18 us.

CHAIRMAN D'AMARO:

Yes. All right. And with those suggestions, I'll call the vote on the motion to table. All in favor? Opposed? Abstentions? Motion carries. **TABLED (VOTE: 5-0)**

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. COOPER:

Motion to table.

LEG. NOWICK:

Second.

CHAIRMAN D'AMARO:

Motion to table by Vice-Chair Legislator Cooper, seconded by Legislator Nowick. All in favor? Opposed? I'm opposed. Abstentions? Motion carries. **TABLED (VOTE: 4-1-0-0 Opposed: Legislator D'Amaro)**

1670, Declaring Yaphank property surplus to County needs and authorizing property sale at public auction. (Kennedy)

Legislator Kennedy.

LEG. KENNEDY:

This needs to be table, Mr. Chair. At my request, it was not heard at CEQ this month. Coincidentally, this was the only bill that was on the agenda. It will be heard by CEQ next month. And once we have a determination, I'm full prepared to go forward and move the bill forward. I believe that it will ultimately receive a neg dec. I have discussed the way the bill is characterized at this point with some of our folks at CEQ, and I made a commitment that I would get some legal research over to them. And I'm just in the process of cracking the books.

CHAIRMAN D'AMARO:

Okay. That's a motion to table by Legislator Kennedy, I'll second. All in favor? Opposed? Abstentions? Motion carries. **TABLED (VOTE: 5-0)**

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.)

CHAIRMAN D'AMARO:

At the request of the sponsor, I'll offer a motion to -- I apologize. Okay. Ms. Greene, go ahead.

MS. GREENE:

Again, I don't mean to take the committee's time, I see you have a very full agenda. I do feel that some explanation must be presented on behalf of the division for this bill. This is a 72-H transfer to transfer three parcels of county-owned land to the Town of East Hampton. It was originally laid on the table on June 6th. It has been passed by this committee on June 16th. It was before the full Legislature on June 22nd, at which time it was requested to be recommitted here.

The Town of East Hampton has passed a resolution stating their intended purpose for this land is open space. They've sent a memo to Jill Rosen-Nikoloff Thompson saying they do not have any interest in this property for the use of affordable housing. They have so stated they wish to have it used for open space in their resolution. The County of Suffolk has accepted their payment of back taxes. We have prepared this resolution, and it is before you now. We have absolutely nothing from the Town of East Hampton that states that they have changed their intended use, purpose or desire for this property.

CHAIRMAN D'AMARO:

Right. And I misspoke before. Legislator Schneiderman had indicated that perhaps the town was interested in using this for an alternate purposes, the work force housing purpose. But you have correspondence from the town indicating otherwise?

MS. GREENE:

They passed a resolution in 2008, and they've since sent a follow-up memo stating that they stand by that resolution; that their intended desire and use for this land is for open space. It's vacant property, if you have the aerial. It's surrounded by other vacant property.

CHAIRMAN D'AMARO:

Right. This bill had been recommitted from the floor of the Legislature. You know, we have a short cycle here, why don't we just give it two more weeks?

MS. GREENE:

Again, there's been no communication from the town. Through various discussions, most recently last week, they stated their intended purpose is for open space. They do not wish to have it for affordable housing.

LEG. COOPER:

Do you have it in writing or was that verbal?

MS. GREENE:

This is from, I believe, their representative for the community development Department of Land Acquisition and management to Scott Wilson, it was dated 2009. They have said that all of this has been brought to the Town Board's attention. They have reiterated the towns desire to acquire the property not affordable housing, but for open space. We don't often ask them to pass resolutions saying what they don't want to use --

CHAIRMAN D'AMARO:

That's from 2009. You have no information contradicting that position as of today?

MS. GREENE:

Correct.

LEG. COOPER:

But you have not been in touch with them on this matter since 2009? I thought you had said that you had something relatively recently reiterating --

MS. GREENE:

I believe Jill Rosen-Nikoloff Thompson, your Director of Workforce Housing, has been in contact with them. They have stated to her that they stand by this resolution, they stand by this memo.

CHAIRMAN D'AMARO:

All right. It's been about, I guess, four weeks since we last met and this bill was recommitted to this committee. And just because of the passage of time and based on what I'm hearing here today that there's been information to the contrary, in fact, the County did inquire from the town recently and was told that they stand by the resolution to use it for other purposes, not workforce housing purposes --

MS. GREENE:

Open space.

CHAIRMAN D'AMARO:

Open space. I'll offer a motion to approve.

LEG. COOPER:

I'll second the motion.

CHAIRMAN D'AMARO:

Seconded by Legislator Cooper. Legislator Lindsay.

P.O. LINDSAY:

What I don't understand is -- and Legislator Browning just said this -- if this parcel were suitable for affordable housing, how does it qualify for an open space -- well, it isn't an acquisition, we're just giving the town property for open space. I mean --

MS. GREENE:

They're actually reimbursing the County for back taxes.

P.O. LINDSAY:

Okay. If this property was owned by a private developer, a private owner, would it qualify for an open space acquisition?

MS. GREENE:

That would be a planning determination of whether or not it would meet the qualifications for acquisition. It was County-owned land, and through our 72-H process, we do advise the towns that they have the right of first refusal, if you will, before it goes to auction direct sale, to purchase any County-owned land for their purposes.

CHAIRMAN D'AMARO:

Bill, if I could, that would probably -- anyone could submit the application and then it would go through the planning process with the rating form at that point.

P.O. LINDSAY:

No, I understand that. I just -- you know, somewhere along the way Legislator Schneiderman thought this would be suitable for affordable housing. And I just -- you know, the town is saying it's suitable for open space. I mean, would we get more money if we put it up for auction than just giving it to the town for back taxes?

MS. GREENE:

Three lots in East Hampton?

P.O. LINDSAY:

Probably.

MS. GREENE:

I would concur.

CHAIRMAN D'AMARO:

I have a note here, it was three parcels totaling approximately one-half acre, and it sold -- was being conveyed to the town for \$4788.88. So what you're suggesting is could it go through auction process and be acquired for workforce housing or given to the town for that purpose.

P.O. LINDSAY:

No. What I'm suggesting is, you know, I know East Hampton is hurting financially, but so are we. Rather than give a half acre away in East Hampton, we would probably get a heck of a lot more money if we put it up for auction. Unless there's a compelling reason to preserve the property.

CHAIRMAN D'AMARO:

Well, I agree. We'd have to look at -- is this parkland? Is this adjoining a park? Do you have more specific information?

MS. GREENE:

It's adjoining other vacant property in the area.

LEG. BROWNING:

Pam, that's in Springs, that piece of property?

MS. GREENE:

I'm out of my element in East Hampton geography. I'm sorry, Legislator Browning.

LEG. BROWNING:

I think it was.

MR. ZWIRN:

Yes, Springs.

MS. GREENE:

There are other adjacent holding for the town adjacent to it on the tax map.

LEG. BROWNING:

Open space.

MS. GREENE:

It's not designated so on the tax map, it's designated owned by Town of East Hampton.

P.O. LINDSAY:

If I might, Mr. Chairman. If the property isn't landlocked, is it a buildable lot? I mean, you know, if it's landlocked or something, it might only be worth \$4000. If it's on easy access and it's buildable, it could be -- God, in East Hampton, it could be worth as much as Ben's house.

CHAIRMAN D'AMARO:

Depending on the zoning requirement -- there are three lots on the tax map I'm looking at. One lot is -- and it's already subdivided -- is 40 by 100, the other is 60 by 100 and there's a 100 by 100 lot. It doesn't appear -- it looks like the rest of the neighborhood is either 100 foot lots street frontage or 200. So maybe one out of three would be developable as a matter of right or if you combine two.

So, yeah, there is a chance that this could support, as a matter of right, housing.

I'm not familiar with the zoning requirements in the town, so I don't know -- it would certainly have a lot more value -- if even one of the lots was buildable as a matter of right back, it would have more value than the \$4800 for back taxes. Was there a motion to approve on this already? I'll withdraw my motion to approve, and I assume Legislator Cooper would withdraw his motion to second that. And I'll offer a motion to table, seconded by Legislator Cooper. All in favor? Opposed? Abstentions? Motion carries. **TABLED (VOTE: 5-0)**.

Pam, you know, it might be useful if your office for the next meeting could tell us which of those lots could be developed as a matter of right under the zoning code. Maybe a call to the town would be helpful, okay? Thank you.

1678, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Raymond Alfano (SCTM No. 0800-019.00-06.00-032.000). (Co. Exec.)

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

1679, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Franklyn A. Farris, public administrator for the estate of Kazimierz Sycz, deceased (SCTM No. 1001-004.00-06.00-013.000). (Co. Exec.)

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

1680, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Angelo Ferlito (SCTM No. 0100-186.00-02.00-095.000). (Co. Exec.)

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

1681, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Led Better Development Company, LLC by John R. Kaiser, managing member (SCTM No. 0901-002.00-04.00-010.000). (Co. Exec.)

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

1682, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Linda B. Palmer and Bruce Palmer (SCTM No. 0300-136.00-05.00-004.003). (Co. Exec.)

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

1683, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Francine Jones (SCTM Nos. 0200-857.00-05.00-017.000 and 0200-857.00-05.00-018.000). (Co. Exec.)

Same motion, same second, same vote. **APPROVED** and placed on the **CONSENT CALENDAR**

(VOTE: 5-0)

1684, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Eileen Burnett (SCTM No. 0400-246.00-05.00-047.001). (Co. Exec.)

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

1685, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Dean Battaglia (SCTM No. 0200-937.00-07.00-006.000). (Co. Exec.)

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

1686, Sale of County-owned real estate pursuant to Local Law No. 13-1976 Scott and Cheryl Dimperio (SCTM No. 0500-244.00-01.00-027.000). (Co. Exec.)

This property is located in the Town of Islip. It appraised for 1500 and sold for \$1502.37. It's a 20 by 100 lot. I'll offer a motion to approve, seconded by Legislator Nowick. All those in favor? Opposed? **APPROVED (VOTE: 4-0-0-1 Not Present: Legislator Cooper)**

1687, Sale of County-owned real estate pursuant to Section 72-h of the General Municipal Law - Town of Brookhaven (SCTM No. 0200-283.00-01.00-002.000). (Co. Exec.)

A 25 by 100 lot in the town for open space purposes. 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: Legislator Cooper)**

1688, Adopting Local Law No. -2010, A Local Law mandating compliance with financial disclosure requirements. (Cooper)

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

1693, Authorizing certain technical corrections to Adopted Resolution No. 1082-2009. (Co. Exec.)

Motion to approve and place on the Consent Calendar, seconded by Legislator Nowick. All in favor? Opposed? Abstentions? Motion carries. **APPROVED** and placed on the **CONSENT CALENDAR**
(VOTE: 4-0-0-1 Not Present: Legislator Cooper)

1696, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Trio Realty Services, Inc. (SCTM No. 0500-120.00-05.00-035.000). (Co. Exec.)

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

1708, Authorizing certain technical corrections to Adopted Resolution No. 452-2010. (Co. Exec.)

I'll offer same motion, same second, same vote. **APPROVED** and placed on the **CONSENT CALENDAR (VOTE: 4-0-0-1 Not Present: Legislator Cooper)**.

That concludes the public portion of the meeting. There is an Executive Session now. I'll offer a vote to convene into executive session, seconded by Legislator Browning. All those in favor? Opposed? Abstentions? That motion carries, and we will be back on the record in a few moments. Thank you.

(*AN EXECUTIVE SESSION WAS HELD*)

CHAIRMAN D'AMARO:

Okay. Back on the record. In Executive Session, the committee authorized a settlement of the case Rochelle Ramos against the County of Suffolk. No other business before the committee, I'll offer a motion to adjourn, seconded by Legislator Cooper. All those in favor? Opposed? We are adjourned. Thank you.

(*THE MEETING WAS ADJOURNED*)

{ } DENOTES BEING SPELLED PHONETICALLY