

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, October 5, 2011.

MEMBERS PRESENT:

Legislator Ricardo Montano - Chairman
Legislator Steve Stern - Vice-Chairman
Legislator Sarah Anker
Legislator John Kennedy
Legislator Lynne Nowick

ALSO IN ATTENDANCE:

George Nolan - Counsel to the Legislature
Gail Vizzini - Director - Budget Review Office
Robert Lipp - Deputy Director - Budget Review Office
Renee Ortiz - Chief Deputy Clerk of the Legislature
Eric Kopp - Deputy County Executive
Dennis Brown - County Attorney's Office
Christine Malafi - County Attorney's Office
Paul Perillie - Aide to Majority Caucus
Robert Martinez - Aide to Chairman Montano
Justin Littell - Aide to Legislator D'Amaro
Dot Kerrigan - AME
Kathy Walsh - Town of Brookhaven
Brian Beedenbender - Town of Brookhaven
Mathew Pachman
David Besso
William Ferris
Lynn Poster Zimmerman
Harry Tilis
Steve Foudulis
All other interested parties

MINUTES TAKEN BY:

Donna Catalano- Court Stenographer

(*THE MEETING WAS CALLED TO ORDER AT 10:11 A.M.*)

CHAIRMAN MONTANO:

Good morning, everyone. We are going to start the meeting of the Ways and Means Committee with the Pledge led by Legislator Anker.

SALUTATION

Thank you. You may be seated. Okay. There are two Legislators on the committee who are not here, but we do have a quorum, so we are going to start the meeting. There's correspondence that all the Legislators have dated September 14th from Steven Flaumenhaft, who's an attorney, in support of one of the resolutions, 1605, on the agenda.

With that, first, I'm going to go into the public comments. So I have two cards here. First is Kathy Walsh -- Councilwoman Kathy Walsh, 1 Independence Hill, Farmingville. And you're going to be speaking in reference to Bill 1464. Good morning, Councilwoman.

COUNCILWOMAN WALSH:

Good morning. Yes, I am. Resolution 1464. Thank you for allowing me the opportunity to come here and speak on the resolution. As a representative of the area on a local level, that being the town level that -- that this particular parcel falls in, I felt it necessary to come up and let you know that the community in which this parcel sits is very much opposed to this sale.

I understand what the County is facing with their budget situations. We are dealing with similar situation within the town and trying to do everything we can to balance our budget and keep our government operational. But this particular parcel located adjacent to Suffolk Community College has -- the community has always had the intent on that being some type of recreational area, either active recreation or passive recreation.

I understand that part of the parcel has been pulled out for redevelopment for the college -- Empire State College. But the bulk of the property, that being 55 acres, I believe, with A-1 zoning will have a tremendous impact on traffic in our area, because let's face it, goes if it up for sale, the people interesting in purchasing it in a residential area, more than likely are going to be looking to do homes of some type, be it senior housing or apartments or even individual houses. And we feel strongly that that would not be beneficial to our area. And the community is expecting us to use that for recreational purposes.

I have a letter here that Legislator Muratore was kind enough to share with me from the civics, which is no surprise, it is a letter opposing the sale of this property. In that particular area, we are always -- in the middle of the Island where it's pretty dense, we are looking as much as we can to preserve and acquire open space, and we've partnered on many parcels. And to let this go into the possibility of being developed by selling it is something that I really hope committee reconsiders. Thank you.

CHAIRMAN MONTANO:

Thank you. Your opposition is noted. Are there any questions from anyone on the committee? I would like to welcome Legislator Muratore. I know he's not a member of this committee, but he's more than welcome to participate in any of our deliberations. Is there anyone from the committee that would like to ask a question first? Tom, would you like to ask some questions?

LEG. MURATORE:

Not really a question, but I'd like to thank the Deputy Supervisor for coming forward and helping me with this. If there's anyone in the district that knows the area it's Deputy Supervisor Walsh. I

mean, she has a real feel for the community. And what she's saying is really right to the bone. It's fact. People are really concerned about it. I know former Legislator Beedenbender is going to be hopefully coming up and speaking about it too. He grew up there, so you have two people here that know the district. And I know times are trying. I have a statement to read later. I want to thank Deputy Supervisor for coming in. Thank you, Kathy.

CHAIRMAN MONTANO:

So noted. Councilwoman, Deputy Supervisor, if you would like, Ms. Ortiz, our Chief Deputy Clerk, will take the letter and circulate that and make it part of the record.

COUNCILWOMAN WALSH:

I believe that Legislator Muratore has a copy of it.

CHAIRMAN MONTANO:

Okay. Actually, I have a copy. Do you have one, Renee?

MS. ORTIZ:

No, I don't.

CHAIRMAN MONTANO:

All right. We will make this part of the record. Thank you very much.

COUNCILWOMAN WALSH:

Thank you.

CHAIRMAN MONTANO:

Next speaker we have is our former colleague and now the -- what is your position, Brian?

MR. BEEDENBENDER:

Chief of Staff.

CHAIRMAN MONTANO:

Chief of Staff. Former Legislator Brian Beedenbender now Chief of Staff for Legislator (sic) Mark Lesko in the Town of Brookhaven. Welcome home.

MR. BEEDENBENDER:

Thank you. First of all, thanks for giving me the opportunity to speak. And Kathy spoke a lot about this already. As some of may remember, when I sat among you, I had my plan, and what I hoped to do with that property was to create it into a park with a small -- developed park for active recreation, and the rest of it would have been passive. And the plan to give some land to Suffolk Community College for their future growth, because obviously, land is at a premium. And the plan was to give Empire State some land to develop there. And that's moving forward. Tom, I believe that just happened recently. That is all positive.

But the development of this property -- the sale of this property that's zoned A-1 right now -- for those of you not familiar with the process, it's A-1, but the surrounding community is all much smaller parcels; quarter acre, third of an acre. And it's highly likely that if this -- if a property owner or developer went before the town's Board of Zoning Appeals, they could certainly get smaller lots. And what could be 50 houses could easily turn into 150 houses. And the Councilwoman and the Deputy Supervisor said, that's not exactly what this community needs.

Now let me just be clear, I understand you guys are in a terrible budget situation, and I understand that this is being sponsored by the Presiding Officer, and I get that you guys needs money, the

County needs money, you're looking at every avenue possible in order to move forward and stabilize taxes, which everybody wants and things like this have to be on the table. But at a time when the County is also looking to spend -- and I know it's Capital money -- \$17 million to make the biggest park -- the newest State Park out in Riverhead, I think 50 acres, 60 acres, whatever the total property is in a highly developed area, there is no other parcel that has this opportunity.

And recently, Legislator Muratore sponsored a bill to try to make another regional park in the area behind a school, and it was vetoed by the County Executive, and that veto was upheld by this Legislature. So that opportunity has now fallen by the wayside for now. So this property, which the County already owns, it does not need to acquire, could be that recreational opportunity for the area.

And I think -- I would ask you to think long and hard about it. I understand you're in a very difficult budget situation, but the area that I live in, that Councilwoman Walsh represents and that Legislator Muratore represents doesn't have areas like this. And to sell it, it could be a lot of houses. I impress on you, if you need to sell this, if you think this is absolutely what you have to do, don't let it be housing. You know, whether the auction says this isn't developable for housing, if you want to make it some sort of tech place or tech park, because I know that this is something that everybody is talking about, consider something else. But if you sell this and it becomes housing and there's no recreational component, I don't think that's what's right for this community. I think the town -- I don't think -- doesn't think that's what's right for this community either. So I understand you're in difficult situations, I understand that you have to make decisions, but please, think long and hard about the opposition that you have heard from the community on this.

CHAIRMAN MONTANO:

Thank you. I have you question though. You mentioned that it's zoned A-1 and that if this parcel was sold that it could conceivably be used for, I guess, what you would call smaller plots, but isn't that something that's within the purview of the town?

MR. BEEDENBENDER:

It is, but if a developer or the property owner goes before the town, they can make the argument that it meets the surrounding character of the community as smaller lots, if the Board of Zoning Appeals denies them, they could take an Article 78 against the town and most like be successful, because if you look at the zoning map, there's very small lots surrounding all of this. So they could make a compelling argument that even if the town wished to deny them, they may legally win out. And I can't give you a percentage on if that would or would not happen, but it's certainly possible.

CHAIRMAN MONTANO:

Is the town considering rezoning it along the industrial lines that you indicated? I saw Councilwoman --

MR. BEEDENBENDER:

No. We can't -- the town couldn't rezone on its own motion without a land use plan, and there is no land use plan for that particular parcel. So it would have to be the request of the developer.

But like I said, I would prefer if it stayed wooded, but if you must do this, please do whatever you can to say that this isn't going to be residential and work with Legislator Muratore and the community to figure out what would be acceptable if you absolutely must do this, even though, my preference would be that you wouldn't.

CHAIRMAN MONTANO:

Thank you, Legislator. Are there any questions from anyone on the panel?

LEG. KENNEDY:

Mr. Chair.

CHAIRMAN MONTANO:

Legislator Kennedy.

LEG. KENNEDY:

Good morning. How are you? This is like a Theater of the Surreal, isn't it? How you, Deputy Supervisor?

MR. BEEDENBENDER:

Good. No, that's the Deputy Supervisor.

LEG. KENNEDY:

Chief of Staff. The things that come to my mind, Brian, are -- and you know this from when you sat in this chair -- we have a variety of different competing proposals and things that come before us and the overwhelming pressure associated with the budget. But Legislator Muratore and I have had a lot of conversations about this. We've had similar types of discussions for smaller parcels that are here in the Town of Smithtown. And there's always competing desires.

Development associated with housing invariably, unless it's aged 55 or older, may bring young families. We talked a lot about the number of foreclosures that we have in Suffolk County right now that unfortunately are north of 15,000. I know it in the little bit of overlap that I have in Centereach where Councilwoman Walsh and I do share some common boundaries. And it's always a deterrent to a community when you have a vacant home or a boarded-up home. And I've always thought that it would be better use of our time and talents to try promote purchase, acquisition, redevelopment and making things available.

So I hear what you are saying about somehow restricting if we were to surplus this. I think it's premature to try to put this property out there on the block, because I don't know that it harmonizes with some of the other things that we're looking at right now. There's some thinking that we should just let the development community come forward with whatever proposals they might, but I don't think we have that luxury right now. I think we've got this overarching responsibility to actually see how growth goes forward and in what fashion and in what manner.

Sewering, you know it better than anybody. We've talked about it. We have the Sewering Task Force. Sarah Lansdale just communicated to us we're going to be convening later on this month. They're going to look at important sewer -- proposals for sewer plants in the Ronkonkoma hub areas and a couple of other areas. Our aquifer is being contaminated, we have seen that. So I think we don't have the ability to just turn a blind eye to what might come forward to us. We have to kind of steer, if you will, what ultimately gets done with properties that we surplus.

The Community College has expressed the interest for about ten acres. It was just last week that I spoke to Dean McKay. They have parking on the Ammerman Campus for 4650 vehicles right now, and they have 14,000 students on the campus. Kids can't park. You know it, again, better than anybody when you looked at. And we're needing to partner with the College to help them address what's a very practical and pragmatic problem and concern, while at the same time, we're promoting students attending our Community College.

Empire State, as you know, we have this excellent proposal to expand the Empire College Center there adjacent to our Community College. I'm not convinced at this point that merely surplusing the 40 acres that would remain is the best action that we can take right now. I almost see it as a lack of action, if you will, because we're not trying to set some parameters or some drivers

associated with it.

Now, we did surplus -- and I supported surplus -- out in Yaphank, but it's a different area, different community, different topography, different access. And I think there's a good case to be made that it may be appropriate there in Yaphank for surplus. But here, we should be bringing a little bit more oversight and direction or guidance, if you will.

MR. BEEDENBENDER:

John, you reminded me of something that I didn't say that I wanted to. I understand that the budget that was presented to all of you by the County Executive is incredibly difficult. There are -- you know, obviously the towns are concerned with some of the things that were pushed on to the towns. So I understand that the Presiding Officer what he's trying to do here is solve a nearly impossible problem with really no good options. You know, affects somebody in a negative way, somebody that might need a service or anything, so you guys have a very, very difficult task to deal with a budget that has lots of holes in it and there's no really easy ways to do it.

So I'm not trying -- I'm not coming here saying, you know, "Shame on you." I'm coming here saying, "I know that you're in a really difficult position, and I know you're trying to make priorities here, but if you can, don't make this one of the ways to solve it." That's all I'm saying.

LEG. KENNEDY:

Mr. Chair, one quick question more, and then I'll yield, if I can.

CHAIRMAN MONTANO:

Okay. Because we have Legislator Stern on the list and we have a long agenda.

LEG. KENNEDY:

Absolutely.

CHAIRMAN MONTANO:

Thank you.

LEG. KENNEDY:

Based on what you are talking about at this point and certainly with the presence of Councilwoman Walsh, is it a fair statement to say that you would be willing to step forward and engage in some honest dialog facilitated by Legislator Muratore to come up with some specific vision or guidance or appropriate use for that property which may be a reasonable tenant upon which for us to go ahead and table today?

MR. BEEDENBENDER:

We will sit with anybody at any time to talk about any options. We can't promise we agree, but we'll sit with anybody.

LEG. KENNEDY:

We need something more than "any time." By and through the Chair, Legislator Muratore, I'm sure you'll be speaking with Mr. Beedenbender and Councilwoman Walsh to set up a meeting shortly about what would be an appropriate or harmonious possible use with the property?

LEG. MURATORE:

(Shaking head yes).

MR. BEEDENBENDER:

I know that, you know, knowing Kathy, you tell her -- this is important to her, so she'll be there.

LEG. KENNEDY:

Okay. All right. Thank you, Mr. Chairman.

CHAIRMAN MONTANO:

Legislator Stern.

LEG. STERN:

Thank you, Mr. Chairman. Real quick. If we do decide to surplus the property and ultimately then it's offered up for sale -- maybe this is a question for George. The process then wouldn't just be a For Sale sign, there would be an invitation of interest, it would go by -- would it go by RFP? And through that process, would we be able to kind of help guide what the ultimate use would be, rather than putting some kind of legal restriction on it in the first instance?

MR. NOLAN:

The resolution gives the Division of Real Estate a lot of discretion and leeway in how it's going to be offered. They're directed to determine how the property should be offered for sale or lease in order to maximize monetary return to the County. And I will say that if we do something other than just surplus it and then pass a resolution to surplus and sell, it's going to become a lot more complicated in terms of SEQRA and so forth. You'll recall with the Yaphank property, there was a development proposal attached to that originally with that. County Executive, they had to do an Environmental Impact Statement, and it took quite a long time to finish that. So this is -- I think the Presiding Officer is thinking in terms of the 2012 Budget. I think he wants to move this probably as quickly as possible. He's the sponsor, I think that's his intention.

LEG. STERN:

Would you say then, George, that given the way that this resolution is drafted currently, that it does provide for that type of ongoing dialog that Legislator Kennedy described to work with the town, to work with Legislator Muratore to, again, help guide on what the ultimate use would be? Is there that kind of discretion that's built into the resolution are drafted right now?

MR. NOLAN:

I don't think there's going to be -- I don't think the intention is to say the Division of Real Estate, you know, rezone the property or come up with a way to use the property, because, again, once you start down that road, then it becomes much more complex from the County's point of view in terms of making it happen, getting a sale and getting the money.

CHAIRMAN MONTANO:

Thank you. Don't leave, Brian. We have Legislator Nowick, I think, wants to ask some questions.

LEG. NOWICK:

Good morning, Legislator Beedenbender. It's nice to see you.

MR. BEEDENBENDER:

Nice to see you too.

LEG. NOWICK:

From what I gather with your testimony, you and your colleagues would not be upset if the County sold the property and developed more of a -- go ahead.

MR. BEEDENBENDER:

I said that because I understand you guys are in a difficult spot. So I'm saying, if you had to, which we wish you did not, do not sell it for housing and talk to us about -- if you're going to do this and

there's other choice, I'm sure that the town -- you know, Councilwoman Walsh will sit with you and the Supervisor will sit with you as well to discuss what you might sell if for. But the strong preference would be not to do that at all, but you guys are in a box here, and there's only so many options in the box.

LEG. NOWICK:

Is it zoned industrial?

MR. BEEDENBENDER:

No.

LEG. NOWICK:

It's not. So that would be a change. So it's zoned only --

MR. BEEDENBENDER:

I was just giving you a "for example."

LEG. NOWICK:

Okay. Because my thought here is with so many homes on the market for sale in this economy, who would want to develop more houses to sell that are not going to sell? I'm not sure if this is even going to be an issue.

MR. BEEDENBENDER:

Well, we have major applications that have been approved in the Town of Brookhaven for development on pieces of property -- there's one in Legislator Browning's District that just got approved on an old golf course. So they're still coming forward to the Town of Brookhaven.

LEG. NOWICK:

They're developing them. I wonder if they're selling the units though.

MR. BEEDENBENDER:

That I don't know, but they are coming forward with major projects all throughout the Town of Brookhaven.

LEG. NOWICK:

Okay. Thank you.

CHAIRMAN MONTANO:

Thank you. Legislator Anker would like to ask some questions.

LEG. ANKER:

Thank you for coming here today and giving us some insight into this, because, again, unless you guys come up and speak, we really don't know what, again, exactly what the community is feeling, because you're right there. And, Kathy, again, thank you for coming here.

My question would be, again, we are in a fiscal crisis, and we have to sell assets in order to pay our bills, unfortunately. Again, that's more of an option versus laying off people. And, of course, you guys have been through this in the Town of Brookhaven. With this particular parcel, would you be interested in looking into preserving part of it working with the County as part of a partnership? I know we have had a number of land acquisitions partnering with the town. So what are your thoughts on that.

COUNCILWOMAN WALSH:

We are absolutely interested in preserving it. I think what Mr. Beedenbender mentioned as an option to development as individual and single family homes having an impact on the schools and more of the traffic is kind of a "making the best of a bad situation." My plea today is to allow this to continue to be County property. Think of the foresight that the County may need -- the school may need expansion as well as the negative impact any sale would have on the community.

If it's sold, it would become our responsibility to oversee the zoning. If the County exceeded it and an applicant came forward, they could build as-of-right single and separate family homes. And that would be something we would have to be addressed -- we would have to address. It would become the town's problem. But in light of us looking at the problem with the groundwater in the area, the not having sewers in our area and having it already as a piece of government-owned property, preservation is really or park development is really the ideal use for this property. And it is the proposed use that has been told to the community. So I think everyone is upset to think that it may be developed.

Again, with complete understanding of what you guys need to do for your budget cycle, because we are doing the same thing. I respect that, I understand that. But this is something that we can't have a do-over on. If it's sold and put into private hands, applications will come forward and development will happen on that site. And I really don't think that site is conducive to development.

LEG. ANKER:

Okay. That was the second question; since Supervisor Lesko is very active pursuing, you know, companies through Accelerate Long Island, is there a possibility of working with that piece to -- or part of that piece to promote business opportunity jobs?

COUNCILWOMAN WALSH:

I would have to say that if the property was sold, we would have to review every option. That is not something that we are actually looking to do. We did lose a large piece of property that was proposed to be a regional ball field on Hawkins Avenue there adjacent to the church. And this was one of the additional sites we were hoping to see developed for recreation for our children's activities in the area.

The amount of land that's available in District 3, which is what I represent, is minimal. When you look at the acquisitions throughout the Town of Brookhaven, many more properties are acquired just by common sense, that being, out east there's more open space. In our area, Selden, Centereach, Ronkonkoma, Farmingville, there are no large tracks of land. So if there is a piece of property that's already in possession by the government and we can add recreation for our youth, that's what we're looking at.

I understand that as far as building it out that that may be down the road, but selling it is just going to take it completely off the table, and we know there will be development proposals. I would not like to see anything developed there actually. And I'm not anti-business. I represent the Middle Country Corridor. We've had a tremendous amount of redevelopment. There's still a tremendous amount of properties that need redevelopment. We've just approved a housing complex in Selden, Island Green, which is an old golf driving range. So my concerns are not anti-development. It is there is still an area and a constituent base that needs to be addressed, that being our youth and areas to recreate.

LEG. ANKER:

Okay. Again, thank you for coming out. I understand the need for parks, especially ball fields, in my district, it's much needed. But I think we need to have further talks, you know, if not this

parcel, but there's other land in the Community College area to maybe look into, seeing if we can work with that and promoting those parks and recreational areas. But again, thank you for coming out.

CHAIRMAN MONTANO:

Okay. Brian, I just want to say, since you're familiar with our rules, this bill, if it doesn't get out of committee today, runs the risk of expiring. So we're probably going to -- I'm going to support a motion to have it discharged; either approved or have it discharged without recommendation. It would need 12 votes on the floor anyway. And even if it were discharged, it could be sent back to committee to keep it alive for further discussion. So this is not the end of the road.

MR. BEEDENBENDER:

Forgive me, it's been a little while. Why does it need 12?

CHAIRMAN MONTANO:

It's a surplus.

MR. BEEDENBENDER:

Okay.

CHAIRMAN MONTANO:

Okay. So you know what you need to do. Thank you very much. I appreciate you coming here. I'm sure we'll discuss this again.

Moving right along, we have a presentation today by the County Attorney, Christine Malafi. Also with her are a group -- I guess surrounded by lawyers, are David Besso who is the Administrator of the 18-B Panel and also Matthew Pachman, President of the Bar Association and some others. Do you want to come up as a group? Matthew, would you like to come up join us? Anyone else on this issue. I think your presentation will be about 20 minutes you said. Hopefully. Welcome, all of you. The floor is yours. I know you're going to talk about the 18-B Panel and proposed Resolution 1605. Christine, the floor is yours.

MS. MALAFI:

Thank you, Legislator. Let me start by saying that I believe that every indigent defendant has a right to an attorney and that that attorney has a right to be paid for his or her legal services and has a right to be paid promptly. I believe that legal services for indigent persons should be expanded to not only to include criminal actions, but also to legal representations for matters that would prevent people from acquiring Social Services. As we all know, Social Service benefits are more expensive than a lawyer's time to prevent the need for Social Services.

That being said, I also believe that attorneys who accept 18-B work for indigent defendants understand that there's an element of pro bono inherent in the representation of the indigent. The problem is that the cost of legal representation for indigents has grown immensely in the last eight years. In 2004, the expenses for the 18-B Panel lawyers to represent indigent defendants was 2.8 million. In 2011, as of August, I have already expended over 3.6 million. And I estimate that I will probably need another million to get me through to the end of the year.

The budgeted amount, as you know, for 2011 was already expended. And as of yesterday, I have 658 18-B lawyer vouchers sitting in my office, and they represent \$596,000. So the bill that passed out of committee yesterday to transfer 500,000 into the 18-B budget lines so that I can pay vouchers will not even cover what I have pending right now.

For Legal Aid, the Legal Aid Society handles cases, the first line. They're supposed to handle the

first line of indigent defendants that need attorneys. In 2004, the budget for Legal Aid was 9.3 million. 2011, the budget for Legal Aid is 12.5 million. So that's also grown immensely. The reimbursement by New York State for these constitutionally-mandated services to the indigent, in 2005, for my 18-B Panel was about half a million. In 2010, it was 850,000. And for 2011, it was 660,000. Unfortunately, for 2012, it is clear that the way the State has revamped it's reimbursement, probably we won't even get half of that amount.

The way the State is running the reimbursement for indigent defense for this year, which we get paid next year, it is -- you have to do extra in order to get the money from the State. So in other words, I'll use for an example Legal Aid right now, is planning a new computer system with a grant from New York State. That computer system has to be paid for with monies in excess of its own budget, and then the grant application is reviewed by the State. And to be honest, we're not 100% sure that the grant application, A, will be approved by the state, or, B, that even if it is approved, that we'll get the money from the State.

And we're not the only county that feels this way. There is a reported instance in Fulton County where Fulton County initially had voted, the Board of Supervisors had voted to accept a grant from the State for indigent services and has just now -- they just this last month or maybe even the first couple of days in October, have declined the grant, because there's no guarantee from the State that they're actually going to get the money, but yet you have to expend the money in excess of your own budget in order to apply for the grant. So this is a very serious issue that needs to be looked at.

In addition to transferring the money to pay for the indigent defense services for the rest of the year -- and I've been asked by a lot of the Legislators what kind resolutions can we put on the table to help the system. And in speaking, things that I have discussed with two, not one, two state panels who have looked at this issue and also with speaking with the plan administrator and some of the 18-B lawyers, there are a couple of things that might be able to help.

One is that the County can implement direct deposit for payments to 18-B lawyers. We can also try to craft a system that would permit for the electronic filing 18-B vouchers and bills. I believe that we should create a form that is mandated for use by judges in assigning persons 18-B lawyers. That form should be twofold; one, it should say that the person was already sent to Legal Aid and that Legal Aid has a conflict and that is the reason why they're being assigned an 18-B lawyer and if that person qualifies as an indigent defendant in need of legal services.

The reason this is so important is because for the last eight years, I have been speaking to the court system to get this accomplished; that 18-B lawyers are only assigned when an 18-B lawyer is needed. I should tell you -- Legal Aid handles a case, a criminal case on behalf of an indigent defendant, the cost is about a thousand dollars. When an 18-B lawyer is assigned, the cost is roughly \$4000. So it's a big difference. The more cases that go to Legal Aid, the more money saved by the County.

Since there was an article in the newspaper a couple of weeks ago, I have received phone calls from neighbors of people, people who know people. And I've been working with Mr. Besso and with Mr. Mitchell of Legal Aid, and we have confirmed that there have been people assigned 18-B lawyers by the court system who own houses, boats, cars, have jobs. We're confirmed that there are people who were assigned 18-B simply because their spouse has an 18-B lawyer. And they are told, "Fire your lawyer, I'll give you an 18-B lawyer as well."

There's times when a lawyer who is on retainer runs out the retainer and will tell the court, "I can't represent this person anymore, they can't pay me anymore." "Okay. Fine. You're assigned as 18-B," without that person ever going through Legal Aid Society. We need to have a form. The

State does not have any specific requirements on how somebody either qualifies for indigent defense services or anything that has to be signed to qualify for indigent defense services. That would be key.

We could also have indigent defendants contribute a small amount towards the cost of their defense. For example, you could say indigent defendants must pay \$5 an hour for their lawyers. Now, \$5 an hour is nothing, but that might prevent the indigent defendant from directing his 18-B lawyer to make countless motions and countless arguments that the lawyer does not feel are completely meritorious. It also might prevent indigent defendants from going to trial on cases that don't need to be tried and can be negotiated with the District Attorney's Office.

There's also an idea to create a mandatory surcharge when people plead guilty to felonies in Suffolk County that a certain amount of money would go to -- directly to the 18-B Fund of Suffolk County, because if it goes to the State, we're not really sure that we would get our share of it to help pay for this, because, like I said, the indigent deserve lawyers, and the lawyers who work on the cases deserve to get paid and they deserve to get paid timely.

I can answer any questions, but I believe that Mr. Besso, he's the Plan Administrator of the 18-B Panel, he can say a few words, and then if you have any questions.

MR. BESSO:

Thank you for allowing me to speak this morning. I appreciate the quick reaction by the Legislature with regard to our problems, especially you, Legislator Montano, have been very gracious in listening to our problems and taking action with that regard.

Before I want to talk about some other problems, let me just address what Christine said as far as the assignment of defendants are concerned, assignment of these attorneys to these defendants. Christine and I, for the last year, having been speaking with the Administrative Judges and judges throughout the County to try to keep the costs down. That has been one of our goals this year.

I think we have succeeded in doing that as far as the individual cases are concerned. However, this year, we anticipate an unprecedented amount of vouchers to be processed, 7000, I think by end of the year. Our highest figure previous to that was 2009 when we had 5900 plus. So you can see because of the economy and the problems going on in the court system, especially Family Court where most litigants really need assigned counsel, whether it be Legal Aid or the Assigned Counsel Program, the problem we have is we have a crisis in the 18-B Program.

Two years ago, we had a budget proposal \$4 million for the 18-B Program. We lost 500,000. That was carried over to 2011. So we're down, like, a million dollars from what we anticipated would be a reasonable budget for the 18-B Program. Because of that, every year -- last year, I believe it was maybe the middle of November, ran we out of money. And basically, what we do is we carry over those vouchers to the following year. This year, it happened in late August. So what that does is creates a crisis as far as the court system is concerned.

I've already talked to a number of attorneys who have indicated to me that, "Why would I take cases if I'm not going to be paid for it or I'm not going to be paid until next March, whenever it may be?" Or I have investigators and experts who have participated in cases, haven't been paid, now the case has to be retried, and that person refuses to testify again until they're paid by the County, which creates a problem for the court system, because that case now has to be delayed. As well as the fact, what happens in December, what happens in November if attorneys say, "We're not taking assignments?" That's going to create a big problem.

I think that we can use more efficiency in the program. The only computer system that is being

processed now with regard to 18-B is in my office. We have everything on computer. The County has given us this Archean procedure. We have huge forms that the attorneys have to prepare with the vouchers that go first. Also, the judge comes to my office -- I have three people in my office who handle these vouchers; one, full time; one, three-quarter time, and my secretary who handles it as well. And my cost, as far as processing these vouchers, far exceed what the County pays me. I mean, as far as I'm concerned -- Christine talks about pro bono, I'm handling this matter pro bono. I do that every weekend when I do the vouchers. So if we could computerize the County system with electronic filing and so forth, we could save a lot of money.

And some of the other proposals were good as well. I believe that if we can control the judges as far as the assignment of cases are concerned, which I'm -- which is a very, very difficult task, because I've assigned attorneys-of-the-day at all the different courts and so forth, but if we had some standards that we could promulgate -- and I do send them the State Defender Poverty Guidelines and so forth so they can have some kind of a standard which they can use to determine whether someone is eligible or not, we could cut the costs down. I think we've made some strides in that direction as far as talking to the Administrative Judges, but that's a big problem.

And I think that there are some people maybe who are assigned 18-B that shouldn't be. But one of the problems we had was that Legal Aid was screening all these people, and because of the fact their budgets were cut, their investigators who used to interview and determine eligibility are no longer in existence. So now it's up to the judge, and that's what the statute says; the judge makes the determination as to whether someone is indigent or not. Once the judge makes that determination, unless the attorney who is handling the case finds something different, then that person is going to be represented.

So there's a lot of different players who are involved in this system creating problems. But from what I see this year -- and my partner Bob Quinlan handled this 18-B Program for 25 years before me, so I'm very, very familiar with it, I've been doing it now for six years -- the problem is that the economy now is creating many, many, many more people who are eligible indigent representation. So we have to really be creative and see what we can do. But we certainly need some supplemental income this year to take care of the problem and hopefully, get a bigger budget next year. And then we'll keep working on trying to reduce the costs if we possibly can.

CHAIRMAN MONTANO:

Thank you. Mr. Pachman, do you want to address the committee?

MR. PACHMAN:

Just very briefly, Legislator Montano. I just want to thank you and the members of the committee for all of your efforts. You've just been fantastic in your leadership on this issue and all the efforts to help try to secure additional funding for the 18-B Program this year. It's very much appreciated. It's, as we all know, a critical, constitutionally-mandated requirement, and we understand the importance. And thank you very much. And to all the members of the committee, Legislator Stern, and my old friends Legislator Nowick, Legislator Kennedy and Legislator Anker, thank you so much. We appreciate it.

CHAIRMAN MONTANO:

Thank you for coming. There might be some questions. But just let me say this: We were able -- the Legislature's Budget and Finance Committee yesterday approved the transfer of 500,000 for the 18-B lawyers for this year. How much did you say you would be short, Ms. Malafi?

MS. MALAFI:

It's \$96,000 as of yesterday, and that doesn't include any of the vouchers that I received yesterday till the end of the year.

CHAIRMAN MONTANO:

No, but the question I'm asking is would the 500,000 be sufficient to cover the cost of the program for this year?

MS. MALAFI:

No. No. Right now, in my office, I have \$596,000 worth of bills. So the five hundred doesn't even cover what I have pending right now.

CHAIRMAN MONTANO:

Wow. What I don't think everyone knows is that when we discussed the issue of transferring the money, Legislator Lindsay also suggested that we form a committee of Legislators, and that committee is composed of myself, Legislator Stern and Legislator Kennedy, who all of us are lawyers, to work with your office and your office, Mr. Besso, and the Bar Association to have some reforms or to take a look at the -- well, two problems; short term is we need cash; long term is we need reforms.

So we're going to be in contact with you. I'm going to have a copy of the transcript made available as soon as possible and get it over to you. And then we're going to be setting up meetings with the Administrative Judges to let them know that along with the appropriation, we need to attach some -- I wouldn't want to put it bluntly, but, you know, we need to attach some strings. And one of those strings is that the program run effectively; only those people that are eligible for 18-B receive 18-B, because at the end of the day, it's the taxpayer and the County that's paying. So we're really all on the same page on that. But we understand your short-term issue.

And if I remember my cases correctly, I think it was Gideon vs. Wainwright, years back in law school that led to the 18-B requirement. And that has not been overruled. And I agree it's a critical stage. So we're going to be working with you on that.

The bill that I had originally put in really dealt with the issue of the attorneys not being paid on the presumption that somehow the County was less than diligent in its application of the process, and that has turned out not to be the case. So the reality is that we recognize the problems. We're going to tailor the bill. I'm going to ask Counsel to amend the bill to include the direct deposit and some of the other recommendations, if you have any recommendations from the Bar Association. We're going to keep these public hearings open, and we're going to work together to solve some of the issues. Any questions from any members of the panel? Legislator Anker.

LEG. ANKER:

Thank you for coming here today and giving us this information. I have a question regarding -- you know, we do need to reform the 18-B situation, but are there penalties for -- towards the people that actually can afford legal help? And you had said there's no more investigators, so the other question is how do you find out if these people are telling the truth?

MS. MALAFI:

Very good question, Legislator Anker. There was one case after -- there was a news article on this issue a couple of weeks ago. I got a call from someone who said his neighbor has been bragging for 14 years about getting Legal Aid services every time one of the other neighbors has him arrested for harassment and/or assault, things of that nature. And I said, "Well, will you give me his name?" He gave me his name, we ran it, Mr. Besso and even Mr. Mitchel from Legal Aid, we all ran it. It's true, over the past ten years, he's received about \$14,000 worth of Legal Aid services. He owns a house, three cars and a boat, and he's never been asked to pay a dime.

So I did legal research to see whether or not I could sue him to get the money back. And there's no

law that expressly permits me to do that. We're trying to see if we can try to work something out, but I'm not confident that we'll be able to do that. I've provided all of the information to the District Attorney's Office as well, and they have looked at it. And it's hard, because he's not required to sign anything to say, "You know, I'm telling the truth, and I'm asking for these services because I cannot afford to pay and I have no assets to mortgage." He owns a house. We couldn't find a mortgage on the house, we just found the house. So we're looking at it. We don't think there's anything we can do.

I've been told and I understand that the judges, they will say to the person, "I'm putting you under oath now. Do you have a job?" "No." "Do you have any assets?" "No." "So you're asking for assigned counsel"? "Yes." But the problem is that, for me, it's searching for a needle in a haystack to find that exact -- to even order that transcript, I'd need to know the date, the time, the judge. It's very hard. You don't know when the judge did it. You can't ask the court reporter to go find it. You have to be able to order the exact date and time. So it's a little difficult, but we're working on it to see if we can do that. But still, that would just be perjury, which the fine for perjury is not \$14,000 to repay the County. The fine for perjury, it would go to the State. So we have reported documented instances where this happens and our hands are tied. But we're trying to do something.

LEG. ANKER:

Let me ask you a quick question. So there's no legal binding document that person fills out to say that I need financial help because I don't have the means? There is nothing required before --

MS. MALAFI:

Not that I've ever seen.

MR. BESSO:

I'll just give you a little bit of history since I've been here forever it seems, I'm pretty old. When I first started working for Legal Aid, there was an affidavit that had to be completed by the defendant concerning their financial standing. However, as I indicated, because of the cuts and the appropriation of different monies for services on Legal Aid's behalf, that service has been eliminated. So now the judge has, and the statute charges the judge with determining whether someone is indigent or not. Now, you have a judge in the middle of a calendar call, someone comes up and says, "I can't afford an attorney," and they either send him to Legal Aid for an interview or make a determination on the spot. And because they have this pressure of getting rid of their calendar, the inquiry is very, very short, and that's one of problems. So they ask them certain questions, they're satisfied that they're indigent, and who knows if they are or not. And I ask my attorneys to make a determination, some were along the -- as the case is progressing, if they find out that the person is not indigent to let me know and make the appropriate application to the court. So I think that the reforms that could be made would be in terms of determining the eligibility of the respondents, defendants, whatever they may be.

LEG. ANKER:

Again, I think the other part too is you lost your investigators to find out if these people really do have financial means of paying for legal fees.

MR. BESSO:

Well, they work for Legal Aid. They had worked for Legal Aid, and Legal Aid apparently, you know, allocated their resources for whatever they needed, and they made a determination, because when I was there, we had three investigators who were doing that.

LEG. ANKER:

Okay. Thank you.

MR. BESSO:

Thank you.

CHAIRMAN MONTANO:

Any other questions from anyone? I want to thank you for coming in. As I said, Renee, as soon as we can get the transcript, we'll send it over to the parties. And we are going to be meeting -- you know, us three will be meeting to discuss how to proceed. We'll be in contact. And hopefully, we can work together on some of the issues. And the recommendations that you make, Counsel is taking note of those, and we can try and amend the law -- the proposed law, which, again, I'm going to table. Public hearing will remain open until we solve the issues, and then we can move along with that.

And, you know, I'm surprised that there is no process or paperwork that would follow the appointment of an 18-B attorney. I know that when I practiced law in Philadelphia years back, many years back, and I took one or two 18-B cases when I first started, you had to be eligible. So I'm surprised that there's nothing there. But these are issues that we're aware of know, we want to thank you for, and we are going to be keenly looking at this. Thank you all. Thank you for your time. I know you are very busy.

Okay. We're going to move to the agenda. I'm going to try to go through this quickly, because I have to be -- I'm sure like everybody else -- somewhere else at ten o'clock. I'm already an hour late. I have to testify before the Legislative Task Force on Redistricting. They start at 10:00 and I am on the list. But after this meeting, I will excuse myself. I won't be at the Parks Committee. I'm going to ask for an excused absence so I can get over there. And Economic Development also.

TABLED RESOLUTIONS

1313, Adopting Local Law No. -2011, A Local Law to enact a Campaign Finance Reform Act to limit campaign contributions from County contractors. (Schneiderman)

I'm going to make a motion to table.

LEG. KENNEDY:

Second.

CHAIRMAN MONTANO:

Any other motions? All in favor? Opposed? Abstentions? Motion carries. **TABLED (Vote: 5-0-0-0)**

1314, Adopting Local Law No. -2011, A Charter Law to establish a truth and honest zone for clean campaign practices in Suffolk County by banning improper fundraising. (Romaine)

That public hearing is still open. I will make a motion to table for public hearing. I need a second.

LEG. ANKER:

Second.

CHAIRMAN MONTANO:

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

1464, Declaring as surplus and authorizing the sale and/or lease of real property in Selden pursuant to County Law Section 215. (Lindsay)

That's the bill that was discussed earlier. Just so everyone is clear, I spoke with Counsel, and if the bill is not discharged, we run the risk of having the bill sort of expire, and then it would have to be reintroduced. So I'm going to make a motion to discharge without recommendation. Again, I know that this requires 12 votes on the floor, but we can also, with ten votes, send it back to committee for further study if that's the will of the Legislature, other than that, it would die. I believe that Legislator Kennedy wanted to make a motion also.

LEG. KENNEDY:

I do, Mr. Chair. I appreciate the fact that we are looking at some mechanical issues associated with the resolution, but the refiling is not an onerous process, and based on what we heard from Councilwoman Walsh and Chief of Staff Beedenbender, one of our former colleagues, I think it's a little premature. I'm going to make a motion to table.

I know that Legislator Muratore has indicated that, in fact, he does have a meeting set down with the town folks for next week. As usual, we are in between the proverbial rock and a hard place. Yes, as a matter of fact, we have pointed to some revenue that we might be able to realize from sale of the property. And I do want to confirm with Counsel, this resolution has been modified a number of times. I looked at the schematic from the Town of Brookhaven. We are down to now 40 acres that are being surplused, and how's that described, George?

MR. NOLAN:

Well, the Planning Department prepared a new map and excluded property the Community College wanted, excluded the Empire State College property.

LEG. KENNEDY:

Do you have an Exhibit A? Are there metes and bounds associated with that?

MR. NOLAN:

It's a map.

LEG. KENNEDY:

Only a map?

MR. NOLAN:

Only a map. It's the best we can do at this point.

LEG. KENNEDY:

See, even that, I have to be honest with you, I find a bit of a challenge, because as the Chair knows well here, that is not a legal description, a mere reference to map. As a matter of fact, if you told me it was tax map number, I would be somewhat challenged, because as you know, you can neither buy, sell, lease, convey, mortgage or do anything else with a particular piece of real property absent a bona fide metes and bounds description.

So while we may be of this mind that, you know, we've got to move it, we've got to sell it, we've got to get it, apparently, nobody has even surveyed this yet. So I'll tell you, my sense here is we're flawed on our face. We're moving a resolution that doesn't meet the bare requisites of a legal resolution.

CHAIRMAN MONTANO:

Well, I'll let Counsel answer that question.

MR. NOLAN:

I think we can move this resolution if we want to. You know, I think the Division of Real Estate is directed to take actions necessary to convey the parcel -- the properties to somebody else, to get into lots, to take all the actions necessary. So I believe we could move this. But, you know, that's up to the committee.

LEG. KENNEDY:

I'd make the argument that what we're moving is a piece of paper that's a map. Again, absent a survey and a metes and bounds, I think we've got an issue. But I'll leave it at that.

CHAIRMAN MONTANO:

I appreciate your arguments. First of all, like I said, I made a motion to discharge without recommendation. I don't know if we got a second on that. I need a second.

LEG. ANKER:

I'll second.

CHAIRMAN MONTANO:

Seconded by Legislator Anker. And we had a second to the tabling motion, seconded by Legislator Nowick. Tom, would you like to address us on this?

LEG. MURATORE:

Just a statement.

CHAIRMAN MONTANO:

Sure. Go ahead, Tom.

LEG. MURATORE:

You know, first of all, we seem to be really rushing into this thing. And, you know, it's for what, a few pieces silver? I mean, is it really about a few pieces of silver, or is it about the possibility of taking away active recreation from the children of Suffolk County? I mean, if we allow this to go forward and I can't muster up the 12 votes I need to do what I need to do to prevent this from happening --

CHAIRMAN MONTANO:

Well, actually, the 12 votes would be incumbent upon the mover. So it would require 12 affirmative votes to do it.

LEG. MURATORE:

So it's the P.O. versus Legislator Muratore. You know who's going to win that battle.

CHAIRMAN MONTANO:

I don't think that's the case.

LEG. MURATORE:

You know, do we want to keep this for our children and our grandchildren and our great grandchildren, or do we want to give it away to a developer who's going to pollute our groundwater, put a strain on our school systems and just destroy our communities? I mean, this is something that, you know, Brian worked on a long time, Joe Caracappa worked on a long time that we've been looking at. For the sake of a few dollars, which we don't even know we're going to appreciate to help us with this budget crunch we're in. So this is why, you know, I plead to my colleagues -- you know, what Jiminy Cricket said, "Let your conscience be your guide." Do what you need to do.

Thank you.

CHAIRMAN MONTANO:

Well, if we don't move on this now, it runs the risk of expiring. We have the option to send it back to committee to further debate it. It's been on the agenda approaching six months. And with that in mind -- that's the only -- it's -- it's not us against you or -- you know, I don't think that any of us has really resolved where we're going with this. We're still in the budget process. We don't even know that this is going to be included in the budget for next year in terms of income. So it's really an open question. So this is more a procedural aspect that we did, for instance, the other day with Legislator Schneiderman's bill who was going to -- you know, that was going to expire; we let it out of committee, it hit the floor, and then we'll send it back to committee. That's the spirit in which I'm offering to discharge without recommend. Believe me, it's nothing directed personally at you, your district, or with people in your area, because I suffer from the same conditions in my district. Legislator Kennedy, would you like to address anything? Anyone else?

LEG. KENNEDY:

No, I'm fine, Mr. Chair. I made the motion to table for the reasons stated. We'll see what the will of the committee is.

CHAIRMAN MONTANO:

On the motion to table, all in favor? Opposed? Myself, Legislator Anker, Legislator Stern. On the motion to discharge without recommendation.

LEG. STERN:

On the motion.

CHAIRMAN MONTANO:

On the motion.

LEG. STERN:

On the motion to discharge without recommendation, I agree with the Chairman's comments. I take this vote procedurally. I think it's important that we at least have the conversation particularly when we're going through the budget process. Where it ultimately goes, I don't think that anybody has made an ultimate determination, but I do think it's important that we keep it going so that we can at least have the conversation, again, especially as we are going through the budget process right now.

So I'll support the motion to discharge without recommendation, but I also want to say that I'm supporting it specifically because of the conversation that went on here earlier today, particularly with the representatives of the Town of Brookhaven and Legislator Muratore. I'd like to give our colleague Legislator Muratore every opportunity to continue to lead that conversation on what the ultimate use of the property within his district would be. So I think that this keeps it before us, but also allows for that opportunity.

CHAIRMAN MONTANO:

All in favor to discharge without recommendation? Myself, legislator Anker, Legislator Stern. Opposed, Legislator Kennedy, Legislator Nowick. So it's **DISCHARGED WITHOUT RECOMMENDATION** at this point. *(Vote: 3-2-0-0 Opposed: Legislators Nowick and Kennedy)*

1468, Adopting Local Law No. -2011, 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.)

I believe the public hearing is still open. I'll make a motion to table for public hearing. I need a second. Seconded by Legislator Anker. All in favor? Opposed? Abstentions? Motion carries.
TABLED (Vote: 5-0-0-0)

1477, Adopting Local Law No. -2011, A Local Law to require companies doing business with the County to certify utilization of the Social Security Number Verification Service (SSNVS) and the E-Verify Program. (Co. Exec.)

I believe the public hearing is already scheduled for November. We don't need to vote on that, right? Okay. I make an application to table for a public hearing, 1477, I need a second.

LEG. NOWICK:
Second.

CHAIRMAN MONTANO:
Seconded by Legislator Nowick. All in favor? Opposed? Abstentions? Motion carries. **TABLED (Vote: 5-0-0-0)**

1576, Sale of County-owned real estate pursuant to Section 215 New York State County Law Stony Brook Medical Park Condominium (SCTM No. 0200-418.00-04.00-004.000 (Co. Exec.)

I'll make a motion to approve -- we are tabling this?

MS. GREENE:
You are. The item has been corrected and now appears before you later in the agenda as 1816.

CHAIRMAN MONTANO:
You have another bill on the table or introduced with the same parcel.

MS. GREENE:
Correct.

CHAIRMAN MONTANO:
All right. So can we withdraw this and deal with the other bill?

MS. GREENE:
I believe you can.

CHAIRMAN MONTANO:
It's your bill actually. Would you state on the record that the County Executive would like it withdrawn.

MS. GREENE:
I would like the committee to pass 1816.

CHAIRMAN MONTANO:
Well, there's no guarantee. What do you want us to do with this, pam?

MS. GREENE:
Table please.

CHAIRMAN MONTANO:

I make a motion to table. I need a second.

LEG. ANKER:

Second by Legislator Anker. All in favor? Opposed? Abstentions? It's **TABLED**. (Vote: **5-0-0-0**). For what purpose, I don't know.

1605, Adopting Local Law No. -2011, A Local Law to extend prompt payment policy to attorneys providing services pursuant to Article 18-B of New York County Law. (Montano)

I will make a motion to table for public hearing, it's still open. I need a second. Seconded by Legislator Stern. All in favor? Opposed? Abstentions? Motion carries. **TABLED (Vote: 5-0-0-0)**

1617, Adopting Local Law No. -2011, A Local Law to strengthen motor vehicle reporting requirements for County departments. (Kennedy)

Legislator Kennedy.

LEG. KENNEDY:

I've had quite a bit of dialog with the department, Mr. Chair. I'm going to table it for one more cycle, and then either I will modify the bill or I may even just withdraw and refile. But I'd like to have it sit for one more cycle.

CHAIRMAN MONTANO:

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

1704, Adopting Local Law No. -2011, A Local Law to prohibit elected officials from publishing or allowing the publication of their names in advertisements for any County funded or sponsored program or event. (Co. Exec.)

The public hearing is still open. I'll make a motion for further public hearing. I need a second. Seconded by Legislator Stern. All in favor? Opposed? Abstentions? Motion carries. **TABLED (Vote: 5-0-0-0)**

1719, Adopting Local Law No. -2011, A Local Law to save taxpayer dollars on County signs and printed publications. (Romaine)

I will make a motion to table. Do I have a second? Seconded by Legislator Anker. Are there any other motions? All in favor? Opposed? Abstentions? Motion to table carries. **TABLED (Vote: 5-0-0-0)**

1723, Adopting Local Law No. -2011, A Charter Law to update and strengthen Ethics and Disclosure Rules. (Lindsay)

This is the bill -- public hearing was tabled -- I mean was closed. I don't think there was anyone that came forward on this. This is a comprehensive bill, and I think it should fully be discussed by the Legislature. I'm going to make a motion to approve. There were some recent amendments, were there not, Counsel?

LEG. KENNEDY:

Mr. Chair, as a matter of fact, Legislator Nowick and I were just speaking briefly.

CHAIRMAN MONTANO:

I think you both are cosponsors of that, am I right?

LEG. KENNEDY:

Yes, we are.

CHAIRMAN MONTANO:

Go ahead.

LEG. KENNEDY:

And there was some amendments that were made late Monday afternoon. And like everybody else on the committee, I haven't had a chance to fully review what they are. I know the Presiding Officer's intention is to move the bill and to want to get it out. You know, I'm more inclined to do a discharge without recommendation, not because I'm not in support of it, we have spent literally almost -- more like 14, 15 months working this bill.

CHAIRMAN MONTANO:

Right. And this is -- if I may interject -- this is a very important, comprehensive bill. And I agree with you, I think that we should discuss this. So I would be willing to go along with the discharge without recommendation at this time. There has been one amendment, I understand, from Counsel. Do you want to explain what it is briefly, Counsel?

MR. NOLAN:

Right. On Monday, we made just one change to the bill, which removed the language relating to Farmland Committee members and their disclosure requirements because that's already covered in Chapter 8 of the Suffolk County Code. Legislator Romaine has a bill pending to have them do a different form. So to avoid redundancy, we just eliminated the Farmland Committee from this particular bill. But it's a relatively minor technical change.

LEG. KENNEDY:

If you will entertain the motion, Mr. Chairman, as one of the cosponsors, I'm going to offer a motion to discharge without recommendation. And I'm doing so for no other reason than I want one last final opportunity to read it from end to end and just in my own mind be 100% satisfied that we have hit all the areas we could possibly hit. And then I'm sure there's something else that's going to come up. And as we all know, you can correct, modify, but I personally would like one last opportunity to be able to vet it. And I still need that time.

CHAIRMAN MONTANO:

Right. And I agree with you, I also think that this is a bill that should require extensive debate, question and answers so that we do -- I believe that we need to pass new ethics reform. And I know that the committee worked hard on this, there are some real practical questions that need to be addressed. And unfortunately, they did not come out in the public hearing, because nobody spoke on it. So we as a body need to really understand each and every sentence of this bill. So with that in mind -- you know, we want to move it, want to pass something, but we want to make sure that it is absolutely right and tight and correct. So I will second the motion. Go ahead, Legislator Nowick.

(A SIDEBAR CONVERSATION WAS HELD)

CHAIRMAN MONTANO:

Okay. With that, are there any other motions? All in favor? Opposed? Abstention? The bill is **DISCHARGED WITHOUT RECOMMENDATION (VOTE: 5-0-0-0)**. And again, for the reasons stated by Legislator Kennedy and myself.

With that, we go to **1724, Adopting Local Law No. -2011, A Charter Law establishing a new Board of Ethics. (Lindsay)**, which I believe is sort of a companion bill.

Do you have any concerns along the same levels on that?

LEG. KENNEDY:

No. As a matter of fact, on this one, I'll be happy to make a motion to approve. This actually, if you will, Mr. Chair, totally reconstitutes the Ethics Commission, puts in a five-member board, I believe it is, George, looks to establish a range of new qualifications for members as they serve, clearly establishes it as an independent entity as was always the intent while tries to gives that board the resources and the authority and the autonomy to go ahead and entertain, quiz and to respond with a set-down time.

As we talked about with the prior bill, each and every one of us can think any number of situations where we've heard stories about questions that went unanswered, or unacknowledged or any alternative clues that were sought and responses delivered in less than a week, FOILs that -- let's just say that I think the time is here for a new board. And I'm comfortable that this bill addresses that in this fashion.

CHAIRMAN MONTANO:

I'm going to second this. Just briefly, if you recall -- I'm very glad that this has come forward by the committee. If you recall, awhile back, I actually proposed a bill, which would change and add members to the Ethics Board. At that time, it was opposed -- actually, I think it was opposed by the Ethics Board itself.

LEG. KENNEDY:

But you were the author of very important legislation, Mr. Chair, which took the attorney, the advisory attorney for the Ethics Board out of the County Attorney's Office. And the intent was, at that time to get at establishing some independence and autonomy it subsequently, for unknown reasons, did not appear to manifest itself that way. But that's been embedded in this bill.

CHAIRMAN MONTANO:

Actually, the reasons, I think, are known, but we won't speak about them. The bottom line is it didn't accomplish all it was meant to. But I take pride in the fact that it was a start. And I'm glad that the committee was able to come forward and revise these. So I'm very pleased to second the motion to approve. Are there any other motions on the floor? All in favor? Opposed? Motion to approve is carried. **APPROVED (vote: 5-0-0-0)**

1731, Adopting Local Law No. -2011, A Charter Law to increase legislative oversight of RFP process. (Romaine)

I have here nobody discussed this. I'll make a motion to table, seconded by Legislator Stern. I believe that this applies to all RFP without regard to limit; am I correct on that, Counsel? I will make a motion to table? Any other motions? All in favor? Opposed? Abstentions? Motion carried. **TABLED (Vote: 5-0-0-0)**

1750, Authorizing the conveyance of County-owned real property having a Suffolk County Tax Map Identification Number of District 0903 Section 002.00 Block 0300 Lot 023.001 for municipal purposes pursuant to Section 72-h of the General Municipal Law. (Schneiderman)

What is this, Counsel? Oh, is this the infamous wharf or the beach next to the wharf?

MR. NOLAN:

There you go.

LEG. KENNEDY:

Motion to table.

CHAIRMAN MONTANO:

I'll second that. Any other motions? All in favor? Opposed? Motion to table carries. **TABLED**
(Vote: 5-0-0-0)

1773, Adopting Local Law No. -2011, A Charter Law to ensure an effective, non-partisan reapportionment process. (Kennedy)

Legislator Kennedy, your pleasure?

LEG. KENNEDY:

I thought we moved this, George. Didn't we move this?

MR. NOLAN:

Well, we moved it to this point.

LEG. KENNEDY:

I'll make a motion to approve.

CHAIRMAN MONTANO:

I'm going to be second it. Just really quickly -- actually, I'm supposed to be testifying at the other one, but I think I'm going to miss that, because they'll probably wrap up before I get there, so could Counsel just explain what this is for the record?

MR. NOLAN:

Right. This bill would amend our law regarding the Reapportionment Commission so that there will be co-chairpersons; one selected by the Majority Leader of the Legislature, one selected by the Minority Leader. Right now it calls for one Chairperson. And it would change the qualifications to allow judges who have been off the bench for five years to serve on the commission. We ran into a problem finding judges who have been off for ten years, which is the current requirement; that they have to be off the bench for ten years. That proved to be pretty limiting and pretty difficult, so that's the other amendment.

CHAIRMAN MONTANO:

We are able to find judges that have been off the bench for five years? I mean, have we identified, because it's a problem? Judges don't like to get off the bench until they -- until they retire.

LEG. KENNEDY:

It would remedy -- there's a question about one of the appointees, of the judicial appointees, one of my judicial appointees. And I believe that he fulfills the requirements under the law as it was originally set down. Actually, there are two or three of the four judicial appointees that apparently may have some questions as to whether they fulfil a ten-year separation requirement. But it appears all are fully qualified under the five year. Not wanting to saddle any suggestions with having to try to find what's in essence an impossibility makes much more sense to bring it back to five years.

CHAIRMAN MONTANO:

Okay. Here's the only issue that I have. When I first got elected, I introduced and a law was passed having to put in a time limit on when the Legislature would have to redistrict. And the reason for that is prior to my being elected, I think you all know that, you know, we commenced, my daughter and the plaintiff and my -- some lawyers, we commenced an action because ten years -- eight years ago, the Legislature did not redistrict timely; they waited for almost two years. So my law would have mandated a redistricting within a certain amount of time, and if the Legislature didn't comply with that, then the County Attorney was mandated to go into court and ask for the appointment of a Special Master. Now, I believe that these amendments have changed the time clock on my original bill and moved it back.

MR. NOLAN:

That is actually another bill that we just passed that was sponsored by Legislator Cooper who stated that the -- the new bill states that the commission will give us a plan by February 1st of next year, and then starts a series of clocks running.

CHAIRMAN MONTANO:

So this doesn't affect the clock?

MR. NOLAN:

It does not.

CHAIRMAN MONTANO:

Okay. But what I don't want to see is I don't want to see that clock affected again, because then we will move outside of the County Attorney for that, because the concept is we should move as quickly as possible, not as quickly as Nassau. But, you know, after our election, we should have the districts in place ASAP.

LEG. KENNEDY:

I agree with you. It's my -- well, I know for a fact that the committee has convened once -- they are awaiting some of these actions on our part, some of the housekeeping items, they're set to reconvene. The request for the data from the State Legislative Redistricting Committee has been made. It's amazing that you can't get good data from the Census Bureau about what the composition of our districts are now nor what they've moved to.

CHAIRMAN MONTANO:

Actually, there are programs in affect, and I have seen some -- you know, we could talk about that later. I will definitely --

LEG. KENNEDY:

But we are sensitive to the point that you had brought forward earlier. And absolutely the recommendations and the final work of the commission and then recommendation to us will be before us by the early part of the next year.

CHAIRMAN MONTANO:

Okay. Thank you very much. As I said, I second it. Any other motions? Any other discussion? All in favor? Opposed? Abstentions? Motion to approve carries. **APPROVED (Vote: 5-0-0-0)**

1779, Authorizing certain technical corrections to Adopted Resolution No. 636-2011. (Co. Exec.)

I believe that this is just housecleaning, Counsel. All right. I make a motion to approve and place on the Consent Calendar. I need a second. Seconded by Legislator Stern. All in favor? Opposed? Abstentions? Motion carries. **APPROVED** and placed on the **CONSENT CALENDAR** (*Vote: 5-0-0-0*)

1780, Authorizing certain technical corrections to Adopted Resolution No. 637-2011. (Co. Exec.)

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

1783, Approving payment to General Code Publishers for Administrative Code Pages. (Pres. Off.)

I will make a motion to approve. I need a second.

LEG. STERN:

Second.

CHAIRMAN MONTANO:

And I'll just have a quick explanation. We owe them money?

MR. NOLAN:

We do these periodically during the year; pay general code for them updating code pages, updating the website, things like that.

CHAIRMAN MONTANO:

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

1784, Amending Resolution No. 725-2011, authorizing the issuance of a certificate of abandonment of the interest of the County of Suffolk in property designated as Town of Brookhaven, Suffolk County Tax Map No. 0200-545.00-01.00-003.000, pursuant to the Suffolk County Tax Act. (Browning)

I will make a motion to approve.

LEG. ANKER:

Second.

CHAIRMAN MONTANO:

Seconded by Legislator Anker. I just ask for a brief explanation. Is this the Bellport property?

MR. NOLAN:

I know it's in Brookhaven. It's a church. We, earlier, passed a resolution approving a certificate of abandonment, but the town has come forward since then. But the earlier resolution said the church would pay some back taxes. The town has come forward since then and said the church should never have paid the back taxes, the town will make us whole. So this is just correcting the earlier resolution to reflect that.

CHAIRMAN MONTANO:

So it doesn't cost us anything?

MR. NOLAN:

Correct.

CHAIRMAN MONTANO:

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

1792, Sale of County owned real estate pursuant to Local Law No. 13-1976 Vicencio Medrano and Emma Medrano, his wife (SCTM No. 0200-852.00-04.00-069.000). (Co. Exec.)

I'll make a motion to approve. Thirteen is adjacent property, right? Seconded by Legislator Stern. All in favor? Opposed? Abstention? Motion carries. **APPROVED (VOTE: 5-0-0-0)**

1793, Sale of County owned real estate pursuant to Local Law No. 13-1976 Patricia E. Gorden (SCTM No. 0200-907.00-04.00-060.008). (Co. Exec.)

I will -- I'll take same motion, same second, same vote, if that's okay with everybody. **APPROVED (Vote: 5-0-0-0)**

1794, Sale of County owned real estate pursuant to Local Law No. 13-1976 Jorge E. Gonzalez and Sonia S. Meneses De Gonzalez, his wife (SCTM No. 0200-973.70-05.00-063.000). (Co. Exec.)

I'll take same motion, same second, same vote. **APPROVED (Vote: 5-0-0-0)**

1796, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Salvatore A. Sangeniti and Mary Margaret Sangeniti, his wife (SCTM No. 0200-442.00-03.00-011.003). (Co. Exec.)

I will make a motion to approve and place on the Consent Calendar. This is as-of-right, is it not?

MR. NOLAN:

Right.

CHAIRMAN MONTANO:

I need a second.

LEG. STERN:

Second.

CHAIRMAN MONTANO:

Seconded by Legislator Stern. All in favor? Opposed? Abstentions? Motion carries. **APPROVED** and placed on the **CONSENT CALENDAR (Vote: 5-0-0-0)**

1797, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Trustees of Good Will African Methodist Episcopal Zion Church by Rev. William E. Fields, Pastor (SCTM No. 0900-139.00-01.00-012.002). (Co. Exec.)

Same motion, same second, same vote, if that's all right with everybody. **APPROVED** and placed on the **CONSENT CALENDAR (Vote: 5-0-0-0)**

1798, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Richard Frey (SCTM Nos. 0200-979.00-02.00-004.000 n/k/a 0209-022.00-02.00-004.000. (Co. Exec.)

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

1799, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Marianne G. Rohrllich (SCTM No. 0900-103.00-02.00-028.000). (Co. Exec.)

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

ACTING-CHAIRMAN STERN:

1800, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Anthony J. Raimondi and Louise M. Raimondi, his wife (SCTM No. 0400-248.00-01.00-027.000). (Co. Exec.)

Same motion, same second, same vote. 1800 is **APPROVED** and placed on the **CONSENT CALENDAR** **(Vote: 5-0-0-0)**

1801, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Lawrence A. Nemeroff (SCTM No. 0200-837.00-03.00-016.001). (Co. Exec.)

Same motion, same second, same vote. IR 1801 is **APPROVED** and placed on the **CONSENT CALENDAR** **(Vote: 5-0-0-0)**

1802, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Monique Sonyea Mackroy-Davis (SCTM No. 0400-098.00-01.00-031.000). (Co. Exec.)

Same motion, same second, same vote. IR 1802 is **APPROVED** and placed on the **CONSENT CALENDAR** **(vote: 5-0-0-0)**

1803, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Full Moon Properties, LLC (SCTM No. 0500-455.00-02.00-035.000). (Co. Exec.)

Same motion, same second, same vote. IR 1803 is **APPROVED** and placed on the **CONSENT CALENDAR**. **(Vote: 5-0-0-0)**

1804, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act JS Long Island Realty Corp. (SCTM No. 0103-017.00-02.00-012.010). (Co. Exec.)

Same motion, same second, same vote. IR 1804 is **APPROVED** and placed on the **CONSENT CALENDAR** **(Vote: 5-0-0-0)**

1805, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Mid Atlantic, LLC (SCTM No. 0400-099.00-05.00-015.000). (Co. Exec.)

Same motion, same second, same vote. IR 1805 is **APPROVED** and placed on the **CONSENT CALENDAR**. (*Vote: 5-0-0-0*)

1806, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Thermakraft Insulation, Inc. (SCTM No. 0500-192.00-02.00-011.000). (Co. Exec.)

Same motion, same second, same vote. IR 1806 is **APPROVED** and placed on the **CONSENT CALENDAR**. (*Vote: 5-0-0-0*)

1807, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act J & S Realty Corp. (SCTM No. 0103-017.00-02.00-013.000). (Co. Exec.)

Same motion, same second, same vote. IR 1807 is **APPROVED** and placed on the **CONSENT CALENDAR**. (*Vote: 5-0-0-0*)

1816, Adopting Local Law No. -2011, A Local Law declaring as surplus and authorizing the execution of a contract for the sale of a 50' X 116' parcel in Brookhaven (SCTM No. 0200-418.00-04.00-004.000) to Stony Brook Medical Park Condominium. (Co. Exec.)

This needs to be tabled for a public hearing. I'll make the motion to table, seconded by Legislator Nowick. All in favor? Opposed? Abstentions? IR 1816 is **TABLED** public hearing. (*Vote: 4-0-0-1 Not Present: Legislator Montano*)

1820, Authorizing settlement with Debra A. Cubbedge (a/k/a Debra A. Pate, a/k/a Debra A. Bettis) with regard to Suffolk County Tax Map No. 0400-147.00-04.00-022.000. (Co. Exec.)

We should hear from the County Attorney.

MS. LOLIS:

Thank you. Gail Lolis, Deputy County Attorney. Very quickly, back in '91, the real property tax service realized that there was a gap between tax maps of this strip of land. Thea adjacent homeowner believed she had owned this property, has her garage on this property, as well as her driveway, her septic system and has opened and notoriously used this property.

The tax map service gave now this strip of land that this woman thought she owned a tax map number with an unknown owner. It was only discovered by this woman in the past couple of years that the County took title to this property. And she has sought to get this property back. She brought an action. This is a proposed settlement where basically she is making the County whole, she is willing to pay all the back taxes on that parcel of land -- I think it's like 30 feet wide -- in return for the County transferring the deed to her.

ACTING CHAIRMAN STERN:

So it's really a monetary issue. We don't have any issue with her having satisfied the adverse possession requirement.

MS. LOLIS:

It's in litigation, but she has a very good claim, I will put it that way.

ACTING CHAIRMAN STERN:

Okay. All right. So we have 1820 before us. I'll make a motion to approve.

LEG. KENNEDY:

Second.

ACTING CHAIRMAN STERN:

Seconded by Legislator Kennedy. All in favor? Opposed? Abstentions? IR 1820 is **APPROVED**.
(Vote: 4-0-0-1 Not Present: Legislator Montano)

1829, Authorizing technical corrections to Resolution No. 482-2011 and ratifying a certain quitclaim deed duly executed thereto by the Director of the Division of Real Property Acquisition and Management. (Kennedy)

LEG. KENNEDY:

I will make a motion to approve, Mr. Chair.

ACTING CHAIRMAN STERN:

Motion to approve by Legislator Kennedy. I'll second. Legislator Kennedy.

LEG. KENNEDY:

This merely addresses a couple of description typos associated with the parcel that is now the site of the 9/11 Responders Memorial over in Nesconset. It also articulates the right of access and maintenance for the adjoining property owner who agreed that he would do upkeep and maintenance on the property.

ACTING CHAIRMAN STERN:

Okay. I'll call the vote. All in favor? Opposed? Abstentions? IR 1829 is **APPROVED** *(vote: 4-0-0-1 Not Present: Legislator Montano)*

1835, Amending Resolution No. 68-2011, designating local newspapers in which County Notices may be published. (Eddington)

Counsel.

MR. NOLAN:

You will recall at the beginning of the year we designate two County-wide paper to publish legal notices, and then we designate, in each town, a newspaper to do notices that are specific to those towns. This resolution seeks to change the Brookhaven paper from The Long Island Advance to the, I believe it's the South Shore Press. Yeah, South Shore Press would replace the Advance as the Brookhaven paper for publication of the Brookhaven notices, if this is adopted.

ACTING CHAIRMAN STERN:

Thank you. Okay. So 1835 is before us. I'm going to make a motion to table.

LEG. ANKER:

Second.

ACTING CHAIRMAN STERN:

Seconded by Legislator Anker. Any other motions? I will call the vote. All in favor? Opposed? Abstentions? IR 1835 is **TABLED**. *(Vote: 4-0-0-1 Not Present: Legislator Montano)*.

We are going to take a timeout to go into Executive Session -- I'll make a motion, seconded by Legislator Nowick -- to discuss litigation.

(*AN EXECUTIVE SESSION WAS HELD FROM 11:43 A.M. UNTIL 12:23 P.M.*)

ACTING CHAIRMAN STERN:

We're back on the record, back from Executive Session. We are back, and we can adjourn. Motion to adjourn by Legislator Kennedy, we are adjourned. Thank you.

(*THE MEETING WAS ADJOURNED AT 12:23 P.M.*)

{ } DENOTES BEING SPELLED PHONETICALLY