

**WAYS AND MEAN COMMITTEE**  
**OF THE**  
**SUFFOLK COUNTY LEGISLATURE**  
**MINUTES**

A 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, 725 Veterans Memorial Highway, Smithtown, New York, on November 28, 2012.

**Members Present:**

Legislator Montano - Chairman  
Legislator Stern - Vice-Chair  
Legislator Nowick  
Legislator Kennedy  
Legislator Calarco

**Also In Attendance:**

George Nolan - Counsel to the Legislature  
Michael Pitcher - Aide to Presiding Officer Lindsay  
Tom Vaughn - County Executive's Office  
Wayne Thompson - Environment and Energy  
Paul Perillie - Aide to Legislator Gregory  
Kevin LaValle - Aide to Legislator Muratore  
Greg Moran - Aide to Legislator Nowick  
Ali Nazir - Aide to Legislator Kennedy  
Jason Petrucci - Citizen, 1st Legislative District  
Rick Brand - Newsday  
All Other Interested Parties

**Minutes Taken and Transcribed By:**

Gabrielle Skolom - Court Stenographer

(\*The meeting was called to order at 9:58 a.m.)

**CHAIRMAN MONTANO:**

Good afternoon. Oh, is Legislator Kennedy here? All right. We're going to start with the Pledge of Allegiance. I think Legislator Kennedy is here. How about Legislator Nowick; is she in the building? Okay, good. Legislator Stern, would you lead us in the Pledge of Allegiance.

**LEG. STERN:**

I will.

**(Pledge of Allegiance)**

**CHAIRMAN MONTANO:**

Before you're seated, this week, we -- I found out that Nelda Alvarez (ph), Belinda Alvarez's mother -- I think all of you know her. She served on the College Board of Trustees. Nelda passed away. She's many years involved with Pronto. Also, I lost a dear friend and constituent Barbara Ford from Central Islip. And Albert Lupo's son-in-law.

**MR. MARTINEZ:**

Yes, sir.

**CHAIRMAN MONTANO:**

Young man, passed away of cancer this week. So I'd just like to take a moment of silence on behalf of those -- I knew Nelda and Barbara very well.

**(Moment of silence observed)**

Thank you. And just put on the record, Albert Lupo was a very hard worker during my recent campaign, and I just want to extend my condolences to his family. Young man was only 58 old.

Nelda's wake is going to be at Grant Funeral Home. You sent out an e-mail, right, Renee?

**MS. ORTIZ:**

Yes.

**CHAIRMAN MONTANO:**

And Barbara's wake is going to be at the Maloney Funeral Home in Central Islip.

**MS. ORTIZ:**

In Hauppauge.

**CHAIRMAN MONTANO:**

In Hauppauge. Okay. Did you send an e-mail on that?

**MS. ORTIZ:**

Yes.

**CHAIRMAN MONTANO:**

All right. We have a busy agenda. We don't have any cards, right, Bob?

**MR. MARTINEZ:**

No.

**CHAIRMAN MONTANO:**

All right. So I'm gonna -- I'm gonna skip the agenda -- or go right into the agenda first and then get back to the presentation, but I'd like to take -- if I could find it.

**MR. MARTINEZ:**

Last page.

**CHAIRMAN MONTANO:**

Resolution -- I'm going to make a motion to take resolution **2165** out of order, **confirming the appointment of Richard I. Horowitz as District Court Judge for and of the First District to fill a vacancy**. And I know Judge Horowitz is with us today. Judge, would you care to step up?

**JUDGE HOROWITZ:**

Please. Thank you.

**CHAIRMAN MONTANO:**

Good morning, Judge. How are you?

**JUDGE HOROWITZ:**

Good morning. I'm well. Thank you for having me.

**CHAIRMAN MONTANO:**

Thanks for joining us. We just asked a question about your situation, so rather than repeat it, why you don't you tell us. Explain to us the situation. Some of us know; some of us don't. Obviously this resolution is to appoint you effective January 1 as a district court judge, which you're already sitting as.

**JUDGE HOROWITZ:**

That's correct.

**CHAIRMAN MONTANO:**

Yeah. Explain where we're at with this.

**JUDGE HOROWITZ:**

Okay. All right. I have been a district court judge and also an acting county court judge for the last six years. I recently ran for re-election in the Town of Smithtown, and I was not re-elected. The County Executive has seen fit to move to appoint me to fill a vacancy which will be available effective, I guess, December 31 or January 1 of Madeleine Fitzgibbon, who is the first district court judge. For those of you who are not familiar with the structure of the district court, generally you must reside in the town for your district. Currently, I'm the fourth district court judge. We're sitting in the fourth district now. The first district court judge can be from any of the five western towns. So basically this will allow me to continue on as a district court judge, and essentially it is known historically as the president seat, which goes back to the creation of the district court after the 1960s where there was a single judge that was representative of all five towns, and it would be my honor to continue on in the district court in that position.

**CHAIRMAN MONTANO:**

I'm sorry. I think both of us missed what you said. Could you just repeat that? Legislator Nowick had a question. Explain the residency issue. You said that the presidency judge could not be or --

**JUDGE HOROWITZ:**

No. The president can come from any of the five western towns.

**LEG. NOWICK:**

I didn't know that.

**JUDGE HOROWITZ:**

So it's a single seat that covers all five towns.

**CHAIRMAN MONTANO:**

Right. In other words, that district court seat -- the other district court seats must be filled by a resident of the town in that district court.

**JUDGE HOROWITZ:**

That's correct.

**CHAIRMAN MONTANO:**

And this one is open to anyone within the five towns?

**JUDGE HOROWITZ:**

That's correct.

**CHAIRMAN MONTANO:**

Will you serve to the end of Judge Fitzgibbon's term?

**JUDGE HOROWITZ:**

No. As I understand it, if I were to be appointed and approved by the Legislature, I would serve until next November, which is the next available election, and I would have to run for re-election for that seat.

**CHAIRMAN MONTANO:**

And your re-election would be for her unexpired term, or would it be full a six-year term?

**JUDGE HOROWITZ:**

Full six-year term.

**CHAIRMAN MONTANO:**

I didn't know that. Do you run Countywide?

**JUDGE HOROWITZ:**

No, in the five western towns.

**CHAIRMAN MONTANO:**

Five western towns.

**JUDGE HOROWITZ:**

Right. The district court only has jurisdiction over the five western towns. I'm also an acting County court judge, so I can sit in County court as well for the entire county. That's an appointment.

**CHAIRMAN MONTANO:**

Right, but you have to be elected district court judge first.

**JUDGE HOROWITZ:**

You have to be elected district court in order to be an acting County court judge, so yes, the --

**CHAIRMAN MONTANO:**

Any other questions? Legislator Kennedy.

**LEG. KENNEDY:**

Yes, Mr. Chair, thank you, and, Judge, thank you for coming before us. My question, actually, I don't know if it's a question for you or if it's a question for Counsel. So we have a resolution before us that would authorize the appointment of Judge Horowitz --

**CHAIRMAN MONTANO:**

What happened, if I may explain.

**LEG. KENNEDY:**

Well, before we get to that, Mr. Chair, I understand Judge Fitzgibbon's -- I understand she served wonderfully on behalf of the residents of the County of Suffolk for, I think, almost 30 years in her total legal career, and those are big shoes to fill. But I also know your background in history and, quite frankly, you are, you know, well-armed and well-skilled.

**JUDGE HOROWITZ:**

Thank you, Mr. Kennedy.

**LEG. KENNEDY:**

You have done an excellent job on the bench. Administration is a different skill set, but, nevertheless, I believe that people rise to the challenges that are put before them, so I have no question about your capability. My question goes to how do we adopt a resolution for a vacancy that may occur in the future. Don't we have to wait until we actually know that we're going to have this vacancy?

**CHAIRMAN MONTANO:**

That's a good question.

**LEG. KENNEDY:**

It's kind of like, you know --

**JUDGE HOROWITZ:**

I think I can answer it.

**CHAIRMAN MONTANO:**

Actually, she's -- just to be clear -- sure.

**JUDGE HOROWITZ:**

Okay. Historically, I understand that it has been done in the past, I believe for Judge Farneti, if a vacancy is known to exist. The other thing is, just as a technicality, too, I believe Judge Fitzgibbon's requirement is effective December 28 or 29, something to that degree.

**LEG. KENNEDY:**

So she's --

**CHAIRMAN MONTANO:**

Yeah, no, hold on. She has -- as I understand it, she has submitted her resignation effective a certain date.

**JUDGE HOROWITZ:**

Which is actually in December.

**CHAIRMAN MONTANO:**

Exactly, so his appointment would be effective the day that her resignation -- or the day after her resignation becomes effective; am I correct?

**JUDGE HOROWITZ:**

That's my understanding.

**CHAIRMAN MONTANO:**

Okay. And, Counsel, do you want to weigh in on this?

**MR. NOLAN:**

I think if the -- if Judge Fitzgibbon has submitted a resignation letter, we can appoint a replacement when that vacancy actually occurs, which will be after December 28. The resolution doesn't state that, when it will begin, which probably would be a good thing. It also says --

**CHAIRMAN MONTANO:**

Why is that a good thing?

**MR. NOLAN:**

It would just say when he would begin.

**JUDGE HOROWITZ:**

I guess the question is --

**CHAIRMAN MONTANO:**

Who submitted the resolution; County Executive?

**JUDGE HOROWITZ:**

I believe so.

**LEG. KENNEDY:**

Okay. If you will, Mr. Chair, that's my only question here, quite honestly, and I don't want to make a mountain out of a molehill, but quite honestly, we act on definitive matters. We very rarely, if ever, are able to go ahead and act prospectively -- I'm mangling it, as you know. We should be acting on a date specific measure before us. So if we know the vacancy is December 28, why don't we have the resolution modified to go to the date?

**CHAIRMAN MONTANO:**

I was going to ask that. Can we -- well, it's the County Executive's resolution. Can it be amended to indicate a date, or can we simply put that on the record? And, by the way, before you answer, Counsel, there is precedent in doing this. I recall specifically that when the civil service commissioner's term was to expire, we actually appointed him to fill -- you know, to another term prior to his retirement date, and, if I remember, he retired on Friday and came back to work under the new term on Monday. There was a little controversy over that, so we have done it. It doesn't apply to you --

**JUDGE HOROWITZ:**

It's been done --

**CHAIRMAN MONTANO:**

Different situation. I see Tom there. Good morning.

**MR. VAUGHN:**

Good morning, Chairman. How are you?

**CHAIRMAN MONTANO:**

No, sir, I was simply going to say that if you would like, I'd be happy to have Dennis Brown come down if there's a resolution over the date or how the resolution was drafted.

**CHAIRMAN MONTANO:**

Well, why don't we do this. We obviously intend to reconfirm your appointment; I don't think there's any doubt about that.

**JUDGE HOROWITZ:**

Thank you.

**CHAIRMAN MONTANO:**

And as a judge and as a lawyer, I'm sure you can understand the technical question that has been raised, which I do think is legitimate. The resolution, in my opinion, should have a date certain, and, you know, we actually don't any -- I have not seen the resignation or anything like that, so you know if we were ruling on this, I'm sure you would say, I'd like to see you know, the documentation. Is it possible -- we don't need to see Mr. Cohen, but is it possible, Counsel, to amend the resolution on the verbal approval of Mr. Cohen?

**MR. NOLAN:**

The -- we're passed the amended filing deadline, so if we're seeking to amend this resolution, we wouldn't be able to vote on it to our next meeting unless we got a Certificate of Necessity with the change.

**LEG. NOWICK:**

But there is no necessity because he doesn't take office until the 29.

**CHAIRMAN MONTANO:**

Well, is the lack of -- let's get right to the issue. Is the lack of a date on the resolution sufficient to make it either incomplete or defective? And if it is, Judge, I'm sure you'll understand that this is a mere technicality, and we would have to adjourn this for another two weeks. I would hate to bring you back. In fact, I would even be willing, with the committee's --

**LEG. KENNEDY:**

No need to bring him back.

**CHAIRMAN MONTANO:**

Yeah, I was going to say we can waive your appearance at the next meeting. You're sitting on the bench now. You're going to be sitting in two weeks. It's really a mere technical issue that sometimes we get hung up on. Would you have a problem with that?

**JUDGE HOROWITZ:**

No, not at all. I'd appreciate it.

**LEG. KENNEDY:**

Let me be very clear for the record: My questioning has absolutely nothing to do with the Judge's ability to sit, with his ability to fulfill this new position, or with any of range of duties that he performs whatsoever. Unequivocally, I'm in support of him. My issue, my concern, my criticism, if it is, is in the draftsmanship of the resolution appointing him. And, quite frankly, it goes in a way to a protection of him. I would never want anybody to go ahead and be able to raise a question as to

the validity of his appointment. We should have a date certain. That's my objection.

**CHAIRMAN MONTANO:**

I tend to agree with you. Legislator Stern wants to weigh in.

I have another question. It's not directed to you, Judge. And I agree with Legislator Kennedy. If this resolution would be in a different format, I think we wouldn't even be discussing this. It has nothing to do with you personally.

The other, though, is that the resolution -- I'm advised by Counsel that that resolution says that the term expires December 31 of 2013, and you said earlier that you would run to fill a six-year term. Was her term due to expire in 2013?

**JUDGE HOROWITZ:**

No.

**CHAIRMAN MONTANO:**

Okay. I was under a different impression.

**JUDGE HOROWITZ:**

I don't think so.

**CHAIRMAN MONTANO:**

I was under the impression that when you fill a vacancy, you fill a vacancy for the unexpired term of the person whose shoes you're filling, and that doesn't appear to be consistent with what you said, so I'd like to check that out, just as a technicality, because we've got to check out the other thing also. Tom, you want to weigh in on this?

**MR. VAUGHN:**

No.

**CHAIRMAN MONTANO:**

I didn't think so. Smart. Leave it there, Tom. Judge, do you disagree with that?

**JUDGE HOROWITZ:**

I can't give you a legal opinion, obviously, but my experience sitting in the district court is any time that there has been a vacancy, whoever runs and wins that seat has a full term.

**CHAIRMAN MONTANO:**

Okay. You might be right. I can tell you that in you're the political context, for instance, we just had a special election in the supervisor's race in Babylon, and Mr. Schaefer won, but he only runs -- he only fills the unexpired term of Mr. Bellone, so he has to run again next year. Do you follow what I'm saying? Because it's a four-year term.

**P.O. LINDSAY:**

He just ran again.

**CHAIRMAN MONTANO:**

No, he ran this year, got elected, and then he has to run next year, because he's only filling the unexpired term of Mr. Bellone.

**LEG. CALARCO:**

He took the job by appointment.

**CHAIRMAN MONTANO:**

He took the job by appointment, exactly. So we're getting off topic. Those are issues that I would like to look at. Mr. Stern, did you have any questions, Legislator Stern?

**LEG. STERN:**

Yeah. Let me just respectfully disagree. To me, the resolution is pretty clear, date or not. It's pretty short. It's pretty succinct. It says that Judge Horowitz is appointed to fill the term of -- formerly held by Judge Fitzgibbon in accordance with the various provisions of the Uniform District Court Act. Judge Fitzgibbon has submitted a resignation that is effective as of a specific date. Clearly, the judge would take the bench as of the date that is provided for in that date of resignation provided for in the letter.

I mean, I would be comfortable proceeding on what we have before us. I don't think that you need to have a specific date of a start date. I think that that is inherent in the resignation that's been submitted by Judge Fitzgibbon. It has a clear ending date. I would be comfortable in proceeding today.

**CHAIRMAN MONTANO:**

All right. Well, let's do this. Do we have any motions -- any other comments, Judge?

**P.O. LINDSAY:**

Yeah, I just have a comment.

**CHAIRMAN MONTANO:**

All right. Legislator Lindsay.

**P.O. LINDSAY:**

You know, just be on the safe side, we could approve the Judge's interview to fill this position. He doesn't have to come back. When the position becomes vacant, we could just put it on the agenda and pass it, and we can say that this committee has interviewed the judge and we find him qualified and everything is fine.

**CHAIRMAN MONTANO:**

Well, we weren't going to ask him to reappear.

**P.O. LINDSAY:**

We actually just said that.

**P.O. LINDSAY:**

Maybe a take a vote for the record that he appeared and it's acceptable.

**CHAIRMAN MONTANO:**

I agree with you. The question is do we approve a resolution as written, or do we have it modified; that's really the question.

**JUDGE HOROWITZ:**

Could I just.

**CHAIRMAN MONTANO:**

Go ahead, judge. Hold on. One at a time. Legislator Kennedy, go ahead.

**LEG. KENNEDY:**

I'm going to offer a motion to table, and the reason that I'm going to table is, and I want it to

specifically go on that I want to table solely for the purposes of the opportunity to go ahead and redraft the resolution. And, as a matter of fact, if the County Executive cares not to, I'll be happy to draw up one to sponsor it for that same position with the date specific.

**JUDGE HOROWITZ:**

Thank you, Mr. Kennedy.

**LEG. KENNEDY:**

No, please, Judge, there's no need to thank me. As I said, I'm not trying to get caught up in on a hyper technicality, but I can only suggest to you that I imagine that off the bench, you've craved specificity. As a matter of fact, not only craved it, you've demanded it of whoever comes before you, and, quite frankly, what we have in front of us, I would respectfully disagree is some unnecessary ambiguity. You deserve a specific date. So I'm going to make a motion to table specifically with the proviso that that Judge does not and should not have to come back before us, that he's fulfilled his opportunity to present himself to us, and that's complete.

**CHAIRMAN MONTANO:**

All right. Technically, the motion is to table, but I do understand. Judge, that if it is tabled, we would not require your appearance at the next meeting. If there are any questions from the Legislators with respect to any of your -- with any questions, we can deal with that now. If there are technical issues, we can either deal with them at the next meeting, or if the resolution to table doesn't pass, then whatever happens happens. I would feel more comfortable that that resolution be -- you know, be -- I would not want to have any questions with the resolution appointing you as judge; let me put it that way. Go ahead, Judge.

**JUDGE HOROWITZ:**

I wanted to address one thing that Legislator -- Presiding Officer Lindsay said. To wait for the vacancy would be a problem because if the vacancy is effective December 28 or 29, I assume she would have to step down off the bench December 31 and wait for the Legislature to act.

**CHAIRMAN MONTANO:**

Right, and I agree with you. Here's what I think I would like to see happen and I don't know how my colleagues feel. We're going to be here in two weeks, and in two weeks, we can take this -- what date is two weeks from now? December 12, we can resolve this on December 12. What date is the date of the meeting?

**MR. MARTINEZ:**

Our meeting?

**CHAIRMAN MONTANO:**

No, no, no not our meeting, the legislative meeting.

**MR. MARTINEZ:**

It's the 18.

**MR. NOLAN:**

Correct.

**CHAIRMAN MONTANO:**

The 18. We can approve it on the 18 and send it right over to the County executive and he could sign it that day, and I believe it's effective that day; is that correct, Counsel?

**MR. NOLAN:**

Right.

**CHAIRMAN MONTANO:**

All right. So bear our indulgence. Are there any other motions on the floor? Yes, Legislator Nowick.

**LEG. NOWICK:**

Judge, I was just curious. As an administrative judge, do you sit on the bench as well, or is this strictly administration for you?

**JUDGE HOROWITZ:**

A couple of issues that you raise, and I think Legislator Kennedy was alluding to this before. The supervising judge's position and the president's seat are actually two separate things. So what is being asked of you now by the County Executive is to appoint me to the president's seat. Whether or not I become the supervising judge will be up to Justice Prudenti based on a recommendation from Justice Hinrichs, so that has not yet been determined. I am hopeful that it will be determined in a positive way, and I look forward to on both roles, but it is very clear on a historical basis. I think it goes back to the idea when the president's seat was created in the 1960s, there really was very little, if any, oversight from Albany. When the supervising judge's position was created, and that is actually something that comes from the State. So I hope to have both roles, but what I'm asking the Legislature for now is to appoint me to the -- or to approve my appointment to the President's seat, so I don't know that I will have both positions or not but. If I am --

**LEG. NOWICK:**

When you get appointed to the president's seat, is it for a term -- what was it for the term?

**JUDGE HOROWITZ:**

It's going to be until the next election, which will be November of 2013. I would then run again, I believe, for a six-year term, although I certainly invite everybody to inquire as to the accuracy of that. If I were to be appointed as both the president judge and the supervising judge, to answer your question, your original question, generally what is done is that the supervising judge usually handles some calendars, usually things of their choosing. Personally, Judge Fitzgibbon and I happen to have a lot of the same interest. I now sit in the assisted outpatient treatment court, and I'm also the backup judge in mental health court, which is a passion that we both share. So if I were to have both positions, my hope would be -- and it would be subject to Judge Hinrichs' assignment -- that I would be able to continue on doing the various mental health courts and then, obviously, doing whatever else is necessary. But generally, the supervising judge usually handles calendar, you know, one or two days a week is available to fill in for other judges. There are 24 of us, and very often, there are logistical problems, and we have six different courthouses and so on.

**LEG. NOWICK:**

All right. Just so you know, I spent 12 years working for the administrative judge many years ago, Al Masseri (ph), so if you need any help, call me.

**CHAIRMAN MONTANO:**

Why; you looking for a job?

**LEG. NOWICK:**

I will be.

**CHAIRMAN MONTANO:**

Judge, I'm advised by Counsel that you are correct, that in next year's election, you will run for a full six-year term, which is unlike the political scenario, and I guess that's why you're the judge.

As far as Judge Fitzgibbons (sic), we wish her well. I appeared before her myself many times years ago. I actually -- actually, also, when I was in the Attorney's General's Office and she was subpoenaed, I had to represent her. So we wish her well, and we wish you well. But there is a resolution to table. You understand the nature of the resolution. Do we have a second on that?

**MS. ORTIZ:**

No.

**CHAIRMAN MONTANO:**

I'll second it. Do we have any other resolutions -- I mean motions?

**LEG. STERN:**

No, just on that motion.

**CHAIRMAN MONTANO:**

On the motion, Legislator Stern.

**LEG. STERN:**

Just very quickly, again, I'm going to be voting no to table but I want to reflect for the record it's because we have a resolution before us. I'm comfortable with the resolution that's before us. I'm comfortable with the resolution. I'm supportive of the resolution that's before us. I understand we're on a quick turnaround cycle, but I just wanted to state for the record the reason why I will be voting no.

**CHAIRMAN MONTANO:**

Yes, Judge, and on the record, as I indicated, like, three times, your appearance is not necessary. We do have time to make the necessary change if, in fact, the resolution passes, and you will not miss any time. You will not have to step down and assume your new duties, and we wish you well. Legislator Kennedy.

**LEG. KENNEDY:**

One last question for you, Judge. Judge, I think I heard you state your continued commitment to sit, in particular, the Kendra' Law part, the 939, which is an extremely difficult part, but nevertheless, I know you're uniquely qualified for that, probably even amongst the 24 of you that you that sit right now. So I appreciate the fact that you'd be willing to communicate that both to Judge Hinrichs and Judge Prudenti of your desire to continue to sit that part, even while you do your supervisory duties.

So thank you again, and thank you for being here before us. I'm going say it one more time: My questions and concerns have nothing to do with your ability, capabilities, or continuance on the bench. They go solely to draftsmanship and specificity, and that's it.

**Tabled (VOTE: 5-1-0-0, opposed: Stern).**

**JUDGE HOROWITZ:**

Thank you, Mr. Kennedy.

**CHAIRMAN MONTANO:**

Renee, would you list me as a co-sponsor on the resolution and anyone else that wants co-sponsor. I think, John, you said you'd co-sponsor.

**LEG. KENNEDY:**

Absolutely.

**CHAIRMAN MONTANO:**

Okay.

**P.O. LINDSAY:**

Mr. Chair?

**CHAIRMAN MONTANO:**

Yes, Legislator Lindsay.

**P.O. LINDSAY:**

Yeah, we have the legal department here, Dennis, and maybe we should question him on it.

**CHAIRMAN MONTANO:**

Sure. Dennis, good morning. How are you?

**MR. BROWN:**

Good morning. Thank you.

**CHAIRMAN MONTANO:**

You got here fast, huh?

**MR. BROWN:**

I mean, I really can't add much more to the debate than what you've already stated. I happen to agree with Legislator Stern, especially since the resolution came from our bureau.

**CHAIRMAN MONTANO:**

You mean since you wrote it?

**MR. BROWN:**

Actually, I did not, but I did proofread it. But, in any event, it does say that the appointment is to fill the vacancy, and that if there's no vacancy come December 29 or 30 January 1, there won't be a position for Judge Horowitz to fill.

**CHAIRMAN MONTANO:**

Dennis, I agree that we understand the issue. I think it's a question of what is in front of us, and, you know, we appreciate your comments on that. Any questions?

**LEG. KENNEDY:**

Yes. My question is simple. Is the County Executive's Office willing to amend the resolution to go to the date certain? We've been told, but we have not seen Judge Fitzgibbon's resignation, so we're acting on good faith. But nevertheless, why not give the man a date specific? Why allow the ambiguity?

**MR. BROWN:**

Well, I don't think that there's an ambiguity, but I'm sure there's no opposition to a whereas clause or a resolve clause stating that the appointment would be contingent upon her resignation specifically.

**LEG. KENNEDY:**

Dennis, what I'm asking you, do you have a copy of Judge Fitzgibbon's resignation?

**MR. BROWN:**

No, I don't.

**CHAIRMAN MONTANO:**

All right. Let me -- can I interject?

**LEG. KENNEDY:**

Sure.

**CHAIRMAN MONTANO:**

The resolve clause -- what we're talking about is that the resolve clause has a date that the date refers to the end of the term. It doesn't have a date with respect to the beginning of the term. It's implied that the beginning of the term is December 28. So I think all Mr. Kennedy is asking is that you amend the resolution in the resolve clause to say that his appointment is effective December 28 and it ends on December 31. I don't think it's a big deal. Do you?

**MR. BROWN:**

No. I agree with you. The only thing that I don't -- the only thing I wouldn't -- the only thing I have an issue with is the December 28 date instead of upon her vacancy because I don't know if it's the 28, the 29, the 30, or the 31.

**LEG. KENNEDY:**

Wait a minute.

**CHAIRMAN MONTANO:**

Whoa, whoa, whoa, whoa, whoa. I don't even want to go there. We have a motion on the floor. We have no other motions. All right. I'm going call the vote. Does anybody want to ask any questions?

**P.O. LINDSAY:**

It's to table, right?

**CHAIRMAN MONTANO:**

Motion's to table. All in favor? Opposed? Legislator Stern is opposed for the reasons he stated on the record, and, Judge, we apologize for this technicality. I'm sure that you've dealt with this in your courtroom many times.

**JUDGE HOROWITZ:**

I understand technicalities very well.

**CHAIRMAN MONTANO:**

Exactly. Thank you very much.

**JUDGE HOROWITZ:**

If I could just thank all the members of the committee and the members of the Legislature, it's a pleasure to see you all at work, and I hope that you will come to see me at work as well and come visit us in the district court.

**LEG. NOWICK:**

But not in front of you.

**JUDGE HOROWITZ:**

Not in front, just to visit.

**CHAIRMAN MONTANO:**

Well, we're not sure, right, Legislator?

(Laughter)

Judge, have a good holiday. We don't expect to see you back.

**JUDGE HOROWITZ:**

Have a good day, everyone. And if you do need me, it's a pleasure.

**CHAIRMAN MONTANO:**

All right. Moving right along. That was an interesting half hour.

We have correspondence that we received from our Comptroller, Joseph Sawicki. I think everyone has a copy of it. Am I correct? It's in reference to IR 2041. I won't read it. Everyone has a copy. When we get to the resolution, we can deal with that.

We do have one public speaker Jason Petrucci and he -- Jason are you here? Good morning, sir. Could you step up to the mic? And you would like to discuss or at least make remarks relative to the first district special election; am I correct?

**MR. PETRUCCI:**

Yes, sir. Thank you, sir. I won't try to take very long. I just wanted to express my concerns with the two dates which are prospective about when we'll be holding the special election for the first district. It is my hope that this election can occur as quickly as possible. And I say that because with Mr. Romaine having moved on to other things, the first district of the County Legislature will be without representation for three months if the election is held in February. Mr. Romaine served on the environment, planning, and agriculture committee and the government operations personnel housing and consumer protection committee. These sound like they're fairly capital intensive to me. Also, I want to say about the first legislative district that it has about three quarters of the County's farmland and several County highways in need of significant reconstruction or repaving, and it is my understanding after several years of pretty progressive infrastructure spending, the County is currently facing rather significant budget constraints. I don't particularly like the thought of first legislative district going without representation in coming months, in particular on these committees. Now, both parties have already chosen their candidates for the special election.

**CHAIRMAN MONTANO:**

Have they?

**MR. PETRUCCI:**

Yes. As of either last night or this morning, the republican party has settled on Riverhead supervisor Sean Walter, and the democratic party pretty quickly settled on Al Krupski who is a Southhold Town councilman.

So the battle is joined. Both armies has massed on the field. I can't really think of any particular reason why either party or the public should need more time in order make their decision about representation for the first district. We are supposed to be districts of coequal population, but the first district is one of only two that represents the east end. Our interests are a little different. They're a little idiosyncratic. I understand that they are probably, from your perspective, fairly capital-intensive interests, but it's a pretty large County legislature, and I think that we need to be hard. So it's just my hope you will take that under advisement, and if there is no other serious concern on your part, that you will see fit to choose the January 15 special election date.

**CHAIRMAN MONTANO:**

Jason, I want to thank you for sharing that information. You're obviously ahead of the curve, as far as I'm concerned. I didn't know the republicans had selected a candidate, and I agree with you. The only concern that I did have had to do with that we're going to be having two special elections, but from what I read in Newsday and from what I understand as to the law, both of those elections, because of the dates that they start, cannot be joined into one election, so we're going to have to pay for two elections. That would be the only concern that I have, and that appears not to be a legal -- it can't be done under the laws as we know them. So, you know, being as it may, thank you for coming. Anyone have questions? Well, the problem is this. The highway superintendent also was elected to a judgeship. You can't because there's a four-day spread between when you can have -- the last day you can have the reelection for the legislator and the first day in which you can legally have the election for the receiver of taxes, they are four days apart and that's not something that we deal with here.

**LEG. KENNEDY:**

But, Mr. Chair, when we get to debate the bills, I'll be able to share with you that the Brookhaven town board has or is in process today of drafting a resolution that will reduce the minimum as far as filling vacancies, so it actually is possible to hold both simultaneously and save citizens \$100,000.

**CHAIRMAN MONTANO:**

It's -- we'll debate that when we get to the bill. Jason, thank you very much. Is there anything else you want to add?

**MR. PETRUCCI:**

No, sir, that's about it. That's about it, sir. We just hope you'll consider however you're able to work it out on logistical terms that you'll give the first legislative district a voice as soon as possible.

**CHAIRMAN MONTANO:**

Well, if you want to stick around, we're going to have a debate on this, so it should be a little interesting.

**MR. PETRUCCI:**

Thank you, sir.

**CHAIRMAN MONTANO:**

Thank you.

Okay. Anyone else would like to address the committee? Hearing none, we have a presentation scheduled. John J. LaValle, Chairman, Suffolk County Republican Committee. I requested his appearance regarding his public comments relating to **IR 2065 (Directing the County to appeal the Supreme Court Decision in Spota v. County of Suffolk)**, which I introduced. For purposes of speeding things along, I'm going to make a motion to take 2065 out of order. Can I have a second on that?

**LEG. NOWICK:**

Second.

**CHAIRMAN MONTANO:**

A second. It's before us now. Okay. Let's go through this quickly. I have a -- I received -- excuse me? Oh? All in favor? Opposed? Abstentions? Motion carries. IR 2065 is before us, and going back to the agenda with respect to Mr. LaValle's presentation, I received a fax from his office yesterday afternoon at 14:02. What time is that, counsel? Who's been in the military?

**MR. NOLAN:**

2:02.

**CHAIRMAN MONTANO:**

2:02. It was after that. We've got to reset our machine. Anyway, I'll read the -- Counsel, can I just add documents to the record?

**MR. NOLAN:**

Sure.

**CHAIRMAN MONTANO:**

All right. I'm going to add this to the record. It's Mr. LaValle's memo to Honorable Rick Montano from Kim Snyder. I guess that's one of his aides.

"Please be advised that Chairman John J. LaValle will not be able to attend the Ways and Means Committee meeting of November 28, 2012. Thank you. I'm not quite sure what that means in light of his public comments, but I'm going to add that to the record.

Also with respect to his public comments, I have an article that was dated November 24, 2012, which I'd like to add to the record, in which Mr. LaValle basically -- I have already read that into the record. I'm sorry, that's the 14, November 14, where he said that the introduction of this resolution was, quote, political retribution. Won't go into the substance. Just add it to the record.

Then on November 15 -- no, it's not the 15, Bob.

**MR. MARTINEZ:**

It was the 15.

**CHAIRMAN MONTANO:**

No, it wasn't. It was the next week.

**MR. MARTINEZ:**

(Inaudible)

**CHAIRMAN MONTANO:**

Oh. Okay. It was the 15, that's right. In this article, I think he calls me a liar. All right. I'm going to add that to the record. Let me say very clearly. You know, as a political -- I'm going to take the prerogative of the Chair. As a politician, you know, we need to have a thick skin. So if somebody wants to call me a liar, you know, I guess we need to accept that. Usually it comes from constituents and other people. In this case, it came from Mr. LaValle, who is the chairman of the Republican Party.

But with respect to the accusation that I would introduce a bill as political retribution is a totally different issue. That, to me, implies that -- you know, that rises to the level of abuse of power. And the reason I asked Mr. LaValle to come in was to back up his statements, so obviously he's not here.

He's not here. I did say that I would request a subpoena. I don't need to request a subpoena. Actually, the invitation to Mr. LaValle is open. Anytime he wants to come before the committee, he's perfectly -- you know, he's invited. If he wants to come at the next meeting, if he wants to come after that, he knows where to call me, and I'll be happy to put him on the agenda. In fact, he doesn't even have to call me. He can simply show up.

However, Mr. LaValle called me last Tuesday during the legislative session, and I spoke to him, and I told him, "I want to be clear on this. I'm in the process of writing you a letter to invite to come to the committee." He said, "What does the letter say?" I said, "I want you to discuss your comments and justify your comments on IR 2065." He indicated to me that -- I'm not going to into the substance of what he said, but he did say that, in part, his comments were based on a conversation he had with the district attorney, Mr. Spota.

Quite frankly, what he relayed to me is incorrect. I don't know if he got it wrong. I'm not quite sure what's going on there. At this point, I could care less. Anyone that wants to come before the committee to explain their position is more than welcome. I will not be requesting a subpoena from Mr. LaValle because he's already told me what I needed to know. And with that, I think we can put this sideshow away and deal with the issue of the bill which is before us.

Are there any comments? All right.

With respect to IR 2065, which is before us, this morning -- actually, last night or late afternoon, I received a copy of the Notice of Appeal that was filed by Mr. Besen. It's about 15 pages, so I couldn't get a copy in time for today's meeting.

I also received -- I think it was this morning. It's been a busy morning. I also received a memorandum from Mr. Sabatino, which I haven't had a chance to read. It's marked "Personal and Confidential." I'm not going to go into it, but I will have a chance to resolve those issues and look at them. I'm going to make a motion to table IR 2065. Do I have a second?

**LEG. STERN:**

Second.

**CHAIRMAN MONTANO:**

Second by Legislator Stern. Is there anyone that wants to address this or any issues that I raised? Hearing none, all in favor? Opposed? Abstentions? Motion to table carries.

**Tabled (VOTE: 6-0-0-0)**

Let's get on to the agenda.

### **Tabled Resolutions**

**IR 1598, Directing a cost/benefit analysis of sale of Kermit W. Graf Building (Schneiderman).** I notice here that there's a note to table. I suspect it's on behalf of Legislator Schneiderman who is the sponsor. Am I correct on that? You know what I'll make a motion to -- Legislator Stern makes a motion to table. I will second. Any other motions? All in favor? Abstentions? Motion carries. **Tabled (VOTE: 6-0-0-0).**

**IR 1702, Adopting Local Law No. -2012, A Charter Law to make transparent the County's rule making process (Cilmi).** The public hearing was closed on 9/13. Is that the subject of --

**MR. MARTINEZ:**

The next one.

**CHAIRMAN MONTANO:**

The next one, okay. I'll make a motion to table.

**LEG. STERN:**

Second.

**CHAIRMAN MONTANO:**

Second by Legislator Stern. Any other motions? All in favor? Opposed? Abstentions? Motion carries. **Tabled (VOTE: 5-1-0-0, opposed: Kennedy).**

**LEG. KENNEDY:**

Opposed.

**CHAIRMAN MONTANO:**

One opposition, Legislator Kennedy. Motion carries.

**IR 1708, Adopting Local Law No. -2013, A Charter Law requiring legislative approval of fee changes (Cilmi).** I have a note here that Legislator Cilmi called my office. He would like to see this moved out of committee.

**LEG. KENNEDY:**

I'll make a motion to approve.

**CHAIRMAN MONTANO:**

All right. We have a motion to approve. Do we have a second?

**P.O. LINDSAY:**

I'll make a motion to table.

**LEG. CALARCO:**

Second.

**CHAIRMAN MONTANO:**

Hold on. No second on the motion to approve. We have a motion to table by Legislator Lindsay. Second by Legislator Calarco. Any discussion on the motion?

**P.O. LINDSAY:**

Yes.

**CHAIRMAN MONTANO:**

Go ahead, Legislator Lindsay.

**P.O. LINDSAY:**

If -- I don't have the bill before me, but I believe the fee changes that Legislator Cilmi wanted to enact is to roll back the item pricing; isn't that correct, George?

**MR. NOLAN:**

That's a separate bill, Mr. Presiding Officer.

**P.O. LINDSAY:**

Oh, this isn't the item pricing bill?

**MR. NOLAN:**

No. This is a bill -- all it says is that no County department will raise a fee or change a fee unless it's authorized to do so by the County Legislature.

**P.O. LINDSAY:**

Don't we do that now?

**MR. NOLAN:**

Not on all fees.

**LEG. KENNEDY:**

Through the Chair, Mr. Presiding Officer, you will recall that I think it was only two weeks ago, we had the members of the Long Island Gasoline Retailers' Association before us with their objections to the budgetary increase in the tank registration or tank inspection fees which were brought to us purportedly on the prerogative of the health commissioner unilaterally. So I really do think that since, ultimately, it's our responsibility to go ahead and adopt, implement, and oversee the budget, we should at least have the ability to pass on whether or not we concur with our fee increases at the departmental level. I think it's just we're going get the flack, we might as well be able to hear about it in the first instance.

**CHAIRMAN MONTANO:**

Legislator Nowick.

**LEG. NOWICK:**

Question for Counsel: Would this have -- and I hate to bring this up again, my favorite subject -- would this have precluded the County Executive several months ago to drop that fee increase for the parks that --

**CHAIRMAN MONTANO:**

You mean the one that he passed; that one?

**LEG. NOWICK:**

Would that have had to come to us before that could have been --

**MR. NOLAN:**

I think, Legislator Nowick, that's a very unique case because the Parks Department and the County Executive brought the fee increase to the Legislature in the form of a resolution, which we approved, and then they just did not implement the fee change. Or they did it and then they rescinded it is, which, personally, I don't think that was the proper thing to do. I think if they wanted to get rid of the fee, they should have come back to us and said, Repeal the feel.

**LEG. NOWICK:**

I guess maybe this legislation should go both ways.

**CHAIRMAN MONTANO:**

Does anyone want a piece of this? No? Okay. In any event, we have a motion to table on the -- motion to table on the table. Any other motions?

**LEG. KENNEDY:**

Yes. I believe I made a motion to approve. I don't know if we have a second yet.

**CHAIRMAN MONTANO:**

Right, but you didn't get a second. Is there a second on the motion to approve?

**LEG. NOWICK:**

Second.

**CHAIRMAN MONTANO:**

Second by Legislator Nowick. The motion to table goes first. All in favor? All opposed?

**LEG. KENNEDY:**

Opposed.

**CHAIRMAN MONTANO:**

Two opposed. That means four in favor, so the motion to table carries. **Tabled (4-2-0-0, opposed: Kennedy, Nowick).**

I know that we dealt with Resolution 2065. Can I make some comments on that? Yeah, I just want to -- there's a lot going on with that resolution. I just want to put on the record that I know that several legislators have made comments -- or not several, one made a comment with respect to the course of appealing the term limit law. But I just want to put on the record, I did receive a phone call and a text from an attorney named Mr. Bruce Plesser. Mr. Plesser represents the intervener in that case. I don't know him. We talked and it's quite possible that we've run into each other when we were practicing law, but really I don't know him personally. I wouldn't be able to pick him out of a lineup or anything like that, but he did say he would be willing to respect the County in this case for no charge and would be willing to pay for the cost, and he sent me a text to that effect. I just wanted to put that on the record. We'll deal with that at the next meeting.

Moving along on the calendar. Back to -- we dealt with 1708, correct?

**IR 1840, Adopting Local Law No. -2012, A Local Law to expedite the return of blighted properties to the tax roll and productive use (Anker).** The public hearing was closed on 9/13. It's Legislator Anker's bill? Does anyone have a motion on this?

**LEG. STERN:**

Motion to table.

**CHAIRMAN MONTANO:**

I'll second the motion to table. Any other motions? All in favor? Opposed? Abstention? Motion carries. **Tabled (VOTE: 6-0-0-0).**

**IR 2002, Authorizing Suffolk County to enter into an agreement with the Society for the Prevention of Cruelty to Animals ("SPCA") in connection with the Animal Abuse Offenders Registry (County Executive).** Counsel, would you give an explanation, please?

**LEG. NOWICK:**

I thought we did this.

**CHAIRMAN MONTANO:**

I thought we did this too.

**MR. NOLAN:**

I'll defer to the County Executive's Office, which is at the lectern, if it's okay with the Chair.

**CHAIRMAN MONTANO:**

All right. Tom.

**MR. VAUGHN:**

The County Executive's Office would ask if you please table the bill for another cycle.

**CHAIRMAN MONTANO:**

Motion to table.

**LEG. CALARCO:**

Second. Motion carries. All in favor? Opposed? Abstention? Motion carries.  
**Tabled (VOTE: 6-0-0-0-0)**

**IR 2005, Adopting Local Law No. -2012, A Charter Law making certain technical changes to Legislative Reapportionment Plan (Gregory).** Let me just say that I had a conversation with Mr. Stewart Moore (ph) yesterday who is the attorney for the plaintiffs in a redistricting lawsuit, which I think this bill is intended to address. Mr. Moore requested that I -- that we table the resolution, and he is in the process of reaching out to the County's attorney. I understand that the County attorney referred this case to outside counsel. So having had that conversation with Mr. Moore, I will make a motion to table.

**P.O. LINDSAY:**

On the motion.

**CHAIRMAN MONTANO:**

Can I get a second? John?

**LEG. KENNEDY:**

I'm sorry.

**CHAIRMAN MONTANO:**

I made a motion to table this. Can I get a second on this? This is -- did you hear what I said about -- what happened was that Mr. Moore, who is the attorney for the plaintiffs in the redistricting suit, asked me if we could table this because he needs an opportunity to talk to outside counsel. I suspect that this resolution addresses some of the concerns in the lawsuit.

**LEG. KENNEDY:**

Sure. I'll be happy to go ahead and second.

**CHAIRMAN MONTANO:**

All right. Legislator Lindsay, you had a motion, or you had a comment?

**P.O. LINDSAY:**

Yeah. My comment is I'd like to skip over this to the end of the agenda, and the reason why is --

**CHAIRMAN MONTANO:**

Sure.

**P.O. LINDSAY:**

-- this was a recommendation from the County Attorney's Office, that we settle this lawsuit this way with this bill. But Counsel informs me that he has a message from outside counsel. He wants to follow up on that message to see what's going on here, and he'll come back in the room at the end of the agenda.

**CHAIRMAN MONTANO:**

Right. I have no problems with that. I spoke with the counsel for the plaintiffs, so is Mr. -- you know what? We'll just skip over it. We'll leave the motion to table outstanding, and we'll get back to it.

**IR 2012, Adopting Local Law No. -2012, A Local Law to amend Local Law No. 18-2012 creating the Suffolk County Landbank Corporation (County Executive).** Table for public hearing; is that correct? Second?

**LEG. STERN:**

Second.

**CHAIRMAN MONTANO:**

By Legislator Stern. All in favor? Opposed? Abstentions? Motion carries. **Tabled/Public Hearing (VOTE: 6-0-0-0).**

**IR 2016, Adopting Local Law No. -2012, A Local Law to safeguard the personal information of minors in Suffolk County (Gregory).** Public hearing was closed on 11/20. Do we have a motion? Would you give me an explanation? And then we can decide which way to go with this.

**MS. SIMPSON:**

This legislation was suggested when we learned that there are companies purchasing lists of children's name from soccer camps, all that kind of thing, and it would prohibit any county contracted agency that provides services to children from doing that, so they can't sell the names of the participants.

**CHAIRMAN MONTANO:**

What would be the penalty?

**MS. SIMPSON:**

They can't contract -- they wouldn't be allowed to contract with the County, so they would lose their contract.

**CHAIRMAN MONTANO:**

So if they release the information, then the penalty would be to revoke their contract.

**MS. SIMPSON:**

Yeah.

**CHAIRMAN MONTANO:**

Legislator Stern.

**LEG. STERN:**

Would it be an automatic revocation of the contract? I would assume it could certainly put their contract in jeopardy, but would it be an automatic revocation?

**MS. SIMPSON:**

Well, it would be a requirement for them to even sign the contract.

**CHAIRMAN MONTANO:**

There would be a termination clause?

**MS. SIMPSON:**

They would have to -- when they sign the contract, they would have to be aware that they cannot do this and they agreed not to do this.

**LEG. STERN:**

Right, but if during the course of the year if they violate the term, is it an automatic revocation, or again, does it become a discussion of putting their contract to continue to provide services in jeopardy.

**MS. SIMPSON:**

The bill doesn't speak specifically to that issue, but I would assume that there would be some sort of ramifications for failure to adhere to your contract.

**LEG. STERN:**

Well, there would be an automatic breach, and then you'd have to decide how to proceed from there.

**CHAIRMAN MONTANO:**

What if -- is there any reference to -- what if it's an accidental release of the information? What would happen there? In all seriousness, there's one thing to do it deliberately in violation of the contract. What if it's somehow released because the agency didn't know or they made a mistake, would they still be penalized, or is it silent with respect to that issue?

**MS. SIMPSON:**

It's silent with respect to that issue. It does state that it would be selling or providing the names.

**CHAIRMAN MONTANO:**

Want to table it? Well, let's just go on the record. What I meant to say was that someone could accidentally sell it -- someone could sell it without realizing that it's in violation. I mean, how are we going to go about -- you know what? I don't really care either way. Do we have any motions on this?

**LEG. KENNEDY:**

Mr. Chair, I'm going make a motion to table, but I'm also going to ask, while we're trying to sort out all the rest of this stuff, through the Chair or to Counsel, or I'll share my concerns with sponsor. I think Legislator Stern's correct, you're correct. There should be notice and opportunity to cure, but quite frankly, if there's agencies that contract with the County whose primary mission is to deliver service and they have ancillary revenue or income, that should be something that we were aware of before we even entered contract. It's only over the course of a particular year where a little league or a youth organization or something like that hits upon this grand notion that I guess they are going sell names. I think that it probably would be, you know, a violation of most of these leagues in corporation limits and things like that or any of the agreements. It just, to me, it seems like -- I'm trying to figure out how we could even have that happen without it being an underlying flaw or vile.

**CHAIRMAN MONTANO:**

I agree with you. I even think there should be stronger language. I mean, protecting the safeguard and identity of minors and their personal information I think is something that is a serious problem. So we have a motion to table. Do we have a second on that?

**MS. ORTIZ:**

No second.

**CHAIRMAN MONTANO:**

We don't have a second. I'll second it. Do we have any other motions on this?

**P.O. LINDSAY:**

Yeah. I'm going to make a motion to approve.

**CHAIRMAN MONTANO:**

Legislator Lindsay makes a motion to approve. Do we have a second on that motion?

**LEG. CALARCO:**

Second.

**CHAIRMAN MONTANO:**

All right. Second. Any discussion?

**LEG. STERN:**

It's obviously, it's an important issue, safeguarding our children, their identities. There are, I think, questions specifically regarding penalties. I think that's something that the sponsor can probably take a look at going forward into the future, but I'd like to -- I think it's important to make this statement now and get moving on it. And if it's something that we can take a look at going forward, I'll certainly support that as well, but I think that this is an important statement and position for us to take now, so I'll support the motion approve.

**CHAIRMAN MONTANO:**

Okay. We have a motion to table which goes first. All in favor? Opposed?

**P.O. LINDSAY:**

Opposed.

**LEG. CALARCO:**

Opposed.

**LEG. STERN:**

Opposed.

**CHAIRMAN MONTANO:**

One, two, three oppose, so motion fails. Motion to approve? Am I correct? There were three oppositions. It came out three and three, so it fails. Am I correct, Counsel?

**MR. NOLAN:**

Correct.

**CHAIRMAN MONTANO:**

Okay. Now we have a motion to approve. All in favor of approving? Before we call the vote -- go ahead, Legislator Stern.

**LEG. STERN:**

Yes, thank you, Mr. Chairman. Knowing that that is going to be the outcome, I will make a motion to table so that it doesn't have to be reintroduced.

**CHAIRMAN MONTANO:**

You will make a motion to reconsider the tabling motion. That's what you're doing. And I will second that. Thank you, Steve. All in favor? Opposed? Abstentions? The motion to table is before us again. All in favor? Opposed? Abstentions? Motion carries. The motion to approve, we don't have to deal with. Thanks, guys. **Tabled (VOTE: 6-0-0-0)**

**IR 2020, Adopting Local Law No. -2013, A Local Law to maximize use of County funds provided to contract agencies (Cilmi).** Public hearing was closed on 11/20, and I'm not sure what this deals with. Counsel, could you give us a brief explanation?

**MR. NOLAN:**

This law would apply to the County's contract agencies, and right now under our current law, they

are not permitted to have administrative expenses in excess of 20 percent of total agency expenses. This law seeks to reduce that to 15 percent so our contract agencies could not have more than that. That's the change to the law.

**CHAIRMAN MONTANO:**

All right. I'm going to make a motion to table. Second by Legislator Calarco. Any other motions? All in favor? Opposed? Abstentions?

**LEG. KENNEDY:**

Oppose.

**CHAIRMAN MONTANO:**

One opposition. Motion to table carries. **Tabled (VOTE: 5-1-0-0, opposed: Kennedy)**

**IR 2041, Adopting Local Law No. -2012, A Charter Law to strengthen oversight of County contract agencies (Cilmi).** Again, that's the reference to Mr. Sawicki's letter, our County Comptroller, and my office received a call from Legislator Cilmi. I didn't get to speak to him, but he spoke to my chief of staff indicating he would like to see this bill moved out of committee. The public hearing was closed on 11/20. Do we have any motions?

**LEG. KENNEDY:**

I'll make a motion to approve.

**CHAIRMAN MONTANO:**

One motion to approve. Do we have a second?

**P.O. LINDSAY:**

I'll make a motion to table.

**P.O. LINDSAY:**

Motion to table Legislator Lindsay. Second by Legislator Calarco. Any discussion? Go ahead, Legislator Lindsay.

**P.O. LINDSAY:**

I don't -- I would like the opportunity to talk to our comptroller about this and about his letter. The contract agencies and the oversight of them is a very difficult issues, and it's very, very time consuming, and this body has dealt with it repeatedly year after year every time we do the budget, and it winds up in some horrendous arguments. So I think we could use all the help we can get. I just have to clarify what the comptroller would like to do in terms of his support for this bill.

**LEG. KENNEDY:**

Mr. Chair, if I can, to Counsel.

**CHAIRMAN MONTANO:**

Go ahead, sir.

**LEG. KENNEDY:**

Thank you, Mr. Presiding Officer, and I agree very much with the fact that your office has done tremendous amounts of work to make sure that our contract agencies are transparent and that we've taken a hard look at what their function is. How would this bill -- what are the changes that this would put into effect, George? Is it just we are regularizing the schedule for the audit process and for reporting? What differs from what goes on now?

**MR. NOLAN:**

I think the big change, maybe, from the comptroller's point of view is under our current law, they are supposed to perform audits of every contract agency annually, and I just don't think physically that's probably for them do. So I think they sat with Legislator Cilmi and they came up with a new regimen, if you will, in terms of looking at contract agencies, evaluating their budget requests, and how they do financial disclosure when they do it that they think is more workable. It's a pretty detailed bill. I can go through the highlights with you, but it's basically a new regimen. It's repealing our old law.

**LEG. KENNEDY:**

Yeah.

**MR. NOLAN:**

I think from the comptroller's point of view, the major concern was this requirement of audits, which just, because we have hundreds and hundreds of contract agencies they can't do, what they have suggest and what Legislator Cilmi has proposed, they think is more workable and will get information to the County Executive and the County Legislature more timely each year in terms of what it comes time to evaluate whether we're going to fund the contract agencies, either provide new funding or continued. We'll have information about the administrative expenses and things like that and salaries more timely.

**LEG. KENNEDY:**

So it's your understanding, then, that actually what we're seeing here is something that was brought forward by the comptroller or has the support and endorsement of the comptroller's office.

**MR. NOLAN:**

Right. Well, the comptroller's office, as Legislator Lindsay has just mentioned, has circulated a letter to all legislators expressing their support. But it is also my understanding that in terms of drafting this very detailed law, the comptroller had input into the details.

**LEG. KENNEDY:**

Okay.

**P.O. LINDSAY:**

Mr. Chair.

**CHAIRMAN MONTANO:**

Go ahead.

**P.O. LINDSAY:**

The part of this that isn't in the reso or in the letter is I've been involved in discussions with the comptroller about him taking more of an active role in their process, but truthfully, he's looking for more help to do this audit process, and I certainly understand that. If we could just table it for one cycle, that I could have a discussion with him and we're trying to put together some kind of plan to get him some help with this process.

**LEG. KENNEDY:**

I appreciate that, Mr. Chair, and as a matter of fact, I think, likewise, I'll probably have some communication as well. I'm just curious, is there -- do they look at a threshold as far as monetary amount for degree of scrutiny, or are we looking at, you know, a similar process for a \$5,000 contract and a \$5 million contract?

**P.O. LINDSAY:**

I think the way the law is written now, there isn't any difference, and that's one of the problems.

You know, we don't have the CSIs anymore, but when we had that process, I mean I had some of my local agencies that he would go and audit that, you know, they would get \$10,000, and we would spend more time on an auditor than the grant was worth. It drove the small not-for-profits crazy. You know, it really did because unfortunately, they're a little sloppy, and everything isn't by the book. So just give me a little time on this, and I think we can come up with something that is more workable.

**CHAIRMAN MONTANO:**

All right. Legislator Calarco would like to weigh in on this.

**LEG. CALARCO:**

I just had a question for Counsel. I'm looking at the law, and it looks like there is a requirement under this law now that any of these contract agencies are going to submit an audit or official statement or financial report from the agency's most recent fiscal year. This is something that's new, right? Basically, what that's doing is putting the auditing procedure on the onus to the agency to submit to the comptroller to verify; is that correct?

**MR. NOLAN:**

Well, the law that's drafted will definitely require that, but I believe the comptroller may require -- I'm sure they do require the submission of financial statements presently.

**CHAIRMAN MONTANO:**

They certify it.

**MR. NOLAN:**

That, I'm not sure of.

**LEG. CALARCO:**

I don't think they certify it. In fact, as Legislator Lindsay has mentioned, I've sat with some of my contract agencies going through the current paperwork that the comptroller provides them, and there is no requirement for them to submit a certified audit, and quite honestly, I think a lot of our smaller agencies don't do this on a regular basis, and so we'd be putting quite a burden on them, making it very difficult for them, when their biggest grant is a five or ten thousand grant from the County to ask them to have to go out and get a financial audit done, I think we're going to make it very difficult for our small agencies to be able to continue to operate.

**CHAIRMAN MONTANO:**

If I can weigh in, I don't think there is a requirement presently for a certified audit, and a certified audit is a rather expensive proposition for a lot of these smaller agencies. You've just got to hire -- to get a certified audit, you need a CPA; you just can't have an accountant.

So we have, what, a motion to table in front of us? No other motions. I'm going to call the vote. All in favor? Opposed? Abstentions? Motion to table carries. **Tabled (VOTE: 6-0-0-0)**

I'm going go back, Legislator Lindsay, to **IR 2005, Adopting Local Law No. -2012, A Charter Law making certain technical changes to Legislative Reapportionment Plan (Gregory)**. The reason is that we just received a call from the attorney, Mr. Moore, and he asked that we not table it. Does that satisfy your concerns? In other words, I asked to table it because he asked me, and he's withdrawn that request, and apparently he's spoken with Counsel.

**P.O. LINDSAY:**

Okay. We don't need to go into executive session on this, Counsel?

**CHAIRMAN MONTANO:**

Not at the moment because we don't have a settlement before us, as far as I know. Is anyone from the County Attorney's Office here that knows anything about this? I am not aware that we need an executive session because I don't think we have a stipulation of settlement before us. I personally think that we should have a stipulation of settlement before us before we pass this resolution. That's just my opinion, Counsel, because whatever verbal agreement they may have reached needs to be confined to a writing.

**MR. NOLAN:**

You know, ultimately, that is what you want to have happen. It doesn't preclude us, obviously, from moving this resolution forward. We can certainly act on this resolution today.

**CHAIRMAN MONTANO:**

Bill, what is your pleasure on this? You want to kick it back for an explanation later? Maybe I was premature in bringing it back up.

**P.O. LINDSAY:**

No, I'm okay with moving it forward. It's going to have to come back to us, anyway, because there might be some monetary settlement involved as well.

**CHAIRMAN MONTANO:**

I'm sure that's the case but.

**P.O. LINDSAY:**

And that has to be approved by us.

**LEG. KENNEDY:**

Mr. Chair.

**CHAIRMAN MONTANO:**

Legislator Kennedy.

**LEG. KENNEDY:**

We talked about this in the last cycle, and I just have to have this conversation with Counsel again because having been involved with this for the better part of the last couple of years, I continue to be a little bit mystified by this particular process, so I want to make very sure on the record that this resolution and process is not something that's valid only to this one particular ED that's in question under the suit. I have not read the papers, but my understanding is that it is only one ED between two legislative districts that's the subject of this lawsuit.

**P.O. LINDSAY:**

Yes.

**CHAIRMAN MONTANO:**

If I may, then, and I apologize for bringing this back up. I'm just going to put this -- I'm going to put it back to the end of the meeting, and I'm going to speak to Mr. Moore directly with your permission.

**P.O. LINDSAY:**

Okay.

**CHAIRMAN MONTANO:**

Okay. Let's just move on. We have a long agenda, and we haven't even gotten past the second page.

**IR 2060**, I think we're at, **Establishing a permanent Contract Agency Oversight Committee (Cilmi)**. I'll make a motion to table. Second by Legislator Calarco. Any other motions? All in favor? Opposed? Abstention? Motion carries. **Tabled (VOTE: 6-0-0-0)**.

**IR 2065**, we already tabled. We'll deal with that later, another time.

### **Introductory Resolutions**

**IR 2092, Pursuing acquisition of sensitive parcels in the Mastic-Shirley area (Browning)**. Motion to table by Legislator Calarco. It says here, per sponsor, to table. I'll second. Any other motions? All in favor? Opposed? Abstention? Motion to table carries. **Tabled (VOTE: 6-0-0-0)**

**IR 2109, Authorizing certain technical corrections to Adopted Resolution No. 906-2012 (County Executive)**.

**P.O. LINDSAY:**

Motion to approve.

**CHAIRMAN MONTANO:**

Motion to approve and place on the consent calendar by Legislator Lindsay. I'll second it. All in favor? Opposed? Abstentions? Motion carries. **Approved/Consent Calendar (VOTE: 6-0-0-0)**

**IR 2110, Approving payment to General Code Publishers for Administrative Code pages (P.O. Lindsay)**.

**P.O. LINDSAY:**

Motion.

**CHAIRMAN MONTANO:**

Legislator Lindsay makes a motion to approve. I'll second. Any other motions? All in favor? Opposed? Abstentions? Motion carries. **Approved (VOTE: 6-0-0-0)**

**IR 2111, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Ronald J. Wescott and Diane J. Wescott, his wife (SCTM No. 0100-217.00-01.00-057.000) (County Executive)**. Motion approve and place on the consent calendar. I need a second.

**LEG. STERN:**

Second.

**CHAIRMAN MONTANO:**

Second by Legislator Stern. All in favor? Opposed? Abstentions? Motion carries. **Approved/Consent Calendar (VOTE: 6-0-0-0)**

We're going to go through these quickly.

**IR 2112, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Vernon Arrington, Jr. (SCTM No. 0200-976.00-04.00-036.000) (County Executive)**. Same motion, same second, same vote. **Approved/Consent Calendar (VOTE: 6-0-0-0)**

**IR 2113, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Frank Franco and Carolyn Franco, his wife (SCTM No. 0800-139.00-01.00-009.000) (County Executive). Same motion, same second, same vote. Approved/Consent Calendar (VOTE: 6-0-0-0)**

**IR 2114, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Mujo Adovic (SCTM No. 0100-191.00-01.00-029.000). Same motion, same second, same vote. Approved/Consent Calendar (VOTE: 6-0-0-0)**

**IR 2115, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Claudia Brown (SCTM No. 0400-137.00-03.00-020.000) (County Executive). Same motion, same second, same vote. Approved/Consent Calendar (VOTE: 6-0-0-0)**

**IR 2116, Sale of County-owned real estate pursuant to Section 72-h of the General Municipal Law - Town of Southampton (SCTM No. 0900-118.01-01.00-020.001) (County Executive). Approved (VOTE: 6-0-0-0)**

**LEG. STERN:**

Motion to approve.

**CHAIRMAN MONTANO:**

I'll second. All in favor? Opposed? Abstentions? Motion carries.

**IR 2117, Sale of County-owned real estate pursuant to Section 72-h of the General Municipal Law - Town of Southampton (SCTM No. 0900-315.00-02.00-007.001) (County Executive). Same motion, same second, same vote. Approved (VOTE: 6-0-0-0)**

**IR 2118, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Patrick Levasseur (SCTM No. 0500-154.00-05.00-060.000) (County Executive). Motion to approve and place on consent calendar. Second by Legislator Stern. All in favor? Opposed? Abstentions? Motion carries. Approved/Consent Calendar (VOTE: 6-0-0-0)**

**IR 2119, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Amerigroup Holding Corp. (SCTM No. 0200-138.00-03.00-024.001) (County Executive). Same motion, same second, same vote. Approved/Consent Calendar (VOTE: 6-0-0-0)**

**IR 2120, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Shamina Dinardo (SCTM No. 0500-164.00-02.00-098.006) (County Executive). Same motion, same second, same vote. Approved/Consent Calendar (VOTE: 6-0-0-0)**

**IR 2121, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Insook Pyun (SCTM No. 0400-265.02-01.00-040.000) (County Executive). Same motion, same second, same vote. Approved/Consent Calendar (VOTE: 6-0-0-0)**

**IR 2122, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Margaret A. Cellucci (SCTM No. 0200-912.00-01.00-043.000) (County Executive).** Same motion, same second, same vote. **Approved/Consent Calendar (VOTE: 6-0-0-0)**

**IR 2123, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Norwood Bland (SCTM No. 0600-120.00-01.00-029.000) (County Executive).** Same motion, same second, same vote. **Approved/Consent Calendar (VOTE: 6-0-0-0)**

**2124, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Yvette Fazio f/k/a Yvette Schneider (SCTM No. 0103-003.00-02.00-037.001) (County Executive).** Same motion, same second, same vote. **Approved/Consent Calendar (VOTE: 6-0-0-0)**

**2125, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Z La Ly, Inc. (SCTM No. 0100-217.00-02.00-054.000) (County Executive).** Same motion, same second, same vote. **Approved/Consent Calendar (VOTE: 6-0-0-0)**

**IR 2126, Sale of County-owned real estate pursuant to Local Law No. 13-1976 William H. Dalton and Theresa A. Dalton, his wife and John M. Destefano and Virginia A. Destefano, his wife (SCTM No. 0200-712.00-03.00-003.000) (County Executive).** That's a 13 adjacent property. I'll make the motion. Second by Legislator Stern. All in favor? Opposed? Abstentions? Motion carries. **Approved (VOTE: 6-0-0-0)**

**IR 2127, Sale of County-owned real estate pursuant to Local Law No. 13-1976 and one, LLC (SCTM NO. 0200-167.00-04.00-034.000) (County Executive).** Motion to approve. Second by Legislator Stern. All in favor? Opposed? Abstentions? Motion carries. **Approved (VOTE: 6-0-0-0)**

**IR 2128, Sale of County-owned real estate pursuant to Local Law No. 13-1976 Monika Zasada (SCTM No. 0903-004.00-02.00-066.000) (County Executive).** Same motion, same second, same vote; that's to approve. **Approved (VOTE: 6-0-0-0)**

**IR 2129, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Allyn A. Young (SCTM No. 1000-112.00-01.00-016.006) (County Executive).** Motion to approve and place on the consent calendar. Second by Legislator Stern. Motion carries. **Approved/Consent Calendar (VOTE: 6-0-0-0)**

**IR 2130, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act MW Holdings, Inc. (SCTM No. 0209-036.00-05.00-002.000) (County Executive).** Same motion, same second, same vote. **Approved/Consent Calendar (VOTE: 6-0-0-0)**

**2131, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Linda A. Albo and Nicholas J. Albo, husband and wife (SCTM No. 0200-077.00-12.00-001.000) (County Executive).** Same motion, same second, same vote. **Approved/Consent Calendar (VOTE: 6-0-0-0)**

Moving on to page five.

**IR 2132, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Thomas E. Kraus (SCTM No. 1000-038.01-01.00-013.000) (County Executive).** Same motion, same second, same vote. **Approved/Consent Calendar (VOTE: 6-0-0-0)**

**IR 2133, Sale of County-owned real estate pursuant to Local Law No. 13-1976 Myron A. Hauptman and Ralph Delea, Trustees (SCTM No. 0200-167.00-04.00-036.000) (County Executive).** Counsel, can they be placed on the consent calendar, or these are thirteens? **Approved (VOTE: 6-0-0-0)**

**MR. NOLAN:**

Typically, we do not.

**CHAIRMAN MONTANO:**

Okay.

**MR. NOLAN:**

You can. If that's the committee's wish, they can go on the consent calendar.

**CHAIRMAN MONTANO:**

Sorry. You know, we'll just go with custom. Motion to approve. Second by Legislator Stern. All in favor? Opposed? Abstentions? Motion carries.

**IR 2134, Sale of County-owned real estate pursuant to Local Law No. 13-1976 Myron A. Hauptman and Ralph Delea, Trustees (SCTM No. 0200-167.00-04.00-037.000) (County Executive).** I guess that's another property. They are buying two sites; am I correct, Counsel?

**MR. NOLAN:**

Different tax map numbers.

**CHAIRMAN MONTANO:**

Different tax map numbers? Do you want to explain that to me? Because it's somewhat odd. Wayne, come on up. We're up to 2134, and apparently the companion bill is 2133, which we already passed. Just a brief explanation, brief, Wayne.

**MR. THOMPSON:**

They're separate parcels.

**CHAIRMAN MONTANO:**

But they're both adjacent.

**MR. THOMPSON:**

But had different adjacent owners besides this guy.

**CHAIRMAN MONTANO:**

So what is he buying? Is he buying one on each side, or is he buying one contiguous to the other?

**MR. THOMPSON:**

No. They're separate in the sense that each one of them has different adjacent owners --

**CHAIRMAN MONTANO:**

'Cause I've never seen that.

**MR. THOMPSON:**

-- so we have to offer it to all rather than offer it to --

**CHAIRMAN MONTANO:**

How much is he buying in total?

**MR. THOMPSON:**

The other parcels coming in here --

**CHAIRMAN MONTANO:**

On the same deal.

**MR. THOMPSON:**

-- there's the sod farm out in Miller Place/Mount Sinai area, and we've taken quite a few pieces out there that we're turning over to them for sale. You know where that sod farm is out there? Who's out there in Port Jefferson? There's a big sod farm out there.

**CHAIRMAN MONTANO:**

Kara Hahn is out there.

**MR. THOMPSON:**

But it's sod farm, which, apparently, he wants a continuation of his sod farm.

**CHAIRMAN MONTANO:**

All right. So what we're doing is he's buying the adjacent properties to expand his sod farm.

**MR. THOMPSON:**

These are all small lots, very small.

**CHAIRMAN MONTANO:**

All right. We want to move along. Do we have a motion, Renee?

**MS. ORTIZ:**

No.

**CHAIRMAN MONTANO:**

Motion to approve. Second by Legislator Stern. Any other motions? All in favor? Opposed? Abstentions? Motion to sell the sod farm **approved (VOTE: 6-0-0-0)**.

IR 2135 -- actually, we're not selling the farm; he's buying more acreage for his farm.

**IR 2135, Sale of County-owned real estate pursuant to Local Law No. 13-1976 Joseph Frederick Gazza (SCTM No. 0900-064.00-01.00-146.000). (County Executive).** Same motion, same second, same vote. **Approved (VOTE: 6-0-0-0)**

**IR 2136, Sale of County-owned real estate pursuant to Local Law No. 13-1976 Jean B. Yvon Cantave and Marie Stephanie Cantave (SCTM No. 0400-160.00-01.00-088.000) (County Executive).** Same motion, same second, same vote. **Approved (VOTE: 6-0-0-0)**

They won't always go this easy, I want to assure you of that.

**MR. THOMPSON:**

We'll try to make their names easier to pronounce in the future.

**CHAIRMAN MONTANO:**

No, you don't have to do that. It's a new world out there.

**IR 2137, Sale of County-owned real estate pursuant to Local Law No. 13-1976 Cynthia Noia (SCTM No. 0200-841.00-08.00-031.000) (County Executive).** Same motion, same second, same vote. **Approved (VOTE: 6-0-0-0)**

**2139, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Michael Rusnak (SCTM No. 0200-055.00-03.00-063.000) (County Executive).** Motion to approve and place on the consent calendar. Second by Legislator Stern. All in favor? Opposed? Abstentions? Motion carries. **Approved/Consent Calendar (VOTE: 6-0-0-0)**

**IR 2155, Accepting the donation of certain lands now owned by Paul and Sandra Graf and transferring such lands to the Suffolk County Department of Parks, Recreation and Conservation for tidal wetlands protection purposes - Moriches Bay County Park addition (BR 68) (SCTM No. 0200-917.00-03.00-012.000) (County Executive).**  
Brief explanation, or do we even care?

**MR. NOLAN:**

We're getting land donated to us, about .2 -- no .02 acres.

**LEG. MONTANO.**

.02, that's a very small --

**MR. NOLAN:**

It's very small.

**CHAIRMAN MONTANO:**

It's a very small parcel. The tax consequences would be insignificant. All in favor? Opposed -- is there a motion?

**LEG. CALARCO:**

Motion.

**CHAIRMAN MONTANO:**

Motion by Legislator Calarco. I'll second it. All in favor? Opposed? Abstentions? Motion carries. **Approved (VOTE: 6-0-0-0)**

**IR 2156, Accepting the donation of certain lands now owned by Joseph Gazza and transferring such lands to the Suffolk County Department of Parks, Recreation and Conservation for Pine Barrens Core Protection purposes – Dwarf Pine Plains County Nature Preserve addition (SH03) (SCTM. Nos. 0900-308.00-02.00-009.000 and 0900-332.00-03.00-011.000) (County Executive).** I'll make a motion.

**LEG. CALARCO:**

Second.

**CHAIRMAN MONTANO:**

Second by Legislator Calarco. Is this a large piece?

**MR. NOLAN:**

It's small pieces.

**CHAIRMAN MONTANO:**

All in favor? Opposed? Abstentions? Motion carries. **Approved (VOTE: 6-0-0-0)**

**IR 2157, Accepting the donation of certain lands now owned by Franklin Faye and transferring such lands to the Suffolk County Department of Parks, Recreation and Conservation for Pine Barrens Core Protection purposes – Warbler Woods County Park addition (BR40) (SCTM Nos. 0200-529.00-04.00-004.000 and 0200-529.00-04.00-035.000) (County Executive).** I'll make a motion. Second by Legislator Calarco. Any other motions? Discussion? All in favor? Opposed? Abstentions? Motion carries. **Approved (VOTE: 6-0-0-0)**

We're on the last page.

**IR 2158, Accepting the donation of certain lands now owned by Patricia Doran and transferring such lands to the Suffolk County Department of Parks, Recreation and Conservation for Pine Barrens Core Protection purposes – Warbler Woods County Park addition (BR40) (SCTM Nos. 0200-529.00-04.00-013.000 and 0200-529.00-04.00-027.000) (County Executive).** I'll make the motion. Second by Legislator Calarco. Any discussion? All in favor? Opposed? Abstention? Motion carries. **Approved (VOTE: 6-0-0-0)**

**IR 2159, Accepting the donation of certain lands now owned by Alan and Florence Wilson and transferring such lands to the Suffolk County Department of Parks, Recreation and Conservation for Pine Barrens Core Protection purposes – Hampton Hills County Nature Preserve addition (SH05) (SCTM No. 0900-215.02-01.00-060.000) (County Executive).** I'll make the motion. Second by Legislator Calarco. Motion then seconded. All in favor? Opposed? Abstention? Motion carries. **Approved (VOTE: 6-0-0-0)**

**IR 2160, Accepting the donation of certain lands now owned by Manoutchere Baravarian and transferring such lands to the Suffolk County Department of Parks, Recreation and Conservation for Open Space Preservation purposes – VA Veterans County Park addition (HU16) (SCTM No. 0400-053.00-02.00-030.000 p/o) (County Executive).** I'll make the motion. Second by Legislator Calarco. All in favor? Opposed? Abstentions? Motion carries. **Approved (VOTE: 6-0-0-0)**

**IR 2161, Calling for a public hearing for the consent to the acquisition of additional land at Sea Breeze Avenue, Town of Southampton, County of Suffolk, State of New York, by the Westhampton Cemetery Association for cemetery expansion purposes (Schneiderman).** I'll make the motion. Second by Legislator Stern. Any discussion? All in favor? Opposed? Abstentions? Motion carries. **Approved (VOTE: 6-0-0-0)**

IR 2165, I think we tabled that for a technical correction.

**IR 2166, Setting date for Special Election to fill vacancy in the 1st Legislative District (Horsley).** I need a motion.

**LEG. KENNEDY:**

Motion to table.

**CHAIRMAN MONTANO:**

Motion to table by Legislator Kennedy. Second by Legislator Stern. Motion to approve by Legislator Lindsay.

**LEG. STERN:**

No, no, no, no. Nowick seconded --

**P.O. LINDSAY:**

Nowick seconded the table motion, and I'm making a motion to approve.

**CHAIRMAN MONTANO:**

Isn't that what I said? All right. Let me do it wrong. Let's do this again, guys. All right. Motion to table by Legislator Kennedy. Second by Legislator Nowick. Motion to approve by Legislator Lindsay. Who is the second?

**LEG. STERN:**

Second.

**CHAIRMAN MONTANO:**

Legislator Stern. The resolution is before us. Before we have discussion, I have a memo from -- it says, yes -- make sure that the -- I don't want to read this.

**LEG. KENNEDY:**

On the motion.

**CHAIRMAN MONTANO:**

On the motion, Legislator Kennedy.

**LEG. KENNEDY:**

First, for my colleagues I just circulated a letter from now Supervisor Romaine, our colleague, through two days ago in which he speaks specifically about the first legislative district, and quite frankly, as somebody who served that district for the last 23 years, I hold great weight. I heard the gentleman speak earlier today. Each and every one of us, I think, is mindful and cognisant of the needs, desires, and prerogative of our constituents, but it is not uncommon for us individually to leave office or to come into office through a term. In fact, the 12th legislative district was without a legislator when former Legislator, now judge, Crecca stepped out and I succeeded him in a special election. So our citizens do wind up getting the benefit of representation. Legislator Romaine's staff is there in the office and quite frankly each and every one of us, I know, quite often shows comity, discretion, and assistance when it comes to the needs of citizens in a particular legislative district when there is no legislator present.

I think the issue here at hand is very clear. It's very simple, and it's crystal clear. It's about money. The Brookhaven Town Board is forming a resolution today which will have four sponsors which will reduce the town code provisions for the minimum to institute a special election from 60 days to 45 days, making the highway superintendent vacancy and the vacancy for the first legislative district legally and practically possible for February 19 and quite frankly all we hear around here every day is how bad off things are monetarily, and so if we can save a 100,000 we should do it.

**LEG. NOWICK:**

Can I ask a question?

**CHAIRMAN MONTANO:**

I'm sorry, Lynne. I have Legislator Calarco next, so I'll put you on after Legislator Calarco. Legislator Calarco.

**LEG. CALARCO:**

I appreciate Legislator Kennedy's concerns for putting the two upcoming special elections together at

one time, if possible. Unfortunately, we know right now the time constraints don't allow that. And the Town of Brookhaven, their law regarding when the vote must be held, was passed by referendum, so while I understand the town may be looking at it, I know well the town supervisor in the Town of Brookhaven always stood for making sure that laws that were passed by referendum were only altered and amended by referendum. I don't think that we would have the ability to do that before that timeframe, which puts us in a tough spot. So I think we should move forward. We should have this vote as quickly as possible. Let's hold the election. Let's get the residents of the First Legislative District as soon as possible so that they don't go unrepresented on this body.

**CHAIRMAN MONTANO:**

If I may, Legislator Calarco, does that also apply to term limits, referendum.

**LEG. NOWICK:**

No.

**LEG. CALARCO:**

We're not discussing term limits right now.

**CHAIRMAN MONTANO:**

I just want to hold you to your comments.

**LEG. KENNEDY:**

Through the specific point of referendum, Mr. Chair --

**CHAIRMAN MONTANO:**

By the way, when you get a chance, could you send those comments over to me? Legislator Nowick is next on the list.

**LEG. NOWICK:**

Legislator Calarco just gave me another question. Just to make sure of what you said, Legislator, the town board, it doesn't matter if they pass that resolution; it still has to go to referendum to change?

**LEG. CALARCO:**

There may be some debate among the legal experts on the issue, but I know it was passed by referendum. It is my opinion, anyways, if it was passed by referendum, it should take another referendum to alter the way the law works.

**LEG. NOWICK:**

Would there be -- I don't know if our counsel can answer that. Can you answer that? You're talking about the Town of Brookhaven's -- okay, not the County.

**LEG. CALARCO:**

Right.

**LEG. NOWICK:**

Does anybody know when designating petitions are starting to be signed?

**CHAIRMAN MONTANO:**

There are no petitions because it's special election.

**LEG. NOWICK:**

You don't need petitions -- you just do a special?

**CHAIRMAN MONTANO:**

It's done by the County committee. It's generally done by the chairperson or the executive committee, so there are petitions unless someone runs as an independent, which can be done, right?

**MR. NOLAN:**

Correct, you can do an independent.

**LEG. NOWICK:**

The only thing I can say is, and why I'm supporting the tabling, we have two pieces of legislation. My concern is the cost of running a special election. The board of elections has everybody working overtime. I know personally some of the people on the board of elections work six in the morning until nine at night, and by the way, we're paying for that. If there is any chance where we can put two elections together, I think it's our responsibility to do that. The board of elections is just -- overtime is running out of control. It's not their fault. It's just these elections are costing so much money. So I'm hoping that we can get an opinion. If the town board can do that. It's just -- it's just out of control. If we can facilitate one election, it's our responsibility, as legislators, to do that, I think.

**CHAIRMAN MONTANO:**

Was that a question to Legislator Calarco?

**LEG. NOWICK:**

I think we went through the question.

**CHAIRMAN MONTANO:**

I think he wanted to respond, correct? Was it a question?

**LEG. CALARCO:**

I was just going to say on the monetary issue, I know that that paper puts it at \$100,000, I think our commissioner, anyways, for the board of elections, is putting it at 25-5 for the extra cost to hold it as two separate elections because it's only about 17 election districts in the Town of Brookhaven that are in the first legislative district. The bulk of that district resides in Southold and Riverhead and, for that matter, Shelter Island, I believe, has a couple that are going to be affected by this race.

So we were talking, there is some overlap. It's minor. It's not \$100,000 cost as was reported in the paper. I'm being told it's more along the lines of 25,000, and legally we just don't have the timeframe. I mean, that's the way it looks. Our loss says it has to be within a certain timeframe. Legislator -- well, now Town Supervisor Romaine took office on Monday. We have a gap in terms of what we can be held -- hold our election as compared to when Brookhaven Town highway superintendent steps down and when that election must be held.

**LEG. NOWICK:**

Having said that, one person is saying 25,000; another person is saying 100,000. One person is saying you can have a special election; the other person is saying you can't have a special election. So we have two pieces of competing legislation. If we, and I don't know if my colleagues would want to do this, if we discharge both of them without recommendation, brought the board of elections in, got some answers when we're in session on Tuesday, maybe we can make a decision based on more facts. So if that's okay, I'll make a motion to discharge -- discharge without recommendation.

**CHAIRMAN MONTANO:**

We need a second on that.

**LEG. KENNEDY:**

I would support that. I would second that motion. I think Legislator Nowick, as a matter of fact, points out the fact that there is a different amount of information before us. The Board of Elections, our commissioner, the republican commissioner's office was very clear that it was approximately \$100,000. As to the referendum question, I appreciate Legislator Calarco bringing that up, but the language of the referendum is general language. It is not date specific, and the timeframes established in Brookhaven Town were by local town resolution; therefore, the local town board retains the authority to modify those terms and can reduce the minimum from 60 days to 45 days. So it is practical and, as a matter of fact, a little expeditious to go ahead and allow both these elections to hold on the same day, even if we were to go to the democratic commissioner's assessment of only 25,000. Quite frankly, we have to wrap change to make payroll. We should save anything, and this is a way to save money.

**CHAIRMAN MONTANO:**

All right. Legislator Stern on the list.

**LEG. STERN:**

Yeah. Just to maybe expand on Legislator Calarco's citing of the numbers, I agree. These are small numbers in terms of overall geography that we're talking about here. In the first legislative district, the parts of Brookhaven Town that we are talking about, it's only about six percent of the overall electorate. So we are talking about a relatively small number, but I think more importantly than the numbers is the fact that there is a referendum that was passed by the voters of the Town of Brookhaven. Regardless of process going forward, the fact is that the voters of the Town of Brookhaven passed a referendum. This is the law on their books. We have a letter here from the supervisor that says that Brookhaven Town stands ready to amend its Town rules. I don't know how they're going to do that, but it seems to me that if the voters of the Town Of Brookhaven spoke very clearly on what is clearly a town matter, then what we do here would overturn passed a public referendum passed by the voters on what is a town issue. I don't know if I'm ready to make that decision for the voters of the Town of Brookhaven on a town platter at this body. If it's something that they think is important to do at the town level, they're certainly free to do it, but I don't think it's our place -- it shouldn't be our place to overrule what is clearly the will of the voters of the Brookhaven Town on a town matter.

**LEG. KENNEDY:**

Mr. Chair.

**CHAIRMAN MONTANO:**

Hold on, hold on. No, we're going to go in order. I'll let you respond later, Legislator Nowick. Oh, I think John actually spoke before you. Would you yield to Legislator Kennedy?

**LEG. NOWICK:**

Sure.

**CHAIRMAN MONTANO:**

Legislator Kennedy, I apologize for that, go ahead; and then Legislator Nowick.

**LEG. KENNEDY:**

Thank you, Legislator Nowick. You know, I think the importance and the essence of what we're looking at here is is that actions on our part that would somehow subvert or undermine what the residence of the Town of Brookhaven embraced when they adopted this referendum in 2004. Quite frankly, the process in the Town was something that a majority of the voters rejected which was when there were vacancies, there was appointment. As a matter of fact, the coy term was called "anointment by appointment" because when a town council member would step out, the majority of

the remaining town councilman would select an individual, place them on town board, and they had never had to stand before the electorate in any way, shape, or form.

The referendum was brought forward, and I'm getting the specific language for my colleagues here that will show that what was placed before the voters was should the town of Brookhaven adopt an election process to fill the vacancies, and that was it. It was subsequently implemented by an action of the then-sitting Brookhaven Town Board. How they went about selecting the min and the max, I'm not in the mind of a Brookhaven Town Councilperson, but, pragmatically speaking, to be able to harmonize these two dates, again I will keep coming back to the most basic simple element before us. There is savings to be achieved. There is only one legislative meeting that that first legislative district would not have a member in. Quite frankly, we just voted other than the agenda on 2129, which was a parcel from the first legislative district. I do not believe that those residents will be disenfranchised or implemented -- impacted in any way by having harmonized dates for election in which we saved money.

We're talking about good government. Look there's an element of republicans and democrats here, but nevertheless ultimately we're asked to come to govern properly, wisely, and in the best interest of the taxpayer. It's in the best interest of the taxpayer to save money. That's why I put it forward.

**CHAIRMAN MONTANO:**

Okay. Is there anyone else who wants to weigh in? Legislator Nowick, you were next right.

**LEG. NOWICK:**

I yielded.

**CHAIRMAN MONTANO:**

What was that?

**LEG. NOWICK:**

I yielded.

**CHAIRMAN MONTANO:**

Yeah, I forgot. I apologize for that.

**LEG. NOWICK:**

Just one thing. We're sitting here debating what the Town of Brookhaven can do or not do. Why don't we bring the Town of Brookhaven attorney in to tell us what their laws are? Because how can we sit here -- we don't have jurisdiction over the Town of Brookhaven. Let's bring them in. Ask them the questions. As far as that one meeting goes, traditionally -- I mean, I'm here going on my 12th year, that February meeting is a very short meeting. I don't even believe there's -- probably there are not going to be any pieces of legislation from that district because there's no representative introducing them. Let's just bring them in and ask the questions. Discharge both of them without recommendation and ask the experts the questions. The Town of Brookhaven attorney, let's hear what he has to say.

**CHAIRMAN MONTANO:**

Okay. Let me weigh in. Anyone else?

**P.O. LINDSAY:**

Yeah.

**CHAIRMAN MONTANO:**

Legislator Lindsay.

**P.O. LINDSAY:**

I don't ever recall us not making a decision that's within our purview and asking the town if it's okay to do it. You know, I think it's highly irregular. I think for us to take this action where we're going to postpone our duty, to set the date for special election, depending on a promise that the town is going to do something. I just don't -- I don't feel right about that.

As far as the money issue is concerned, we both know -- everybody here knows that the board of elections is a political body and that it's represented by both sides of the aisle. And the democratic commissioner tells us that there's only 17 EDs that this affects, and the numbers being bantered around of \$100,000 is much, much exaggerated. So, I mean, you guys have your numbers. I got my numbers. That's what I have to go by, and for them to come here and to say "I'm right" or "you're right," I don't see that being productive.

And as far as the monetary amount, the reason to save money is a little irony here in that Legislator Kennedy wants to save money, and that's a worthwhile thing, but, John, in all due respect if you want to save money, why are you suing the County? That's costing us tens of thousands of dollars. I know it's a different issue but let's be consistent.

**LEG. KENNEDY:**

Mr. Chair, look, I have nothing but the greatest respect for you, but I'd ask you why are you here today as an ex-officio? Because that was the subject of a lawsuit as well, and you're here basically because the political counter on this horseshoe might not go the way the majority wants it to go. I will not speak about the lawsuit because I was specifically chastened by you at the last general meeting that I could not talk, and you, better than anybody, know exactly why I'm a plaintiff. I fought this fight for eight years, and it's only in the last three months that I stepped in to be a plaintiff. I did it the way I was supposed to do it. I did it because I believe that the legal interpretation furnished by the County attorney wasn't worth the paper it was printed on. So I highly object to you raising that as an issue and questioning my attempt to go ahead and effectuate savings. If that's the will of the majority, to go ahead flutter away taxpayer expenses, then say it on the record.

**CHAIRMAN MONTANO:**

Let me jump in because we have to two executive sessions. Very quickly, my position is that while I would like to see both elections held at one time, the reality is that at this point in time, it's not legally possible, Legislator Kennedy. If that were to change, then, you know, obviously, we can change directions.

We have a motion to table -- no, we have a motion to discharge without recommendation and a motion to table. Do you want to withdraw the motion to table, John?

**LEG. KENNEDY:**

Well, I want to have some question with my colleagues here, quite frankly.

**CHAIRMAN MONTANO:**

We have three motions. We have a tabling, discharge without recommendation, and approval.

**LEG. KENNEDY:**

I'll withdraw the table -- well, no, I won't withdraw the tabling yet because, quite frankly, my vote on this is dependent upon a willingness of this committee to afford the same accommodation for my resolution.

**CHAIRMAN MONTANO:**

All right. Well, we're going to get to your resolution. Go ahead, Legislator Calarco. You have a question?

**LEG. CALARCO:**

Yeah. I want to know who made the motions.

**CHAIRMAN MONTANO:**

The motion to table was made by Legislator Kennedy. It was seconded by Legislator Nowick. The motion to discharge without recommendation was made by Legislator Nowick and seconded by Legislator Kennedy. The motion to approve was made by Legislator Lindsay, and I think it was seconded by Legislator Stern; am I correct?

**MS. ORTIZ:**

Yes.

**CHAIRMAN MONTANO:**

Pretty good, huh? That is good. Impressive. All right. Can we take a vote?

**P.O. LINDSAY:**

We have to vote on all three of them.

**CHAIRMAN MONTANO:**

Well, not at one time. We've got to vote one at a time, so we are going to do a tabling motion first. All in favor of tabling?

**LEG. KENNEDY:**

I'm in favor.

**CHAIRMAN MONTANO:**

All right. You're in favor. Lynne, are you in favor?

**LEG. NOWICK:**

I made the motion to discharge without recommendation.

**CHAIRMAN MONTANO:**

I know so -- wait.

**LEG. KENNEDY:**

You know what? Withdraw the motion to table. We'll do the motion to discharge without recommendation?

**CHAIRMAN MONTANO:**

Withdraw the motion to table. Let's do the motion to discharge without recommendation. All in favor of discharging without recommendation? I will support that. John, Lynne, anyone else? All right. Three votes. Opposed?

**P.O. LINDSAY:**

Opposed.

**LEG. STERN:**

Opposed.

**LEG. CALARCO:**

Opposed.

**CHAIRMAN MONTANO:**

We have three votes. It fails. We have a motion to approve. Call the vote. All in favor of motion to approve? So that's four, right? And two opposed. **Approved (VOTE: 4-2-0-0, opposed: Nowick, Kennedy)**

Now we have **IR 2168, Setting date for Special Election to fill vacancy in the 1st Legislative District (Kennedy)**. John, you have a motion?

**LEG. KENNEDY:**

I have a motion to approve.

**CHAIRMAN MONTANO:**

Motion to approve. Second by Legislator --

**LEG. NOWICK:**

What if we make a motion to discharge without recommendation?

**LEG. KENNEDY:**

No, I'm sorry. Right, right.

**CHAIRMAN MONTANO:**

Motion to discharge without recommendation made by Legislator Kennedy. Second by Legislator Nowick.

**LEG. KENNEDY:**

Through the chair, I mean, basically, I've made all my arguments for this resolution, and quite frankly, I will put before my colleagues the language associated with the referendum that I will put before you by Tuesday, the resolution of Brookhaven Town to go ahead and to adopt.

**CHAIRMAN MONTANO:**

Right. That's my point. In order to -- right now, we don't have any of that language. It's just as speculative as Judge Fitzgibbon's resignation.

**LEG. KENNEDY:**

Yes.

**CHAIRMAN MONTANO:**

So it's been the same legal limbo. If this issue is resolved by Tuesday, then you can bring that forward to the Legislature; then you could argue it then. I don't think it's appropriate to argue it now.

**LEG. KENNEDY:**

I won't argue it now, Mr. Chair, but I do need, because the Presiding Officer is here, four votes in order to go ahead and have it leave this committee.

**CHAIRMAN MONTANO:**

I doubt you're going to get four votes, but I'll call the vote. All in --

**LEG. KENNEDY:**

I would ask my colleagues to support it based on the fact that this is not something where we are being subject to the town. In fact, what we are doing is we are making every effort to be responsible. Finally, the date that's on this resolution is within the window of what is permissible under our County charter and code. I'm not asking for anything that's not legal and legitimate and

binding on something we adopted and acted.

**CHAIRMAN MONTANO:**

I understand. Are there any other comments? All right. Motion to discharge without recommendation. All in favor? Legislator Kennedy, Legislator Nowick. I will support that. Anyone else? No. All opposed? We have three oppositions: Legislator Lindsay, Legislator Stern, and Legislator Calarco. **The motion fails.**

We're going to go into executive session.

**LEG. NOWICK:**

What about that --

**CHAIRMAN MONTANO:**

Well, we have the passover. Do you want to do that now, or do you want to do it later? Why don't we talk about it in executive session?

**P.O. LINDSAY:**

Weren't you going to call the attorneys?

**CHAIRMAN MONTANO:**

Yeah. Just for the purposes -- just to be clear, just for the purposes of whether he wished it to be tabled. I'll do that during the executive session. We'll come back after executive session.

Right now, I need a motion. I'll make the motion. Second by Legislator Stern. We're going to go into executive session to discuss two cases. I'll put them on the record. First case is Jamal Walker versus County of Suffolk, and the second case is Mary Quinn versus County of Suffolk.

We'll adjourn we're going into executive session we'll be back as soon as we can. It's unanimous. I don't know if I called the vote.

**(Committee entered executive session at 11:55 a.m.)**

We're back in session after executive session. We approved a settlement in which case -- it wasn't the first one, it was the second one, I think. I think we -- we'll reconsider Walker; am I correct? No. We approved the settlement of Jamal Walker versus County of Suffolk.

**P.O. LINDSAY:**

Does that have a number?

**CHAIRMAN MONTANO:**

No, it doesn't have a number. It has an amount, which I'm not going to put on the record, but we approved the settlement in that case.

Quinn versus County of Suffolk, we're going to reconsider that, hopefully, in two weeks.

There being one further item on the agenda, and that is **IR 2005, Adopting Local Law No. -2012, A Charter Law making certain technical changes to Legislative Reapportionment Plan (Gregory)**. I'm going to make a motion to approve. I need a second.

**P.O. LINDSAY:**

I'll second.

**CHAIRMAN MONTANO:**

Second by Legislator Lindsay. Any other motions? John, did you have a motion on that?

**LEG. KENNEDY:**

Which one was that?

**CHAIRMAN MONTANO:**

On the redistricting amendments. I thought there was a motion. Renee, was there a motion on that?

**LEG. KENNEDY:**

I thought there was a motion. I just wanted to get from counsel that this was something that is not limited just to this one district in this one matter.

**CHAIRMAN MONTANO:**

We don't know that because we're not privy to any of the conversations between Counsel. What happened here was that the County Attorney was representing the County in the lawsuit. The County Attorney farmed the case out to special counsel, which I think is Tom Cleary; is that correct? Tom Gary (ph). Why he did that, I'm not quite sure. I don't think that there was a conflict, but, in any event, the County is now being represented by outside counsel. Mr. Moore had requested that it be tabled. He has withdrawn his request. Whatever discussions they had is between them.

**LEG. KENNEDY:**

George, if there's another district that's in question, is there a possibility to file a resolution to have the same type of outcomes?

**MR. NOLAN:**

I'm not sure I understand. In terms of changing the plan, the redistricting plan?

**LEG. KENNEDY:**

Yes.

**MR. NOLAN:**

It does open the -- there is the possibility that another legislature could do that, sure.

**CHAIRMAN MONTANO:**

In fact, wait a minute, just to be clear. John, I asked that specific question at the last meeting, and the answer was that up until the time that the election is held, anyone can make changes to -- can propose changes to the legislative redistricting plan. I'm not --but I'm not going to debate that now.

**MR. NOLAN:**

Let me just say, the fact that there is a lawsuit pending, that the passage of this particular resolution could ultimately lead to the resolution of that lawsuit makes it a stronger case that this is -- we can do this, we have the authority to do this.

**CHAIRMAN MONTANO:**

Yeah, and I agree. The issue to me is whether or not we should entertain this before they reduce their settlement to writing, but that's not our job. That's their job. My job is not to give someone else advise on how to handle a case or not handle it. You know what I'm saying? It's not our job, John.

**LEG. KENNEDY:**

So this is a simple motion to approve?

**CHAIRMAN MONTANO:**

A simple motion to approve. The only reason I made the tabling was I was requested to by the counsel to one of the parties since I'm the chairman of the committee, and he wanted his intentions known. And I told him I couldn't guarantee it would be tabled.

**LEG. KENNEDY:**

I'll just oppose it.

**CHAIRMAN MONTANO:**

All right. All in favor? One opposed.

**LEG. KENNEDY:**

Opposed.

**CHAIRMAN MONTANO:**

Lynne, you're not opposed, right?

**LEG. NOWICK:**

This is to the --

**CHAIRMAN MONTANO:**

To the resolution changing the redistricting for, I think, the 15th legislative district, and what other district is affected? Because where you give to one, you've got to take from another.

**MR. NOLAN:**

I think it involves two other districts, a total of five election districts between three legislative districts.

**CHAIRMAN MONTANO:**

All right. Let me ask a question in terms of deviation rate. Does this effect in any way the deviate rate for these districts? Or is this like purely --

**MR. NOLAN:**

It keeps -- I think it -- all the districts stay within the deviation rate, the permissible deviation rate.

**CHAIRMAN MONTANO:**

Okay. The deviation rate was within three percent. All right. Any further questions? Yes, Lynne.

**LEG. NOWICK:**

I'm sorry. Just a quick question. This is going to change what we did maybe several months ago, correct?

**CHAIRMAN MONTANO:**

Right, but it only affects the Town of Babylon. It doesn't affect your district, my district, or any other proposed district.

**LEG. NOWICK:**

But will it set some type of a precedent if we do this?

**CHAIRMAN MONTANO:**

We can change at any time we want. There's no precedent. Once we have an election, or once, I guess, the local calendar is set, then we're stuck. Okay. All in favor? One opposed. No abstentions.

**LEG. CALARCO:**  
Abstain.

**LEG. NOWICK:**  
I'll abstain.

**CHAIRMAN MONTANO:**  
Then it doesn't pass.

**MS. ORTIZ:**  
Yes, it does.

**CHAIRMAN MONTANO:**  
Well, we have three abstentions: Legislator Kennedy, Legislator Calarco, Legislator Nowick.

**LEG. KENNEDY:**  
I'm opposed.

**CHAIRMAN MONTANO:**  
One opposed, two abstentions. The motion fails.

**LEG. CALARCO:**  
I'll vote for it.

**CHAIRMAN MONTANO:**  
You can't. I already called the vote. You want to reconsider?

**LEG. CALARCO:**  
She didn't call the vote. I'll vote for it.

**MS. ORTIZ:**  
I was getting clarification, so I didn't take the vote.

**CHAIRMAN MONTANO:**  
Well, I'll abstain; how's that? No, no, no. Let it go through. We've had a long day. So it's four to two. Renee, the vote is not official until you call it.

**MS. ORTIZ:**  
I call the vote four, one, one.

**CHAIRMAN MONTANO:**  
One abstention, one opposed, four in favor. Okay. **Approved (VOTE: 4-1-1-0, opposed: Kennedy, abstain: Nowick).**

**(Meeting adjourned at 12:44 p.m.)**