

WAYS AND MEANS
COMMITTEE
of the
SUFFOLK COUNTY LEGISLATURE
Minutes

A regular meeting of the Ways and Means Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, Veterans Memorial Highway, Smithtown, New York, on July 24, 2014.

MEMBERS PRESENT:

Legislator Steve Stern - Chairman
Legislator William Spencer - Vice-Chair
Legislator Robert Calarco
Legislator John Kennedy
Legislator Kate Browning

ALSO IN ATTENDANCE:

Legislator DuWayne Gregory - Presiding Officer
George Nolan - Counsel to the Legislature
Sarah Simpson - Assistant Counsel to the Legislature
Lora Gellerstein - Chief Deputy Clerk of the Legislature
Debbie Harris - Aide to Legislator Stern
Bill Shilling - Aide to Legislator Calarco
Robert Lipp - Deputy Director - Budget Review Office
Tom Vaughn - County Executive's Office
All other interested parties

MINUTES TAKEN BY:

Gabrielle Severs - Court Stenographer

*(*The meeting was called to order at 12:40 p.m. *)*

CHAIRMAN STERN:

Good afternoon, everyone, and welcome to the committee on Ways and Means. I'm going to ask everybody to please rise and join us in the Pledge of Allegiance led by Legislator Calarco.

(*Salutation*)

I'm going to ask everybody to please remain standing and join us in a moment of silence as we keep all of our brave men and women fighting for our freedoms overseas in our thoughts and prayers.

(*Moment of Silence Observed*)

Thank you.

Good afternoon, everyone, and thank you for being with us today. I have one card for our public portion, Bob Deluca. You have three minutes.

MR. DELUCA:

Thank you. Good afternoon. My name is Bob Deluca, and I serve as president of Group for the East End, and I'm here to lend support for IR 1574. This is the ballot proposition for the change for the change to the drinking water protection program. Just briefly, we believe that -- we hope that you will discharge this bill, and we also hope that you will lend your support to it. We feel it removes the ambiguity that currently existed regarding the need for public referendum and clarifies that once and for all, puts that to the public. We believe it allows the public to agree on the restoration of \$29.4 million that was previously redirected from the drinking water program without public referendum and rededicate that funding: \$20 million for land protection, \$4.7 million for wastewater infrastructure, and \$4.7 million for non-personnel 477 funding.

Those three areas of the program are desperately in need of support, and we think asking the public whether they think that's an appropriate place to restore the money makes sense. It also allows the public to decide to ratify the wastewater infrastructure fund, which is a vital component to the program but not ratified by the public and created without public approval, which would allow for infrastructure upgrades to some of the most significant in need sewage treatment plants across the county. It also puts a final date on the use of any funding from the ASRF for general obligations and would require a specific payback period enumerated in the law and allows the public to decide on that.

At the end of the day, we feel that this resolution allows the public to go back and tell us what it is that they want done with that fund. It restores credibility to the program, and it restores funds to the most -- to those portions of the program which are most desperately in need of funds now, which is why, of course, we support it and ask that you would discharge it from committee today. Thank you.

LEG. STERN:

Very good. Thank you. Okay. I do not have any other cards as part of the public portion. Is there anybody else who would like to speak?

MS. ESPOSITO:

Good afternoon, Members of the Legislature. My name is Adrienne Esposito. I'm the executive director of Citizens Campaign For The Environment I'm also here to support the drinking water

protection resolution that is before you for a number of the same reasons, but the bottom line is that we believe that this compromise that has been worked out over numerous months, over the last six or seven months, does a couple of things. It restores the public's confidence in the program. It restores the funding back into the program. It also allows for the county to have access to do limited borrowing to the year 2017 at a no interest rate, something, after reading about the county's deficit, I would hope would be somewhat appealing to you and to the public. It also allows for the county to keep the commitments on the sewer infrastructure that you've already made; for instance, Bergen Point, Patchogue, Northport, and Riverhead. So those are four areas we identified as being priorities, and we would love to be able to keep the commitments to upgrade and in some cases expand those facilities, a very important part of our local economies as well as public health and environmental protection.

So this is, we think, a reasonable way to go forward. Alls this resolution does is put it on the ballot and allow the public to decide, once again, how their money is allowed to be utilized and appropriated for county purposes in Suffolk County.

Now I have spoken go a number of legislators who said, Well, maybe we could have done this, maybe we could have done that; and that's true, and we understand that; but I want to say this is the proposal we have. It prevents two other lawsuits from going forward. Some have told me that they think that they would win in court. That may be true, but that may be false, and I think we all know that we think what would happen in our courts, but we don't always know what will happen. This is a known remedy that we're going to put before the voters. It will solve our problems; then we can move forward together and collectively. And all those other ideas that many have already put forth to say, We could have done this, we could still do all those things and we still want to. Okay. We have lots of things to do. This doesn't preclude any of the great ideas that others have raised and put forth; and, in fact, we look forward to flushing those out, no pun intended, and working with you to materialize those and implement those. That would be great. Alls this does is it solves one problem and gets us going here in the millennium. Thank you so much.

LEG. STERN:

Legislator Spencer.

LEG. SPENCER:

Adrienne, I'm curious about your opinion. I see the environmental community supporting this, and I'm sure you're familiar with the New York State -- how come they're able to take environmental money and spend hundreds of millions of dollars for the bridge? Is there the same outrage over that?

MS. ESPOSITO:

The answer is my organization's position, who has been engaged in a large coalition throughout the State of New York opposing that raid of funds. It is a section of funds, the State Revolving Loan Fund. The state originally wanted \$500 million to do the dredging for Tapanzee Bridge. We feel it's a completely inappropriate use. We have more than enough needs throughout the State of New York to upgrade antiquated sewage infrastructure. Because of the outrage, the state decreased their ask to 250 million, which they then granted themselves. I could go on about this ad nauseam. We believe it was inappropriate. I believe they may have get sued, but it was the wrong thing to do.

LEG. SPENCER:

Okay. I just don't -- I know that it's separate. I understand that we are a small municipality, but I could see that the optics of that money used having an impact potentially on just the public perception of this referendum. I don't know if it will be positive or negative, but I'm hoping that the

same concerns are being raised with the state and it sounds like --

MS. ESPOSITO:

Oh, boy, they are.

LEG. SPENCER:

-- they are. But, you know, we took 29 million and if you look at a proportion of what they're doing, it's kind of along the same lines, and so the same logic in terms of if there was an action that went forward in terms of what happened in Suffolk County, it would kind of have to apply to what New York State is doing too.

MS. ESPOSITO:

Look, your analogy is not wrong. Your analogy is correct. They raided the fund. We believe they did so illegitimately. They did it for an ancillary project that they're equating to water protection. It's kind of relative, but there is one very important distinction. In Suffolk County, the public voted on this use of money, so this funding, our funding here, is appropriated and dictated by that public vote. With the state funds, those moneys come from federal dollars and also from the interest paid on the loans. It's a self-fulfilling fund, but it also is replenished each year by federal dollars. Eleven percent of all federal dollars appropriated for sewage treatment infrastructure go to New York State into that fund. And for them to raid that fund for dredging of a bridge, frankly, is just wrong. We're hoping that gets fixed. Two wrongs don't make a right.

LEG. SPENCER:

I definitely agree. I think that some of the other concerns, and you addressed that in your statement, but I want to kind of just get a little more specific. When you talk about referendums and public perceptions and opportunity, and I know with that economy that with any spending, taxes, whatever, most legislatures are loathe to consider any sort of increase in spending, but there are two areas where there is a little consideration that you have actually taught me privately and that is when it comes to environmental protection and when it comes to public protection, which is one of the reasons we're able to get funding to do things with our police and things.

As far as just as potentially a missed opportunity that, you know, even there's some tolerance, that tolerance is very limited. When we say that we could do other things in the future, when we're going to this referendum option, we're really going to the public, and no matter how we wrap it up and caption it, we're saying, you know what, we're asking for this money and since that it's a one-shot, should there have been more consideration and perhaps putting in some sort of recurring revenue stream that we could gleam from this referendum that we should put forward?

MS. ESPOSITO:

I guess my honest answer to that is that I wouldn't mix the two. So, for instance, this referendum, providing you all vote "yes" and it moves on, allows the public to just stay focused on this one. This is not an increase. It's already an existing quarter-cent sales tax program that was implemented back in the 80s, so there's no increased cost to the public. However, your issue is, well, what about additional monies that we may need, and I think that that's something that we have to work out collectively and eventually will end up asking the public, I think. But I wouldn't mix those two or marry them right now; one fixes an existing problem, and the other one would be hopefully to craft a new program that would need to have public support but we would have to do with that with additional public education.

LEG. SPENCER:

As usual, your perspective and thoughts are enlightening. Thank you very much.

MS. ESPOSITO:

Thank you very much. Thank you for the opportunity to comment.

MR. AMBER:

Again, my name is Dick Amber, and I'm with the Long Island Pine Barrens Society, and we're the bad folks that dropped this litigation over the program, and it just seemed both with the county executive and his administration and this legislature's commitment to water protection is a top priority, both in the executive and legislative branches. It was time to put that behind us, and there were many, many reasons for doing that. A lot of people have looked at the specific details. Why didn't we proceed with our initiative and referendum? Why would we agree to abandon that in favor of one advance by the county? Because the total cost to the taxpayer at the end of the day would be somewhere close to \$50 million more if this matter is ultimately decided by a court than it would be if we're able to work out an arrangement. We think, further, that you have an opportunity for a limited period of time to borrow the most favorable rates. That's a challenge. You're constantly balancing the economy and the environment and what it is that you are trying to do; and yet it sets a deadline after which that's not permissible. It's established by the public, and I think, equally important, it also provides for a mandatory payment -- repayment program that means these dollars are going to go back where they came from.

So when you look at all of it, I think it's important. Speaking specifically to Dr. Spencer's concerns, I'm on the board of advocates for a leading statewide organization. We are having discussions concerning litigation with respect to this matter. Quite frankly, it is not just wrong to take the money, but we need it in Suffolk more than we need it to dredge the Hudson. We need those dollars. We need the federal dollars that we're beginning now to see come from Washington for the first time to Nassau and Suffolk County to deal with the water infrastructure problem. It is, I believe, the biggest environmental and economic challenge this legislature and this county and the people will ever face. It's a huge, huge challenge, and we're going to need support at every level, and that includes especially the federal and state government. They have resources beyond ours.

I want to say what's most important to me. I checked in with the county number crunchers just last week and determined that this county, through the drinking water protection program and the other programs, have now exceeded a billion dollars in money for not just open space but drinking water protection dealing with the wastewater problems, these things all comprising the biggest challenge that we're facing. And what I want to say that matters most to us who agreed to this settlement at the initiative of the government is that it is not just a restoration of public faith in government. It is that we're all being taxed at a rate of two and a half times the national average and still the public, on a half dozen occasions, has gone and pushed deliver and now we're filling in little circles with our pencils, but voting to give government more money. We're fighting to control taxes and we're volunteering money and have been since 1988 because this was so important to us and to be able to let the people go and vote this November and say we just want to make sure that we get to say what we do with that quarter penny, which has amounted to a billion dollars, but the people of Suffolk County, not the environmental community but the people of Suffolk County are now in union with their government to deal with this great challenge, something as basic as drinking water. You know, it's said that the biggest, most important function of government officials, elected officials is protecting the public health and welfare, and you're not doing that any more than you are by restoring the quality of Long Island's water. We need to do it, and we need to be partners doing it. We hope you'll be one. Thank you.

LEG. STERN:

Thank you, Dick. Legislator Browning has a question for you.

LEG. BROWNING:

I'm not going to necessarily say it's a question. Mr. Amber, I received a letter from you with regards to this bill, and the position I take on this bill is going to be the position I take, not based on a letter that came from you, and I have to say I'm a little offended by that letter.

MR. AMBER:

Can you remind what that is?

LEG. BROWNING:

The bottom line is, basically, it was your endorsement or support when we run for office.

MR. AMBER:

Well, that's a different organization.

LEG. BROWNING:

Neither here nor there; it has your name on it --

MR. AMBER:

Yes, it does.

LEG. BROWNING:

-- and I am offended. I know we've, in the past, had a good working relationship, and I think my record on environment has been very good, but I just want to make sure that you're aware that whatever I decide is not based on your letter, and I particularly could care less about endorsements based on that letter. So again, I just want to make sure that -- I am offended. I think it was inappropriate, and I will not -- I felt it was a bribe or a threat, and I will not take that. Thank you.

MR. AMBER:

Okay. Well, I do appreciate you raising it, and I'm sorry if you were offended. For those of you who may not be familiar with the letter in question, it was sent by a political action group, the Long Island Environmental Voters Forum, and rather than to be intimidating, what it in fact said was that a previous position taken that we could not support and endorse candidates who had voted to take money from the Drinking Water Protection Program would be resolved if, in fact, you joined in the undoing of that action and that that would, in fact, allow us to all been on the same page. I tried to make that case in my earlier remarks. If I didn't make it clear, I do want to do that now. We should all be in the same place, working with the public and letting the public decide where their money goes, and when we do that, we're all simpatico; and when we don't, there are these conflicts and there have been. Some end up in litigation; some end up in other ways. In this case, we have a choice we can all make just to do the right thing by the people and if we do that, we're all better off.

LEG. BROWNING:

Just to be aware, my vote is not for sale.

LEG. STERN:

I have no other cards. Is there anybody else that would like to address the committee at this time? Seeing none, we'll move to the agenda, beginning with *tabled resolutions*.

1043, Adopting Local Law No. -2014, A Local Law to strengthen policy against dual public salaries (Cilmi). Motion to table.

LEG. SPENCER:

Second.

LEG. KENNEDY:

Opposed.

LEG. BROWNING:

I'm opposed.

CHAIRMAN STERN:

1043 is tabled. (VOTE: 3-2-0-0, Opposed: Kennedy, Browning)

1488, Adopting Local Law No -2014, A Local Law to modify County's Hardship Property Redemption Process (Spencer).

LEG. SPENCER:

Motion to table for public hearing still open.

LEG. CALARCO:

Second.

LEG. STERN:

Motion to table for public hearing by Legislator Spencer. Second by Legislator Calarco. All in favor? Opposed? Abstentions? Tabled. (VOTE: 5-0-0-0)

1558, Amending the rules of the Legislature to maximize public participation in the Legislative Process (Cilmi). Motion to table by Legislator Calarco.

LEG. SPENCER:

Second.

CHAIRMAN STERN:

Second by Legislator Spencer.

LEG. KENNEDY:

On the motion.

CHAIRMAN STERN:

On the motion, Legislator Kennedy.

LEG. KENNEDY:

That's the one for two public hearings. Okay. Thank you.

LEG. STERN:

Legislator Kennedy, you good?

LEG. KENNEDY:

Yes, I'm fine. Thank you.

LEG. STERN:

So we have a motion to table and a second. I'll call the vote. All in favor? Opposed? Abstentions?

LEG. KENNEDY:

Opposed.

LEG. BROWNING:

Opposed.

CHAIRMAN STERN:

IR 1558 is tabled. **(VOTE: 3-2-0-0, Opposed: Kennedy, Browning).**

1574, Adopting Local Law No. -2014, A Charter Law amending Article I of the Suffolk County Charter to require a referendum to amend or repeal the Suffolk County Drinking Water Protection Program (County Executive).

LEG. CALARCO:

Motion to discharge without recommendation.

LEG. STERN:

Motion to discharge by Legislator Calarco. Second by Legislator Browning. Anybody on the motion? I'll call the vote. All in favor? Opposed? Abstentions?

LEG. KENNEDY:

Opposed.

CHAIRMAN STERN:

IR 1574 is discharged without recommendation. **(VOTE: 4-1-0-0, Opposed: Kennedy)**

1583, Authorizing certain technical corrections to Adopted Resolution No. 249-2014 (County Executive). I'll make a motion to approve and place on the consent calendar. Second by Legislator Spencer. All in favor? Opposed? Abstentions? 1583 is approved and placed on the consent calendar. **(VOTE: 5-0-0-0)**

1584, Authorizing certain technical corrections to Adopted Resolution No. 821-2010 (County Executive). I'll make a motion to approve and place on the consent calendar. Second by Legislator Spencer. All in favor? Opposed? Abstentions? 1584 is approved and placed on the consent calendar. **(VOTE: 5-0-0-0).**

1595, Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act John Difilippo, as to a 50% interest and Arthur M. Sartoras, as to a 50% interest (SCTM No. 0800-125.00-02.00-005.000) (County Executive).

Motion by Legislator Spencer to approve and place on the consent calendar. I'll second. All in favor? Opposed? Abstentions? IR 1595 is approved and placed on the consent calendar. **(VOTE: 5-0-0-0).**

IR 1601, Approval of auction rules for the disposition of surplus property acquired under the Suffolk County Tax Act (County Executive). I will make a motion to approve. This is done just in the normal course --

MR. NOLAN:

Annually.

LEG. STERN:

Second by Legislator Calarco. All in favor? Opposed? Abstentions? IR 1601 is approved.
(VOTE: 5-0-0-0).

IR 1630, Directing the County Attorney to examine the feasibility of commencing a legal action to correct inequitable fishing quotas (Schneiderman).

LEG. KENNEDY:

Motion to table.

CHAIRMAN STERN:

Motion to table by Legislator Kennedy.

LEG. SPENCER:

On the motion.

LEG. STERN:

Hold on. Do we have any other --

LEG. SPENCER:

Second.

CHAIRMAN STERN:

Second by Legislator Spencer to get it before us.

LEG. CALARCO:

On the motion.

CHAIRMAN STERN:

On the motion, Legislator Calarco.

LEG. CALARCO:

Yeah. This is just a question for the county attorney's office. If anybody is here, can they answer it? I guess what this is doing is asking if there's any means by which we can somehow insert ourselves into this process. Have you guys taken a look at this at all, and do you have any kind of opinion regarding its viability? Obviously, it's a feasibility study, but do you have any reason to believe we have a legal mechanism to insert ourselves into the process?

MS. BIZZARRO:

We don't know at this point, but we'd be happy to look at it in the event that that resolution passed, but we don't know at this point. We will look at it.

LEG. KENNEDY:

Hold up. Wait a minute.

LEG. CALARCO:

Go ahead. You can have it.

LEG. KENNEDY:

Lynne, that's almost like chicken and egg. If the reso passes, you'll look to see whether or not we have standing. I made the motion to table because I question whether or not we have any ability to challenge what quote is established by the National Fishery Service, I believe it is, which regulates the catch and take for the whole eastern seaboard. You know, I don't have any particular expertise

in this area at all. Don't know the act. I've never learned any of the sections of the federal code. I have no idea who are and aren't parties of interest. I have no idea about, you know, the licensing or the enforcement or any of that at all.

Now, having said that, we have a couple of pretty significant east end commercial fisheries: Montauk and Shinnecock, and as a matter of fact right down here on the south shore, we have Captree and I would very much want to go ahead and support the viability of commercial fishing, but I in no, way, shape or form would want to task you folks with starting the process if, in fact, we had no ability to be part of it at all. Couldn't you at least see -- I mean that's a simple crack in the statue. That shouldn't be too tough.

MS. BIZZARRO:

The resolution itself is just asking us to see if there's any basis under which we can proceed with a lawsuit. That's exactly what the resolution is asking us, so we just haven't -- we've begun some of the research and we'll finish it and have a conclusion at the end as to whether or not we can move forward.

LEG. KENNEDY:

Well, when would you know whether or not we, in fact, would actually be deemed a party of interest or would have standing to actually commence an action or we would just summarily be rejected by, I guess, a federal court.

MS. BIZZARRO:

Are you asking me when I think we would have an opinion on this?

LEG. KENNEDY:

Yes.

MS. BIZZARRO:

Oh. Okay. I'm sure within the next several weeks, we can have something for you.

LEG. KENNEDY:

Okay. Good. So, then, what I would say to the chair is I would reassert my motion to table, and perhaps in September, the County Attorney's Office can tell us whether we even make it through the courthouse door or we can just get thrown out.

LEG. STERN:

If I understand the resolution here, it is asking -- well, it uses the term "directing" the county attorney to essentially conduct the necessary research to determine whether or not there's a potential case. So if I'm hearing it correctly, you'll continue based on the passage of this resolution. If this resolution does not pass, then there is no directive to continue the research, so Legislator Kennedy's motion to table, if tabling passes, that really cuts off the asking of the question and the work that as little as that might be just in determining whether or not there's any feasibility in going forward, you would just cut that off. So, really, to have your question answered, we have to approve this resolution so that the county attorney can continue to ask the question.

MS. BIZZARRO:

Right, and I'm not sure that standing is the only issue. I don't know that standing here, so there may be a couple of other issues that we want to look at, so I don't know how in-depth it would be.

LEG. KENNEDY:

Okay. So let me ask this, Mr. Chair, and I guess I would have to defer to counsel too. I withdraw

my motion to table, and I would support a motion to approve if the County Attorney's Office fulfilled what the responsibilities were under the resolution simply by advising us as to whether or not a suit was viable. This in no, way, shape or form is going to compel them to commence the action.

LEG. STERN:

That's not how I understand this resolution. I would defer to counsel. I mean, what's your take on it?

MS. BIZZARRO:

Right. My take on it, it's only directing us to look at the feasibility of bringing an action. It is not asking us to bring the action.

LEG. KENNEDY:

Okay. Then I withdraw the motion to table.

LEG. CALARCO:

Motion to approve.

LEG. SPENCER:

Second.

CHAIRMAN STERN:

Motion to approve by Legislator Calarco. Second by Legislator Spencer. All in favor? Opposed? Abstentions? IR 1630 is approved. **(VOTE: 5-0-0-0)**.

IR 1632, Authorizing execution of an Assignment Agreement with the MTA and the Village of Greenport of lease and sublease for the Greenport Commercial Dock (Krupski).

LEG. KENNEDY:

Motion to approve.

LEG. CALARCO:

Second.

LEG. BROWNING:

Second.

CHAIRMAN STERN:

Motion to approve by Legislator Kennedy. Second by Legislator Browning. Everybody good? All in favor? Opposed? Abstentions? 1632 is approved. **(VOTE: 5-0-0-0)**.

IR 1634, Authorizing the reconveyance of County-owned real estate pursuant to Section 215, New York State County Law to Michael Schlachter (Krupski).

LEG. BROWNING:

Motion.

LEG. STERN:

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

IR 1636, Adopting Local Law No. -2014, A Local Law to increase transparency and fairness of the County's property leasing process (Schneiderman). This needs to be tabled for a public hearing. I'll make a motion to table. Second by Legislator Spencer. All in favor? Opposed? Abstentions? IR 1636 is tabled for public hearing. **(VOTE: 5-0-0-0)**.

At this time, we are going to go into executive session, so I will make a motion to take that time out for executive session. Second by Legislator Browning so that we have the opportunity to discuss litigations. All in favor? Opposed? Abstentions? **(VOTE: 5-0-0-0)**. We will break for executive session.

(*The committee met in executive session from 1:11 p.m. until 1:45 p.m.*)

Okay. We are back on the record from executive session where the committee met to authorize a settlement in the matter of Christopher Tavares V. County of Suffolk.

There being no other business before the committee, we are adjourned. Thank you.

*(*The meeting was adjourned at 1:45 p.m. *)*