

**SUFFOLK COUNTY LEGISLATURE
GENERAL MEETING
TWENTIETH DAY
DECEMBER 5, 2002**

**MEETING HELD IN THE AUDITORIUM OF THE EVANS K. GRIFFING BUILDING
LOCATED AT 300 CENTER DRIVE, RIVERHEAD, NEW YORK**

**MINUTES TAKEN BY
LUCIA BRAATEN, COURT REPORTER
TRANSCRIBED BY DIANA KRAUS**

(THE MEETING WAS CALLED TO ORDER AT 9:05 AM)

P.O. TONNA:

All Legislators please come to the horseshoe. Henry, roll call.

Well, give us a minute or two. All Legislators, please, come to the horseshoe.

P.O. TONNA:

Roll call.

(Roll Called by Mr. Barton, Clerk)

LEG. CARACCILO:

Here.

LEG. GULDI:

(Not Present)

LEG. TOWLE:

(Not Present),

LEG. CARACAPPA:

(Not Present),

LEG. FISHER:

(Not Present),

LEG. HALEY:

(Not Present)

LEG. FOLEY:

(Not Present),

LEG. LINDSAY:

Here.

LEG. FIELDS:

(Not Present)

LEG. ALDEN:

Here.

LEG. CARPENTER:

Here.

LEG. CRECCA:

(Not Present)

LEG. NOWICK:

Here.

LEG. BISHOP:

(Not Present),

LEG. BINDER:

(Not Present)

LEG. COOPER:

(Not Present)

D.P.O. POSTAL:

Here.

P.O. TONNA:

Yes. Here.

MR. BARTON:

Seven.

P.O. TONNA:

Seven?

LEG. FIELDS:

Eight.

P.O. TONNA:

Eight? Come on. Come on down. Crecca.

LEG. CARPENTER:

Crecca's in the parking lot.

MS. BURKHARDT:

There are ten Legislators.

P.O. TONNA:

Can we start? No. I would ask all Legislators, please, come to the horseshoe. We can't start this meeting without you.

MR. BARTON:

Mr. Chairman. Mr. Chairman, you have a quorum. Mr. Chairman, you have a quorum.

P.O. TONNA:

You got ten? All right, here we go. I would ask that all of us rise for the pledge of allegiance led by Legislator Bishop.

(SALUTATION)

P.O. TONNA:

Thank you very much. We're going to move right to the proclamations. We do not have clergy for today. Legislator Carpenter?

LEG. CARPENTER:

Yes. Good morning. I would like to ask Legislator Alden, who also shares the hamlet of Bay Shore with me, to come forward; and Legislator Fisher, who represents Port Jefferson, where our proclamation recipient resides. So, if you would, I'd like to ask Police Officer Nelson Lopez and Inspector Pete Quinn of the Third Precinct, if they would please come forward. Some of you may have read about this in Newsday. There was quite a large fire in downtown Bay Shore. It involved a number of stores, Shore Drugs, Bridal Suite, Bay Shore Furs. And a building that's been there for years.

And Police Officer Lopez responded to a call. And when he got there, saw the building in flames and noticed that there were, what could be apartments upstairs, and went and started banging on doors and saved the lives of eight people. And I think we all know that when a police officer leaves the house in the morning or in the evening to start a shift, they know that their lives may be in danger. They're putting their lives on the line. And hear this police officer, Nelson Lopez not only put his life on the line but saved eight lives. And we are very, very proud. You are really indicative of what we know a police officer in this great County of Suffolk to be.

So, on behalf of the 1.4 million residents in Suffolk County that we all collectively represent, we would like to present you with this proclamation on behalf of everyone to say thank you to you and to your fellow brothers and sister police officers all throughout Suffolk County.

(APPLAUSE)

MR. LOPEZ:

Well, I'd just like to thank the Legislature for recognizing me with this. I mean it's wonderful. You know, this would be great to pass onto my son some day, you know. And like Ms.

Carpenter said, you know, hundreds of officers throughout the County everyday go out and risk their safety whether it's on a car stop or making an arrest or walking into a family fight. You know, and they do their duty as professionally as they can. And not everything unfortunately makes it to the paper. So many of them go unrecognized. So on behalf of them and everybody, I just want to say thank you.

LEG. CARPENTER:

Thank you so much.

(APPLAUSE)

LEG. CARPENTER:

Thank you so much.

LEG. CARACCIOLO:

Madam Chair, I believe the Clerk is trying to gain your attention.

D.P.O. POSTAL:

I'm sorry. We are going to go to the public portion. First speaker is Bob Maimoni.

MR. MAIMONI:

Good morning. I guess I should start, top of the holiday season to everybody. I'm here on behalf of the Health Department. We have a number of problems, obviously, based on the loss of staff from early retirement.

D.P.O. POSTAL:

Could I just ask you, that microphone doesn't sound very loud. It is one. I don't know what the problem is. All right. It's on.

MR. MAIMONI:

We, like a lot of departments, lost a lot of folks through early retirement. And in our case it was about 100 people. The Omnibus Resolution provides that we're not to contract back to higher any of these folks back. And we have, what we believe, is a unique situation. The Medical Examiner's Office has a couple of laboratories; one is a toxicology lab, and one is the crime lab. And the head of the toxicology and crime lab both retired. And the head of the toxicology lab

has credentials which are only shared by about 200 people nationwide I'm told. So we knew he was going long before the early retirement incentive was even started. And we began really a nationwide search advertising to find somebody.

We did find somebody, but that individual can't start until March. He currently is in under contract with the City of St. Louis. We can't do the testing that we do in our lab without his credentials on hand or somebody with his credentials on hand. Our alternative would be to contract out for the service in the interim period. We've talked to the laboratory that does our laboratory tests and our health centers. And they advise us that the price would be somewhere around 25 to 27 dollars a test. It currently costs us about seven dollars a test. So it's far more financially beneficial to the County if we can hire this individual back. The Omnibus bill didn't make provision for any exemptions or anything. So that's why I come here today to ask you to consider giving us some kind of an exemption for Dr. Ed {Briglia} who was the head of the toxicology lab.

The majority of those tests fall into two areas. One is with the Probation Department; the other is with our methadone clinics. And we do, I believe it's 1300 tests weekly. We'd still be paying almost the same seven dollars because the rest of the staff would still be there. So it just makes good business sense to give us an exemption for this individual. Mr. Iaria from Probation and Will Campbell from our Drug and Alcohol Division are here if you have questions relating to why --

D.P.O. POSTAL:

Well, I have a question for you, Bob. Why couldn't you hire this individual back as a consultant? We do that all the time. Ken Weiss retired.

MR. MAIMONI:

I'm sorry. It was our understanding that that was -- we weren't allowed to do that.

D.P.O. POSTAL:

Well, how can we -- we've been doing it for a longtime. I don't understand.

MR. MAIMONI:

There's a 37th resolved clause in the Omnibus Bill, which prohibited it. That's my understanding. Maybe Mr. Sabatino wants to comment.

D.P.O. POSTAL:

Is there anyway --

MR. SABATINO:

What happened was the Omnibus took a reduction in appropriations to account for the savings that would be generated by prohibiting that kind of practice. Because that practice in the past was viewed as being abusive. So there's a clause in the Omnibus which Mr. Maimoni correctly stated that provides the legal basis for the savings. In a situation like this where a request is being made to deal with a -- I believe January through March --

MR. MAIMONI:

That's correct.

MR. SABATINO:

Okay. What could be done is you could do a waiver of that clause for that specific title. But, you know, limit it to the 90 day period, limit it to the specific title, and limit it as to dollar amount. That's the only way you could do it.

D.P.O. POSTAL:

Let me ask, the County Executive has announced he's going to cut every department by 10%. Therefore, could -- he can amend the budget at any point. You know, he can amend the budget at the first meeting in January. Let me ask Bob. Has the department gone to the County Executive to ask him, in view of that, would he be willing to use some of that money to hire these vital people back as consultants?

MR. MAIMONI:

We had actually hired him back after he retired on a consultant basis. And we terminated the contract with the adoption of the Omnibus bill, because that was a new rule we didn't have before.

D.P.O. POSTAL:

Right. But it -- let me ask Mr. Sabatino, is the rule a rule because of money? I mean, we took money out as a savings.

MR. SABATINO:

Right. Two things happened. One was because Legislators had raised concerns about this practice in the past. A reduction in appropriations was done to show a savings, actually take

away the dollars. I think we did 250 or 220 thousand dollars. So the idea was to take the money out, but simultaneously to avoid -- to prevent the kind of situations in the past, we also put language in the Omnibus which specifically prohibited that hiring back because otherwise what would happen is the savings would never materialize.

So, there's two things that have to happen. One is what you just stated correctly. Money has to be made available. That is something as you correctly stated the Executive could do within the Department. He has the ability to move 10% within the Department. But the second component, the one that I just articulated, the one that Mr. Maimoni is concerned about, would require a waiver of, I think, it's the 37th or the 39th clause, whatever it is, but that -- my recommendation would be if there was going to be a waiver, it would be narrowly tailored specific to that title; not across the board to open up all the other departments. And it should be limited to the 90-day period.

D.P.O. POSTAL:

Right. Well, I'm sure that the Legislature would not want to approve an across-the-board waiver. Which comes first, the chicken or the egg? Would the County Executive need to tell us that he's agreeable to using, for example, part of that 10% cut in the Health Department?

MR. MAIMONI:

If I might interject?

D.P.O. POSTAL:

Sure.

MR. MAIMONI:

The devil's always in the detail in these things. When we first wanted -- and I'll just tell you a little history, it'll give you some insight to how we got here today. When it first happened, we wanted to hire the gentleman back in question. And we offered him the salary that he was making when, you know, he retired. And he declined. And, the fact is he has us over a barrel here. We need his credentials to operate our lab. So I went and I put together a contract. And we went to the County Executive. And we had that battle. And we finally -- we won. We got -- we're able to hire him back. And we found the funds to be able to pay for him. Then we had a problem because he can't make more than so much money based on the state retirement system. So we had to go to Albany and get a waiver there. And we climbed over that hurdle

and we got that done.

So then we thought we had it all fixed and we did our nationwide search. We found our guy. He was going to start in March. We thought we had everything under control. Then this Omnibus bill came up. And then we had to fire him. So right now we're aging urine samples in the lab like fine wines. And it's just -- you can't believe what we've gone through. Now, we have a contract that he's agreed to. We've got a contract that's been -- gone through Albany that they've agreed that he can come back and work for us for this interim period in spite of his retirement, it effecting his pension. And, if you people can just give us a waiver for this one individual, we'll be able to -- we'll be able to go forward.

D.P.O. POSTAL:

Bob, Bob, I understand that. What I'm asking you, is if the Health Department has gotten any kind of commitment from the County Executive that he will permit that position to be funded out of the 10% savings? Because we can give you a waiver forever.

MR. MAIMONI:

Yes, yes. Because remember when he left back in September, we did this contract. And we had funds to pay him out of this contract through the balance of this year and in next year's. We anticipated doing this. The contract actually goes through March. And it's been signed off by everybody.

D.P.O. POSTAL:

So you're telling us --

MR. MAIMONI:

I suspended it when this clause came to light.

D.P.O. POSTAL:

Right. And this clause exists. And what I'm asking you is whether you have a certain commitment from the County Executive that he will provide the money.

MR. MAIMONI:

Yes.

LEG. LINDSAY:

Max.

D.P.O. POSTAL:

Legislator Lindsay.

LEG. LINDSAY:

Shouldn't we have a CN from the County Executive outlining the term of this agreement and the waiver? I think that's what we would really need in order to do what you want to do, Bob.

LEG. FISHER:

But why would it be a CN from the County Executive if it's our Legislative initiative to have be exempt in the Omnibus?

LEG. LINDSAY:

Because the County Executive would be asking for a waiver of this provision of the Omnibus. And it would state the exact provisions in the waiver, that it's for a defined period of time. And that it can be funded under the existing budget line.

LEG. FISHER:

Paul, would that -- I'm sorry, Madam Chair.

D.P.O. POSTAL:

Legislator Lindsay asked a question. And I don't think Bob answered it. I think that your question was, wouldn't we need a CN from the County Executive? And I assume, you know, implied is, can't we get one?

LEG. LINDSAY:

I don't know if Bob can answer. But maybe Bob and Paul --

D.P.O. POSTAL:

Well, Paul can't tell us whether the County Executive would be willing to issue a CN on that.

MR. MAIMONI:

Neither can Bob.

D.P.O. POSTAL:

Well, can we have -- I know there's somebody from the County Executive's Office here. And I can assure you that if that person can bring us a CN from the County Executive today stating that he would like to have a waiver issued for this position, and this position will be funded, I'm sure the Legislature will approve that. So it really is in the hands of the County Executive now. Is there somebody from the County Executive's Office in the auditorium? I know there's somebody here. No. We'll speak to that person, Bob. But Legislator Fisher had a question.

LEG. FISHER:

No. Actually my question was precisely what we asked Bob and Counsel, whether the CN from the County Executive would be necessary because it was a Legislative initiative. But I believe Legislator Lindsay answered that question as well, which is he requests it. And when we vote to it, we're voting on making a waiver to our own Legislative initiative.

D.P.O. POSTAL:

Obviously we're very supportive. We need the CN from the County Executive indicating his cooperation. And we're going to try to get that today. Thank you, Bob.

MR. MAIMONI:

Thank you.

D.P.O. POSTAL:

Next speaker is Kathy Liguori.

MS. LIGUORI:

Good morning, everyone. My name is Kathy Liguori. And I am here to follow-up on a letter that was sent to your offices. I represent an early childhood company in Suffolk County. And we're overwhelmingly concerned with the impending living wage requirement. Our centers in Middle Island and Medford have agreements with the County for child day-care services. And both centers collectively are licensed for 353 children. Of our current enrollment of 290, 45 families are title 20 families. And 60 more receive subsidy from the County under block grants in Suffolk Employment Works Program.

With approximately 340 title 20 children paid by the County to licensed day-care centers contracted with Suffolk County, our centers represent 13.3% of that revenue. We're dependent

on the County agreement to meet our current financial obligations without the Living Wage Law. We will also not be able to meet our projected financial obligations with the Living Wage Law. In our situation, the living wage requirement adds a 28% increase to our operating budget. Our labor costs already account for more than 50% of our operating expenses; and profits are less than 5%.

Of our employees, not one is the primary income provider for a family of four for which this law was intended. Our business has fallen to each and every specific exemption category, except that our organization is for profit. Without exemption, 350 children will be denied care, compromising the parents' employment and our 75 employees will be without jobs. The Living Wage Law is going impose a tremendous hardship and will be the cause of our business's demise.

In my letter, I neglected to say that during the establishment of our businesses, it was necessary that my husband and I execute a number of personal guarantees. Not only do we risk losing our businesses, but we risk losing our home. We urge you to amend the start date of this Living Wage Law in an attempt to soften the impact of the loss of financial enrollment, and to expand the hardship exemptions to for-profit centers as well.

LEG. BISHOP:

Madam Chair.

D.P.O. POSTAL:

Do you want to let Ms. Liguori finish?

LEG. BISHOP:

Oh, she's not done?

D.P.O. POSTAL:

No.

MS. LIGUORI:

I was just going to make a short closing statement. I've never done this before so --

D.P.O. POSTAL:

Go ahead.

LEG. LINDSAY:

Go ahead; finish.

MS. LIGUORI:

I just would also welcome a personal opportunity for an appointment to discuss this matter and seek any further assistance in helping guide us in this situation. Thank you.

D.P.O. POSTAL:

Thank you. Legislator Bishop.

LEG. BISHOP:

Yes.

D.P.O. POSTAL:

And then Legislator Fisher.

LEG. BISHOP:

Legislator Lindsay and I have asked Counsel to draft a bill which, I presume, will be offered as a late starter, which would provide a nine month delay in the implementation date of the Living Wage as it pertains to for-profit day-care. That will provide time for the County to move the title 20 children into other facility providers. So in that sense, we will give you the date delay.

Further, I'm drafting legislation which would pilot with the day-care community some flexibility with regard to benefits. I think you made the point that none of your or -- none of your employees are the primary wage earners in their family. From what I've been told from the day-care community -- I know this is not a question, just indulge me for one more minute. From what I've been told from the day-care community, most of their employees receive benefits through their spouses. So we're going to work something -- experiment. The purpose of the legislation that's being drafted is to provide flexibility for that population.

D.P.O. POSTAL:

Legislator Fisher.

LEG. FISHER:

Thank you for being here today, Kathy. As you know, when you wrote the letter, I did get in touch with Legislator Bishop's office, because he was the person who had crafted the Living Wage Bill and worked hard on it and requested that. And have you also been in touch with Janet Walerstein? Because I spoke with Janet Walerstein and the Child Care Council.

MS. LIGUORI:

I'm running for my life. I've been talking to anybody that I can.

LEG. FISHER:

Okay, because I also have told Child Care Council that I would be passing the information along to Legislator Bishop. So I'm happy to hear -- apparently he and I haven't touched base on this, but I'm happy to hear he has put that together. So thank you for being here.

D.P.O. POSTAL:

Legislator Alden.

LEG. ALDEN:

How is the transfer of -- it's title 20?

LEG. BISHOP:

Yeah.

LEG. ALDEN:

How's the transfer of all the title 20 children out of your program to other programs, how's that going to affect you?

MS. LIGUORI:

If will still have the financial impact on my business. We are totally dependent financially on our contract.

LEG. ALDEN:

With Suffolk County?

MS. LIGUORI:

With Suffolk County right now as it stands today.

LEG. ALDEN:

So then nine months from now you basically won't have that contract with Suffolk County.

MS. LIQUORI:

That's correct. The only hope that we would have, is to try to seek enrollment in the private sectors to have them come to our center. That's something that we always continuously do, but it's with -- I guess with all the competition that is in the field today, it's a rapidly growing and evolving industry. And demographically, there aren't enough children really to fill the enrollment spots of all the centers as it stands today.

LEG. ALDEN:

Okay.

D.P.O. POSTAL:

Legislator Bishop.

LEG. BISHOP:

Yes. When you say it's a 28% increase in your labor costs, is that just to bring people up to \$9 an hour?

MS. LIQUORI:

No, it's not.

LEG. BISHOP:

What is that calculation that --

MS. LIQUORI:

I have people that from an ethical standpoint, I have --

LEG. BISHOP:

So you're talking about the ripple effect?

MS. LIQUORI:

It's somewhat of the ripple effect, but not all. Our average hourly rate is \$8.60 an hour. Most

of the younger people that don't have their degrees yet that are seeking their degrees are making anywhere between seven and \$8 an hour.

LEG. BISHOP:

Do you -- have you calculated the cost of compliance?

MS. LIGUORI:

Yes, I did.

LEG. BISHOP:

Not imposing your own ethical structure onto it. What has that increased you?

MS. LIGUORI:

That is about a 24 and a half percent increase.

LEG. BISHOP:

So only three-and-a-half percent is the ripple?

MS. LIGUORI:

Yes.

LEG. BISHOP:

Okay. So what do you pay your people now?

MS. LIQUORI:

I pay them anywhere between \$7 an hour to 11.50 an hour plus benefits; plus 12 paid holidays.

LEG. BISHOP:

How many people are earning \$7 an hour that it's 24% labor increase to bring them up to an hour? You know, if -- I would be glad to meet with you.

MS. LIQUORI:

I would welcome the opportunity to speak to you about this.

LEG. BISHOP:

If you would also provide us -- provide me, at least, with some analysis, because it doesn't -- I find that a lot of the businesses who are opposing the Living Wage say that the actual cost of compliance is quite low, but they object to it, as you do, for ethical moral reasons.

D.P.O. POSTAL:

David, you made a statement before.

LEG. BISHOP:

Yes. So my question is would you like to have a meeting and her answer is yes.

D.P.O. POSTAL:

I suggest -- that's what I was going to suggest.

MS. LIQUORI:

Okay. Absolutely. I --

D.P.O. POSTAL:

That you arrange a meeting to discuss this and work out --

LEG. BISHOP:

Call my office tomorrow.

D.P.O. POSTAL:

-- some of the potential problems.

MS. LIQUORI:

Okay. Thank you.

D.P.O. POSTAL:

I have just one question for you, Ms. Liguori. I speak with day-care center directors on a regular basis. And there are some day-care centers -- day-care centers, which I know do not have space. And, in fact, have a waiting list. And I don't know if you accept infants and toddlers, do you?

MS. LIQUORI:

Yes, we do.

D.P.O. POSTAL:

There are even fewer day-care care centers which accept infants and toddlers. Do you envision that there might be a problem with finding space for those title 20 children in other day-care centers in other day-care centers?

MS. LIQUORI:

Yes, I do.

LEG. BISHOP:

Janet Walerstein -- I'll talk to you afterwards.

D.P.O. POSTAL:

Okay. Thank you.

MS. LIQUORI:

Thank you very much.

D.P.O. POSTAL:

Next speaker is Harvey Kamil.

MR. KAMIL:

Good morning. I'm Harvey Kamil. I'm the president of NBTY, better known as Nature's Bounty. We are a Long Island based, the manufacturer marketer of nutritional supplements. I'm here in support of the Legislator Alden and Legislator Haley's bill on Ephedra and against the Legislator Cooper's amendment. Just a little background. I think everyone knows the background of Ephedra. Ephedra is a product that is used by people who try to control their weight. It's used by something in the neighborhood of 15 million people safely on a daily basis. NBTY, again, has approximately a million square feet of space here on Long Island. We employ approximately 2500 people here on Long Island.

Worldwide we employ 8,500 people. And we have manufacturing plants in New Jersey -- in addition to the Long Island -- New Jersey, Illinois, Colorado and California. And we -- I'm urging the Legislator -- the Legislature to pass the Alden-Haley bill and reject the Cooper bill. Because if, in fact, you pass a Cooper bill, it would mean jobs, a loss of substantial amount of jobs here on Long Island. We have the ability to move jobs, which we do not want to do. We could move jobs to New Jersey and Illinois and Colorado and California where there is no ban. So once again, I'm here specifically to urge you. Now I've sent you letters. I hope you folks got my

letters. I've sent you letters twice, again, against the Cooper bill and for the Alden/Haley bill. And once again NBTY is very, very concerned about this.

D.P.O. POSTAL:

Legislator Fisher?

LEG. FISHER:

Hi, Mr. Kamil.

MR. KAMIL:

Good morning.

LEG. FISHER:

What percent of your business is Ephedra? What percent does it constitute?

MR. KAMIL:

Ephedra accounts for approximately 4% of our sales.

LEG. FISHER:

GOokay. And why would that, then, necessitate laying people off?

MR. KAMIL:

I didn't say lay them off. I would say -- because I'd manufacture the Ephedra in other locations. You're talking about something in the neighborhood of 80 to 90 million dollars in sales. I mean this is -- it's a very, very profitable item. It is again -- first of all, the question, again, is that NBTY which has been around for over 30 years --

LEG. FISHER:

But it does only constitute 4% of our business.

MR. KAMIL:

4% of our business.

LEG. FISHER:

Okay.

MR. KAMIL:

It's approximately 10% of our retail business. We have retail stores here on other Long Island. Remember that NBTY is a company that is a responsible marketer and manufacturer of nutritional supplements. We would never do anything -- we're very concerned about safety of our customers. We'd never do anything that we would -- that we would think would be unsafe.

LEG. FISHER:

Thank you.

D.P.O. POSTAL:

Legislator Cooper then Legislator Lindsay.

LEG. COOPER:

Good morning.

MR. KAMIL:

Good morning.

LEG. COOPER:

You mentioned that your a responsible manufacturer marketer of dietary supplements. Can I read into that that you feel that there are some manufacturers and marketers that are less than responsible?

MR. KAMIL:

I can't -- the answer is obviously there are always -- I can't answer for everyone else. We understand what we can do, what NBTY can do.

LEG. COOPER:

But you're aware of the situation involving Metabolife where the President of the company had told FDA that they had never received a consumer complaint. And now there's an ongoing U.S. Justice Department investigation. And it turns out that they actually had over 13,000 adverse incident reports in their files. And of those reports, there was an analysis done of the consumer complaints. Of the 13,000, 2000 of those were significant side effects. They included three deaths, 20 heart attacks, 24 strokes, 40 seizures, 465 episodes of chest pains, 966 reports of heart rhythm disturbances. Were you aware of that?

MR. KAMIL:

Aware of the fact that they didn't completely release information? Yes. Was I aware of the other stuff, again, I don't know where you're getting these facts. Ephedra is a safe product. And I'm telling you right now that when someone says they had all these bad things going on, 15 million people every single day are taking Ephedra. So now, again, if people are abusing the product, I can't answer for that. I would tell you that NBTY -- first of all NBTY does not sell to people under 18 in any case. We decided that several years ago. That's the first thing. Secondly, we have substantial warning labels on our product to make sure that someone who should not be taking the product does not take the product. But to answer for someone else in someplace else, I don't answer for anyone else's -- you know -- I have no answer for that because I don't know -- by the way, I don't know if, in fact, if this was scientific evidence. The one thing we do know is that everyone states about these adverse EAR's -- the FDA has an EAR -- it's adverse events reporting system. And they said in the EAR's that Ephedra was unsafe. The General Accounting Office reviewed the EAR's and found that they were totally unscientific. So, again, I can't answer what someone else is doing. I would tell you that NBTY based here in Bohemia, in Ronkonkoma, in Holbrook, in Bayport, we urge you as a Long Island company to use good science, good science, and good business judgment and don't -- and pass the Alden/Haley amendment.

LEG. COOPER:

I believe that you made the statement -- I believe you made the statement that there's only a problem with Ephedra if you take too much, if you overdose.

MR. KAMIL:

No, I never said. I have no idea what the problem with Ephedra is. I would tell you that we would not be selling Ephedra if there was a problem. So we have had no problems whatsoever. Yes -- when you say is there a problem, we know there's been studies shown that the -- when 90 milligrams or less, there is absolutely no issue with Ephedra. Ephedra is similar to -- it's a stimulant. And what people take it for is they want to lose weight. When people who try to lose weight, people who have weight control -- remember something, that there's something in the neighborhood of 60% of the U.S. population is overweight. We have a major weight control problem. So when people want to lose weight, they have -- what they do is, they take Ephedra to maintain their metabolism. There's no question it's not for everyone. I don't take it.

LEG. COOPER:

But you're not saying that Ephedra is the only way that these people can lose weight.

MR. KAMIL:

Obviously not. I would tell you that of the 15 million people who are taking it, they think it's the only way they can lose weight or maintain their weight.

LEG. COOPER:

Right. Are you aware, I've ordered and distributed copies at the last Legislative session to everyone here. I won't distribute more paper work. But there was a New England Journal of Medicine article that reported on a study formed by the Mayo Clinic. And they've reviewed 37 cases of people that had adverse reactions taking Ephedra dietary supplements. 16 suffered a stroke, 10 had a heart attack, 11 died. 36 of those 37 victims had taken the product according to the manufacturer's direction. They took the recommended dosage or less. Were you aware of that?

MR. KAMIL:

First of all, I would tell you one thing. No, I'm not aware of that article. I would tell you that the Food and Drug Administration has the authority and responsibility to protect the safety of the United States public. If, in fact, they felt -- if, in fact, this article or whatever you're stating was, in fact, scientifically prepared and it's supportable, the FDA could act on that information. I don't think the Legislature should be acting on this information to begin with. But the fact that something was put up, we're for making sure that people under 18 don't take the product because there's a potential for abuse.

LEG. COOPER:

That statement is patently false.

D.P.O. POSTAL:

Jon, question.

LEG. COOPER:

Are you aware that that statement is patently false?

MR. KAMIL:

What's false?

LEG. COOPER:

That the FDA has the authority and the ability right now to regulate dietary supplements?

MR. KAMIL:

That is absolutely true. It is absolutely true. You could go to the -- I've spoken to the FDA directly. They have every authority and responsibility to do it. They are not -- their hands are not tied whatsoever. You are absolutely wrong.

LEG. COOPER:

I spoke yesterday for the third time. Are you aware that I spoke yesterday for the third time with the Senior Advisor to the Director of the Center for Food Safety and Applied Nutrition at FDA, reiterated all the assumptions that I've been working under, that FDA's hands are tied, that they don't have the ability to regulate the dietary supplements because of DSHEA, that there is no adverse event reporting, that there is no pre-market safety testing, and that they would like to be able to remove these products from the market, if they could. He said every assumption that I had was correct. Every assumption I had was correct. One of the top people at FDA involved with this issue. So, I must disagree. When you make a statement that --

MR. KAMIL:

Legislator Cooper. You are absolutely wrong.

D.P.O. POSTAL:

Gentlemen, this is an opportunity for the public to speak and Legislators to ask questions to clarify what's been said. I would suggest that if you would like to pursue this, you do it privately. Our next question.

LEG. COOPER:

One last question. One last question.

D.P.O. POSTAL:

You have a question. I'll put you on the list, Lynne.

LEG. COOPER:

You've implied that although the statements have varied from your company wildly over of the past few weeks, that up to 2500 jobs are in jeopardy in Suffolk County, loyal employees -- as

you've described them as loyal employees that you may be forced to terminate if this bill passes. Before you take that drastic action, can you let us -- tell us about -- because you're aware this bill would not prohibit the manufacturing of -- it would not prohibit you from selling this product anywhere else in the country around the world. Only basically get this product off the shelves within little Suffolk County here. What are your sales in Suffolk County that would be jeopardized if this bill passed?

MR. KAMIL:

I don't have those numbers. I could tell you that Suffolk County is certainly not a major market in our -- for the company. But I would tell you certainly we attempt to maintain the highest jobs here on Suffolk County. And if, in fact, the amendment would be passed, your an amendment would be passed, we would be forced based upon how we feel about the project to move jobs to other places that Suffolk County.

LEG. COOPER:

So you're saying to punish Suffolk County and your employees who may be Suffolk County residents for action that the County Legislature may take in good faith out of concern over public health of our residents, even though you admit that the sales that would be impacted would be minimal at most --

D.P.O. POSTAL:

Jon, this is verging on a discussion again.

LEG. COOPER:

You're reiterating that --

D.P.O. POSTAL:

And I'm going to move -- Jon, you asked -- you said there was one more question. You had your question. Legislator Fisher, is she here?

LEG. FISHER:

No. I already asked my question.

D.P.O. POSTAL:

Okay. Legislator Lindsay.

LEG. LINDSAY:

Mr. Kamil, I'm going to phrase this in a question because that's our role here. But wouldn't you agree that this issue isn't about how many jobs you have in Suffolk County or how big your plant is or how much your sales is, but whether it's appropriate for a County Legislature to ban the sale of a supplement in one County?

MR. KAMIL:

I think you're 100% correct. That's 100% correct. That's the issue. Absolutely. And I agree with you 100% on it.

D.P.O. POSTAL:

Bill? Bill are you finished?

LEG. LINDSAY:

Yes.

D.P.O. POSTAL:

Legislator Guldi.

LEG. GULDI:

If you'll forgive me, sir, but I actually have like real questions instead of arguments or points to make. You said in your remarks that 50 or 15 million people a day are taking the product. What was it you said?

MR. KAMIL:

15.

LEG. GULDI:

Five O or one five?

MR. KAMIL:

One five. 15 million Americans are right now taking some form of Ephedra products to control their weight.

LEG. GULDI:

That's million Americans.

MR. KAMIL:

Million Americans.

LEG. GULDI:

The worldwide sales are much larger than that, are they not?

MR. KAMIL:

I couldn't tell you what the worldwide sales are. I would tell you it's a very large product of what it does. So, you know, Ma-Huang, again, is a stimulant. It maintains -- it helps people maintain their metabolism.

LEG. GULDI:

I understand the dietary supplement use of the product and the other historical and alternate medicine, if you will, uses of it. The question I want to get to next is 15 million people a day using it, it's a multi -- -- it's a multi dose per day regime usually, isn't it?

MR. KAMIL:

Everyone has a different type of product. NBTY is certainly not a major manufacturer of -- specifically Ephedra.

LEG. GULDI:

Other than -- are you familiar with -- the number of users of other over-the-counter type medications?

MR. KAMIL:

No, sir.

LEG. GULDI:

You don't have any background in that?

MR. KAMIL:

No, sir, I don't.

LEG. GULDI:

What about other dietary supplements in terms of the more common other products that you make?

MR. KAMIL:

Right. I would say that it's similar in consumption as vitamin C and vitamin E.

LEG. GULDI:

Okay. Those products would have the same similar --

MR. KAMIL:

Amount of people using it, you know, give or take, yes.

LEG. GULDI:

Okay. Now you state that it constitutes 4% of Nature's Bounty's gross sales?

MR. KAMIL:

Total sales, yes.

LEG. GULDI:

How many different Ephedra products does Nature's Bounty market?

MR. KAMIL:

Again, I'd have to guess on that. Probably a half a dozen.

LEG. GULDI:

Approximately a half a dozen. Do you know where those products physically are manufactured? Those half a dozen Ephedra-based products?

MR. KAMIL:

Yes.

LEG. GULDI:

Where are those products manufactured physically?

MR. KAMIL:

95% are manufactured here in Suffolk County.

LEG. GULDI:

So 95% of that -- of Nature Bounty's Ephedra's products are manufactured here?

MR. KAMIL:

That is correct, sir.

LEG. GULDI:

And what does that 4% -- next question. How many -- what percentage of Long Island's manufacturing does Ephedra constitute? Because you mentioned you had 8500 employees nationwide.

MR. KAMIL:

That was worldwide. We're 8500 worldwide employees. In terms of what do they specifically do, I couldn't give you that number. Again, the sales are --

LEG. GULDI:

No, I understand what the sale are. You have other manufacturing plants outside off Suffolk County in addition to the ones you have here.

MR. KAMIL:

Yes, we do.

LEG. GULDI:

I'm saying here in Suffolk County besides the Ephedra products, what other products do you manufacture in you're Suffolk plant?

MR. KAMIL:

Another thousand other items.

LEG. GULDI:

Another thousand other items. What percentage of Suffolk's manufacturing does the Ephedra constitute?

MR. KAMIL:

I'm sorry.

LEG. GULDI:

You said you manufacture a thousand products here in Suffolk. You have other manufacturing plants?

MR. KAMIL:

Yes.

LEG. GULDI:

95% of your Ephedra is manufactured here in Suffolk.

MR. KAMIL:

Yes, sir.

LEG. GULDI:

How much -- what percentage of the Suffolk manufacturing does that 95% constitute. Are you with me?

MR. KAMIL:

I'm sorry, I can't follow the question. I apologize.

LEG. GULDI:

All right. Let me break it down. Of Nature Bounty's manufacturing, what percentage of your total manufacturing is done in Suffolk?

MR. KAMIL:

Oh, okay now I understand stand what you're saying.

LEG. GULDI:

Half?

MR. KAMIL:

About half.

LEG. GULDI:

About half?

MR. KAMIL:

About half. There's a million square feet here --

LEG. GULDI:

Okay. So the 4% of the Ephedra nationwide really constitutes 8% of what you manufacture here in Suffolk?

MR. KAMIL:

That is correct.

LEG. GULDI:

So it's 8% of your product?

MR. KAMIL:

It's a major -- it becomes a major item, yes, sir.

LEG. GULDI:

Okay. So it is a major item for your manufacturing plant? And how many employees do you have engaged in manufacturing here in Suffolk?

MR. KAMIL:

Probably just in manufacturing, about 1500.

LEG. GULDI:

About 1500. So 10% of 1500 would be --

MR. KAMIL:

Well, you couldn't break it out that way, but certainly you could say that a good many hundreds would be involved in something like this.

LEG. GULDI:

Yeah. Well, 8% of your product, 10% of your employee force, so it would be 150 jobs, wouldn't it?

MR. KAMIL:

At least.

LEG. GULDI:

At least. Okay. That's the number I was looking for.

MR. KAMIL:

What I'm telling you, is that we are in capable of doing it that way. We can't separate out our jobs. But you're doing the statistics, but it's still in the hundreds. But I would tell you it would be much more than that.

LEG. GULDI:

I understand that.

MR. KAMIL:

By the way, remember also we have a mail order operation. We have a large -- we employ something in the neighborhood of 200 people answering phones here in Suffolk County. We have a phone -- we have another phone bank in Carbondale, Illinois with another 150 people. If we can't sell in Suffolk County, we can't sell over the phone in Suffolk County. It means 150 -- because we can't separate -- even though it's a 4% of sales, we can't separate when someone calls up and orders an Ephedra product, oh, no, we can't sell you that over here, so in effect what we have to do is shut down our phone rooms here and move it over to Carpendale, Illinois, which we're trying to avoid.

LEG. GULDI:

So you'd lose a substantial portion of that.

MR. KAMIL:

It becomes difficult to separate out your business when one thing as Legislator Lindsay had said, you can't separate things out like that.

LEG. GULDI:

Okay. Now, without engaging in banter, describe for me how and what authorities FDA has over food supplement manufacturers like yourself.

MR. KAMIL:

All right. Okay. Once again I will tell you that point blank the FDA has -- what can they do? They can take any product off the market if it's unsafe. Any product off the market.

LEG. GULDI:

Have they done that?

MR. KAMIL:

What they have done -- they have taken products off the market. What they generally have done is complained about the law, which they have and have never, never -- they try not to apply the law. Because what they're trying to do is get more funding, you know, they do all these political maneuvers. They have the authority and responsibility to take products off the market. They have done it in the past. They will continue to do it. I have met with them. I met with high officials on a constant basis. And each time I've specifically asked them point blank, because we hear this, what DSHEA -- that's Dietary Supplement Health and Education Act has done -- point blank do you have all the authority you need? They say yes. We say why don't you tell the press. They say no.

LEG. GULDI:

So the dollar volume of nationwide Ephedra sales not just for your company but --

MR. KAMIL:

Oh, I couldn't tell you. It's huge.

LEG. GULDI:

It's huge. Okay. If there were a -- even in this market -- a million four hundred thousand people, but assuming we banned it here and the ban spread from this market to nationwide, how long do you think it would be before the over-the-counter regulated drug manufacturers created a pseudo Ephedra synthetic product to create -- to achieve the same dietary supplement effects that are currently done by using Ma-Huang in the dietary -- in your industry?

MR. KAMIL:

The answer is I don't know. I would tell you that there are Ephedra substitutes. Nothing is as effective as the herb Ma-Huang, which has been used 5,000 years.

LEG. GULDI:

I understand that. But there are other Ephedra substitutes on the market already over-the-counter --

MR. KAMIL:

Yes, sir.

LEG. GULDI:

-- regulated by FDA?

MR. KAMIL:

Yes, sir.

LEG. GULDI:

So, the only thing we would do by banning Ephedra here in Suffolk or nationwide would be shift the market from the current manufacturers to the other manufacturers of equivalent --

MR. KAMIL:

To another stimulant that's a different herb that they'll put into the product. It's the same thing.

LEG. GULDI:

A different herb or a synthetic?

MR. KAMIL:

Absolutely.

LEG. GULDI:

Thank you.

MR. KAMIL:

Thank you very much.

D.P.O. POSTAL:

Wait. I'll put you back on the list, Jon, but only for questions, please.

Legislator Alden, you said that you didn't want to ask --

LEG. ALDEN:

George Guldi just asked the question that I was going to ask.

D.P.O. POSTAL:

Okay. Legislator Nowick; and then Legislator Caracciolo.

LEG. NOWICK:

Yeah, I think that Legislator Guldi asked most of the questions. I was most concerned about what percentage of your business was the sale of Ephedra. And I think that you said --

MR. KAMIL:

I answered 4% in total.

LEG. NOWICK:

4% total of your business --

MR. KAMIL:

It's about 4% of total, that is correct. 4% of the total sales is Ephedra. It's approximately 8 to 10% of profits.

LEG. NOWICK:

Out of your business in Suffolk County?

MR. KAMIL:

Yes, sir. Yes, ma'am.

LEG. NOWICK:

4% of your business --

MR. KAMIL:

Oh, no, no, no. I'm sorry. I don't --

LEG. NOWICK:

What is the percent of your -- of your sales of Ephedra?

MR. KAMIL:

I'm sorry to say that I don't know because I've never broken that down.

LEG. NOWICK:

You can't estimate or --

MR. KAMIL:

We could say 4%. We know nationwide it's 4% so -- but I would assume that it's higher. I would think that it's higher here.

LEG. NOWICK:

Well, if you're estimating how many employees you're going to be losing, you're basing that on some type of a number, right?

MR. KAMIL:

No. Understand what's we're saying. Let's understand something. The fact that something is 4% of sales, doesn't mean you lose 4% of your people. If I can't sell a product, again, we have a phone room that has a 150 people, and it goes on from there. How can you separate your -- you can't separate your business. So they can't order for Ephedra here in Suffolk County, they got to be moved, whether it's 4% or 2% or 1%. It just happens to be 4% of our sales.

LEG. NOWICK:

Well, just so I'm clear on this, can they take orders in Suffolk County if it's out of --

MR. KAMIL:

The answer is I don't know. I'm not going to take the chance. I got news for you.

D.P.O. POSTAL:

Legislator Nowick, Can I just stop you for a minute? The sound system is not great. So it's really hard to hear people and I would ask everyone to please speak directly into the microphone. And everyone else to please refrain from talking. Go ahead, Lynne.

LEG. NOWICK:

I lost my train of thought, which happens a lot recently.

MR. KAMIL:

You have to take Ginkgo Biloba for that. And Legislator Cooper fortunately has not tried to ban that one.

LEG. COOPER:

What else should I be banning?

LEG. NOWICK:

From what I understand, you sell this to other counties, just not Suffolk.

MR. KAMIL:

My understanding, that is correct. Again, I don't know. Look, I'm not an attorney. And I know we always take the path of the most conservative approach. And if something's illegal here,

folks, I'm not going to jail for something -- I'm telling you right now. So I'm going to react accordingly. If there's a ban someplace, I'm going to make sure that I will -- I will make sure that we adhere to every law to the nth degree. And I can't trust -- we can't trust if someone makes a mistake. By the way, just so -- you should know in terms of what we do in our stores, in our stores right now because we have vitamin world stores, when Ephedra product is scanned, the computer automatically comes up and says are you -- are you over 18. They must -- and they check -- they check every single person for proof. We are now in anticipation of Legislator's Alden's amendment, we are putting on our computer right now, even though it's out-of-state residents -- because we can't tell who's making the phone calls, we are doing the exact same thing in mail order.

LEG. NOWICK:

Well, that does make me feel better knowing that nobody ever passed phony proof around. I really just wanted to know the percentage, but since you don't have that figure, thank you.

MR. KAMIL:

No, I'm sorry.

D.P.O. POSTAL:

Legislator Caracciolo.

LEG. CARACCIOLO:

Thank you. There we go. The discussion so far appears to be focussing in on a couple of key points. One is the use of the product; and second who should use the product and in what quantities, with what recommendations. So I'd like to begin with what I think is your position that from the perspective as a manufacturer, you believe the only entity that should have jurisdiction over the use and quality control of these products would be the Federal Drug Administration?

MR. KAMIL:

No, I'm saying that they do. Whether I think that more people should have it, you probably have the Department of Agriculture, you probably have Health Departments and you have all sorts of stuff. But I'm saying right now that the organization that is most attuned and knowledgeable about the scientific relationship of Ephedra and anything else is the Food and Drug Administration.

LEG. CARACCIOLO:

All right. Given what has been cited from time to time as abuse of this product by individuals

who have taken them in the wrong quantities or perhaps purchased products with poor quality control, and as a result have suffered very serious medical consequences, and I think it's been represented death in some cases, is there not a role for local government in the absence or State or Federal government, own up to their responsibilities to make sure that the public we represent are not properly protected?

MR. KAMIL:

Again, I would say that if in fact you had all the facts and you had the scientific knowledge, sure you could do. Obviously. By the way, I'm a Suffolk County resident. The answer, what I'm saying, is that you're getting half stories and half truths. You're getting a lot of sensationalism. And what is actually happening is a company such as NBTY would never, ever sell a product that's unsafe. We'd be out of business tomorrow. You know what's going to happen if something's unsafe. You'd get sued by thousands of people. What I'm saying to you, is the product is a 100% safe when used as directed. There's obviously bad actors around. There's obviously abuse around. And the abuse we understand -- what we understand is happening is there's a potential for young people who want to grow muscle and lose fat to potentially overdose on Ephedra. If one is good, ten is better. But you could say the same thing for aspirin. People overdose on aspirin. Do you then outlaw aspirin? So what we're saying is if in fact you're concerned -- if there's a concern about the fact that it's abused, the abuse has only been shown in younger people where a kid who had no knowledge of what they were doing or had the knowledge and didn't care, again it's a very speculative if in fact it was Ephedra product because you could always know that they may have been taking other things, what we're saying right now is that certainly to ban the sale of Ephedra to minors under 18 would be a very good, a very good compromise in this issue. And that we would be for it. And when you say well, should a local -- should the local Legislature act on this thing, I'm saying the local Legislature doesn't have -- you don't have -- you're just not receiving the scientific background. And if you do something with poor information, you get poor results.

LEG. CARACCIOLO:

I think that's a cogent argument; however, some other jurisdictions have passed a ban for minors of Ephedra products.

MR. KAMIL:

Yes.

LEG. CARACCIOLO:

Westchester being one of them. How many other municipalities have done so?

MR. KAMIL:

I don't know. I would tell you that there's several municipalities who have been banning the sale of Ephedra. As I told you, NBTY has already taken a position before anyone has even taken the ban, that we won't sell to anyone under 18. Because that's where we would feel, if in fact, there would be any abuse, it would be a minor who reads the label and sees that the label says don't -- take one tablet, decides to take ten tablets because he or she wants to grow muscle faster.

LEG. CARACCIOLO:

Does your corporation have pending or previous any lawsuits against it by users of the product?

MR. KAMIL:

We have none whatsoever. Zero.

LEG. CARACCIOLO:

You've never had a claim against your company?

MR. KAMIL:

We have no claims whatsoever.

LEG. CARACCIOLO:

What type of equality controls could we as laymen look at in the industry to make certain that the people who manufacture this product are manufacturing in accordance with acceptable practices and principals such as your quality control measures? Because clearly not everybody does that.

MR. KAMIL:

Well, again, I would tell you that certainly Long Island has a large percentage, a large amount of vitamin manufacturers; Twin Labs for one and there's Country Life. There's a whole bunch of manufacturers who are right here in Suffolk County. The Food and Drug Administration under the DSHEA -- Dietary Supplement Health and Education Act -- was given the responsibility to come up with what we call GMP, good manufacturing practices. And we're awaiting -- we

understand from the Food and Drug Administration they're coming out with that very, very soon. I would tell you that obviously NBTY adheres to the highest standard of GMP's, before even the FDA came out with that.

LEG. CARACCIOLO:

What is your knowledge about the extent of overdoses or individuals who have taken this product incorrectly, not you're product but in general? On a national scale, is it really a large scale problem?

MR. KAMIL:

My understanding is it is not. And understand in the current legal -- what generally happens is if there's a bad actor around of a company, they get sued and they go out of business quite quickly. So that anyone whose will sell an unsafe product will be out of business very shortly if they're not out of business already.

LEG. CARACCIOLO:

Now, with respect to the use of the product, as you pointed out earlier, there's 60 million Americans that are overweight.

MR. KAMIL:

I think it's even more. It's 60% of the population has an overweight problem.

LEG. CARACCIOLO:

That would be a much higher number. Okay.

MR. KAMIL:

By the way, it's a huge amount of Americans right now are obese and have weight problems. And I would say in terms of a health issue, the over-weight issue is substantially greater than any other issue that they think about.

LEG. CARACCIOLO:

From your perspective, I don't know if you have any scientific credentials, do you?

MR. KAMIL:

I'm a CPA. I don't any scientific credentials. I took a course in biology in college.

LEG. CARACCIOLO:

It seems to me I have known people that abused products that contain Ephedra and Ma-Huang. And they have seen temporary results. But they are short-lived unless they stay on these products. And I would submit that if they changed life-style, if they exercise regularly, ate a better diet, they could achieve the same results and have long lasting results. But in this country we have this mania about over-weight and we see people looking for the quick fix. But there are no quick fixes. And I think the industry, as well as a society has a responsibility to govern it. I mean now we find surprise, surprise that the food triangle needs to be altered.

MR. KAMIL:

That's right.

D.P.O. POSTAL:

Mike, question.

MR. KAMIL:

By the way, just to answer that question, the answer is obviously life style is very important. But let's understand something. When you have someone who has a weight problem, they can lower their caloric intake, they could start exercising and they still don't lose weight because their metabolism slows down. What Ephedra does, it builds up their metabolism. So that saying, you know, if you ever spoke to anyone who was obese, it's really a shame because they stop eating and yet they still do not lose weight. I mean it's a much more complicated issue. And as you've told me very nicely, I don't have a scientific background. But we still know that these people have a tremendous amount of problem trying to reduce.

LEG. CARACCIOLO:

But where does your industry or the food and product industry in general, where's their responsibility in educating Americans about good dietary habits and life-style; rather than just manufacture products that are short-lived, make the manufacturers lots of money, isn't their a broader responsibility?

MR. KAMIL:

See, we don't -- we're not allowed to make claims for our product. So that in terms of saying how we can teach people what to do, our job as manufacturers is to, in effect, give the choice to

consumers; just give choice to consumers. We don't believe our job is to educate, because, again, we run into the problem of the Food and Drug Administration and the Federal Trade Commission coming to us and saying we're making claims for products. So we leave it up to the newspapers. We leave it up to the scientific community to teach. We'll just -- what we'll do is we'll adhere -- we'll supply a demand.

LEG. CARACCIOLO:

At the state or federal level, are there any -- is there any legislation pending or under consideration that would address the legislation that's before this Legislature vis-a-vis Legislator Cooper and Legislator Alden?

MR. KAMIL:

Yes. The Food and Drug Administration continues to take up the subject of Ephedra. They know it's -- again, it's a very sensational type of product. And we expect them to come out with something. And it might be the exact same thing as the Alden/Haley amendment.

LEG. CARACCIOLO:

Which would ban it to minors.

MR. KAMIL:

Would ban to minors, which we do anyway.

LEG. CARACCIOLO:

I heard you say that -- and I'm troubled and I think Legislator Nowick was right, you know, we were well aware -- in fact the media recently has really played up false ID's and the identity crisis in this country, not only as a result of what we know from 9/11 in terrorism, but it's a huge, huge problem. That said, your mail order business, how do you verify or check with a caller as to their age? Is it just a representation?

MR. KAMIL:

What you're saying is that someone under 18 is going to have a credit card. The chances are -- I understand it happens. The chances -- if someone would call up and just order an Ephedra product, it would be a very strange thing for us. Our mail order catalog, which happens to be Cherchen Pride, a well-known brand for the most part, we have something like six million customers around the country. And they order a multitude of problems -- of products. And,

again, I don't believe that's an issue with the age of -- for them. But certainly, by the way, we will do everything to adhere to the regulations if you folks pass it.

LEG. CARACCIOLO:

Who's your major competitor?

MR. KAMIL:

Our major competitor would be General Nutrition Centers, which again is Pittsburgh based, Trexall Sundown, which is Miami based, Alinar Health Products California based, Pharma lite Corporation California based.

LEG. CARACCIOLO:

As members of your industry, have they taken a position on this legislation?

MR. KAMIL:

Ah, yes. What members of the industry have done is I'm on the board of the Council for Responsible Nutrition. And we funded a study -- it happened to be by one of the most -- one of the very well-known scientific studies called Cantox. We paid for that study to determine the safe use of Ephedra. And they came out about a year-and-a-half ago because, again, there was so much sensational reporting that Ephedra was safe and effective when used as directed.

LEG. CARACCIOLO:

One might view that as being industry-driven and biased. I'm not saying it was, but are there any independent studies at the FDA or any other agency has conducted that disputes that claim?

MR. KAMIL:

No. In fact, I sent you a letter which gave -- there were 50 studies, five zero studies, that indicated the safe and effective use of Ephedra. So I mean why would I sell it if it's unsafe. For 4% of my sales?

LEG. CARACCIOLO:

Thanks.

D.P.O. POSTAL:

I have a question for you. Recently I heard ads from -- I think it was Twin Lab -- stating that

they would no longer use Ephedra in their products. And that they would be marketing other products for diet and weight loss, which were just as effective. Now, do you believe that there are other products that are just as effective?

MR. KAMIL:

Do I believe? No, I don't, but that's, you know.

D.P.O. POSTAL:

So that you would disagree with the Twin Lab ads?

MR. KAMIL:

I would, sure.

D.P.O. POSTAL:

Okay. All right. Legislator Cooper.

LEG. FISHER:

Questions.

LEG. COOPER:

Approximately what percentage of your sales are over the internet or phone sales versus sales through your vitamin stores?

MR. KAMIL:

Sales on the internet and internet mail order 200 million dollars. Approximately 22% of our sales of the total company.

LEG. COOPER:

22% internet. And phone sales?

MR. KAMIL:

We don't separate internet with mail orders. Internet and mail orders is all the same. It's approximately 22% of sales.

LEG. COOPER:

And the balance is through your stores.

MR. KAMIL:

Well, we have multiple -- we sell -- we sell through various brands. So we sell to the Walmarts and K-marts and Targets of the world under Nature's Bounty brand. And our stores, again, is another 200 million business that we -- we have stores around the country.

LEG. COOPER:

So it's only your own stores where you really take active steps to restrict sales to minors?

MR. KAMIL:

Where we can control it, yes, sir. Yes.

LEG. COOPER:

Right. And any idea as to what percentage of those -- of your sales are through your stores?

MR. KAMIL:

Yes. Ephedra makes up approximately a little under 10%.

LEG. COOPER:

So about 90% of the time you have no direct control over who's purchasing the product?

MR. KAMIL:

No, no, no. You're taking the wrong percentages. We said 10% of our total sales -- of our total -- the sales in our stores are Ephedra. 10% of total sales. So you got the wrong percentages.

LEG. COOPER:

Okay, then you misunderstood the question. What I'm trying to get at is --

D.P.O. POSTAL:

I hope you're trying to get at a question.

LEG. COOPER:

I've been asking a question. I'm not getting an answer to the question. I'm trying to get a handle of the percentage of your sales that are not through your stores, where I understand that you do try to check driver's license and ID's, and yes, even though they can be easily faked these days, but at least you make an effort. But over the internet -- my son has a credit card. He's 17. He's had a credit card for a year. All his friends have credit cards. So in those cases the internet sales, the phone sales, the catalogue sales, you really have no idea what the age is

of your customers.

MR. KAMIL:

No, I don't, but I would tell you that the products that we sell and the Ephedra products in mail order are --

LEG. COOPER:

Excuse me, if it's an issue of importance to you, Angie, I wouldn't interrupt.

D.P.O. POSTAL:

Jon, Jon, go ahead. He's answering your question.

LEG. COOPER:

I know a blizzard's coming.

LEG. GULDI:

No, it's already here.

D.P.O. POSTAL:

Please, answer.

MR. KAMIL:

Let me explain something to you. The Ephedra -- let's put things in context. Ephedra is safe and effective at '90 milligrams or less per day. The products we sell in mail order have something in the neighborhood of six milligrams -- six milligrams of Ephedra. So that is extreme low dose Ephedra in the mail. So that anyone who would want to use Ephedra as for a stimulant of some type, they would really -- it would be uneconomical for them to buy the products that we sell in the mail.

LEG. COOPER:

I think my last question -- you've made the statement several times that the products are safe if use as directed. So you disagree with the Mayo Clinic study. You disagree with the other medical --

MR. KAMIL:

I have not read the studies, Legislator Cooper. I would tell you that I would not be selling the product if it was unsafe. Every time I hear about a story about Ephedra, when you actually look at the study, you find out that it was all bogus, it was all hearsay and it really was never proven to be Ephedra product.

LEG. COOPER:

And you're aware that Twin Lab, Metabolife, Biolean, they all have lawsuits against them. They've all received consumer complaints. But they've also made the statement that they believe their products are completely safe. So why would they be selling these products despite the lawsuits, despite the consumer complaints --

MR. KAMIL:

You want me to answer for what they could do? I could only answer for what we do. And I would tell you that if we felt the product was unsafe, we wouldn't sell it. And if I had lawsuits, I wouldn't sell it. It's the obvious thing. Why would I do it? It makes no sense.

D.P.O. POSTAL:

We have a number of speakers who are speaking on the same issue, so thank you very much.

MR. KAMIL:

Thank you very much. I do appreciate the time.

D.P.O. POSTAL:

Next speaker is Kevin Ergil.

MR. ERGIL:

Good morning.

D.P.O. POSTAL:

Good morning.

MR. ERGIL:

Those of you who religiously attend meetings have seen me here, I think, over the last two months speaking against Legislator Cooper's bill very much from the perspective of the Chinese medicine community. And I'm here today -- I'm a licensed acupuncturist. I'm also a

practitioner of Chinese Herbal medicine, a medical anthropologist, I'm the Director of the graduate program in Oriental Medicine at Touro College. And I'm here representing myself and probably a little bit this poor and overly-attended to herb. And I'm here to speak today on behalf of changes that have made to Resolution 1954.

And I'd like to begin really by thanking Legislator Cooper for consideration that he's shown for the needs of the residents of Suffolk County by introducing new language into his resolution. And this language specifically provides access to Ephedra sineca when it is provided to patients by a trained and certified practitioner of Chinese herbal medicine. And I'm going to be very brief. But what I wanted to do primarily today was provide you with information about the basis for that language to help you evaluate this bill on its merits and understand the modification that's been made to it.

The language provides for individuals whose knowledge and ability to use Ma-Huang has been established by their having gone through a formal certification process. And in this case, the language specifies a certification process that is accredited by the NCCA, the National Commission for Certifying Agencies. NCCA credits a number of agencies, the American Academy of Nurse Practitioners, the American Association of Critical Care Nurses, American Board of Medical Specialties and Podiatry. Now, let's see. National Certification Corporation for the Obstetric Gynecological and Neo-natal Nursing Specialties and, incidentally, the National Commission for the Certification of Acupuncture and Oriental Medicine. And that body specifically certifies individuals who have completed three to four years of formal training in acupuncture and Chinese Herbal Medicine. And it certifies them on the basis of an examination process that evaluates their knowledge and competence to use the traditional materimedita of Chinese medica -- medicine and its formulations.

So we're really quite delighted that Legislator Cooper has seen fit to provide a window that supports our patients' access to Ephedra when it's provided by an appropriately certified and trained clinician in the practice of Chinese herbal medicine. So I hope that's a little bit helpful. I have copies of my testimony with appendices discussing these agencies. And I did say that I would be brief, but I'd be happy to answer questions.

D.P.O. POSTAL:

Legislator Guldi.

LEG. GULDI:

You're referring -- the exceptions created by Legislator Cooper is an exception that would permit

only practitioners of Chinese medicine; not any practitioners of any other complimentary medicine discipline or the like. And only if their certified by one organization. Is that correct?

MR. ERGIL:

No. Actually, not entirely. That's what I was endeavoring to explain. NCCA is a creditor of certification bodies.

LEG. GULDI:

Okay.

MR. ERGIL:

So in theory any agency could seek accreditation from NCCA.

LEG. GULDI:

Any agency could. But, for example, a traditional trained practitioner of Chinese medicine whose training happened to be in a place called China who comes to the United States without any training from any of the accredited organizations would be prohibited from prescribing Ma-Huang under this language.

MR. ERGIL:

No, that's not true, actually. That individual would have access -- let me explain again. NCCA is a body that establishes standards for certification. In any medical specialty, discipline, technical area. NCCAOM is accredited by NCCA. NCCAOM has the job of evaluating educational credentials in Chinese medicine and then testing the individual's competencies and understanding of Chinese medicine. So the individual that you're asking about, the Chinese practitioner, this exam is administered in Chinese, Korean and English. NCCOM routinely evaluates foreign credentials and allows people to take the exam.

LEG. GULDI:

Let me tell you why I'm troubled by the language of the exception.

D.P.O. POSTAL:

You're going to tell him in a question?

LEG. GULDI:

I will. And address the concern I have. And the concern I have is that we've gone from the

point of deciding what dietary supplements should be marketed in Suffolk County to deciding what kind of practitioners and what certifications they need to have an exception from that certification. And other than your testimony, which may not actually represent the entire universe of opinions, I've heard no one else address the subject. And I don't think it's an area we belong legislating in. Tell me why we should accept your testimony without conducting complete peer-reviewed research and getting the entire universe of expertise out there.

MR. ERGIL:

And before I answer that rather broadly-phrased question, it's a great question, with regard to what specifically; my testimony on behalf of NCCA?

LEG. GULDI:

Yeah. On behalf of certification organizations and the exception we're creating to the ban on this dietary supplement. And not on its pharmacologically synthesized substitutes.

MR. ERGIL:

I so deeply really appreciate your perspectives. And I've enjoyed them. And I have to say I'm constantly, and with all due respect, amazed and impressed by the level of detail with which the Suffolk Legislature is willing to concern itself. But since this body -- since this body --

LEG. TOWLE:

That was putting it kindly.

MR. ERGIL:

-- actually contemplated legislation that was going to turn me, my wife into criminals, our colleagues into criminals, we have dispensed countless man-hours, people have turned away patients, come in. I'm wasting my employer's money at this very moment. It is -- since this was contemplated, we felt we really had to speak to this very particular issue. In answer to your question, should you do this as a responsible Legislature -- Legislator, listen to one lone voice telling you that this certification is a good thing?

LEG. GULDI:

One lone voice which you admit has a vested interest?

MR. ERGIL:

I don't admit that at all actually. In point of fact, no, given that I provide testimony to NIH, FTC, FDA and other bodies, I think I'm a good bet. But in point of fact, I think this is a remarkable

exercise in terms of legislative specificity on a county level.

LEG. GULDI:

I understand that. But my question is --

MR. ERGIL:

But should you listen to me about regulating Chinese medicine?

LEG. GULDI:

Is there some practitioner out there that's not -- that could not be covered by this exemption and still responsibly be using Ma-Huang.

MR. ERGIL:

That's a good question. Yes, possibly.

LEG. GULDI:

Okay. Thank you.

D.P.O. POSTAL:

Thank you.

MR. ERGIL:

Thank you. Thank you all very much.

D.P.O. POSTAL:

Our next speaker is Marone Ergil.

MS. ERGIL:

Good morning. And thank you for giving me this opportunity to speak. My name is Marone Ergil. I'm a resident of Huntington. And I run a small business as an acupuncturist and practitioner of Chinese herbal therapeutics in Huntington. Since the initial introduction of RE 1954 by Legislator Cooper, I've been standing up here and opposing its passage. Today I'm happy to be able to drop my opposition to this bill. Over the past several weeks, we've been able to work with Legislator Cooper to create an exemption to the law as was just discussed for individuals who received extensive training in Chinese herbal medicine and can give evidence of this training via national examination and certification.

I've been involved in the education and practitioners of herbal therapeutics since 1989. I've studied Chinese medicine both in the United States and in China. And I'm a translator of Chinese medicine text from Chinese into English. It's my feeling that through this exemption, two important things are being accomplished for the community of herbal medicine practitioners. First, the important use of this substance in traditional Chinese medicine is being recognized. And the residents of Suffolk County will continue to have access to this important substance in its traditional usage.

Secondly, the extent of our training and the national certification process that we use are being recognized. This is very important for the growth and development of our profession in the United States. With the inclusion of this exemption, I'm pleased to be able to withdraw my opposition to Legislator Cooper's bill. I feel that it will serve the community and patients and practitioners who use this substance in Suffolk County. Thank you.

D.P.O. POSTAL:

Thank you very much.

LEG. FISHER:

Thank you.

D.P.O. POSTAL:

Our next speaker is Dr. Clare Bradley.

DR. BRADLEY:

Good morning. I actually have some handouts that I'd like to pass around to --

LEG. FISHER:

Dr. Bradley, can you pull the mike closer?

D.P.O. POSTAL:

Pull the mike.

DR. BRADLEY:

Good morning. I'm here to speak on IR 2020, a local law to strengthen indoor smoke prohibitions. This is -- apart from the budget, which you do every year, this is probably the

most important legislation that you will vote on that could positively impact the health of the residents of this County. It will protect workers from environmental tobacco smoke, but it will also decrease the rate of smoking in this County. Smoking causes about 400,000 deaths alone in this country. It's the number one preventable cause of death and disability. Environmental tobacco smoke exposure is the third most preventable cause of death and disability in this country. It causes about 40,000 deaths. Environmental tobacco smoke is not just a nuisance as some people say. It is a carcinogen. It causes cancer in humans. Philip Morris' website, which is the first handout, they acknowledge the harmful effects of environmental tobacco smoke and say there should be restrictions of smoking in public places.

But unfortunately in terms of classic carcinogens, we, as public officials, do not have uniform policies and procedures. Asbestos is another class A carcinogen. Yet when in one of my buildings, when we have to do work in the air space above the ceiling and there's asbestos, we get the patients out of the room and get the employees out of the room; and the workers put on respirators to protect themselves from this class A carcinogen. Yet we allow people to be exposed to environmental tobacco smoke in public places all the time. And we haven't taken the needed action in that area yet.

Pesticides, this body has banned the use of pesticides on County-owned and County-operated places. Now, you've done that indoors. You've done that outdoors. You've done that for pesticides that are possible carcinogens, probable carcinogens, and have been determined not to be carcinogens. Yet you haven't acted to protect our residents from environmental tobacco smoke which is a carcinogen. It does cause cancer in humans. We need to take the same position for all class A carcinogens. We just can't do it for certain chemicals. That policy, which is not uniform, sends the wrong message. And we really need to act. When I try to look at the pros and the cons of this proposed resolution, I do that for any resolution that comes forward that potentially impacts me. And I look at not only the public health, I also look at the finances. You can't run a department in this County and not be concerned about the finances.

Let's look at the different groups. Let's look at employees. Employees will benefit from this law. Those employees that have had their health harmed from environmental tobacco smoke, and we know it's harmful, they will be improved by this resolution. Many individuals have had to leave jobs because of ETS exposure. They've had to go find work elsewhere. Some of them are currently unemployed.

If you look at the second hand-out, I'm going to talk now about employers. What about

employers? Are they at risk? Employers, where we're now going to say that you cannot have smoking in public places. I have compiled some studies that have looked at --

LEG. FOLEY:

Commissioner, technically we have to ask a question. So, if you could tell us what the impact is on employers.

DR. BRADLEY:

Okay. Sure. I have compiled some of the studies that have looked at the financial impact in localities where tobacco smoking has been banned in public places. All of the studies have shown that there has not been a negative financial impact on municipalities that have done this. When California banned smoking in public places, they took a very bold step in 1995. They didn't know what was going to happen. But they said -- they put the public health interest first. And they banned it. And look what they've found. They found that there was no financial detriment to banning smoking in public places. It's not a bold step anymore. We know the economics of banning smoking in public places. It does not hurt the industry. It only helps the employees.

Okay. So we talked about employees. We talked about employers. Let's talk about taxpayers. The taxpayers in this County pay for Medicaid costs for tobacco-related illness. We are also a major insurer in this County. We pay for the health care costs associated with tobacco for our own employees. I have attached a chart from the American Legacy Foundation that -- the title is State Specific Estimated Medicaid Cost Savings for Progressive Reductions in Adult Smoking Prevalence. If you look at New York, you can see how much New York pays for tobacco-related illness, and what the savings would be with a 5%, a 10%, a 25% and a 50% reduction in tobacco use. Now, understand that a 5% reduction would be going from 20% where we are now to 19%. It's not going from 20 to 15%. For Suffolk County, if you look at what our savings would be, because we pay into Medicaid, we have a local share, it would be in the order of a few million dollars a year, if we could move the smoking rate from 20 to 19%. So taxpayers would benefit because there would be less Medicaid costs for tobacco-related illness. We know that because we get tobacco settlement funds for reimbursement for Medicaid clients who have tobacco-related illness. We get reimbursed about 25 million a year. So you have to realize that the savings from doing this can be significant for a county. Right now, we have financial issues in this County. I've lost 100 employees. I'm not sure when I'm going to be able to fill any of them because of budget concerns. This is a way to help the County financially. What is the cost of tobacco in addition to Medicaid cost.

The last piece in the packet is an article from the MMWR, which is put out by the CDS, which looks at the cost of tobacco per pack of cigarettes. And this does not look at ETS. This only looks at active smoking. And what they have found is that for every pack of cigarettes sold in this country, we pay \$3.45 for medical care costs. And we pay \$3.73 for loss productivity. Okay?

So I've talked about employees. I've talked about employers. I've talked about Suffolk County citizens who are taxpayers. From the Health Department's perspective, this is a major public health problem. And this would go a long way of addressing our rate of tobacco use in this County. The current law, as I said previously, has worked to protect patrons. It does not protect employees. But even with that, there are problems. There are many facilities that are exempt from the current law because of the percent of their business that is beverage-related. So there are many places that have sit-down tables where individuals, where families go into eat. And they are currently not protected. Even in those facilities that are covered by the law, the issue of dealing with separately ventilated rooms is extremely difficult. The employees go from a non-smoking smoking section to a smoking section. Well, every time they pass through a doorway, environmental tobacco smoke is going to go from the smoking section to the non-smoking section. So the current law is not perfect.

So we talked about employees, employers, taxpayers, the Health Department. But I did find an industry that would benefit by the non-passage of this law. And that's the tobacco industry. Every time a pack of cigarettes is sold, they benefit. But every time a pack of cigarettes is sold, we pay. We pay with our lives, we pay with our health, and we pay with our tax dollars. Please make the right decision in terms of employees, in terms of taxpayers, in terms of our youth that work in places where they are exposed to environmental tobacco smoke. I would be happy to answer any questions that you might have.

D.P.O. POSTAL:

Legislator Alden.

LEG. ALDEN:

Hi, Dr. Bradley.

DR. BRADLEY:

Hi.

LEG. ALDEN:

Did you look at this legislation as a deterrent for people smoking?

DR. BRADLEY:

I'm sorry. I didn't hear the question.

LEG. ALDEN:

Do you look at this legislation, this proposed legislation, as a deterrent for people smoking?

DR. BRADLEY:

There are three ways that this resolution will affect smoking. One is on exposure to environmental tobacco smoke. Number two, is on de-glamorizing smoking. We know that our youth pick up the habit because they see it as glamorous. They see adults doing it around them. And they want to do the same thing. So the less smoking in public places, the less our youth will pick up the habit. We also know that in municipalities where there are strong clean indoor air laws about smoking, smokers smoke less. So, yes, it will not only protect from environmental tobacco smoke, but it has the benefit of decreasing the rate of smoking in terms of initiation and also in terms of cessation.

LEG. ALDEN:

Should the sale and manufacture of tobacco products be banned?

DR. BRADLEY:

You can't ban a product that millions of people are addicted to. Should it be regulated? Yes.

LEG. ALDEN:

Millions of people are addicted to heroin, too. And that's banned.

DR. BRADLEY:

And we have -- correct. But we can't move millions of people into a nicotine treatment program. We would have to do it gradually. And if this country decides to ban tobacco, I'll be there providing cessation for people to help them if we decide to take that step. But we haven't yet.

LEG. ALDEN:

What answer would you give to people -- and this is a question that gets sent to us many times in our district office -- if there's 20 people and they all decide to have a cigarette together and they want to form a club or whatever, isn't that their constitutional right because of the fact that tobacco is not a banned -- it's controlled in certain ways but it's not banned. The manufacture and sale is not banned.

DR. BRADLEY:

Well, if they do it in their home, they have the right to do it. If they do that in a public place that is open to the public, I don't think that they have the right to harm the health of others that could walk in there.

LEG. ALDEN:

What about if they form clubs like a cigar bar club or a bar club, a private club?

DR. BRADLEY:

Well, there's the issue of the public. There's also the issue of employees. Now, when asbestos was determined to be harmful, we in this country made a decision it shouldn't be allowed anymore. There was an economic benefit to asbestos, but we said the harmful effects outweigh that benefit. So I'm unclear why we would give special treatment to tobacco that we have not given to other class A carcinogens?

LEG. ALDEN:

Basically because of an economic consideration. There's states down south they base their whole economy on the manufacture and sale of tobacco products. So that's why it's not illegal in the United States. And that answers the question you sent back to me. With asbestos, it was banned completely. With tobacco products, it's not. So we have to face that reality that there are going to be people out there that make the constitutional argument that why are you infringing on my --

DR. BRADLEY:

But I'm not going into their homes and telling them they can't smoke. What we're saying is, that it's a workplace issue. And people are not allowed to smoke in the workplace because their habit is harming people around them.

LEG. ALDEN:

What right at this point is not regulated by all our current regulations? Because we banned smoking in restaurants. And we created a situation where they had to make these separate rooms. And that was how many years ago? Two?

DR. BRADLEY:

I think that was done -- I was not Commissioner. I think that was done in '95 with -- yeah, that was done in '95. It created separately ventilated rooms for smokers. And as I said, that went a large way to protecting patrons. It did not protect the employees that had to work in the smoking sections. And there are also several eating establishments that are exempt from that law because the amount of their business that is beverage related. So it addressed the problem partially, but not completely.

LEG. ALDEN:

So, right now the things that are unregulated, so to speak, are the restaurants that chose to do the separate seating rooms; and things like bars, cigar bars.

DR. BRADLEY:

Bars that have -- even that serve food at the bar or that have tables have an eating section. But because they're beverages, reach a certain percentage, they don't have to comply with the law. So it's a bar/ restaurants.

LEG. ALDEN:

Bowling alleys? Under the current law, bowling alleys are exempt also?

DR. BRADLEY:

Bowling alleys were just passed by this Legislature to be banned.

MR. SABATINO:

Yeah, we've gone through three cycles on the bowling. First we prohibited, then we reinstated a portion; and then we just recently reinstated the original ban in the bowling alleys.

LEG. ALDEN:

Okay. Thanks.

D.P.O. POSTAL:

Legislator Binder.

LEG. BINDER:

Thanks. Commissioner Bradley, I want to ask you a little bit about enforcement.

DR. BRADLEY:

Okay.

LEG. BINDER:

Can you tell us the current levels of sanitarians, how many people we have, vacancy, you know, where are we with our -- because the people that can enforce this are sanitarians. So can you tell me where we are in terms of our numbers? Because my understanding is we have a number of vacancies.

DR. BRADLEY:

We do. And I can't give you the specific answer to that. But this will be an easier law to enforce than the previous law, because this is a total ban. And it is easier to be able to distinguish whether smoking is allowed or not allowed. We don't have to go back and look at tax sales. We don't have to check to see whether a room is separately ventilated. When it is totally banned, it is much easier. The experience in California is this has been self-enforcing. People will call us to complain about smoking in a restaurant. If we have to go and check and see whether their tax proceeds dictate a certain amount of alcohol consumed, or if they have that separately ventilated room, that takes a lot of time. Then we have to go out. If we know that it is banned in all public places, it will be easier for us to enforce it.

LEG. BINDER:

Well, my understanding, at least when I was Chair of the Health and Human Services Committee a few years ago, and I don't think it's changed since, we had a very hard time in stretching our work force, which I think was at a higher staff level than it does now in terms of going into the restaurants and making sure food borne illness and other things were taken care of and doing the job we needed to do in the restaurants for those public health concerns that were immediate. That are immediate. And I would say that during this period that we've been doing now all this other checking, we've taken sanitarians, we've had to because you only have a finite amount of staff resources. So here we were at least three years ago that I knew we were way behind in our ability to check up on restaurants. And now in the last few years, we've been doing this, we must have taken resources away from our ability to do that because you just have

a finite amount. And now we're three years later and now we're going to do further while you may -- it may be easier to check in general terms, it might be harder to check because now you have more to check. So there's -- you know -- there's a balancing here because it's a wider -- so --

D.P.O. POSTAL:

Is there a question here, Allan?

LEG. BINDER:

Yes, there is. So how can we, knowing that we were way behind then, how could we possibly take resources away from food borne illnesses questions?

DR. BRADLEY:

Okay. Well, whether we were way behind then, I'm not sure. But we're not way behind now. And all of these establishments whether the tobacco bill is enforceable, we still go into them because they sell food. So it's not a new group of establishments that we would now have to go into. Those bars that sell food, we regulate them now for food borne illness. But not for tobacco because they're exempt.

LEG. BINDER:

But how many times do you go in? How many times a year do you go in to any particular restaurant?

DR. BRADLEY:

It varies. It varies in terms of how many problems they have. It can be on average one time a year. If it's a problem, we'll go in more frequently. If it's a low risk facility such as a McDonald's, which in general is a -- we may not go every year. And this law, like the tobacco bill when it was first introduced, is initial education of the restaurants. And then it's based on complaints. If we get -- we will educate everyone that smoking's not allowed in public place. And if we get a complaint, then, we will go in.

LEG. BINDER:

Right. But the problem and maybe -- can you see the concern of taking resources to a wider group of people, a much wider group of people, away from food borne illness, especially in a time when we've just had early retirement and I think from my understanding your department

is hurting pretty badly in terms of that, I have a great concern about making sure there's enough resources to do what I think is a more immediate problem. Does that make sense?

DR. BRADLEY:

Yes. And I appreciate your concern for the staffing of the department. But when we look at public health concerns, tobacco is at the top of the list, not the bottom of the list. So when we triage what has the greatest health risk, tobacco has to be up there with food borne illnesses. This will be an easier law to enforce than the current. So it will not take more staffing. The other one take more staffing. We have to review plans. We have to see if the nonsmoker has to walk through the smoking section. This will be easier for us to enforce; not harder.

LEG. BINDER:

At what level of secondhand smoke does someone become permanently injured? At what time -- length of exposure and what level of exposure and what study can you site to show the permanence of the damage, permanence of damage from that level of exposure?

DR. BRADLEY:

There is no threshold below which environmental tobacco smoke does not have the potential to cause harm. If you are an asthmatic and you go into an area that has environmental tobacco smoke, you could have an acute asthma attack and you could succumb to that acute asthma attack. Clearly the more exposure, the worse.

LEG. BINDER:

And my wife is allergic to sesame seeds. A couple of sesame seeds, she's in the hospital. I'm not talking asthmatics. I'm talking about normal healthy people who are not asthmatic, they're not allergic to the smoke, at what level -- because I've been looking at the studies and I don't -- I can tell you it seems to me -- you tell me what I'm missing because I'm looking at all the studies -- there seems to be no study that says that there's a particular level where permanent damage ensues in the human system because we don't know what level and what length of exposure.

DR. BRADLEY:

Well, there's acute damage and there's chronic damage. There is -- I said it before. There is no safe level. And especially if you're a worker and you work in a facility eight hours a day, you are chronically exposed to environmental tobacco smoke. And the real intent of this bill is to protect

workers in the workplace.

LEG. BINDER:

But before we get to the workers, I think there's also an intent for people who are going in as patrons.

D.P.O. POSTAL:

Allan, question.

LEG. FOLEY:

We don't have enough. We don't have ten people. There has to be a question asked.

D.P.O. POSTAL:

Are you finished, Allan?

LEG. BINDER:

No.

D.P.O. POSTAL:

Okay. Go ahead.

LEG. BINDER:

Thanks. Let's talk about the patrons in the workplace. I would assume that everyone here, everyone listening, everyone who will read Newsday tomorrow about this have been in restaurants at some time in their life where there was environmental tobacco smoke that they breathed in or even in their home or in someone else's home or somewhere. So are we saying that everyone, everyone basically in the country probably has been damaged? We're all permanently damaged by environmental tobacco smoke?

DR. BRADLEY:

I didn't say that.

LEG. BINDER:

No. I'm asking. That's what I asked. I didn't say you said it.

DR. BRADLEY:

No, no. There are gradations of effect, there are certain populations that are more susceptible to

others. There is also a factor of the amount of exposure. The more you are exposed, the more adverse your health will be affected by it. Is an incidental exposure safe? No. Is it less harmful than a chronic exposure? Yes. There's no safe level.

LEG. BINDER:

I want to know what you mean by safe. What do you mean safe? I want to understand safe.

DR. BRADLEY:

Well, what was your question to me? Are we permanently damaged? Is there a permanence? Some of it can be reversible. When you are chronically exposed to environmental tobacco smoke, all people do not have reversal of those effects. There's a woman in Canada now who's dying from lung cancer; never smoked in her life. Worked in an industry where smoking was allowed. For her it was not reversible. With active smoking, everyone who smokes does not die from tobacco. A great percent of them do. This is not something that is going to harm everyone. I'm not saying that.

LEG. BINDER:

So can we say the same about fatty meat? There is -- probably it's dangerous. Almost every level, but it's reversible with most of us, but not everything is chronic. The same thing with the sun. People go to the beach. There is probably no safe level. Because I want to define this word safe. So there's probably no safe level. Is that true? That there's no safe level of fatty meat or sun at the beach? But for some of us, it's a -- it would cause a chronic problem. But that could be reversible. For some people they're going to get melanoma or they're going to get heart disease. So they're going to be susceptible to it. I mean, now we can put a lot of things in this bucket of things that we're calling not safe as long as we're using the word safe.

LEG. FOLEY:

We have to have a quorum present.

D.P.O. POSTAL:

Hold off one minute. Will all Legislators please come to the auditorium? We do not have a quorum present.

LEG. FOLEY:

Madam.

D.P.O. POSTAL:

Unless we do, there's going to a five-minute recess.

LEG. FOLEY:

Given the importance of the issue and the time that different people have spent on this issue, I would ask you to -- I would ask you to hold our questions in abeyance until we get at least a quorum present.

D.P.O. POSTAL:

There's been an announcement made. A staff person has gone out to try to encourage more Legislators to return to the auditorium. If we don't have a quorum, I will call a five-minute recess.

D.P.O. POSTAL:

Okay. Dr. Bradley. You can answer. Thank you.

DR. BRADLEY:

Well, in terms of trying to compare tobacco to these other behavioral factors, the intent of this bill is a worker protection where someone's habit is harming someone else. When you're talking about red meat, that's not harming the people around them. When someone comes into a restaurant to eat a steak, that doesn't harm the waiter or waitress that's serving them.

LEG. BINDER:

No secondhand meat? No. Okay. So now I think that that's important. So we've focused. The focus of this thing is that we're here today. We're not really here to help patrons. We're here because it's a specific problem with these employees in this particular industry, and so that's why we're focusing on this bill.

LEG. FIELDS:

What's the question?

LEG. BINDER:

If the workers in that particular industry are not interested -- in other words, if they understand the risk and if they know the reward, meaning the risk reward, because they know what environmental tobacco smoke can do to them especially with the prolonged exposure -- and I

agree with you, the longer, the higher, we don't know what the level is, at some point they could

--

D.P.O. POSTAL:

Allan, there's a question there, is there?

LEG. BINDER:

So if -- if they know the risk and reward and they're not coming down here asking to be protected, everyone else is trying to protect them, doesn't it seem a little off that we're imposing a protection on people that don't -- haven't asked for it themselves?

LEG. FOLEY:

They have asked for it, Allan.

DR. BRADLEY:

If you look -- and that's true, they have. But if you look back at this country, we don't wait until employees in a work site say to public officials, I think there's a problem here. If we know there's a problem, we're not going to wait to act until the employees say something, whether it's benzene, whether it's asbestos, whatever it is, I think we as public officials have to take a leadership role and say there is a risk there. We need to act. We're not going to wait. Asbestos, people don't even know they're being exposed to asbestos.

LEG. BINDER:

Isn't it true, though, that if you do look at the history, that we have acted after we have seen the lawsuits, after we have heard from the employees, after we've had the complaints. Historically we have -- it's exactly the opposite, it is the truth, if you look at history, that it's been exactly the opposite, that what we've done, is we've acted after people who have been affected have complained, gone to court and done that. We haven't gone first and said we think you've got a problem, we're going to go in there. Isn't that the truth?

DR. BRADLEY:

I can't answer that. I haven't looked at the lawsuits. But when these type of resolutions have gone to a vote of the populus, they vote in favor of them. So the majority of the people in those municipalities have said, yes, there should be restrictions.

LEG. BINDER:

Wouldn't you think that the people are not -- the people that want this in this municipality of

Suffolk, wouldn't you say that they're not saying overwhelmingly we want it because we're worried about waiters and waitresses and bartenders. They're saying I don't like the smell, I don't like it on my clothing, it's an annoyance. I don't enjoy it. And I want that cleaned out to the place -- I want to go to any restaurant without the smell. Isn't that the truth? Isn't that why --

DR. BRADLEY:

No. The letters that I've seen, the calls I've gotten have not been on the Nuisance. It has been on the Adverse Health Effects associated with it.

D.P.O. POSTAL:

Thank you. I have a questions for you. If someone who's not a smoker is in the same enclosed area with a person who is a smoker and is smoking, does that nonsmoker test positive for nicotine?

DR. BRADLEY:

Correct. In their blood and in their urine. And their exposure is potentially worse than the smoker because they are inhaling unfiltered tobacco smoke, not filtered tobacco smoke.

D.P.O. POSTAL:

So that they have -- are you saying that they have a greater risk of incurring tobacco-related illness than a smoker if they're in constant exposure?

DR. BRADLEY:

Yes. And it can be greater, because the smoker may come smoke their cigarette and then leave. The worker in an establishment that allows smoking could be around ten people that are smoking. And it's the more people that are smoking, the higher the exposure to that nonsmoker.

D.P.O. POSTAL:

We have, I think, it was two young women who worked as waitresses in establishments that had smoking rooms and, in fact, had to serve customers in the smoking room. They were non-smokers. If someone, like these young women, is exposed to tobacco smoke, has a constant amount of nicotine in his or her bloodstream going to his or her brain, is it possible that that person can become addicted to nicotine without smoking?

DR. BRADLEY:

That, I don't know the answer. I know that it can affect the fetus, but I don't know that they can become addicted the nicotine. They can be harmed by all of the other 4,000 chemicals in the tobacco product, but I don't know that they can become addicted.

D.P.O. POSTAL:

Thank you. Legislator Fields?

LEG. FIELDS:

There are nine. I would ask that you call a recess.

D.P.O. POSTAL:

No, there's ten. Okay.

LEG. FOLEY:

We have nine.

D.P.O. POSTAL:

Okay. We're going to vote on the tax warrant before we extend the public portion. So Doctor Bradley, I would just ask you if you could take a seat for awhile and then return to the other questions. We're going to get everybody in here. Will all Legislators, please, report to the horseshoe. We're going to vote on the tax warrants.

P.O. TONNA:

All Legislators, please come to the horse shoe. I'd ask my staff to make sure so they don't miss a vote. Legislator Carpenter and Legislator Cooper, where are you? All right. Okay.

Audience Member:

Excuse me, Miss Postal.

D.P.O. POSTAL:

Yes.

Audience Member:

Last time I was here, I signed in very early in the morning. And for some reason or another my card got jockeyed all over the place. I take great umbrage to the cards being picked up, put

down picked up, put down.

P.O. TONNA:

Ma'am, first of all, you can address the question to me. You're going to have to sit down. We're in the middle of a vote. I'll be glad to at my first available moment to come over to you and to listen to your concern.

Audience Member:

Thank you. I appreciate.

P.O. TONNA:

But cards are going to get picked up, put down, picked up, put down. That's what happens when you're looking at cards.

Audience Member:

Please number them.

P.O. TONNA:

They are. Thank you.

We're going to now -- the introductory tax resolutions for the December 5th, 2002 meeting of the Suffolk County Legislature. I'm going to make a motion to approve **2247 authorizing certain technical corrections to adopted resolution no. 996-2002 1078**. There's a motion, seconded by Legislator Postal. All in favor? Opposed??

LEG. BINDER:

Opposed.

LEG. HALEY:

Opposed.

P.O. TONNA:

Okay. Technical corrections you're opposed to? Okay.

MR. BARTON:

Mr. Chairman, who was opposed?

P.O. TONNA:

Excuse me. Legislator Binder, Haley and Alden.

LEG. ALDEN:

What number?

P.O. TONNA:

2247. It's a technical correction. Hey, they want to be opposed to it, that's their right. That's their right to be opposed to it.

LEG. HALEY:

Are you debating it?

P.O. TONNA:

No. All in favor? Opposed? You got Haley, Alden and Binder.

LEG. BINDER:

I'll change my vote.

P.O. TONNA:

There you go.

LEG. BINDER:

There you go.

P.O. TONNA:

So we just got Haley.

LEG. ALDEN:

I'm not opposed.

MR. BARTON:

17-1.

P.O. TONNA:

All right. Now I make a motion to approve **2248 levying unpaid water rents 1079.**

LEG. TOWLE:

Explanation.

P.O. TONNA:

Seconded by Legislator Postal.

LEG. CARPENTER:

Second.

LEG. TOWLE:

Explanation.

P.O. TONNA:

Yes, explanation legal Counsel.

MR. SABATINO:

This is just picking up the towns of Babylon, Brookhaven, Huntington, Riverhead, Smithtown and Southampton for the dollar amounts that you see set forth on unpaid water rents under state law.

LEG. TOWLE:

What is unpaid water rents?

MR. SABATINO:

Unpaid water rents are water charges that have been imposed on individuals within these particular towns under state law and which haven't been paid. In order for the town to collect the money but making it a lien on real estate, you have to approve this resolution. It's not a Suffolk County charge. We're not in the water -- we're not in the water business. So this is coming out of the Towns.

D.P.O. POSTAL:

Okay. We have a motion and a second. Henry?

MR. BARTON:

Yes.

D.P.O. POSTAL:

All in favor?

MR. BARTON:

18.

LEG. TOWLE:

I'm a no. You said all in favor. I'm a no.

MR. BARTON:

Anybody else opposed? Legislator Towle.

MR. BARTON:

17.

D.P.O. POSTAL:

2248 is approved. **2249 resolution implementing budget staff and taxes for the fiscal Year 2003, which are mandated.** I'll make a motion to approve. Seconded by Legislator Fisher.

LEG. CARACCIOLO:

On the motion.

D.P.O. POSTAL:

Legislator Caracciolo, you had a question.

LEG. CARACCIOLO:

For Budget Review, do we have a Melvin attached? Is there a Melvin attached?

MR. POLLERT:

What the Budget Review Office did is we prepared a memoranda, which has just been distributed to all the Legislators, which give an indication what is transpiring with respect to the total tax

warrant for the school districts.

LEG. CARACCIOLO:

Fred, I see that. That's not my question. Because what your memorandum has attached to it is the total County tax warrant which includes taxes by school districts, town governments, special districts, all entities that neither I or my colleagues have any control or input in as to the amount of taxation that's levied in those districts. My interest is narrowed to the County portion 2003 County tax warrant. I'm looking at the bottom of that page where you've shown an estimated average homeowner tax bill. And if I could just see someone take this information and represent that your Suffolk County taxes, for example, in Babylon, is \$6,018. That's absolutely false. The average homeowner in Babylon that pays \$6,018 is paying over 65% of that total to their school districts, about 20% to their town government, etcetera, etcetera, etcetera. I'm looking for the County tax warrant information. In years past I have made a strong argument of why you don't want to produce these types of documents with percentage increases because this is exactly the kind of nonsense that will wind up in the paper totally misrepresenting what the impact of County taxes are. In my district, County taxes are 1% of an average homeowner's tax bill. 1%. Yet someone will look at this chart and imply that it's -- Southold \$5,278. That's totally false.

LEG. CARPENTER:

Mr. Chairman?

LEG. TOWLE:

Put me on the list.

MR. POLLERT:

One of the difficulties is that this is the warrant, which is not just the County warrant.

LEG. CARACCIOLO:

Fred, I understand that. But I want to know before I vote on the warrant what I'm voting on as a County Legislator.

MR. POLLERT:

That was done.

LEG. CARACCIOLO:

The County share --

MR. POLLERT:

Okay.

LEG. CRECCA:

Let him finish, please.

MR. SABATINO:

Maybe I can just help. There's two different components. The tax levy is what we voted on at the last meeting on November 17th. The tax levy is the place where the Melvin statement you just spoke about is produced. The levy is how you impose the actual property taxes to be collected for everybody; school district, town and county. Today's vote on the warrant is approving the legal document that permits the Town Receivers and gives them the authority to go out and collect the taxes for all the taxing jurisdictions. So, there's nothing happening today, unlike the vote on the tax levy, that would generate separate statements for the County property tax, because we're not doing the property tax. This is just the legal document that will give the authority to the receivers to go out and physically send the bills and collect the payments. It puts it into context.

LEG. CARACCIOLO:

Counsel, as you know, I certainly understand that. And most every colleague here understands that. But that's not what will happen with this document. Once it becomes public information, people will read this and interpret it entirely incorrectly; not through any fault of their own, simply because they will not have seen what the change in County tax is for 2003.

D.P.O. POSTAL:

I'm going to recognize myself, since the chairman is not here and I'm next on the list. I understand -- I think Legislator Caracciolo is making an important point about perception. And I think that if the public looks at the estimated average owner total tax bill, which includes all of the taxing jurisdictions, it's misleading. But I would suggest that the important thing to look at is the total tax warrant for the County, which is right under the five western towns, five eastern towns, all towns. The County tax warrant and the others are there, I guess, for comparison purposes. And that's -- that's the true picture.

LEG. CARACCIOLO:

Madam Chair, would you suffer an interruption on that very point.

D.P.O. POSTAL:

Yeah.

LEG. CARACCIOLO:

If you look at that chart where it says east end towns, five east end towns, total tax warrant and it breaks it down by school district, county, town, etcetera. You go across the line on -- that relates to County. It demonstrates that there was a zero percent increase in County taxes for next year. And that is the relative or important number as far as my constituents are concerned. However, someone who is not aware of how to interrupt this chart will look down below that where it says estimated average homeowner tax bill and see that, for example, the Town of Riverhead taxes are going up \$284. Now, in large measure they're going up \$284 for the average homeowner because there was a town tax increase of 7%. The same in Southold Town. Zero county, 7% percent town. People will not understand and break it down that way. And that's my concern.

D.P.O. POSTAL:

Yeah, and I do understand that. And that's why I just want to clarify it for anyone who is looking at this table and misunderstanding it. Because I do agree with you.

LEG. CARACCIOLO:

I'd like to make note, then, that the Presiding Officer's staff get out a press release today to reflect the actual County tax warrant changes for each of the ten towns in Suffolk County. Because that's the document that the media should use.

LEG. FOLEY:

Just on that point.

D.P.O. POSTAL:

I would also suggest that it would be helpful if that could be broken down into general fund increase and police district increases.

LEG. FOLEY:

Absolutely. In fact, I would think, Madam Chair --

D.P.O. POSTAL:

Wait.

LEG. FOLEY:

It could be faxed over from the the BRO Office today.

D.P.O. POSTAL:

Legislator Carpenter. Brian, you'll be next.

LEG. CARPENTER:

Thank you. I agree with what you're saying, Legislator Caracciolo. And I would just make a suggestion to BRO when you're producing this document. At the very bottom, there are the explanations albeit in very tiny type, that explains that the total tax warrant includes the schools, the towns, the county and the special districts. So perhaps, Budget Review, when you're producing it, if you would, where the line says estimated average homeowner total tax bill dash include schools, towns, put that explanation on that very same line in the same size type. And I think that might make everyone feel a little more comfortable, and can see that the explanation is right there in front of you.

MR. POLLERT:

So what we will do is, we will redo the charts. I will include that larger font. And we will also break out what just the County tax warrant is town by town.

LEG. CARPENTER:

Okay.

MR. POLLERT:

That would be --

LEG. CARPENTER:

Well, I do think you have it. The total tax warrant by the Towns is broken out up at the top.

MR. POLLERT:

I understand that. But what Legislator Caracciolo wanted was just the tax warrant town by town for the County portion. And then Legislator Postal wanted it broken for the general fund, the police district and on a consolidated basis.

LEG. CARPENTER:

So, perhaps what would be a good idea is that these memos that were distributed could be collected again. And they could come up with revised memos.

D.P.O. POSTAL:

That's a good suggestion.

LEG. FOLEY:

Agreed.

D.P.O. POSTAL:

Well, I don't know --

LEG. FOLEY:

Can we vote on this at a later --

D.P.O. POSTAL:

I was just going to say I don't think members of the Legislature are ready to vote on this until we have the corrected information. But, Legislator Foley, you are next.

LEG. FOLEY:

Can we hold this amendment until later in the meeting to vote on it?
Or rather this particular resolution?

LEG. CARPENTER:

It's not going to change.

LEG. FISHER:

It's not going to change the content.

MR. SABATINO:

The only concern about today is really -- preferably it should happen before the lunch break because the Clerk's Office physically has to get the warrant to the ten towns. The weather's not particularly accomodating to that. But under any circumstance, you don't want to delay this because it delays the tax bill getting out. And if it could be done before 12:30, it would be just helpful to the process. This way you won't be criticized by the Towns for getting the tax warrant there late.

D.P.O. POSTAL:

Legislator Foley. Legislator Lindsay.

LEG. LINDSAY:

No, I don't want to --

D.P.O. POSTAL:

Legislator Bishop.

LEG. FISHER:

Very briefly, Madam Chair, I believe that restructuring the memo wouldn't preclude us from voting on this. We have a motion and a second. And certainly the content is the same. And I think we should go ahead and vote it.

D.P.O. POSTAL:

Yeah, I agree. It might be helpful while we are waiting for the memo and prior to voting, if Budget Review Office could just put the information on the record as to what the County tax change will be from last year, what the general fund change would be, what the police district change would be, so that we have that information. And then shortly we'll have that information in written form.

The next speaker is Legislator Nowick.

LEG. NOWICK:

I just want to reiterate what Paul said. I don't know if you realize the importance of getting this done by lunchtime, because, as you know, in my experience, if you do not get that warrant signed, if it doesn't get to the Tax Receivers, just so you know, when it gets to the Receivers, it doesn't go right out. It's got to go to their data process. That's three days. It then goes to a

mailing house. That's another few days. Then it gets mailed. By the time your constituents are receiving your tax bill, could be a week and a half from now. And when they receive it, it says the bill -- the amount is due on December 1st. We don't look good and believe me as Tax Receivers, we blamed it all on the Legislature. So they know. We did. When they called and complained, we said the Legislature. And now I've changed everything. Just so you know it. So it's on the record, that I'm saying get it out.

P.O. TONNA:

There you go. Good work. Another promise that you made that you're keeping. Great. Go ahead, legislator Caracciolo.

LEG. CARACCIOLO:

The question that raises is why are we dealing with this subject matter five days after the alleged deadline?

LEG. FISHER:

The alleged deadline.

P.O. TONNA:

It's because it's Colonel Mustard in the conservatory with the lead pipe.

LEG. CARACCIOLO:

Maybe some of these entities that we have to provide this information for were late in submission. I don't know. Henry?

MR. SABATINO:

Let me interject. The actual statutory deadline is December 20th. What Legislator Nowick is referring to is the fact that the tax lien year begins on December 1st. The Receivers of Taxes when they print the bills accurately state that the tax year is running from December 1st to November 30th. That, however, is not the deadline for taking action. The deadline for taking action ultimately under state law is December 20th so we're well within the statutory deadline.

LEG. CARACCIOLO:

When are those first half taxes payable?

MR. SABATINO:

They're payable as late as January 10th, but some people think it's important to pay them before the end of the year for income tax purposes because they're taking the deduction.

LEG. CARACCIOLO:

I understand. So constituents have until January 10th. December 5th, that's 35 days. Thank you.

MR. SABATINO:

Absolutely. And more importantly people who want to take the tax deduction will be able to do it this year because they'll get the bill in time.

P.O. TONNA:

We have a motion and a second on the mandated -- on 2248. I'm sorry. Wait. When did we do that? We approved that already. Okay. There's a motion and a second on **2249 implementing budget, staff and taxes for the fiscal year 2003 (mandated)**. Put something on the record, Fred. Where's Fred? Put the numbers on the record, Fred.

MR. SABATINO:

Fred's supposed to put the numbers on the record.

MR. POLLERT:

We don't have the numbers yet.

P.O. TONNA:

They're right here, Fred. County portion, Fred.

MR. POLLERT:

The County portion of the tax warrant is going to increase by 28.8 million dollars primarily associated with the police district and the community college. It is a 6.3% increase county-wide on the five east end towns. It is a zero percent increase because there is no increase in the general fund. So the five western towns will have a 6.5% increase. Blended with a zero percent increase in the five eastern towns gives an overall blended rate of 6.3% increase.

P.O. TONNA:

Thank you very much. Legislator Postal, go ahead and clarify.

D.P.O. POSTAL:

For the five western towns, the only tax -- county tax increase is because of police district costs; is that right?

MR. POLLERT:

Plus the District Court which had a negative fund balance. Between the District Court and the police district, that's the tax increase.

D.P.O. POSTAL:

Thank you.

P.O. TONNA:

Community College.

LEG. ALDEN:

Community College, too.

P.O. TONNA:

No.

MR. POLLERT:

Community College is a county-wide ten town charge.

LEG. ALDEN:

But there's an increase; right?

MR. POLLERT:

Yes, there is.

LEG. FOLEY:

There's no increase in the general fund portion, though; correct?

P.O. TONNA:

Right. We're good. We're bad.

LEG. FOLEY:

For the five western towns, Fred? Fred, the five western towns, there's no increase in the general fund tax?

MR. POLLERT:

The five western towns general fund basically remain the same. There was a slight increase of \$169,000. That's point 3%.

P.O. TONNA:

All right, thank you. Legislator Caracciolo.

LEG. CARACCIOLO:

Question for BRO. Fred, that 6.9% increase, again a very misleading indicator to people who will just pick up a newspaper and see 6.9. They will think oh, my goodness. I pay five thousand dollars a year on taxes and they're raising my taxes almost 7%. Wrong. That's not the case. You know that; I know that. But when you use percentages, that's the type of misinformation that gets out there. So in terms of dollars --

LEG. FOLEY:

Keep it up, Mike. Keep going.

LEG. CARACCIOLO:

In terms of dollars, I seem to recall when we adopted the budget two weeks ago, there was a \$39 County tax increase. Now, it fluctuated in Huntington because of higher assessed values. It was a higher amount. But average was \$39. Has that figure changed? Is it 41?

MR. POLLERT:

Yes. It's currently \$41.

LEG. CARACCIOLO:

That's what should be reported, Mr. Chairman. And I argue this every single year. And I don't fault the media because they hear this information from Budget Review. And I don't know when Budget Review is going to get it right. Stop using percentages. Use absolute dollar terms that the public can understand. It's \$41.

P.O. TONNA:

Okay.

MR. POLLERT:

Part of the reason --

P.O. TONNA:

No, we're not --

LEG. FISHER:

Let Fred respond.

P.O. TONNA:

Let Fred respond.

LEG. TOWLE:

It's a point of personal privilege.

P.O. TONNA:

Point of personal privilege. Fred.

MR. POLLERT:

We have to use the percentages as a requirement of the charter that requires a percentage increase under the fiscal impact. So we do deal with the dollars, but the percentages are required as a portion of the requirement of the fiscal impact.

P.O. TONNA:

Right. Okay.

LEG. FOLEY:

Mr. Chairman.

P.O. TONNA:

Can I say something?

LEG. FOLEY:

Put me on the list.

P.O. TONNA:

We're going to put on a list? All right. Legislator Haley, go ahead.

LEG. HALEY:

Pass.

P.O. TONNA:

Legislator Alden; then Legislator Foley for the list.

LEG. ALDEN:

On the record, Fred, I just want to say that I think you did a great job through this whole budgetary process. And while I do agree with some of the reporting should, you know, and you're going to clean that up, I just want to express my appreciation for the job well done.

(APPLAUSE)

P.O. TONNA:

That doesn't mean he's going to vote for it. All right. Now Legislator Foley. I'm sure there's things you want to put on the record.

LEG. FOLEY:

Thank you, thank you. We all agree that BRO did a great job. And, Fred just mentioned that you're required to do the percentage breakdown, but highlighting Legislator Caracciolo's point, that does not prohibit you from putting a dollar figure alongside a percentage increase. So while you're required, just as Michael has stated, I and others have stated the same thing over the years that while you may be required to do the percentage break-down, that does not prohibit you or prevent you from also placing alongside that how that percentage difference translates to real dollars and cents. So, again, Legislator Caracciolo's point is very well taken. So that next

to the percentage requirements, I would say put in the other line that will show whether it's 50 cents increase on the general fund per town and maybe \$31 on the police district side. Okay?

MR. POLLERT:

What we do have is, we do have the data from the tax levy vote.

LEG. FOLEY:

We understand that.

MR. POLLERT:

Which I'll make a copy of which is a current --

LEG. FOLEY:

We understand that. I must re-emphasize the point, Mr. Chairman. We go through this exercise every year as long as I've been here where we've asked for that information. Do what's required but go one step further as you do in so many other ways to the benefit of the public. Just go that extra step and put down the dollar figure amount right next to the percentage.

P.O. TONNA:

Thank God it's not a blizzard. Okay. We got everything done? All right. There's a motion and a second. All in favor? Opposed?

LEG. ALDEN:

Opposed.

P.O. TONNA:

Alden, Binder, Haley. That's it? Okay.

MR. BARTON:

15.

P.O. TONNA:

Okay. Next. **2250 implementing budget, staff and taxes for the fiscal year 2003 (discretionary)**. Motion by myself, seconded by Legislator Postal. All in favor? Opposed? Let me guess. Haley, Alden, Binder. There we go.

MR. BARTON:

15.

P.O. TONNA:

The amazing Creskin is going to make one more prediction. Are you ready? Thank you very much. Did you fill it out already? **2251 authorizing that the tax warrants be signed by the Presiding Officer and Clerk of the County Legislature and that they be annexed to the tax rolls for the collection of taxes.** Motion by myself, seconded by Legislator Postal opposed? Hold it. I got the feeling. Binder, Alen and Haley. And Towle. No, no, no. All right.

LEG. HALEY:

I'm in favor, Mr. Chairman, of this one.

P.O. TONNA:

You're in favor of this one?

LEG. HALEY:

Absolutely, because your name's going on it.

P.O. TONNA:

There you go.

LEG. TOWLE:

You singlehandedly are raising taxes, Mr. Chairman.

P.O. TONNA:

Thank you so much. Thank you so much.

MR. BARTON:

16-2.

P.O. TONNA:

I can feel the love. Motion to extend the public portion. Motion by Legislator Postal. All in

favor? Opposed?? Let me guess. Nobody. All right. Thank you very much. And just the media, let you be warned, yea be warned, the Caracciolo principle is in effect. All right. Thank you very much.

LEG. CARACAPPA:

That's worse than the Haley proposal.

P.O. TONNA:

Maybe Legislator Haley will let you behind the horseshoe if the report this correctly.

LEG. CARACCIOLO:

You want to recognize that lady?

P.O. TONNA:

We will. No. I have taken care of whatever I had to do. I have heard what the very thoughtful conscientious woman has said. And I will -- we are taking care of this. The new rule. I ask Legislators --

LEG. FOLEY:

We're going back to the Commissioner to ask questions?

P.O. TONNA:

Yes. I would ask Legislators that I'm going to ask for an informal -- the Tonna rule. Is basically nobody touches the cards but the Presiding Officer and the Deputy Presiding officer; okay? And no Legislative staff except for Legislator staff Burkhardt who actually re- numbered these. Somehow they got mixed up in the thing. But just keep people away. Yes, put them back in the order. So let's just keep it to the numbers. Thank you.

And next on the list is -- Kevin -- no, no. Doctor Bradley. Oh, we interrupted Doctor Bradley. How are you, Clare? You brought your snow shoes?

DR. BRADLEY:

No. Unfortunately it wasn't snowing when I got out.

P.O. TONNA:

Legislator Fields has a question.

LEG. FIELDS:

Commissioner Bradley, you made a statement before that when the first smoking bill was enacted that separate rooms did protect patrons. Is that really accurate?

DR. BRADLEY:

Well, when that law went into effect, compared to what we had previously, the smoking section and the non-smoking section were in the same air space. There was no wall. There was no separate ventilation. So the law that was enacted in '95 was an improvement because it created separately ventilated rooms. The problem with the current law is all of the establishments that are exempt do not have to comply. Many of them serve food. The other is separately ventilated rooms when you have staff that goes from room to room are not 100% in terms of protecting individuals.

P.O. TONNA:

Guys, Ladies and Gentlemen, Doctor Bradley is speaking. I can't hear her. I'm staying right here.

D.P.O. POSTAL:

Go ahead, Doctor Bradley.

DR. BRADLEY:

The one concern is the exemptions. The other concern is that staff goes between a smoking room and a non-smoking room through a doorway. And when that door is open, the smoke will travel through that doorway and go from a smoking section to non-smoking section. So even with the law, non-smokers are being exposed.

LEG. FIELDS:

But even if it's ventilated, is it ventilating out the class A carcinogens?

DR. BRADLEY:

The law requires that to have a smoking room, it has to be separately ventilated; meaning the air from a smoking room goes to the on outside. So in that terms, yes. But because they're in the same establishment and the workers are going between the areas, smoke is getting through between the doors.

LEG. FIELDS:

Okay. My second question is, that over the last month or so, several of the bar and tavern

owners and representatives have come before us and spoken, stating that they don't know about these studies that we're claiming are taking lives, secondhand smoke. Is it really proving that it really kills people? And where are we getting these statistics? So from your perspective as a doctor, I would like to get those statistics.

DR. BRADLEY:

Okay.

LEG. FIELDS:

And where you get them from.

DR. BRADLEY:

There are several sources and there have been several documents that have been produced. I grabbed some when I left, but I don't have them all. This was put out by the Environmental Protection Agency that talks about the adverse health effects, the number of people that die from lung cancer from environmental tobacco smoke. Not from active smoking, but from being around smokers. The Surgeon General, I did not bring that report, put out a report on the effects of environmental tobacco smoke. It talks about the thousands of people that die not only from lung cancer but also from heart disease. The CDC has put out many volumes on this. I could get things and send them to you if you'd like. It's well established. Even Philip Morris on their website agrees with public health officials when they talk about the harmful effects of environmental tobacco smoke. And they themselves say there should be restrictions in public places.

LEG. FIELDS:

So for those who will be here today that might ask that same questions if you were to give that to either Legislator Foley or myself, they could retrieve it from us or, you know, at any future time. Thank you very much.

D.P.O. POSTAL:

Legislator Foley.

LEG. FOLEY:

Thank you, Madam Chair. To follow-up on Legislator Fields' question because it's an excellent one, Commissioner, we've had others who opposed the bill, who have no background in science

or in medicine, question the CDC's reports, question the EPA reports, question the Surgeon General's reports. And now I'm assuming they'd also have to question what even the tobacco industry is saying, which is they agree with those other entities that ETS, in fact, does cause death; is that not correct?

DR. BRADLEY:

That's correct.

LEG. FOLEY:

Okay. If we go on from there, Madam Commissioner, you made a very important point. And it's one that I'm hearing from some of the -- those who oppose the bill; and even some who support the bill, the issue of enforcement. And there's concern that you have problems enforcing the present law; is that correct?

DR. BRADLEY:

Yes, there are issues in terms of enforcing the current law.

LEG. FOLEY:

And particularly in light of Legislator Binder's questions about the issue with personnel -- and that's an important issue -- as the manager of your Department, would you not say that given the personnel issues that you're confronted with, is it easier for you to enforce the current law, would it be easier to enforce and utilize your personnel if this particular proposal was approved?

DR. BRADLEY:

The proposed law would be easier to enforce.

LEG. FOLEY:

You have to speak up.

DR. BRADLEY:

I went to the head of the Bureau that does restaurant inspections. I went to the head of my Bureau. I mean I didn't want to jade him with my thoughts. And I said what would be easier to enforce. And he clearly said that a law that totally banned smoking in public places would be

easier to enforce. There wouldn't have to be as much research and it would be understood that when people call to complain and we go and do an investigation, that there's no smoking in public places. We don't have to check to see whether that establishment is covered by the law. We don't have to go and check to see whether someone was smoking in an area that was not allowed. We don't have to go and check to see whether the room where the smoking is adequate being separately ventilated. It would just be easier. Less --

LEG. FOLEY:

So those who want to look at this through the chair from a time and motion point of view, it would be far less time, far less motion, if you will, that would have to be allotted in order to enforce this law if it was -- this resolution if it was approved. So it would be a more efficient use of your present number of sanitarians.

DR. BRADLEY:

Correct.

LEG. FOLEY:

And that would in essence, and forgive my grammar, that free would up, if you will, those very same sanitarians to do other responsibilities within that given establishment.

DR. BRADLEY:

Correct.

LEG. FOLEY:

Okay.

DR. BRADLEY:

When you look -- when you look at movie theaters, we used to be able to smoke in movie theaters. Now there's no smoking in movie theaters. People don't smoke in movie theaters. We don't get called to movie theaters because everyone knows you can't smoke in movie theaters. With the way it is now, there are some restaurants you can smoke; there are some restaurants you can't smoke. There are certain areas within some restaurants you can smoke; in other areas you can't. It's much more difficult to enforce.

LEG. FOLEY:

Okay. Another area, Commissioner, you had mentioned. And I want to have you expand on the point, we just went through a very difficult process with the budget. And one of the most burdensome areas are the Medicaid mandates on this County, which are going up by tens of millions of dollars each year. You handed out a hand-out. You gave us a hand-out from the Legacy Foundation. Now, these numbers that you have here about the state specific estimated Medicaid cost savings for progressive reductions in adult smoking prevalence, are these numbers -- and I have to ask it this way in somewhat rhetorical fashion -- anticipate how others may try to criticize these numbers, do these numbers simply come out of the blue, out of someone's head? Or are these peer-reviewed factual numbers that have some basis in reality which shows there -- you have it, Marty -- which shows that there would be a great decrease in Medicaid costs to localities when it's a corresponding decrease in smoking?

DR. BRADLEY:

Yes.

LEG. FOLEY:

And how -- what are these numbers based upon?

P.O. TONNA:

Hold on a second. One of the problems in this room, although we all love to be in Riverhead, is that the slightest comments in the background are heard. And you can't hear. And I just think in respect to both Legislator Foley, who's asking questions, and the Commissioner, that I'd ask staff in the background and everybody else, if you have to have a conversation take it outside. I mean not outside literally, but you know.

LEG. FOLEY:

Thank you, Mr. Chairman. So where do these numbers come from?

DR. BRADLEY:

The cost of Medicaid --

LEG. FOLEY:

You have to speak closely and loudly into the mike, please.

DR. BRADLEY:

I'm sorry. Comes directly from the states. The cost of Medicaid comes directly from the states. In terms of -- in most of the studies, the study that I passed out that says we pay about 750 in terms of health care and productivity, that doesn't even include environmental tobacco smoke. They haven't incorporated that into the model. It's only direct smoking. So these look at the well-established adverse health outcomes from tobacco and what the costs are to Medicaid. This doesn't look at private insurance. It's only Medicaid. We know that people on Medicaid smoke at a higher rate than the general population. So you may not see the same type of cost savings in a group that's privately insured than you would in Medicaid. So they looked at Medicaid expenditures. And New York is different than most of the other states because the County's paying to Medicaid. So it's not only a state benefit when you decrease the rate of smoking, it is a County benefit as well. So they look at the cost for tobacco-related illness. That is how we came up with the tobacco settlement. They looked at how much it costs. There have been several states that have gone forward and have seen significant decreases in the incidents of smoking; California being the first. They have --

LEG. FOLEY:

They saw a significant decrease in smoking as a direct result of passing legislation that bans smoking in public places.

DR. BRADLEY:

That was one; one of the factors. They did many things at the same time, but clearly that was one of the factors. By de-glamorizing smoking and prohibiting it in public places, the rate of smoking has decreased. And they have -- they have said that for every dollar invested in tobacco control, you save three dollars. They have also shown the greatest decreases in lung cancer rates than any other state in the union. They have already seen improvements in health outcomes, in mortality statistics, from lung cancer, which is 90% attributable to smoking. So they've already seen the benefit. So in looking at states that have seen the benefit from decreasing the rate of smoking, that we know the cost savings associated with decreasing the rate.

LEG. FOLEY:

So, in other words, in order for us as Legislators to put into our lexicon, so to speak, one way of relieving this Medicaid mandate from the state is to approve legislation such as this, which will have the direct result of helping people to stop smoking, not only protect the employees, help people to stop smoking; thereby have a -- some corresponding decrease in Medicaid costs. Correct?

DR. BRADLEY:

Yes. And it's also preventive. It will also decrease initiation of young people to smoking. And that takes longer to see the benefit.

LEG. FOLEY:

What I'd like too see, Mr. Chairman, through the Chair, if you give it to us today or in the very near future, if we could extrapolate from that 21869 number of a 5% reduction, which was stated earlier, that 5% reduction is a 1% decrease from 20% to 19, what that figure would be for Suffolk County in rough numbers since we have a large proportion of Medicaid costs outside of New York City. So not only are we saving lives, we'd about saving Medicaid costs as well. Mr. Chairman, I just have several other questions. I know others have some as well.

P.O. TONNA:

Excuse me?

LEG. FOLEY:

I said I just have several more questions.

P.O. TONNA:

Okay.

LEG. FOLEY:

And then we'll get to others who want to speak on it.

Commissioner, you mentioned -- let me put it this way. We have been told that there's simply no comparison -- that's there's a false comparison to make between California and Long Island. And those who oppose the bill have geographically limited their vision to southern California. Now, as we all know, northern California has a very similar climate to Long Island where you have four seasons. Now, you were recently in San Francisco. And to your credit had given a talk, a speech to a national seminar on tobacco-related issues. I'm certain that you've spoke with your colleagues and saw firsthand since you were in California as to how the laws in that particular state, in the regions of that state that are exactly the same as ours from a climate point of view, what was the information, if you will, that was shared with you in California the other week?

DR. BRADLEY:

Well, in terms of the public health people from California, they report on the history of what's happened when they implemented it. And they had a lot of opposition when this was proposed. But it passed and it went into effect. And now the majority of restaurant owners and bar owners are in support of the law that's in effect. They're happy with it. They've seen that this --

LEG. FOLEY:

Now, those people who are happy with it, it's only those in southern California? Or is it those who are also throughout all parts of the state?

DR. BRADLEY:

No. Statewide.

LEG. FOLEY:

Statewide. Thank you. Continue.

DR. BRADLEY:

Statewide. They have not seen a decrease in revenues from the passage of the law. I mean anecdotally when I was there, when I was out, I asked. I asked the people that worked in these establishments, not saying who I was, you know, what did you think about when they banned smoking? And in general they were all happy. People go outside when they need to have a cigarette.

LEG. FOLEY:

Mr. Chairman, thank you. That's all the questions I have for right now.

P.O. TONNA:

Legislator Haley, you have the floor.

LEG. HALEY:

Thank you very much. Not just as it relates to smoking, but in a lot of arenas, don't we have -- I think the expression is called avoidance through education. It's commonplace; right? I imagine we could do that when we talk about -- and I think about something really significant is Cornell Cooperative where they have a program to try to curtail type two diabetes in children.

And I think that it's well taken that we -- meaning government -- has a responsibility to help educate so that there could be some avoidance, if you will, of type two diabetes. And I think, would you agree, because I'm trying to keep these couched in questions, would you agree that New York State, I think California, about 16, 17 percent smoke. Could be plus or minus a percent. Long Island is about 20%. And if you compare that to ten years ago, fifteen years ago, there has been a significant change in our society relative to smoking because of education.

DR. BRADLEY:

There has been a decrease. In terms of young people in certain areas, we haven't seen that significant of a decrease especially among young women. But, yes, we have seen --

LEG. HALEY:

Right. As we know, we've -- as a matter of fact -- correct me if I'm wrong -- I believe we passed legislation this year to give you the tools to specifically target female teenagers as it relates to smoking; is that correct?

DR. BRADLEY:

Correct.

LEG. HALEY:

Okay. And males, too, by the way?

DR. BRADLEY:

And males, too.

LEG. HALEY:

Of course. We got to make sure we have some even play. That's correct. So I think that that's important to note, because the primary difference I have with education avoidance and what we're attempting to do here goes to a much different level. When we talk about enforcement, I just -- to me it's incredulous to think that because something is easy to enforce, therefore, we should go along with that. You know, and I would say that that approach would say, you know what, it's easy to enforce DWI if we just don't allow people to drive.

DR. BRADLEY:

My comment was that when you look at the pros and cons, and I looked at many of them, I didn't start out and say this would be easier, we better do it. I have to --

LEG. HALEY:

Just stating the fact --

DR. BRADLEY:

-- look at the practicality of enforcement. And my comment was from a public health perspective, it's the right thing to do. From a financial aspect it's a right thing to do. And from an enforcement perspective, it will be easier to enforce than the current law. So that was not my leading reason for supporting this resolution.

LEG. HALEY:

I understand that. I understand that. I'm just -- a little tongue in cheek.

P.O. TONNA:

Which one; tongue or the cheek?

LEG. HALEY:

When you talk about Medicaid savings, what I find, and I agree, that what we've looked at, there have been Medicaid savings over the last few years because we have, in fact, reduced smoking through education. Do you think that some of these goals can still be met if we continue to educate people?

DR. BRADLEY:

Yes. And education is very important. We need a multiprong approach to this public health problem. I would not say we shouldn't do education. We should continue to do it. But we will reach our goals sooner with the passage of this law. And this passage of this law --

LEG. HALEY:

Could you define your particular goal? You said we'll reach our goals --

DR. BRADLEY:

Well, if you look at the CDC, there are different goals. Some people are looking towards a 50% decrease in the rate of smoking. But my ultimate goal way down the road is significant decreases in smoking. From a public health perspective, there is so much at stake when people smoke. So in an ideal world we wouldn't have smoking. But we do have smoking. So we have to work and live with the confines of the fact that tobacco is a legal product. But we also have to protect workers in the workplace.

LEG. HALEY:

I'm coming to that.

DR. BRADLEY:

Okay.

LEG. HALEY:

But wouldn't it be easier to enforce if we just made tobacco illegal?

DR. BRADLEY:

You're asking me the hypothetical.

LEG. HALEY:

I'm not. I'm trying to make a point.

DR. BRADLEY:

You can't go from having millions of people who smoke to say, okay, it's now an illegal product. We can't easily get them all through cessation to become free of the nicotine addiction. If this society wants to do that, I'll be a part of making that work. But we're not going to go there from here to there. There's not political will in this country to ban tobacco.

LEG. HALEY:

Are you saying you have to do it incrementally?

DR. BRADLEY:

Do what incrementally? Yes, I think there should be regulations on tobacco. I don't think tobacco should be allowed to be marketed to young people. California just sued the tobacco

industry and the tobacco industry was found guilty of continuing to market tobacco products to minors. I think there need to be regulations in that area.

LEG. HALEY:

I understand that. And, you know, I had a major conversation yesterday with someone concerning that very issue. You know, while I don't support the smoking ban because -- for a myriad of reasons, I certainly think that we have to be very cautious in that I believe that the family unit has to take the responsibility on in preventing their children from smoking. But it doesn't work if tobacco companies are directly marketing to kids. I obviously agree with your position that that's wrong. But what I'm concerned about through all of this is it's something very simple. There seems to be a consistency in everybody's argument that restaurants and bars and all of these establishments are public places. And I think that's a misnomer. I think -- wouldn't you agree that it probably should be called a private place that the public may have access to?

DR. BRADLEY:

A what?

LEG. HALEY:

These establishments are really private, but public has access to? The reason being is I think it's good to make a distinction between what is public, such as this forum, or government building or a school building versus a private --

DR. BRADLEY:

Well, they're public to the extent that we regulate them in terms of the food that they serve. So we as a society have decided that we want to make sure that the food that they eat is safe for them to eat.

LEG. HALEY:

That's a very good point. And you know I'm not a pro-government type of person. But what I find very interesting about restaurants, and maybe you'll agree, that one of the primary reasons that we decided to regulate how they prepare foods is because the average person who comes into that restaurant doesn't have the ability to go into the kitchen and to ascertain whether or not there's appropriate refrigeration or things are brought up to temperatures sufficiently to kill off bacteria.

D.P.O. POSTAL:

Marty, question.

LEG. HALEY:

I just asked her if she agreed if that was -- that was originally the approach towards regulating what happens in the kitchen of a restaurant.

DR. BRADLEY:

And I think the public looks to us for the same assurance when they go into a restaurant to know that there's not a class A carcinogen floating in the air.

LEG. HALEY:

That's well taken that the average person is going not going to be able to ascertain whether or not there's bacteria in the food. So, therefore, there is a level of responsibility from the government perspective. But wouldn't you also agree that -- and it's been shown over the years, there has been a reduction in people smoking through education through avoidance? And I think most of us, and I ask this question all the time, if there's anybody -- actually there might be one individual, but most people understand that smoking and secondhand smoke is not good for you. So the difference between -- would you agree that the difference between that person who enters a restaurant, most people if you ask them a question when they walk in, you ask them are you capable of ascertaining whether or not that food is free of bacteria versus are you or are you not aware of smoking being bad for you or secondhand smoke being bad for you? And don't -- what do you believe might be the responses for those -- to those two questions?

DR. BRADLEY:

Well, it depends. The people that I speak to, the letters that I've received, people are begging to stop smoking in public places because they don't want to be exposed to environmental tobacco smoke. They know it's harmful for them. So there's different groups.

LEG. HALEY:

You know what amazes me and I have -- if they called my office, I would simply tell them don't go there.

DR. BRADLEY:

If you look at the people that call the Health Department, the vast majority call because their concerned about environmental tobacco smoke.

LEG. HALEY:

I'm sure they are. But most people can make the conscious decision I think. And I don't want to get into a debate, but I wanted to go back to make my point. Question. What?

D.P.O. POSTAL:

Yes, you are getting into a debate.

LEG. HALEY:

I know. But -- yes.

LEG. FISHER:

We have a lot of speakers waiting.

LEG. HALEY:

I know we have a lot of speakers waiting. I'm usually not as verbose as most Legislators, so, you know, I'd like to take a little time to make sure that I understand where the Commissioner is coming from. A very good Commissioner, I might add.

Going back to that question, what would you imagine that the average Joe or Jane walked into a restaurant, you asked them two questions. Are you aware or are you capable of ascertaining if there's bacteria or proper refrigeration for the food that you're about to eat -- in the preparation of the food you're about to eat? The second question would be are you aware that smoking and second-hand smoke is not good for you? What would you imagine the response would be to those two questions?

DR. BRADLEY:

I think most people are not able to determine by looking at food whether there's bacteria in it. And I think most people now acknowledge that environmental tobacco smoke is harmful.

LEG. HALEY:

And would you say that that is because of the education component?

DR. BRADLEY:

Yes. But I think there's some people that deny that. But more and more people are realizing the health effects associated with environmental tobacco smoke. But acknowledging it doesn't go far enough in terms of protecting people.

LEG. HALEY:

Right. I'm finished. Thank you very much.

D.P.O. POSTAL:

Legislator Caracciolo.

LEG. CARACCIOLO:

Thank you. Good morning, Doctor Bradley. Doctor Bradley, I want to start with probably the crux of this issue for some Legislators; and that is, the economic impact it will have on business owners, restaurateurs, bar and tavern owners in Suffolk County. Could you just address that issue based on what you know, the empirical information that data that you've reviewed? You've mentioned the health studies. And, ultimately is this an economic impact that we should be concerned about in terms of the business community or the constituents and the people we represent?

DR. BRADLEY:

In the packet that I handed out, there was a document selected studies on the effects of revenues after smoke-free ordinances have been enacted. Now I have multiple studies of this, but I didn't want to flood you with them. So I prepared just a sample of them with the conclusions. As I said, we are not the first municipality to propose this. California enacted this in 1995 in restaurants and in 1998 in bars. Towns in Texas have done this. Many municipalities in Massachusetts have done it. Nassau has just done it. Westchester will vote on it in January. But for those municipalities that have had it enacted and have had time to evaluate and monitor the effects on business, it has not led to a decrease in business. And that intuitively makes sense. 80% of the population doesn't smoke. So for the people that smoke that won't go anymore, they are usually more than counter-balanced by the nonsmokers who won't go now because they can't be around environmental tobacco smoke. So if you look at the data. It doesn't show that there has been a detrimental effect on business in localities that have enacted smoking bans.

LEG. CARACCIOLO:

Intuitively a lot of us have witnessed what appears to be an increase in youthful smokers, people under the 18, people under the 21; age 21. Is that just a perception or is that a reality?

DR. BRADLEY:

No. That is a reality. And although there may be a small drop in middle school and high school, we're now seeing a huge increase in college-age children. There has been a direct attempt to market them because they're of legal age. So there's a direct attempt to reach out to college-age kids to get them to pick up the habit for the first time. They didn't when they were 16, 17, 18. But something is going on now in college-age. So we are seeing increases in certain areas; although we've made strides in terms of adults, we've made back slides in terms of certain youth, in particular young women. But also in terms of 18, 19, 20 year-olds.

LEG. CARACCIOLO:

Sports bars have become a very popular place for young and old to meet, have a meal and for many have a smoke. That said, I don't think anybody would dispute that. We've seen a proliferation of those types of facilities, not locally but nationally. They're all over. Playing devil's advocate, what do we say to those who enjoy smoking, who may even acknowledge that smoking is harmful, but feel it is a right they have that government is infringing upon a right they have if they can do so in a place without harming anyone else? Now, the issue that becomes, is well, what about the employees that serve in those facilities? Are they not quote innocent victims of that second-hand smoke which you have so eloquently identified in study after study does cause harmful effects on those who inhale that smoke. What do we say to those in terms of taking what they perceive as their constitutional right?

DR. BRADLEY:

Well, I think you answered it yourself. Their right ends when they're doing something that harms others. And we know that environmental tobacco smoking is harmful. We know that it harms the workers who are being exposed to it, and especially young people. For many young people, teenagers, that's their first job, is being a bus boy, being a waiter, being a waitress. And they are being exposed to environmental tobacco smoke at a time when for some of them their lungs aren't completely developed. So they're even more susceptible. So I think yes, it is their right. And in their home they are allowed to smoke. But when they're in a public place and they're harming others, I think their right ends and we have to look at the rights of others.

LEG. CARACCIOLO:

Speaking of the rights of others, Legislator Binder has proposed legislation that would prohibit smoking in automobiles. Again, we have innocent third parties, either passengers or children in many instances. Would you support the enactment of of that legislation?

DR. BRADLEY:

Well, I support his intent, which is to educate and restrict smoking around young people in cars. I have some concerns about his resolution. Number one, the arbitrary age of thirteen. Fourteen-year old can't get to their soccer games. Fifteen-year olds can't get to where they have to go. So, there's nothing magical about thirteen. I also have a problem with going into private places before we have enacted bans in public places. Right now kids can be brought into the smoking section of restaurants and have to sit there and have their meals. So how can we allow that to continue yet say, okay, we're going to go into someone's car, stop them and say you've got to stop that. I think we have to stop it on public property before we go into private people's homes and cars.

LEG. CARACCIOLO:

In terms of the economic impacts, earlier you stated that we're dealing with an issue here that is a public health and economic issue. And I would agree entirely, that that's what we're dealing with here. And generally speaking, I think everyone that sits in this horseshoe, that sits in a policy-making role, at the end of the day, the public health has to stand out paramount to the economic benefit of others. But is there some way that we could perhaps make some accommodation for those who have sports bars and other types of businesses that smokers presently utilize and would like to continue to utilize. And by that I mean there are air filtration systems. We had one manufacturer here last month who specified he's a local manufacturer, I believe, from Bellport, who stated that his product has demonstrated to be effective -- to reduce air emissions by 99.9%. Are you familiar with such products and would you endorse the use the facilities that currently allow smoking in separate areas to incorporate that type of device that would almost all by eliminate second-hand smoke for the workers who we are rightfully concerned about?

[SUBSTITUTION OF STENOGRAPHER - ALISON MAHONEY]

COMMISSIONER BRADLEY:

I haven't seen any data on what he has been producing or working on. None of the regulatory agencies have approved any filtration/ventilatin system that is effective in removing the

carcinogens. And I think it's the same gentleman that I heard, he talked about having one smoker in a room and removing the smoke from that one smoker. Now, how could something, other than having a smoker being in some type of bubble, how could an instrument remove the environmental tobacco smoke so that the person sitting next to him wouldn't be exposed? I mean, it just can't happen unless he's smoking in some type of enclosed area like a closet, he goes in and smokes and then it removes it. I mean, how could a smoker sit next to a non-smoker and have any type of instrument remove the environmental tobacco smoke?

LEG. CARACCIOLO:

Okay. So you're not aware --

COMMISSIONER BRADLEY:

No.

LEG. CARACCIOLO:

My question really is you're not aware of any technology that would eliminate, all but eliminate the carcinogenic elements in tobacco smoke as well as the air emissions.

COMMISSIONER BRADLEY:

Correct.

LEG. CARACCIOLO:

You're not, okay.

COMMISSIONER BRADLEY:

Right.

LEG. CARACCIOLO:

Okay. The effective date of this legislation is when?

LEG. FOLEY:

January, '04.

LEG. CARACCIOLO:

January 1st, 2004, more than a year from now. Would you not favor, since we're talking about

an implementation date that's some twelve plus months away, perhaps further review and study and possibly compromise with the people in the business community to try to find some other means and perhaps a timetable to get where we'd like to go? And maybe, as the sponsor might acknowledge, giving them twelve months to get there is doing so, but I would argue that -- I think, first of all, the employees in these establishments right now, they should be -- we should consider legislation that would require them to sign a disclosure that, A, they know that this helps protect both the employee and the employer, because the employer should not be in a situation where somewhere at a future date he may be subject to litigation by virtue of having someone in his employ who will make a case and an argument subsequently that they worked in an environment that was detrimental to their health. So I think there should be some type of written acknowledgment disclosure by every employee in these establishments and if I owned one of them, I would certainly have that type of requirement to protect myself as a business owner.

But secondly, since we do have more than 12 months, is there some way we can get to where we want to go without just taking this quantum leap? New York City hasn't adopted this legislation, County Executive Suozzi in Nassau County has indicated he has some reservations and he will seek changes in the Nassau law unless there is, in fact, a regional implementation by New York City, Suffolk and Westchester.

So I don't know why at this juncture we need to take this leap unless we all can be assured it will be a uniform, regional approach and legislation. And that begs the question if it's not good for the people of Suffolk County, then where are our State lawmakers in enacting a Statewide?

LEG. FOLEY:

Amen, Mike.

COMMISSIONER BRADLEY:

Well, it should even start at the Federal Government, it should be a workplace restriction. People that know me know that I'm willing to work and meet someone halfway. On this issue, there are only pros, there are no cons. The only people that will suffer from this are the tobacco industry because they profit when people purchase cigarettes. The restaurant people, the bars, if you look at the data, they are not hurt by this type of law so in my mind there's no reason not to do it. And there's no one -- Nassau did it. Are people going to take the ferry to Connecticut? I mean, there's really no argument on why not to do it.

LEG. CARACCIOLO:

If it's that compelling, then why delay its implementation a year?

COMMISSIONER BRADLEY:

I think you'd have to ask the sponsor.

LEG. FOLEY:

Ask me the question.

LEG. FISHER:

But not now not during the public.

LEG. FOLEY:

Later, Mike.

LEG. CARACCIOLO:

Yeah, when we get to debate the bill. In terms of the economic impacts, I think you've spoken very eloquently to that and the impacts it means to local governments. And again, I would submit that's something my colleagues and I have to consider seriously.

But now I want to come back to our own County Tobacco Cessation Program and education effort. Where are we in 2003 with respect to the effort that was kicked off two years ago as it might be, three years ago now; are we continuing to fund those efforts at the same or higher levels?

D.P.O. POSTAL:

Mike, I'm sorry but I'm going to have to interrupt you because we're on a different issue and there's a whole list of people.

LEG. CARACCIOLO:

If we can just -- I'll wrap it up with one or two more questions.

COMMISSIONER BRADLEY:

The cessation --

LEG. POSTAL:

Including that one? That really -- you know, if you have other questions related to 2020, that would be great.

LEG. BISHOP:

(Inaudible).

LEG. CARACCIOLO:

Well, no, the direction I'm going is I want to make certain if we enact this law that we will have the resources to enforce it.

D.P.O. POSTAL:

Well, why don't you ask her if we enact this law will we have the resources to enforce it.

COMMISSIONER BRADLEY:

Yes. The cessation program has had a boost to its funding for 2003 of a hundred thousand for us to work with a contract agency to increase our capacity of our cessation program. We've had about 4,500 people come through, but that -- the contract we will have with the Lung Association will increase our capacity. So it has actually been increased, the resources for the cessation part.

LEG. CARACCIOLO:

In terms of enforcement, who enforces these laws and how many people do we currently have as a result of early retirement incentive and how many will we have in 2004, another 12 months from now? Because we have a hiring freeze so I know we're not hiring people, so I just want to make sure we have the ability to --

COMMISSIONER BRADLEY:

I don't want to fudge, I don't like to do that so I'm going to have to go look at the amount of staff that has left from Environmental Protection. But I've said it before, this law will be easier to enforce than the current one.

LEG. CARACCIOLO:

I heard you say that.

COMMISSIONER BRADLEY:

So --

LEG. CARACCIOLO:

And just run me through in terms of enforcement, how would that be done? The law is passed, goes into effect, let's say it was January, 2003, a month from now instead of a year from now, and someone's in a restaurant, someone smokes, what's the procedure?

COMMISSIONER BRADLEY:

Well, the first thing that we would do is we would communicate with all of those establishments that are covered by this law to let them know and inform them about signage and what their responsibilities are. And probably I would even offer sessions to educate them in small group sessions, I think that's very important. Once it's in effect and we get a complaint which is usually how the enforcement would be, we would go out and I think the first time we would make sure that they understood that they're not allowed and it would probably be more like a warning but I would have to speak to the sponsor about this, the first time. But if it's documented that someone has smoked in an area that is non-smoking -- well, let me back up, let me back up.

The law requires signage and no ash trays and for the establishment owners to inform people they can't smoke, that's it. We do not expect that the owners of the establishments will --

LEG. CARACCIOLO:

Will police; they won't self-police, no.

COMMISSIONER BRADLEY:

No, we don't expect them to police the people. And if we look back at what's happened in California, it has been self-enforcing, there have not been people that have been smoking in areas where they're not supposed to be. So really the signage, the lack of ash trays and informing people that they can't smoke. You know, if they encourage smoking --

LEG. CARACCIOLO:

So now you have -- okay, until the law takes root, as I'm sure there was a transition period in California, what happens if there are violations and repeated violations at particular establishments, how would that be enforced, do the police get notified?

COMMISSIONER BRADLEY:

No, no, it's the Health Department. We have charges that are brought against them and then we go to a hearing for violations.

LEG. CARACCIOLO:

So we don't need an eye witness to the account.

COMMISSIONER BRADLEY:

Well, we would need to verify that someone, in fact, put up --

LEG. CARACCIOLO:

But how do you --

COMMISSIONER BRADLEY:

No, see they're not the police.

LEG. CARACCIOLO:

Here's what I'm getting at; it's a weekend, it's after hours, you don't have the resources to get there immediately.

COMMISSIONER BRADLEY:

All we're asking them is signage and no ashtrays. If we document that they have ashtrays out, they're encouraging smokers and they're in violation of the law.

LEG. CARACCIOLO:

In Suffolk County, how many establishments would fall under this new law?

COMMISSIONER BRADLEY:

Probably low two thousand.

LEG. CARACCIOLO:

Low two thousand.

COMMISSIONER BRADLEY:

Uh-huh.

LEG. CARACCIOLO:

Again, I just want to be certain that we don't pass a law that we can't actively enforce.

COMMISSIONER BRADLEY:

Well, in terms of enforcement, it's the same as the current law. Let's say in a current establishment now that is supposed to be non-smoking, if they have smoking, how do we find out about it? We don't have sanitarians in these establishments at all times. We would get a complaint and we would go in, make sure they --

LEG. CARACCIOLO:

So a patron would contact the department?

COMMISSIONER BRADLEY:

Yes, a patron or an employee, sometimes the employees call and say, "You know, they're not supposed to be smoking and they're smoking here." We would go in, usually first just to discuss it with them to make sure the signs are up, make sure that there are no ashtrays out, make sure that they understand that smoking is prohibited. If there are no signs up, if they put ashtrays out and encourage smoking, we would go forward with a violation and probably proceed to a hearing.

LEG. CARACCIOLO:

And the hearing would be at the Health Department.

COMMISSIONER BRADLEY:

Yes.

LEG. CARACCIOLO:

And what are the sanctions for violations?

COMMISSIONER BRADLEY:

Financial fines, and if there are multiple times where they do it they are at greater risk.

LEG. CARACCIOLO:

Is there a minimum/maximum range?

COMMISSIONER BRADLEY:

I'm not sure exactly what it is, I'd have to find out for you.

LEG. CARACCIOLO:

Okay, I'd appreciate that. Thank you, Madam Chair.

D.P.O. POSTAL:

Legislator Fields.

LEG. FIELDS:

Commissioner Bradley, I believe Legislator Haley had a question before or a series of questions regarding education and I believe what I was able to get out of what he was saying, and perhaps I'm wrong, was that he felt that rather than enact this law to ban smoking that we should just continue with the education. The question I have for you is do you believe that education is going to stop an addicted smoker?

COMMISSIONER BRADLEY:

Well, for some it will but many need more than that. Many know the harmful effects and it's only when they're restricted from smoking in public places that they take that step to become smoke-free. I also don't think education is going to do anything for the employees who are exposed to environmental tobacco smoke in the work place.

LEG. FIELDS:

Okay, thank you.

D.P.O.. POSTAL:

Legislator Foley.

LEG. FOLEY:

To follow-up on Legislator Fields' question about education to take it to the next step is

education alone the most effective tool to prevent people from starting to smoke. We heard from Legislator Haley who mentioned that education is important to prevent people from starting to smoke. I think we all would agree, would you not, that that is an important component, but would you also agree, though, that that alone is not enough to have an effective method of preventing people from starting smoking in the first place.

COMMISSIONER BRADLEY:

Right. And if you look at what -- some of the states that have gone forward quickly and aggressively, what they have found is effective in decreasing initiation is deglamorizing smoking. The tobacco industry spent a million dollars an hour marketing their products, making it look you're sexy if you smoke or you'll have a lot of boyfriends, a lot of girlfriends, you'll be thin. We have to do the opposite, we have to deglamorize it, we have to show that it's really a minority of people that smoke and that it's not this great thing to do. And by prohibiting it in public places, that is one step towards deglamorizing smoking.

LEG. FOLEY:

Thank you, Commissioner. And if I just may, as the sponsor of the bill, thank the Commissioner for both her thoughtful presentation and her excellent answers and response to the questions that have been raised by my colleagues. Certainly I think, through the Chair, that if from this point forward anyone that is going to attempt to challenge the science of it, we have a body of testimony today from the Commissioner who I think effectively refutes anyone who attempts to challenge the science or medical research that has gone into this issue of many, many years. So I want to thank you, Commissioner, for your help.

COMMISSIONER BRADLEY:

Sure, my pleasure.

LEG. FISHER:

Excuse me, Madam Chair, I believe I was on the list.

D.P.O. POSTAL:

Yes, you were, you're the next person.

LEG. FISHER:

Okay. It sounded as if the Commissioner were leaving, I'm sorry.

LEG. POSTAL:

No, she can't leave, we have other questioners.

COMMISSIONER BRADLEY:

Release me.

LEG. FISHER:

My questions are usually brief and succinct. As you know, I feel very strongly on many levels regarding smoking and the dangers of smoke and as a college adjunct, I've have seen young women become addicted to smoke and many of them because of weight loss issues. However, I have heard a number of my colleague raise the issue of being faced with an ethical issue regarding smoking and a de facto pact that was arrived at between the Legislature and owners of bars. I have heard Legislators say that there were requirements that were imposed upon bar owners who made certain expenditures in order to have the ventilation systems, etcetera, separating their facilities and that there is now the ethical issue of going back on a kind of covenant that was made; I was not in the Legislature at that time. Could you comment on that, was there a contract, not of course a written contract, but a spirit of a contract that was entered into?

COMMISSIONER BRADLEY:

I was also not the Commissioner when that went into effect. But what happened was, yes, Suffolk County passed a law requiring restaurants to have separately ventilated rooms if they were going to allow smoking. Some restaurants chose to go smoke-free at that point so they did nothing, but if a restaurant wanted to continue to allow smoking they had to put in separately ventilated rooms. When we went back to try to figure out what percent did, it was actually under 10% and some of them spent some small amount of money, some in the range of 20 to 50,000 to do that, most when the law was implemented, some since then and they did that for that law. This law doesn't require any cost to implement. All restaurants will be treated the same. I mean, with the current law they're not all treated the same, some are allowed a complete exemption, others, as you say, did put in separately ventilated rooms. I would think that when they did that the cost would have been covered with expenses over time, although I can't comment on that. But this law doesn't cost anything to implement, they will not lose business from the passage of this law. So I see them as two separate issues.

LEG. FISHER:

And you don't see a contradiction in what was agreed upon at that time and what is being imposed by this law now.

COMMISSIONER BRADLEY:

No. I mean, this really is for complete employee protection and I don't think that that was considered, but I can't speak to that, as a major issue when Suffolk County passed that law in 1995. I think it was more a patron issue, that they be allowed to go into a place where they wouldn't be exposed to secondhand smoke.

LEG. FISHER:

So then, in fact, Commissioner, when a tavern owner or restaurant owner put a ventilation system in place, it was actually benefitting their patrons as well, and not just complying with the law or an agreement but perhaps help their business by permitting smokers and non-smokers alike to use their establishment.

COMMISSIONER BRADLEY:

Yes and no. If they had gone smoke-free, I don't think they would have lost business.

LEG. FISHER:

Right.

COMMISSIONER BRADLEY:

So I'd have to say yes and no.

LEG. FISHER:

Okay, thank you.

COMMISSIONER BRADLEY:

You're welcome.

D.P.O. POSTAL:

Legislator Binder.

LEG. BINDER:

Sorry, I didn't want to bring up my bill but as long as Legislator Caracciolo did, maybe we'll go down that road a little bit. I have to ask Counsel because there was an answer given by the Commissioner about -- I have to ask Counsel, there was a statement made that we can

currently bring children into smoking sections of restaurants, can you tell about under the current law because I want to comment on --

D.P.O. POSTAL:

Allan, could I just --

LEG. BINDER:

Is that -- can I just get the stated law from the Counsel so I can ask the question of the Commissioner?

MR. SABATINO:

The current law with regard to the separately ventilated area in a restaurant which is where smoking is permitted, a child under the age of 15 is only permitted in that enclosed area with the permission or consent of a parent or legal guardian.

LEG. BINDER:

Okay. So if we were to add or put another bill in that would say, and I would be willing to put that in myself that say under no circumstances can a parent or even a legal guardian put that -- to put a child into a smoking area, would that satisfy your concern in terms of this? Because this is a separate issue. The fact that -- isn't it true that it's a separate issue, in one case you're saying I don't want to prohibit it, I don't want to ban it in cars because we can let them into a smoking area in restaurants, so I'll be the first to put in, I'll put in the bill, I'll ask counsel to draft it today that says even with permission they're not allowed into the smoking area, that would be fine, I agree with you. But why should that prevent passage?

COMMISSIONER BRADLEY:

But when you look at public health policy, there is a science to everything we do, whether it's restaurant inspection, whether it's the control of sexually transmitted diseases, whether it's the control of tuberculosis or whether it's tobacco issues. And science says that you do restrictions in public places before you do private places and I feel as strong about the protection of workers in the workplace as I do as kids. So once we ban smoking in workplaces and public places and --

then I'd be happy to sit and discuss doing your bill. But until we ban it in public places, I think it is inappropriate to go into people's private homes and private cars.

LEG. BINDER:

Well, I never said anything about homes.

COMMISSIONER BRADLEY:

Okay, private cars.

LEG. BINDER:

And we'll get into that in a moment.

COMMISSIONER BRADLEY:

Private cars.

LEG. BINDER:

Well, you call it private but we'll get into that in a second.

D.P.O. POSTAL:

Allan, questions.

LEG. BINDER:

I guess my question is what is that science that you discuss that we should leave the children breathing in the secondhand smoke, what is this important science you discuss that until we do one thing we have to leave the children breathing in the secondhand smoke?

COMMISSIONER BRADLEY:

It's how you approach public health problems. We don't go into private places to legislate things that we allow in public places, that doesn't make sense in my mind; it does not make sense at all. We should restrict --

LEG. BINDER:

Well, what is the science of that? You said it was a science.

D.P.O. POSTAL:

Allan? Allan?

LEG. BINDER:

I asked what is the science of that.

D.P.O. POSTAL:

You're arguing with --

LEG. BINDER:

I think I'm allowed to ask -- why every time I ask questions, Madam Chair, I am the one that has a problems with you, I can't ask questions if you don't like them; please let me ask them and I will finish.

D.P.O. POSTAL:

No. No.

LEG. BINDER:

Then I'll just keep asking. I am so tired of being interrupted by you.

D.P.O. POSTAL:

You're asking questions that are not appropriate to this matter.

LEG. BINDER:

They are totally -- what matter? We're in public portion.

D.P.O. POSTAL:

I know we're in public portion.

LEG. BINDER:

Thank you.

D.P.O. POSTAL:

And she has testified about 2020 and you're allowed to ask her questions about her testimony. If you want to ask --

LEG. BINDER:

About anything, it's public --

D.P.O. POSTAL:

Allan.

LEG. BINDER:

Counsel, I'll ask parliamentary inquiry.

D.P.O. POSTAL:

You're also being argumentative with her.

LEG. BINDER:

Parliamentary --

D.P.O. POSTAL:

Having nothing to do with the subject.

LEG. BINDER:

I'm allowed to, there's no rule. Parliamentary inquiry.

D.P.O. POSTAL:

It's discourteous, I'm sorry.

LEG. BINDER:

Parliamentary inquiry. Parliamentary inquiry. Counsel, can you tell me if there's a rule against being argumentative in my questioning; is there a rule?

MR. SABATINO:

No.

LEG. BINDER:

Thank you. If I could --

COMMISSIONER BRADLEY:

I'd be happy to share with you the documents that come out of the CDC that talk about what should be done to address this problem.

LEG. BINDER:

Well --

COMMISSIONER BRADLEY:

And they talk about restrictions in public places.

LEG. BINDER:

Fine. Can you tell me what would happen, what bad thing by protecting children at this point, what bad thing happens to our society, to public health, what bad thing happens if we go and right now not wait and we say we're going to protect the children now in cars; what bad thing? I don't understand.

COMMISSIONER BRADLEY:

What bad thing will happen if 2020 passes, Legislator Binder, if we go to protect employees in the work site.

LEG. BINDER:

I'll answer that question if you answer the other one first.

COMMISSIONER BRADLEY:

No, 2020 came first.

LEG. BINDER:

No, I asked you a question. What bad thing if we do protect the children now, the health of children now, what bad thing is going to happen? And I'll answer your question afterwards, sure. But answer my question.

COMMISSIONER BRADLEY:

What bad thing?

LEG. BINDER:

What bad is going to come from protecting the children?

COMMISSIONER BRADLEY:

No, I just don't think --

P.O. TONNA:

Legislator Binder. Legislator Binder, just with -- you have the right to ask a question.

LEG. BINDER:

Thank you.

P.O. TONNA:

She has the right to answer. I think what I hear is that the Commissioner and she'll speak for herself, but what I hear is that she's come to talk about -- this is a public hearing, she's come to talk about a certain issue and you're asking her about another issue.

LEG. BINDER:

She was asked by another Legislator, then she made comments on my legislation during public portion, I think I have a right now --

P.O. TONNA:

Okay, fine.

LEG. BINDER:

Because I'm going to ask to discharge it today, so I think I have a right to ask questions on comments she made on my legislation.

P.O. TONNA:

Yes, you do have a right to ask the questions and she has the right to answer whether you like the answer or not, right?

LEG. BINDER:

Agreed, absolutely.

P.O. TONNA:

Okay. So now we have the rules of engagement.

LEG. BINDER:

So --

P.O. TONNA:

Commissioner, please.

COMMISSIONER BRADLEY:

Okay. I think the appropriate path to take is to restrict it in public places before we go into private places, that's my feeling. We will get the buy-in from our residents more if we take that step that needs to be taken in terms of public places before we go into their private establishments, that's the way I feel about it.

P.O. TONNA:

Okay.

LEG. BINDER:

At what age -- you said you don't understand -- right, I don't understand, I don't know the science, there is no science that I know of, maybe you can show that to me. But what age, you said that 13 is as good as 15, I understand, I had to pick an age that I thought kids started to have some independence where they can say, even if they needed the transportation, they could say, "I'm not going in the car if you're smoking." But what age if would you pick, I mean, driving age, until they have a license, until they have a full license, 17, 18; what would you pick? Because I -- and we've had this discussion, we had a private discussion on the phone about the age and I picked 13 because I thought it was reasonable. You tell me what age you think is reasonable.

COMMISSIONER BRADLEY:

There is no safe age in terms of exposure to environmental tobacco smoke, so really to be more comprehensive, if you were going to limit smoking in cars, you should just ban it altogether other than when you have one smoker by themselves.

LEG. BINDER:

Right.

COMMISSIONER BRADLEY:

But since you're going after minors, I would probably pick the age at which someone could drive themselves.

LEG. BINDER:

Okay, I understand.

COMMISSIONER BRADLEY:

And they're not dependent on their parent.

LEG. BINDER:

No, I understand where you're coming from and I would disagree with that.

P.O. TONNA:

All right. Any other questions?

LEG. BINDER:

No, that's good.

P.O. TONNA:

No. Is there anybody else who wants to ask Commissioner Bradley, anything else? Because --

D.P.O. POSTAL:

There's a name here.

P.O. TONNA:

Crecca; Legislator Crecca, do you have anything? Because immediately when you are done we are breaking for lunch. It's 12:30, you know the rules, we're breaking for lunch, that's how it works, whether you like it or not, 12:30, that's what it is. Many of you have been here before, this is nothing new, this is nothing different, that's what happens.

LEG. CRECCA:

My questions have been --

P.O. TONNA:

Yes, you have a question?

LEG. ALDEN:

Mr. P.O.?

LEG. CRECCA:

No, they've been asked and answered.

LEG. ALDEN:

Mr. P.O.?

P.O. TONNA:

Okay. Well, recessed for lunch

LEG. ALDEN:

Could you just remind everybody what time we come back for what purpose?

P.O. TONNA:

2:30 public hearings and then the public cards.

LEG. ALDEN:

For public hearings and then public portion maybe after that.

LEG. CARACCILO:

Mr. Chairman? Mr. Chairman, before we recess.

P.O. TONNA:

No, we did already.

LEG. CARACCILO:

I understand. Could you just tell us who the next speakers are, next three speakers?

P.O. TONNA:

No, we go to public hearings.

LEG. CARACCIOLO:

I understand we go to public hearings and that could take three hours, so the people can plan their own day.

P.O. TONNA:

Well, we only have cards, we only have four cards in the public hearings.

LEG. CARACCIOLO:

Well, people come at 2:30 and sign cards, so that doesn't mean anything.

P.O. TONNA:

Okay. Well, I --

LEG. CARACCIOLO:

Maxine, who would the next three speakers be in the public portion so they have some idea of how to plan their day.

P.O. TONNA:

Kevin McAllister, Bob Wagner and April Wagner. But let me just say, it's still after the public hearings.

LEG. CARACCIOLO:

Not everyone here is familiar with our procedures.

P.O. TONNA:

Okay, thank you.

[THE MEETING WAS RECESSED AT 12:25 P.M. AND RESUMED AT 2:30 P.M.]

P.O. TONNA:

I would ask all Legislators please come to the horseshoe. We're going to do the public hearings. Okay. This is the -- this is the ruling of the Chair. I guess you can override me, but the ruling

of the Chair is given the fact that I know we have a lot of business and everything else, we're going to do the five cards that we have for public hearings, eight cards for public hearing. And then after that we have one bill that we have to get out now. And then after that, we're going. Okay? And I just don't want on my head whether it be somebody in the public or --

LEG. FIELDS:

You're under arrest.

P.O. TONNA:

If either somebody in the public or somebody in the press or somebody in the Legislature or its staff gets hurt, I would feel personally responsible.

LEG. BINDER:

And we'll hold you personally responsible.

P.O. TONNA:

Okay. All right. So I would ask all Legislators please come. We're going to start with the public hearings. Sharon O'Connor? And, Sharon, you filled out a card -- by the way, you were number one. But that was the Public Hearings. First of all **Public Hearing number 2057, (Adopting Local Law No -2002, a local law updating regulations for precious metal exchanges and dealers in secondhand articles.)** No cards. I make a motion to close, Legislator Towle second. You know what that means. Okay.

Public Hearing number 2105 (Adopting Local Law No -2002, a charter law to expand prior written notice of defective condition requirements. No cards. Okay. Same motion, same second, same vote.

Public Hearing number 2135, (Adopting Local Law No -2002, a charter law to reauthorize one-year rolling debt under 5-25-5 law.) No cards. Same motion, same second, same vote.

Public Hearing number 2136, (Adopting Local Law No -2002, a local law to impose one-year salary freeze for elected officials.) No cards, same motion, same second, same vote.

LEG. FISHER:

Wait. Joe's not here.

P.O. TONNA:

No, no, we're not waiting for anybody. You know, that's his problem.

2137, (Adopting Local Law No -2002, to post warning signs in connection with use of mobile telephones when refueling vehicles at motor-fuel dispensing facilities. Motion -- no cards. Same motion, same second, same vote. 2138, no cards, same motion, same second, same vote.

P.O. TONNA:

2153 (Adopting Local Law No. -2002, a local law to prohibit the sale and purchase of Ephedra or ephedrine alkaloids with the County of Suffolk to minors).

MS. BURKHARDT:

Cards.

P.O. TONNA:

Cards. I get hyper when I see the Ephedra cards. Okay, here we go. Sharon. That's not -- you know, by the way, that's without the Ephedra I get hyper. Okay.

LEG. FISHER:

Can we try not to have any questions or debates?

P.O. TONNA:

Okay. Here we go.

LEG. GULDI:

Thank God.

D.P.O. POSTAL:

Could we avoid asking questions of speakers?

LEG. FISHER:

Can we avoid asking questions, please?

P.O. TONNA:

No, you can't. Well, all I can say is you can ask Legislators.

LEG. FISHER:

That's what I'm asking.

P.O. TONNA:

Right.

LEG. FISHER:

I'm asking, can we avoid asking questions?

P.O. TONNA:

Okay. Because, if I could do it by mandate, I think I would have invoked that rule. Sharon O'Connor. How are you, ma'am?

MS. O'CONNOR:

I'm having a blast.

P.O. TONNA:

Okay. Please, go right ahead.

MS. O'CONNOR:

Okey-dokey.

LEG. FOLEY:

Speak closely into the mike.

D.P.O. POSTAL:

Okay. Can we have everybody's attention, please? Go ahead, Miss O'Connor.

MS. O'CONNOR:

One thing I would like to ask Mr. Cooper, do you have a ban in Huntington?

LEG. FOLEY:

You have to speak closely into the mike, ma'am. We couldn't hear you.

LEG. COOPER:

I'm sorry. What is the question?

D.P.O. POSTAL:

She asked whether there's a ban in Huntington on Ephedra.

LEG. COOPER:

There's a ban. I don't know whether it's been signed into law, yet, but there was a ban that was approved on sale of Ephedra to minors in Huntington.

MS. O'CONNOR:

Okay. Thank you. The purpose of the legislation, the creation of a law is to have the best interest of all factions affected by the law understood, worked with, and protected. It is not an easy task. It is this way so often with well thought out processes. They are tedious and arduous. The ban will not work. It is an ideal to be aspired to in the future, after the tedious and arduous bugs are worked through. It was not thought out, nor approached, by the banners how this will be enforced. What will the long-term result be from banning and its ramifications of its prohibition? How will the ban be advertised, and even so, how the community react to pulling it out of their shops? This includes the inner village bodegas, the botanicals, who sell it for medicinal purposes, as well as some religious factions and, of course, the herbalists.

I do want to make a note there that only up until yesterday, I had spoken to a couple of people in the Latino community, and I don't have the information on me as of yet, but Dana Gutierrez from -- he's a CSW, has told me that Ephedra is used in religious practices and in the Latino culture. I do not have anything to hand you right now. I'll be happy to research it.

After it is banned, what steps are going to be taken to educate the children, parents? And who's responsible for the out-of-site-out-of-mind mentality? After all, if it is no longer there, it is prohibited. Then there is no need for education.

By the way, I'd like to make another note, that the educational program has been developed. I've been working on this with Cameron Alden for approximately two years. The woman who

had it taken off the shelves in 7-Eleven, who went to the Brentwood School District and to 7-Eleven, I am she. I have volunteers, CAC, Dr. Delman, and I have spoken to the Suffolk County Police Department, who will be happy to give me more information to enter this into the Washington DARE Program.

It has been my experience with working with the community that one has to put their shoes on the other person's feet to truly work through an involved and emotional issue. This is why I literally took both legislations, and I feel it's fair to do both, you can't look at it from one side or the other, to do a street test. I inquired through store owners, parents, and the target group, teenagers, what they felt would work. The store owners are very willing to assist the community by not displaying these products. More so, they were in favor of relinquishing the responsibility of having to argue with the teens by enclosing it in a box with a closed door, very similar to what we do now with box cutters. The price to make the wood -- I even checked out the prices of the boxes. The price to make the box varies from the fancy Lucite boxes, from anywhere from 200 to the average box of wood and screen with a hasp lock for \$30, purchase supplies from Home Depot. Their main concern was, "If the kids get it over the internet, why can't we sell it?"

Mr. Caracciolo, and I am very glad you're here, because I'm going to address some of your issues about enforcement, which I feel are very important when discussing a legislation.

Their main concern -- okay. The answer is, is because it -- let's see, "Internet, and why can't we sell it?" Several astute people stated that once the kids see it, it is regulated by display, they will ask, "Why is it now in the box?" The answer is, "Because it has been said that it may kill you and it is not good for your health. It has been regulated to protect you."

Education by physical means is the first step to having the public educated, and by the attrition of this usage, the marketing by the industry will lessen. Simple supply and demand. The other problem that came up was how do we know which are the products? Should we put all energy and diet enhancers in the box? Most admitted, and you -- and I don't know how many of you have actually read the back of these products, they are in the most teeniest, weeniest of prints, and nine out of ten people, come on, people honestly don't read this stuff, so let's make it simple. Simple works. Should we put all diet and energy enhancers in the box? Most admittedly, they do not really read the labels and had no idea they were not to be sold to minors. Case and point, the abolition of the stackers from 7-Eleven shelves.

D.P.O. POSTAL:

Miss O'Connor.

MS. O'CONNOR:

Yes, sir.

D.P.O. POSTAL:

I'm sorry, but your time is up. It's only five minutes for a public hearing.

MS. O'CONNOR:

Okay.

D.P.O. POSTAL:

I'm sorry.

MS. O'CONNOR:

Anybody have any questions as to the enforcement?

D.P.O. POSTAL:

No, there are no --

LEG. BISHOP:

Yes. How will it be enforced?

MS. O'CONNOR:

Okay. Thank you. Criminally, it can't be enforced. You can own Ephedra, but I want to see who's going to pay for the manpower for the Suffolk Police Department, the crime -- the crime control? It's not going to be a street cop's problem to go there and lock up people. You're going to have to have investigators go in there and actually catch a sale of Ephedra. This is ridiculous. I don't know whether or not you people are aware of the burden that the Police Department now has, but I certainly don't think that they're going to put Ephedra on the top of the list. However, with making the boxes, and having a warning first given by the -- there's also problems with application and procedure, and other odd sundry things, that would make it almost impossible to enforce. By putting it in a box, you can have a cop go in there, they see it's not in a box, they make a reference to Consumer Affairs. Okay. Consumer Affairs, not the

Police Department, has the right to pull licensing. Okay? I called Consumer Affairs, I called the Suffolk County Police Department and I asked the logistics of actually enforcing this stuff. And you're right, you cannot make legislation without looking at what it is that -- how you're going to have some teeth in it.

So what we came down to is I called Consumer Complaints. Unfortunately, through attrition of 11 people, Investigators in their department, it would be difficult, but it can be done. The agency would receive a complaint, they would then issue a warning, and then within 15 to 30 days, which is reasonable, because, as the gentleman said, if Mrs. Jones' heat is out, which takes priority, Ephedra or Mrs. Jones' heat? So within 15 to 30 days, they can go in there, they can give a fine determined by the Legislature, and they even -- they can -- if it gets bad enough, lift the store's license.

I would also like to add that the Town of Huntington does not have a ban, but a regulation as per the Code Enforcement Agency of Huntington. The ban, as it has been touted, is the illegal sale to minors. The advertisement is not to be displayed outside the store in plain view, the product is to be out of reach of the public, and in the Town itself, not to be advertised on light poles, etcetera. This is excellent, I think it's fantastic. Its enforceability, this is the hard part. How many of us are only looking at where we stand? The Latino community, the Latino community does not like working with the police. I mean, I'm sure you're all aware of this. They are very closed down. They have their own way of doing things. What Latino mother, other than the average, and I have spoken to Adelante, I have spoken to Dana Gutierrez, I have spoken to the Latino Hispana Society, to actually expect mothers to go in there and sign affidavits is ridiculous. Okay? So -- but what Huntington says, and it makes sense, is that they have to have an affidavit in order to issue a summons. If there is no documentation and only a verbal, there can, of course, be no action, as the ownership of Ephedra is not illegal. Therefore, the enforceability of this product comes down to the -- comes down to hard evidence, making a ban moot.

So I would like to know, if you guys want to ban this, I don't know how it is you decide to do it, but I'm worried about my kids, my kids and my community. I don't care whether or not it sticks a button on somebody's jacket, I don't care who it aggravates. I want teeth in this legislation. I want to know that you people can enforce this. I'll dig up any information you want. I will go to any kind of agency. I will get legal people. I will do whatever you want, but I want this legislation to have teeth, not an ideal. Ideals don't get it off the shelf. Thank you.

D.P.O. POSTAL:

Thank you. Next speaker on this public hearing is Bob Wagner.

MR. WAGNER:

Would you like me to sit down or --

D.P.O. POSTAL:

No, no, you could stand right there.

LEG. FOLEY:

No. Whichever is easier. Whichever is easier.

LEG. LINDSAY:

Just step up to the mike, that's it.

LEG. FOLEY:

Make sure the mike's on.

MS. JULIUS:

You have to turn your mike on.

MR. WAGNER:

Okay. Again, thank you for your time. I appreciate you extending the time to give the public an opportunity to speak during such bad weather. I'm not going to reiterate or repeat what, I guess, I've said on eight or ten different occasions over the last two-and-a-half months, but I do want to share one thought with you. We've been here for every minute of every hearing, including the hearings when the bills for Ephedra were not even going to be discussed. We still took the time to listen, just in case there was anything discussed about it. And in looking at what's gone on over the last two-and-a-half months, I really believe that you already know what you need to do. And I think the public has spoken, I think your constituents have spoken. If you -- the scientific data has been put into your hands, and I think the legislation that was introduced recently, Legislator Alden and Haley's bill, put to rest some of the concerns that you had a couple of months ago, before there was an option or an alternative on what to do, where

it was just a complete ban, you know, either ban it all or do nothing. I think the responsible bill is to vote for Alden's bill and not vote for Legislator Cooper's bill, and you do take into account some of the economy questions that were talked about this morning from the gentleman from Nature's Bounty, you do take into account the safety of children, and you stop the consumption, you know you, stop the availability of the product to minors at least legally.

I'm not going to go into the pros and cons of Ephedra again, unless you have questions for me, but I just think you've heard -- to me, it seems like the testimony has been ten to one in favor of Legislator Alden's bill versus Cooper's bill. And I would just ask you, look deep in your hearts, and maybe put party lines aside and do what's right for your constituents. That's the only thing I'd like to ask you to do today. Thank you.

D.P.O. POSTAL:

Thank you, Mr. Wagner. Next speaker is Dr. Moshe Dekel.

MR. WAGNER:

He needed to go to his office.

D.P.O. POSTAL:

Oh, I'm sorry. Is Dr. Moshe Dekel here?

MR. WAGNER:

He needed --

D.P.O. POSTAL:

No. Yes.

MR. WAGNER:

He needed to go back.

D.P.O. POSTAL:

No, okay. Maurice Alberts.

MR. ALBERTS:

My name is Maurice Alberts, I'm from Eastport. I'm here to make the same old statement I

made at least two or three times.

LEG. LINDSAY:

You have to speak up.

D.P.O. POSTAL:

Would you just please speak a little louder into --

MR. ALBERTS:

Can you hear me now?

LEG. LINDSAY:

Yes.

D.P.O. POSTAL:

That's good.

MR. ALBERTS:

Okay. I'm from Eastport, and I'm here to oppose Legislator Cooper's bill on Ephedra, and I'm here, too, in favor of Legislator Alden's bill for Ephedra. Thank you.

LEG. FOLEY:

Thank you.

D.P.O. POSTAL:

Thank you.

LEG. HALEY:

Thank you.

D.P.O. POSTAL:

Next speaker is April Wagner.

MS. WAGNER:

Hi. I'm April Wagner. I want to thank you for taking the time with the weather so bad. You've

heard me before. Again, I'm definitely for Legislator Alden's bill; would like to make sure that it doesn't get into the children's hand, but I also don't want to be restricted by not being able to use it myself. It really comes down to kind of a common sense issue at this point. I've used and dealt with Ephedra for ten years now, given it to a lot of my family and really good friends, and have not had any of these horrific side effect and things that everyone speaks about. And I think if we had had quite so many deaths, the newspapers would have really done a good job of covering it all over the place, and it would really be in black and white in all the newspapers.

So I think it just -- you just need to look at common sense at this point. We've given you all the scientific studies. You've had many people up here, and, you know, I think Legislator Alden's bill is the way to go. Thank you.

D.P.O. POSTAL:

Thank you. Next speaker is Peggy Palladino.

MS. PALLADINO:

Good afternoon. My name is Peggy Palladino. I have been an active member of the Medford community for the past 21 years. I am the past president from the Tremont Avenue PTA, and a member of the Oregon Avenue and Patchogue-Medford High School PTA. I am here today to express my opinion in regards to Legislator Alden's bill and Legislator Cooper's bill. I fully support Legislator Alden's bill, to prevent the sale of Ephedra to minors.

I have three children, two who are teenagers, and I agree that Ephedra products should be used under the careful supervision of all parents and guardians. Having this regulation will help keep Ephedra products out of the hands of children. However, I oppose Legislator Cooper's bill. Banning the sale of Ephedra products in Suffolk County prohibits my freedom of choice. I have been taking Ephedra products for past ten months. I have lost 25 pounds and I've had more energy to keep up with my busy schedule. I have been able to get off my blood pressure medicine and maintain a healthy body weight. By banning the sale of these products in Suffolk County, I will be placed in a situation where I would have to spend my valuable time to go purchase these products elsewhere.

What I put into -- what I put into my body is my choice. No one has the right to tell me that I can't take something that has benefited me in the past. There are so many products out there on the market today, such as alcohol, cigarettes, prescription medicines, over-the-counter

medicines that, when misused and abused, can be harmful, but it is the right of the individual to make the choice.

But the point that gets me more upset is having you, my Suffolk County Legislators, think you have the right to tell people what they can and cannot do. Taking away my freedom of choice is taking away my First Amendment, given to all of us by the Constitution of the United States.

Thank you for taking the time to listen to me today.

D.P.O. POSTAL:

Thank you. Next speaker is William R. Blakely.

MR. BLAKELY:

A lot of notes. Good afternoon. My name is William Blakely and I live in Riverhead, and have had a home here since 1931. I want to thank the County Legislators, Mr. Alden and Mr. Haley, for acting responsibly in presenting a new resolution concerning the sale of Ephedra-containing products. In this new resolution, it deals with the facts, the facts that there are products on the market that are made in FDA license approved labs, and so the dosaging is consistent. There are local manufacturers who have done the research, so that the public of this County can rely on good, safe consumer products that address the public concerns with weight loss, asthma conditions, and other medical conditions. It's acting with these facts that the new resolution is in the best interest of the public of Suffolk County.

I chose the business of wellness over five-and-a-half years ago. I did my research on marketing, trends and timing. The market of the weight-loss products and nutritional products was in demand, but as stated this year by our Surgeon General, is it is the national importance to reduce our overweight population. Diabetes and arthritis are directly affected also by our fatness.

Mr. Cooper's bill would affect the people's ability, guaranteed by our Constitution, to exercise their freedom of choice and rights. He is deciding for me and for you that it's wrong. And Mr. Alden's bill would limit the sale of products containing Ephedra to people over 18. That's more responsible, as a total ban or a modified ban as Mr. Cooper has presented is, I believe, in my opinion, is wrong.

I thank you for your interest in the people -- in serving the people of Suffolk County with responsible legislation. Thank you.

LEG. HALEY:

Thank you.

LEG. FISHER:

Thank you, sir.

D.P.O. POSTAL:

Thank you. Our last speaker is Dr. Alexandra Taylor.

DR. TAYLOR:

Can you hear me?

LEG. FISHER:

Yes.

DR. TAYLOR:

Thank you for allowing me to voice my opinion today. My name is Alexandra Taylor, and I am a licensed physician in the State of New York. I am certified by the American Board of Obstetrics and Gynecology. I am a Fellow of the American College of Obstetrics and Gynecology, and I had a private practice for 18 years in Suffolk County. During that time, I was also credentialed at University Hospital of Stony Brook as an Associate Clinical Instructor, and during the last few years of my practice, until I retired a few months ago, I actually provided and marketed Ephedra products to my patients and to others.

I'm here to once again voice my opposition to Resolution 1954, despite its absurd and narrow exemption of practitioners of Chinese medicine. The obesity issue has not really been discussed, and I won't go into too much detail, but, obviously, people know that heart disease is the number one cause of death in men and women in this country. And hypertension, arthritis, high cholesterol, arterial insufficiency, diabetes, with complications such as kidney failure, resulting in dialysis, amputations, a slew, blindness, all of these are economic issues that impact our society greatly, and this has not been addressed. People in this country who have a weight problem have a lot of trouble losing weight, and that's why 60% of us are overweight. And for a large

number of people, to use these products offers them one small thing that they can do. Prescription drugs in this area have been ineffective and have not had -- and have had a lot of untoward and unpleasant side effects.

So what I would like to say once again is that I support Legislator Alden's bill, his resolution which would prevent the sale to minors. And I find that this is going to be more beneficial, and I really feel that to allow a narrow minority of people such as Chinese herbalists to utilize this product and not to allow licensed physicians to be able to recommend it is ludicrous. Thank you.

D.P.O. POSTAL:

Thank you.

LEG. COOPER:

Maxine, excuse me, one question. Excuse, Doctor, just one question. Are you a Biolean distributor.

DR. TAYLOR:

I've told you that four times and I said that here.

LEG. COOPER:

But some of the people here may not have heard. Thank you.

D.P.O. POSTAL:

Okay. Thank you. Public hearing 2153, what's your pleasure?

LEG. ALDEN:

Motion to close.

D.P.O. POSTAL:

Motion to close by Legislator Alden.

LEG. CARPENTER:

Second.

LEG. HALEY:

Second.

D.P.O. POSTAL:

Second by Legislator Carpenter. 2153 is closed.

Motion on 2154 (Adopting Local Law No -2002, a local law to transfer administration of Living Wage Law to County Department of Audit and Control.) Legislator Bishop?

LEG. BISHOP:

That's recess.

D.P.O. POSTAL:

Motion to recess Legislator Bishop, second by myself. 2154 is recessed.

Public Hearing regarding 2157 (Adopting Local Law No -2002, a charter law to maximize public participation in Executive preparation of Operating Budget.) Legislator Foley? Okay. Legislator Foley? Motion?

P.O. TONNA:

All right.

LEG. BINDER:

2105, what happened with that?

D.P.O. POSTAL:

2105?

LEG. BISHOP:

Yes.

D.P.O. POSTAL:

Was closed.

LEG. BISHOP:

Motion to reconsider.

LEG. CRECCA:

Second.

P.O. TONNA:

Okay. All in favor? Opposed? It's now before us. Motion to recess.

LEG. BISHOP:

Recess.

P.O. TONNA:

Recess. Second by myself. All in favor? Opposed? Recessed.

LEG. BISHOP:

Thank you.

D.P.O. POSTAL:

Here's Foley.

P.O. TONNA:

We closed it. He didn't say anything, right?

D.P.O. POSTAL:

No, there was no motion.

LEG. FOLEY:

Motion to close.

P.O. TONNA:

Second by myself. All in favor? Opposed?

LEG. BISHOP:

2154 --

P.O. TONNA:

Wait. Just --

LEG. BISHOP:

Is there a reason why we're recessing it?

D.P.O. POSTAL:

You made the motion.

LEG. BISHOP:

I know. Is there any other reason why?

P.O. TONNA:

2154 is recessed.

LEG. BINDER:

Is that what you want?

P.O. TONNA:

You just made that motion.

LEG. BISHOP:

I know. What document?

P.O. TONNA:

Okay. Do you -- yeah, sure, tell us why.

LEG. BISHOP:

I don't know why. Why? You want it closed or recessed?

LEG. GULDI:

He thought you wanted --

P.O. TONNA:

I thought we did close it already, no?

MS. BURKHARDT:

We recessed it.

P.O. TONNA:

Do we want to reconsider and --

LEG. BISHOP:

Close it.

P.O. TONNA:

Okay. I make a motion to reconsider. Seconded by Legislator Bishop. All in favor? Opposed? It's now in front of us. I make a motion to close. Seconded by Legislator Bishop. All in favor? Opposed? Closed. So we had a C, then we have an R, now we have a C. All right.

2157 is done.

2233 (Adopting Local Law No -2002, a charter law to change the County Tax Stabilization Reserve Fund policy.) Motion to close.

MS. BURKHARDT:

There's no cards.

P.O. TONNA:

No cards. Seconded by Legislator Haley. Legislator Haley we're closing it, right?

LEG. HALEY:

Yes.

P.O. TONNA:

All in favor? Opposed? Closed.

2234 (Adopting Local Law No -2002, a local law establishing dog and cat run policy)

for County Parks.) Motion to -- Legislator Binder? Close?

LEG. BINDER:

Close.

P.O. TONNA:

Second by myself. All in favor? Opposed? Closed? Okay.

Now we have to set the Public Hearings for December 17th at 2:30 in the William Rogers, yedda -
- yedda -- yedda. Okay.

Motion for 2246 (Adopting Local Law No -2002, a local law establishing a site selection procedure for substance abuse houses.); 2253 (Adopting Local Law No - 2002, a local law authorizing County Department of Parks, Recreation, and Conservation to construct dog runs within County parks.); 2293 (Adopting Local Law No -2002, a charter law to reduce membership of Airport Lease Screening Committee and restore Legislative oversight to airport leases.); 2297 (Adopting Local Law No - 2002, a charter law directing Suffolk County action to roll back Cable Television rates in Suffolk County.); 2298 (Adopting Local Law No -2002, a local law to expand exemptions to the living wage policy for the County at Suffolk.) All in favor? Opposed?
It's motion by myself, seconded by Legislator Postal.

Late-starters.

LEG. GULDI:

Motion

P.O. TONNA:

We're going to -- okay. We will -- I can do this on my own. Yeah, right. Okay. I'm going to make -- these are late-starters. I make a motion, seconded by Legislator Postal for -- to lay on the table 2299. And I will give you the Committee assignments Monday. 2300, 2301, Sense 77.

LEG. BISHOP:

I got you. Thank you.

P.O. TONNA:

Resolution 2302. Motion by myself, seconded by Legislator Postal. All -- yes, on the motion.

LEG. CARPENTER:

I just want to check with Budget Review. I thought there was a late-starter for the Quartermaster Building. And I don't see it in this grouping of resolutions

P.O. TONNA:

The quarter master.

MS. BURKHARDT:

Budget Review is not --

P.O. TONNA:

Okay. All in favor? Opposed? Done. Legislator Fisher would like to take something out of order.

LEG. FISHER:

I'd like to take **IR 1397** out of order. **(To establish Community and Youth Services Program at Sheep Pasture Road in Port Jefferson/Setauket, New York.)**

P.O. TONNA:

Okay. Second by myself. All in favor? Opposed? It's in front of us now.

LEG. BINDER:

Whose is it?

LEG. FISHER:

It's in the Parks Committee.

P.O. TONNA:

Parks Committee.

MS. BURKHARDT:

It's on page eight.

LEG. FISHER:

Page eight. And I would like to consider this page nine?

LEG. BINDER:

What's the number?

LEG. FISHER:

1397. It's very important that we pass this today because there are grants involved to which the Boys and Girls Club is entitled, which will not be available after this year. After the close of this year. So time is of the essence. And I hope everybody can support it.

P.O. TONNA:

Okay. Legal counsel, what do you think? I think this would be great. Okay. There's a counsel who's not a lawyer.

LEG. GULDI:

We all know that's how it works.

P.O. TONNA:

Okay, an explanation on the bill. Hold it one second. This is a bill that --

LEG. FISHER:

This is a piece of property --

P.O. TONNA:

Yes.

LEG. FISHER:

-- that was lost because of lack of payment of taxes. It was in litigation for 12 years. It is now county property. It was used as a sand mine for many years. It's a piece of property that was used for dumping and ATV's, etcetera. The County went through a license and lease agreement, which all of you have in this maroon packet before you, have given it to -- well, have leased it or licensed to the Boys and Girls Club so that they can use it for their programs. There is one piece of this parcel which is not parkland. It is -- it was designate for public purpose. And on that

piece of the parcel, the Boys and Girls Club will erect a building where -- that they could use for their programs. A future phase of their program will involve fields in the parklands, but right now what we're looking at is the public purpose portion where they will build their building.

P.O. TONNA:

Michael, do you have any other questions?

LEG. CARACCIOLO:

I don't have enough information. I've looked --

P.O. TONNA:

I'll give you some more information. I know the sponsor was --

LEG. CARACCIOLO:

Where is counsel?

P.O. TONNA:

Counsel had to rush home to take care of his mother. She's in the hospital. Okay. But I'd say this is a Fisher-Caracappa bill to designate 36.8 acre parcels acquired off Sheep Pasture Road in Port Jefferson-Setauket for non-payment of taxes to the County park system for public purposes of use by Three Village Community and Youth Service Boys and Girls Club.

LEG. CARACCIOLO:

Is there anyone here from the executive branch that could address this resolution?

LEG. FIELDS:

Let him finish.

LEG. CARACCIOLO:

I read the correspondence.

LEG. GULDI:

Do you have a legal opinion?

P.O. TONNA:

Yes. My legal opinion is the Commissioner of Parks is authorized and directed to execute the appropriate license agreements for twenty years with two further periods of up to ten years each. That's my legal opinion. Thank you. Very good, legal counsel, who's not a lawyer.

LEG. CARACCIOLO:

It would be funny if this wasn't serious business.

P.O. TONNA:

Is there anybody from the County Executive's Office?

LEG. FISHER:

Peter Scully was here earlier.

P.O. TONNA:

Can you speak to this? What is up with this? Are you the only one from the County Executive's Office?

LEG. BISHOP:

1980 authorize the lease of active parkland property at Trinity Cemetery, New Highway, North Amityville, Town of Babylon from Most Holy Trinity Roman Catholic Church.

LEG. FISHER:

Peter's on his way in.

LEG. BISHOP:

This was approved unanimously out of the land committee.

P.O. TONNA:

You got to do it right now?

LEG. BISHOP:

Yes, because it has a closing schedule.

P.O. TONNA:

Okay. There's a motion by Legislator Bishop, seconded by myself.

LEG. TOWLE:

Which resolution?

LEG. FISHER:

What resolution?

LEG. BISHOP:

Page 13.

LEG. BINDER:

The lucky page.

LEG. BISHOP:

Lucky thirteen.

P.O. TONNA:

Peter, come on up here.

LEG. BISHOP:

Does it pass the Caracciolo test?

P.O. TONNA:

Okay. 1980, what page?

LEG. BISHOP:

Page 13, very top.

P.O. TONNA:

Top of thirteen

LEG. CARACCILOLO:

Mr. Chairman, now that we have the Deputy County Executive --

P.O. TONNA:

Wait, wait. Let's just finish this because bill, because you don't have a problem with 1980; right? This has already met the Caracciolo approval test?

MR. SCULLY:

What's the test?

P.O. TONNA:

All in favor? Opposed? Fine. That's passed. Thank you very much.

MR. BARTON:

17, one not present.

P.O. TONNA:

Okay. Back to **1397. 1397**, Peter, Mr. Scully to you, **to establish the Community and Youth Services Program at Sheep Pasture Road in Port Jefferson/Setauket, New York.**

Okay? And, basically, Legislator Caracciolo has a question.

LEG. CARACCIOLO:

Peter, could you a) tell us the history, tell us what the lease agreements are, and are they fair market value lease agreements?

MR. SCULLY:

I'm at a little bit of a disadvantage on the specific details of the license and lease agreements, but I'll give you the best information that I do have available. The history of the project is that these are parcels which were taken by tax default by the County in the early 1980's from {Submergiant} and which were dedicated by the Legislature in 1986, a portion to -- for general public use and a portion for park purposes. It's a former sand mine. The property's impacted. And since the mid-1990's we've been trying to find a way to utilize the parcels for the purposes of providing athletic facilities for the community. There was a litigation commenced about ten years after the County took title to the properties, which only --

LEG. CARACCIOLO:

Hold it, Peter. I can't hear you.

LEG. FIELDS:

Hold the microphone, also.

LEG. CARACCIOLO:

With all of the goings on in this County over land acquisitions, this is very important. So let's make sure before we just say yes we know what we're voting on.

LEG. FISHER:

Well, actually it's not costing us any money, Legislator Caracciolo. It was lost by tax default.

LEG. CARACCIOLO:

I just want to make sure that this Legislature is fully informed as to what it does when it takes an action. And don't wake up a week or a month from now and say oh, nobody told us that. This is our opportunity to do due diligence and get the information. That's all I'm attempting to do.

MR. SCULLY:

I will try and be as concise and to the point as possible. In any event the property --

LEG. CARACCIOLO:

Peter, I can't hear you as long as we have side-bar conversations.

P.O. TONNA:

I'd ask all Legislators please pay attention to our -- what is that title, again? Deputy County Executive.

LEG. CARACCIOLO:

For administration --

P.O. TONNA:

Peter Scully.

LEG. GULDI:

The man.

LEG. TOWLE:

The juice.

MR. SCULLY:

In any event, there was a challenge to the County's taking of the property, which finally wound its way through the courts. A petition to have the matter heard by the State Court of Appeals was rejected last year. So now we have title to the property. And the concept I think that's before you is for Three Village Community Youth Services which is now affiliated with the Boys Club and Girls Club of America to utilize the public portion of the property, the general purpose portion for headquarters building and the parkland portion under a license agreement to provide related athletic facilities. I don't know a lot about the details specific to the document, which are obviously not yet signed --

LEG. CARACCIOLO:

Is there a lease agreement?

MR. SCULLY:

There's a lease for the front portion of the property and a license agreement for the rear portion. I do not believe -- and somebody can correct me if I'm wrong -- that a market value approach was taken in determining the --

LEG. CARACCIOLO:

When I read the resolution, I didn't get that sense. And that's my point. What are we charging for the use of these facilities?

LEG. LINDSAY:

None.

LEG. CARACCIOLO:

We are not. Did everyone know that five minutes ago? I don't think so.

LEG. GULDI:

That's not quite accurate. The business plan and the lease require -- the lease requires the Three Village group to make substantial capital improvements. The business plan estimated cost of those capital improvements is about \$6 million. At the end of the lease term, the value of those capital assets revert to the County. And certainly that six -- the remainder value of the \$6 million construction project would meet the fair and reasonable standards of the constitution.

LEG. CARACCIOLO:

\$6 million, Mr. Chairman, I would submit constitutes a very large sum of money. And there should be backed up by not a folder of information, but a document of information as to the timetable, goals and objectives and when they'll be reached.

LEG. FISHER:

That's in business plan.

LEG. CARACCIOLO:

No. Is that a legal binding agreement or is that -- is that signed by whom?

P.O. TONNA:

This is beyond my competency as legal counsel not being an attorney. I have no idea.

LEG. CARACCIOLO:

Mr. Scully, let me ask you, does the administration support this resolution?

MR. SCULLY:

Yes, the administration is in full support of the resolution. What we've been really trying to do is to create a public benefit situation where we have this property that's been kind of impacted negatively from an environmental standpoint. We know there are activities ongoing. They were too difficult for us to police and enforce against, which are unlawful. And we see that there's a dire need in this area of the County for these types of facilities as the Legislature well knows given the history of the active recreation component at Greenwiz Program.

LEG. CARACCIOLO:

Given the limited presentation before us, and I hope there was a lot more extensive in Committee, I have reservations. And I'm not sure that the taxpayers are well-protected by this plan. So I'm going to abstain.

LEG. LINDSAY:

Can I --

P.O. TONNA:

There's a list. As soon as Legislator Caracciolo is done, yes, you're next. Lindsay, then --

LEG. LINDSAY:

The only thing that I want to say, Legislator Caracciolo, is the Boys and Girls Club, the Three

Village Boys and Girls Club appeared a number of times before the Parks Committee. It was one of the most extensive presentations that I experienced since I've been in the Legislature. And they had their documents, they had design plans, they had an overall sketch of what they hoped to do with this property that is scarred. I mean the property, I don't think really is worth too much now. It's an old sand mine. And their concept of renovating this property to make it useful to the youth of all of Suffolk County was very, very impressive.

LEG. CARACCIOLO:

Bill, would you suffer a question?

P.O. TONNA:

No. Legislator Fields then -- no. Legislator Alden.

LEG. CARACCIOLO:

Mr. Lindsay had the floor.

P.O. TONNA:

Yeah, he's done.

LEG. CARACCIOLO:

I have a question for him since I don't sit on the Committee. A \$6 million business plan. Do they have the \$6 million?

LEG. LINDSAY:

No, not totally.

LEG. CARACCIOLO:

What do they have?

LEG. LINDSAY:

No, not totally.

LEG. CARACCIOLO:

What do they have? Did anyone review their financials?

LEG. LINDSAY:

It's going to be done in phases. And, yeah, the Parks Department went through it step by step. And, you know, said that the plans seem very viable.

LEG. CARACCIOLO:

What is the timetable for implementation?

LEG. FISHER:

That's in their business plan.

LEG. HALEY:

Mike, you're close to home.

LEG. CARACCIOLO:

I mean these are basic questions that somebody should be able to answer.

LEG. FISHER:

Those questions have been asked of the Parks Department --

LEG. GULDI:

It's in the lease.

LEG. FISHER:

The lease outlines it. It's a phased-in program. They will begin construction --

P.O. TONNA:

Hold it a second, guys. You got to ask Legislator Lindsay a question. That's it. Legislator Alden goes; then Legislator Fields. Sorry. I know. Go ahead.

LEG. ALDEN:

I think that what happened was in the Parks Department -- it was developed during the Parks Committee. It was developed that this is proper use and there was a lot of tangent type of things that were brought up. And my concern would be, number, one I want to see them get

their funding. And that's why I understand that they're under the gun as far as the timetable. I would feel a lot more comfortable if the lease part of this had to come back to the Legislature after all the clauses and everything else is actually negotiated out. And I feel a little bit uncomfortable about just being handed, you know, this package which contains a lease and a license agreement and not being able to analyze that for a period of time because it does take a little bit of study. And there was a couple of concerns that I raised. And that would be if they do have a business plan, we would hope that in the lease agreement that Suffolk County would draft, that it would actually make them conform to certain fund-raising goals as they went along. Because my fear would be that they raise X number of dollars of funds, start the building, and then actually have to turn this back to the County of Suffolk. And we would have some kind of liability on it.

I would approve this today. And I would recommend approving it today, but with the assurance that those type of clauses are going to be in the agreement. And if they're not, at a later date, then we're going to undo something that we might be doing today. And I would go along with approving it so they do not lose any of the funding that they have applications in for. But, if those clauses are not in the lease agreement, then, I would make a motion -- or actually I'll introduce legislation at a later date that would undo this.

P.O. TONNA:

Thank you very much, Legislator Alden. Legislator Fields.

LEG. FIELDS:

This came before us in the Parks Committee and in the Parks Trustees. And this group, who have been around for 30 years? Twenty-five years, gave us the most professional presentation, had the answers. If they didn't have the answers, they were willing to admit they didn't have the answers and come back and give us whatever answers to our questions we had. The property is a sand mine pit. Anything that this group does to it is going to be -- benefit Suffolk County. And I would urge that my colleagues go along with what this group would like to do. And I think that you'll be very surprised at the benefit that you will see from it. And it will be a professional organization and building and it will benefit all of the residents for Suffolk County.

P.O. TONNA:

Okay. All right.

LEG. CARACCIOLO:

I have a question.

P.O. TONNA:

Another question. Legislator Caracciolo.

LEG. CARACCIOLO:

Looking at the packet, I see a draft, license and management agreement. Question, is this draft legally binding the County of Suffolk?

P.O. TONNA:

I would ask the County Executive's people to answer that question. Legislator Caracciolo has a question for you.

LEG. CARACCIOLO:

The packet includes a first draft license and management agreement. Have you reviewed it? Has the County Attorney reviewed it? And is it something that the County Attorney is in agreement with?

MR. SCULLY:

I have not reviewed the agreement. My understanding is that the documents were drafted by the County Attorney's Office. And at the present time I think they're being reviewed by Three Village CYS.

LEG. CARACCIOLO:

Typically, Mr. Chairman, when a license agreement comes before the Legislature, it's already been prepared and executed and waits final approval by the Legislature.

P.O. TONNA:

Our legal counsel's notes, just to give you -- that might shed some light, Legislator Caracciolo, on this, is that the Department of Parks and the Executive directed to enter into a license agreement. This legislation directs them to enter into a license agreement but subject to a requirement --

LEG. CARACCIOLO:

Mr. Chairman, it doesn't specify what that agreement is. This is a blank check.

P.O. TONNA:

The structure be erected at a community center and sports center be accessible to whatever -- I mean --

MR. SCULLY:

Blank check for what, mike?

P.O. TONNA:

The Commissioner of Parks is authorized and directed to execute the appropriate license agreement for 20 years with further periods of up to ten years each. That's what they're saying. I think there's still negotiation going on.

LEG. CARACCIOLO:

Well, why don't they negotiate and come back to the Legislature? And what grants are in jeopardy?

LEG. FIELDS:

They lose \$100,000.

LEG. CARACCIOLO:

From where?

P.O. TONNA:

I'll ask Legislator Fisher maybe to address that issue.

LEG. FISHER:

Okay. The draft that's before you was drafted by the Parks Department, by the -- and the County Attorney's Office by the Department of Law. It's in draft form because this is the lease that was required by the Committee when they discharged this so that we could see in the full Legislature all of the elements that are involved in the lease. This is primarily the form that will be signed by all of the parties involved. There is nothing substantive that will be changed in this

agreement. It was approved as the County -- Deputy County Executive has indicated. The County Executive is in support of this agreement. The Parks Department is in support of this agreement. We are talking about a piece of property that has lain fallow for twenty years.

Before that, it was used and abused as a sand mine. It is now a hang-out where ATV's are further destroying the property. It is used as an illegal dump. There will be nothing but positive results that would come from this for the County and for the people in that community. I urge everyone to support this, because there is no hidden scheme, there is no fast turnaround and money-making deal going on here. The County can only benefit from this.

LEG. CARACCIOLO:

Mr. Chairman, I draw everyone's attention --

LEG. FISHER:

The children of my community and your community will benefit from it as well.

P.O. TONNA:

You go after Legislator Alden. He has the floor.

LEG. ALDEN:

Unfortunately, we don't have legal counsel here. But I'm going to ask Pete if we modify this bill today to approve the bill and then just ask that once the license agreement is finalized and all these blanks are filled in and -- once the lease agreement is finalized and those blanks are filled in, that it would come back to us for approval.

P.O. TONNA:

Legislator Alden, I know one thing. You can't modify the bill today.

LEG. ALDEN:

You can. You can give a CN on it.

P.O. TONNA:

Oh, if he gives a CN, okay. But not -- there's nothing that the -- any action the Legislature can do to modify it.

LEG. ALDEN:

Right. And that's the question I was going to ask, if you were to issue a CN on that.

MR. SCULLY:

Recognizing that this is a Legislative initiative that we're supporting, I guess you need to be a little bit more specific with regard to what you'd be looking for in the legislation that we need to draft here today.

P.O. TONNA:

Sorry.

LEG. ALDEN:

Okay.

LEG. ALDEN:

What I'm hearing is a little bit of -- including my own concerns, but we want to pass this today so that we don't jeopardize their funding. So we want to pass the concept. As far as approving the licensing agreement and lease agreement, normally what happens is after a lease agreement is drafted and everything is filled in, it normally comes back to the Legislature for approval rather than the Legislature today approving a lease agreement with a whole bunch of blanks in it. So what I'm asking is, and if the sponsor would be willing to do that, that we approve the concept today with the provision that once these blanks are filled in, it would have to come back to the Legislature just for the approval of the license agreement and the lease agreement.

P.O. TONNA:

If you'd suffer an interruption, Legislator Alden, for a second, and I -- we are -- we have one hand tied behind our back because we do not have our legal counsel here, but my sense is how would that then be able to save us for the hundred thousand dollars that they need if we don't execute a bill that says --

LEG. ALDEN:

No. In other words, we are approving the concept of executing leases and also a license agreement. They can take that to whoever's giving them an agreement and it shows that

there's a solid commitment on the part of Suffolk County.

P.O. TONNA:

Are you sure that that would demonstrate or pass the legal muster that would --

LEG. ALDEN:

First of all, they're not going to get any approval if they don't have a lease agreement. And right now they don't have a lease agreement because there's a whole bunch of blanks in it.

P.O. TONNA:

Where's Guldi when we need him? Does this make sense to you? You know, I don't have counsel to write a bill.

LEG. GULDI:

If I may, it's been my experience that a couple of thousand lease we've approved here in the Legislature in the time I've been here, the resolution generally reads authorizing the County Executive to execute a lease in substantially the following form and annexes the form. The business terms are here, the form of the lease is here. This meets the requirements that conforms to our usual and ordinary course of business. We know what the consideration is going to be. I spent the time during the earlier part of the meeting to go through the lease in detail. And, in fact, with all due respect to our County Law Department, it's better than what I'm used to seeing from them. And the assurance requirements are there. The one thing that I didn't understand that the Deputy County Executive just clarified was why the license agreement was in the lease because it seemed redundant. And he's clarified that because they apply to different areas. I think, frankly, with -- on review of this it's ready to go.

LEG. ALDEN:

Okay. I have a couple of more questions. And if you would be so gracious to answer them because I didn't have a chance to --

LEG. HALEY:

Mr. Chairman, I make a motion to close debate.

LEG. FISHER:

Second.

P.O. TONNA:

No.

LEG. ALDEN:

Is that the right way to do it here?

P.O. TONNA:

First of all you can't make -- right now I've recognized Legislator Alden. He's in the middle -- I'll recognize the motion after Legislator Alden is done.

LEG. ALDEN:

George, if you've had the opportunity -- I haven't had the opportunity to review it. One thing that concerns me is a schedule as far as them raising money and putting a shovel in the ground and causing some kind of half-built building to be taken over by Suffolk County with the incurred responsibility and liability. Do you feel we're protected under this?

LEG. GULDI:

I feel we're absolutely protected on that. And the one thing in terms of looking at it, we do review the building construction and design. We have reservational rights because the plans aren't finished yet. But there's a four-month wind of -- three months -- delivered within three months, the execution of approval, the full set of preliminary construction drawings. Three months is the tightest schedule I've seen. If we can get them in six months to a year, we're usually happy. And the continuing obligation for the phasing under the lease terms are, in my opinion from looking at it, adequate to protect us against the risk of our vacant sand pit being left in worse condition than it is today.

LEG. ALDEN:

Do you understand my concern?

LEG. GULDI:

I understand. It's the same concern I had when we started the baseball stadium.

P.O. TONNA:

Legislator Alden.

LEG. ALDEN:

All right. Well, I'm going to make a nomination, then. I'm going to nominate Mr. George Guldi for counsel to the Legislature or alternate counsel to the Legislator.

P.O. TONNA:

What I would ask Legislator Alden, just one other issue, and this is only on past practices, is that I've noticed in reading legal counsel's notes that if there was a problem with the bill or if there was some irregularity -- I took my time with that word -- if there was some irregularity we would have -- it would have surfaced in his notes. So I think that generally speaking just on past practices that our legal counsel would have put in his notes if there's a problem with this lease or the text of it or the procedure or whatever else. So I'd say that concurs with Legislator Guldi's remarks.

LEG. ALDEN:

I believe I prefaced my remarks with I really feel bad for Paul because something did happen to his mom and he had to leave here; but he would have been able to answer these questions and put this issue kind of to rest.

P.O. TONNA:

As much as I don't like to agree with Legislator Guldi, as a matter of principle, generally speaking on this one issue, I find him to be surprisingly cogent.

LEG. ALDEN:

Paul, I'll just close my time off with I do support this thing.

P.O. TONNA:

All right. Thank you very much. Now I am recognizing Legislator Haley but I think we're done.

LEG. HALEY:

We're done. Let's vote, please. Because we have people here that work for us that have to get home safely.

P.O. TONNA:

I know. And there are people, by the way, in the audience, so I just want you to know, after we vote on this and three other resolutions, we are can cancelling the meeting. We're recessing the meeting into -- into the seventeenth 17th at 9:30.

LEG. FISHER:

Can I make the motion to approve?

P.O. TONNA:

Legislator Caracappa.

LEG. CARACAPPA:

I just want to say, 30 seconds, I've met with Mr. {Leumadema} since 1995 with relation to a center for this organization. They've come to us year after year after year. And we finally have them in a position after they've -- we forced them to cross their T's, dot the I's, and do everything that's required of them, it has been done. Those of you who've seen the property really should know that this organization is going to make it a better place so I urge you to support Legislator Fisher's resolution.

LEG. HALEY:

Move the question.

P.O. TONNA:

There's a motion and a second. Roll call.

LEG. FIELDS:

Do we have a second?

P.O. TONNA:

Yes. Legislator Caracappa seconded it. Roll call.

(Roll Called by Mr. Barton, Clerk)

LEG. FISHER:

Yes.

LEG. CARACAPPA:

Yes.

LEG. COOPER:

Yes.

LEG. BINDER:

Yes.

LEG. BISHOP:

Yes.

LEG. NOWICK:

Yes.

LEG. CRECCA:

Yes

LEG. CARPENTER:

Yes.

LEG. ALDEN:

Yes.

LEG. FIELDS:

Yes.

LEG. LINDSAY:

Yes.

LEG. FOLEY:

Yes.

LEG. HALEY:

Yes.

LEG. TOWLE:

(Not Present)

LEG. GULDI:

Yes.

LEG. CARACCIOLO:

No.

D.P.O. POSTAL:

Yes.

P.O. TONNA:

Yes.

LEG. TOWLE:

Yes.

MR. BARTON:

17, one not present.

LEG. FIELDS:

Towle's here.

MR. BARTON:

17-1.

P.O. TONNA:

Thank you very much. There is a CN 2303 authorizing waiver of the prohibition of --

LEG. FOLEY:

Motion.

D.P.O. POSTAL:

Second.

P.O. TONNA:

-- resolution number 1964, yedda, yedda, yedda -- okay. Motion by Legislator Foley, seconded by Legislator Postal. All in favor? Okay. That's approved.

MR. BARTON:

18.

P.O. TONNA:

We did the late-starters already, Legislator Foley. Okay. I'm going to recess the meeting.

LEG. GULDI:

Before we recess, why don't we do the Consent Calendar because there are grants and property transactions. Motion to approve the consent calendar.

P.O. TONNA:

Okay. Seconded by myself. All in favor? Opposed? Approved. Now I'm making a motion recess the meeting until -- no, I have to recess the meeting for reasons -- no, I know exactly why I have to recess the meeting. We're recessing the meeting until the 17th.

LEG. ALDEN:

You're not making a motion --

P.O. TONNA:

I'm recessing the meeting until the 17th at 9:30. All in favor? Opposed? I mean, no, forget it. I'm just doing it. 9:30. 9:30. 9:00 is our regular meeting. We have meeting and a meeting. Trust me on this one.

(THE MEETING WAS ADJOURNED AT 3:21 AM)

{ DENOTES SPELLED PHONETICALLY }