

**SUFFOLK COUNTY LEGISLATURE  
GENERAL MEETING  
FOURTEENTH DAY  
SEPTEMBER 28, 2004**

**MEETING HELD AT THE EVANS K. GRIFFING COUNTY CENTER  
IN THE MAXINE S. POSTAL AUDITORIUM  
300 CENTER DRIVE, RIVERHEAD, NEW YORK**

MINUTES TAKEN BY  
LUCIA BRAATEN AND ALISON MAHONEY, COURT STENOGRAPHERS

**[THE MEETING WAS CALLED TO ORDER AT 9:30 A.M.]**

**P.O. CARACAPPA:**

Good morning Mr. Clerk.

**MR. BARTON:**

Good morning.

**P.O. CARACAPPA:**

Please call the roll.

**MR. BARTON:**

Good morning, Mr. Chairman.

**(Roll Called by Mr. Barton, Clerk)**

**LEG. CARACCIOLO:**

Here.

**LEG. SCHNEIDERMAN:**

Yeah, here.

**LEG. O'LEARY:**

Here.

**LEG. VILORIA • FISHER:**

(Present)

**LEG. LOSQUADRO:**

Present.

**LEG. VILORIA • FISHER:**

Yeah, I'm here.

**LEG. FOLEY:**

(Not Present)

**LEG. LINDSAY:**

Here.

**LEG. MONTANO:**

Here.

**LEG. ALDEN:**

Here.

**LEG. NOWICK:**

Here.

**LEG. BISHOP:**

Here.

**LEG. MYSTAL:**

(Present)

**LEG. BINDER:**

(Not Present)

**LEG. TONNA:**

(Not Present)

**LEG. COOPER:**

Here.

**D.P.O. CARPENTER:**

Here.

**P.O. CARACAPPA:**

Here.

**MR. BARTON:**

Thirteen present. (Amended to 14 Present) (Not Present at Roll Call: Legs. Foley, Binder and Tonna)

**P.O. CARACAPPA:**

Would all Legislators please report to the horseshoe. Everyone, please rise for a salute to the flag, led by Legislator Viloría•Fisher.

***(Salutation)***

Please, remain standing. I'd like to introduce Legislator Brian Foley for the purposes of introducing today's clergy.

**LEG. FOLEY:**

Thank you, Mr. Chairman. Now, I had the distinct honor today to have as our invited Clergy Dr. Beresford Adams from the Faith Baptist Church in Coram. For many years, he's been tending to the spiritual needs of that particular congregation, and most recently, he's been appointed by the County Executive as a Special Assistant to the Police Commissioner for Minority Affairs. Dr.

Adams.

**DR. ADAMS:**

May we pray. Our God, our help in ages past and our hope in years to come. In times such as these, we are keenly aware of how dependent we are on your grace, on your love, on your peace, and on your mercy. We ask now then that you grant us wisdom to legislate. We ask, Lord, that you give us the guidance that we surely need in these times and in this great County of ours, that hope might dispel fear, that peace and love might replace disparities in all marginalized forces. We ask, therefore, Lord, that this assembly as we gather, that you bless in a special way this day, and that all of us might come together as we have never come before to carry out the will of your people, that all might be blessed for your sake. Amen.

**P.O. CARACAPPA:**

Legislator Foley.

**LEG. FOLEY:**

With the assistance of the Presiding Officer, we're going to reintroduce a tradition that we've had for a number of years, and for the past few we have not done, but we'd like to bring back this tradition, Dr. Adams, of giving you a Certificate of Appreciation from the County Legislature for the great work that you do, both within your past, but also for the residents of Suffolk County. Thank you very much.

**DR. ADAMS:**

Thank you.

***(Applause)***

**P.O. CARACAPPA:**

I'd like everyone to just remain standing for a moment while we have a moment of silence for two people. First, I'd like to ask everyone to pray for Mrs. Margaret O'Leary who passed recently. She, of course, is the mother of Legislator Pete O'Leary. Our thoughts and prayers are with the O'Leary Family. And I'd ask Legislator Schneiderman to ask for the next moment of silence, if you would.

**LEG. SCHNEIDERMAN:**

Thank you, Presiding Officer. September 6th was a sad day in my district. We lost an entire family, the Nash Family. Master Sergeant Kevin Nash and his wife Angela and their daughter Reina were all killed in a car accident on the Tappan Zee Bridge. They all were active members of the community. Master Sergeant Kevin Nash served in Iraq. He was a member of the 106th Air National Guard, 106th Rescue Wing stationed at Gabreski Airport in Westhampton. Angela also worked at the 106th. She was also a very talented singer and a choir director. All three were very active in the AME Zion Church in Riverhead. Reina was about to start her first day as a junior at Westhampton Beach High School. She also was very active in the church and in the choir and also very talented. It was a very sad day. And I'd like to ask you to join with me a moment of silence in their memory.

***(Moment of Silence)***

Thank you.

**P.O. CARACAPPA:**

Also, before we •• I'd ask you to reflect and honor most recently the soldier that was killed in Iraq who resided in Brentwood, Soldier Mateo, as we know many men and women over there fighting for a just cause. And we pray for his family and we pray for his soul, and for all those men and women who bravely fight for democracy.

***(Moment of Silence)***

Thank you very much. Today is a special day here in the Riverhead Auditorium in the Suffolk County Legislature. In fact, we're going to break from the meeting for a few moments, because we are going to dedicate this auditorium in the name of one of the greatest public servants in the history of this County and that is former Presiding Officer Maxine Postal. So, what I'd ask is for a 15•minute recess, and if everyone could make their way, who want to see the ceremony, participate, make their way out into the auditorium •• into the lobby, rather. And if we could do that quickly and orderly, I certainly would appreciate it. So, we're going to take a recess from the record and then move the meeting outside for a little while. Thank you.

***[THE MEETING WAS RECESSED FOR THE DEDICATION OF THE MAXINE S. POSTAL AUDITORIUM AT 9:45 A.M AND RESUMED AT 9:57 A.M.]***

**P.O. CARACAPPA:**

Roll call, please, Mr. Clerk.

**LEG. CARACCIOLO:**

Here.

**LEG. SCHNEIDERMAN:**

Here.

**LEG. O'LEARY:**

Here.

**LEG. VILORIA • FISHER:**

Here.

**LEG. LOSQUADRO:**

Present.

**LEG. FOLEY:**

Present.

**LEG. LINDSAY:**

Here.

**LEG. MONTANO:**

Here.

**LEG. ALDEN:**

Here.

**LEG. NOWICK:**

Here.

**LEG. BISHOP:**

Here.

**LEG. MYSTAL:**

(Present)

**LEG. BINDER:**

(Not Present)

**LEG. TONNA:**

(Not Present)

**LEG. COOPER:**

(Present)

**D.P.O. CARPENTER:**

Here.

**P.O. CARACAPPA:**

Here.

**MR. BARTON:**

15 present. (Not Present at Roll Call: Legs. Binder and Tonna)

**P.O. CARACAPPA:**

Thank you, Mr. Clerk. If I could have everyone's attention. I'm over here now. Joining me is Legislator Vivian Viloría•Fisher. And what I'd like to do is ask Officer Marcus Boykin and his family, along with Angelo \\_Servone\\_ to come forward.

**LEG. VILORIA•FISHER:**

And his family.

**P.O. CARACAPPA:**

And his family. A little background why we're presenting these proclamations today to these two heroes.

As a Nassau County Police Officer, Marcus Boykin was heading home from work on Sunday, August 8th, when he saw a Good Samaritan, Angelo \\_Servone\\_, trying to stop traffic to get help from passing motorists. Nearby, Gregory Channing, age 21, of Centereach, was burning in a car after hitting a tree while driving northbound on Nicolls Road near Suffolk County Community College. The car doors wouldn't open, so Officer Boykin climbed through the broken back window and tried to lower the seat and pull Channing towards the center of the car. He found Channing was trapped in the vehicle, one foot stuck underneath the dashboard. As the flames started to enter the car, Officer Boykin climbed out, reached through the driver's side window. After he freed Channing's leg, both he and Angelo \\_Servone\\_ pulled Channing through the rear driver's side window to safety.

Channing was taken to a hospital where he was treated for burns to his arms, legs, and also suffered a dislocated shoulder. Officer Boykin also was treated for burns and scrapes, but was released, thankfully, from the hospital later that day.

So, on behalf of my colleagues, Legislator Vloria•Fisher, I would like to recognize my constituent, Officer Boykin, and thank him for preventing what most definitely would have been a tragic loss. This proclamation's absolutely a token of our gratitude and appreciation for your courageous acts of bravery.

***(Applause)***

Legislator Vloria•Fisher.

**LEG. VILORIA • FISHER:**

Thank you, Presiding Officer. I'm carrying Officer Boykin's daughter, because she's wearing a pin, she's wearing a guardian angel pin. And when I was speaking with her outside, I said, "You know, there are some people who are like guardian angels and help and protect people and your daddy is one of them." And so today we're honoring two citizens of Suffolk County, one a Suffolk County Police Officer, and one a person who was just driving along Nicolls Road and saw someone in need and stopped to help. And I'm sure that their families who are with us today are very proud of them. They certainly are wonderful models as fathers for their children, and they're wonderful models to everyone here in Suffolk County. And so, we here in

the Legislature wish to honor and congratulate them for who they are and to thank them for their service to Suffolk County. Thank you very much.

***(Applause)***

**P.O. CARACAPPA:**

Congratulations. Thank you so much. We'll go outside and take some pictures. Thank you, Angie.

**D.P.O. CARPENTER:**

Okay. We will now move with the rest of the agenda here. We have proclamations. Legislator Jay Schneiderman. Jay?

**LEG. SCHNEIDERMAN:**

Good morning, everyone. We seem to be talking about acts of heroism this morning, and I'd like to continue on that theme. I'd like to introduce you to a young man from Southampton, 17 year old Cutter Koster. Cutter, if you'll join me up at the podium.

I want to tell you a quick story about Cutter Koster's Labor Day weekend, because he had quite the Labor Day weekend. As you know, many people come to the East End to enjoy our beaches, we have beautiful beaches, and they're teeming with tourists and residents alike on a nice sunny day. And Cutter Koster is not by title a lifeguard. He, in fact, was on the beach that day in a truck heading out to help with his father's business. He's in the seafood catering business, clambakes. And somebody accosted him on the beach in his truck about a friend who was drowning out into the ocean. And instinctively, Cutter jumped out of his truck, he stripped down to his underwear, dove into the water. By the time he reached this individual, just his fingers were visible. Cutter grabbed the individual, they struggled. The individual slipped under the water. Cutter then dove down, wrapped his arm around this individual's chest, he brought this individual to safety on the beach. An ambulance then supplied oxygen. The person was transported to Southampton Hospital and survived. And it was a remarkable story by this gentleman, Cutter Koster. I want to congratulate you.

***(Applause)***

Cutter is joined today by some of his family members. His mother, Jean MacKenzie, and his

grandmother, Alice MacKenzie, are also here. And, Cutter, I'm going to present to you this proclamation. I won't read it now, but you can read it when you get home or in the hall, and this is for you. Thank you.

**MR. KOSTER:**

Thank you very much.

**LEG. SCHNEIDERMAN:**

Thank you.

***(Applause)***

I want to also point out, though they're not here, three other individuals, another recent save. These individuals were lifeguards, but they weren't on duty. Three individuals off duty who were on the beach, they noticed two children out in rough waters. They went out. They actually brought their surfboards out onto the beach and they hit •• they swam out, they saved both this boy and this girl. According to their father, they would not be alive today if it wasn't for these heroic actions. I just want to mention these three individuals. Christian Johns, David Nichols, and Tony D'Italia, Jr. So, I want to also •• maybe we can have a round of applause for these three individuals. So, I want to also •• maybe we can have a round of applause for these three individuals.

***(Applause)***

Now, on to on-duty lifeguards. This is the last thing I wanted to do is really to honor all the men and women. We have a great, a great crew in all the towns and villages out on the East End who work really hard. They're very well trained. And there are many, many stories, just like the story you just heard where so many have been saved. And I want to honor all of those.

I'd like to ask several people to come up to the podium with me, those members of the Southampton, East Hampton, Sag Harbor, whichever villages you are, if you'll come up here to receive a proclamation.

Okay. We have with us Vanessa Edwards, who's the Town Chief Lifeguard for East Hampton Town is here. We have John Ryan, who's the Training Coordinator for East Hampton Town. His son is also involved with the lifeguarding crew out there. There's John Ryan behind me. We have from Southampton Town \\_Allan\\_ Jackson. He's the Superintendent of Parks and Recreation who's responsible for the lifeguards in Southampton Town. We have Ed Walters from •• he's Southampton Chief Lifeguard for Training and Safety. Ed is here. And we have Ed McDonald behind me. He's from the Village, East Hampton Village. And Ed is the East Hampton Village Assistant Beach Manager.

And we also •• we weren't able to get all of the •• you know, all the people involved, obviously, Sag Harbor Village, Westhampton Beach. There are other areas that do have lifeguards. And I'd like to join •• you to join me in a round of applause for all the work that they do and for all the great men and women who serve as lifeguards on the East End.

***(Applause)***

All right. Let's see, East Hampton Town, goes to you. The Village goes here. We have Southampton Town and Village, both with the Town, but if you could pass that along. Thank you all.

***(Applause)***

**P.O. CARACAPPA:**

At this point •• Legislator Foley? Legislator Foley? Okay. We'll come back to Legislator Foley later.

At this point in time, we'll go directly to the public portion. Just lay out the ground rules, so to speak, of the public portion, those of you the first time here. You do have three minutes to address the Legislature and make your remarks. This is not a question and answer period, this is solely your time to convey your message. First speaker is Vito Minei. No, Vito Minei? Sorry, Vito Dagnello.

**MR. DAGNELLO:**

There's that many Vitos?

**P.O. CARACAPPA:**

Vito Minei, going once, Vito Minei, going twice. Richard Bartelli or Bartell. Sir, you have three minutes.

**MR. BARTELL:**

I presume this is working. Can you hear me?

**LEG. LINDSAY:**

Yep.

**P.O. CARACAPPA:**

Yes, sir.

**MR. BARTELL:**

Mr. Presiding Officer and Honorable Legislators, it's a great privilege for me to be able to have this chance to come before you to give some comments.

My name is Richard Bartell. I'm a life •• a 30•year resident of Southampton, and I'm now retired as a •• after almost 50 years as a professional economist. I graduated from the Lutheran Deaconate Program in my retirement, as a retirement activity, and in the last five years, I've served as a spiritual counselor to inmates in Riverhead and Yaphank, and a number of other Upstate prisons.

I come to you today to give my ardent support for alternatives to punitive imprisonment, and hope that the Legislature will seriously consider Executive Steve Levy's proposal to study alternatives as a significant way to approach the goal that we all share of rehabilitation.

We must not lose sight of the ultimate objective of the criminal justice system, and that is rehabilitation, not punishment, not the warehousing of human beings, not intimidation, not subjecting to people who have absolutely no power, no wealth, no income, and, in many cases, no hope to the absolute power of those who maintain the jails and prisons in New York.

We have now reached the decision in Suffolk County and in counties all across New York State and all across the country as to whether we should be investing more money in prisons and jails

and incarceration, or whether we should really look at the cause for offenses against the law and try to treat causes.

After my five years •• excuse me •• of experience with inmates here in Riverhead and on Long Island, I think one of the most striking lessons I have learned as an economist, but also as a sensitive spiritual guider, is that all of my clients were •• had some kind of health problem, physical, emotional, and, in a few cases, psychiatric problems. It was very clear to me that these problems were not being addressed in the Suffolk County jail and punitive system. They're not being addressed generally in New York State or across the country for that matter. In fact, the shocking thing is that across the country 2.2 million Americans are now being warehoused in prisons and jails at all levels, and of that number 400,000 inmates are classified as mentally ill by the American Psychiatric Association, mentally ill with varying degrees of illness. In shocking comparison, in all of this nation's mental hospitals, we house only 80,000 patients.

**P.O. CARACAPPA:**

Mr. Bartell, could you just sum up your comments? Your time has expired.

**MR. BARTELL:**

Yes.

**P.O. CARACAPPA:**

Thank you.

**MR. BARTELL:**

That is the essential problem. And I hope that, as you Legislators consider this very important budget and also policy issue, you will read these important studies put out by one of your own colleagues, Dr. James Golden here of Suffolk County, and understand the nature of this problem of mental illness, psychiatric problems in the jails and prisons in New York, and particularly in Riverhead.

**P.O. CARACAPPA:**

Thank you, sir.

**MR. BARTELL:**

Thank you very much.

**P.O. CARACAPPA:**

Okay.

***(Applause)***

**LEG. FOLEY:**

Mr. Chairman.

**P.O. CARACAPPA:**

I recognize Legislator Brian Foley.

**LEG. FOLEY:**

Thank you, Mr. Chairman. At our last General Meeting, we had a few moments where Legislators had honored the different firefighters and volunteer EMT •• let's say Volunteers of the Year for each of the districts. And the person that I wanted to honor, I first wanted to mention it to him and didn't have a chance until after that meeting, so I just wanted to make it as part of the record today that Mr. Michael Ayelli from the Patchogue Ambulance Company, who's a 50-year veteran of that particular ambulance company and who still takes part in the activities of that particular ambulance company, is the Volunteer of the Year for EMT services in the Seventh Legislative District.

In the near future, we will have him •• give him a suitably engrossed certificate of achievement, and he will also be recognized at the local Village Board meeting for his many years of service in other areas of Village life as well. So, I thank you for the opportunity to place his name on the record as the EMT of the Year. Thank you.

**P.O. CARACAPPA:**

Thank you, Legislator Foley. Next speaker is Vito Dagnello.

**MR. DAGNELLO:**

Thank you. It's ironic, I'm following ••

**P.O. CARACAPPA:**

Yeah.

**MR. DAGNELLO:**

•• anti-jail; okay? I want to thank the Legislature a few months ago for amending the 2004 budget to allow the County to promote a number of Correction Officers. I believe, after a meeting with the County Executive Friday, hopefully, that is going to proceed forward and happen. I want to thank you on that.

The other issue I'm here today to speak just came to my attention late last night and early this morning. With housing inmates out of the County, approximately 200, has created a problem inside the jail, and that problem is the workers, the inmates that do the work in the laundry service, the kitchen. There's no more termers to choose from to do that work. They're now going to start having pretrial inmates work inside the jail preparing food and other essential jobs that have to be done. This is a very serious problem. Civilians, Correction Officers are now going to be at jeopardy of inmates that have access to dangerous equipment, which can be used against us. Hopefully, you'll do anything and everything you can do to continue the process of the bid for these •• they call sprung.

We supported the idea of building a temporary housing facility, so we can did not have to send out the inmates to alternative counties. Evidently, this morning, the State Commissioner of Corrections ordered the County to stop that process, as Joe was holding up.

I'm asking you that is if there's anything that can be done to continue this process, please do. There's employees that you employ, Correction Officers, civilians, Deputy Sheriffs, that their lives are going to be in jeopardy now because of a need of a new facility. And I can get into a debate with the gentleman about the inmates that are being housed here. I think I'll say one thing. Any inmate or person that's arrested can be considered with a mental problem. Most of the jail inmates that we house there are return offenders, not first-time offenders. And if you don't learn your lesson the first time around, there's a mental illness you have. Thank you.

**P.O. CARACAPPA:**

Thank you, Vito.

***(Applause)***

Gary Williams.

**MR. WILLIAMS:**

Good morning.

**P.O. CARACAPPA:**

Good morning.

**MR. WILLIAMS:**

My name is Gary Williams. I am Co•Chair for Political Action for the New York State NAACP. I'd just like to read something real quickly.

"If America had racial equality in jobs and education, African•Americans would have two million more high school degrees, two million more college degrees, nearly two million more professional and managerial jobs, and nearly 200 billion dollars in income. If African•Americans had racial equality in housing, three million of them would own their own home. If America had racial equality in wealth, African•Americans would have 670 billion dollars more in equity value, 200 billion dollars more in the stock market, 120 billion dollars in retirement funds, 80 billion dollars more in the bank, over one trillion dollars. This is what could be achieved if America •• if Black America got to the national average." This was a statement given by Franklin Raines, the CEO of Fannie Mae.

The only place that African•Americans are disproportionately represented is in the prison system. We've reached a dubious distinction of having two million people in jail in America, second only to Russia. One million of those people are African•American, yet they make up 12% of the population of the United States. Does anyone see the dichotomy in this? Is anyone concerned about this?

There's an extreme difference between prison and jail. We have a jail in Suffolk County now, most of who the people in the County could be out, we could look for alternatives to jailing these people. Instead, we are in the process now of creating a prison. We have 600 beds. You're looking for eleven hundred beds. Where are you going to get this from when the national average says to you that crime is going down? Have we lost our humanity? Have we

lost the ability to understand that everyone, every life is recoverable? And, yet, we insist on making money.

Kraft Cheese made a million dollars last year selling cheese to prison. Is this what our economy, this great country is going to be reduced to, being a service economy, warehousing people, taking people's lives, changing them and telling them that they're irrecoverable?

I suggest to you that there are alternatives to examine when we consider this jail. We're not Upstate, New York. We don't need to warehouse prisoners, we don't need to import prisoners. We need to come together as Americans, as people in Suffolk County, and understand that we are all under the gun. Civil rights is taking a back seat. The last three decades we are going backwards and everyone's circling the wagons. We need to understand that there are alternatives, and I ask you from the bottom of my heart, as an African•American, and I stress American, there are alternatives. Thank you.

**(APPLAUSE)**

**P.O. CARACAPPA:**

Thank you, Mr. Williams. Sister Margaret Smyth.

**SISTER MARGARET SMYTH:**

Good morning. My name is Sister Margaret Smyth. I'm the Director of the North Fork Spanish Apostolate. For the past seven years, I have worked very closely with the court systems on the East End and with the Police Departments, and have developed a wonderful relationship with them, but I also see some of the disadvantages of what is happening with people who pass in front of these courts. One of the things that has struck me so profoundly is that there are people in our jail who don't have to be there, that if there was a plan or a program, alternatives for them, they would be able to be out and be in a rehabilitation setup that would then help them to become more productive more rapidly.

When I meet with people who have been inside for a very short time and leave at nine, ten, eleven o'clock at night with nothing in their pockets, nowhere to go, I know that it's not going to be a long time before there is a problem a second time. We have to look at a way to give people a chance to stand on their feet, and the possibility of having alternatives to incarceration for so many of the people who come into our court system certainly would be one of the ways

of listening to the will of the people as that is spoken here this morning, and it would also be the wisdom of the Legislature to look at the bigger picture and come up with a good solution that would benefit all of our society. Thank you.

***(Applause)***

**P.O. CARACAPPA:**

Thank you, Sister. Reverend Rose Ann Vita.

**REVEREND VITA:**

Good morning. This is the third time I'm addressing our elected representatives, and I thank you again for this opportunity. I am a Lutheran Pastor, I'm also the President of LION, the Long Island Organizing Network, which represents your faith based community. I represent clergy and churches across County •• Suffolk County. And I'm here for three points. First of all, we're people of faith, and as people of faith, the thing that holds us together is that we all believe that people are children of God.

I've been in prison. My Deacon right now is in prison at the DWI facility at Yaphank. Most of my colleagues have been in prison, either visiting those in prison, or acting as Chaplains. We know what it's like in prison. We know what it's like when people who need medication are placed in solitary confinement for 23 out of 24 hours when they should be on medication. We know what it's like when people are •• oh, gee, I mean, where they should be sent to a DWI facility and they spent most of their time in confinement and they never get to Yaphank, except for two weeks, where there is no chance for real recovery; where people who believe in hope, and we're saying that hope comes from alternatives to incarceration.

The three things that I'd like to ask you, please, you're here in Riverhead, go visit the prison. Go visit the prison on your lunch hour and see the deplorable, despicable, horrendous condition that we have allowed our prison to become. Try to get in and you'll feel like a criminal going in the way you're harassed even just to get into the prison to visit a prisoner.

Number two, imagine that your child has been arrested for a nonviolent offense, drugs, nonviolent offense. How would you like your own child to get treatment in confinement or in programs that help them readjust, relearn skills, reconnect back to society?

Third, we'd like you to act as if it is your child that's being sentenced.

And finally, the last thing I'd like to present to you, this is the second batch of petitions that have been signed. We already have given the Legislature over 350 petitions. This is another 600 petitions that have been signed by people who vote for you. Thank you for your time.

***(Applause)***

**P.O. CARACAPPA:**

Ken Komoski. Ken Komoski.

**MR. KOMOSKI:**

Thank you. My name is Ken Komoski and I'm here representing the Peconic Bay Quakers. And, as you well know, Quakers have had, or you may know, Quakers have had a concern and a testimony for people in prisons for over 300 years.

And I want to point out to you that two numbers mentioned this morning, two million people in jail, in prison in this country, and two hundred and •• 2,200,000 people in jail in this country are only the tip of the iceberg, and you are adding to the •• to the growth of that iceberg.

The total figures, the figures, the two mill and •• 2,200,000 are people in state and federal prisons. If you add in everybody who is in County jails and waiting trial, you're up to over seven million people.

Now, in the blues I sang to you last time I came before you, you recall that I said that, "In the year I was born, in the year I was born, the year of our Lord nineteen hundred and twenty •eight, one out of every 1,019 Americans was in jail. In the year I was born," you get the point, right? And then I said, all right, now we're at the new millennium and one out of every 142 Americans is in jail that's in a state or federal prison. Now, if you add the people that you are incarcerating in this county and all the other counties around the country, that's one out of every 55 Americans, 55 Americans. This is the largest amount of people in any country in the world that's in •• that are engaged in the correctional institutions that we have. And that is being corrected? We need mental health, we need more education.

Remember how I ended that blues? Well, on the way to it, I said, "Now if this ain't crazy, I want you to tell me something that is. Now, if that ain't crazy, I want you to tell me something that is. Because there's one thing you can't tell us, these numbers ain't none of our biz." And remember, I reminded you that it's our tax dollars, and that's the point, \$75,000 a year to keep an inmate 52%, of whom have not been tried, and are awaiting trial, and have never been convicted of a crime. So, I ended the blues by saying, "If you want to change this situation," okay, "be a model for the nation. Let's have lots more education, and alternatives to incarceration." Right? "For everyone who's never been convicted of a violent crime, while we pay \$75,000 to have them sit there doing time."

**P.O. CARACAPPA:**

Thank you, Mr. Komoski.

***(Applause)***

Kelly Platt.

**MS. PLATT:**

Good morning, Mr. Presiding Officer. My name is Kelly Platt. I'm here in reference to a property on the border of Center Moriches and East Moriches. It borders the Terrell River County Preserve. There's ten acres that are available. I have a picture right here, which I can show. Right here is the Terrell River County Preserve, right here is the property, which is ten acres. We have a willing seller. The owner of this property is •• this used to be an operating duck farm. The owner of the property, who was offered only \$250,000 by the Town of Brookhaven, they denied that. They were supposed to go into contract with a developer who wants to build four homes per acre on this property. I had asked these •• the owners of these properties to please put off these builders until I can speak to this Legislature and speak to the Environmental Committee in reference to this property.

This property is very environmentally sensitive. It has fresh water and tidal water wetlands. It also is adjacent to the Terrell River County Preserve, which I feel is the most part of the property we have in East Moriches and Center Moriches. It is across the street from Kaler's Pond and Flight 800 Park.

I'm asking that this Legislature please think about trying to preserve this property in Center Moriches and East Moriches. It is ten acres of environmentally sensitive land. We have a willing seller and I'm asking that you please consider. Thank you.

***(Applause)***

**P.O. CARACAPPA:**

Thank you.

**LEG. VILORIA • FISHER:**

Mr. Chair. Mr. Chair.

**P.O. CARACAPPA:**

Yes.

**LEG. VILORIA • FISHER:**

Just a very short remark. Mentioning the duck farm reminded me of this. And I want to congratulate you for your foresight. Our Long Island Ducks are doing great, they're the champs, and it's been a real win/win story for us here in Suffolk County.

***(Applause)***

**P.O. CARACAPPA:**

Thank you. I appreciate that, but I wish I could say I like batted or something and played shortstop them during the championship run. But I meant to mention it earlier, but we had such a busy morning, I forgot to. There will be a celebration for the Ducks at the Dennison Building this Friday. Those details are still forthcoming. I know all of you will be invited, and I urge the public to attend, too. It's been one of the greatest projects and undertakings, I believe, that the County has moved forward with in many, many years. So, anyway it's my own personal opinion. Next speaker is, I'm sorry if I pronounce this wrong, Janalyn Travis •Messer.

**MS. TRAVIS • MESSER:**

Actually, you did a very good job. Thank you. Do we have a quorum? I've been watching Legislators go in and out and I never know whether we have a quorum or not during this whole

public hearing portion. Okay.

**P.O. CARACAPPA:**

Just so you know, the rules of the Legislature say I may call a recess, if I see fit, for lack of a quorum. Thank you.

**MS. TRAVIS•MESSER:**

Okay. Thank you. My name is Janalyn Travis•Messer. I am from the First Legislative District. I am also the President of the League of Women Voters of Shelter Island and Suffolk County. I am here regarding the issue of alternatives to incarceration. You have been given pamphlets on all of your desks and I'd just like to read some of the information that's here.

Since 1920, the League has earned a reputation as a highly respected citizens organization that researches issues for many points of view, and educates the public and decision•makers. We're comprised of men and women who want to make a difference in our communities, our country, and our world. The League is nonpartisan. We do not support or oppose candidates, but we do support issues and legislation after member study and agreement. And we mobilize people to vote and to have a say in the complex decisions that affect us.

The League of Women Voters of New York State developed a position on alternatives to incarceration. This was developed •• I don't have the date. Okay. In the criminal justice system, there is a need for a broad range of punishments, less restrictive than incarceration. Prisons and jails must be viewed as a scarce and expensive resource to be utilized only when necessary. The current system wastes time, money and human resources.

The League of Women Voters of New York State strongly supports the use of alternatives to incarceration for nonviolent offenses and offenders. There is a need for earlier, more effective intervention and, if applicable, treatment. Sanctions should be more innovative, constructive and less restrictive. The League of women voters of Suffolk County asks that you support constructive, innovative, less restrictive alternative sanctions, support adequate funding for the Suffolk County Department of Probation and other alternative programs, support extensive public review of any corrections system assessment report, and support public access to all data relating to the justice system utilization and evaluation. Thank you.

***(Applause)***

**P.O. CARACAPPA:**

Thank you. Robert Ott.

**MR. OTT:**

Good morning ••

**P.O. CARACAPPA:**

Good morning.

**MR. OTT:**

•• Mr. Presiding Officer, and members of the Legislature. My name is Robert Ott. I'm a member of the Long Island Off Road Vehicle Association, and also the American Motorcycle Association's representatives on the upcoming ATV Task Force. I wish to just make a brief comment on Resolution 1804, to add a hiker and an equestrian member to the ATV Task Force.

And we're just very hopeful that the intent of this resolution is only to broaden the Task Force's approach, and not to suggest a shared trail use concept between the different groups. Just the thought of ATV's, horses and hikers on the same trail is frightful. So, if the resolution's intent is only to broaden the Task Force, we support it and look forward to working with Dr. \\_Cyla Allison\\_ and George Fernandez. Thank you very much.

***(Applause)***

**P.O. CARACAPPA:**

Thank you. Pete Cheney.

***(Applause)***

Mr. Cheney, why don't you just hold on one second ••

**MR. CHENEY:**

No problem.

**P.O. CARACAPPA:**

- while the room clears.

**MR. CHENEY:**

I have that effect on a lot of people.

**P.O. CARACAPPA:**

You and I both. If you're coming in, quickly find a seat. If you're leaving, just quickly leave. Mr. Cheney, I appreciate your patience. The floor is yours.

**MR. CHENEY:**

No problem. Thank you. My name is Pete Cheney, I'm here to speak on the bill, 1622. It's good for the taxpayers of Suffolk County, the County of Suffolk and, yes, the title examiners of Suffolk.

Since the previous agreement has expired, we're in a state of limbo. Repairs to equipment are difficult or nonexistent. Upgrades are on hold. The County has not collected its rightful license fees. We urge you to unanimously pass 1622 as amended during this session. Help us to go about our jobs with a sense of security, that we may better serve the Suffolk County taxpayer. Thank you for your time.

***(Applause)***

**P.O. CARACAPPA:**

Thank you, Mr. Cheney. Mason Haas.

**MR. HAAS:**

Good morning, Ladies and Gentlemen. My name is Mason Haas. I am a title examiner here in Suffolk County working out of the Clerk's Office and a current licensee holder. I also have come here to ask for your support for the passing of Resolution 1622. I was one of the examiners that worked with the Suffolk County Clerk's representatives on Resolution 809 back in 1997, which has expired. It was showing then that this arrangement was proven to be compatible with the functions of the Suffolk County Clerk's Office, and was also found that throughout the

State of New York, that it was a common practice at the other clerks' office.

I ask on behalf of all the Title Examiners of Suffolk County that are all small business owners for your support for Resolution 1622 today. Thank you.

***(Applause)***

**P.O. CARACAPPA:**

Thank you, Mr. Haas. Thank you. Okay. Is there going to be another mass exodus.

**MR. HAAS:**

Yeah, we got to go back to work.

**P.O. CARACAPPA:**

Okay.

**MR. HAAS:**

We'll be back later.

**P.O. CARACAPPA:**

Go ahead everyone.

**LEG. BISHOP:**

You want to call the bill out of order, then, Joe?

**P.O. CARACAPPA:**

We were going to do that, but we didn't have the votes here.

**LEG. BISHOP:**

Oh.

**P.O. CARACAPPA:**

Okay. Thank you, everyone. Next speaker is Ms. Barbara Baumgarten.

**MS. BAUMGARTEN:**

Can I hand these out?

**MS. JULIUS:**

Sure.

**MS. BAUMGARTEN:**

Wait a minute. I have, yes, twenty copies. And I would like these two pictures to be passed around, please, one of my daughter and one of my granddaughter.

**P.O. CARACAPPA:**

You have three minutes, ma'am.

**MS. BAUMGARTEN:**

Yes, I have three minutes. Dear Presiding Officer Joseph Caracappa and fellow Legislators, I was advised to put my request in writing. I'm Ms. Barbara Baumgarten, the mother of Shreiss Baumgarten ••

**P.O. CARACAPPA:**

Pull that microphone down, the microphone. There you go.

**MS. BAUMGARTEN:**

I'm sorry.

**P.O. CARACAPPA:**

Go right ahead.

**MS. BAUMGARTEN:**

Who has disappeared when she was a minor with my granddaughter, Alexis Baumgarten, age 20 months old. She was 17 years old at the time the said boyfriend, Michael Schwab, who was 21 years old, took them and disappeared with them. Michael Schwab is currently on five years probation for sale of drugs, and his Probation Officer Maffei has violated his probation, the Department of Probation located in Yaphank. She stated that a felon warrant will be issue for his arrest.

I have been trying to protect my daughter since she has been 15 years old after Michael Schwab got her pregnant at the age of 15. She was attending private school in my home. My daughter, Shreiss Baumgarten, had a 90 average and was doing very well until Michael Schwab came into my home violently and took Shreiss back to his residence, located in Patchogue, where there were several people in the household that was on probation and his brother, who is a three•time parole offender on convictions of drugs, violence, criminal misconduct. His sister, Trish, lost custody of her kids because of the above issues.

The system has failed me. The Departments Probation has failed to supervise Michael Schwab. The Child Protective Services failed to investigate this family of criminal background and convictions, as the Fifth Precinct Department refuses to press criminal charges in spite of three said orders that I had for my daughter, including a PINS petition, I am in •• a person in need of supervision. That is why I'm fighting to push the PINS age to 21, in order to restore the youth's lives and to restore my daughter, Shreiss Baumgarten's life in order to help and restore her education and her life. The Child Protective Services, the workers who were involved failed to investigate, and stated that this live•in situation was fine, that things were fine after allegations that were made. They failed to investigate me as a parent to get my daughter out of the situation that has now gotten to the point of them missing and taken out of the State of New York down to Georgia.

I am a very caring mother and grandmother. I have a beautiful home for my family, a very safe home, free from drugs, free from violence, and filled with education and love, and a very structured environment, filled with music, art, culture, and dreams of accomplishments that we build together, my two daughters and I for our success as a family, as a mother and daughter, my •• age 18 and now 20 years old. My one daughter, who is attending college for Criminal Justice is doing well and safe. My dream is to see my daughter, Shreiss, back in school to continue her education and to continue to achieve with her life as a teen parent, and to continue to achieve the needs that •• of a structured home environment for her child, Alexis, who is my granddaughter.

I would like to request your help and assistance to look into this matter and to help me get my daughter, Shreiss Baumgarten, out of the State of New York and back home to Holbrook where our home is. My granddaughter, Alexis Baumgarten, is only 20 months old. I fear for their safety and their entire well•being from this known criminal family and the circumstances surrounding the isolation and the control that they had on my daughter since she was a minor.

This has been a nightmare all over again due to the history of what my children and I already have survived, the false allegations and failure to protect the said minor's rights. This is a crime against my family.

I would like the Legislature to help me fight for a Bill of Rights in the County in order to protect the said children and parents' rights that need to be protected within the County, and the laws and the County agencies that need to be modified, and the loopholes of the deficiencies that are in the surrounding programs in this County.

In addition ••

**P.O. CARACAPPA:**

Ms. Baumgarten, your time is ••

**MS. BAUMGARTEN:**

•• I am asking that the Legislature support me in getting the District Attorney to investigate and take action of what I believe to be a dangerous network of criminals.

**P.O. CARACAPPA:**

Your time •• your time has expired.

**MS. BAUMGARTEN:**

Thank you, sir.

**P.O. CARACAPPA:**

Thank you so much.

**P.O. CARACAPPA:**

Walter Mitchell.

**MS. BAUMGARTEN:**

These are pictures of my daughter and my granddaughter. Thank you, sir.

**P.O. CARACAPPA:**

Thank you. Thank you very much.

**MS. BAUMGARTEN:**

Please, review my papers and get back to me.

**P.O. CARACAPPA:**

I have them right here.

**MS. BAUMGARTEN:**

God bless.

**MR. MITCHELL:**

Good morning. I think you're going to hear from the other side now.

First of all, concerning ••

**P.O. CARACAPPA:**

Just raise that.

**MR. MITCHELL:**

•• the situation at the jail, I've known Alfred Tisch for over 30 years. If there's a more dedicated individual as an Assistant District Attorney, a Judge, or a sheriff, I haven't met him, and I was very involved with the man. His •• not only his personality but his dedication is unbelievable. And, of course, what you did for Maxine is wonderful. I worked closely with her for three years when I was Director of Public Safety in Babylon, and Elie and Maxine really stand up for the people.

What I'm here for is really disappointing. In late June, I went down to my Legislator's office in Lindenhurst, so I could speak to him about the conditions in Lindenhurst, and the situation with the fire departments, the emergency response, that people were complaining about the length of time that it took. Twelve weeks later, I went down to the office and the fellow there, the young man, very nice man said, "Oh, he calls everybody back." Well, I said, "Well, here's my number and my address, please ask him to call again." I have not gotten a call back from Mr. Bishop and anything whatsoever, so I have to show up here, drive out. And as some of you probably already saw today, when it comes to emergencies, the accident that was out here, there were about 30 rescue people out there in heavy•duty equipment sweating in a miserable

day helping the people of Suffolk County. You've already recognized maybe 30 people this morning that are volunteers. Anyone that takes a stand against volunteers responding to a call and wants to sanction their benefits in any way whatsoever are wrong.

My family had over 200 years of service in the Wantaugh Fire Department. There's nobody in there anymore, because they can't afford to live their, really. And the other part about the living conditions that we're having that we faced is the a group over here that's got a lot of money, nice people and all that, and I'm sure that they go way overboard in helping out financially to fire departments. But I bet you don't see many people coming from Lillypond Road, or the Moorings, or the Hamlet with a blue or green light flashing at two o'clock in the morning. Then there's the people that are new to the County and that are getting services that these are the volunteers that are taking them. Go to any hospital, go to Saint John's, to Brookhaven and see the people that are in the emergency rooms. These are not people that are covered by hospitalization. The rescue people that respond, give them all the credit.

When someone was in the military for twenty•six years, as Michael apparently was, you don't make fire •• volunteer firemen, you don't make them, they have to have it in here from the beginning. And as for the prison situation, Pete O'Leary and I had the same job for many years. I never ever, ever saw the violence that's taken place on Long Island between the vicious accidents. All you have to do is ride the Expressway, and the Suffolk County Police certainly need more help when it comes to being on air. That's like old Roosevelt Raceway when the guy dropped the lines and just let the horse go. The trucks, the speed that they're traveling at is unbelievable. And every day in the paper you see unnecessary deaths, shootings, stabbings. There's •• Peter, did we ever have that when •• in the first ten years in the Police Department? And you were in homicide.

**LEG. O'LEARY:**

Not to that extent.

**MR. MITCHELL:**

It wasn't there. If you had three a year, it was a lot, and now every day somebody's facing the problem. I want you to hear from the guy in the middle, so you're aware what it is. I've spent the time to come out here to present that to you, and we need representation in the middle. Thanks for your time.

**P.O. CARACAPPA:**

Thank you so much. We really appreciate your comments, Mr. Mitchell.

***(Applause)***

Next speaker is Elizabeth Harrington. Elisabeth Harrington.

**LEG. FOLEY:**

The County Attorney?

**P.O. CARACAPPA:**

Yeah, the County Attorney's Office. We'll just put it aside for now. Mr. Komoski. Kenneth Komoski, didn't he speak earlier? Okay. That was Ken •• yeah, Ken Komoski. That was Ken Kaminski. Okay. Harold Jantzen. Mr. Jantzen's from the Deputy •• he's the Deputy Inspector of the Marine Bureau. He was here earlier in case there was questions on the grant that's coming, I believe via CN, for the Marine Bureau, so. Margaret O'Donnell. She was here to speak, the title examiners. Margaret O'Donnell. Jean Dear. Jean Dear. Jean Dear? Ernest Mattace, Jr.

**MR. MATTACE:**

Good morning, and thank you. I'm here to speak about the appointment to •• as Trustee to Suffolk County Community. I had the opportunity this past •• last past week to speak before the Economic Development, Higher Education and Energy Committee. I'd like to make you aware of what I have done and what I have been involved with at Suffolk Community College.

In 1966, I entered the campus and basically never left. I'm starting my 39th year in volunteerism at the College. I am a proud graduate, so as both of my children are. I am one of the founding members of the Alumni Association, and in that position served as President for 16 years. I'm also one of the founding Directors of the Foundation, and served as Foundation Chairman. And now, as a past Chairman, I'm a Director on the Foundation.

I have a strong and deep belief in Suffolk Community College, and I expressed that at the committee hearing and answered any questions that were posed to me. I believe, again, as it's said many times, that it is our jewel, and the opportunity there for our students and even adults

to continue their education is vital. I thank you for your time and I hope for your support.  
Thank you.

**P.O. CARACAPPA:**

Thank you, Ernie.

**LEG. FOLEY:**

Thank you, Ernie.

**P.O. CARACAPPA:**

John Kominicki.

**MR. KOMINICKI:**

Good morning, Mr. Presiding Officer, members of the Legislature. I'm John Kominicki, publisher of Long Island Business News, and I'd like to thank you for considering my appointment to the Suffolk County Community College Board of Trustees later today.

As we discussed in the committee last week, I've been impressed by your efforts to bring professional leadership to the College, and to usher in what's called a new sense of fiscal responsibility while remaining steadfast to the College's mission of providing a quality education to Suffolk County residents who can't afford or don't have the luxury of, or don't fit into the model of high school to college to career.

The College also plays a vital role in workforce development and is serving as a cement that can help lick our problem, I think, with brain•drain by encouraging our young people to stick to help build the communities of Long Island in the future.

I think most of you know me as a creative thinker and a hard worker, and I'm anxious to help continue the College's good work and perhaps expand the College's role throughout Suffolk County and in serving the ten towns. And I'm especially cognizant, after sitting in this morning, of the apparent large number of social ills you face on a regular basis, and I'd like to just add that I've always been a strong believer that education really is the tide that floats all boats and it's very important work, I look forward to being a help with it. Thank you.

**P.O. CARACAPPA:**

Thank you. I have no other cards. Anyone else wishing to be heard? Anyone else wishing to be heard? A motion to close public portion by myself, second by Legislator Losquadro. All in favor? Opposed? Abstentions? Public portion is now closed. I'd ask all Legislators report to the horseshoe, going directly to the agenda. All Legislators. Motion to approve the Consent Calendar by myself, second by Legislator Lindsay. All in favor? Opposed? Abstentions?

**MR. BARTON:**

17.

**RESOLUTIONS TABLED TO AUGUST 24, 2004**

**P.O. CARACAPPA:**

Moving on to page 8 of the agenda, tabled resolutions. **1039 (Establishing Commission to study Alternative Form of County Government). Motion to ••**

**LEG. FOLEY:**

Page 8.

**P.O. CARACAPPA:**

Yeah, Page 8. Motion to ••

**LEG. ALDEN:**

Binder, that's you.

**P.O. CARACAPPA:**

•• table by Legislator Binder?

**LEG. BINDER:**

Table, right.

**P.O. CARACAPPA:**

Second by myself. All in favor? Opposed? Abstentions? That's tabled.

**LEG. BINDER:**

Sorry.

**MR. BARTON:**

16. (Not Present: Leg. Tonna)

**P.O. CARACAPPA:**

1086.

**LEG. VILORIA • FISHER:**

I'm here, Henry.

***(1086 • A Charter Law to create the Real Estate Acquisition Anti-Corruption Reform Act).*** Same motion, same second ••

**MR. BARTON:**

16. (Not Present: Leg. Tonna)

**P.O. CARACAPPA:**

•• same vote. ***1313 (Accepting and appropriating excess revenues received from Hotel/Motel Tax).***

**MR. BARTON:**

16.

**LEG. ALDEN:**

Motion to table.

**P.O. CARACAPPA:**

Motion to table, Legislator Alden, second by Legislator Nowick. All in favor? Opposed? 1458.

**MR. BARTON:**

16. (Not Present: Leg. Tonna)

***(1458 • Amending the ATV Task Force to add two additional members).***

**LEG. O'LEARY:**

Motion to approve.

**D.P.O. CARPENTER:**

Second.

**P.O. CARACAPPA:**

There's a motion to approve 1458 by Legislator O'Leary, second by Legislator Carpenter.

**LEG. ALDEN:**

Is Caracciolo here?

**P.O. CARACAPPA:**

Is Legislator Caracciolo present?

**MS. KEYS:**

Kim went to get him.

**P.O. CARACAPPA:**

He's here?

**MS. KEYS:**

Kim went to get him.

**P.O. CARACAPPA:**

Okay. All in •• I'll skip over it. ***1592 (Authorizing execution of agreement by the Administration Head of Suffolk County Sewer District No. 3 • Southwest with the owner of 110 Sand Company (HU•1040).***

**LEG. FOLEY:**

Motion to approve.

**P.O. CARACAPPA:**

There's a motion to approve by Legislator Foley. Is there a second?

**LEG. BINDER:**

Second.

**P.O. CARACAPPA:**

Second by Legislator Binder. On the motion, Legislator Alden.

**LEG. ALDEN:**

I'd like to make a motion to table, and I hope I would be supportive of this •• on this. What job creation and what is our •• and above and beyond that, have we established a policy that we're going to take the Southwest Sewer District asset and extend that, not for people to hook up into, but for business? So, I think that we really have to explore what we're doing with the capacity of Southwest Sewer District and where we want to go with it, and then establish a policy, and then I could either, you know, vote for or against on an informed basis. If that's what everybody wants to do, let's just establish the policy and then let's go do it. But we have constituents in the Southwest Sewer District that have paid for over 30 years for infrastructure, and that's whether they're hooked up or not. And now we've got people that come in and they basically are using that infrastructure that people, individuals have paid for for 30 something years and they're going to take advantage of it. And in this case, for •• what was this, a sand mining operation?

**LEG. BISHOP:**

Well, we did Kentucky Fried Chicken the other week.

**LEG. ALDEN:**

Yeah, and I voted against it, Dave.

**LEG. BISHOP:**

So did I.

**LEG. ALDEN:**

Right. So, I think that we have to have •• we have to have a •• first off, we have to establish a policy in Suffolk County that we're going to take the asset of the Southwest Sewer District and

use it for economic development, and then promote it on a •• I think a more broad basis or more fair basis, and then we've got to establish some policy as far as people that are going to commit to that and charge them the proper amount of money to come in there, because other people, as I said, have paid literally tens of thousands of dollars over the past 30 years, and some of these people are coming in with a slightly increase in a hookup fee and then they're taking advantage of something that actually we're putting pressure on it, too, when we hook up with these •• some of these commercial things, that we're going to have to rebuild that whole system a lot faster than what we had anticipated. So, I think •• let's put this back in committee, let's have an establishment, really, of a policy, and then we can go forward from there.

**LEG. FOLEY:**

Joe.

**P.O. CARACAPPA:**

So, there's a motion to table by Legislator Alden. Is there a second?

**LEG. O'LEARY:**

Second.

**P.O. CARACAPPA:**

Second by Legislator O'Leary. On the motion. Who was on the motion?

**LEG. FOLEY:**

No.

**P.O. CARACAPPA:**

On the motion, Legislator Mystal.

**LEG. MYSTAL:**

I'm supporting the motion to table this legislation. I have asked the Department of Public Works and the Sewer Agency to put together a study to find out what we're doing in the sewer district. We're trying not to support •• go ahead, go ahead. I'm yielding to the Deputy Presiding Officer Carpenter.

**P.O. CARACAPPA:**

Legislator Carpenter.

**D.P.O. CARPENTER:**

I just •• we did have the Department of Public Works •• this body did pass a resolution about a year•and•a•half ago asking them to do a study of the district and look at perhaps having those outside the district hook up some of the very people that Legislator Alden was referring to. Part of the problem becomes the fact of the cost of •• on the individual homeowners to do that hookup. But that study does exist, and if you want, I can get a copy to you.

**LEG. BISHOP:**

If I can ••

**P.O. CARACAPPA:**

Legislator Mystal?

**LEG. MYSTAL:**

Go ahead, I'm done.

**P.O. CARACAPPA:**

Legislator Bishop.

**LEG. BISHOP:**

I just want to •• what we need is a •• Department of Public Works shouldn't be making the policy. What we need from is •• are the facts as to what the actual capacity is, and that's a number that is in some dispute, different people have different perspectives on it. From that, we need to work with the Executive on creating a prioritization scheme, because this piecemeal approach that we've engaged in Cameron Alden and I have objected to for many years. It reached to its absurd apex last time when we •• when we approved Kentucky Fried Chicken on Route 110. You know, what we need to do is to get the number of capacity, gallons, and then allocate to the •• what we want to see as a County developed. And I know, from discussions that we've had here, that affordable housing would be our highest priority. But we also want to make sure that there is adequate commercial activity in other sectors as well. I would think

that the least priority would be a fast food restaurant, but, you know, that's the risk we take when we do it piecemeal, because we're not flagging what clearly is, you know, wrong.

**P.O. CARACAPPA:**

Anyone else? There's a motion to table and a second. All in favor? Opposed?

**LEG. BINDER:**

Opposed.

**P.O. CARACAPPA:**

One opposition, Legislator Binder.

**MR. BARTON:**

15. It's tabled.

**P.O. CARACAPPA:**

1622. ***1622 (Establishing new County policy on use of County Clerk's Office for title examination purposes)***. Motion by myself, second by Legislator Losquadro. All in favor? Opposed?

**LEG. ALDEN:**

On the motion.

**P.O. CARACAPPA:**

On the motion, Legislator Alden.

**LEG. ALDEN:**

At one time, there was competing bills, right, the ••

**P.O. CARACAPPA:**

Yes, it's true.

**LEG. ALDEN:**

•• Clerk's and •• have we •• have we put these two bills together? Have people coordinated their efforts here?

**P.O. CARACAPPA:**

From what I understand, there's an agreement between both the Clerk and the County Executive.

**LEG. ALDEN:**

Great. Thank you.

**P.O. CARACAPPA:**

Okay. All in favor? Opposed? Abstentions?

**MR. BARTON:**

16. (Not Present: Leg. Tonna)

**P.O. CARACAPPA:**

1622 is approved. **1640 (Authorizing the extension of a lease of premises located at 1330 Motor parkway, Happaug, New York, for use by the Department of Health Services).** County Executive's Office?

**LEG. LINDSAY:**

Motion.

**LEG. VILORIA • FISHER:**

Second.

**P.O. CARACAPPA:**

I do have a list that there are some resolutions you'd like to address. This is one of them, so what we'll do is, since we're going to the agenda early, we'll bring you up as they come up, and this is one of them.

**MR. ZWIRN:**

Okay. I'm here to answer any questions, if I can, on this one, but I think it was ready for approval. I know I spoke to former Legislative •• Legislator Crecca before he left and he thought that this lease would probably pass at this meeting of the Legislature.

**LEG. BINDER:**

Who?

**P.O. CARACAPPA:**

Who?

**MR. ZWIRN:**

How soon they forget.

**LEG. MYSTAL:**

We do.

**MR. ZWIRN:**

But there was some backup information that was ••

**P.O. CARACAPPA:**

Is there a motion?

**LEG. ALDEN:**

Mr. Presiding Officer.

**P.O. CARACAPPA:**

There's a motion by Legislator Lindsay to approve. Just a second, Cameron.

**LEG. VILORIA • FISHER:**

Second.

**P.O. CARACAPPA:**

Second by Legislator Vilorina • Fisher. On the motion, Legislator Alden.

**LEG. ALDEN:**

Ben, is this the existing ••

**MR. ZWIRN:**

Yes.

**LEG. ALDEN:**

•• Health Center?

**MR. ZWIRN:**

Yes.

**LEG. ALDEN:**

Are they adding anything to it?

**MR. ZWIRN:**

No.

**LEG. ALDEN:**

And how long is this extension for?

**MR. ZWIRN:**

I don't have that information, but I think the backup was ••

**LEG. LOSQUADRO:**

April 30th, 2005.

**LEG. ALDEN:**

2•0•0•5?

**MR. ZWIRN:**

Right.

**LEG. LOSQUADRO:**

April 30th, 2005.

**LEG. ALDEN:**

Okay, thanks.

**MR. ZWIRN:**

Thank you.

**P.O. CARACAPPA:**

There's a motion and a second. All in favor? Opposed? Abstentions?

**LEG. CARACCIOLO:**

Abstain.

**P.O. CARACAPPA:**

One abstention is Legislator Caracciolo.

**MR. BARTON:**

15.

**P.O. CARACAPPA:**

***1665 (Authorizing the increase to the Suffolk County Sewer District No. 3 • Southwest with the owner of 110 Sand Company (HU•1040)).***

**LEG. FOLEY:**

Motion to approve.

**P.O. CARACAPPA:**

Motion to approve by Legislator ••

**LEG. MYSTAL:**

Motion to table subject to call.

**P.O. CARACAPPA:**

•• Foley. Is there a second?

**LEG. MYSTAL:**

Motion to table subject to call.

**P.O. CARACAPPA:**

Is there a motion •• second to the motion to approve?

**LEG. O'LEARY:**

Second.

**LEG. BINDER:**

Second.

**LEG. BISHOP:**

Second on the motion to table subject to call.

**LEG. FOLEY:**

Motion to approve.

**LEG. BINDER:**

Second.

**P.O. CARACAPPA:**

Hold on. There's a motion ••

**LEG. FOLEY:**

With friends like this, you don't need political enemies.

**P.O. CARACAPPA:**

Legislator Foley. There's a second to the approval by Legislator Binder. There's a motion to table subject to call, which takes precedence, by Legislator Mystal.

**LEG. FOLEY:**

On which bill are we on?

**P.O. CARACAPPA:**

Second by Legislator Bishop.

**LEG. LINDSAY:**

1665.

**LEG. FOLEY:**

Mr. Chairman, I'm one bill ahead of myself. I was referencing 1692.

**P.O. CARACAPPA:**

The approval motion has been withdrawn by Legislator Foley.

**LEG. FOLEY:**

So, I withdraw it. I apologize.

**P.O. CARACAPPA:**

Motion to approve by Legislator Bishop •• Binder. I still can't get it.

**LEG. MYSTAL:**

Motion subject to call by me.

**LEG. FOLEY:**

Sorry, Peter.

**P.O. CARACAPPA:**

Is there a second to the approval? I'll second it for the purpose of discussion.

**LEG. MYSTAL:**

Okay. On the motion to •• subject to call. There is a serious problem with that bill. What happened, that the developer presented a site plan, but in the site plan the developer included a parcel of land that is now owned by the County, which is parkland. And the developer is trying to get the County to do a land swap between herself and the County, where she will give the County about three acres of land and the County will give her some of the parkland. The County does agree to do the swapping on the condition that the land that the County swapped with that developer will be used as a buffer between her development and the park. She wants to build on it and she doesn't have the land yet, but she presented a site plan to the Sewer

Agency as though she already has the land and has added additional construction on that land. That's why I want her to rectify that situation.

**P.O. CARACAPPA:**

Is that dedicated parkland?

**LEG. MYSTAL:**

It's a dedicating parkland.

**LEG. BISHOP:**

She's presuming a swap.

**LEG. MYSTAL:**

She's presuming the swap will go through and she's already built on it. .

**P.O. CARACAPPA:**

A swap isn't that easy. If it's dedicated parkland, it takes two consecutive State Legislatures to eliminate it as parkland.

**LEG. BISHOP:**

All right.

**P.O. CARACAPPA:**

So ••

**LEG. BISHOP:**

I don't know if it's dedicated parkland, but it was ••

**LEG. MYSTAL:**

Go ahead.

**P.O. CARACAPPA:**

If it is •• that's why my question is, is it definitely dedicated parkland?

**LEG. MYSTAL:**

I want to yield to ••

**LEG. BISHOP:**

I'm sorry.

**LEG. MYSTAL:**

•• Legislator Bishop.

**LEG. BISHOP:**

I think his priority, his point is that it's •• 0

**P.O. CARACAPPA:**

The site plan is flawed.

**LEG. BISHOP:**

Yeah.

**P.O. CARACAPPA:**

Tremendously.

**LEG. BISHOP:**

And the swap is about a buffer. It was supposed to be to create a buffer, and, instead, the developer is using the acquired land to build more on, so it's like a bait and switch.

**P.O. CARACAPPA:**

There's a motion to table subject to call and a second. All in favor? Opposed? Abstention?  
Tabled subject to call.

**MR. BARTON:**

16. (Not Present: Leg. Tonna).

**P.O. CARACAPPA:**

***1692, 92A (Amending the 2004 Capital Program and Budget and appropriating funds required to modernize the public restroom facility and the installation of cattle***

***fencing at the County Farm in Yaphank).***

**LEG. FOLEY:**

Motion.

**LEG. O'LEARY:**

Second.

**P.O. CARACAPPA:**

Cattle fencing, is this for us?

**LEG. FOLEY:**

Yeah, if there's some land left.

**P.O. CARACAPPA:**

There's a motion by Legislator Foley.

**LEG. O'LEARY:**

Second.

**P.O. CARACAPPA:**

Second by Legislator O'Leary. Roll call.

**(Roll Called by Mr. Barton, Clerk)**

**LEG. FOLEY:**

Yes.

**LEG. O'LEARY:**

Yes.

**LEG. CARACCIOLO:**

Yes.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. VILORIA • FISHER:**

Yes.

**LEG. LOSQUADRO:**

Yes.

**LEG. LINDSAY:**

Yes.

**LEG. MONTANO:**

Yes.

**LEG. ALDEN:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. BISHOP:**

Yes.

**LEG. MYSTAL:**

Yes.

**LEG. BINDER:**

Yes.

**LEG. TONNA:**

(Not Present).

**LEG. COOPER:**

Yes.

**D.P.O. CARPENTER:**

Yes.

**P.O. CARACAPPA:**

Yes.

**MR. BARTON:**

16 on the bond. (Not Present: Leg. Tonna)

**P.O. CARACAPPA:**

Same motion, same second, same vote to the companion resolution. ***1696 (Amending Resolution No. 1145 • 2000 authorizing licensing agreement for beautification purposes in downtown Bay Shore)***. Motion by Legislator Carpenter.

**LEG. ALDEN:**

Second.

**P.O. CARACAPPA:**

Second by Legislator Alden. All in favor? Opposed? Abstentions?

**LEG. BISHOP:**

What's the explanation, though? I'm in favor, I just want to know what we're getting.

**P.O. CARACAPPA:**

Before the vote is called, just an explanation.

**D.P.O. CARPENTER:**

This is a piece of property that we are leasing to beautification. They're doing a park.

**LEG. BISHOP:**

In the downtown?

**D.P.O. CARPENTER:**

And it's just extending that lease.

**LEG. BISHOP:**

On Main Street?

**D.P.O. CARPENTER:**

On Main Street, yeah.

**P.O. CARACAPPA:**

All in favor?

**MR. BARTON:**

16. (Not Present: Leg. Tonna)

**P.O. CARACAPPA:**

Thank you. ***1708 (Authorizing the Director of the Division of Real Estate, Department of Planning to issue a certificate of abandonment of the interest of the County of Suffolk in property designated as Town of Brookhaven, Suffolk County Tax Map No. 200•981.20•07.00•001.009 pursuant to Section 40•D of the Suffolk County Tax Act).***

Motion by Legislator Foley?

**LEG. FOLEY:**

Motion to table.

**P.O. CARACAPPA:**

Motion to table by Legislator Foley, second by myself. All in favor? Opposed? Abstentions?

**MR. BARTON:**

16. (Not Present: Leg. Tonna)

**P.O. CARACAPPA:**

***1749 (Directing the department of Law to withdraw the Article 78 Proceeding County of Suffolk V. New York State Commission of Corrections). Mr. Zwirn.***

**MR. ZWIRN:**

Thank you, Mr. Presiding Officer.

**P.O. CARACAPPA:**

You're welcome.

**MR. ZWIRN:**

The County Executive would ask you to table this resolution today. We have submitted papers on this. There's a motion pending before the courts. We expect a decision, hopefully, in October. I mean, this lawsuit was brought by the County Executive on behalf of the taxpayers of Suffolk County to try to recoup some of the expenses that we've had in transferring prisoners out of the County due to the closure of a portion of the County jail. It doesn't have any impact on anything else. We're going ahead with plans to build the modulars. Our plans are up with the Commissioner of Corrections waiting for their approval. Once they're approved, it will go out for a rebid and for consideration. There's •• in our opinion, there's no downside to let this lawsuit proceed at this time.

**P.O. CARACAPPA:**

Mr. Zwirn, with relation to the sprungs, the State has ruled this morning to stop all action as it relates to sprungs, whether it be bidding, plans, construction, or anything related to it until they say further. This is, I would assume, direct •• directly related to the lawsuit brought by the County Executive. Just mention •• let me finish. And during the time when the lawsuit was just announced and brought forward, it was clearly stated by the Commissioner of Corrections and their attorney that they would not be acting on the sprungs in any manner whatsoever because of the litigation. That's posing very serious, serious problems as it relates to our correctional facility and the needs of our correctional facilities, especially as it relates also to the housing of prisoners outside the County of Suffolk, which I've been updated monthly on the tremendous cost. And it's growing, it's growing at a rapid pace, and they say October is usually one of the highest, highest months when it comes to boarding our prisoners.

I do believe, and this is not a shot at the County Executive, trust me when I say this, I think the lawsuit was unnecessary and illy•timed, if you will, poorly timed, and it's creating a tremendous hardship to the County, both financially and to our correctional facility. So, I'm going to make a

motion to approve ••

**LEG. LOSQUADRO:**

Second.

**P.O. CARACAPPA:**

•• and proceed with this ••

**D.P.O. CARPENTER:**

I'll make the second.

**P.O. CARACAPPA:**

•• for the purposes I stated.

**MR. ZWIRN:**

But can I ••

**D.P.O. CARPENTER:**

On the motion.

**MR. ZWIRN:**

Can I just respond?

**P.O. CARACAPPA:**

You can respond, and then we'll go to Legislators.

**MR. ZWIRN:**

I don't think that the letter that came from the Corrections Department relates to the lawsuit. They have to review the plans and the specs. They've recently received them and they have not responded. We have no indication that they're not responding because of the lawsuit. We have no correspondence to that effect. We were not prepared to open the bids today, because they have not responded, but we don't have any indication that they're not going to.

But the cost factor that you have raised is what is paramount in the mind of the County Executive in trying to get some of that money back. When the Department of Health ruled that

the damage that was done had been repaired at the Suffolk County facility, and that it was inhabitable again for prisoners, as it happened in the past, the State Corrections Department would not allow us to but them back. That caused a great deal of hardship on the part of the taxpayers of the County to ship these prisoners out of •• out of the County, and the County Executive thinks that that decision was not made properly. And if we are successful on that, then a lot of the money that we have spent can be recouped for the taxpayers.

There really is •• there's no downside as far as we see it at this point. We're on a dual track. The plans and specs are up before the Commission of Corrections on the State level, and once they come back and we have further correspondence with them, we'll proceed.

**P.O. CARACAPPA:**

I think we all know they're not coming back, though, until this litigation is gone.

**MR. ZWIRN:**

Well, that's something that we're not aware of.

**P.O. CARACAPPA:**

Legislator Bishop, then Montano, then Foley.

**LEG. BISHOP:**

Okay. Just by way of •• I need the Presiding Officer, so I'm just going to wait.

**P.O. CARACAPPA:**

I got you.

**LEG. BISHOP:**

Okay. By way of clarification, what •• you referred to a document?

**P.O. CARACAPPA:**

Yes.

**LEG. BISHOP:**

What is it that you received, and what does it say, essentially?

**P.O. CARACAPPA:**

It's quite lengthy. It's from the State Commissioner of Corrections, and it says that we're basically in violation of a whole bunch of things, and we're ordered and directed to refrain from undertaking any construction or renovation to the Suffolk County Correctional Facility at Yaphank, or cause such construction or renovation to be undertaken. We are ordered and directed from advertising for bids or undertaking any construction or renovation to the Suffolk County Correctional Facility at Yaphank until approval for the same has been given by the Commissioner of Corrections. And we are further ordered and directed to submit to the State Commissioner of Corrections within five days of this date, this directive, documentation substantiating compliance with this directive. And "Please take notice that noncompliance with this directive may result in an application by the State Commissioner of Corrections, the Supreme Court of the State of New York for an order directing compliance."

**LEG. BISHOP:**

Now, let me ••

**P.O. CARACAPPA:**

We'll make copies and get this to everyone.

**LEG. BISHOP:**

Yeah. But, since you've read it ••

**P.O. CARACAPPA:**

And I received that just an hour•and•a•half ago.

**LEG. BISHOP:**

•• I mean, is it •• first of all, from that, it sounds like they're talking about the whole •• the whole project, not just ••

**P.O. CARACAPPA:**

Yaphank.

**LEG. BISHOP:**

Yeah, the whole project is in Yaphank, is it not? You know, the entire eleven hundred bed

facility that ••

**P.O. CARACAPPA:**

This had to relate to the sprung. It's in the beginning of the letter.

**LEG. BISHOP:**

Okay. So, it just relates to the sprung.

**P.O. CARACAPPA:**

Yes.

**LEG. BISHOP:**

And you're presuming that that further relates to this lawsuit, which I •• you know, I hope you're right, because, if that's true, they'll lose the lawsuit and we'll get more money back for the taxpayers. That would be the most outrageous behavior by the State of New York. It would be typical, but highly outrageous nonetheless. And it's also in line with their previous behavior, where they dumped State•readies on us for years. Thank God at that point my colleagues weren't behaving like they seem to want to behave today and rolling over and giving into the State's extortion and blackmail. We stood up to the State that time and we won a victory for the taxpayers.

This administration wants to do it again, they want to fight against a bureaucracy which renders arbitrary and capricious decisions, and they're just asking for a chance to have their day in court for the taxpayers.

Now, if you believe that the State is so, you know, vicious and bereft of, you know, administrative morality that they would, you know, surrender their •• you know, their purpose in order to further their position, I know, that •• you're selling the taxpayers short. I mean, I think that we need to have our day in court. That's what the administration simply wants. There is •• there are motions pending. They're going to be decided soon enough within four weeks, and I really resent that we would back down to a bully. And so I would urge us to support the Executive and support the lawsuit, at least until motions for dismissal are decided.

**P.O. CARACAPPA:**

Keep in mind ••

**MR. ZWIRN:**

Mr. Presiding ••

**P.O. CARACAPPA:**

Actually, you made your point, so ••

**MR. ZWIRN:**

Can I just make just one ••

**P.O. CARACAPPA:**

This isn't a debate between the Executive, now it's between Legislators.

**MR. ZWIRN:**

But I'd just like to say one •• just one last thing, please. Please, just one last thing.

**P.O. CARACAPPA:**

You've asked for ••

**MR. ZWIRN:**

I just want one last •• one last thing is that in the lawsuit, one of the strongest arguments that the Commissioner of Corrections is making is this resolution, using it against the County in this particular case.

**P.O. CARACAPPA:**

Okay, thank you. But, also, the State •• the State Attorney General has spoken in on this matter, saying that, basically, the suit was brought in an improper manner, from what I'm •• from what I've read.

**MR. ZWIRN:**

But we have a motion in response to that ••

**P.O. CARACAPPA:**

No, I was just telling my colleagues that.

**MR. ZWIRN:**

But this affirmation cites this resolution going back to August 12th.

**P.O. CARACAPPA:**

Legislator Montano.

**LEG. MONTANO:**

Yes. I would have to agree with Legislator Bishop on this. I think we set a bad precedent if we allow ourselves to be influenced by external political issues dealing with the State when we have a pending lawsuit in Supreme Court, which is •• which is and should be decided on the merits. If the County Executive wants to sue the State, he should be allowed to sue the State. If he has a cause of action, the court will deal with it appropriately. If there is no cause of action, the court will deal with it in that manner also.

I don't think we should sit here at this point and look at this case from the political perspective, when, in fact, the legal issues are right before the court for their determination. Irrespective of what the letter says there, I think that we should table this. I think this is a bad resolution, I think it sets bad precedent. We should at the very least table it and allow the case to proceed to the merits, as we would with any other case. We should not be cutting off litigation when, in fact, we may have a meritorious case and we may, in fact, bring some other kind of relief to the taxpayers of Suffolk the County. So, I'm going to go along with Legislator Bishop and ask that we, we you know, table this and move on.

**P.O. CARACAPPA:**

Is that a •• is that a motion?

**LEG. FOLEY:**

Motion to table, Mr. Chairman.

**P.O. CARACAPPA:**

Motion to table by Legislator Foley, second by Legislator Montano. Next on the list is Legislator Foley.

**LEG. FOLEY:**

My two colleagues from the field of jurisprudence and law have spoken eloquently about the need to table the bill and to give the chance a few •• give the lawsuit a few more weeks. If the decision is going to be made by October, judicial decision, that's just •• that's just around the corner. So, as I said, I have a motion to table,  
Mr. Chairman.

**P.O. CARACAPPA:**

Legislator Alden.

**LEG. ALDEN:**

I find it interesting about, you know, like the compelling argument or the attempt to compel about giving into a bully, and I just find that very interesting when I look at what type of lawsuit was actually brought and who brought it. And, as Legislator Bishop pointed out before, the Legislature brought a lawsuit that was fairly successful in the past, establishing, number one, that we had damages, and then trying to collect those damages. Well, it's interesting, because the lawsuit that's pending doesn't ask for any damages. As a matter of fact, it can't, because that's not the type of lawsuit that was brought. So, we're spinning our wheels. Instead of bringing the same type of lawsuit that was brought by the Legislature and with the Legislature as a party to it, we •• not we, County Executive Sabatino decided to go his route and bring an Article 78, which doesn't ask for damages and it can't ask for damages. So, that whole argument about, you know, making the people of Suffolk County whole is right out the window.

And as far as being bullied, if we want to bring a lawsuit, we don't give up our right. If we withdraw this Article 78, we do not give up our right to seek damages, the same •• by bringing the same type of lawsuit that this Legislative body brought a couple of years ago, as was pointed out very aptly by Legislator Bishop. So, I find the argument about being bullied, and some of the other things here, very, very interesting at the very least.

**P.O. CARACAPPA:**

Legislator Binder.

**LEG. BINDER:**

Thank you, Mr. Chairman. The arguments that Legislator Alden brought up should be listened lived to. We're not talking about giving up our rights, we're not talking about walking away with prejudice in staying that we're not going to come back. The problem with the lawsuit, beyond anything else, is its timing. If you actually care about the taxpayers and you actually voted for over a million dollars in funding for modular units, you would want those modular units to be able to go forward.

The County •• the Commissioner, we have it right in front of us, was just handed out, is very clear in directing us not to do anything. Now, one Legislator says, "Well, that's great, because if they did it because" •• "if they did it because of a filed lawsuit, then we're going to win the lawsuit." That's not particularly true, and a lawyer should know that. They may have some very good reasons to present to a court as to why they would issue an order not to move forward while another lawsuit is pending, and they can probably justify it. You may not like that they're a bully. When you're sitting •• when you're on the playground and the bully has a huge hammer in his hand, do you say, "I don't want to back down from the bully"? Well, if he's got a big hammer in his hand, it could end up in your head. You have to think about that. You have to decide what you want to do and when you want to do it.

Right now we have a lawsuit. That is clearly antithetical to a vote we made to spend money to take care of the very problem that we want to protect the taxpayers on. The longer we go •• you want to •• you want to hurt the taxpayers? Vote no on this. And you know why you'd be hurting the taxpayers? Because, if you vote no, and we go longer and longer without being able to put the modular units in, we're going to have to continue to transport prisoners, and while we're transporting prisoners we're paying, or I should say the taxpayers are paying, and while they're paying, you don't know if there's going to be any hope in the future in a lawsuit to get reimbursed. We may win, we may not.

What we need to do as a Legislator •• a Legislature is to be a responsible body, to move this along as quickly as possible to get the modular units done. We voted for the money. Let's get it done. Withdraw the lawsuit. We can always come back another day. I'm not saying we will, because I think it would be foolhardy for me to put on the record to the Commissioner in New York that we're going to go forward at a future time, but we could always consider to do that again, and we can consider to go forward with the monetary damages question. But, if you really want to protect the taxpayers here today, support the Presiding Officer in his quest to pull

the lawsuit for now, stand down for a short amount of time at least, let us go forward, so there's no lawsuit, let us go forward, get the modular units done, then we can take a new look at how we can protect the taxpayers on our costs, because I think we would all agree that the County Executive did it for the right reasons, there's not a question.

The County Executive didn't go out there and put •• now, this is coming from me, that the County Executive did it for the right reasons. He went out there and he wants to protect the taxpayers, I just think he did it the wrong way, and we as a body should consider that. If it's the wrong way, we, as a policy•making body, should say, just use our heads here, we need to protect the taxpayers, let's get the modular units built, let's withdraw this, let's sit down another day, as we're building these modular units as quickly as possible. And we could sit down again and talk about the lawsuit that the County Executive went forward with, and I think, I think we might want to talk about how we can support him in his effort, to protect the taxpayers that way. But I think we don't do this today, we don't withdraw this, we're doing a great disservice to the taxpayers at a great, great cost.

**P.O. CARACAPPA:**

Thank you. Legislator Montano.

**LEG. MONTANO:**

Yes. I just want to be clear, because I want to correct what I think is a misunderstanding with respect to withdrawing the lawsuit. I understand that this is an Article 78 lawsuit, and if it's an Article 78, there would be a four•month statute of limitations. So, if we withdraw the lawsuit, I don't know what you mean, Legislator Binder, with respect to coming back; certainly, not on this cause of action. So, if that's the impression, I think we need a clarification from the County Attorney as to whether or not, if, in fact, we withdraw this, we can come back at a later date with this cause of action.

**P.O. CARACAPPA:**

Is that a request, Legislator Montano?

**LEG. MONTANO:**

Yes, it is.

**P.O. CARACAPPA:**

Ms. Harrington.

**MR. ZWIRN:**

Mr. Presiding Officer, we have Liz Harrington ••

**LEG. MONTANO:**

Through the Chair.

**MR. ZWIRN:**

•• from the County Attorney's Office who can speak to that issue.

**MS. HARRINGTON:**

Thank you. Good morning, Presiding Officer. Legislator Montano, you are correct, if, in fact, we withdraw this litigation at this point, we cannot come back and recommence it because of the statute of limitations.

I would also like to point out that it's my understanding, from speaking with the County Attorney yesterday, that there was an attempt to speak, I believe, with the Presiding Officer at some point. And through no one's fault that didn't happen yet because of scheduling conflicts. I think, as a courtesy to the County Attorney, if need be, she would be willing to come out and speak with you in executive session today about this litigation. And as a courtesy, I would ask that you table this until such time as you've had an opportunity to let her come out and speak with you. Because it's ongoing litigation, I think executive session might be more appropriate.

**P.O. CARACAPPA:**

Legislator Alden. Thank you.

**LEG. ALDEN:**

Hi. I'm glad you came forward, because what's the statute of limitations on damages? A different type of lawsuit, I know, but what's the statute of limitations on that?

**MS. HARRINGTON:**

Well, once a decision would be rendered, Legislator Alden, if it were ••

**LEG. ALDEN:**

No. Just what would be a statute of limitations on a lawsuit. Forget about whether we have an Article 78 or not, because we didn't bring an Article 78 in the past and we had very successful lawsuit. So what would be the statute of limitations on a damages-based lawsuit?

**MS. HARRINGTON:**

To get damages on this litigation, you have to get a decision first on the Article 78. Then you •

**LEG. ALDEN:**

You absolutely don't, that's a misstatement.

**MS. HARRINGTON:**

I disagree. And then, once you get a decision, Legislator, then another petition is brought ••

**LEG. ALDEN:**

So, wait a minute, wait a minute. Let me go back to your first statement. You're stating that a judge, a judge won't make •• a judge won't make a determination on the facts ••

**MS. HARRINGTON:**

No. What I'm saying is a determination ••

**LEG. ALDEN:**

Because of the •• because there's a lack of an Article 78.

**MS. HARRINGTON:**

You cannot get damages until there's a determination that the decision was erroneous or capricious, so, yes, you have to get the decision before you get the damages.

**LEG. ALDEN:**

That's the only •• that's the only criteria for damages, arbitrary and capricious? I don't think so.

**LEG. BISHOP:**

I don't think she said that.

**LEG. ALDEN:**

She just said it.

**LEG. BISHOP:**

She didn't say the only.

**MS. HARRINGTON:**

What I'm telling you, Legislator, is that, in this case, what we're doing is we're attempting to overturn a decision ••

**LEG. ALDEN:**

Wait, wait, wait, wait. No, you just ••

**P.O. CARACAPPA:**

Hold on.

**LEG. ALDEN:**

There's some confusion here. The only cause •• the only way to get damages is through an Article 78; is that what you're stating?

**MS. HARRINGTON:**

In this particular instance, the only way to get damages in this case is to get a ruling from a court that the determination by the State was erroneous, and that's the decision on which you premise your damages, that is correct.

**LEG. ALDEN:**

That's absolutely •• that's absolutely incorrect, absolutely incorrect. I'm done. That is absolutely incorrect.

**MS. HARRINGTON:**

Well, as a litigator for over 20 years, I respectfully disagree.

**P.O. CARACAPPA:**

Legislator Carpenter, then Lindsay, then Montano.

**D.P.O. CARPENTER:**

Well, I for one am not an attorney and ••

***(Applause by P.O. Caracappa)***

Thank you. And listening to this back and forth, I'm sure that, at some point in time, there could be an opportunity, if this body felt it was necessary, to sue for damages. But on a practical note, I'm remembering that in the very early part of July, we were called to a Special Meeting in The County Executive's Office to discuss this very issue, and it was absolutely urgent that, and the case was being made, that we move forward and purchase the sprung, because we needed to protect the taxpayers and we needed to save money, and that was the beginning of July.

Yes, we have to go through the bidding process, which I guess it was sort of lost in the shuffle of things, but we want to be able to move forward with it, because, if you look back, the cost of these are estimated to be a million•and•a•half dollars. If you add up what was spent in July, August and September, we're fast approaching the cost of these units.

So, it seems to me that the better thing or the better course of action for us would be if the perception with the Commission of Corrections is that we are trying to sue them, or not a perception, we are trying to sue them, or the County Executive is, and that is going to impede them from approving the process and allowing us to go forward with the modulars; that we should set this aside, try to move as quickly as possible, and purchase the modular units, and then this issue can be revisited. That is the way to protect the taxpayers, because the sooner we get those modulars up, the sooner we are going to make a sizable dent in the cost of transporting these prisoners to other areas of the state.

And now it's getting so bad that we are having to house prisoners at Rikers at an inflated cost over what it costs us at other prisons. And it makes it very much more costly because of the transporting back and forth, because now some of the prisoners are pretrial prisoners, so they have to be brought back and forth on a regular basis. So, I think that moving forward with this resolution certainly is the to go.

**LEG. BISHOP:**

Are you making a list?

**D.P.O. CARPENTER:**

Yes, there is a list, and I believe the next is Legislator Lindsay.

**LEG. BISHOP:**

And you'll put me on the list, please?

**D.P.O. CARPENTER:**

Sure.

**LEG. BISHOP:**

Thank you.

**LEG. LINDSAY:**

Earlier today and during the public portion, we heard a number of speakers talking about alternatives to incarceration and, you know, the frustration of how as Americans we're locking up more and more people. And I don't think there's anyone at this horseshoe that doesn't agree with some of the components of that statement. I don't think any of us want to lock up people.

For the time that I've been at this Legislature, more than three years now, this has been an issue that we've struggled with about whether to build a jail, whether to institute programs for alternatives to incarceration, to fund studies. And the biggest thing that I think is a hurdle to us is the indecision that's been going on for the period of time.

What the speakers this morning failed to address is the absolute inhumanity of our jail. I have toured both facilities on multiple times. It's a horrible place to keep anybody, regardless of what they did. A lot of the programs that they talked about, we need a better facility to implement. You can't •• there's no doubt about it, that there's a lot of the people in our jails have a mental illness and we desperately need a separate wing to treat those people differently than the common criminal. We don't have the room to do that. We don't have the room to

divide people and sector them out with really people that will do people harm and people that are innocent. We throw them all into one room, 40, 60 people to a room. It's only a matter of time before somebody's going to get killed out there. I just hope that it isn't one of our Correction Officers that's trying to make a living and feed his family.

Having said all that, I thought we were on a path to finally resolve this. You know, we adopted a plan for a two•step prison expansion, or jail expansion. We came forward with a proposal to implement some temporary housing to get some of the prisoners back from Upstate. Talk about inhumane. Imagine if someone in your family is unfortunate enough to be locked up in our jail and then they're shipped to Buffalo or Albany, or whatever. You can't even go visit them, which certainly is •• you know, family ties are certainly a way of recuperating and people that have taken the wrong path.

Having said all that, I honestly think that the lawsuit implemented by the County Executive was ill•advised. But I would ask my colleagues to pass over this resolution to allow the County Attorney to come out and address us in executive session, because I have a lot of questions about the lawsuit of ••

**LEG. ALDEN:**

Today?

**LEG. LINDSAY:**

Yeah.

**LEG. ALDEN:**

Good, okay.

**LEG. LINDSAY:**

They made an offer to do that today. I'd like us to seriously consider that.

**P.O. CARACAPPA:**

Okay. So, to make the record clear, I did speak with the County Attorney, and Ms. Harrington said that there were scheduling conflicts, and there have been, but we've been trying desperately. We've been sending over dates and times for the last couple of weeks trying to

get a meeting with the County Attorney and there just never seems to be enough time to take a trip across the street. And I've been over to the County Executive's Office on many occasions lately to discuss other matters. And, you know, so we've tried desperately to get a date. I know she's just busy, I'm not saying she's avoiding me, but, at this point, I don't know if it's a stall tactic or not. And in executive session today, we're going to get more of that. That's what you need to ask yourself. Legislator Montano.

**LEG. MONTANO:**

I'm going to defer questioning and just join Legislator Lindsay. If, in fact, the County Attorney is available today to discuss the merits of the litigation and what your procedural posture is, then I would say let's do that, and then we can get on with the debate later.

**P.O. CARACAPPA:**

Thank you. Legislator Bishop.

**LEG. BISHOP:**

Same thing.

**P.O. CARACAPPA:**

Ditto by Legislator Bishop.

**LEG. BISHOP:**

We're not going to have a vote now, right?

**P.O. CARACAPPA:**

Anybody else?

**LEG. MYSTAL:**

Yeah.

**LEG. BISHOP:**

Is that the direction we're going, we're not having a vote?

**P.O. CARACAPPA:**

Legislator Mystal.

**LEG. MYSTAL:**

If •• you know, I would think that maybe we can extend the courtesy. If it is a stall tactic, it would only last for a couple of hours.

**D.P.O. CARPENTER:**

Good point.

**LEG. MYSTAL:**

You know, so let's listen to them. If it is a stall thing, then, you know, we'll listen to them and we'll have the decision in a couple of hours. So, I think we should extend the courtesy.

**P.O. CARACAPPA:**

Thank you, Legislator Mystal. Is there a motion to skip over this or table it, because ••

**LEG. LINDSAY:**

I'll make the motion.

**P.O. CARACAPPA:**

To tell you the truth, I'm just not going to do it unilaterally.

**LEG. LINDSAY:**

I'll make the motion.

**P.O. CARACAPPA:**

There's a motion ••

**LEG. VILORIA • FISHER:**

Second.

**P.O. CARACAPPA:**

•• to table until a time certain, Bill?

**LEG. LINDSAY:**

Fine.

**P.O. CARACAPPA:**

Motion to postpone this vote until later this •• later this afternoon.

**LEG. FOLEY:**

Until after executive session.

**LEG. CARACCIOLO:**

Mr. Chairman.

**P.O. CARACAPPA:**

Is there a second?

**LEG. VILORIA • FISHER:**

Second.

**P.O. CARACAPPA:**

Second by Legislator Mystal. All in favor? Opposed? I'm opposed.

**MR. BARTON:**

15. (Not Present: Leg. Tonna)

**LEG. CARACCIOLO:**

Mr. Chairman.

**P.O. CARACAPPA:**

I'm going to make a request, also, that the Sheriff's Office sit at •• be there for that executive session.

**LEG. BISHOP:**

On that request. What relevance does the Sheriff's Office have to a lawsuit of the ••

**P.O. CARACAPPA:**

It's only their department that's involved.

**LEG. BISHOP:**

And we're going to get into an underlying debate, then, about, you know, the jail situation and not be focused on the question. The questions ••

**P.O. CARACAPPA:**

Well, I'd like to hear both sides.

**LEG. BISHOP:**

The questions that you brought the County Attorney in for was whether the Article •• I assume that's the question you wanted, was whether the Article 78 was the right mechanism to recover money for the taxpayers. Wasn't that what was raised in that ••

**P.O. CARACAPPA:**

That's one of the issues.

**LEG. ALDEN:**

As long as the finger was pointed at me, I'd like to ••

**LEG. BISHOP:**

No, I'm not pointing a finger at you.

**LEG. ALDEN:**

But I'd like to ••

**LEG. BISHOP:**

I thought you initiated the ••

**LEG. ALDEN:**

Yes, I'd like to see this pushed off. And I would also make a request that if the County Attorney's coming over, to bring a full analysis of why we didn't follow the Bishop model when he didn't go with the Article 78, which I think might have been •• you know, like he looked at it and might have been a political statement. He said he didn't want to make a political statement at that point, he just wanted to recover money for the people of Suffolk County. So, why we

didn't follow the Bishop model in this attempt to recover money for the people of Suffolk County?

**P.O. CARACAPPA:**

Legislator Caracciolo, then Montano.

**LEG. BISHOP:**

The Bishop model was born of complete ignorance. The attorney ••

**LEG. CARACCIOLO:**

Mr. Chairman, I'd like you to go back to another resolution that was passed over earlier, 1458.

**P.O. CARACAPPA:**

Just let us finish debate on this and we'll go right directly back to ••

**LEG. CARACCIOLO:**

Oh, all right.

**P.O. CARACAPPA:**

Legislator Montano.

**LEG. MONTANO:**

Yes, a question. With respect to the comment to allow the Sheriff to come into the executive session, the Sheriff is not a party to these proceedings, is he?

**MS. HARRINGTON:**

No, the Sheriff is not a party.

**LEG. MONTANO:**

Would it be inappropriate, then, to bring in a nonparty before the Legislature in executive session to discuss something that the County Attorney's going to discuss with us, because I have some reservations about that.

**P.O. CARACAPPA:**

You're asking our Legal Counsel or the County Executive's Legal Counsel?

**LEG. MONTANO:**

I'm asking the County •• the County Attorney at this point.

**D.P.O. CARPENTER:**

I'd ask our Counsel.

**LEG. MONTANO:**

I'll take a response from either attorney.

**LEG. ALDEN:**

Let's hear his answer.

**D.P.O. CARPENTER:**

No. Excuse me. Excuse me.

**P.O. CARACAPPA:**

Hold on. I asked him if he was asking our Legal Counsel or theirs, and he preferred them.

**LEG. MONTANO:**

Well, I'll ask both. But, at this point, is that something that •• you know what, strike it. Let me ask our Counsel.

**D.P.O. CARPENTER:**

Good idea, good idea.

**LEG. MONTANO:**

Counsel, it seems to me that it would be inappropriate to bring in a nonparty into the executive session; am I accurate in that assessment?

**MS. KNAPP:**

I think that this Legislature can choose who they want to be in an executive session.

**LEG. BISHOP:**

Good. Let's force a vote on it. Okay. Let's have a vote on who could come into executive ••

**P.O. CARACAPPA:**

What is the problem by asking ••

**LEG. MONTANO:**

Because ••

**P.O. CARACAPPA:**

•• information?

**LEG. MONTANO:**

I brought up the point, I'll answer the question, if •• when she finishes.

**P.O. CARACAPPA:**

Go ahead, right ahead. Go ahead. I apologize.

**LEG. MONTANO:**

We're bringing in Counsel to discuss legal issues, legal theories on the case. We're now •• as a Legislature, what we're doing now is bringing in an outside party, and I'm concerned about, at some point, the possibility of discovery from the nonparty in either a deposition, or something of that nature. And I would like to avoid that legal issue down the road, because what we discuss in executive session is really the privilege to the body, and that's what I'm addressing, that issue. And I'm trying to get an opinion as to whether or not we're •• we should be bringing in nonparties into these executive sessions when we have our Counsel there. If we want to bring in a nonparty after to discuss some issues, that's fine, I just don't think it should be in conjunction with the County Attorney.

**MS. HARRINGTON:**

If I could respond to that. I'm sure the County Attorney will speak on her own behalf when she arrives to speak with you later today, if that would be your wish. I have to say that, initially, I would agree with Legislator Montano, that the suit was brought by the County Attorney's Office and that the Sheriff is not a party. That having been said, if she wishes to enter into executive session with the Legislature, I'm sure you can address those questions to her at that time.

**D.P.O. CARPENTER:**

Mr. Chairman.

**P.O. CARACAPPA:**

Legislator Carpenter, then Nowick.

**D.P.O. CARPENTER:**

I just find it absolutely incredible, as we are discussing an issue that concerns the Office of the Sheriff, that we could in any way, shape or form consider them a nonparty. How can you consider them a nonparty? They run the jail.

**P.O. CARACAPPA:**

I believe ••

**LEG. BISHOP:**

Because now the jail •• it's not about ••

**D.P.O. CARPENTER:**

The issue is about the jail, and if •• right. But there still is ••

**LEG. BISHOP:**

It's about the taxpayers recovery for a ruling from the State.

**P.O. CARACAPPA:**

Legislator Bishop, just •• Legislator Carpenter, you have the floor.

**D.P.O. CARPENTER:**

Thank you. I just feel that any information that we can garner on this when we are speaking with the County Attorney today would be in our best interest. It's the same as when we break •• when we go into executive session and we have a representative from the County Executive's Office and we have someone from Budget Review, or our Counsel, whoever we request to be in the executive session, that would be the case here. So, I think it's absolutely ridiculous to consider that we would not ask them to sit in.

**P.O. CARACAPPA:**

Legislator Nowick, then Binder, then O'Leary.

**LEG. NOWICK:**

Yeah. You know, I'm sitting here and I'm not terribly opposed to executive session, but I can't help thinking this is on the •• this is on the agenda, it's been on the agenda. If the County Attorney needed to speak to the issue, why was she not here? We have a representative from the County Attorney's Office. Why can't we just discuss what needs to be discussed right now? I don't understand that. Everybody knows it's going to be there. Why are we wasting time? You are a representative for the County Attorney. Let's discuss it, put it out on the floor, let's make a decision, and why put it off?

And as to the issue that Legislator Alden was speaking with, where there is a disagreement on the law, I don't understand how an executive session could come to an agreement of the law. We need to have an authority, whether it's a judge, or a judge's law assistant, or our own attorney. But why are we wasting time in the executive session? Everybody knew this was going to be on. What's the delay?

**P.O. CARACAPPA:**

Couldn't answer that. Legislator Binder.

**LEG. BINDER:**

I want to agree with Legislator Nowick. This isn't •• this isn't a surprise, so it's unfortunate that the County Attorney, if they had such an interest at that level to inform us, to make sure she made herself available today, particularly since there's supposedly a history of them not being able to get together with the Presiding Officer, who's made numerous attempts.

I would just say, in terms of the Sheriff, this body has always allowed the latitude of the Presiding Officer to decide who comes into an executive session and he announces it, not on a vote. So, generally, that's a ruling of a Presiding Officer or the ruling of the Chair as to who's going to be in. If someone would like to challenge that at the time that we go into executive session, if we were to go in executive session, then I would suggest, instead of debating here for an hour whether he's a proper party to be in our executive session, when he •• when he announces the executive session and says the Sheriff is allowed to be in the executive session,

someone should make a motion to challenge the ruling of the Chair on that particular thing. If you get ten votes to challenge the ruling of the Chair, that he's allowed in, then you win. If you don't get ten votes, you lose. But the bottom line is that's a ruling of the Chair, it's always been in my 15 years here as •• it's never been asked by the •• of the Presiding Officer, "Who are you going to let in? Let's all talk about it." It's been the Chair's prerogative to let in anyone he so chooses. If you'd like to have a •• if you have a problem with that, make a motion to challenge that ruling.

**P.O. CARACAPPA:**

Legislator O'Leary.

**LEG. O'LEARY:**

Yes, Mr. Chair. I just want to point out one thing. I think it appropriate that representatives of the Sheriff's Department be a part of the executive session. However, I do understand the concern that's been indicated by my colleagues with respect to discussing the merits, pros and cons, of the existing Article 78. I offered for consideration having the Sheriff's Department personnel available to come into executive session after the County Attorney is •• presents her case either for or against the •• this particular resolution.

I think it important that we hear the County Attorney and the merits of this Article 78. There's a lot of questions that I have to ask of her, and I think there's a lot of questions that I think my colleagues have as well. But with that, I think it also be very important that we have members of the Sheriff's Department who can come in as a follow•up, if you will. They don't have to be in the room when the County Attorney is discussing with us the merits of the Article 78, but I would like to have members of the Sheriff's Department available on call after the County Attorney presents her arguments pro and con.

**LEG. BISHOP:**

Am I on the list?

**P.O. CARACAPPA:**

You are now.

**LEG. BISHOP:**

Okay. With regard to that, why does the Sheriff need to come before us in secret? What's the

point?

**P.O. CARACAPPA:**

He doesn't. I'll ask him questions right now.

**LEG. BISHOP:**

He's not a party to the lawsuit, so what does ••

**P.O. CARACAPPA:**

I just thought we were postponing it, so I figured the appropriate time was to ask him questions when we were discussing it again, which was in executive session.

**LEG. BISHOP:**

No. But I think they should be back on ••

**P.O. CARACAPPA:**

So, I'll just bring him up right now, that's fine bring.

**LEG. BISHOP:**

Bring him up now.

**P.O. CARACAPPA:**

Thank you. Representatives from the Sheriff's Department, why don't you come on up.

**UNDERSHERIFF SULLIVAN:**

Good morning.

**P.O. CARACAPPA:**

Undersheriff Sullivan, why don't you give us your assessment on what this lawsuit is. I'd also like to know the conversations you've had with the Attorney General, State Attorney General as it relates to the lawsuit, his opinion on it, and why he's issued the statements he has and the letters he has on it. So, basically, just give us all the information you have as it relates to the Sheriff's Department.

**LEG. ALDEN:**

Mr. Presiding Officer.

**P.O. CARACAPPA:**

Before you do, Legislator Alden.

**LEG. ALDEN:**

Could we also just have him give a •• maybe a synopsis of a necessary party, what a necessary party would be to a lawsuit?

**UNDERSHERIFF SULLIVAN:**

Okay. Let me see if I can put this in some order. First of all, we have had virtually no conversation with the Attorney General with regard to this lawsuit, we've had no communication with them whatsoever, as has been ••

**P.O. CARACAPPA:**

They've sent letters to my office.

**UNDERSHERIFF SULLIVAN:**

Pardon?

**P.O. CARACAPPA:**

I've had letters sent to me from the State Attorney General.

**UNDERSHERIFF SULLIVAN:**

I wouldn't •• I wouldn't be surprised. But we have had absolutely no communication of any kind with the Attorney General's Office with regard to this lawsuit, as has been pointed out. We are not in the caption. The Sheriff's Office is not a party to this lawsuit. I can tell you that we learned of the lawsuit when I got up at 5 o'clock that morning and read Newsday over my morning coffee, was the first that we knew of it. We had attended the meeting that Legislator Carpenter refers to, I believe, on July 8th, about nine or ten days earlier with the County Executive, and it would be fair to say we were shocked at the lawsuit. We didn't know anything about it beforehand.

With regard to the wisdom of the lawsuit, the timing of the lawsuit, I will only say this. Had we been asked to be a plaintiff in the lawsuit, we would have said no. We think it would have been improvident to bring this lawsuit at this time, this past summer, against the State with regard to the closing of those two temporary dorms, which had been closed the previous March.

Why? Because we think the dorms actually were in horrible, decrepit •• the worst of the worst, number one.

Number two, we were not surprised at what transpired after the lawsuit, that the State decided not to take any action, pro or con, with regard to their approval or disapproval of purchasing and setting up the sprung to give us back 140 beds, or 120 beds, pardon me. It did not surprise us that that was their reaction.

We don't have the luxury of characterizing people as bullies, or heroes, or they're courageous or horrible. We are faced with this set of numbers. This morning, we had sixteen hundred and sixty•two inmates in the custody of the Suffolk County Sheriff. The numbers have been steadily rising for the last month, six weeks. Two hundred of them are out•of•county in seven counties, now including Rikers Island. Rikers Island charges \$165 a day a head. The Upstate jails charge between 85 and 95. The Upstate jails can't take anymore prisoners, they're full. They won't take anymore, so we now have 40 people at Rikers Island.

At this rate, as of this morning, in a snapshot rate, we are spending \$588,000 a month. That's without regard to Deputy Sheriff overtime for transportation. That is why we don't have the luxury, as I say, to characterize who's the bully, who is David and who is Goliath. We need the sprungs open, and they have now been delayed because of this lawsuit.

That's what we know about it. We have had no communication. We were not surprised by the State's missive of this morning that I delivered to you. It came across the fax last night. We weren't told about it in advance, but it didn't surprise us. My understanding of the law is the County could decide to go out and buy a sprung tomorrow or any time they wanted to, but once they did what was done, said to the State Commission, "We want to put this sprung down and use it as correctional space and here are our plans," NYCRR required them to get approval before they could put it out to bid. So, we were not surprised. We understood NYCRR. This is pretty much what we expected to happen.

The only other comment I will make to you is you can't get damages on an Article 78 against the State of New York. I've been an attorney almost 30 years. I think I'm probably senior counsel in the room right now, and I act as counsel to the Sheriff. You can't get damages against the State of New York. You can get damages in two places, the Court of Claims, or a federal court, when you involve a federal question.

As to whether or not you have to win a 78 or not before you could bring a damage suit, I think the technical answer is no, you don't have to, but perhaps it would do you good tactically if you could win a 78 first, and that's as far as I can go.

What we need is that sprung set up. We are going into the winter months. The population historically starts to climb around Labor Day and doesn't start to level off again until late winter, early spring. Quite frankly, we only have a quarter inch left. The water is right here under our nostrils and we need relief.

**P.O. CARACAPPA:**

Thank you, Mr. Sullivan.

**UNDERSHERIFF SULLIVAN:**

I'll answer any questions anyone has.

**P.O. CARACAPPA:**

Legislator Bishop.

**LEG. BISHOP:**

I just want to give you an opportunity to clarify. Did I hear you correctly, that you said that the lawsuit was responsible for the sprungs not being approved?

**UNDERSHERIFF SULLIVAN:**

I believe the public statements that the State Commission have made, the way I've interpreted them, is that because this is now in litigation, the issue over the two closed dorms that they closed down in March by order, that since that is in litigation, they will not act on the County's application to go forward with the sprung until that litigation is over. I believe that statement has been made publicly over and over again, and that's how I •• that's how I interpret it.

**LEG. BISHOP:**

It wasn't •• it's not in their letter, so if that's •• if they're saying that •• I don't know who's saying that. Is that the spokesperson, is that somebody with authority?

***(SUBSTITUTION OF STENOGRAPHER • ALISON MAHONEY)***

**UNDERSHERIFF SULLIVAN:**

I believe I read it in Newsday quoted by the spokesperson of the State Commission. It's certainly not secret, it was in the telephone call from them to us.

**LEG. BISHOP:**

I think it's great that they say it, they come out and say it, I think it's so out •• it's so contrary to what their mission is supposed to be to engage in extortion, that it's remarkable that they would just come out and say it, but that's the arrogance of New York State.

**P.O. CARACAPPA:**

Anyone else?

**LEG. FOLEY:**

Question.

**P.O. CARACAPPA:**

Oh, I'm sorry, Legislator Foley. I do have a list; Foley, Montano.

**LEG. MONTANO:**

I'll pass.

**P.O. CARACAPPA:**

Okay, Legislator Foley, then Binder.

**LEG. FOLEY:**

Mr. Chairman, it's not a question ••

**P.O. CARACAPPA:**

Did I see a hand go up over here?

**LEG. FOLEY:**

It's not a question to the Sheriff's Department, I just have a statement to make later. Thank you.

**P.O. CARACAPPA:**

What's that; you have a statement?

**LEG. FOLEY:**

Later.

**P.O. CARACAPPA:**

Okay. Legislator Binder, then O'Leary.

**LEG. BINDER:**

Just from your knowledge of the law, how long do these cases take? Let's say we don't withdraw this today, let's fix a number, a taxpayer cost number for not doing this today, let's get an idea of the hit on the taxpayer. Because we may not ever •• first off, would you agree we may not ever get damages on this particular •• this lapse between the time that we've put in for the sprungs and we get them, are we sure to get this money, back our costs for transportation, do we have any hope for that?

**UNDERSHERIFF SULLIVAN:**

My judgment as an attorney •• and I've sued the State of New York in my career.

**LEG. BINDER:**

Okay.

**UNDERSHERIFF SULLIVAN:**

•• is that the notion that you're going to recover damages with regard to this issue from the State of New York is, at best, speculative, that's the best word I could give you as an attorney.

**LEG. BINDER:**

Okay. So now that we've established we're probably not going to get this money back and we've established, of course, that we're upset, that they're arrogant, that they're awful,

whatever we want to call New York State, we can call them all kinds of names and terrible things and we're happy that they admitted that they're holding it up and we're all happy about that, so now let's get by the happy, let's talk about the taxpayers. How long, in your opinion, as an attorney who's done this, how long could this take, this Article 78 to the end of the process? I mean, what's, let's say, the maximum, the minimum and the maximum that we think that this can take before this adjudicated, these Article 78?

**UNDERSHERIFF SULLIVAN:**

I'm probably not the right one to ask that, but I don't think it will take that long; I think probably Albany Supreme Court would probably issue a decision on this some time in October, perhaps November.

**LEG. BINDER:**

Okay.

**UNDERSHERIFF SULLIVAN:**

And even assuming that the County prevailed, then there would have to be a secondary lawsuit, in my opinion, with regard to any damages.

**LEG. BINDER:**

Well, wait a minute, let me ask you, if ••

**UNDERSHERIFF SULLIVAN:**

That lawsuit ••

**LEG. BINDER:**

If we prevailed, could New York State appeal?

**UNDERSHERIFF SULLIVAN:**

Yes.

**LEG. BINDER:**

Okay, so they can appeal. So we can go October, November and then an appeal could break us into next year some time before we go through an appeal process.

**UNDERSHERIFF SULLIVAN:**

Easily.

**LEG. BINDER:**

If we lose we'll probably appeal, so we can probably •• so let's assume, because this is •• well, I don't have to tell you, you're an attorney; it doesn't end with the Albany Supreme Court making a ruling.

**UNDERSHERIFF SULLIVAN:**

Not at all.

**LEG. BINDER:**

Okay. So month by month how much is right now, what is it costing us per month?

**UNDERSHERIFF SULLIVAN:**

In March we started in the mid 200's per month, we quickly proceeded to the mid 300's, we are now closing in on \$600,000 a month. And there's •• another thing is about to happen, and I predicted this before this body over the course of this public conversation for a couple of years. We are about •• we are right on the edge of having to ship pretrial prisoners, not termed prisoners; let me tell you the results of that.

First of all, with our term prisoners, you heard Mr. Dagnello address the Legislature this morning, the union is angry with us because we have pretrial prisoners who are involved in preparing food in the kitchens which they consider it a violation of our understandings. Well beyond whether or not they're happy with that, we don't have termers in the jail who do the things like take out the garbage, mow the lawns, paint the halls and things like that. But most importantly, we are on the verge of me having to explain to Judge Gazzillo, to Judge Leis, to Judge Fitzgibbon why their prisoners that they wanted for trial this morning are not only not in the courtroom, they're not in the County.

I observed this as an Assistant District Attorney during the early 1980's where we routinely could not go to trial on the day of trial because our prisoners were Upstate, New York. We are at that threshold right now. We are now shipping VOP's, violators of parole, who are technically pretrial prisoners to Erie County, Putnam County, Albany County, Riker's Island and so forth.

The next step, which we're upon as our numbers go up, is to have to ship pretrial prisoners who are supposed to be in the building next door to us in County Court in front of a County Court Judge or in front of a Family Court or District Court Judge. I saw it happen in my career, I have been predicting it for a year and a half here, it's about to happen here.

**LEG. BINDER:**

Thank you. I think what you've told us is pretty dire.

**P.O. CARACAPPA:**

Anyone else? Legislator O'Leary?

**LEG. O'LEARY:**

The question I had was asked and answered through Legislator Binder's questioning. Thank you.

**P.O. CARACAPPA:**

Legislator Foley, you want to make that statement now?

**LEG. FOLEY:**

Yeah, thank you very much. I've been listening to the comments today and in the past on this and although I'm not a member of the Public Safety Committee, I have gone to some of the meetings and the Executive meeting that was held on the 12th floor of the Dennison Building back in June. The only point that I would raise from this undated letter or missive from the Commission of Corrections is that all of us •• well, on both sides of the aisle as well as the Sheriff's Office had •• and the County Executive had spoken about the need to move forward with the sprung as quickly as possible. And I really feel that the State Corrections Commission is really standing on let's say technical grounds, if you will, at best, in failing to allow us to move forward with the sprung.

So, you know, in the past there's been great consternation and criticism of the County Executive and others about not moving forthrightly with the sprung. We were all ready to move forward with it, it basically would be open today and what happens now? The State all of a sudden says, "Well, because there has not been formal approval from the Commission of Corrections, they're basically going to obviate and nullify and try to stop today's opening of bids. So as Legislator Bishop said earlier, the way I would say it, the State Corrections

Commission can't have it both ways. They've tried to encourage us in the past to move •• not encourage us, they've tried to, in fact, use I'd say rather forceful means to have this County government move forward with some corrections to the jail facility, the County government is moving forward, now it's standard op procedure to essentially stop the County from moving forward with the sprung.

So, you know, this letter that's dated September 27th, to my way of thinking, is nothing more than a stone tactic that's attempting to embarrass this County and all they're embarrassing are themselves at the State level for once again preventing this County from moving forward with something that we all want to do. What we want to do and what was said time and again is to put something forward that will help protect the Correction Officers at that facility and also protect those who are jailed in that particular facility. We've heard time and again about how dangerous it is, we've heard time and again how dangerous it is for both those who are in the jail as well as the Correction Officers, now we have the State essentially trying to stop up us and I don't hear the same outrage that the State •• that I've heard in the past of outrage at some in the County government when we didn't move forward.

**P.O. CARACAPPA:**

Thank you. Before we end this discussion, keep in mind that the lawsuit goes back to those facilities being closed and they were closed for a very good reason, they were inhabitable, they were disgusting and dicreped, you wouldn't •• as many of you said, you wouldn't keep your dog there, and now the County Executive is suing that the State made that decision. So let's go back to where it all began and ask yourself was that a prudent decision made by the State? I firmly believe it was; that place was ridiculous, an embarrassment to this County.

Moving on, 1782 ••

**LEG. BISHOP:**

Well, What's the ruling of the Chair?

**P.O. CARACAPPA:**

We're moving on, we postponed •• we voted to postpone.

**LEG. BISHOP:**

And we're having the County Attorney in?

**P.O. CARACAPPA:**

Just with the County Attorney, all right?

**LEG. BISHOP:**

Okay. Thank you.

**P.O. CARACAPPA:**

***1782 • Amending the 2004 Capital Budget and Program and appropriating funds in connection with a Clean Water/Clean Air Bond Act grant from the New York State Department of Environmental Conservation to improve Sewer District No. 6 • Kings Park (CP 8144) (Presiding Officer at Request of the County Executive).*** Is there a motion?

**LEG. BISHOP:**

How long was that, that was like an hour and a half?

**P.O. CARACAPPA:**

Is there a motion?

**LEG. BISHOP:**

Kings Park. Second, I'll second it.

**P.O. CARACAPPA:**

Is there a motion?

**LEG. NOWICK:**

Yes.

**LEG. BISHOP:**

Motion.

**P.O. CARACAPPA:**

Motion to approve, second by Legislator Bishop. All in favor? Opposed? Abstentions?

**MR. BARTON:**

17.

**LEG. CARACCIOLO:**

Mr. Chairman, 1458 which was passed over.

**P.O. CARACAPPA:**

My apologies, you've just got to remind me.

**LEG. CARACCIOLO:**

I know you got caught up in that last one, I know.

**P.O. CARACAPPA:**

**1458**, before you flip the page, on page eight, fourth resolution, ***(Amending the ATV Task Force to add two additional members (Caracciolo))***. Motion by Legislator Caracciolo, second by Legislator ••

**LEG. VILORIA • FISHER:**

Second.

**P.O. CARACAPPA:**

•• O'Leary. All in favor?

**LEG. LOSQUADRO:**

On the motion.

**P.O. CARACAPPA:**

On the motion, Legislator Losquadro.

**LEG. LOSQUADRO:**

I would just like to echo the sentiments of one of the speakers from earlier. I think we have made it very clear that the intent of this task force was to look for lands that were not environmentally sensitive, specifically precluded lands that already had established hiking, biking or horse trails. I look forward •• I don't know what the sense of this body is, but if this

measure does move forward I hope that these members will be willing to work with the other members of the task force, keep an open mind and, as was stated earlier, not look to be an obstructionist on this issue. Thank you.

**LEG. CARACCILO:**

Mr. Chairman?

**P.O. CARACAPPA:**

Legislator Caracciolo.

**LEG. CARACCILO:**

Yes, there's a companion resolution to 1458, it's 1804, it's on today's agenda, reported out of Parks Committee unanimously and I believe it was because it answered those concerns unequivocally. The two individuals have been involved with user groups in County Parks for many, many years, particularly George Fernandez from the Long Island Greenbelt Trails Conference and Celia •• Dr. Celia Allison who is involved with the Nassau•Suffolk Horsemen's Association. She, by the way, since that resolution was approved in committee, has already gone the extra measure and pointed out that the County had an opportunity this past week, which thankfully Commissioner Foley took up on, to send a representative up to \\_Cantona\\_ , New York, for a workshop on State grants, particularly as they relate to ATV trails. It appears that there is State funding available and I'm glad the Commissioner did that, I'm waiting for some feedback.

So I want to underscore that neither of these individuals have any predetermination as to whether or not •• they're not opposed to an ATV trail, they want to work with those who want to pursue that dream in an effort to make it as environmentally friendly as well as user•friendly as possible.

**P.O. CARACAPPA:**

Thank you.

**LEG. ALDEN:**

Mr. Presiding Officer?

**P.O. CARACAPPA:**

Just to clarify the record, it was discharged without recommendation.

**LEG. CARACCIOLO:**

Right.

**LEG. ALDEN:**

Right, that was what I wanted to say.

**P.O. CARACAPPA:**

Okay. There's a motion and a second. All in favor? Opposed? Abstentions?

**LEG. LOSQUADRO:**

Opposed.

**P.O. CARACAPPA:**

One abstention, Legislator Losquadro; one abstention, myself.

**MR. BARTON:**

15 (Opposed: Legislator Losquadro • Abstained: Legislator Caracappa).

**P.O. CARACAPPA:**

1441 we're skipping over, it's coming over as a CN.

1784 ••

**LEG. LINDSAY:**

Can I ask why is it coming as a CN?

**P.O. CARACAPPA:**

Changing the offset.

**LEG. BINDER:**

Mr. Chairman, has that been •• you've had discussions and that will be coming over for sure?

**P.O. CARACAPPA:**

Yes.

**LEG. BINDER:**

Great.

**P.O. CARACAPPA:**

And if not, we're just skipping over it, we can just go back.

**LEG. BINDER:**

No, I just wanted to know if they told you that they had another offset and we were going to work it out and do that today; I was hoping we would get it done.

**P.O. CARACAPPA:**

Yes, it was just whispered in my ear that a CN is coming over for it, the change in the offset.

***1784, 1784A • Amending the 2004 Operating budget and appropriating funds in connection with bonding settlements for medical malpractice cases (Presiding Officer at the Request of the County Executive).***

Is there a motion?

**LEG. LINDSAY:**

Motion.

**P.O. CARACAPPA:**

Motion by Legislator Lindsay. Is there a second?

**LEG. O'LEARY:**

Second.

**P.O. CARACAPPA:**

Second by Legislator O'Leary. Roll call.

***(\* Roll Called by Mr. Barton • Clerk \*)***

**LEG. LINDSAY:**

Yes.

**LEG. O'LEARY:**

Yes.

**LEG. CARACCIOLO:**

Yes.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. VILORIA • FISHER:**

Yes.

**LEG. LOSQUADRO:**

Yes.

**LEG. FOLEY:**

Yes.

**LEG. MONTANO:**

Yes.

**LEG. ALDEN:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. BISHOP:**

Yes.

**LEG. MYSTAL:**

Yes.

**LEG. BINDER:**

Yes.

**LEG. TONNA:**

Yes.

**LEG. COOPER:**

Yes.

**D.P.O. CARPENTER:**

Yes.

**P.O. CARACAPPA:**

Yeah.

**MR. BARTON:**

17 on the bond.

**P.O. CARACAPPA:**

Same motion, same second, same vote on the companion resolution.

***1874 • Tax Anticipation Note Resolution No. 2004, a resolution delegating to the County Comptroller the powers to authorize the issuance of not to exceed \$65,000,000 Tax Anticipation Notes of the County of Suffolk, New York, in anticipation of the collectin of taxes levied for County purposes or returned to the County for collection for the fiscal years commencing January 1, 2001, 2002, 2003 and 2004 and to prescribe the terms, form and contents and provide for the sale and credit enhancement of such notes (Presiding Officer at the Request of the County Executive).*** Motion by myself, second by Legislator Carpenter. All in favor? Opposed? Abstentions?

**MR. BARTON:**

17.

**P.O. CARACAPPA:**

**Economic Development, Higher Education & Energy:**

***1520 • Adopting Local Law No. 2004, a Local Law to amend the voting policy of the Airport Lease Screening Committee (Schneiderman).***

Motion by Legislator Schneiderman. Is there a second.

**LEG. O'LEARY:**

Second.

**P.O. CARACAPPA:**

Second by Legislator O'Leary. All in favor?

**LEG. LINDSAY:**

Explanation.

**P.O. CARACAPPA:**

Explanation.

**LEG. FOLEY:**

Explanation.

**LEG. SCHNEIDERMAN:**

This is de ja vu again, I've explained this several times. This is an amendment that would allow the Lease Screening Committee to conduct business and approve leases as it currently is designed to do. The current rules require that all members be present and all members vote in unison, or unanimous. This amendment says that it still is a unanimous vote; in other words, anyone can force something to the Legislature by voting no. You can still send, if you can't be present, somebody to vote for you to vote no, but that your absentee in itself would not be construed as a vote no. That as long as six members, a super majority of the committee, are present and they all are in agreement, whether it's six, seven or eight, you'd need a minimum of six but whoever is there would have to agree, then it would move forward to the next steps which are the County Executive and the Presiding Officer.

Just to illustrate the point, the last two meetings of the Lease Screening Committee we have not been able to approve leases because of this. The last one we had eight members, one member was a designee but we didn't have written notification that that person was a designee and so, therefore, we didn't have eight voting members. It is a problem. We have a good committee there, we do want to move forward with economic development projects at Gabreski Airport, but this little glitch is making the committee non-functional. And I would like your support on this so we can try out this Lease Screening Committee to have it have rules that work for it as well as the Legislature and I ask for your support.

**P.O. CARACAPPA:**

Legislator Lindsay.

**LEG. LINDSAY:**

Yeah, Legislator Schneiderman, I appreciate the explanation. It's the first time I've heard it, I'm not on this committee, so if you've said it a number of times I haven't heard it before. And yeah, I have a genuine concern. I think we're probably one of the only entities in the country that have an airport that we lose money on, and my question is even more basic. Anything to streamline and I would be supportive of; why do we need the Lease Screening Committee, why can't it simply be done by Economic Development?

**LEG. SCHNEIDERMAN:**

It could, I didn't create this system. I could tell you, you know, if this amendment doesn't go through than I too will question why have a committee when it can't do any business or it can't get anything done? It could be done by Economic Development. I know that the County Executive has submitted a resolution to abolish the Lease Screening Committee, I think it's a committee that makes sense to have a delegated authority. If you guys want to review as a Legislature every lease which has been the policy in the past, and I know some of you like that, to me you're getting very much involved with the minutia of the operations at the airport and I think it's better handled by a committee. I think the Lease Screening Committee makes sense as a body, I'm just saying as chair of that Lease Screening Committee, if you want that body to function I need this amendment. In fact, the entirety of the membership of the Lease Screening Committee, those that were present which I guess is seven out of eight, all agreed •• actually it

was eight members in the first meeting that we had back in whenever it was, early this year, all agreed that this is necessary for the committee to function.

**P.O. CARACAPPA:**

Legislator Mystal.

**LEG. MYSTAL:**

Legislator Schneiderman, through the Chair, I think the County Executive is trying to get rid of that committee.

**P.O. CARACAPPA:**

He just said that.

**LEG. MYSTAL:**

Could we possibly table this to see what the County Executive brings in?

**LEG. SCHNEIDERMAN:**

I would ask that we move forward and that this committee be given a chance to operate. I think the County Executive is looking to speed up the process and make things go quicker and have everybody involved with it. I'm not sure that's going to speed up the process at all, I think it will slow it down. What will speed up the process is to have rules in place that allow the Lease Screening Committee your delegated authority to function. So I would like to move this forward. If at a later time you want to abolish that, if the votes are there to abolish the Lease Screening Committee so be it, but I think this is necessary with or without the County Executive's resolution.

**LEG. MYSTAL:**

Can I hear from the County Executive; Ben?

**P.O. CARACAPPA:**

Are you asking?

**LEG. MYSTAL:**

I'm asking Ben to give me the other side, you know, from the County Executive; can I do that?

**P.O. CARACAPPA:**

You're making a request.

**LEG. MYSTAL:**

I'm making a request for Ben Zwirn to give me some kind of an idea.

**MR. ZWIRN:**

Mr. Chairman, I'd be glad to do that now or if you want to go through the Legislators so maybe there are other questions that I could answer one time as opposed to •• I see Deputy ••

**P.O. CARACAPPA:**

Go head.

**MR. ZWIRN:**

Well, the County Executive does have IR 1975 in to abolish the screening committee. One, he wants to speed up the process, we have a professional manager out there, we would like to have the opportunity to negotiate the leases and then bring them back to the entire Legislature so they have complete oversight and more oversight of what goes on at the airport.

**LEG. BISHOP:**

Absolutely; it's a regional facility, it's not your playpen.

**MR. ZWIRN:**

I think there have been some problems in the past, from what I'm aware, and that the Airport Screening Committee may not be the best way to handle the leases at the airport.

**P.O. CARACAPPA:**

Legislator Carpenter, then Alden.

**D.P.O. CARPENTER:**

I have said in committee when we've discussed this that I, for one, thought the leases should come back to the Legislature as they in the past, it gave us a sense of •• more of a sense of what was going on there, we learned about some of the businesses that we have here in Suffolk

County that we had never heard about before, and Legislator Bishop and I were just commenting on the fact that that was when we first learned about the Holy Moses Cheesecake Company which was out there. But I don't know if I support the idea of abolishing the committee. I think Legislator Schneiderman makes a good point about the fact that to have it be a unanimous approval and nothing is going to move forward, that this certainly is a way that we can go to keep the process moving, we can look at the idea of perhaps abolishing it, but whether we keep this committee in place or not, I for one want to make it so that those leases come back here.

**P.O. CARACAPPA:**

Legislator Alden.

**LEG. ALDEN:**

I hope I'm not reading anything into this, but for years we had a Democrat that sat out there and was the head of the Leasing Committee, now all of a sudden we have a Republican and the County Executive is putting in a resolution to do away with the Lease Screening Committee. So I just hope I'm not reading anything into that, but I find it a little bit troubling.

**P.O. CARACAPPA:**

Legislator Bishop.

**LEG. BISHOP:**

If you are reading, you're not reading the full paragraph because the distinction is not Democrat/Republican, it's professional manager versus less than professional manager.

**P.O. CARACAPPA:**

Legislator Alden.

**LEG. ALDEN:**

So you're saying that the prior chairman of that committee wasn't a Democrat ••

**LEG. FOLEY:**

No, management of the airport.

**LEG. ALDEN:**

•• and that the new one is not ••

**LEG. BISHOP:**

Management for the airport I think is what you meant.

**LEG. ALDEN:**

Oh, that's a different issue, though, we're talking about the committee.

**LEG. BISHOP:**

All right, I made my point and you made your point.

**P.O. CARACAPPA:**

Did I see a hand? Legislator Caracciolo?

**LEG. CARACCIOLO:**

Yes, yes. Dave, you weren't suggesting that Mr. Schneiderman's predecessor wasn't professional now, were you?

**LEG. BISHOP:**

He would suggest it.

**LEG. SCHNEIDERMAN:**

No comment.

**LEG. CARACCIOLO:**

Let me continue, Mr. Chairman, on this issue.

**P.O. CARACAPPA:**

Go right ahead.

**LEG. CARACCIOLO:**

A, I believe the County Legislature should be •• should determine, review all leases in County property, whether it's the airport or any place else. B, until there is a method in place to either abolish the airport Lease Screening Committee, it's appropriate for us to move on this resolution today.

So one has nothing to do with the other, we'll have ample time in November to take up the County Executive's resolution. I have an open mind about that, I think Legislator Carpenter has made it clear she has an open mind about that. The airport is really an asset that has long been overlooked by just about every administration in Suffolk County since it became a County asset. And with the opportunities that exist and with competition not far away from Gabreski at EPCAL and Calverton, the County really does need professional management.

I'm happy that the County Executive has put someone in that place now that has those qualifications, hopefully that person will begin to make a difference. But let's also note that a major hurdle in County economic development, and leases in particular, has been located in the County Attorney's Office. That's a fact, it's something that we've all, particularly as it deals with land management issues, have observed for all too long. Hopefully that is going to change and at the end of the day what this issue is about and what the issue with respect to the jail is about, it's more about politics than policy. So if we want good policy, then let's give the chairman of that committee the tools he needs to conduct the business while there is such a committee and let's also keep an open mind about improving on a system that's currently in place to make it better. Thank you.

**P.O. CARACAPPA:**

Thank you. Legislator Schneiderman.

**LEG. SCHNEIDERMAN:**

No, just move the motion.

**P.O. CARACAPPA:**

There's a motion and a second to approve. All in favor? Opposed?

**LEG. BISHOP:**

Opposed.

**P.O. CARACAPPA:**

On the motion, one opposition, Legislator Bishop. Second, Legislator •• another opposition, Legislator Mystal.

**MR. BARTON:**

15 (Opposed: Legislators Bishop & Mystal).

**LEG. SCHNEIDERMAN:**

Thank you.

**P.O. CARACAPPA:**

It's approved.

**LEG. BISHOP:**

You're going to tell them that they're all going to be out of business next month?

**P.O. CARACAPPA:**

***1844, 1844A • Appropriating funds in connection with the renovation and construction of facilities at Frances S. Gabreski Airport (CP 5702) (Presiding Officer at the Request of the County Executive).***

There's a motion by Legislator Schneiderman.

**LEG. FOLEY:**

Second.

**P.O. CARACAPPA:**

Second by Legislator Foley. Roll call.

**(\* Roll Called by Mr. Barton • Clerk\*)**

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. FOLEY:**

Yes.

**LEG. CARACCIOLO:**

Yes.

**LEG. O'LEARY:**

Yes.

**LEG. VILORIA • FISHER:**

Yes.

**LEG. LOSQUADRO:**

Yes.

**LEG. LINDSAY:**

Yes.

**LEG. MONTANO:**

Yes.

**LEG. ALDEN:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. BISHOP:**

Yes.

**LEG. MYSTAL:**

Yes.

**LEG. BINDER:**

Yes.

**LEG. TONNA:**

Yep.

**LEG. COOPER:**

Yep.

**D.P.O. CARPENTER:**

Yes.

**P.O. CARACAPPA:**

Yes.

**MR. BARTON:**

17 on the bond.

**P.O. CARACAPPA:**

Same motion, same second, same vote on companion resolution.

***1846, 1846A • Amending the 2004 Capital Budget and Program and appropriating funds in connection with the renovation of the Brookhaven Gym • Ammerman Campus (CP 2169) (Presiding Officer at the Request of the County Executive).*** Motion by Legislator Carpenter, second by Legislator Foley. Roll call.

***(\* Roll Called by Mr. Barton • Clerk \*)***

**D.P.O. CARPENTER:**

Yes.

**LEG. FOLEY:**

Yes.

**LEG. CARACCIOLO:**

Yes.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. O'LEARY:**

Yes.

**LEG. VILORIA • FISHER:**

Yes.

**LEG. LOSQUADRO:**

Yes.

**LEG. LINDSAY:**

Yes.

**LEG. MONTANO:**

Yes.

**LEG. ALDEN:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. BISHOP:**

Yes.

**LEG. MYSTAL:**

Yes.

**LEG. BINDER:**

Yes.

**LEG. TONNA:**

Yep.

**LEG. COOPER:**

Yes.

**P.O. CARACAPPA:**

Yep.

**MR. BARTON:**

17 on the bond.

**P.O. CARACAPPA:**

Same motion, same second, same vote on the companion resolution.

***1848 • Authorize the payment of funds to Suffolk County Community College for Out  
•of•County Tuition Payment Policy (Presiding Officer at the Request of the County  
Executive).*** Motion by myself, second by Legislator Foley. All in favor? Opposed?  
Abstentions?

**MR. BARTON:**

17.

**P.O. CARACAPPA:**

***1851, 1851A • Amending the 2004 Capital Budget and Program and appropriating  
funds in connection with the local area network upgrade at Suffolk County Community  
College (CP 2202) (Presiding Officer at the Request of the County Executive).***

**D.P.O. CARPENTER:**

Motion.

**P.O. CARACAPPA:**

Motion by Legislator Carpenter, second by Legislator Foley.

Roll call.

***(\* Roll Called by Mr. Barton • Clerk \*)***

**D.P.O. CARPENTER:**

Yes.

**LEG. FOLEY:**

Yes.

**LEG. CARACCILO:**

Yes.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. O'LEARY:**

Yes.

**LEG. VILORIA • FISHER:**

Yes.

**LEG. LOSQUADRO:**

Yes.

**LEG. LINDSAY:**

Yes.

**LEG. MONTANO:**

Yes.

**LEG. ALDEN:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. BISHOP:**

Yes.

**LEG. MYSTAL:**

Yes.

**LEG. BINDER:**

Yes.

**LEG. TONNA:**

Yeah.

**LEG. COOPER:**

Yes.

**P.O. CARACAPPA:**

Yes.

**MR. BARTON:**

17 on the bond.

**P.O. CARACAPPA:**

Same motion, same second, same vote on the companion resolution.

**1876 • Appointing John Kominicki to the Suffolk County Community College Board of Trustees (Nowick).** Motion by Legislator Nowick, second by Legislator Carpenter.

**LEG. FOLEY:**

On the motion?

**P.O. CARACAPPA:**

On the motion, Legislator Foley.

**LEG. FOLEY:**

Thank you, Mr. Chairman. Both Mr. Kominicki and Mr. Mattace had attended our committee meeting last week.

**LEG. TONNA:**

Oh, they did.

**LEG. FOLEY:**

Mr. Kominicki's resolution was part of the packet, as we would call it, from our last General Meeting. Mr. Mattace's appointment was late by a day or two by the sponsor and so that's formally part of today's packet of resolutions. To Mr. Mattace's credit, he had appeared at committee last week, and along with Mr. Kominicki, they both made I thought excellent presentations, presenting their credentials, presenting what their vision is for the college. One totally new person with Mr. Kominicki and his background, the Long Island Business News and I think complemented quite nicely by Mr. Mattace who goes back some 36 years with the college in a variety of ways.

So while today on the agenda we only have Mr. Kominicki's appointment and one that many of us do support, I can say on the record that there's broad bipartisan support for Mr. Mattace as well. I've been asked •• been told, rather, that at much as that there is more than a mere majority support for Mr. Mattace, but for a formal presentation to the committee, to the Economic and Education Committee, any CN today would be a little bit premature for Mr. Mattace. And that, in fact, once it goes into committee in the next cycle that there will be broad support for his candidacy as well. So that way both Mr. Kominicki as well as Mr. Mattace could jointly serve the County in positions as members of the Board of Trustees.

**P.O. CARACAPPA:**

Thank you. Legislator Carpenter.

**D.P.O. CARPENTER:**

Thank you. I would like to echo Legislator Foley's comments. I was delighted to see Mr. Mattace at the committee. Mr. Mattace actually happens to be a constituent of mine, I've known Ernie a very, very long time and he's got a very long history of being supportive not only of the college, having been a student there some odd 30 years ago, but having stayed involved and being supportive of Suffolk County Community College. But beyond that, he has been very supportive in a lot of community endeavors, so I'm glad to see that the resolution was finally filed and that we will be addressing it formally at the committee in our next meeting.

**P.O. CARACAPPA:**

Legislator O'Leary.

**LEG. O'LEARY:**

Thank you, Mr. Chair. I would just like to echo my colleagues' statements regarding the qualifications of Mr. Mattace. I want it to be made perfectly clear that there is strong, strong bipartisan support for the ratification of Mr. Mattace's appointment as a College Board of Trustees. And if it were not for the •• it's more of the process and the qualification of the individual himself.

My understanding is there is a CN coming over with respect to this appointment and it's the opinion of some that the process should go through the committee rather than addressing it today, but I just want my colleagues to know from my standpoint and others, there's absolute support for Mr. Mattace when he comes before this body for ratification at a later date.

**P.O. CARACAPPA:**

Legislator Bishop then Tonna.

**LEG. BISHOP:**

Mr. Mattace, I was proud to sponsor him and I thank my cosponsors, including Paul Tonna. We brought his nomination forward because if there's any individual in this County who has dedicated their free time already to Suffolk Community College, it's Ernie Mattace. He's done so for over 30 years, and so this is a culmination of something that he richly deserves and he will serve the public very well, and I don't think anybody can make a case that he couldn't. So I understand that the Minority Leader has, you know, an arrangement where ••

**LEG. FOLEY:**

It's not an arrangement, your words.

**LEG. BISHOP:**

A deal.

**LEG. MYSTAL:**

It's a deal.

**LEG. BISHOP:**

Whatever. The bottom line is that as I understand it, Mr. Kominicki's nomination is supposed to move forward today and Mr. Mattace has to wait to go through a committee hearing, but he's

already attended committee, he's here today and the committee members are all here today. So why not at the lunch break hold a committee meeting so that he doesn't have to come back yet again. It seems like we're punishing him for his good service. But having said that, if that's the arrangement that's agreed to, I will certainly adhere to it.

**P.O. CARACAPPA:**

Thank you. Legislator Tonna.

***[RETURN OF COURT STENOGRAPHER • LUCIA BRAATEN]***

**LEG. TONNA:**

And we're •• Legislator Bishop and I, I think, are cosponsors of Mr. Mattace. Just a little history. I know •• I've known Ernie for a very long time, and, a matter of fact, while serving as Presiding Officer, he came to me and said, "I would really love to serve as a College Trustee." And, at that time, I wasn't able to support that nomination, not because of his qualifications, but just because of the fact that I didn't think we could get it through at that time, and I wanted to make sure.

This is a great time, though, and we have two great candidates in John Kominicki and Ernie. And I'm heartened to see that there's true bipartisan support. On the other hand, at least in my memory, and, you know, it might only be •• my long•term memory might only last from yesterday, but I've never seen a CN brought over for a College appointee. And, to tell you quite honestly, you know, there is no emergency. And whereas I hear and am heartened very much by the fact that I think that both these nominees have broad bipartisan support, I think, as a sponsor of Ernie Mattace, he waited long enough. He could wait •• he could wait •• he could wait another meeting.

I would say this, though, that I just •• I'm hoping it was very much communicated, Legislator Bishop used crass words like "deal", or something like that, but, you know, my sense is, in talking with the Minority •• I mean, the Majority, whatever it is now, I don't know if it's a majority, minority, it's only nine I think now, I heard you're back in, that's great. Anyway, whatever it is, now nine Republican Legislators that •• you know, that very much communicated their support. And so, with that, I think •• you know, I think we could be patient and wait. We don't want to set precedence on appointees, we want to use CN's only when they're an emergency. And I think the most patient of all is Ernie, who's waited so long,

he could wait just a tad longer. But I'm very happy to sponsor him, and, at the same time, vote for John Kominicki. So, congratulations. I'm glad to see that the Legislature is working in a bipartisan fashion to get this type of stuff done.

**P.O. CARACAPPA:**

There's a motion and a second. All in favor? Opposed? Abstentions?

**MR. BARTON:**

17.

**ENVIRONMENT AND PLANNING**

**P.O. CARACAPPA:**

Environment and Planning. ***1403, 1403A (Amending the 2004 Capital Budget and appropriating funds for improvements to active parkland/recreation areas at Our Lady of Grace Roman Catholic Church property adjacent to Van Bourgondien County Park, Town of Babylon).*** Motion by Legislator Bishop.

**LEG. BISHOP:**

What's this? Oh, motion to ••

**P.O. CARACAPPA:**

Skip over this. This is coming in as a CN, that's right.

**LEG. BISHOP:**

Okay.

**P.O. CARACAPPA:**

Skip over. ***1755 (Authorizing planning steps for the acquisition of land under Pay • As • You • Go 1/4% Taxpayer Protection Program (land of Sanford Pines, Town of Islip).*** Motion by Legislator Lindsay.

**LEG. FOLEY:**

Second.

**P.O. CARACAPPA:**

Second by Legislator Foley. All in favor? Opposed? Abstentions?

**MR. BARTON:**

17.

**P.O. CARACAPPA:**

***1756 (To prohibit the use of CCA treated lumber by the County of Suffolk).*** Motion by Legislator Schneiderman, second by Legislator Tonna. All in favor?

**LEG. ALDEN:**

Just on the motion.

**P.O. CARACAPPA:**

On the motion.

**LEG. ALDEN:**

Is there a viable alternative? I'm not in that committee.

**LEG. SCHNEIDERMAN:**

Yes. This has been thoroughly vetted with Department of Public Works. What this does is eliminates the use of chromium arsenic treated lumber from submerged states, you know, in marine environments where it has the potential to leach out and cause irreparable harm. So, yes, there •• there's recycled plastics, there is steel bulkheading, there are many materials, tropical hardwoods, creosote, which is still actually allowable, which is a petroleum based product, but, yes. So, this bans the ••

**P.O. CARACAPPA:**

It's the creosote that's the problem.

**LEG. SCHNEIDERMAN:**

No, creosote is one problem. There •• that may be a separate resolution. This creosote is still occasionally used for moorings on some of the piers in the Town, and there may not be a structurally sound alternative yet at this point to replace that creosote. But I've been assured

that they've minimized the use of that product. But CCA they are continuing to use, and this will prohibit their use within, you know, below mean high water.

**LEG. ALDEN:**

But most of the alternatives I'm aware of are more expensive. How •• did somebody do a financial analysis on how much more it's going to cost the County?

**LEG. SCHNEIDERMAN:**

I think there's an analysis accompanying the bill, but I don't •• I think it would be minor.

**LEG. ALDEN:**

Thanks.

**P.O. CARACAPPA:**

There's a motion and a second.

**MR. ZWIRN:**

Mr. Presiding Officer, can I just interject? We're in support of the bill, if I might have a chance to just say a word.

**P.O. CARACAPPA:**

You didn't ••

**MR. ZWIRN:**

In response to Legislator Alden's comments.

**P.O. CARACAPPA:**

It's not •• it's not on the list. You sent me a lengthy list of bills that I've allowed you to speak on already, but to have you pop •• to have you pop up on every bill is just •• it's out of order.

**LEG. BISHOP:**

Sit down, Zwirn.

**P.O. CARACAPPA:**

Legislator Bishop said cut you off.

**LEG. SCHNEIDERMAN:**

Knowing that they're in support of the bill, I'd like to hear what he has to say.

**P.O. CARACAPPA:**

Legislator Schneiderman, you're making a request?

**LEG. SCHNEIDERMAN:**

Yes, please. Allow him to speak. It's so rare that they support my bills.

**MR. ZWIRN:**

Okay. Thank you very much. I'd like to thank my County Legislator for giving me the opportunity just to have a brief moment.

In response to Legislator's bill, the Department of Public Works did do a quick study and they thought it would be •• it could be several hundred thousand dollars more in expenses to go this way to replace the kinds of materials that we have now. But CCA has pretty much been banned by the federal government, and this really sets rules and regulations. DPW will set rules and regulation for its use and not use it in marine •• in marine environments.

**LEG. SCHNEIDERMAN:**

Just to clarify, what the federal government did was to ban CCA's use in contact with human beings, so, you know, playgrounds and decks, and things like that. It's not banned from use in marine environments, this would ban it. It probably •• the EPA eventually will do that, but right now they have not.

**MR. ZWIRN:**

Right.

**P.O. CARACAPPA:**

Thank you, Mr. Zwirn. There's a motion and a second. All in favor? Opposed? Abstentions?

**MR. BARTON:**

17.

**P.O. CARACAPPA:**

***1771 (To appoint member of County Planning Commission (Charla E. Bolton).*** Motion by Legislator Tonna.

**LEG. FOLEY:**

Second.

**LEG. LOSQUADRO:**

Second.

**P.O. CARACAPPA:**

Second by Legislator Foley •• I mean ••

**LEG. FOLEY:**

Losquadro.

**P.O. CARACAPPA:**

Losquadro. All in favor? Opposed? Abstentions?

**MR. BARTON:**

17.

**P.O. CARACAPPA:**

***1795 (Authorizing planning steps for the acquisition of land under the Multifaceted Land Preservation Program (Slowiks property, Town of Brookhaven).*** Motion by myself.

**LEG. O'LEARY:**

Second.

**P.O. CARACAPPA:**

Second by Legislator O'Leary. All in favor? Opposed?

**LEG. CARACCIOLO:**

Abstain.

**P.O. CARACAPPA:**

Opposition •• one abstain by Legislator Caracciolo.

**MR. BARTON:**

16.

**P.O. CARACAPPA:**

***1796 (Authorizing planning steps for the acquisition of land under the Multifaceted Land Preservation Program (Sullivan Street and Ackerly Lane Property, Town of Brookhaven).*** Same motion, same second.

**LEG. CARACCIOLO:**

Same vote.

**P.O. CARACAPPA:**

Same vote.

**MR. BARTON:**

17. (Vote amended to 16)

**P.O. CARACAPPA:**

***1797 (Authorizing planning steps for the acquisition of land under the Multifaceted Land Preservation Program (Estate of Pearl Link, Town of Brookhaven).*** Same motion.

**LEG. FOLEY:**

Mr. Chairman, just on the motion.

**P.O. CARACAPPA:**

On the motion, Legislator Foley.

**LEG. FOLEY:**

Yeah. I notice that these resolutions were unanimously approved out of committee. I'm not a

member of the committee. Questions were raised, though, about the size of some of these parcels, and if we could hear from the sponsor of the bill. Many of us were already supportive of the cenacle resolution, which was a sizable acreage of about 44 acres, to look at that particular parcel. But it's my understanding,

Mr. Chairman, that these particular parcels are of a much smaller size. And if you could just ••

**P.O. CARACAPPA:**

They are.

**LEG. FOLEY:**

•• share with us the reasons for it.

**P.O. CARACAPPA:**

Because there's not many parcels left in the greater Ronkonkoma area that are much bigger than an acre or two, if we're lucky.

**LEG. FOLEY:**

And what's the intent to do with the parcels, since they're a smaller size?

**P.O. CARACAPPA:**

Passive and pocket parks of some degree. These were brought forward by the community to see if we can get some sort of action on them, and that's exactly why they're here. I think it's •  
• I think it's important that we do preserve these little lots. I think they're just as important to the people in Ronkonkoma as big lots are to people in the East End. And the residents of Ronkonkoma are really looking forward to trying to do something with these parcels.

**LEG. FOLEY:**

So, the intention here, Mr. Chairman, is, if not for recreational purposes, but to have what we call vest pocket parks, or have some kind of park classification or use of these properties. It's not simply •• if it's really a small lot, and, as we know in our part of, let's say, western Brookhaven Town, where, if there are small lots like this, just simply being kept wooded is a challenge in and of itself. Normally, it's used for dumping and the like. But, if it's used to create some kind of vest pocket park that neighborhoods can use, or walking, or have some

ability to go •• to walk in an area where otherwise they wouldn't have some greenery, that's the intent that we have here?

**P.O. CARACAPPA:**

Absolutely.

**LEG. FOLEY:**

One hundred percent.

**LEG. FOLEY:**

Okay. Thank you.

**P.O. CARACAPPA:**

Thank you. On the motion, Legislator Mystal.

**LEG. FOLEY:**

And I know we •• yeah.

**LEG. MYSTAL:**

I see Tom Isles is standing there. I just want to hear what he has to say. Mr. Isles.

**MR. ISLES:**

Just briefly, and just Oif you had any questions, I'm available. This did go to the Environment Committee initially as a Pay•As•You•Go Quarter Percent Program. The committee tabled it. The sponsor then changed it to the Multifaceted Park Program. At the last committee meeting last week, at that time, we hadn't had a chance to fully review them. But, as Legislator Foley has indicated, there are parcels that range from about seven acres down to about a third of an acre. They're a mixed bag in terms of the size of the parcels and in terms of the rating. They seem to come in, from the information we know now, from a rating of about 9 to 27. As more information is collected, we could then fine tune the actual rating numbers, but they appear to be •• they're not typical County acquisitions, and I think that's been expressed today.

**LEG. MYSTAL:**

Could you explain the rating for some of us?

**MR. ISLES:**

The rating is based on park usage for these properties, and it takes into consideration the •• a number of factors, including the size of the property, the need for park use in that particular area. It takes into consideration if it has community support, which at this point we understand that it does; that it's located adjacent to existing public recreational uses. There is a factor in the new rating form that accomplishes •• gives a bonus for higher density areas of the County, which this one does qualify for based on the census. So, it takes in a number of factors in terms of need and appropriateness of the site for recreational use. Those are the things that are considered, sir.

**LEG. MYSTAL:**

No, but you have a number. What's that number you said?

**MR. ISLES:**

Well, as I said, the six resolutions that you're •• well, that have been talked about.

**LEG. MYSTAL:**

From zero to what, from zero to ••

**MR. ISLES:**

They •• well, the scale goes from zero to a hundred.

**LEG. MYSTAL:**

Oh, okay.

**MR. ISLES:**

And, as I said, the parcels seem to be ••

**LEG. MYSTAL:**

A hundred being best?

**MR. ISLES:**

As a perfect score, yeah. As a perfect score, yes, sir.

**LEG. MYSTAL:**

Okay.

**LEG. MONTANO:**

I have a question. How do you make a park out of a third of an acre? Can you make a park out of a third of an acre, or do you have plans to do that? Basically, I'm trying to get an idea, because you're saying that the scale, the rating was 9 to 27 on these parcels out of 100?

**MR. ISLES:**

Yes.

**LEG. MONTANO:**

Is a third of an acre is something that you would consider making a park?

**MR. ISLES:**

As I said, we're not proposing these resolutions, but the •• that one scored the lowest, and, quite frankly, that could possibly accommodate a playground. It probably couldn't accommodate much more than that.

**P.O. CARACAPPA:**

When I say park, keep in mind, I'm talking about playgrounds, small, small, little ••

**LEG. LOSQUADRO:**

If I may.

**LEG. MYSTAL:**

If I may before Mr. Losquadro.

**P.O. CARACAPPA:**

Well, hold on. Legislator Montano has the floor.

**LEG. MONTANO:**

Yeah. I'm just trying to get an idea of, you know, what it is that we're doing now. When you

look at these parcels, you said that one of the rating factors was whether or not it's adjacent to, and I didn't really catch what you said. Adjacent to what, an existing park? What was that, Dave?

**LEG. MYSTAL:**

No, this is ••

**LEG. FOLEY:**

No. Go ahead, please.

**LEG. MONTANO:**

Thank you.

**P.O. CARACAPPA:**

Go ahead.

**MR. ISLES:**

Yeah, I'll read it to you. "The site is located adjacent to another existing public recreational area, where this acquisition will enhance the recreational uses of both sites."

I will point out to you that there are about 20 or 25 criteria on this sheet, so that's one of them. If it's enhancing an existing recreational facility, then that gives it extra points.

**LEG. MONTANO:**

Okay. And just so I'm clear, this analysis that you did, I haven't seen it, so I'm just wondering where that would be with respect to the parcels that you analyze. Do you have that in your possession?

**MR. ISLES:**

The analysis is based on the forms that the Planning Department prepared earlier this year as

part of our update for the Environment Committee. For the first time ever, we have rating forms for park and active recreation uses, and so this is a new terrain for us.

**MR. MONTANO:**

Okay.

**MR. ISLES:**

So, we routinely for the Environment Committee typically request this information and we prepare it for them. This one was a little unusual as originally as a Pay•As•You•Go quarter percent acquisition for open space that did not prove successful in committee. The sponsor modified it. And we talked about this briefly last Wednesday at the committee meeting. My purpose in being here today is that just as a further follow•up to that.

**LEG. MONTANO:**

All right. But these reports weren't shared with the •• the other Legislators that weren't on the committee.

**MR. ISLES:**

No. We didn't have them at that committee meeting, no.

**LEG. MONTANO:**

Okay. Thank you.

**P.O. CARACAPPA:**

Legislator Viloría•Fisher, Losquadro, and then Mystal.

**LEG. VILORIA•FISHER:**

Good morning, Tom.

**MR. ISLES:**

Good morning.

**LEG. VILORIA•FISHER:**

I think it would be helpful if the rest of the Legislators were able to have at least the rating system page attached as backup to ••

**MR. ISLES:**

Right.

**LEG. VILORIA • FISHER:**

•• every planning steps resolution. It would just be helpful to look back at it, because we have a bond that's going to be on the ballot this Fall, which sets aside 10 million dollars for hamlet parks.

**MR. ISLES:**

Right.

**LEG. VILORIA • FISHER:**

Not all hamlet parks are going to be created equal ••

**MR. ISLES:**

Okay.

**LEG. VILORIA • FISHER:**

•• and we want to have some sense •• you know, when you •• when you're looking at a gorgeous piece of property somewhere in East Hampton that overlooks the water and has all sorts of great natural habitat, it's a home run, but there are many parcels that we have seen in the western towns that don't get as high a rating, but they may have other value. And so, we have to tweak that rating system to have some kind of criteria for a hamlet park type of situation. But we're kind of voting blind here on these. I believe there are five resolutions here that are parcels that range from .35 acres to 6.5, and I don't really know what to base their viability on.

**MR. ISLES:**

Right. Well, I'll point out that you're right, the Hamlet Parks Program, the bond issue, would seem to be tailored to this type of situation, perhaps, and the resolution that you've approved does include this rating form and the other rating forms that the Environment Committee has seen as part of the criteria that will apply if that bond act is approved.

In terms of the request for the rating forms, we do that routinely at the Environment Committee, and, certainly, that could be made available to any Legislator at that time. I think that's it.

**P.O. CARACAPPA:**

Legislator Losquadro.

**LEG. LOSQUADRO:**

Thank you. Just to make the point very clear here, you know, for those Legislators who are not on this committee, we talked about a rating system that's from one to a hundred, but in my time, serving on that committee, we rarely see parcels in excess of 35.

**MR. ISLES:**

Yeah.

**LEG. LOSQUADRO:**

I mean, when we see parcels that we •• the Planning Department is gung ho, we need to acquire this, it's a 37 or a 42.

**MR. ISLES:**

Yeah.

**LEG. LOSQUADRO:**

That scale can be a bit deceiving to those who are not on the committee. And I think we need to keep that in mind, that this is every possible factor that you could have on any given piece of property here on Long Island. So, I just •• you know, take a number, while albeit, it may seem a little low at face value, take it with a grain of salt, because, you know, maybe we're looking at a park, you know, small pieces of property that can be, you know, sort of one of those little community parks like you see in more densely populated areas, or swing sets, and things of that nature. Maybe it doesn't have glacial eradics or kettle holes, or things of that nature, but, you know, it's still important to that area. And, you know, I just want that rating system really for people to be aware that there's every conceivable thing that you could rate a piece of property on here on Long Island. Thank you.

**MR. ISLES:**

The typical passing grade is around 25, so, you're right, it's not 65 or 75.

**P.O. CARACAPPA:**

Legislator Mystal, then Montano.

**LEG. MYSTAL:**

Yes. My initial question was to whether or not •• some of these parcels sometimes are not buildable, and I'm not saying that you should look at that, but I think there's a human factor involved that is not part of your rating system and that's a human factor. Sometimes we have a corner or a little piece of land that really enhances the whole neighborhood and the whole area, and even though it's not part of a parks system, but it does make the whole place more livable. And I think sometimes, you know, we just buy those small pieces of land for that reason. And that's •• you know, although, you know, I would prefer to build on anything that I can build on, but sometimes, you know, we have to leave some open space, I understand that.

**MR. ISLES:**

Okay.

**P.O. CARACAPPA:**

Thank you. Legislator Montano.

**LEG. MONTANO:**

Yes. Just with respect to what Legislator Losquadro said and the rating system, because I wasn't really clear on that, but in the future, at least for me, the question I have is are we looking at these parcels that we want to purchase more on a global sense in terms of it's its to rate a parcel based on a scale of one to a hundred, but I'm thinking that we really need to rate parcels against each other at some point. So, do you have like a master plan where we can identify, you know, a multitude of properties in different areas? I mean, is that where we're going with this, or is that •• is that ongoing now?

**MR. ISLES:**

It is ongoing now. There was a master list submitted by the County Executive earlier this year, which you approved, and that certainly has done that process. And it's the intention of the

County Executive that he's expressed to me is that he wants an annual cycle, so to speak, in terms of a continual update of that plan presented to you for your consideration, so it's done more on a proactive basis.

**LEG. MONTANO:**

Thank you.

**MR. ISLES:**

To the extent that we can, yes, we think that's a good idea.

**P.O. CARACAPPA:**

Legislator Viloría•Fisher.

**LEG. VILORIA•FISHER:**

I had •• I just had a question for the sponsor, if I may. When we look at parcels which will be used for playgrounds, etcetera, I've always tried to partner with the town or a municipality. Who will build a playground? Are you planning on partnering with a group or ••

**P.O. CARACAPPA:**

With either local organizations or the Town of Brookhaven, whatever is easier and more expeditious and cheaper.

**LEG. VILORIA•FISHER:**

Okay. So, before we go to the last stage, the acquisition stage, I'm hoping that you'll reach out to the Town and have them ••

**P.O. CARACAPPA:**

Without question.

**LEG. VILORIA•FISHER:**

•• come up with a resolution, so that it could be managed and ••

**P.O. CARACAPPA:**

The Town already has its list, I've sent it to them.

**LEG. VILORIA • FISHER:**

Okay.

**P.O. CARACAPPA:**

I've told them I would start the process and follow up with them.

**LEG. VILORIA • FISHER:**

Okay. And I'm hoping that the EPA Committee will also be able to move forward with the Smoke Run, you know, resolution, the planning steps for that, because we've already talked to the Town about that as well.

**P.O. CARACAPPA:**

Legislator O'Leary. Thank you. Legislator O'Leary, then we'll go to a vote.

**LEG. O'LEARY:**

Yeah. I'd just like to point out to my colleagues, I'm looking at these •• I think it's five resolutions pertaining to planning steps, which was sponsored by Legislator Caracappa. I mean, the •• if size is a matter, these •• if size matters, I mean, these are not •• these are not small pieces of property. I mean, 1795 is five acres, 1796 is one•and•a•half acres, 1797 is 6.48 acres, and 1798 is 6.14 acres. Now, that's a lot of property, to my colleagues, and I •• if it is going to be used for future park use, I think it's commendable on the part of the Presiding Officer for presenting this before us, and also something that we should be supportive of. It's good size parcels that we're talking about here, it's not small parcels. Thank you.

**P.O. CARACAPPA:**

I appreciate that, Pete.

**LEG. ALDEN:**

Size does matter.

**P.O. CARACAPPA:**

Legislator Alden, for the record, says size does matter. Okay. What are we on, 1796?

**MS. BURKHARDT:**

1797.

**MR. MONTANO:**

97.

**P.O. CARACAPPA:**

***97 (1797 • Authorizing Planning steps for the acquisition of land under the Multifaceted Land Preservation Program (Estate of Pearl Link, Town of Brookhaven).***

There's a motion and a second. All in favor? Opposed? Abstentions? Just let me run through the •• just let me run through the ones for ••

**MR. BARTON:**

17. (Vote amended to 16)

**P.O. CARACAPPA:**

•• Ronkonkoma. ***1798 (Authorizing Planning steps for the acquisition of land under the Multifaceted Land Preservation Program (Maplecrest Drive and Warren Avenue property, Town of Brookhaven).*** Motion by •• same motion, same second, same vote.

**MR. BARTON:**

17. (Vote amended to 16)

**P.O. CARACAPPA:**

***1799 (Authorizing Planning steps for the acquisition of land under the Multifaceted Land Preservation Program (Hawkins Avenue property, Town of Brookhaven).*** Same motion, same second, same vote.

**LEG. CARACCIOLO:**

Abstain.

**P.O. CARACAPPA:**

Yeah, it's the same vote. ***1800 (Authorizing Planning steps for the acquisition of land under the Multifaceted Land Preservation Program (Dehe property, Town of Brookhaven).*** Same motion, same second, same vote.

We will return at 2:30.

**MR. BARTON:**

16.

**P.O. CARACAPPA:**

We're breaking for and we'll have public hearings at that time.

***[THE MEETING WAS RECESSED AT 12:39 A.M. AND RESUMED AT 2:33 P.M.]***

**LEG. ALDEN:**

Okay, it's a little after 2:30, we're going to start the Public Hearings. The Clerk advises that the Affidavits of Publication are in proper order for the following public hearings; the first Public Hearing is •• do we have any cards for it?

**MS. BURKHARDT:**

No, we don't.

**LEG. ALDEN:**

So it's IR 1624?

**MS. BURKHARDT:**

You have to ••

**LEG. ALDEN:**

Oh, we're doing the operating budget first •• 2005 Operating Budget ••

**MS. BURKHARDT:**

Is there anyone who wishes to speak?

**LEG. ALDEN:**

We don't have any cards for it; anybody wish to address us on the 2000 Operating Budget? All right, nobody wants to address us on that?

**MS. BURKHARDT:**

We're going to recess it to the next meeting.

**LEG. ALDEN:**

Okay, motion to recess by myself, second by Legislator Bishop. All in favor? Opposed? Okay, that's recessed to the next meeting.

Southwest Sewer District Assessment Roll?

**MS. BURKHARDT:**

I'm sorry; Henry, excuse me, not the next meeting, isn't there a date for the next public hearing?

**MR. BARTON:**

October 4th.

**MS. BURKHARDT:**

Okay, recess it to October 4th.

**LEG. ALDEN:**

Okay, 2005 Operating Budget public hearing is going to be recessed to October 4th, 2004.

**MS. BURKHARDT:**

All in favor?

**LEG. ALDEN:**

All those in favor? Opposed? Okay, that's set or recessed to October 4th.

**Southwest Sewer District Assessment Roll.**

**MS. BURKHARDT:**

There are no cards.

**LEG. ALDEN:**

No cards? Does anybody want to address the Legislature on this?

**MS. BURKHARDT:**

Same thing, recess.

**LEG. ALDEN:**

Okay, that's going to be same thing, we're going to recess that until October 4th, Henry, is that it?

**MR. BARTON:**

Yes.

**LEG. ALDEN:**

Motion by myself, second by Legislator Bishop. All those in favor? Opposed? That's recessed to the 4th.

**IR 1624 ••**

**MS. BURKHARDT:**

I have no cards.

**LEG. ALDEN:**

**•• Proposed increase improvements of facilities for Sewer District No. 3, Southwest.**

We have no cards. Does anybody wish to address the Legislature on IR 1624, the public hearing? We're going to recess that. I'll make a motion to recess that one to the fourth, second by Legislator Bishop. All those in favor? Opposed? IR 1624 is recessed to the 4th.

**MR. BARTON:**

Mr. Chairman?

**LEG. ALDEN:**

Yes?

**MR. BARTON:**

The October 4th date has been set aside for Operating Budget issues. If it's your intention to recess it, maybe the next General Meeting?

**LEG. ALDEN:**

Go ahead, yeah, what's the next General Meeting?

**MR. BARTON:**

Okay, thank you.

**MS. BURKHARDT:**

November 16th.

**MR. BARTON:**

November 16th.

**LEG. ALDEN:**

Let the record reflect that it's recessed to the next general.

**MR. BARTON:**

Thank you.

**LEG. VILORIA • FISHER:**

Excuse me, Cameron. There's a lot of •• Legislator Alden, there's a lot of side noise, I really can't hear anything that's going on.

**LEG. ALDEN:**

Okay. It's just ••

**LEG. VILORIA • FISHER:**

I couldn't hear what Henry just said.

**LEG. ALDEN:**

The October 4th meeting is reserved pretty much for the Operating Budget, so to recess IR 1624's public hearing to that date doesn't make sense, so we're going to recess it to the next General Meeting.

**LEG. VILORIA • FISHER:**

Okay thank you.

**MR. BARTON:**

Mr. Chair? I've conferred with the Department of Public Works, they've completed all of the work. It would be appropriate to close it at this time, unless there's a reason to recess it; they'd like to move on with that ••

**LEG. VILORIA • FISHER:**

I'll make a motion to close.

**LEG. ALDEN:**

Motion to close by Legislator Vilorina•Fisher, second by myself. All those in favor? Opposed? All right, IR 1624 is closed.

**MR. BARTON:**

Thank you.

**P.O. CARACAPPA:**

***IR 1693 • A Local Law to require defibrillators in camps.*** Do we have any cards?

**LEG. CARACCIOLO:**

Motion to close.

**LEG. ALDEN:**

I have no cards. Is there anybody that wishes to address the Legislature on that, on this issue? No? I have a motion by Legislator Caracciolo to close, second by myself. All those in favor? Opposed? Okay. IR 1693, the public hearing is closed.

***IR 1811 • A Charter Law to modify the Traffic Safety Board.*** Do we have any ••

**D.P.O. CARPENTER:**

Yeah, we do have a card.

**LEG. ALDEN:**

Okay.

**D.P.O. CARPENTER:**

Douglas Death or \\_Deeth\\_ , come forward.

**MR. DEATH:**

Good afternoon.

**D.P.O. CARPENTER:**

You have five minutes.

**LEG. FOLEY:**

You've got to turn the mike on.

**MR. DEATH:**

See, I'm messing up already. I'm Douglas Death.

**MR. DEATH:**

Douglas Death with the Suffolk County Stop DWI Program out at the County Executive's Office, as well as ••

**LEG. VILORIA • FISHER:**

Can we have some order, please? Thank you.

**MR. DEATH:**

As well as current Vice Chair of the Traffic Safety Board. The Traffic Safety Board is currently made up of 20 members. However, those members are improperly appointed or actually not appointed at all at this time. We've been carrying on as a committee for the last several years without formal legislation or appointments.

The legislation, 1811, will redefine the makeup of the committee in that we're going to

essentially followed up by legislation appointing members of the committee. The Traffic Safety Board at present receives between six and \$800,000 in grant money from New York State that we bring into the County for various forums of traffic safety, enforcement, education programs, as well as engineering. It's also a forum for various traffic safety issues, providing opinion to those who have request, and investigation to those that request as well.

The Traffic Safety Board as a whole supports this legislation. However, we do request at some point in time the possibility of a review of increasing it to 25 members from 20 members. The Traffic Safety Board is looking to expand its •• not really its responsibilities, but its role to become a resource for any department or body that wishes to get information. Currently, again, our 20 members are an extremely diverse group of people that are experts in their field, and as a group, we can provide some very good information. So, I'm here to give you that information and answer any questions you may have on this.

**LEG. VILORIA • FISHER:**

Angie.

**D.P.O. CARPENTER:**

Thank you. Legislator Vioria•Fisher.

**LEG. VILORIA • FISHER:**

Okay. I'm looking here at the membership. There are 20 members?

**MR. DEATH:**

Currently, yes, there's 20 members.

**LEG. VILORIA • FISHER:**

Okay. And so, because I'm reading here the Board shall be composed of 20 members. Is that •• oh, that's reading •• that's Article 39 is stating that. And the change will be that it will become 25 members?

**MR. DEATH:**

No. Right now, the •• as the new resolution, there is no change in the number of members. We were •• at our initial meetings in creating this resolution, we were hoping for 25 members.

However, it was kept at 20 members. Somewhere down ••

**LEG. VILORIA • FISHER:**

So, what's the change?

**MR. DEATH:**

The change is the fact that it does not require that all members be public officials. They can be members of industry, insurance agents, AAA, those types of things, is the •• that's the major change.

**LEG. VILORIA • FISHER:**

Okay. I'm seeing here in "B" that each member shall be a resident of the County and shall be a qualified elector thereof ••

**MR. DEATH:**

Correct.

**LEG. VILORIA • FISHER:**

•• rather than what was omitted, which was limited to public officials.

**MR. DEATH:**

Right.

**LEG. VILORIA • FISHER:**

How often do you meet?

**MR. DEATH:**

We meet ten times a year, once a month.

**LEG. VILORIA • FISHER:**

Okay.

**MR. DEATH:**

You know, June and July, or July and August we stop.

**LEG. VILORIA • FISHER:**

All right. And the voting, is it by simple majority or ••

**MR. DEATH:**

Yes.

**LEG. VILORIA • FISHER:**

Okay.

**MR. DEATH:**

Yes.

**LEG. VILORIA • FISHER:**

All right. Thank you.

**MR. DEATH:**

Thank you.

**P.O. CARACAPPA:**

Anyone else? Was that the only card, Angie?

**MS. BURKHARDT:**

Yes.

**D.P.O. CARPENTER:**

Yes. I'm sorry.

**P.O. CARACAPPA:**

I have no other cards on 1693 •• 1811, rather. Anyone else wishing to be heard? Motion close by myself.

**D.P.O. CARPENTER:**

Second.

**P.O. CARACAPPA:**

Second by Legislator Carpenter. All in favor? Opposed? Abstentions? Moving on to public hearing regarding ***Intro Resolution 1838 • A Local Law to amend Section 14•30 of the Suffolk County Administrative Code to provide more equitable distribution of the proceeds from auctioned parcels.*** I have a series of cards. First speaker is Pat Zielinski.

**MS. ZIELINSKI:**

Good afternoon, Ladies and Gentlemen. My name is Pat Zielinski. I'm the Director of Real Estate in the Division of Planning.

**P.O. CARACAPPA:**

Ms. Zielinski.

**MS. ZIELINSKI:**

Yes.

**P.O. CARACAPPA:**

Just pull that microphone a little lower. Thank you.

**MS. ZIELINSKI:**

Is that better?

**P.O. CARACAPPA:**

Yes.

**MS. ZIELINSKI:**

First, I'd like to applaud Legislator Montano's interest in concerns in the Division of Real Estate's auction process. But I do have a few areas of the bill I'd like to address.

In the Subheading A, it refers to, quote, "sell immediately". There are issues with tax deeds having to mature three years after we take the deed before the ownership can be transferred for the title companies to be able to insure them.

In Subheading D, it refers to allowing four weeks to consider County purposes. If that would

include all the traditional offerings to the towns for affordable housing, to the towns for municipal uses, to the County for environmental purposes, for road improvements, for park additions, four weeks to consider would not allow time for that consideration to occur.

In Subheading F, it refers to appraisals for each property. That would really present quite an overwhelming hundred to thousand appraisals that would need to be done every year on properties, most of which would then be redeemed, and the appraisals would have gone to naught.

For all parcels to have five-year family occupancy requirements may not be appropriate. We do that whenever we can, but we often have parcels that are not appropriate for that restriction.

There's, in Subheading L, a need for owner occupancies to occur for five years previous to the taking. And I haven't been able to figure any way that we could prove that a person had been the owner-occupant for five years in retrospect. And since this bill is retroactive to include the June option, I don't see any way that we can go back in some cases 18 years to know if the owner-occupant had been there for five years. Even with the current one, the opportunity for that property to have been rented or in use in some other way would make it difficult to know if it was owner occupied for five years.

For us to be able to appraise a property that we took 10, 15, 18 years ago, for the value at the time that the tax deed was taken would be a very subjective appraisal at best.

And as also in regard to the June auction, those properties that were sold and contracts approved by the Legislature have begun closing and many of them are closed and are closing as we speak.

Please, note that of the properties taken for default, many are transferred at no cost, no cost, including the County's cost is not collected to towns, to County purposes. But an example, I have a property right now that's being considered by a town for affordable housing. It's owner-occupied. If that property goes to the town for affordable housing, then there will be no monetary compensation. Therefore, that owner would get no equity. That would hold true of properties that were held for County purposes as well.

All the current processes for our auction have been developed over many years, and it's important that we look at the entire process and not just bits and pieces. Without examining each step and how they interact, it seems inappropriate to make any changes without working through all of the interactions of the entire process and the various cause and effects.

It needs to be said that the June auction was unusual, because those properties were concentrations of •• concentration of issues inherited from previous administrations that had not been confronted, or have been delayed by court order, extension, and various other issues, and so it created the perception that we would have these anomalies at every auction, and this is just not the case. Typically, we rarely have more than three or four owner•occupied properties out of the 200 or so potential properties that are there for each auction.

**P.O. CARACAPPA:**

Ms. Zielinski.

**MS. ZIELINSKI:**

Yes.

**P.O. CARACAPPA:**

Your time has expired. If you could just sum up, please.

**MS. ZIELINSKI:**

Well, I'd like to go on record to say that Legislator Cooper's bill is •• I would strongly support, because it examines the entirety of the auction process, and I think that's probably a better way to go at this time. Thank you.

**P.O. CARACAPPA:**

Thank you. Liz Harrington.

**LEG. FOLEY:**

Thank you.

**MS. HARRINGTON:**

Good afternoon. I just wanted to make a brief comment from the Department of Law with

regard to certain legal impediments inherent in IR 1838. The statute attempts to change the process, so as to allow the prior property owners to share in the auction proceeds. Because the County is the owner of the land at the time of the auction, that is tantamount to a gift to the person or the corporation who held the property, which is prohibited by Article 8, Section 1 of the New York Constitution. Accordingly, the Department of Law cannot support the bill in its current form.

**P.O. CARACAPPA:**

Legislator Montano.

**LEG. VILORIA • FISHER:**

A question.

**LEG. MONTANO:**

Well, actually, I was going to direct the question to our Legal Counsel. You indicate that it's your position that dividing the proceeds from the sale of the auction would constitute a gift, but in reality, the bill that I've introduced divides the proceeds so that any money that's given to a homeowner under the bill is really accumulated equity, because we measure the amount that the homeowner is entitled to at the time that the County takes the property. So, prior to that, the County had no interest, financial, in the property other than its lien for back taxes. So, rather than get into a legal debate, I'm going to direct the question to our Counsel as to whether or not the bill as written, in the opinion of our Counsel, constitutes, that is, turning over any proceeds to the homeowner, would constitute a gift under any of the cases that your office cited, because I read them and I don't agree with that opinion. I don't see anything in there that tells me that it •• dividing the proceeds up until the time that the person lost the property, which I think they're entitled to, would constitute a gift. Counsel, do you have an opinion on that?

**MS. KNAPP:**

Legislator Montano and I have discussed this in the past, and as we've said many times, lawyers can disagree, and I do disagree, that it •• the cases do not sustain a conclusion that it would be a gift of public funds. As a matter of fact, the cases seem to indicate that to the extent the governmental entity takes a reasoned rational approach, then enacts it properly into

law, that they could do exactly what's being proposed under Legislator Montano's bill.

**MS. HARRINGTON:**

If I could just comment on that, Legislator. And respectfully so, as your Counsel has pointed out, legal opinions often differ. I think the point of contention here would be, number one, the process by which the sale is made, and the point in time at which the proceeds are distributed. And I think there's a great distinction to be made between the bill, as written and a judicial foreclosure, and I think perhaps those issues could be reexamined and a compromise achieved. I mean, I understand the spirit of the bill, but, again, I have concerns with regard to the process.

**LEG. MONTANO:**

Well, would you share those concerns with me, because I'm not sure I understand the concerns that you have.

**MS. HARRINGTON:**

Well, regardless of the point in time at which you're determining certain things are equity and certain things are the property of the County, the fact of the matter is once the County takes the deed, it is all County property, and you're gifting part of that back to an individual. That differs greatly in structure from a judicial foreclosure, where there is a judicial determination as to who is entitled to what proceeds. And so, I think it lends itself ••

**LEG. MONTANO:**

Well, I won't debate, but I think the legislation determines, or at least indicates up front who owns what at what time and at what point in time when you take the property. But, be that as it may, the other issue I have is that I notice that you •• your office rendered a legal opinion with respect to another bill that's on the agenda today, and I got that one in my E•mail yesterday.

**MS. HARRINGTON:**

Yes.

**MR. MONTANO:**

Actually, it was a bill that I abstained on, because I had the same concerns. But have you written or have you issued a written decision indicating your position with respect to this bill?

And if so, why not at this point?

**MS. HARRINGTON:**

I believe it's because this one is just on for a public hearing, it was not my understanding that it was on for a vote.

**LEG. MONTANO:**

Well, there's a discharge petition on this, so it could possibly come up for a vote. But, be that as it may, the bottom line is that your opinion differs from the opinion of Counsel at the Legislature, so we'll take that as it comes up.

**MS. HARRINGTON:**

Thank you.

**MR. MONTANO:**

Thank you.

**MS. HARRINGTON:**

Thanks.

**P.O. CARACAPPA:**

Legislator Viloría•Fisher.

**LEG. VILORIA • FISHER:**

I'm just working on memory here from the newspaper articles that have to do with the auction of people's homes and the proceeds that came from those auctions. And I thought I remembered that in other counties in New York State, other municipalities, that there were funds returned to the owners; is that correct? To your knowledge, are there other municipalities that do this?

**MS. HARRINGTON:**

There are other municipalities who do that, Legislator, but not understand a statute such as this, they are done by judicial foreclosure, and for the reasons that I've set forth in my opinion today.

**LEG. VILORIA • FISHER:**

So, the problem is the timing; is that it, the timing ••

**MS. HARRINGTON:**

It's the procedure.

**LEG. VILORIA • FISHER:**

•• at which this is done?

**MS. HARRINGTON:**

It's the time and the it's the entire procedure.

**LEG. VILORIA • FISHER:**

So, if the County were to ascertain before the closing of the deed what •• how the proceeds were to be divided at the time of sale, well, they can't go into an auction until the County has taken ownership; isn't that ••

**MS. HARRINGTON:**

Under the current statute, the property is auctioned, and the proceeds, because at the time of the action it's County property, the proceeds then become the property of the County. A judicial foreclosure is inherently different and allows for the property to become the subject of a court concern prior to any distribution of proceeds or any sale of the property, and therein lies the difference.

**LEG. VILORIA • FISHER:**

So, then who would •• who would manage the auction under those circumstances when there's a judicial foreclosure? How would the house then be auctioned off or the property auctioned off?

**MS. HARRINGTON:**

Well, again, different municipalities have different statutes with regard to their auctions and I really can't speak on what other municipalities do in specific terms, but it would be under the auspices of the Court, of the Supreme Court.

**LEG. VILORIA • FISHER:**

Then it would be •• okay.

**MS. HARRINGTON:**

So that there could be no liability back to the municipality as to •• with regard to discrepancies with regard to liens, etcetera.

**LEG. VILORIA • FISHER:**

So, these auctions in these other counties are run by the courts?

**MS. HARRINGTON:**

Yes.

**LEG. VILORIA • FISHER:**

Is that what you're saying?

**MS. HARRINGTON:**

Yes.

**LEG. VILORIA • FISHER:**

Not by the counties themselves?

**MS. HARRINGTON:**

Well, there is judicial intervention before the proceeds are distributed, but there's no liability on the part of the County.

**LEG. VILORIA • FISHER:**

Okay. It sounds like that may add another layer of confusion.

**MS. HARRINGTON:**

Well, I don't think it's adding another layer, I think there's a confusion between apples and oranges. And so, in the statute as it exists currently, which, by the way, has been upheld even by the Court of Appeals, there was a distribution made and, at the time of the sale, the

property is County property and the proceeds are County proceeds, and that's an entirely different animal than a judicial foreclosure. And so, I think, in trying to mix the two is where some of the problems are created.

**LEG. VILORIA • FISHER:**

Okay. I'm not an attorney, so this is a little confusing for me, because I don't really understand how judicial foreclosures work. It just seems to me to be another layer that occurs. And if the County were to determine at the time that it takes the property that the •• what the •• what it's •• what it could hold as a lien, you know, regarding the amount of taxes that are owed to the County and the cost to the County and managing, if the County could determine before it takes title what is owed to the County, would it then work?

**MS. HARRINGTON:**

No, because where it goes off track, so to speak, is when you say at the point when the County takes the property. The point when the County owns the property, all the proceeds of that property are now County proceeds.

**LEG. VILORIA • FISHER:**

Okay. Thank you.

**MS. HARRINGTON:**

You're welcome.

**P.O. CARACAPPA:**

Legislator Montano, then Caracciolo.

**LEG. MONTANO:**

Yes. Counsel, I think we're going far afield, because I don't necessarily agree with what you say with respect to other jurisdiction and the judicial sale. I don't think it quite works that way. But irrelevant, the issue before us today is whether or not the bill that's presented meets, quote, legal standards. And you've expressed an opinion that you think that returning the proceeds or some of the proceeds to the homeowner would constitute a gift. We've had a contrary opinion from our Counsel. Is that your only objection to the bill? I mean, that's the one issue where you say that you would have an objection to the bill?

**MS. HARRINGTON:**

Well, in essence, yes. Our concern is that, and again, I'm only speaking to this resolution, I'm not here to do a comparison study, because that was not given to me and we haven't even reached that point, but with regard to this IR, our concern is that once the property is county-owned and it's sold, the proceeds all belong to the County.

**MR. MONTANO:**

Okay.

**MS. HARRINGTON:**

And to start distributing it is, A, a gift, and number two, it could lead to liability on the part of the County for people making claims later ••

**MR. MONTANO:**

All right.

**MS. HARRINGTON:**

•• saying that there were other lienholders, etcetera.

**LEG. MONTANO:**

You know, as a fellow attorney, I seem to miss the legal point on that. I simply disagree with you. And not only that, I think we've heard this many times, we've already had an opinion from our Counsel that the bill does meet legal sufficiency.

And with respect to the issue in other jurisdiction, I am aware that other jurisdictions have a different tax process, but they do return the proceeds to the homeowners, and it's not pursuant to a judicial order. But, again, that issue doesn't •• you know, I just don't want to get •• give the wrong impression on that. That issue is not before us. The only issue is whether or not this bill meets our legal sufficiency. And we do have the presumption of •• I've heard this before by Counsel, we have the presumption of legitimacy. Barring anything more •• barring anything more, any other objections with respect to the legal issue on the bill?

**MS. HARRINGTON:**

No, just the issue of gifting and of liability.

**LEG. MONTANO:**

Where would the issue of liability come in?

**MS. HARRINGTON:**

Because it's the County who's making a determination after acquiring the property as to whether or not there were other mortgage holders, lienholders, or etcetera. The County can be wrong, whereas when you have a judicial foreclosure, the court takes over that function. In this case, there •• yes, certainly, there could be an opportunity for the County to be involved in extensive litigation over interpretation of the liens, the mortgages and other lienholders.

**LEG. MONTANO:**

Again, we're going back •• but isn't it possible for the Department of Real Estate to set up guidelines, so that an applicant or a homeowner could make an application to the Department of Real Estate for return of the proceeds. And if the County had a legal objection, or had a question with respect to whether or not it should turn over those proceeds, they can interplead that money into the court, and then they can turn that matter over to the court; isn't that a possibility also?

**MS. HARRINGTON:**

Anything is possible, Legislator.

**MR. MONTANO:**

Well, that's what I'm saying. So, we're putting ••

**MS. HARRINGTON:**

But ••

**MR. MONTANO:**

What I'm saying, I don't want to put roadblocks before the bill, because these are things that can be worked out administratively. And if, in fact, we reach an impasse at some point with respect to the issues that you raise on liability, then we can find a judicial remedy for that at some later point, and we can always throw a request for proceeds into the court, if we felt it was necessary. And, if we couldn't agree with the lienholder as to how much was actually due,

or if we couldn't settle it, isn't that the way it's generally done in real estate deals?

**MS. HARRINGTON:**

No, because what you're saying, Legislator, is that you're going to throw that issue to the court after, in fact, we already have taken the properties. That's not how it's done, but ••

**LEG. MONTANO:**

No, that's not what I'm saying. What I'm saying is that the Department of the Real Estate can set up a procedure, so that homeowners can come forward and make a request for return of proceeds.

**MS. HARRINGTON:**

Of course.

**MR. MONTANO:**

The lienholders can also be notified, and they can, at that point, interject and say, "We're entitled to "X" amount of money." And these are things that should be handled administratively. But creating a process for that, in my mind, doesn't make the bill illegal, and that's where •• that's where I have a distinction in terms of what you're saying.

**MS. HARRINGTON:**

Well, I think my first point was that the gifting is the illegal portion of it, and the portion that ••

**MR. MONTANO:**

We dealt with the gifting, because our Counsel told us it's not a gift.

**MS. HARRINGTON:**

And the portion that pertains to the assessment, the criteria for assessing lienholders and the distribution for those process is the part that lends itself to litigation.

**LEG. MONTANO:**

You raised two points, one is the gifting and the liability.

**MS. HARRINGTON:**

Correct.

**MR. MONTANO:**

The appraisal issue is something different. You said that was an administrative function that would be difficult to ascertain, so I just want to stay on the legal issues. But, be that as it may, I think we've ••

**MS. HARRINGTON:**

I think you understand.

**MR. MONTANO:**

•• addressed the issue. Thank you.

**MS. HARRINGTON:**

Thank you.

**MR. MONTANO:**

Appreciate it.

**P.O. CARACAPPA:**

Legislator Caracciolo.

**LEG. CARACCIOLO:**

Yes. Thank you, Mr. Chairman. Legislative Counsel, and then the same question to you, Ms. Harrington. Mea, could you just define for the Legislature what is the definition under the State Constitution or other where •• otherwise in law gifting of public funds?

**MS. KNAPP:**

The gift of public funds provision of the State Constitution is most often used by municipalities when the government is going to confer a benefit without any legal basis for doing so. And the most, I think the most common situation is when government enters into a contract, the contract calls for a certain amount of money for services, the service provider says, "Oh, but it took me much longer," and the government says, "Yeah, you're right, it did, but we didn't make provision in the contract to give you any additional, but we think it's fair to give it to you." That is a gift of public funds.

To the extent that the County, which is a charter county under the Municipal Home Rule Law, we can enact local laws, to the extent that the County wishes to set up a statutory scheme that allows a portion of the proceeds to be returned to former owners, we are setting up a valid legal enactment that governs our conduct. It's not like •• I know there was one state comptroller's opinion where a county sold a property for a substantial amount of money, and they said, "Oh, you know, this is an inequity, we should give some back to the owner." In the absence of the legislation allowing them to do it, that is clearly a gift of public funds. If the Real Estate Department suddenly said, "You know, I'm going to give back some of this money, that would be a gift." You need to have a validly enacted scheme to be able to do it.

I'd like to just address one or two other points, so •• just so everybody is on the same page. Some of the things that Ms. Zielinski referred to are already in the existing statute about the appraisal. That's not anything that we put in there, that was there before.

And the other thing that I probably should just address is that the County is not going to go and pay all the lienholders here, under this statutory scheme. All that's happening is the County will retain any monies that would have been due to lienholders. And the purpose of that, and I think it's a rational purpose, is that there is no unjust enrichment of the former owner, he would just be entitled to what he would have been able to get if he sold his house instead of losing it to the County for taxes.

**LEG. CARACCIOLO:**

Okay. I appreciate your response. And would you like to answer the same question in terms of the definition of "gift" under the State Constitution, or constitutional law, as well as case law? And then would it be your opinion that we could design some type of valid statutory scheme under our County Charter to provide for the type of equity, if you will, that Mr. Montano seeks for taxpayers?

**MS. HARRINGTON:**

Well, with regard to the gifting issue, Mea spoke to it in general terms, which I would agree with. I guess, the disagreement comes at the point when the County owns the property outright, it owes nothing to anyone, and any sale of that property, the proceeds then belong to the County. So, that could, in fact, be construed as a gift, which is the point of the opinion I

gave today.

With regard to is there a way to accomplish what I feel is the essence of the bill, I would submit that I'm sure there is, but that this bill does not accomplish, and it's not legal within the framework of the ideas that I've set forth already. Could it •• could this issue be looked at further? Of course. Do I feel it's possible to come up with better legislation? Yes. Is this it? No.

**LEG. CARACCIOLO:**

Okay.

**MS. HARRINGTON:**

That is my opinion.

**LEG. CARACCIOLO:**

So, in other words, you don't strike it on the basis that it cannot be reworked, refined, and improved to meet whatever legal questions or criteria you believe it needs to meet.

**MS. HARRINGTON:**

I'm telling you that under this framework, it doesn't meet those criteria.

**LEG. CARACCIOLO:**

Right, I understand. But you hold open the possibility that there is a legal scheme, statutory scheme, as Legislative Counsel pointed out, that we're permitted under Charter Law to enact?

**MS. HARRINGTON:**

Well, I'd like to clarify that. I mean, I'm saying is there a way to accomplish the spirit of the bill? I'm sure there is, but not by this vehicle, not by having the County sell the property and then divvy up the proceeds, no.

**LEG. CARACCIOLO:**

Okay. As a representative of not only the Legislature, but the County, has inquiry been made of the Executive to get a sense of his position on this issue?

**MS. HARRINGTON:**

Well, my understanding and, again, I can't speak for the Executive, Mr. Zwirn or someone from the County Exec's Office can speak, but my understanding is that there is an IR currently to •• I thought it was to have a Task Force to look at this issue.

**LEG. CARACCIOLO:**

Okay. So, that's the method ••

**MS. HARRINGTON:**

I assume the different legal issues would come up.

**LEG. CARACCIOLO:**

That's the •• that was Mr. Cooper's bill, so he's in favor of the Cooper Bill, as Ms. Zielinski was, to pursue other avenues of research and recommendation to reform the process.

**MS. HARRINGTON:**

Well, I can't speak for the County Executive.

**LEG. CARACCIOLO:**

I understand.

**MS. HARRINGTON:**

I can only tell you that it would be my assumption that this task force would look at other issues.

**LEG. CARACCIOLO:**

I believe a spokesman for the County Executive, now that you bring that up, as has been quoted in the press, as saying that he favors that approach over this. Thank you.

**MS. HARRINGTON:**

Thank you.

**P.O. CARACAPPA:**

Before I recognize Legislator Alden, I would remind everyone, this is public hearing. Getting

into lengthy debate of the bill, even though we can ask questions, at this point in time, I think is unnecessary. If you have any questions related to what the speaker is saying, I'd ask you to stick to that, as opposed to lengthy debate on the bill itself. Legislator Alden.

**LEG. ALDEN:**

I had a question of the speaker, but I will forego that. But I have just a point of order, then, if somebody can make this clear to me. I thought I heard somebody mention before that this could be live and voted on. This is a local law and there's a •• I thought that the process was, and I thought that's in our rules of the Legislature, that local laws, once we have a public hearing and that public hearing is closed, that local law goes back to the committee, and if it passes out of the committee, a local law would have to go to the Rules Committee, and if it passed out of that, then it would become live for a vote. So, I would like to just find out if we've bypassed the committee, or what's going on.

**P.O. CARACAPPA:**

The rule is that, in these 12 votes, seeing that it's a local law to come out, the public hearing needs to be closed first once it's concluded. So, if it receives 12 votes, after this is closed, it's live on the floor, which, at that point, if it receives 10 votes, it's adopted.

**LEG. ALDEN:**

All right. But, at that point in time, there would have to be a motion, right, to suspend the ••

**P.O. CARACAPPA:**

There needs to be a motion to •• first, there needs to be a motion and a second, along with 10 votes, to close the public hearing.

**LEG. ALDEN:**

Okay. Well, then I'll hold my comments for that point in time, if that happens.

**P.O. CARACAPPA:**

Then, after that, they'd need 12 •• a motion to discharge from committee, along with a second, accompanied by 12 votes, and then from that point on, 10 votes ••

**LEG. ALDEN:**

Okay, thanks.

**P.O. CARACAPPA:**

•• for approval. Legislator Montano.

**LEG. MONTANO:**

Actually, I'll pass at this point.

**P.O. CARACAPPA:**

Any other •• any other questions? Thank you. Next speaker is Ernest Hoffstaetter, Jr.

**MR. HOFFSTAETTER:**

Good afternoon. My name is Ernest Hoffstaetter, Jr. I'm the Public Advocate for the Town of Brookhaven. I am in strong favor of this proposed law, if equitable and a hands•on meeting with the owner is held. However, I would like to bring to light, as I did at public hearings on 11, February, '97, 10, June, '97, and 10, December, '97.

What is the major cause of this situation? The tax penalty system is clearly abusive and reform needs to be initiated by this board. It's time to stop the finger•pointing and the spin. The cause of a citizen losing their home, and I'm speaking clearly on primary residents, may be related to many situations, things beyond their control; sickness, uninsured sickness, falling on hard times, lost job, death of a spouse, simply not understanding, old age, divorce. But, because it's the law, to tack on 36% interest and penalties is unconscionable.

To publicly embarrass someone in the newspaper, this causes the snowball effect, which is why we are here. And to hear and read that the County, only certain individuals I would mention in the County, look at this as revenue, some, I guess, would be happy if no one paid their taxes on time. To call these poor souls deadbeats and squatters, they should pray to their God, the almighty dollar, that they never are in the same situation. Fairness should prevail, again, speaking of a citizen's primary residence.

Many years ago the penalty system was fair. The County is entitled to a fair interest return on a late payment. What happened was a few took advantage of this situation, so government instituted mass punishment.

Suggestions: Penalties should be tied to 1% higher than the County gets in the bank, or where the money ends up from tax proceeds.

Secondary, set up a public fund, a loan, per se, so that citizens are not thrown to the wolves, and vultures, and predatory lenders that wait to further victimize the citizen. Remember, in three years, you win, no matter what.

Might I get an indication as to whether this Legislature will take action in initiating reforms? If you have any questions, I would be more than happy to answer them.

**LEG. BISHOP:**

I have a question.

**P.O. CARACAPPA:**

Thank you, Mr. Hoffstaetter. Legislator Bishop.

**LEG. BISHOP:**

Hi. Good afternoon.

**MR. HOFFSTAETTER:**

Yes, good afternoon.

**LEG. BISHOP:**

My take on this debate is that the current system is too slow and too unfair, and that a better system would be one that had a quicker disposition, which would cut against the people that you're advocating for, but, on the other hand, would give them their fair share, give them back their equity.

**MR. HOFFSTAETTER:**

Yes.

**LEG. BISHOP:**

Would you agree that that's a fair trade-off, that if we had a system that was more rapid, not unfairly rapid, but, you know, maybe a year, a year-and-a-half, two years?

**MR. HOFFSTAETTER:**

As long as I did, you know, get some indications that the County might do a hands•on, as I indicated, that they would go see the owner.

**LEG. BISHOP:**

Right.

**MR. HOFFSTAETTER:**

Sometimes they don't understand, sometimes there are these mitigating circumstances. Faster? Yes. But, also, if something were set up to help •• these are people in need, these aren't people with mattresses full of money.

**LEG. BISHOP:**

Right.

**MR. HOFFSTAETTER:**

It can happen to anybody here. God forbid, you know, it does, you would know what I'm speaking about, because I'm speaking from experience.

**LEG. BISHOP:**

So, I say make it faster and fairer ••

**MR. HOFFSTAETTER:**

Yes.

**LEG. BISHOP:**

•• but you would add make it informed as well. Faster, fairer and informed.

**MR. HOFFSTAETTER:**

And, also, that the penalty doesn't snowball. An example. Be one day late with your tax payment and you got two or three hundred dollars tacked on, because you didn't put a stamp on the envelope for one day. Thirty•six percent is very unfair, and it adds up and it becomes to the point where the person can't pay half, they can't pay a quarter, they have to pay the whole

thing, and it gets to a point where they can't get out of the situation that they're unfortunately in.

**LEG. BISHOP:**

Thank you.

**P.O. CARACAPPA:**

Thank you.

**MR. HOFFSTAETTER:**

Thank you very much.

**P.O. CARACAPPA:**

Charles Webber.

**MR. WEBER:**

My name is Charles Webber, and as far as 1838 is concerned, I'm very much in favor of it, to a point. I think the laws •• the law that exists now, the procedures that are followed, and the penalties incurred to the previous homeowners are excessive.

I happen to have lived through the situation that the gentleman before me has gone through, and as a result, I found myself in significant financial position. And right along, I've been very concerned about the unjust enrichment.

The attorney has talked about traditional foreclosures. My understanding is of a traditional foreclosure, that all of the equity, after all the bills are paid, are returned to the previous owner. That's not the case with the current law.

My problem, in terms of the procedures that are followed, was, as my attorney spent two years and over \$50,000 of my money trying to show the courts that this was that there was no due process in my particular case. Information that was felt I should have gotten, correspondence I should have gotten, were not received by me.

To reiterate, I just want to make sure that I'm not just talking about myself. There were about 19 properties that were auctioned off in June, and the total income from those •• that auction

was a little over 5 million dollars, based upon my own knowledge of what I owed, which, again, I attempted to pay, but it was refused prior to the auction two years ago. It was refused out of hand, because I had past some date guidelines. And just as an aside to that, my attorneys during the last two years have been attempting to fight this in court, and also to communicate with the court on a hardship basis. None of that was heard, it was just turned down flat.

I find myself at this point financially a little bit better for two reasons; one, that I sold my house shortly after my wife past away, and I couldn't move until that point, because she was nowhere •• didn't know where she was to begin with. So, I find myself financially a little bit better. My biggest problem was that I was hoping to be able to retire into this home, which is now gone. And I'm still working, and it looks like I'll be working for a number of years to come, in spite of the fact that I'm now 70.

But, to reiterate, the result of that auction, there were 19 properties sold for a little over 5 million dollars. Using my own knowledge of what I owed and what I've seen in the newspaper, I'm estimating an average of \$30,000 for the 19 properties. What that means is that, unjustly enriched, the County is now \$4,500,000 ahead on the 19 properties, and that's •• that, in my opinion, is significantly unjust enrichment.

Ms. Zielinski made a comment that there are •• that there are certain problems, I guess, with the law that •• or the resolution that has been presented, but I think she recognizes, too, that the process, the procedures need to be revised, too, so that somewhere along the line, hopefully, the 1839 is going to show procedurally what needs to be improved upon.

As far as unjust enrichment, with all due respect to 1838 on Section 11 •• I'm sorry, L, it says, "For the purposes of this subsection, proceeds shall be defined as either the amount of the sale at auction or the amount of an appraisal made as of the date which the County took title, whichever is less." That sure doesn't follow traditional foreclosure. And I have no way •• I attempted to ask the Director of the Real Estate Department last week if there was an appraisal established on the property at the time that the County took it over, and she said, "We don't have that, you'll have to go back to the town."

And ••

**P.O. CARACAPPA:**

Mr. Webber, your time has expired, but there is a question.

**MR. WEBER:**

Pardon?

**P.O. CARACAPPA:**

Your time has expired, but there is a question from Legislator Alden.

**LEG. ALDEN:**

I just had one quick question for you.

**MR. WEBER:**

Yes, sir.

**LEG. ALDEN:**

If a citizen, a homeowner, or whether it's a business property, or whatever type of property investment, or second home, if that person, the owner of that property can't pay their taxes, is it fair to ask the other people in Suffolk County to pay their tax for them?

**MR. WEBER:**

Sir, you used that argument last week.

**LEG. ALDEN:**

I didn't make an argument like that last week, I just asked you a question.

**MR. WEBER:**

No, you made that comment last week. As far as •• no, it's not fair for others to make that judgment. But, frankly, in terms of •• to make that payment ••

**LEG. ALDEN:**

Well, not judgement, just a payment.

**MR. WEBER:**

Pardon?

**LEG. ALDEN:**

It's a payment. It's not a judgment. If somebody can't pay their tax, is it fair to ask everybody in Suffolk County, the other citizens of Suffolk County, to pay that tax for that person?

**MR. WEBER:**

No.

**LEG. ALDEN:**

Thank you.

**MR. WEBER:**

But that's real life, that's real life. I mean, we have a lot of people on the dole throughout the country and somebody's got to pay for that, and I understand that. And my response to that is that •• my response to that is maybe somewhere in there, that in addition to the previous taxes and benefits and penalties, maybe there should be a percentage over and above that that comes out of the equity that the property owner had. And like this gentleman said, Mr. Alden, I'd hate like hell to see you in the position that he apparently is in and I just came through, and how do you handle that?

**LEG. ALDEN:**

Well, if you want to know the truth, Suffolk County took two parcels from a young man that was struggling to go through college, starting a business, and actually was having a few little problems, too, with his brother and sister, they needed some money, and Suffolk County didn't give that young man this much. They took the property away from him and they auctioned it off. So, there's other people that have been through that.

**MR. WEBER:**

I recognize that, and there's an awful lot of people that are upset with the way municipalities across the country have been stealing from the people that run into problems.

**P.O. CARACAPPA:**

Legislator Cooper.

**LEG. COOPER:**

I just had ••

**MR. WEBER:**

We've been in that property since 1950.

**P.O. CARACAPPA:**

Sir.

**MR. WEBER:**

And I believe there are a number of years year•round, so ••

**P.O. CARACAPPA:**

There's a question. Legislator Cooper.

**LEG. COOPER:**

Just one question, Mr. Weber. Could you tell us what was it that you owed in taxes and penalties at the time that the property was foreclosed?

**MR. WEBER:**

My understanding, it was about \$20,000.

**LEG. COOPER:**

And what was it that you spent with your attorneys in an attempt to prove lack of due process?

**MR. WEBER:**

Prior to that, I was paying the County rent on the property, and I paid about \$10,000 in rental to the property before I was locked out. What I paid for attorneys, which I've been able to pay for with proceeds from my house, which I was hoping that was going to be some kind of a retirement fund for me, I paid about \$50,000.

**LEG. COOPER:**

And why is it that you did not just consider paying the property taxes when they were due?

**MR. WEBER:**

Because I did not have the money.

**LEG. COOPER:**

Had you received any counseling from the County about ••

**MR. WEBER:**

No.

**LEG. COOPER:**

•• reverse mortgages and ••

**MR. WEBER:**

No.

**LEG. COOPER:**

Reverse mortgages.

**MR. WEBER:**

No.

**LEG. COOPER:**

Because that's something else that I've introduced, as you may be aware, a resolution that would call for the creation of a task force to explore all the existing statutes and court decisions, and review the detailed file history for the parcels that were sold at the 2004 auction, because I believe that this is a very complicated multifaceted problem, and •• but I think that one important component should be a counseling program, so before the property does foreclose on any parcel, they would sit down with •• send a social worker to sit down with the property owner and explore possible alternatives for financing, so we won't have to confiscate the property in the first place. Is that something that you would support?

**MR. WEBER:**

Definitely so, and that's why my attorneys had a two•prong approach. One was to try to fight the auction and let me pay, because I had borrow money in 2002. I had some money and I had to borrow more money to come up with the \$40,300, or whatever it was. And the day after

I was told that the thing was going for auction, I called the Real Estate Department. They told me to penny what I owed. The next day I was out with a payment and it was refused. So, as a result of that, I went to the auction. I was able to find an attorney who went to •• who went to a judge and got a stay, a stay on the auction at that time. And then I hired an attorney on the •• frankly, on the basis of me being able to come up with the funds to pay them when I sold my house. And, again, as I said, there were two•pronged approach. One was to •• was to fight this County to let me pay the bill and get on with life, and the second was to go on this hardship basis, which one of the attorneys in the firm was apparently pursuing. But I never heard a work from anybody as to •• from this County, "Let's talk about it."

**LEG. COOPER:**

Thank you.

**P.O. CARACAPPA:**

Legislator Mystal.

***(SUBSTITUTION OF STENOGRAPHER • ALISON MAHONEY)***

**LEG. MYSTAL:**

Thank you. There seems to be an effort by some Legislators to make Mr. Weber the foster child as to what •• for this bill.

**LEG. BISHOP:**

A what?

**LEG. MYSTAL:**

Poster child.

**LEG. BISHOP:**

Oh, a poster child.

**LEG. MYSTAL:**

Thank you. He is not a typical case, nor do I want to make him the typical case. The typical case for this County which I have seen many, many time in my district is some poor lady whose husband had died, forgot to pay her taxes, the County takes the property and then sells it

without her knowing anything about it, and she lives in the house for 20 years with her husband, now she winds up with no money.

There are a couple of things that I've heard so far that I would like to answer. One from the lady who was here before, in terms of appraisal; even if you take a house 18 years, you can always go back to the town and the town will give you the value of that house when you took it 18 years ago, they can do that so that's not a big problem.

Number two, and I think I'm going to say it again, the County is always made whole. We get all of our taxes back plus penalties plus administrative fees, we get everything we spent, we get it back, so we don't lose any money.

Number three, if there are any liens on the property, those are paid also. And then and only then if there is any money left, and I doubt it, in some cases there will be no money left, but if there is any money left we will return it to the homeowner who owned the house at the time that we took the property and at the time that it was appraised.

Now, to answer another question, the County takes a bath in terms of money when we take a house and give it to the town, which I do, which we've done all the time for good causes. We take the house, we pay the taxes, we make the school whole and we turn it over to a town and the town turns it over to a non-profit organization, we don't ask them to •• the County takes the loss. So we've been taking a loss on that all the time, so to me the little money that we might lose by not retaining all the equity in the house is not that much.

**P.O. CARACAPPA:**

Legislator Mystal ••

**LEG. MYSTAL:**

Yes.

**P.O. CARACAPPA:**

•• is there a question?

**LEG. MYSTAL:**

Yes, there is a question.

**P.O. CARACAPPA:**

Okay.

**LEG. MYSTAL:**

To Mr. Weber, my thing to Mr. Weber is that are you in support of this bill, even though your case is in a very unusual case? Do you think if that bill was in place when you lost your house, would it have helped you; would it have helped you in your house?

**MR. WEBER:**

If ••

**LEG. MYSTAL:**

If this bill was in place.

**MR. WEBER:**

1838?

**LEG. MYSTAL:**

Yes.

**MR. WEBER:**

Definitely.

**LEG. MYSTAL:**

Thank you.

**MR. WEBER:**

But the procedures, the process that took place prior really needs to be revamped.

**LEG. MYSTAL:**

We'll revamp that, too, but the escrow money should be there.

**MR. WEBER:**

And I'm not sure, Legislator, that ••

**LEG. BISHOP:**

Joe.

**MR. WEBER:**

Pardon?

**LEG. BISHOP:**

No, no, I don't want to talk.

**MR. WEBER:**

I'm not sure that my situation is atypical. I think there are a lot of people that were in the same position that I was ••

**LEG. MYSTAL:**

You're atypical because of the large amount of money that your house sold for, that's why.

**MR. WEBER:**

The amount of money is certainly meaningful, but the process, what people have lost is significant.

**P.O. CARACAPPA:**

Legislator Montano, you have a question?

**LEG. MONTANO:**

Yes. Mr. Weber, I just have a question because I just want to make sure we leave the right impression. My understanding of what happened to you is that your wife got ill, you fell behind in your taxes, then the County took the property, you weren't able to redeem the property in the time allotted, and then at some later time you were able to come up with the money, you tendered the money to the County and they wouldn't accept it and then you got an attorney; is that what happened? Because ••

**MR. WEBER:**

That's correct. Now, I did go through the redemption process, sir.

**LEG. MONTANO:**

And what happened, you weren't able to redeem because you didn't have the full amount of the money; is that accurate?

**MR. WEBER:**

I went through •• and I'm not sure of the terminology, I went through a redemption process some years ago that gave me three to five years, and that's debatable I guess, and I had to come up with some monies to keep the door open to work things out.

**LEG. MONTANO:**

Okay.

**MR. WEBER:**

At that time, then I was sent a rent check.

**LEG. MONTANO:**

Let me just ask you this.

**MR. WEBER:**

As a rent bill.

**MR. WEBER:**

The \$50,000 that you spent on attorneys was because the County wouldn't return •• in other words, the County wouldn't accept that for back taxes; is that what happened?

**MR. WEBER:**

That's correct.

**LEG. MONTANO:**

Okay, thank you.

**P.O. CARACAPPA:**

Any other questions? Thank you, sir. Next speaker, Sal Orlando.

**MR. SAL ORLANDO:**

Good afternoon. Thank you for giving me a chance to talk. My name is Sal Orlando. I have a situation that's •• however you want to call it. My house is being taken away; back taxes, back rent. Saturday I got served with an eviction notice. This all came about, my wife never notified myself or any of my family that we did owe back taxes; May 24th she committed suicide because of it, and that's where I stand.

I got the eviction notice Saturday, I got another one today in the regular mail. The attorney is working with me, they're working with the County Attorney, I understand it's in the hands of the County Attorney right now. I'm not denying that I owe the money, I want to pay the money, it's been refused twice and possibly a third time that we think that's what happened, but so far it's twice that the County has refused to take the money. That's about it. Something has to change, like with this equity, I do believe some of the money should go back to the people.

Another thing is how the people are notified. I was never home to get the mail, I was at work, the mail would come 10, 10:30, whatever, my wife would get it and they were all registered letters; evidently she signed for them, she kept it a secret from everybody until May 24th when we found phone numbers for the County Real Estate, whoever was involved in it. There were five or six numbers, I have them here in a folder that was on the counter. I tried calling during the day, the phone was busy, it was off the hook, my grandson found it when he came from school; 8:30 at night there was an accident, she walked in front of a train, that was it.

**P.O. CARACAPPA:**

Mr. Orlando?

**MR. SAL ORLANDO:**

Yes?

**P.O. CARACAPPA:**

Would you mind taking a question?

**MR. SAL ORLANDO:**

Pardon?

**P.O. CARACAPPA:**

Would you mind taking a question at this point in time?

**MR. SAL ORLANDO:**

Yes, go ahead.

**P.O. CARACAPPA:**

Legislator Caracciolo.

**LEG. CARACCIOLO:**

Thank you, Mr. Chairman. I think, Mr. Orlando, I speak for everyone here, we extend our sympathies to the circumstances you and your family have found yourself in. So where do you reside, where is the place of residence that is in question?

**MR. SAL ORLANDO:**

12 Holly Lane, Shirley.

**LEG. CARACCIOLO:**

Okay. Legislator O'Leary acknowledged that that's his Legislative District, which it is; have you been in touch with his office for assistance?

**MR. SAL ORLANDO:**

Yes, a letter was sent to him I guess a day, two days after my wife passed away and I got no return of anything other than I owe back taxes. They've been trying to work with me and nothing yet.

**LEG. CARACCIOLO:**

How many years were the taxes in arrears?

**MR. SAL ORLANDO:**

Pardon?

**LEG. CARACCIOLO:**

How many years were the taxes unpaid?

**MR. SAL ORLANDO:**

I believe the County took the house over in 2001.

**LEG. CARACCIOLO:**

So the County redeemed your property in 2001.

**MR. SAL ORLANDO:**

And I'm paying •• I've been •• I haven't been •• the last three months I have been paying rent because that's when they found out that I didn't own a house anymore after my wife passed away. Roughly two weeks after she passed away I got the bill, a \$550 bill for rent, that's when I realized I don't own a house, I'm paying rent on it; and prior to this, myself nor any of my family knew anything about it.

**LEG. CARACCIOLO:**

Did the home have a mortgage on it?

**MR. SAL ORLANDO:**

No; no, the house was free and clear.

**LEG. CARACCIOLO:**

So the taxes were to be paid, as taxes are to be paid by everyone, twice annually, once in May, once in December; and whom in your household was responsible for doing that?

**MR. SAL ORLANDO:**

My wife was taking care of all the bills, everything from the day we got married; 39 years last Saturday.

**LEG. CARACCIOLO:**

Okay.

**MR. SAL ORLANDO:**

She took care of everything as far as that goes; I just brought the money home, she got rid of it.

**LEG. CARACCIOLO:**

Thank you. I think a lot of us find ourselves in that situation, with either spouse. But in any event, I'm sure whatever assistance Mr. O'Leary's Office and County Attorney's Office can provide in your case will be considered, and if not, certainly come back to us and share that with us as we work •• hopefully work through some reforms in this area to try to make these local laws fair and more equitable for special circumstances and situations that folks like yourself might find yourself in.

**MR. SAL ORLANDO:**

I thank you. I think something has to be ••

**P.O. CARACAPPA:**

Legislator O'Leary has a question. Thank you, Legislator Caracciolo.

**LEG. O'LEARY:**

Not a question, basically a statement. Mr. Orlando, I'm certainly aware of your case and I know there are extenuating circumstances, at least perceived by yourself, that there are extenuating circumstances. My office has, in fact, been trying to do something about your situation and we are •• we have a file on it and we've been in contact with the County Attorney's Office as well as others, Real Estate, etcetera. So I don't want you to get the impression that we're not doing anything at all, we are trying to do something.

**MR. SAL ORLANDO:**

I just haven't had word from anybody other than the bills coming in. I mean ••

**LEG. O'LEARY:**

Yeah. Well, preliminarily your wife handled all the bills and ••

**MR. SAL ORLANDO:**

Yes.

**LEG. O'LEARY:**

And she had been paying rent for some time.

**MR. SAL ORLANDO:**

That I found out.

**LEG. O'LEARY:**

It wasn't just ••

**MR. SAL ORLANDO:**

That I found out.

**LEG. O'LEARY:**

It wasn't just in the last ••

**MR. SAL ORLANDO:**

No, no, no, no, I'm \$7,700 back on rent.

**LEG. O'LEARY:**

It was a tragic circumstance that occurred and you certainly have my sympathy and condolences, but understand that we're trying to do everything we can for your situation. There are no promises being made by my office, but certainly we're trying to do something for you.

**MR. SAL ORLANDO:**

All right. I thank you.

**LEG. O'LEARY:**

Under the extenuating circumstances.

**MR. SAL ORLANDO:**

I thank you for that.

**P.O. CARACAPPA:**

Anyone else? Mr. Orlando, we thank you.

**MR. SAL ORLANDO:**

Okay, thank you.

**P.O. CARACAPPA:**

Anthony Orlando.

***[RETURN OF STENOGRAPHER • LUCIA BRAATEN]***

**MR. ORLANDO:**

Hello, everyone. My name is Anthony Orlando. I'm Salvatore's son. Please, before I start, forgive any of my legal ignorance, if I do happen to spout it.

I'd just like to say that I'm in favor of Mr. Montano's bill that he's proposing here, because, well, personally, I see things as a layman, I see it in black and white. I don't understand how a bill •  
• not a bill, the way the law is written as it stands now how it is possible to be written like that. I mean, I learned a long time ago that •• like I said, I see things in black and white, but I learned a long time ago that there's a little thing in the Constitution that says, you know, there are •• unlawful seizure of property by the government is without fair and reasonable restitution, it is illegal. That's the way I look at it. Like I said ••

**P.O. CARACAPPA:**

Mr. Orlando, just hold on one second. I'd ask everyone to please turn off their cell phones, pagers, or anything else. Is that Haley's? I'm sorry, Mr. Orlando, I apologize for that.

**MR. ORLANDO:**

That's quite all right.

**P.O. CARACAPPA:**

Continue.

**MR. ORLANDO:**

It should be, I believe, that •• I mean, nobody in the County builds the equity in a home over 30 some•odd years. What gives the County the right to •• I would just use a figure off the top of my head, because if you owe \$20,000 and the County sells the property for 220,000, what gives them the right to keep \$200,000 of somebody else's work? I mean, you know, there's

words for things like that, you know, making profit at someone else's misfortune is •• Well, that's what it is, and I don't •• I don't understand how it can be such. I don't see it fair, I don't think most people see it fair. I mean, this can •• as has been stated before, this can happen to anyone. I mean, you could leave the parking lot on the way home tonight and get hit by a car and you're in the same exact boat, and it's unfortunate, it happens. Unfortunately, you know, we're going through it, as the gentleman before us. I don't think it's right. There's •• I mean, honestly, the way I see it, it almost equates to grand larceny, it really does. I don't understand it.

The people should have •• of course the County is owed money, I understand that, and they are entitled to their money. There is no arguing that point. But the people should •• I mean, everybody, everyone here, everyone on the outside, I mean, everybody says how come the homeless rate goes up? To most people, their homes are the only source of income they have. You take that away from them, where are you? You're living on a stoop somewhere if there's nobody to take you in, or to, you know •• I mean, let's face it, social security ain't going to take care of you. You know, social security don't even pay your medical insurance. I mean, something has to change with it, I mean, especially the way, as my father just stated, the way •• I mean, my son, he signs for registered letters that aren't even his.

You know, the County should at least take each •• I mean, let's put it this way. You buy a house, both parties have to be there, both signatures have to go on the paper. When you sell a home, both parties have to be there, both signatures have to go on the paper. You come and legally, quote, legally taking someone's property and no one is notified like this. I just think that things should change. And, well, I don't know, I'm sure there's a million things we can go into, but I guess I'm done. Thank you.

**P.O. CARACAPPA:**

Thank you very much. It was well stated. It's appreciated. I have no other cards. Anybody else wishing to be heard? Martin Haley. You have 30 seconds.

**MR. HALEY:**

You've done that to me before.

**P.O. CARACAPPA:**

Time's up.

**MR. HALEY:**

Time's up. Thank you. I just want to pass just a couple of comments. I was asked to come down. Mr. Cochrane is at a wake this afternoon, otherwise he'd be down himself.

We want to state that Mr. Legislator Montano's legislation is well taken, as it brings up a few points. But, as you know, we're in support of the Task Force legislation, because we believe not only is it going to address Legislator Montano's concerns, but it's going to force us to look at our whole process, which, by the way, it may not be memorialized in the form of procedures, but it's pretty much intact.

You know, in my heart of hearts, I have to tell you that we don't, and I know Real Estate Department •• Division is in the same way, we really don't want to take someone's house. Unfortunately for us, it's a remedy that's provided by the Suffolk County Tax Act, which emanated •• it started in the 1920's, which, by the way, the Suffolk County Tax Act also dictates what the interest rate was •• is. It's supposed to be figured every year, but in no case less than one percent per month, which is 12% per annum, three years, 36, plus the penalty, which is another 5%. That's where we get those numbers from. But that's a remedy that's for the Suffolk County taxpayer. It's not a matter of the County stealing money, it's a matter of the County providing a process by which we can recoup the monies that we've laid out for those taxpayers who haven't paid.

We make a very concerted effort to make sure that we bend over backwards to try to help people keep away from the tax man, if you will. We're not interested in taking properties. It doesn't work for us, it's not very popular, but that's a remedy that's provided by State statute.

So, the Treasurer and his office and his Department of Finance and Taxation is ready, willing and able to spend as much time not only educating everyone as to what the process is leading up to a point where we take property, but is also willing to share with you some of the efforts that we've made to date on working with people, whether it's via counseling unofficially and not. And we want to •• we're in the process of looking at what we do, and we're ready to bring that to a Task Force and share that with everybody. And Mr. Cochrane is certainly ready, willing and able to effect changes that we think is going to be for the benefit of the Suffolk County taxpayer, but also for those people who are in tax arrears. So, at the end, we don't

want to take property.

**P.O. CARACAPPA:**

Thank you, Marty. Legislator Montano.

**LEG. MONTANO:**

Very quickly. Good afternoon. Has the Treasurer's Office received any money from any of the sales with respect to the auction that was just held?

**MR. HALEY:**

That's account of ••

**MR. MONTANO:**

Because I heard the Real Estate Director say that some of the properties have gone to contract and/or closing. So, my question to you is whether or not the Treasurer's Office has received any monies from the proceeds of the last auction into the treasury.

**MR. HALEY:**

We probably •• no doubt, all monies are received by the Treasurer and we hold an account for others. But those revenues that come in after we foreclose, any revenues from an auction are applied as revenues on the County Exec's side and goes in and is accounted for the same. I can't tell you off of the top of my head if I've received any monies.

**LEG. MONTANO:**

All right. Does ••

**MR. HALEY:**

The accounting of ••

**MR. MONTANO:**

My question is, does it go into the General Fund?

**MR. HALEY:**

I believe it does.

**MR. MONTANO:**

Okay. And right now, some of the properties are closing or have closed; is that accurate?

**LEG. HALEY:**

I believe so. You're asking questions again ••

**MR. MONTANO:**

Narrow, I ••

**MR. HALEY:**

•• once we take it is a Real Estate Division question. So, specifics on those properties, you'd have to ask Real Estate.

**MR. MONTANO:**

Thank you.

**P.O. CARACAPPA:**

Legislator Lindsay, and then Caracciolo.

**MR. HALEY:**

I have that golf ball with me that I found.

**LEG. LINDSAY:**

Keep it, you'll need it. We've heard testimony today about different time sequences, and if you don't mind, I would like to just review them. It's three years before we initiate foreclosure to take the property; is that right?

**MR. HALEY:**

Yeah. An example would be, as an example, right now, we're working on taxes that have been unpaid for the Year 2000. As of December 2003, and the date sometimes changes, December 10th, December 14th, they become eligible to be taken. Then we start that process of taking. We haven't even finished that process. What we do, once it becomes eligible, our Records Division section goes through a long, drawn out process of contacting people, then it goes to

another section, it goes through a long, drawn out process of contacting people, and then it goes •• then we also check for Mennonite, we check mortgagees, we make phone calls, we knock on doors, especially if they're residences, we knock on doors. We do everything we can to possibly collect. And then it comes through all three administrators, it comes through the Deputy, the Chief Deputy and the Treasurer for review before we take them. So, we haven't, even though they've been eligible since •• since December of 2003, we're still in the process of trying to pick up these properties. And once we •• once we do, most of them are really, you know, the 20 by 100's that are landlocked that nobody cares about, little consequence. But that process takes us three•plus years. We try to make sure we clear up all of those issues by December, so between three, three•and•a•half years, maximum four, it takes us to foreclose on a property.

**LEG. LINDSAY:**

And the unpaid •• well, first of all, you will only accept the full amount of the tax bill; is that right?

**MR. HALEY:**

Well, no. What I would do, because, I mean, I can give you stories, and I've only been there a little over a year, about how many times I've talked to people on how to forego a foreclosure process. Up to the time we foreclose, we can take only that oldest year, the Year 2000. So, if somebody owes 40,000 and it's approximately, you know, 12,000, 11,000, we try to tell them get that in, because that stops the process.

**LEG. LINDSAY:**

So, it has to be in one•year increments.

**MR. HALEY:**

Yeah, so ••

**LEG. LINDSAY:**

Plus interest.

**MR. HALEY:**

The interest •• the interest stops after three years, it ends at three years. So, we could have

people •• but they would have •• if they didn't pay, let's say ••

**LEG. LINDSAY:**

But you lose the property after three years, too.

**MR. HALEY:**

Only if you're three years in arrears. For instance, if you were in that situation, you came down and gave me tax, your monies for Year 2000, we stop the process. However, come December, we'd start the process again for 2001. And what I do, the conversation I had with people is, "Listen, let's" •• "get me the money in and let's start a payment process, so that by next December, you will have gotten that year, and you just keep ahead of us enough so that we're not taking it," because, truly, we don't want to take it.

**LEG. LINDSAY:**

Okay. And what's the next three•year time frame after we foreclose.

**MR. HALEY:**

That's the process •• once we take the foreclosure, that's when the control of the property goes over to the Division of Real Estate and the Department of Planning. They spend a period of time, and I'll let them explain, they spend a period of time before they take it. First thing they do is communicate or attempt to communicate if there's someone in the house. They'll knock on the door, "By the way, you owe us rent, because we now own the property." A lot of •• sometimes, and perhaps they may have statistics, sometimes what will happen, people go, "Oh, my God, what do I have to do?" They don't have the option at that point to only pay that one year, they have to pay all of the arrears, and they have six months to do that.

**LEG. LINDSAY:**

Okay. But the property still could be reclaimed in that next ••

**MR. HALEY:**

Yes, within six months. And then, thereafter, it's a 215 redemption possibility.

**LEG. LINDSAY:**

Okay. So, there is •• the process does take a full six years.

**MR. HALEY:**

It can, yes, absolutely.

**LEG. LINDSAY:**

And after six years, it's over, we don't •• we can't accept any payments for anything.

**MR. HALEY:**

Right, because, statutorily, we have the normal process, the foreclosure, the six months, the 215 redemption. Once all of those are exhausted, there's no other statutes to provide remedy.

**LEG. LINDSAY:**

Thank you.

**P.O. CARACAPPA:**

Legislator Caracciolo.

**LEG. CARACCIOLO:**

Mr. Haley, within the Treasurer's Office, historically, have they monitored or kept any kind of records about individuals, particularly on the corporate or commercial side, that have used, and some might say abused the system by extending these payments on that cycle you just described?

**MR. HALEY:**

You might not find anecdotal information that says, "I think that this corporate company is abusing," but we have, certainly, information, and a lot of people play •• I mean we have properties now, they have an idea that it's environmental, and so they know that we're not going to take it because it's environmental because of the liability, so they'll decide not to pay taxes. We have situations like that.

**LEG. CARACCIOLO:**

Well, one case that comes to mind is the Tuccio matter. I mean, we all remember that. I'm sure the people in Real Estate are familiar with that. So, I mean, it does happen, it does happen, and when it happens, it happens over extended periods of time, which, once again,

those delinquent taxes are then passed on to other County residents in their next year's tax bill to make up for lost revenues we don't receive. I can remember back in the early '90's, and Budget Review here, Jim?

**MS. BURKHARDT:**

Jim's over here.

**P.O. CARACAPPA:**

Question, please.

**LEG. CARACCIOLO:**

What our tax delinquency was as a portion of our total revenues, I remember one time one year, it was about 21 million dollars. I don't know what it is presently. Do you have a figure?

**MR. SPERO:**

We get daily cash flows from the Treasurer's Office that has the delinquency figures on it, I believe. Let me check.

**LEG. CARACCIOLO:**

So, if we have 21 million dollars in tax arrears as we did a decade or so ago, that cost is then borne by other taxpayers when the tax levy is set and the tax warrant is voted on because of tax delinquency. So, when this Task Force gets together, they have to, you know, factor in the fairness and equity of perhaps some who abuse the system for their own advantage. Mr. Spero?

**MR. SPERO:**

Currently, the daily cash flow from September 20th shows a total of 105.8 million dollars in tax arrears owed Suffolk County.

**LEG. CARACCIOLO:**

Not insignificant, so that number has actually quadrupled in ten years. Okay. I mean, that's what needs to be understood when we're addressing this issue in the broadest possible context, both at the personal level, the individual level, as the two hardship cases we heard earlier. And speaking of those two cases, one is past tense, I assume, the Webber Family situation is past tense. The Orlando, is that •• Orlando Family case, Marty, is that something the Treasurer's

Office has on their radar screen? Are you trying to work with them in any manner, shape or form?

**MR. HALEY:**

What happens is that all the remedies don't necessarily fall •• go all the way back to the original foreclosure, so they're going to have to attempt to find another remedy, which is very difficult. From a legal perspective, I think I mentioned all the remedies that I'm aware of, and unless they could find some sort of an exception to that case, I'm not sure where they can go with that, short of getting •• understand, a lot of this is driven by State legislation, so short of getting a special •• you know, getting a local Assemblyperson to pass legislation, special legislation, or something like that.

**LEG. CARACCIOLO:**

Okay. Final question. On the issue of the Suffolk County Tax Act and the provisions therein, 12% a year, 1% a month that accrues, is that a compounded rate, that 1% a month?

**MR. HALEY:**

No, it's not. Actually, it's not. What happens is that, for instance, and it's well taken, the •• if you're one day late, on May 31st, you're a day late, it's 10%, okay, because what it does •• it's a little bit of accrual, but it's not always accrual. For instance, if you •• you've got a 5% penalty, and then you get 1% on the •• 1% per month, all right, and we just add 5%. So, it's not really accruals, it's not really compounding on a 1% per month basis, but that 1% is applied against that initial, that original 5% penalty. So, there is some compounding, but it's not compounding in the typical term.

**LEG. CARACCIOLO:**

And just a final, final point. On the issue of tax arrears, we all understand that this is not taxes that go to Suffolk County that we keep, these are taxes we collect for other taxing jurisdictions.

**MR. HALEY:**

As required by the Suffolk County Tax Act.

**LEG. CARACCIOLO:**

Correct. Approximately 65% goes to the school district in which the residence or building property is located in, and then a it's apportioned to library districts, fire districts. If they're in the County Police District, yes, it would be two County funds there. But, you know, let's not confuse the facts with the reality, and the reality is the money that we're talking about here are monies that we collect for other taxing jurisdictions. So, the residents of those school districts, etcetera, are really penalized when ••

**LEG. ALDEN:**

We pay them, though.

**LEG. CARACCIOLO:**

Well, okay, we make them whole, I understand that, and that's why we have the figure that we have today of over 100 million dollars in tax arrears. Thank you.

**P.O. CARACAPPA:**

Legislator Montano.

**MR. MONTANO:**

Yes. But, if I understand your point, Legislator Caracciolo making a distinction between the taxes, the penalties, and the interest, which we're going to collect under any process and under this bill, we're going to collect that, we're not losing that. Whether it's 100 million, 50 million, we get that back. This bill only addresses the difference between that amount and the amount of the value of the property when we took it ••

**LEG. CARACCIOLO:**

I understand that.

**LEG. MONTANO:**

•• and the remainder. So, the impression that somehow, some jurisdiction is losing money is really just something we want to dispel.

**P.O. CARACAPPA:**

Legislator Viloría•Fisher.

**LEG. VILORIA • FISHER:**

Hi, Marty. We worked a lot together when I had a similar case in my district with a widow who found after her husband had died that he had not been paying the mortgage for a number of years, and I have to say that the Treasurer's Office worked very well with us and we were able to save the woman's home. But when I first became a Legislator, we were •• we engaged in a practice where we brought resolutions here forgiving taxes, or I forget how we termed it.

**MR. HALEY:**

It was waiver of interest and penalties.

**LEG. VILORIA • FISHER:**

Yes.

**MR. HALEY:**

And we were sued.

**LEG. VILORIA • FISHER:**

And we were sued.

**MR. HALEY:**

Brunswick Hospital.

**LEG. VILORIA • FISHER:**

But I believe that the cases, such as the case I just mentioned and Mr. Orlando, who was here and had these extraordinary circumstances before them, I think seem to justify the reasons why we had passed these resolutions in the past. And it would seem to me a shame that because of this lawsuit, that we can no longer make that humane and human judgement call. Do you know what is going on with that case?

**MR. HALEY:**

Yeah, it's real simple, we lost the case. I don't know if there was ••

**LEG. VILORIA • FISHER:**

Oh, we did lose it, it's over?

**MR. HALEY:**

Yeah, we lost the case. I think we lost it on appeal, did we not, Counsel?

**LEG. VILORIA • FISHER:**

I can't •• I didn't remember.

**MS. KNAPP:**

My understanding is that there's still an open issue before a final decision is made as to whether we're going to the Court of Appeals. The final issue •• right. But my further understanding is, though, that the decision on both the Supreme level and the Appellate Division level was •• you know, didn't leave a lot of room for appeal.

**LEG. VILORIA • FISHER:**

And it is very sad, because you can see in the testimony we heard today, and certainly in the case that you helped us with. And I have to say that the Treasurer's Office really gives the individual every opportunity to •• for help and recourse. And it's a shame we can't help people on an individual basis here in the Legislature.

**MR. HALEY:**

We're enacting •• what we've done is we've enacted some additional efforts. Most recently is, believe it or not, is GIS mapping, and I looked at a property, it was two•and•a•half acres in Medford that was to be taken for \$500. With GIS mapping, we went and looked, looked across the street, saw there was a big, large vacant property, and anybody knows that two•and•a•half acres in Medford has got to be worth a lot of property, saw a property owner, an improved property, and with the name, it's automatically attached to the centroid, which is my plug for GIS, by the way, found Mr. and Mrs. Schwartz. I called Mrs. Schwartz, I said, "Do you know anything about that property?" She says, "There's a real estate sign on it." She went outside, got the real estate number, I called the real estate, she called me back, said, "This woman is living out of her car," gave me her attorneys. She had three attorneys, okay, a divorce attorney, a regular attorney for regular real estate, and Dick \\_Shier\\_ , who's a guy who does lawsuits. And once we informed them that, "Listen, you're at risk," and so on and so forth, we received a check right way.

So, we got tons of stories like that. We really make an effort. I think the thing that bothers me

most is that we try to create statutes or remedies to cover every possible instance, and that's not always possible. And I think what you're talking about is maybe there's a method by which the State can come up with a situation, just like they created a situation when you have Board of Zoning Appeals, Board of Reviews at the State Health, all of those exist. Why can't they have some in a situation like that? But that's all part of what's going to come out of the Task Force, and some recommendations, maybe sense resolutions, maybe policy changes, maybe just memorializing procedures in writing for some of the things we already do.

**P.O. CARACAPPA:**

Okay. Thank you, Martin.

**LEG. FOLEY:**

Thank you, Marty.

**P.O. CARACAPPA:**

We appreciate it. Nice to see you again on that side.

**MR. HALEY:**

I have to go, it's almost time to go home.

**P.O. CARACAPPA:**

The last word. Okay. I have no other cards. Anyone else wishing to be heard?

**LEG. TONNA:**

I hope he's filling out a time card and he's checking out an hour early.

**P.O. CARACAPPA:**

Motion to close by Legislator Montano.

**LEG. MONTANO:**

Yes.

**P.O. CARACAPPA:**

Second by myself. All in favor? Opposed? Abstentions? 1838 is closed.

**1864, public hearing, Charter Law to mitigate County liability by expanding prior written notice of defective condition requirements.** I have no cards. Anyone wishing to be heard?

**MS. CAPUTI:**

I'm sorry, I thought I put a card in.

**P.O. CARACAPPA:**

Go ahead.

**MS. CAPUTI:**

Presiding Officer, good afternoon. The County Attorney just wants to urge you to enact this legislation as a means to prevent injury to the public and the residents of Suffolk County, and also as a way to reduce County liability. And we really would be nothing that isn't already done in State statute and in many of the towns and villages throughout Suffolk County. Thank you.

**P.O. CARACAPPA:**

Thank you.

**LEG. MONTANO:**

Question.

**P.O. CARACAPPA:**

Legislator Montano.

**MR. MONTANO:**

To prevent injury to the public?

**MS. CAPUTI:**

Yeah. If we get notice of conditions, then we will make ••

**MR. MONTANO:**

Okay.

**MS. CAPUTI:**

We will correct the condition.

**MR. MONTANO:**

Thank you.

**P.O. CARACAPPA:**

Anyone else wishing to be heard? Motion to close by myself, second by Legislator Foley. All in favor? Opposed? Abstentions? That does it for the public hearings.

I'll make a motion, second by Legislator Carpenter, to set the date and times for public •• following public hearings: Monday, October 4th, 10:30 a.m., at the Rose Caracappa Auditorium in Hauppauge; public hearing on 2005 Operating Budget, Southwest Sewer District Assessment Roll. And, also, that same motion, same second for setting public hearings on October 22nd, 2004, 9:30, the Ways and Means and Consumer Protection, at the Rose Caracappa Auditorium in Hauppauge, for the following public hearings: 1934, 1981. And then, also, on that same motion and same second, setting the following public hearings on the date of November 16th, 2004, 2:30 p.m., at the General Meeting at the Rose Caracappa Auditorium in Hauppauge, the following public hearings: IR Numbers 1891, 1928, 1972, 1973, 74, and 75. All in favor? Opposed? Abstentions? Those public hearings are set.

**MR. BARTON:**

17.

**P.O. CARACAPPA:**

I'll now make a motion to go into executive session.

**LEG. FOLEY:**

For the purposes?

**P.O. CARACAPPA:**

For the purposes of discussion •• discussing the litigation against the State as it relates to the Yaphank Correctional Facility and the •• and the •• what are they called? The sprung, the sprung units. I recognize the presence of County Attorney and their representatives, County

Executive's Office, Legislature's Legal Counsel, Budget Review, and that's it. Everyone else, please, leave the auditorium.

***[EXECUTIVE SESSION WAS HELD FROM 4:04 P.M. TO 4:59 P.M.]***

**TABLED RESOLUTIONS**

-

**P.O. CARACAPPA:**

Going back to the agenda. Tabled resolutions. 1749. You guys know that bill, right? **1749** (***Directing the Department of Law to withdraw Article 78 Proceeding***). **1749**, I have a motion to approve?

**MR. BARTON:**

Yes.

**LEG. BINDER:**

Second.

**P.O. CARACAPPA:**

Second by Legislator Binder.

**LEG. FOLEY:**

Which bill is this?

**P.O. CARACAPPA:**

It's the bill.

**LEG. LOSQUADRO:**

The bill.

**LEG. BINDER:**

Mr. Chairman.

**LEG. FOLEY:**

What's the motion, Mr. Chairman? Is there a motion on 1749?

**P.O. CARACAPPA:**

I made a motion to approve. I'm waiting for the motion from you guys.

**LEG. VILORIA • FISHER:**

Motion to table.

**LEG. FOLEY:**

Second the motion to table.

**LEG. BINDER:**

On the motion.

**P.O. CARACAPPA:**

Motion to table by •• is there a motion to table?

**LEG. VILORIA • FISHER:**

I'll withdraw the motion.

**LEG. FOLEY:**

Withdraw the ••

**P.O. CARACAPPA:**

Withdraw the motion.

**LEG. FOLEY:**

Withdraw the motion.

**LEG. BINDER:**

Mr. Chairman, on the motion.

**P.O. CARACAPPA:**

There's a motion to approve and a second.

**LEG. BINDER:**

On the motion.

**P.O. CARACAPPA:**

Roll call.

**LEG. BINDER:**

On the motion, Mr. Chairman.

**P.O. CARACAPPA:**

On the motion. On the motion.

**LEG. BINDER:**

I think this is a very clear vote for or against the taxpayers, that this Article 78 is going to drag on no matter who wins the first motions. No matter who wins in Albany, in the Supreme Court, there's going to be an appeal by our side or their side. This is going to go on to probably January or February, and we're going to be transporting prisoners that we moved as quick as we could to move on modular units to get them in, to stop the transportation, which we heard was 600,000. We're going to hear about pretrial transportation of prisoners, as you heard today, and this is going to cost a lot of money. Bottom line is this is going to cost. Now, we can scream at New York State, we could say they were arbitrary and capricious, we're angry, it's not fair, they're bullies, all the words. We could do everything, all of it, and may all be true. In the end, they have the ability not to allow us to do the modulars until the case is adjudicated, and that really could be until sometime next year.

Now, the vote today is going to be a vote on whether we want to spend 600,000 a month to transport the prisoners. Do we want to reach into the taxpayers' pockets and let them pay for the transportation or not, because the •• as long as this goes forward, we will be paying for the transportation, and there will be a tally. When this is all over and maybe we will build the modulars sometime next year, there'll be a number, a very specific number of, "X" number of millions of dollars. I don't know how many millions, but millions of dollars that this decision today will have cost Suffolk County taxpayers. And everyone here is going to have to live with that number, because that number will be available. We can figure out what that cost is. And that's what you're voting today on. If you vote yes, you're voting with the taxpayers to get this done, get New York •• the New York State Commission to allow us to do the modulars. If you

vote no, then you have to take the cost on the chin, or I should say the taxpayers will take the cost on the chin.

**P.O. CARACAPPA:**

Thank you.

**LEG. FOLEY:**

Mr. Chairman.

**LEG. LINDSAY:**

Mr. Chairman.

**LEG. BISHOP:**

On the motion.

**LEG. FOLEY:**

Mr. Chairman.

**P.O. CARACAPPA:**

Legislator Lindsay, Foley, then Bishop.

**P.O. CARACAPPA:**

You're just going to kill it. You had to make a speech?

**LEG. LINDSAY:**

I believe that this Article 78 is ill•advised. I think, if anything, it will just add to the burden of the taxpayer. However, I can't vote for it for the simple reason I think, instead of the County suing the State, we'll wind up with the Legislature suing the County Executive, and I can't see any sense to that as well, so I will not vote for this.

**P.O. CARACAPPA:**

Legislator Foley.

**LEG. FOLEY:**

Yeah. Thank you, Mr. Chairman. The fact of the matter, as I see it, is that the State Commission of Correction is holding hostage the modular units, because the County is exercising its right to sue the State of New York. This is a right that every municipality has, as prescribed in the State Constitution, and one branch of •• one branch of County government is exercising that right. In return for exercising that right, the State of New York is holding hostage these modular units. So, instead of there being bickering among •• between one County branch of government and another branch of government, I think we should be unified in our outrage at the State of New York for playing games with this county.

The fact of the matter is, for months on end, we've been hearing from the Correction Officers, from the Sheriff's Department, how important these modular units are for the Yaphank facility. The County wants to go forward with those modular units. Now we have the State of New York throwing a fit because we exercised, or the Executive Branch exercised its right to sue the State. Now they want to withhold any approval for moving forward or giving the County the approval to move forward with the modular units. This is not the approach the State should play at all. We should not be so much, let's say, disagreeing with the other branch of government, we should be unified in an approach to say to the State of New York to approve these modular units, not to, in essence, hold them hostage because the Executive is exercising his right to bring a lawsuit against the State. So, I'm going to vote against this particular resolution.

**LEG. ALDEN:**

I was wondering.

**P.O. CARACAPPA:**

Yeah, I was •• that's surprising.

**D.P.O. CARPENTER:**

I agree with Legislator Foley ••

**P.O. CARACAPPA:**

Right now, Legislator Bishop has the floor.

**D.P.O. CARPENTER:**

Oh, I'm sorry.

**LEG. BISHOP:**

I'll yield, if you want to speak directly to ••

**D.P.O. CARPENTER:**

Thank you. No, I just wanted to agree with one of the points he made, that we should be unified in what we do, although it's hard to be unified when one branch of government goes off and does their own thing.

**P.O. CARACAPPA:**

Legislator Bishop.

**LEG. BISHOP:**

Right.

**P.O. CARACAPPA:**

Then Tonna.

**LEG. BISHOP:**

Well, even proponents of this bill throughout this debate are conceding that the State is a bully. And, you know, why is the State reacting the way they are reacting? One ••

**P.O. CARACAPPA:**

They're getting sued.

**LEG. BISHOP:**

Yeah. One, either they're •• either they're •• either they're so temperamental and sensitive that they are driven by the mere filing of a lawsuit into irrational behavior, or, alternatively, they understand full well that the County is correct with this lawsuit and they're trying to extort us out of it. Either way, they're dead wrong and we're right, and the taxpayers stand to benefit by us pursuing this. So, we ought to pursue this and we ought to kill this bill and let this lawsuit, which is wise, to move forward.

**P.O. CARACAPPA:**

Legislator Tonna.

**LEG. TONNA:**

A lot of different things were asked and said in executive session. It seems to me two things. One is, you know, I can't, even though I'm not going to support this bill, for those who are supporting this bill, I agree with the hard feelings that some Legislators have about the communication process from The County Executive's Office to the Legislative Office. And, in a certain sense, these are the type of things we get •• we get involved when •• poor communication, we get involved in these •• these obscene wars that are very inefficient for the taxpayer. And I think, you know, there needs to be better communication from the Executive Branch to the Legislative Branch when we could •• when we see that, you know, individual Legislators say, "How come this," there's distrust, and that should be addressed, definitely.

On the other hand, separation of powers, the Executive Branch has every right to sue who they want, comes from their fund, or whatever else, just like the Legislature for years has done the same. And I think we have to respect separation of powers.

And I agree with Legislator Lindsay, I think that if we go down this road with this particular bill, even though I think that the •• part of the genesis of this bill is that some Legislators, and I would be one of them, would agree that there's dysfunctional communication between the Executive and the Legislative Branch. It just seems to me that this would lead to more lawsuits, and, unfortunately, less •• less concentration on the merits of the issue in the jails.

**P.O. CARACAPPA:**

Anyone else? There's a motion and a second. Roll call.

**(Roll Called by Mr. Barton, Clerk)**

**P.O. CARACAPPA:**

Yep.

**LEG. BINDER:**

Pass. On tabling? No.

**MR. BARTON:**

To approve.

**LEG. BINDER:**

To approve? Sorry, yes.

**LEG. CARACCIOLO:**

No.

**LEG. SCHNEIDERMAN:**

Abstain.

**LEG. O'LEARY:**

Yes.

**LEG. VILORIA • FISHER:**

No.

**LEG. LOSQUADRO:**

Yes.

**LEG. FOLEY:**

No.

**LEG. LINDSAY:**

No.

**LEG. MONTANO:**

No.

**LEG. ALDEN:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. BISHOP:**

No.

**LEG. MYSTAL:**

No.

**LEG. TONNA:**

No.

**LEG. COOPER:**

No.

**D.P.O. CARPENTER:**

Yes.

**MR. BARTON:**

Seven.

**P.O. CARACAPPA:**

That fails. Moving on.

**LEG. MONTANO:**

Mr. Presiding Officer.

**P.O. CARACAPPA:**

Legislator Montano.

**LEG. MONTANO:**

Yeah. I don't know if it's appropriate at this time, but in view of the public hearing that was held with respect to Resolution 1838, and the fact that the •• I realize from the Real Estate Director that the County is in the process of closing on the auction properties that were •• the properties that were auctioned off. I'm going to ask, and, you know, I don't know if now's the right time or later, but we have a discharge petition on that bill, but I understand that we need

to ask a waiver. I need to ask a waiver of Rule 9(C), so that we can get an up or down vote on that.

And the reason I want to request that is that, if, in fact, the County's moving forward on the auction and collecting proceeds from this •• from these properties, then the bill in itself may be academic, because, by the time we finish the Task Force study and get to the issue, the money collected would have gone into the General Fund, and I believe that that may constitute a gift at some point. So, I'm going to, you know •• I'd like to do it now.

**P.O. CARACAPPA:**

Just so you know, you have to discharge •• you have to distribute the bill if you're going to make a motion to discharge.

**LEG. MONTANO:**

Okay. Then I would do that ••

**P.O. CARACAPPA:**

Okay.

**MR. MONTANO:**

•• at a later point.

**P.O. CARACAPPA:**

Okay, very good.

**MR. MONTANO:**

Thank you.

**P.O. CARACAPPA:**

And then it has to age for an hour.

**D.P.O. CARPENTER:**

Hopefully, we'll be out of here before then. Let's go.

**P.O. CARACAPPA:**

Unless we waive that rule. So, the reason I say that is just ••

**MR. MONTANO:**

Right.

**P.O. CARACAPPA:**

•• if you're going to have it, let's do it sooner than later.

**LEG. MONTANO:**

That's what I'm saying, before we get too late ••

**P.O. CARACAPPA:**

Yeah.

**MR. MONTANO:**

•• then I will distribute it and ask that ••

**P.O. CARACAPPA:**

Excellent.

**MR. MONTANO:**

•• once it's distributed, we take an up or down vote on discharging, then the bill itself.

**P.O. CARACAPPA:**

Thank you very much.

**ENVIRONMENT, PLANNING AND AGRICULTURE**

***1807 (Implementing Greenways Programs in connection with acquisition of active parklands at Our Lady of Grace Roman Catholic Church, Town of Babylon).*** Motion by Legislator Bishop. Is there a second? Second ••

**LEG. BISHOP:**

What is this?

**P.O. CARACAPPA:**

It's Grace Catholic Church.

**LEG. BISHOP:**

Table it.

**P.O. CARACAPPA:**

Table by Legislator Bishop, second by myself. All in favor?

**LEG. BISHOP:**

It's coming on CN later.

**LEG. LINDSAY:**

It's here.

**LEG. ALDEN:**

It's here.

**P.O. CARACAPPA:**

We'll do the CN's all in a package. ***1810 (Making a SEQRA determination in connection with the proposed planning and design improvements to Sewer District #21 • SUNY, CP #8127, Town of Brookhaven)***. Motion by myself, second by Legislator Foley. All in favor? Opposed? Abstentions?

**MR. BARTON:**

17.

**P.O. CARACAPPA:**

***1832 (Authorizing planning steps for acquisition under Suffolk County Multifaceted Land Preservation Program (Captain Bartlett Ross property))***. Motion by Legislator O'Leary second by ••

**LEG. FOLEY:**

Second.

**P.O. CARACAPPA:**

•• Legislator Foley. All in favor? Opposed? Abstentions?

**MR. BARTON:**

17.

**P.O. CARACAPPA:**

***1833 (Authorizing planning steps for the acquisition of land under the New Suffolk County Drinking Water Protection Program (Gerrato property • Town of Brookhaven).***

**LEG. O'LEARY:**

Motion.

**P.O. CARACAPPA:**

Same motion, same second, same vote.

**MR. BARTON:**

17.

**P.O. CARACAPPA:**

***1835 (Authorizing planning steps for acquisition under Suffolk County Multifaceted Land Preservation Program (Vassalaro property) Town of Brookhaven).*** Motion by Legislator Losquadro, second by myself. All in favor? Opposed? Abstentions?

**LEG. MYSTAL:**

On the motion.

**P.O. CARACAPPA:**

On that motion, Legislator Mystal.

**LEG. MYSTAL:**

I have a note in my thing. Is there a lawsuit involved in this? Somebody, please, explain.

**P.O. CARACAPPA:**

1835?

**LEG. MYSTAL:**

Yes.

**P.O. CARACAPPA:**

The Vassaloro property? Legislator Losquadro, do you know of any ••

**LEG. MYSTAL:**

Is there some kind of lawsuit involved somewhere?

**LEG. LOSQUADRO:**

Not that I'm aware of, no.

**LEG. MYSTAL:**

Okay. Never mind.

**P.O. CARACAPPA:**

Call the vote.

**MR. BARTON:**

17.

**P.O. CARACAPPA:**

Thank you. ***1836 (Authorizing planning steps for acquisition under Suffolk County Multifaceted Land Preservation Program, Town of Brookhaven (New York Avenue Properties).*** Motion by Legislator Losquadro, second by myself. All in favor? Opposed? Abstentions?

**MR. BARTON:**

17.

**P.O. CARACAPPA:**

***1841 (Reappropriating funds from an active New York State Department of Environmental Conservation (NYSDEC) Grant to the Suffolk County Department of Health Services for the purpose of conducting and competing a Long Island Sound Study).*** Motion by myself, second by Legislator Vilorio•Fisher. All in favor? Opposed? Abstentions?

**MR. BARTON:**

17.

**HEALTH AND HUMAN SERVICES**

**P.O. CARACAPPA:**

Health and Human Services.

**LEG. FOLEY:**

Motion.

**P.O. CARACAPPA:**

***(1637 • Adopting local Law No • 2004, a Local Law to authorize the establishment of fees in the Department of Health Services, Division of Medical•Legal Investigations and Forensic Sciences for requests for cremation approvals and autopsy reports).***

Motion by Legislator Foley.

**LEG. O'LEARY:**

Second.

**P.O. CARACAPPA:**

Second by Legislator O'Leary. All in favor? Opposed? Abstentions?

**MR. BARTON:**

17.

**P.O. CARACAPPA:**

Motion by •• **1702 (Adopting local Law No. • 2004, A Local Law to prohibit the sale, purchase and use of alcohol without liquid (AWOL) machines or alcohol vapor devices in Suffolk County)**. Motion by Legislator Cooper, second by Legislator Viloría•Fisher. All in favor?

**LEG. LINDSAY:**

Who are you going to get to try it?

**P.O. CARACAPPA:**

Who are you going to get to try it? All in favor? Opposed? Abstentions?

**MR. BARTON:**

17.

**P.O. CARACAPPA:**

**1831 (Establishing County policy to assist in the protection of victims of domestic violence)**. Motion by myself, second by Legislator Cooper. All in favor? Opposed?

**LEG. FOLEY:**

Cosponsor.

**P.O. CARACAPPA:**

Abstentions?

**LEG. FOLEY:**

Cosponsor.

**P.O. CARACAPPA:**

Cosponsor, Legislator Foley.

**LEG. MYSTAL:**

Cosponsor.

**MR. BARTON:**

17.

**P.O. CARACAPPA:**

Legislator Mystal.

**LEG. COOPER:**

Yeah, cosponsor, please, if I didn't already.

**LEG. BINDER:**

Everybody.

**LEG. MYSTAL:**

Everybody.

**LEG. BINDER:**

Except for Bishop.

**LEG. BISHOP:**

Except for me.

**PARKS AND CULTURAL AFFAIRS**

-

**P.O. CARACAPPA:**

Parks and Cultural Affairs. ***1804 (Appointing members of the ATV Park Task Force, (Slot Nos. 12 and 13) (Cyla Allison PHD and George Fernandez).*** Motion by Legislator Caracciolo?

**LEG. CARACCIOLO:**

Yes.

**P.O. CARACAPPA:**

Is there a second?

**LEG. SCHNEIDERMAN:**

Second.

**P.O. CARACAPPA:**

Second by Legislator Schneiderman. All in favor? Opposed?

**LEG. LOSQUADRO:**

Abstain.

**P.O. CARACAPPA:**

Abstentions? Mark Legislator Losquadro and myself.

**MR. BARTON:**

15.

**P.O. CARACAPPA:**

***1840 (Authorizing use of Blydenburgh County Park property by the Long Island Chapter of the Crohn's and Colitis Foundation of America for their Pace Setter Walk • A • Thon Fundraiser).***

**LEG. VILORIA • FISHER:**

Motion.

**P.O. CARACAPPA:**

Motion by Legislator Vilorina • Fisher, second by myself. All in favor? Opposed? Abstentions?

**MR. BARTON:**

17.

**P.O. CARACAPPA:**

***1845 (Authorizing use of Blydenburgh County Park by the Long Island Paint Horse Club for their Trail Ride Fundraiser).*** Motion by Legislator Nowick, second by myself. All in favor? Opposed? Abstentions?

**MR. BARTON:**

17.

**PUBLIC SAFETY AND PUBLIC INFORMATION**

**P.O. CARACAPPA:**

Public Safety and Public Information. *(1752 • Adopting Local Law No. 2004, a Charter Law to establish a County-wide policy for the protection of children from registered sex offenders)*. Motion by Legislator O'Leary, second by myself. All in favor? Opposed? Abstentions?

**MR. BARTON:**

17.

***[Cosponsor Said in Unison by Legislators]***

**P.O. CARACAPPA:**

Legislators Lindsay ••

**LEG. MYSTAL:**

Everybody.

**P.O. CARACAPPA:**

•• Losquadro, everybody.

**LEG. MYSTAL:**

Everybody.

**LEG. BINDER:**

Everybody, except for Bishop.

**P.O. CARACAPPA:**

Everyone but Bishop.

**LEG. MYSTAL:**

Except for Bishop.

**P.O. CARACAPPA:**

***1869 (Extending the deadline for expiration of the Task Force on Public Safety Staffing levels).*** Motion by Legislator Carpenter, second by Legislator O'Leary. All in favor?  
Opposed?

**LEG. MYSTAL:**

On the motion.

**LEG. FOLEY:**

On the motion.

**P.O. CARACAPPA:**

On that motion, Legislators Mystal, then Foley.

**LEG. MYSTAL:**

I just want an explanation. Explanation, please.

**D.P.O. CARPENTER:**

I'm sorry.

**P.O. CARACAPPA:**

This is just an extension, extension ••

**D.P.O. CARPENTER:**

Just to extend the deadline, because there was a little reticence with getting the names over to us. And we finally got all the players in place and had our organizational meeting, but we need more time to complete the work.

**P.O. CARACAPPA:**

Legislator Foley.

**LEG. FOLEY:**

Thank you, Mr. Chairman. Last time, when the original resolution was submitted, some of us

did oppose it at that time, and part of the •• a principal part of our reasoning was the fact that we believe that the Commissioner of Police had to be given the time to follow through on initiatives that he wanted to undertake in the department, and that, in fact, he needed a good six to eight months in order for us, then, to make some judgments as to where the Police Department is going. We're still within that time frame, and I believe, as a matter of respect to the Commissioner, is let's give him the time to go about his business. As a matter of fact, I've been told, I'm ready to be corrected, that, in fact, the crime is, in fact, down so far this particular year, and that's due for a variety of purposes •• variety of reasons, of course. But I believe that the Commissioner is going in the right direction, and that as much as we've in the past have approved a number of task forces for different purposes, I believe we should give the Commissioner the time to develop what he needs to do in order to confront the issues in our County, and that this kind of Task Force is a bit premature. Thank you.

**P.O. CARACAPPA:**

Legislator Carpenter.

**D.P.O. CARPENTER:**

On the motion. Legislator Foley, I would just like to say that this certainly was not in any direct response to the Commissioner, and certainly meant him no disrespect. I think, initially, he had expressed quite a bit of angst over this, did not support it, said he wouldn't participate. Eventually, he did change his mind and appoint someone to the Task Force and, at the eleventh hour, he decided to send the Deputy Commissioner. I think he, in thinking about it, felt that there was some merit to it. They are participating. Commissioner Shannon, or Deputy Commissioner Shannon has been elected the Chairperson of the Task Force. They have had two meetings now, and it really, in the very beginning, has proved to be very, very beneficial.

**P.O. CARACAPPA:**

Legislator Foley.

**LEG. FOLEY:**

Yeah, just if I may respond to that. Of course, I would expect, particularly the law enforcement departments in the County, that if a law is passed, that they will administer that particular law, particularly one that is in compliance with the County Charter, and it's not subject •• and it's not subject to any budget memoranda. But with this one ••

**D.P.O. CARPENTER:**

That was the case initially.

**LEG. FOLEY:**

As I said, it was law, it was approved, so the Police Department, as they should, you know, are administering and enforcing that particular law, so they should be attending those Task Forces, if it's approved, if it's approved by this Legislature. But even with that said, I would still say, as a matter of policy, not as a matter of execution, but, as a matter of policy, I'm still going to oppose this particular resolution, as I had done the first time.

**P.O. CARACAPPA:**

Very good. Motion and a second. All in favor? Opposed?

***[Opposed Said in Unison by Legislators]***

**LEG. FOLEY:**

Roll call, please.

**P.O. CARACAPPA:**

Here we go, roll call.

**(Roll Called by Mr. Barton, Clerk)**

**D.P.O. CARPENTER:**

Yes.

**LEG. O'LEARY:**

Yes.

**LEG. CARACCIOLO:**

Yes.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. VILORIA • FISHER:**

No.

**LEG. LOSQUADRO:**

Yes.

**LEG. FOLEY:**

No.

**LEG. LINDSAY:**

Pass.

**MR. MONTANO:**

No.

**LEG. ALDEN:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. BISHOP:**

Yes.

**LEG. MYSTAL:**

No.

**LEG. BINDER:**

Yes.

**LEG. TONNA:**

Yes.

**LEG. COOPER:**

No.

**P.O. CARACAPPA:**

Yep.

**LEG. LINDSAY:**

Yes.

**MR. BARTON:**

12.

**P.O. CARACAPPA:**

It's approved.

**PUBLIC WORKS AND PUBLIC TRANSPORTATION**

Public Works and Public Transportation. ***1830 (Adopting local Law No. 2004, a Local Law to impose fines on unlicensed ferry service operators).***

**D.P.O. CARPENTER:**

Motion to table.

**P.O. CARACAPPA:**

Motion to table by the sponsor.

**LEG. ALDEN:**

Second.

**P.O. CARACAPPA:**

Second by Legislator Alden. All in favor? Opposed? Abstentions?

**MR. BARTON:**

17.

**P.O. CARACAPPA:**

***1847, 47A (Amending the 2004 Capital Budget and Program and appropriating funds in connection with the County share for participation in the reconstruction of CR 80, Montauk Highway, Town of Brookhaven(CP 5516).*** Motion by Legislator O'Leary, second by Legislator Foley. County Road 80.

**LEG. FOLEY:**

Right.

**P.O. CARACAPPA:**

Roll call.

**(Roll Called by Mr. Barton, Clerk)**

**LEG. O'LEARY:**

Yes.

**LEG. FOLEY:**

Yes.

**LEG. CARACCIOLO:**

Yes.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. VILORIA • FISHER:**

Yes.

**LEG. LOSQUADRO:**

Yes.

**LEG. LINDSAY:**

Yes.

**LEG. MONTANO:**

Yes.

**LEG. ALDEN:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. BISHOP:**

Yes.

**LEG. MYSTAL:**

Yes.

**LEG. BINDER:**

Yes.

**LEG. TONNA:**

Yep.

**LEG. COOPER:**

Yes.

**D.P.O. CARPENTER:**

Yes.

**P.O. CARACAPPA:**

Yep.

**MR. BARTON:**

17 on the bond.

**P.O. CARACAPPA:**

Same motion, same second, same vote on the companion resolution.

***1849, 49A (Appropriating funds in connection with the modifications for compliance with Americans with Disabilities Act (CP 1738)).*** Motion by Legislator Montano, second by Legislator Cooper. Roll call.

**(Roll Called by Mr. Barton, Clerk)**

**LEG. MONTANO:**

Yes.

**LEG. COOPER:**

Yes.

**LEG. CARACCIOLO:**

Yes.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. O'LEARY:**

Yes.

**LEG. VILORIA • FISHER:**

Yes.

**LEG. LOSQUADRO:**

Yes.

**LEG. FOLEY:**

Yes.

**LEG. LINDSAY:**

Yes.

**LEG. ALDEN:**

Pass.

**LEG. NOWICK:**

Yes.

**LEG. BISHOP:**

Yes.

**LEG. MYSTAL:**

Yes.

**LEG. BINDER:**

Yes.

**LEG. TONNA:**

Yep.

**D.P.O. CARPENTER:**

Yes.

**P.O. CARACAPPA:**

Yeah.

**LEG. ALDEN:**

Yes.

**MR. BARTON:**

17 on the bond.

**P.O. CARACAPPA:**

Same motion, same second, same vote on the companion resolution.

**1850 (Transferring Escrow Account Revenues to the Capital Fund, amending the 2004 Capital Budget and appropriating funds for improvements to Suffolk County Sewer District No.12 • Birchwood/Holbrook (CP 8143)).** Motion by Legislator Lindsay.

**LEG. FOLEY:**

Second.

**P.O. CARACAPPA:**

Second by Legislator Foley. All in favor? Opposed? Abstentions?

Okay. We're going to need a lot of ••

**MR. BARTON:**

17.

**P.O. CARACAPPA:**

•• "same motion, same second, same vote" coming up, so pay attention.

**VETERANS AND SENIORS**

Approving •• **1854 (Approving the appointment of Chestene Coverdale as a member of the Senior Citizens Advisory Board).** Motion by myself, second by Legislator Losquadro. All in favor? Opposed? Abstentions?

1855.

**MR. BARTON:**

17.

**P.O. CARACAPPA:**

**(1855 • Approving the appointment of Blanche Mulholland as a member of the Senior Citizens Advisory Board).** Same motion, same second, same vote.

**MR. BARTON:**

17.

**P.O. CARACAPPA:**

***1856 (Approving the appointment of Steven Stern as a member of the Senior Citizens Advisory Board).*** Same motion, same second, same vote.

**MR. BARTON:**

17.

**P.O. CARACAPPA:**

***1857 (Approving the appointment of Arlene Stevens as a member of the Senior Citizens Advisory Board).*** Same motion, same second, same vote.

**MR. BARTON:**

17.

**P.O. CARACAPPA:**

***1858 (Approving the appointment of Timothy Edwards as a member of the Senior Citizens Advisory Board).*** Same motion, same second, same vote.

**MR. BARTON:**

17.

**P.O. CARACAPPA:**

***1859 (Approving the appointment of Helen Brion as a member of the Senior Citizens Advisory Board).*** Same motion, same second, same vote.

**MR. BARTON:**

17.

**P.O. CARACAPPA:**

***1860 (Approving the appointment of Elizabeth Eggleton as a member of the Senior Citizens Advisory Board).*** Same motion, same second, same vote.

**MR. BARTON:**

17.

**P.O. CARACAPPA:**

***1861 (Approving the appointment of Carolyn Gallogly as a member of the Senior Citizens Advisory Board).*** Same motion, same second, same vote.

**MR. BARTON:**

17.

**P.O. CARACAPPA:**

***1862 (Approving the appointment of Gene Pritz as a member of the Senior Citizens Advisory Board).*** Same motion, same second, same vote.

**MR. BARTON:**

17.

**P.O. CARACAPPA:**

***1863 (Approving the appointment of Ed Siegmann as a member of the Senior Citizens Advisory Board).*** Motion by Legislator Carpenter, second by myself. Same motion, same second, same vote.

**MR. BARTON:**

17.

**D.P.O. CARPENTER:**

Mr. Chairman, before we leave these appointments, I know that there •• there is at least one other that I'm aware of, a reappointment, and I would just ask Mr. Zwirn if you could take it back to the County Executive, because I called a number of weeks ago. One of them was Betty Taibbi who many of us remember working here at the Legislature as the Clerk. She retired and was appointed to the Senior Citizen Advisory Board. Her appointment was up in June. She has not been reappointed and would very much like to be.

I called the County Executive and asked him to, you know, please set politics aside. This is a woman who's given many years to the County, enjoyed her role on the Advisory Board, and he said that he would consider it, but I have yet •• have not heard back from him. So,

Mr. Zwirn, if you could ask him to take care of that. Thank you.

**P.O. CARACAPPA:**

Thank you.

**WAYS AND MEANS AND CONSUMER PROTECTION**

Ways and Means, Consumer Protection. **1687 (Adopting local Law No. •2004, a Charter Law to clarify delegation of responsibility during absence or disability of County Executive).**

**LEG. BINDER:**

Motion to recommit.

**P.O. CARACAPPA:**

Motion to recommit by Legislator Binder, second by myself. All in favor? Opposed? Abstentions?

**LEG. FOLEY:**

Good move, Allan.

**P.O. CARACAPPA:**

Recommitted.

**MR. BARTON:**

17.

**P.O. CARACAPPA:**

**1783 (Authorizing the lease of premises at Fishers Island for use by Suffolk County Vector Control).** Authorizing lease •• 1783, Counsel?

**MS. KNAPP:**

I think that we need to table this one, because the County Attorney's Office, unless they have something updated, this was •• the disclosure statement was received without being •• oh,

wait, maybe I'm wrong.

**P.O. CARACAPPA:**

Basia.

**MS. BRADDISH:**

No.

**LEG. FOLEY:**

Do we need to make a field visit to Fishers Island before we vote on this?

**LEG. CARACCIOLO:**

Any time, Brian, any time.

**LEG. TONNA:**

Is this Fishers Island?

**LEG. FOLEY:**

Yes.

**LEG. TONNA:**

Yes, we need to do that.

**LEG. MYSTAL:**

We need to go there before winter.

**LEG. TONNA:**

Before October 21st.

**MS. BRADDISH:**

I haven't received the notary. I did get the disclosure.

**P.O. CARACAPPA:**

We have to table it?

**MS. BRADDISH:**

If you have to.

**P.O. CARACAPPA:**

Motion to table by myself, second by Legislator Carpenter. All in favor? Opposed? Abstentions? Thank you, the County Attorney.

**MR. BARTON:**

17. It's tabled.

**P.O. CARACAPPA:**

***1839 (Establishing a Task Force to study the County's policies and procedures related to tax delinquent properties)***. Motion by Legislator Cooper, second by Legislator Carpenter.

**LEG. MONTANO:**

On the motion.

**P.O. CARACAPPA:**

On the motion, Legislator Montano.

**LEG. MONTANO:**

Yes. Legislator Cooper, I just •• with respect to the Task Force, my understanding is that one of the issues that will be addressed is the most recent auction that was held. And is that one of the items that's going to be discussed in the Task Force, as you envision it?

**LEG. COOPER:**

Yeah. One of the items would be all •• review the file history for all the properties at the 2004 auction.

**LEG. MONTANO:**

And just because of the issue that's come up, is it your intent that the legislation, if any, that flows from this will also cover the properties that were auctioned off at the last auction, which

we had the public hearing on?

**LEG. COOPER:**

Well, I really have no intent. That's the purpose of the Task Force. I want to see what their recommendations are once they review the entire picture and they'll come back to the Legislature, and then we'll introduce the appropriate resolutions.

**MR. MONTANO:**

So, that •• what I'm saying and what I'm getting at is that the Task Force recommendations may simply be prospective and not deal with the last auction.

**LEG. COOPER:**

They could be prospective or retroactive. And, again, I wanted to wait for the findings of the Task Force.

**MR. MONTANO:**

Right. But, as the sponsor, do you have any intent as to where this is going?

**LEG. COOPER:**

No.

**MR. MONTANO:**

All right.

**P.O. CARACAPPA:**

Thank you. There's a motion and a second. All in favor? Opposed? Abstentions?

**MR. BARTON:**

17.

**P.O. CARACAPPA:**

I'll abstain.

**D.P.O. CARPENTER:**

Cosponsor, please, Henry.

**MR. BARTON:**

16, 1 abstention.

**P.O. CARACAPPA:**

Thank you. ***1842 (Approving maps and authorizing the acquisition of lands together with findings and determinations pursuant to Section 204 of the Eminent Domain Procedure Law, in connection with the acquisition of the properties for the intersection improvements on CR 51, Riverhead • Moriches Road at CR 63, Old East Moriches • Riverhead Road (Lake Avenue), Town of Southampton, Suffolk County, New York (CP 3301 • 227).*** Motion by Legislator •• let's see, O'Leary, I suppose.

**LEG. FOLEY:**

Schneiderman or Caracciolo.

**P.O. CARACAPPA:**

Schneiderman, second by Legislator Caracciolo. All in favor? Opposed? Abstentions?

**MR. BARTON:**

17.

**P.O. CARACAPPA:**

***1870 (Authorizing certain technical corrections to Resolution No. 594 • 2004).*** Motion by Legislator Foley, second by Legislator Lindsay. All in favor? Opposed? Abstentions?

**LEG. FOLEY:**

Thank you.

**MR. BARTON:**

17.

**P.O. CARACAPPA:**

Legislator Montano.

**LEG. MONTANO:**

Yes. At this point, I'm going to •• I believe that 1838 has been distributed to all of the •• all of my colleagues.

**P.O. CARACAPPA:**

Motion to discharge.

***(1838 • Adopting Local Law No. • 2004, a Local Law to amend Section 14•30 of the Suffolk County Administrative Code to provide more equitable distribution of the proceeds from auctioned parcels).***

**LEG. MONTANO:**

I'm going to make the application that we discharge the bill. And I'll repeat, the reason that I think it should go up or down today is that I'm aware that the County is, in fact, closing on the auction properties, and if that continues, then there may not be any remedy afforded to homeowners by the late passage of this bill. So, I'm going to ask that my colleagues at least allow it to be discharged, and then we can vote our conscience as to whether or not we want to pass it or defeat it.

**P.O. CARACAPPA:**

There's a motion to discharge.

**LEG. ALDEN:**

On the motion.

**P.O. CARACAPPA:**

Hold on, let me make the motion.

**LEG. VILORIA • FISHER:**

I'll second the motion.

**P.O. CARACAPPA:**

There's a motion to discharge 1838 by Legislator Montano, second by Legislator Vilorina•Fisher. On the motion, Legislator Alden.

**LEG. ALDEN:**

We have a committee process, and I think that even though I argued against it, I was overruled on that, and, basically, we established a policy that we're going to have a committee process from this Legislature. Right now, we're going to circumvent that process.

There were serious questions raised in the charge to our committees. We are supposed to go and conduct an investigation into all this legislation, and that's why we could do a whole bunch of different things in committee, and one of them is to discharge without recommendation, another would be to approve and send it before the full Legislative body. This legislation deserves to go back to committee and have that committee do the job that it's charged with.

There is •• if there's already •• if there's already properties that are closed on, and I think that we already do have properties that have been closed, we've gone into contract on a number of these properties, I think that whatever damage in Legislator Montano's mind, it's already been done, so there's no sense in rushing something like this. This is very important. There was a number of very important issues raised, yet there was a number of very important questions raised as to even constitutionality and other things that really deserve to be fleshed out and discussed at full length in through the committee process.

So, I would urge a no vote to discharge this. Let it go through a committee process. That's what we established it for, and that's what •• I've heard arguments from almost every Legislator here that they wanted legislation to go through the committee process. Thank you.

**P.O. CARACAPPA:**

Thank you, Legislator Alden. There's a motion •• oh, Legislator Viloría•Fisher.

**LEG. VILORIA • FISHER:**

No, I didn't want to say anything.

**P.O. CARACAPPA:**

Oh.

**LEG. VILORIA • FISHER:**

I was distracted, I'm sorry.

**P.O. CARACAPPA:**

Okay. There's a motion and a second to discharge. Roll call.

**MR. MONTANO:**

All right. Roll call.

**(Roll Called by Mr. Barton, Clerk)**

**LEG. MONTANO:**

Yes.

**LEG. VILORIA • FISHER:**

Yes.

**LEG. CARACCIOLO:**

No.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. O'LEARY:**

Yes.

**LEG. LOSQUADRO:**

Pass.

**LEG. FOLEY:**

Yes to discharge.

**LEG. LINDSAY:**

Yes.

**LEG. ALDEN:**

No.

**LEG. NOWICK:**

Yes.

**LEG. BISHOP:**

Yes.

**LEG. MYSTAL:**

Yes.

**LEG. BINDER:**

Yes.

**MR. BARTON:**

I'm sorry, Allan, what did you say?

**LEG. BINDER:**

Yes.

**MR. BARTON:**

Yes.

**LEG. TONNA:**

To discharge?

**MR. BARTON:**

Yes.

**LEG. TONNA:**

Yes.

**LEG. COOPER:**

No.

**D.P.O. CARPENTER:**

No.

**P.O. CARACAPPA:**

Yeah.

**LEG. LOSQUADRO:**

Yes.

**MR. BARTON:**

13.

**P.O. CARACAPPA:**

It's discharged. It needs to age for an hour. What? Unless you waive the rule.

**LEG. MONTANO:**

Yeah, I would make a motion. We've heard the debate on this, we know what the issues are. I would ask that we waive the rule for an hour and just have an up or down vote. We may not be here in an hour.

**P.O. CARACAPPA:**

The motion is to •• I don't know the exact rule, but it's to waive the rule that suspends the one •hour waiting period for a discharge resolution. That motion is •• there's a motion by Legislator Montano to do that, second by Legislator Vilorio•Fisher. All in favor? Opposed?

**LEG. ALDEN:**

What's the ••

**P.O. CARACAPPA:**

This is to waive the one•hour rule.

**LEG. BISHOP:**

I'm opposed to waiving the one•hour rule just on principle.

**P.O. CARACAPPA:**

Roll call.

**LEG. ALDEN:**

On the motion.

**P.O. CARACAPPA:**

Yeah.

**LEG. ALDEN:**

Why don't we expand that •• let's expand that motion and we'll just do away with the committee process, and then I could support that motion. I'd be more than happy to not go that extra week. Let's do that. Would you consider that, Legislator Montano, just amend your motion?

**LEG. MONTANO:**

Yeah. At the same time, we have ••

**P.O. CARACAPPA:**

That motion's completely out of order, unfortunately.

**LEG. MONTANO:**

•• Certificates of Necessity that we have to deal with. We bypass the committee process on a number of occasions, that's why we had 12 votes on it. There is a procedure for that. We haven't done anything that violates any of our rules. I'm just asking ••

**LEG. ALDEN:**

Well, I know, that's why I'm asking.

**LEG. MONTANO:**

•• you know, to be consistent. Not every •• not every bill that we have here has gone to committee.

**LEG. ALDEN:**

Expand it. I'm just asking if you would consider expanding your motion to do away with the committee process on a full basis.

**LEG. BISHOP:**

I think we ought to.

**LEG. ALDEN:**

Absolutely, and I argued for that earlier in the year.

**MR. MONTANO:**

Fine.

**LEG. TONNA:**

Except the Rules Committee, you need that.

**P.O. CARACAPPA:**

We're all •• we're all finished?

**LEG. ALDEN:**

Except the Rules Committee.

**P.O. CARACAPPA:**

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

**(Roll Called by Mr. Barton, Clerk)**

**LEG. MONTANO:**

Yes.

**LEG. VILORIA • FISHER:**

Yes.

**LEG. CARACCILO:**

No.

**LEG. SCHNEIDERMAN:**

This is to waive the one-hour? Yes.

**LEG. O'LEARY:**

No.

**LEG. LOSQUADRO:**

No.

**LEG. FOLEY:**

Yes.

**LEG. LINDSAY:**

Yes.

**LEG. ALDEN:**

No.

**LEG. NOWICK:**

Yes.

**LEG. BISHOP:**

This is on the rule?

**MR. BARTON:**

To waive the rule.

**LEG. BISHOP:**

No.

**LEG. MYSTAL:**

Yes.

**LEG. BINDER:**

Yes.

**LEG. TONNA:**

Yes.

**LEG. COOPER:**

No.

**D.P.O. CARPENTER:**

No.

**P.O. CARACAPPA:**

Yep.

**MR. BARTON:**

10.

**P.O. CARACAPPA:**

That is •• the one•hour rule is waived. It's eligible now. Is there a motion?

**LEG. MONTANO:**

Motion.

**LEG. MYSTAL:**

Second.

**P.O. CARACAPPA:**

There's a motion to approve **1838**, second by Legislator Mystal. Roll call.

**(Roll Called by Mr. Barton, Clerk)**

**LEG. MONTANO:**

Yes.

**LEG. MYSTAL:**

Yes.

**LEG. CARACCIOLO:**

No.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. O'LEARY:**

No.

**LEG. VILORIA • FISHER:**

Yes.

**LEG. LOSQUADRO:**

No.

**LEG. FOLEY:**

Yes.

**LEG. LINDSAY:**

No.

**LEG. ALDEN:**

No.

**LEG. NOWICK:**

Yes.

**LEG. BISHOP:**

Yes.

**LEG. BINDER:**

Yes.

**LEG. TONNA:**

Yes.

**LEG. COOPER:**

No.

**D.P.O. CARPENTER:**

Pass.

**P.O. CARACAPPA:**

Yep.

**D.P.O. CARPENTER:**

No.

**MR. BARTON:**

Ten.

**P.O. CARACAPPA:**

Very good, it's approved. Work on two extra votes, Rick, you're going to need them.

**LEG. MONTANO:**

Yeah, I know.

**LEG. MYSTAL:**

Joe, it's only 14, forget 12.

**P.O. CARACAPPA:**

I'd like to do ***Procedural Motion 6***. It's been distributed. It's ***authorizing payment to Capital Markets Advisors, LLC***.

**LEG. FOLEY:**

Where are we?

**P.O. CARACAPPA:**

Procedural Motion Number 6, it's before you. Basically, what this does is it commences a very quick study on the impact of financing the hospitals that have come before us might have on our bond rating and other areas of our finances.

**LEG. FOLEY:**

I'm sorry, Mr. Chairman, I ••

**P.O. CARACAPPA:**

Take your time.

**LEG. FOLEY:**

Is it in a folder?

**P.O. CARACAPPA:**

It's been distributed.

**LEG. FOLEY:**

Is it in the folder, or has it been...

**LEG. FOLEY:**

All right, here it is.

**P.O. CARACAPPA:**

Procedural Motion Number 6.

**LEG. VILORIA • FISHER:**

Okay.

**LEG. MYSTAL:**

Mr. Chair.

**P.O. CARACAPPA:**

Legislator Mystal. Excuse me.

**LEG. MYSTAL:**

Is this what we're doing?

**P.O. CARACAPPA:**

Yes. Again what this does is it does a quick study on behalf of the County by our advisors, our financial advisors, to see what impact this might have of •• what this is is the possible assistance we may be giving to hospitals such as Southside, Central Suffolk, and others that have come to the County looking for assistance in the market by way of bonding. I think it's very important for us to do a quick study to see what kind of affect this will have on us, and maybe what the best route for us to go to help the hospitals, if it's straight out general obligation bonds, or doing some sort of ••

**LEG. TONNA:**

Which bond •• which CN is this?

**P.O. CARACAPPA:**

This is Procedural Motion 6.

**LEG. VILORIA • FISHER:**

Question, Joe.

**LEG. TONNA:**

Where is it?

**P.O. CARACAPPA:**

Legislator Vilorina •• it's for \$20,000.

**LEG. VILORIA • FISHER:**

Okay. Thank you, Mr. Chair. I just have a question for Counsel. Right now, there's a Facilities •• Hospital Facilities Commission, I believe it's called. Now, how closely would this •• would these consultants be working with that Commission?

**P.O. CARACAPPA:**

I could pretty much answer. They really are working for us. They're going to give us an understanding as to which direction we should take in the future as it relates to the funding of these hospitals.

**LEG. VILORIA • FISHER:**

Okay, good.

**P.O. CARACAPPA:**

The Health Facilities Corp. basically gives an approval. If we should eventually, recommendation, we would ultimately make that decision to float those kind of bonds.

**LEG. VILORIA • FISHER:**

Okay. I think this is a idea. I was concerned about this at the time that we looked at the budget.

**P.O. CARACAPPA:**

Right.

**LEG. VILORIA • FISHER:**

And I agree with you, I think we need this done. Thank you.

**P.O. CARACAPPA:**

This will be done rather quickly, because time is of the essence. Legislator Tonna.

**LEG. TONNA:**

Could I say •• we don't have it. I have these.

**MS. PASTORE:**

Yeah, these are the late•starters in here.

**LEG. TONNA:**

Okay. Where is it?

**MS. PASTORE:**

It's the very last one. Not that one, very last one. Procedural Motion, right there.

**LEG. TONNA:**

This one?

**MS. PASTORE:**

Yeah.

**LEG. TONNA:**

Okay.

**P.O. CARACAPPA:**

We're almost done, Ladies and Gentlemen.

**LEG. TONNA:**

Could I ask you, Legislator Caracappa?

**P.O. CARACAPPA:**

Sure.

**LEG. TONNA:**

Just is this going to hold up at all what we're doing right now with Southside Hospital?

**P.O. CARACAPPA:**

Actually, Southside is •• yeah, actually, this is getting done very quickly. That's why I'm asking for it ••

**LEG. TONNA:**

Excuse me?

**P.O. CARACAPPA:**

This is being done very •• I don't think it's going to hold it up at all. Southside, keep in mind, is in the Capital Budget for subsequent years.

**LEG. TONNA:**

Right, I understand that, but we have an Audit Committee right now.

**P.O. CARACAPPA:**

So, they were already approved by the Health Facilities Corp.

**LEG. TONNA:**

Right, it's approved by the Health Facilities ••

**P.O. CARACAPPA:**

Right.

**LEG. TONNA:**

•• Committee.

**P.O. CARACAPPA:**

What this would do is do a turn•around in about less than a month's time to give us a better ••

**LEG. TONNA:**

Yeah, but this is my concern, and just to •• you know, because I haven't had time, really, to read it. This is the first time I'm seeing it. Southside Hospital, we're moving in Bay Shore; okay? Bay Shore is a place that we need to get this done.

**P.O. CARACAPPA:**

How, though? Which is the best way?

**LEG. TONNA:**

Excuse me?

**P.O. CARACAPPA:**

Which is the best way for us to do it?

**LEG. TONNA:**

Right. But the concern that I have is that, all of a sudden, and a whole number of other hospitals have said, "Hey, what a great idea." I don't want them competing with Southside Hospital in this issue, okay, because, basically, we've already made a commitment to Bay Shore. Once we go back now and say, "Okay, now why don't we do it in Riverhead, why don't we do another one, you know, with another hospital," I just think that we're going to get ourselves into trouble. We should •• you know, at least I've always talked about Bay Shore first, then let's look at everything else and see where we can go. My concern is will this study do something to prioritize? Will this study do something to say •• you know, what will it do? I mean, the priorities have already been determined, Bay Shore first.

**P.O. CARACAPPA:**

Bay Shore •• it will look at what our risk is as a County lending this kind of money, what's the best way of doing it, and what are our options to helping the hospital in the most cost effective way.

**LEG. BISHOP:**

Who's initiative is this?

**P.O. CARACAPPA:**

This is my initiative.

**LEG. BISHOP:**

No. I mean, it comes from your office, or is it ••

**P.O. CARACAPPA:**

It comes ••

**LEG. TONNA:**

Is this on behalf of the County Executive or from you?

**P.O. CARACAPPA:**

Me and the Comptroller worked on this.

**LEG. FOLEY:**

Mr. Chairman.

**LEG. TONNA:**

I'm ••

**P.O. CARACAPPA:**

Hold on. Legislator Tonna has the floor.

**LEG. TONNA:**

Yeah. I just •• my concern is that while we're looking at the financial issue, and I could understand the Comptroller would want to look at the financial issue and everything else, we all •• it's in front of the Audit Committee right now, he's supposed to be looking at it with the Audit Committee. Okay. That's where it's supposed to be right now. The concern that I have is that this study is not talking about finance, that it's going to start talking about, okay, priority, where do we want, you know, what hospital do we want to do it with, or anything else like that, and that I think is a very clear direction with the Health Committee, it's very clear with the Legislature in the past, Bay Shore first.

**P.O. CARACAPPA:**

Yeah. What this first study does, it does nothing but lay out options for us and the risks of those options. It gives us a better view of what we're doing. And when we're talking about this kind of money, lending it out without any sort of guarantees and a tremendous amount of risk associated with it, it doesn't hurt to have some financial advice to guide us.

**LEG. FOLEY:**

Mr. Chairman.

**LEG. TONNA:**

Are we saying, basically, that the Audit Committee needs outside counsel ••

**LEG. FOLEY:**

No. I could answer the question.

**LEG. TONNA:**

•• you know, outside financial counsel to make a decision?

**LEG. FOLEY:**

Mr. Chairman.

**LEG. CARACCIOLO:**

Mr. Chairman.

**P.O. CARACAPPA:**

You got to understand, Legislator Tonna, there are several different ways of going about helping the hospitals.

**LEG. TONNA:**

Right, right.

**P.O. CARACAPPA:**

We're not experts in that.

**LEG. TONNA:**

How much money does it allocate?

**P.O. CARACAPPA:**

Twenty thousand dollars.

**LEG. TONNA:**

Twenty •• from a 456 Account?

**P.O. CARACAPPA:**

Yes.

**LEG. TONNA:**

And when will this study be concluded?

**P.O. CARACAPPA:**

A couple of weeks.

**LEG. TONNA:**

Is that what it's •• in the resolution, does it say that ••

**P.O. CARACAPPA:**

No. I've gotten that guarantee from Capital Market Advisors, LLC.

**LEG. TONNA:**

Are we going to use our financial advisor now?

**P.O. CARACAPPA:**

We're using this ••

**LEG. TONNA:**

Who is Capital Market Advisors?

**P.O. CARACAPPA:**

That's our guy now.

**LEG. TONNA:**

Is that Rich Tortora?

**P.O. CARACAPPA:**

Yes.

**LEG. BISHOP:**

He's getting twenty grand to write a report?

**P.O. CARACAPPA:**

Yeah, because it's outside the scope of what he's •• is in his contract.

**LEG. TONNA:**

Thank you.

**LEG. FOLEY:**

Mr. Chairman.

**P.O. CARACAPPA:**

And he's also hiring a sub •• he's hiring a subconsultant ••

**LEG. TONNA:**

Twenty thousand dollars is not that much.

**P.O. CARACAPPA:**

•• to do it.

**LEG. CARACCIOLO:**

Right.

**P.O. CARACAPPA:**

Legislator Caracciolo, then Foley.

**LEG. CARACCIOLO:**

Thank you Mr. Chairman. Paul, Paul Tonna.

**LEG. TONNA:**

Yeah.

**LEG. CARACCIOLO:**

The process is very •• is very systematic. What is occurring with respect to hospitals coming to the County for bond funding is you first had Southside looking for, I think it's about 40 million dollars for an expansion project.

**LEG. TONNA:**

Right.

**LEG. CARACCIOLO:**

You now have Brookhaven Memorial Hospital, Riverhead, Central Suffolk Hospital, they're in the

pipeline. They haven't been approved by HFC. So, that's number one. Number two, the County Comptroller indicated that our bond counsel, Mr. Tortora, did not have the financial expertise to look at these issues in-house, so he has gone out, and the Presiding Officer, and I, and others have met with them collectively, independently. And this is really an expedited process, so that, A, HFC, which has approved Southside, that resolution get to the Legislature after a financial analysis that neither we have through BRO available to us, or our financial advisor, and they hope to do that in a very short order. Then the process will continue before HFC regarding the other applicants and the merits of those applications, and so forth.

**LEG. TONNA:**

I mean, we're aware that Southside Hospital, under the direction or the advice or the recommendation from the Comptroller's Office did and independent study, right? We know that.

**LEG. CARACCIOLO:**

But that's their study and ••

**LEG. TONNA:**

Well, no. It was a study that •• it was a study that the County asked them to do and to get •• it's an independent study. Let's not say it's •• they paid for the study, because the County wasn't willing to pay for the study.

**LEG. CARACCIOLO:**

Right.

**LEG. TONNA:**

That's •• you know, don't say it's their study. It wasn't their internal guys who did the study. They went out and got an outside independent group to study the feasibility and everything else. All I'm saying is, is that, you know, Southside Hospital has already gone, had paid on their own dime somebody who might have said, "This isn't a good deal," all right, on the •• on the request of the County. So, I just •• we should take that all into consideration.

**LEG. CARACCIOLO:**

Well, on that ••

**P.O. CARACAPPA:**

Legislator Tonna.

**LEG. TONNA:**

I mean, I'm going to support this ••

**P.O. CARACAPPA:**

Yeah.

**LEG. TONNA:**

•• but I just think ••

**P.O. CARACAPPA:**

Just •• I just landed you a memo from Capital Markets. It gives a really ••

**LEG. TONNA:**

Okay. Thanks, that's great.

**P.O. CARACAPPA:**

•• really clear understanding as to what their ••

**LEG. TONNA:**

This is the first I've heard of it, and we've been dealing with this in the Health Committee for quite sometime.

**LEG. FOLEY:**

Can we have a copy for all of us in the Health Committee?

**LEG. TONNA:**

So, you know, if I had a little, advanced ••

**P.O. CARACAPPA:**

My apologies.

**LEG. TONNA?**

•• kind of notice on this, I would have been ••

**LEG. FOLEY:**

Paul, could we have a copy for the ••

**LEG. CARACCIOLO:**

Mr. Chairman. I just would like ••

**P.O. CARACAPPA:**

Legislator Caracciolo still has the floor.

**LEG. CARACCIOLO:**

Thank you. I'd like Jim Spero to comment why this is necessary, and why we don't want to use the borrowers financial study.

**LEG. TONNA:**

You shouldn't have asked them to do one.

**LEG. CARACCIOLO:**

Well, we didn't.

**MR. SPERO:**

Well, the study is going to focus on the health care industry in general, and the impact on the County, and look at possible alternative funding mechanisms the County can use to finance the Southside loan.

**LEG. CARACCIOLO:**

Jim, what is the ••

**LEG. TONNA:**

Jim. Wait, can I just •• can I ••

**LEG. CARACCIOLO:**

Wait, wait, one ••

**LEG. TONNA:**

Oh.

**LEG. CARACCIOLO:**

Let me follow up with a quick question.

**LEG. TONNA:**

I have one of Jim also.

**LEG. CARACCIOLO:**

Jim, one of concerns that ••

**LEG. TONNA:**

I can't even see.

**LEG. CARACCIOLO:**

•• has been raised regarding these applications and the potential liability, financial liability on the part of the County is that in very short order, it could increase the County's liability, just from the borrowing aspect, to over 100 million dollars, which wouldn't be so significant, given the County's ability to borrow funding, but then there are other liability issues that would come into play. Do you want to just elaborate on that a minute or two?

**MR. SPERO:**

Well, the •• one of the things that they're going to look at is, hopefully, is they'll tell the County a threshold amount that we can borrow to fund hospitals, and perhaps set up some sort of revolving fund that will be replenished as the hospitals repay the County for use for future loans. So, part of the study will be to try to size what that revolving fund might be, and how we will fund •• actually, issue the bonds, what mechanism might we use to actually issue the bonds to put into that fund to fund it in the first instance.

The impact on the County, as far as the credit rating goes, depends on the size of this fund, because, generally, hospitals are poor •• are poor credits. And one of the reasons Rich •• Rich Tortora's already said in at least two meetings I've been in, that one of the reasons the

County's credit rating is so good is that we don't have a County hospital. And, apparently, those counties in New York State that do have hospitals, the hospitals are a serious drag on its credit rating, on the County's credit rating.

**LEG. FOLEY:**

Right.

**P.O. CARACAPPA:**

Legislator Caracciolo.

**LEG. CARACCIOLO:**

Just a final point. You want to go into this with your eyes wide open, Paul. And we have to ensure that we have a financial advisor that makes us aware ••

**LEG. TONNA:**

Right.

**LEG. CARACCIOLO:**

•• of those potential issues.

**LEG. TONNA:**

Well, it's only Part 3 that we really care about. I mean, the initial stage announced begins with an overview of the state of health care nationally. I mean, give me a break. We can go on the internet and find that. There's a billion places that will give you the trends of health care nationally. The only thing that we really care about is the assessment of risk, right?

**P.O. CARACAPPA:**

Which is ••

**LEG. TONNA:**

That's it.

**P.O. CARACAPPA:**

Which is part of this study.

**LEG. TONNA:**

Right. But I'm just saying, I just •• you know, whatever. You know, I'm going to support it and •• but I really •• under duress. I just •• I just feel like, you know, why don't we lower the price, let them get to the third part, which is the assessment of risk. If you want •• you know, if you want a lecture on health care, or something like that, we don't have to pay much. And I wouldn't want a financial advisor to tell me about the national health care issues.

**P.O. CARACAPPA:**

Actually, just so you know, it was much higher that they came with the price, and, actually, I refused and kind of negotiated it down to this.

**LEG. TONNA:**

Well, I'm glad. That's because the first two parts of this is a boiler plate, they already have it written, and probably have already given it out to a thousand people.

**P.O. CARACAPPA:**

Well, maybe •• maybe, when you see the report, you may change your mind. It might be actually very helpful. Anyone else? Legislator Foley.

**LEG. FOLEY:**

Yeah. Thank you, Mr. Chairman. To answer a question that still has been unanswered for Legislator Tonna, the reason for the resolution, you look at the fourth "whereas" clause, this is to have an organization assist the Comptroller in evaluating the impact on the County's credit rating. So, it's to assist not so much us, but the Comptroller, who under the law that created the Health Facilities Commission, which a year•and•a•half ago that in committee we had looked at very carefully. Part of the responsibility of the Comptroller is to look at, you know, let's say the financial feasibility of a hospital undertaking this kind •• this kind of project. In order to help the Comptroller make some determination, he needs some assistance from this particular organization.

The one thing I would add, though, Mr. Chairman, and to amplify what Legislator Tonna mentioned, when I look at this one•page memo from Capital Markets, while it does talk about national trends and also looks at the County as a possible hospital lender and speaks about other counties, what I don't see in this paragraph, maybe it's implied, but what I don't read

here is whether or not they're going to analyze the ability of the receiving hospital to cover this debt. That's the one thing I don't see in this brief that we have from Capital Markets. Maybe that's assumed or presumed or implied, but when you read the various paragraphs, it does not mention anything about looking at and, to say it briefly as Tonna had mentioned, the assessment in risk of the actual applicant. That's the one thing that I see missing from this Capital Markets brief of what they're going to do. So, just •• so, that's implied, I guess. All right. Because it •• okay.

**D.P.O. CARACAPPA:**

It's what we discussed in our meetings.

**LEG. FOLEY:**

I understand that. It's just that it's not spelled out in the memo.

**LEG. ALDEN:**

Joe, you can remove me from the list.

**P.O. CARACAPPA:**

Legislator Alden, okay. Okay? There's a motion and a second. All in favor? Opposed? Abstentions? Procedural Motion 6 is approved.

**MR. BARTON:**

17.

**P.O. CARACAPPA:**

I recognize Legislator Binder.

**LEG. BINDER:**

I'd like to make a motion to override Resolution Number 850•2004.

**P.O. CARACAPPA:**

There's a motion to override one of the vetoes before us, that's adopted **Resolution 850**, which is ••

**LEG. FOLEY:**

Which one is that?

**P.O. CARACAPPA:**

Which one, Allan?

**LEG. BINDER:**

It's •• 850 is IR 1500, Local Law awarding •• awarding of Suffolk County government contracts to restore public confidence.

**LEG. FOLEY:**

I can't hear him.

**P.O. CARACAPPA:**

This is the •• this is the solicitation bill.

**LEG. BISHOP:**

Solicitation bill.

**P.O. CARACAPPA:**

**Local Law to reform the awarding of Suffolk County government contracts to restore public confidence.**

**LEG. TONNA:**

On the motion.

**P.O. CARACAPPA:**

There's a motion to override. Is there a second?

**LEG. ALDEN:**

Second.

**LEG. TONNA:**

Second by Legislator Alden. On the motion, Legislator Tonna.

**LEG. TONNA:**

Yeah. I understand that there's going to be now a flurry of bills, as predicted, from the County Executive to do a one-upsman, and I just •• we started down this thing. I think •• I actually read the veto message entertainingly. I thought it was pretty funny. But, generally speaking, I mean, this is just ridiculous. You know, we shouldn't have passed this one, and I •• you know, talking with some of my colleagues who voted for it, I don't think they wanted to even vote for it. And now we're going to get the County Executive who says, you know, "Oh, you think you're man, now I'm going to show you how much of a political man I am." And, you know, we're going to go right down this road. So, I would suggest vote this down, please, do not override, and then after that, when, you know, what's his name, County Executive Levy comes up with this stuff, we vote those down, too; okay? And then we can get back to it.

**P.O. CARACAPPA:**

There's a motion and a second.

**LEG. BINDER:**

Mr. Chairman.

**D.P.O. CARACAPPA:**

Roll call.

**LEG. BINDER:**

No. Mr. Chairman.

**P.O. CARACAPPA:**

On the motion, Legislator Bishop •• Binder.

**LEG. BINDER:**

Thank you, because I do want to take a few moments on this, because in my 15 years in the County Legislature, I've never seen a veto message that has been •• targeted an individual Legislator, author or not. I think it's unprecedented and unfortunate, in its •• in what it says, and it's •• in its personal nature, rather than it's any factual nature.

Let me ask Counsel, if I can. Where is Counsel? If I can ask Counsel, it says that this didn't

cover other County-wide elected officials. I want to get Counsel's view on whether it did cover County-wide elected officials in its intent to cover those who would oversee contracts in Suffolk County.

**MS. KNAPP:**

We've had this discussion, and it covers any exempt employee in a particular title, including Commissioner, Deputy Commissioner, Assistant Commissioner, Director, Deputy Director, Assistant Director, any exempt employee in the County Executive's Office, any exempt employee in the Legislature, Legislators' exempt employees, and any exempt employee who makes a recommendation or decisions regarding contracts entered into by the County of Suffolk. So, that would include employees in the Comptroller's Office to the extent that they recommend contracts, it would include the District Attorney, the Treasurer, and the Sheriff.

**LEG. BINDER:**

Okay. So, that's the first one. We can dispense with the first argument as to all these employees in these other areas. They say it's partisan, but also not pointed out was that the Attorney's not named by name here, and he's a Democrat. It also covers the Legislature wherein it's a Republican, so it's not a question of partisanship, so that doesn't make any sense. It's specifically for employees attached to contracts, so I don't know where he gets 11,600 employees. I guess he thinks that people sweeping the streets should also be covered by a nonsolicitation clause. That's ridiculous.

And then I think a very important point is the County Executive says that the way to fix the whole system, to reform the system is for public financing. We repeatedly get votes. You could take polls, take polls in your own districts, everybody will get the same numbers. Two to one, the people of Suffolk County don't want public financing. They also don't want •• so that's ridiculous, that's not a reform, but let them give us a public financing bill, and we could try to pass that again, and the people of Suffolk County will rise up against us if we try to take their money for campaigns. They don't want that to happen, that's number one.

Number two, we have the County Executive, the County Executive has here a bill where •• I mean, a veto statement where basically he's saying that •• where basically he's saying that the Legislature •• well, you know what, let me •• I'm just going to •• I'm going to back off that statement. I'm just going to leave it at that.

**LEG. VILORIA • FISHER:**

Let's vote.

**LEG. BINDER:**

This is an unfortunate •• it's an unfortunate veto message. I want to say that in 15 years, not only this one, but these are the most horrific veto messages in terms of sarcasm, in terms of the way they're written. It is an awful thing to see what we have seen out of these veto messages, not just this one, it is a really unfortunate thing.

I think what we should do is let the people know that they have a government that doesn't •• that doesn't •• that cares about the appearance of impropriety. I think there is an appearance of impropriety when someone has control over a contract and they're out there raising money for individual people who are candidates. And so, that's a reform, and it's unfortunate. If it's not enough of a reform, that's fine, then sign the reform and then ask for more. But to veto it and say you're a reformer I think is trying to have it both ways.

**P.O. CARACAPPA:**

Thank you. Roll call.

**(Roll Called by Mr. Barton, Clerk)**

**LEG. BINDER:**

Yes to override.

**LEG. ALDEN:**

Yes.

**LEG. CARACCILO:**

Yes.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. O'LEARY:**

Yes.

**LEG. VILORIA • FISHER:**

Nope.

**LEG. LOSQUADRO:**

Yes.

**LEG. FOLEY:**

No.

**LEG. LINDSAY:**

No.

**LEG. MONTANO:**

No.

**LEG. NOWICK:**

Pass.

**LEG. BISHOP:**

To override, no.

**LEG. MYSTAL:**

No.

**LEG. TONNA:**

No.

**LEG. COOPER:**

Nope.

**D.P.O. CARPENTER:**

Yes to override.

**P.O. CARACAPPA:**

No.

**LEG. NOWICK:**

Yes.

**MR. BARTON:**

Eight.

**P.O. CARACAPPA:**

Override fails. Next.

**LEG. BINDER:**

Mr. Chairman, I make a motion to override Resolution **Number 919•2004**, which is **IR 1805**.

**LEG. CARACCIOLO:**

Second.

**P.O. CARACAPPA:**

Now you're talking.

**LEG. BINDER:**

Now I'm talking.

**P.O. CARACAPPA:**

Now you're talking.

**LEG. BINDER:**

I thought I'd do that second.

**P.O. CARACAPPA:**

This is the campaign finance one.

**LEG. CARACCIOLO:**

Second.

**LEG. BINDER:**

Can I ••

**P.O. CARACAPPA:**

There's a motion to override by Legislator Binder ••

**LEG. BINDER:**

On the motion.

**D.P.O. CARACAPPA:**

•• second by Legislator Caracciolo.

**LEG. BINDER:**

On the motion, real quick. I just want to let everybody know I gave into something.

**LEG. TONNA:**

Have a vote, please.

**LEG. BINDER:**

I'm going to make this very quick.

**LEG. TONNA:**

You'll have my vote, please.

**P.O. CARACAPPA:**

On the motion, Legislator Binder, go.

**LEG. BINDER:**

Everybody's got in front of them the very current today, 9/27. Look at the bottom, you'll see the page from the Campaign Finance Board. There's only a handful of people still on their two months after they filed. We are not getting disclosure now. If we want disclosure, it's got to go

to BOE. Otherwise, it will never get •• the people of Suffolk will never get any disclosure online. That's it, done.

**P.O. CARACAPPA:**

Roll call.

**(Roll Called by Mr. Barton, Clerk).**

**LEG. BINDER:**

Yes.

**LEG. CARACCIOLO:**

Yes.

**LEG. SCHNEIDERMAN:**

Yes to override.

**LEG. O'LEARY:**

Yes.

**LEG. VILORIA • FISHER:**

Yes.

**LEG. LOSQUADRO:**

Yes.

**LEG. FOLEY:**

Yes.

**LEG. LINDSAY:**

Yes.

**LEG. MONTANO:**

Yes.

**LEG. ALDEN:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. BISHOP:**

No.

**LEG. MYSTAL:**

No.

**LEG. TONNA:**

Yes to override.

**LEG. COOPER:**

No.

**D.P.O. CARPENTER:**

Yes.

**P.O. CARACAPPA:**

Yes. Oh, yes.

**MR. BARTON:**

14.

**P.O. CARACAPPA:**

14?

**MR. BARTON:**

14.

**P.O. CARACAPPA:**

It's overridden. CN's. Everyone have them? Are you ready?

**LEG. NOWICK:**

Senses.

**P.O. CARACAPPA:**

Oh, Sense, I'm sorry. Let's do Senses. My apologies.

***Sense 60 (Sense of the Legislature resolution in opposition to the enactment of an additional real estate transfer tax).***

**LEG. BINDER:**

Motion to table.

**P.O. CARACAPPA:**

Motion to table by Legislator Binder, second by myself. All in favor? Opposed? Tabled.

***Sense 70 (Sense of the Legislature resolution requesting the New York State Legislature and the SUNY Board of Trustees to seek out other opportunities for locations for proposed expansion of SUNY Stony Brook and avoid utilizing eminent domain proceedings).***

**LEG. NOWICK:**

Motion.

**D.P.O. CARACAPPA:**

Motion by Legislator Nowick.

**LEG. CARPENTER:**

Second.

**D.P.O. CARACAPPA:**

Second by Legislator Carpenter. All in favor? Opposed? Abstentions?

**MR. BARTON:**

17, it's approved.

**P.O. CARACAPPA:**

Okay. CN's. ***1403, 1403A (Amending the 2004 Capital Program and Budget and appropriating funds for improvements to active parkland/recreation areas of Our Lady of Grace Roman Catholic Church property adjacent to Van Bourgondien County Park, Town of Babylon)***. Motion by Legislator Bishop, second by Legislator Mystal. Roll call.

**LEG. BINDER:**

Did we pass over this before?

**P.O. CARACAPPA:**

We skipped over it before, yeah.

**LEG. ALDEN:**

Explanation what this does now.

**P.O. CARACAPPA:**

Explanation.

**LEG. BISHOP:**

Yeah, go ahead, Mea.

**LEG. FOLEY:**

Puts Dave back in the good graces of the church.

**LEG. LOSQUADRO:**

Reverses excommunication?

**LEG. BINDER:**

Is that possible?

**MS. KNAPP:**

There are CN's, 14 ••

**LEG. FOLEY:**

We do believe in redemption, you know.

**LEG. BINDER:**

You'll have to tell me about it.

**MS. KNAPP:**

1403 and 1807. These resolutions have gone through the process. However, bond counsel wanted the SEQRA clause modified, which we did at 6:30 last night, which is why they're CN's. It's resolutions that you've seen that allow the town to partner with the County to create fields at Our Lady of Grace property adjacent to Van Bourgondien Park.

**LEG. ALDEN:**

Is there any plan under this to erect a sign giving credit to any entity or individual?

**LEG. FOLEY:**

Yes.

**LEG. BISHOP:**

You know, you're right, we should amend it on the floor to include that.

**LEG. ALDEN:**

I'd be willing to go with you there, Dave. As long as •• the letter, what's the type, what's the largest type that you can almost get on that?

**LEG. BISHOP:**

Appreciate that.

**LEG. ALDEN:**

Eight foot letters?

**P.O. CARACAPPA:**

Okay.

**LEG. LINDSAY:**

Wait a second. I still don't understand why there's two CN's.

**LEG. BISHOP:**

Okay. What •• I'll explain. They're on CN because of some SEQRA thing that was corrected at 6:30 last night, so that's why they're on CN. And they were already approved through committee and they were on the regular agenda, but there was a SEQRA problem.

The reason there are two bills, one bill is the underlying lease for the property, and which is not called technically a lease, it's a fee on limitation. I went to law school, I never heard of fee on limitation, but thank goodness we have lawyers who found one, and it works in this circumstance distance. The second bill is the partnership to create the actual field.

**LEG. LINDSAY:**

So, we don't own the property, and we're leasing the property ••

**LEG. BISHOP:**

Right.

**LEG. LINDSAY:**

•• so we can satisfy the intent of the Greenways legislation to put the infrastructure in.

**LEG. BISHOP:**

Right. Greenways is •• we say it's to buy land, but it's actually to acquire land, and so this is one form of acquisition.

**LEG. LINDSAY:**

Okay.

**LEG. BISHOP:**

The lease.

**LEG. LINDSAY:**

But the fund that you're tapping into to build this field, it's ••

**LEG. BISHOP:**

There is a ••

**LEG. LINDSAY:**

There's a stipulation that we have to own the property in order to put infrastructure into it; am I correct?

**LEG. BISHOP:**

No.

**LEG. LINDSAY:**

No?

**MS. KNAPP:**

No. Bond counsel reads it to permit •• to permit the vehicle that we've •• that we've used here, which is a fee on limitations, which allows us to own it for a period of time, twenty ••

**LEG. LINDSAY:**

Okay.

**LEG. BISHOP:**

Bill I understand, I understand what you're driving at.

**LEG. LINDSAY:**

Okay.

**LEG. BISHOP:**

It has to be a Greenways thing. It has to be a Greenways purchase to get at that fund.

**LEG. LINDSAY:**

Okay.

**LEG. BISHOP:**

A Greenways acquisition, rather, not purchase.

**LEG. LINDSAY:**

So, again, the necessity of the two resolutions, number one, is to execute the lease, so we have control of the property, so we can access the fund.

**LEG. BISHOP:**

Right.

**LEG. LINDSAY:**

Thank you.

**LEG. BISHOP:**

I guess you could say that, right.

**P.O. CARACAPPA:**

Roll call.

**(Roll Called by Mr. Barton, Clerk)**

**LEG. BISHOP:**

Yes.

**LEG. MYSTAL:**

Yes.

**LEG. CARACCIOLO:**

Yes.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. O'LEARY:**

Yes.

**LEG. VILORIA • FISHER:**

Yes.

**LEG. LOSQUADRO:**

Yes.

**LEG. FOLEY:**

Yes.

**LEG. LINDSAY:**

Yes.

**LEG. MONTANO:**

Yes.

**LEG. ALDEN:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. BINDER:**

Yes.

**LEG. TONNA:**

Yes.

**LEG. COOPER:**

Yes.

**D.P.O. CARPENTER:**

Yes.

**P.O. CARACAPPA:**

Yep.

**MR. BARTON:**

17 on the bond.

**P.O. CARACAPPA:**

Same motion, same second, same vote on the companion resolution, which is 1403A.

**LEG. BISHOP:**

You want to take the other one out of order, then, 1807?

**P.O. CARACAPPA:**

Why don't we just go right along. ***1441 (Amending the 2004 Capital Budget and Program and appropriating funds in connection with the purchase of a Catamaran Patrol Vessel •police).***

**LEG. FOLEY:**

Motion.

**P.O. CARACAPPA:**

Motion by Legislator Foley.

**LEG. O'LEARY:**

Second.

**P.O. CARACAPPA:**

Second by ••

**LEG. VILORIA • FISHER:**

On the motion.

**LEG. LOSQUADRO:**

Explanation. What's the offset?

**P.O. CARACAPPA:**

Just let me get the motions in place. Motion by Legislator Foley, second by Legislator O'Leary. The motions •• the offsets are now ••

**LEG. FOLEY:**

Traffic, public safety, public health.

**P.O. CARACAPPA:**

Infrastructure improvements for traffic and public safety and public health, SUNY Stony Brook Campus sludge thickening project. Purchase of a •• and that's it.

**LEG. VILORIA • FISHER:**

On the motion.

**P.O. CARACAPPA:**

On the motion, Legislator Vilorina•Fisher.

**LEG. VILORIA • FISHER:**

Jim, question. Forty•five thousand dollars is coming out of the Stony Brook SUNY Campus Project. We see the SUNY Campus growing, and I'm wondering how it was •• why \$45,000 would have taken •• been taken out of this project when, you know, it is a growing ••

**MR. SPERO:**

Apparently, the sludge thickening project is not going to go this year, so it was identified as a potential offset.

**LEG. VILORIA • FISHER:**

It's •• okay.

**LEG. BINDER:**

Mr. Chairman.

**LEG. VILORIA • FISHER:**

Yes, okay. So, it's been put in future years, is that what you said?

**MR. SPERO:**

It would have to be reprogrammed, but, apparently, it's not going to go this year.

**LEG. VILORIA • FISHER:**

Okay. Thank you, Jim.

**LEG. BINDER:**

Mr. Chairman.

**P.O. CARACAPPA:**

Yes, Legislator Binder.

**LEG. BINDER:**

On 1441, on the catamaran, this is the catamaran also, the problem is we did this in committee, and I was hoping for kind of a good faith effort that we weren't going to have the County Executive use 1755, Project Number 1755. There's a bill by Legislator Carpenter to take care of the DWI facility. If we draw on this money today, then there will be not •• the money for the DWI for •• Legislative facility for Legislator Carpenter won't be available.

**P.O. CARACAPPA:**

Same offset?

**LEG. BINDER:**

This is an offset.

**P.O. CARACAPPA:**

Same offset? No.

**LEG. VILORIA • FISHER:**

No.

**LEG. LINDSAY:**

It's infrastructure improvements.

**D.P.O. CARPENTER:**

Jim?

**LEG. FOLEY:**

Infrastructure.

**LEG. CARPENTER:**

Is that the same one?

**LEG. BINDER:**

They're using one of the offsets.

**D.P.O. CARPENTER:**

No. Didn't we use something different for the DWI Facility?

**D.P.O. CARACAPPA:**

I don't believe so.

**LEG. CARPENTER:**

We used the dredging and we used ••

**MR. SPERO:**

We used some money from 1755 and ••

**P.O. CARACAPPA:**

Is it •• is there adequate ••

**LEG. BINDER:**

No.

**MR. SPERO:**

We also used the dredging project. Those two were offsets.

**LEG. BINDER:**

This would overdraw ••

**P.O. CARACAPPA:**

Is there a conflict in the •• is there a conflict in the offsets between the two resolutions?

**MR. SPERO:**

Not as it's currently drafted. There's still enough money in 1755 ••

**D.P.O. CARACAPPA:**

For the ••

**MR. SPERO:**

•• to use as an offset for this project. They're take 45,000 out of 1755.

**LEG. BINDER:**

Let me say that ••

**D.P.O. CARACAPPA:**

Go ahead.

**LEG. BINDER:**

•• 1755 is something that we generally have as a Legislature, not wanted others to go into, because ••

**LEG. VILORIA • FISHER:**

This is the offset.

**LEG. BINDER:**

So, I had asked, I had asked the County Executive Budget and Finance, work together with the •• with our people, see if we can come up with something else, and instead of coming up with something else, because they could have done all of it from the sludge, sledge, sludge, whatever, the sludge thickening, is that it? They could have done it, the whole thing, they didn't, they wanted to still take some money from this. I think it's problematic.

I would just ask that we not do this today. I am putting in a late•starter where the whole thing

will be on the sludge thickening, thank you, process and we can take the whole thing out of the one account. We'll have the catamaran by the next •• we can •• by the next Legislative meeting, we can pass the catamaran.

So, I'm asking •• I'm hoping that we don't pass this today. So, either say •• or if the County Executive would agree to just take the whole thing out of the sludge thickening project, we could do the whole 90,000 from there. If we could just change that, then we could do this tonight. There is 90,000 in there, according to our •• according to our Budget Review Office. I don't know if we can ••

**P.O. CARACAPPA:**

The next •• our next meeting will be a special budget meeting, so if we can send this back to committee, I promise to put it on that agenda. And, in the meantime, we'll work at the offsets to make sure it works for everybody.

**LEG. BINDER:**

Everybody wants to get ••

**D.P.O. CARACAPPA:**

That would be my compromise at least.

**LEG. BINDER:**

Everyone wants to get the catamaran, the whole committee. We want to make this happen. That's why it's even on the floor. But we were asking that none of it came out of this particular project. That was it.

**LEG. FOLEY:**

If I may, Mr. Chairman.

**P.O. CARACAPPA:**

Legislator Foley.

**LEG. FOLEY:**

In the new packet, I have a resolution for •• that's utilizing, particularly for traffic safety, some

monies for a traffic signal in front of an ambulance company in Patchogue to the tune of \$50,000, and this offset account is supposed to be used for that purpose. So, I hope ••

**LEG. BINDER:**

That's the point.

**LEG. FOLEY:**

•• we'll be able to find it, but, you know, I don't want it get lost.

**LEG. CARPENTER:**

Okay.

**LEG. FOLEY:**

All right?

**D.P.O. CARACAPPA:**

Yeah, we'll work through it.

**LEG. BINDER:**

My point is that we'd rather not use that for this. There is another identified offset by Budget Review, so let's not do it here, unless the County Exec wants to change the bill tonight.

**LEG. FOLEY:**

Let me just say, is there a time urgency on this?

**LEG. BINDER:**

No, because ••

**LEG. FOLEY:**

From the Police Department?

**LEG. BINDER:**

•• the catamaran could be bought in two weeks, three weeks more. We've been waiting for months for this anyway. Like I said, I don't know •• Presiding Officer, I don't know if Ben wants to consider doing the whole thing on the sludge thickening.

**LEG. FOLEY:**

Would several weeks make a difference, since it's been tabled for several months?

**MR. ZWIRN:**

No. We'd like to see it passed, but after it came out of Budget and Finance, we •• Jim Spero from Budget Review and Carmine from the County Exec's Budget Office got together and came up with these offsets. This was not done in a •• you know, in a vacuum. We tried to reach compromise. Legislator Binder said let's •• we'll split the difference.

**LEG. BINDER:**

Well, I ••

**MR. ZWIRN:**

We'll take 45,000 ••

**LEG. BINDER:**

I didn't say split the difference, but okay.

**MR. ZWIRN:**

Well, that, we can go back and check the minutes, but ••

**P.O. CARACAPPA:**

The bottom line is it was done in good faith, we understand that, it's just the offsets aren't working for everybody. So, maybe we can work through this and we'll get it done for the Special Meeting.

**LEG. BINDER:**

Thanks.

**LEG. CARACCILO:**

Fundamental question. What is the justification for a catamaran? Is this something the department had requested, something ••

**LEG. BINDER:**

Yeah, from the Police Department.

**P.O. CARACAPPA:**

Yes.

**LEG. CARACCIOLO:**

Okay. And where would it be used, and for what purpose?

**LEG. BINDER:**

If we're not going to do it tonight, I don't know if we want to go •• do you want to have a full •blown conversation if ••

**P.O. CARACAPPA:**

Why don't we debate that when the bill's before us?

**LEG. CARACCIOLO:**

Oh, okay. I mean ••

**LEG. BINDER:**

Why don't we •• why don't we wait?

**LEG. FOLEY:**

That's an undebatable point.

**D.P.O. CARACAPPA:**

Now, what's the procedure •• what's the motion, it's just to recommit a CN to •• to commit.

**LEG. BINDER:**

Commit the CN to Budget and Finance. Motion to commit the CN.

**P.O. CARACAPPA:**

I'm going to commit 1441 ••

**LEG. BINDER:**

To Budget and Finance.

**D.P.O. CARACAPPA:**

To Budget and Finance, seconded by Legislator Carpenter. All in favor? Opposed? Abstentions? Thank you.

**LEG. ALDEN:**

I oppose. We don't need committees.

**P.O. CARACAPPA:**

One opposition, Legislator Alden. And 1441A as well.

***1807 (Implementing Greenways Program in connection with the acquisition of active parklands at Our Lady of Grace Roman Catholic Church, Town of Babylon).*** This is the second, part two of it. Motion by Legislator Bishop.

**D.P.O. CARPENTER:**

Second.

**P.O. CARACAPPA:**

Second by Legislator Carpenter. There is •• this is just a straightforward resolution. All in favor? Opposed? Abstentions?

**MR. BARTON:**

17.

**P.O. CARACAPPA:**

***1889 (Amending the 2004 Discretionary Operating Budget abolishing three (3) Sheriff 1 positions to implement cost •containment staffing policy).*** Is there a motion?

**D.P.O. CARPENTER:**

Nineteen what?

**P.O. CARACAPPA:**

1889.

**D.P.O. CARPENTER:**

What is that?

**P.O. CARACAPPA:**

This is the Deputy Sheriffs.

**D.P.O. CARPENTER:**

Oh, yes, motion.

**P.O. CARACAPPA:**

Motion by Legislator Carpenter.

**LEG. O'LEARY:**

Second.

**LEG. LINDSAY:**

This is to abolish?

**LEG. FOLEY:**

Explanation.

**LEG. LINDSAY:**

Explanation.

**P.O. CARACAPPA:**

This is •• we originally did this back in the Spring. It was vetoed, it was overridden, and this is one of the budget memorandums that we now are faced with. In the meantime, the Deputy Sheriffs Benevolent Association worked with the County Executive's Office and found an offset, something that the County Executive said was necessary for him to recognize this and enter it in the IFMS System. This is a deal they made, now it's before you as a CN.

**LEG. LINDSAY:**

This is to correct one of the memorandums.

**P.O. CARACAPPA:**

This is •• well, if you •• if you believe the language originally issued in the memorandum, it would correct it.

**LEG. FOLEY:**

It's a way to reach the same conclusion, put it that way.

**P.O. CARACAPPA:**

So, this is the option, you either vote for this and accept what was in that memorandum, or you •• or you don't.

**LEG. FOLEY:**

Mr. Chairman.

**LEG. BINDER:**

Mr. Chairman.

**P.O. CARACAPPA:**

Simply put.

**LEG. BINDER:**

Mr. Chairman.

**P.O. CARACAPPA:**

That's how I see it. Legislator Foley, and then Legislator Binder.

**LEG. FOLEY:**

Just very quickly, this is really to have us reach the conclusion of what the original resolution was trying to reach as well, which is to move ahead with the positions that we had approved. And with the union leader representing this particular branch of County employees, there seems •• there's now some level of agreement that, if we approve this, then we can move forward with the •• with the positions that we had approved earlier in the year. I would hope

that we could, because, again, it would reach the same conclusion, which is to put those other positions •• to move those other positions forward that we had approved, get those filled, so that there can be additional County employees at that particular facility.

**LEG. BINDER:**

Mr. Chairman.

**P.O. CARACAPPA:**

Legislator Binder.

**LEG. BINDER:**

The conclusion's not the question here, it's the process, and there •• I can tell you, after 15 years, two of which were first with a Democrat County Executive, the next 12 with a Republican, and now with a Democrat, this Legislature, Republican and Democrat, when its prerogatives, it's very existence was •• has been attacked, and it's often been, that's the nature of separation of powers, when it's attacked, we've closed ranks. I know that a Republican County Executive for 12 years repeatedly tried to make an assault on our ability to act as a Legislature, and the Republicans closed ranks and literally hit him over the head. Our Counsel knows that, because our Counsel •• our Counsel was on the other side of that, and now we're in the same situation.

We have •• we have a County Executive who has decided that he's not •• he's going to on his own determine that he can't enforce law that was duly enacted when he has another way to go about it, which is •• which means you go to the court, which is the proper way, go on an Article 78 and the truth is he might be right on it. I'm not saying he's not right on any of them, I don't know. If he wants a court to determine that, he can always have a court determine it, so he doesn't have to carry out or enforce the will of the Legislature. But, as our Counsel said in the Rules Committee, when we pass a bill, there is a presumption of legality. That presumption is not overridden by a County Executive's opinion.

If we vote for this, if we vote for this CN, then we are assuming that that process was proper, I think, and that would be a very unfortunate thing. I will not vote for this, as much as I support the Sheriffs and support what we're trying to do. I will not vote for this, because I think the process here would be •• would put us in a very bad place. This Legislature should close ranks and say this is absolutely unacceptable for the County Executive to decide on his own what is

law and what's not.

**P.O. CARACAPPA:**

Legislator Viloría•Fisher.

**LEG. VILORIA • FISHER:**

I can understand what you're saying about process and disagreeing with it, but what I'm seeing is that there are three positions, three positions that we can restore by voting yes.

**LEG. BINDER:**

Not restore.

**LEG. VILORIA • FISHER:**

Yes? Not to abolish.

**LEG. FOLEY:**

This is to abolish.

**P.O. CARACAPPA:**

No, you'd have to abolish.

**LEG. BINDER:**

These are abolish.

**LEG. VILORIA • FISHER:**

This would •• I'm confused, because it's ••

**P.O. CARACAPPA:**

According to the County Exec's memorandum, they say the Charter says, I believe it's the Charter, right, you have to abolish to create. He says we didn't do that when we passed the original resolution creating ••

**LEG. VILORIA • FISHER:**

Okay.

**P.O. CARACAPPA:**

•• the appropriations and these positions.

**LEG. VILORIA • FISHER:**

Okay.

**P.O. CARACAPPA:**

That's where we butt heads.

**LEG. VILORIA • FISHER:**

But is it the purpose of this to save those positions eventually?

**LEG. FOLEY:**

This is to move forward with it.

**LEG. VILORIA • FISHER:**

To move forward with saving ••

**P.O. CARACAPPA:**

This falls in line with the County Executive's line of thinking, that you have to abolish to create, so he's abolishing to create the new positions.

**LEG. VILORIA • FISHER:**

And if we don't vote on this, what will happen?

**P.O. CARACAPPA:**

Nothing, just like it has been happening since we originally passed it and overrode the veto back in the Spring, nothing with will happen. The positions won't be filled and there'll still be a standstill ••

**LEG. FOLEY:**

Mr. Chairman.

**P.O. CARACAPPA:**

•• as it relates to what both sides believe in.

**LEG. VILORIA • FISHER:**

Okay.

**P.O. CARACAPPA:**

Legislator Viloría•Fisher still has the floor.

**LEG. VILORIA • FISHER:**

No. I was asking a question which doesn't help to make this less complex and convoluted.

**P.O. CARACAPPA:**

I'm glad I could help you.

**D.P.O. CARPENTER:**

I'm going to withdraw my motion to approve.

**P.O. CARACAPPA:**

Legislator Mystal.

**LEG. MYSTAL:**

Just a question for you.

**P.O. CARACAPPA:**

I'm sorry. And there's a motion to withdraw the approval motion by ••

**D.P.O. CARPENTER:**

I'm withdrawing my motion to approve, instead, will make a motion to commit to committee.

**LEG. NOWICK:**

Second.

**P.O. CARACAPPA:**

There's a motion to commit to Public Safety?

**D.P.O. CARPENTER:**

Yep.

**P.O. CARACAPPA:**

Public Safety, second by Legislator Nowick. On the motion, Legislator Mystal.

**LEG. MYSTAL:**

Oh, I just wanted to ask you a question, Mr. Chair. Is this bill as part of the negotiation? No? Okay.

**P.O. CARACAPPA:**

No.

**LEG. MYSTAL:**

I just want to know if it was part of the negotiation ••

**P.O. CARACAPPA:**

There were semi•negotiations.

**LEG. MYSTAL:**

•• to resolve.

**P.O. CARACAPPA:**

We look for ways to move forward in as many areas as we can. The County Executive, and I'm not holding it against him, I'm not holding it against the Deputy Sheriffs Benevolent Association President either, got together and created this, this CN, and ••

**LEG. MYSTAL:**

So, it wasn't a negotiation between you and the ••

**P.O. CARACAPPA:**

•• and as we went •• as we go through the six memorandums, budget memorandums in an

attempt to negotiate, this is how •• we'd go over them one by one, and this •• let's say this was number one. Well, that one was taken care of because we have a CN coming over. So, it was basically told that this •• I was told it was happening, it wasn't a negotiation. They feel that this is the way to go, they feel that they found a clean offset, so they brought forward an offset.

**LEG. MYSTAL:**

And this is agreed to by the Sheriff Benevolent Association?

**P.O. CARACAPPA:**

Yes, and the County Executive, that's why he's •• they worked on it together. Again, I don't begrudge the County Executive for acting on what he believes is the proper way. Again, it goes, my concern is, back to the original resolution, the override and the process.

**LEG. FOLEY:**

Right. Mr. Chairman.

**P.O. CARACAPPA:**

And I don't want this to be contentious right now.

**LEG. FOLEY:**

Right.

**P.O. CARACAPPA:**

It's not my •• it's not my goal right now, trust me.

**LEG. FOLEY:**

Just I have one question, Mr. Chairman.

**P.O. CARACAPPA:**

Just trying to bring it to everyone's attention where this stems from.

**D.P.O. CARPENTER:**

And, too, if I could. There was no communication that I know of with the Presiding Officer, nor

with the Public Safety Committee.

**P.O. CARACAPPA:**

And I will put on the record, I have been talking at length with Deputy County Executive Kevin Law, and he's been •• he's been excellent in his attempts to remedy this situation, and we're working on it, and we'll continue to work on it. And because the level of adversity has been so high, we really want to ratchet it down in an effort to make some progress. So, I want to on the record thank Kevin Law for his fine work in reaching out to myself and other members of this body in an attempt to find solutions. Who was •• who wanted to speak on this?

**LEG. VILORIA • FISHER:**

Brian.

**P.O. CARACAPPA:**

Legislator Foley.

**LEG. FOLEY:**

Yeah. Thank you, Mr. Chairman. If it goes to committee, I mean, again, similar to the other bill, because there's a good six weeks between committee meetings, is there •• can we wait that long? I mean ••

**D.P.O. CARPENTER:**

We've been waiting since April.

**LEG. FOLEY:**

No, I know that, but I want to ask the question anyway.

**P.O. CARACAPPA:**

Just so you know, I'm not advocating either way for anyone to vote.

**LEG. FOLEY:**

No, I understand that.

**P.O. CARACAPPA:**

Vote your conscience on this one.

**LEG. FOLEY:**

No, we'll vote our conscience, but part of that is making a decision whether by going to committee we can wait the •• we can wait the six weeks. Could there be a Special Meeting between now and the middle of November?

**P.O. CARACAPPA:**

Budget meeting.

**LEG. FOLEY:**

It will be budget meetings.

**P.O. CARACAPPA:**

It would be a special meeting.

**LEG. FOLEY:**

On the 24th.

**P.O. CARACAPPA:**

No, no, no.

**LEG. FOLEY:**

No.

**P.O. CARACAPPA:**

On the 6th.

**LEG. FOLEY:**

On the 6th of November. So, we're essentially looking at about six weeks. Well, five weeks, five weeks. Okay. Thank you.

**P.O. CARACAPPA:**

There's a motion to commit ••

**MR. KNAPPE:**

Can I just have ••

**P.O. CARACAPPA:**

I'd allow the County Executive's Budget Office to say a few words.

**MR. KNAPPE:**

Thank you very much, Presiding Officer. Just on one part of the bill, if the desire of the Legislature is to recommit it to committee, if it could •• I would just mention that the original bill went to Budget and Finance back in April. It does have to do with offsets in the budget, and positions, and authorize positions more so than public safety. I certainly •• I just wanted to mention that on the record.

**P.O. CARACAPPA:**

Thank you very much. There's a motion to commit.

**LEG. FOLEY:**

To which committee?

**P.O. CARACAPPA:**

To Public Safety.

**LEG. FOLEY:**

Hearing what Mr. Knappe just said, that means some of us are willing to ••

**P.O. CARACAPPA:**

Oh, Budget, it was ••

**LEG. FOLEY:**

Yeah, it's the same. I know the Chair of Public Safety is very interested in this, and I could understand that, but ••

**D.P.O. CARPENTER:**

I just ask that there be a presentation in Public Safety.

**P.O. CARACAPPA:**

Okay. We'll send it to Budget and Finance, as long as there's a presentation in Public Safety; is that fair enough?

**LEG. FOLEY:**

Okay.

**MR. KNAPPE:**

Certainly.

**P.O. CARACAPPA:**

Excellent. There's a motion to commit. Is there any other motions that might supersede the motion to commit? Just checking. All in favor? Opposed?

**LEG. ALDEN:**

Opposed.

**P.O. CARACAPPA:**

Opposed, Legislator Alden.

**LEG. ALDEN:**

We don't have committees.

**P.O. CARACAPPA:**

And I'm abstaining.

**LEG. MYSTAL:**

Oh, come on, Alden.

**MR. BARTON:**

15.

**P.O. CARACAPPA:**

It's sent to Budget and Finance.

**LEG. ALDEN:**

Be consistent with your votes, don't need committees.

**P.O. CARACAPPA:**

Moving on. 1965 (*Authorizing execution of agreement by the Administrative Head of Suffolk County Sewer District No. 3 • Southwest with the Deer Park Avenue Villas (BA 1417).*)

**LEG. MYSTAL:**

On the motion. Motion to approve.

**P.O. CARACAPPA:**

Motion to approve Legislator Mystal, second by Legislator Carpenter. All in favor? Opposed? Abstentions?

**LEG. ALDEN:**

On the motion.

**D.P.O. CARACAPPA:**

On the motion, Legislator Alden.

**LEG. ALDEN:**

This is 1965?

**LEG. CARPENTER:**

Yeah.

**LEG. ALDEN:**

Just an explanation.

**LEG. MYSTAL:**

Yes.

**LEG. ALDEN:**

This is outside the ••

**LEG. MYSTAL:**

They started outside of the district. It is within the district. And the reason why I'm approving •• I'm asking for approval of it, this is a housing project with a 20% •• 20% affordable set •aside. And the reason why we're asking for a CN instead of going to committee, he has to break ground. Our next meeting will be November 4th and he has to break ground before that, otherwise, he'll be in violation of his contract, and that's why we're asking for a CN. It was approved unanimously in the Sewer Agency. This is Deer Park Avenue, Town of Babylon, within the district.

**LEG. ALDEN:**

Actually ••

**LEG. BINDER:**

It's in my district.

**LEG. ALDEN:**

I like doing business like this, because we don't really go through the committee process, so I like this. But on this specific resolution, the first "whereas" clause states that it's located outside the boundary of Suffolk County Sewer District. So, that's a typo?

**LEG. BISHOP:**

It is. I think it's just north of the Southern State Parkway.

**LEG. MYSTAL:**

It's north of the Southern State Parkway.

**LEG. BISHOP:**

Just outside.

**LEG. ALDEN:**

So, it is just outside the district.

**LEG. BISHOP:**

Otherwise, it wouldn't come here.

**LEG. ALDEN:**

All right.

**D.P.O. CARPENTER:**

Okay, let's do it.

**LEG. ALDEN:**

I like doing this stuff without the committee.

**P.O. CARACAPPA:**

There's a motion and second.

**LEG. BISHOP:**

It's important that the Babylon Legislators educate ••

**D.P.O. CARACAPPA:**

All in favor? Opposed? Abstentions.

**MR. BARTON:**

17.

**LEG. BISHOP:**

•• the Huntington Legislators about their Babylon district.

**P.O. CARACAPPA:**

1982 is a grant for 2.9 million.

**LEG. LOSQUADRO:**

Motion.

**LEG. FOLEY:**

1970.

**P.O. CARACAPPA:**

No, I don't have 1970, I have 1982. I'm sorry. Okay. **1970 (Accepting and appropriating 100% Federal pass-through grant funds from the NYS Division of Criminal Justice Services in the amount of \$200,000 for the "Urban Area Security Initiative (UASI) Grant Program FY2003" and in the amount of \$1,000,000 for the "urban area security initiative (UASI) Grant Program FY2004" implemented by the Suffolk County Department of Fire, Rescue and Emergency Services and to Executive Grant related agreements).** This is a grant as well.

**LEG. ALDEN:**

On the motion.

**D.P.O. CARPENTER:**

Motion.

**P.O. CARACAPPA:**

Wait. I don't have a motion yet. Motion by Legislator Carpenter, second by myself. On the motion, Legislator Alden.

**LEG. ALDEN:**

Did this go through the committee process?

**P.O. CARACAPPA:**

No, it did not.

**LEG. ALDEN:**

No, but did it go •• it's not in committee, though, right?

**LEG. FOLEY:**

Right.

**LEG. ALDEN:**

Because I'm being supportive of it if it's ••

**D.P.O. CARPENTER:**

Okay. This is a 100% pass•through for FRES.

**P.O. CARACAPPA:**

There's a motion and a second. All in favor? Opposed? One opposition. Is there •• are you in favor or opposed, Cameron Alden? Legislator Alden, you're in favor?

**LEG. ALDEN:**

What?

**P.O. CARACAPPA:**

You •• are you opposing?

**LEG. ALDEN:**

Oh, no.

**D.P.O. CARACAPPA:**

Okay.

**LEG. ALDEN:**

I'm for it. Don't go to committee.

**MR. BARTON:**

17.

**P.O. CARACAPPA:**

***1982 (Bond resolution of the County of Suffolk, New York, authorizing the issuance of \$281,400 bonds to finance a part of the cost of the purchase and installation of the Fire, Rescue and Emergency Services (FRES) computer aided dispatch (CAD) System (CP 3416).***

**LEG. FOLEY:**

Motion.

**P.O. CARACAPPA:**

Actually, there's a bond associated with this. Let me just take a look.

**LEG. VILORIA • FISHER:**

Yes, there is.

**P.O. CARACAPPA:**

We're getting 2.9 million and we're paying 281,000 ••

**D.P.O. CARPENTER:**

Four hundred dollars.

**LEG. VILORIA • FISHER:**

Motion to approve.

**LEG. CARACCILOLO:**

Second.

**P.O. CARACAPPA:**

There's a motion to approve by Legislator Vilorina•Fisher, second by Legislator Caracciolo. Roll call.

**(Roll Called by Mr. Barton, Clerk)**

**LEG. VILORIA • FISHER:**

Yes.

**LEG. CARACCILOLO:**

Yes.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. O'LEARY:**

Yes.

**LEG. LOSQUADRO:**

Yes.

**LEG. FOLEY:**

Yes.

**LEG. LINDSAY:**

Yes.

**MR. MONTANO:**

Yes.

**LEG. ALDEN:**

Pass.

**LEG. NOWICK:**

Yes.

**LEG. BISHOP:**

Yes.

**LEG. MYSTAL:**

Yes.

**LEG. BINDER:**

Yes.

**LEG. TONNA:**

Yes.

**LEG. COOPER:**

Yep.

**D.P.O. CARPENTER:**

Yes.

**P.O. CARACAPPA:**

Yes.

**LEG. ALDEN:**

Yes.

**MR. BARTON:**

17 on the bond.

**P.O. CARACAPPA:**

Same motion, same second, same vote on the companion resolution.

Not like it is 1970.

***1983 (Amending and appropriating a grant in the amount of \$700,000 from the New York State Department of Transportation for the LIE/HOV Dedicated Enforcement Program in Suffolk County with 100% support).*** That was a very good year.

**LEG. CARPENTER:**

Motion, 100% grant.

**D.P.O. CARACAPPA:**

Motion by Legislator Carpenter, second by Legislator Viloría•Fisher. All in favor? Opposed? Abstentions?

**MR. BARTON:**

17.

**P.O. CARACAPPA:**

**1984 (Accepting and appropriating grant funding in the amount of \$2,417,402 from the New York State Department of State for the wireless E•911 Expedited Deployment Program with 90% support).** Another good year.

**D.P.O. CARPENTER:**

Motion.

**P.O. CARACAPPA:**

Motion by Legislator Carpenter, second by Legislator O'Leary. All in favor? Opposed? Abstentions?

**MR. BARTON:**

17.

**P.O. CARACAPPA:**

That's it for the CN's. Late•starters. I'll make a motion to waive the rules, lay on the table, and second by Legislator Carpenter, the following bills: 1985, Ways and Means; 1986, Ways and Means; 1987, Public Safety; 1988 to Parks; 1989 to Public Safety; 1990 to Parks. 1985 •• 1985, I made a mistake, that should go to Public Safety. Yeah, my mistake.

**LEG. FOLEY:**

Which one?

**P.O. CARACAPPA:**

1985. Okay.

**MR. BARTON:**

All in favor?

**P.O. CARACAPPA:**

All in favor? Opposed? Abstentions?

**LEG. ALDEN:**

Opposed.

**MR. BARTON:**

16.

**D.P.O. CARACAPPA:**

And, also, Sense ••

**MR. BARTON:**

Cameron Alden doesn't believe in the committees.

**P.O. CARACAPPA:**

Sense •• also, add to that Sense 75, Ladies and Gentlemen, to be laid on the table ••

**MR. BARTON:**

Sense 75.

**D.P.O. CARACAPPA:**

•• and sent to Health and Human Services.

**LEG. CARPENTER:**

Can we approve it?

**D.P.O. CARACAPPA:**

No, we can't, based on our new rules.

**LEG. CARPENTER:**

Oh, okay.

**D.P.O. CARACAPPA:**

I don't have any other business to come before me.

**D.P.O. CARPENTER:**

Do you want to make that motion, Legislator Foley?

**P.O. CARACAPPA:**

What? We can't ••

**LEG. FOLEY:**

Yeah. I'll make the motion to waive the rules and vote on Sense Resolution 75 tonight.

**P.O. CARACAPPA:**

I don't believe we're •• I don't think we can.

**LEG. FOLEY:**

We can.

**P.O. CARACAPPA:**

I don't think we ••

**LEG. FOLEY:**

Allan, you see, this rule is coming back •• if you're going to tell us we •• this is a time•sensitive matter, because as soon as ••

Mr. Chairman, this is rather important for certain areas of the County.

Mr. Chairman. Mr. Chairman, this is rather important.

**P.O. CARACAPPA:**

Hold on. We have one more piece of business, Ladies and Gentlemen.

**LEG. BINDER:**

What is it?

**LEG. FOLEY:**

It's a resolution by Legislator Carpenter opposing the reduction in HUD funding, particularly for rental ••

**P.O. CARACAPPA:**

Motion to waive the rules ••

**LEG. FOLEY:**

•• section 8 housing.

**P.O. CARACAPPA:**

•• and have the bill ••

**LEG. FOLEY:**

Sense ••

**P.O. CARACAPPA:**

Sense 75 ••

**LEG. FOLEY:**

Before us.

**D.P.O. CARACAPPA:**

•• before us now. All in ••

**LEG. BINDER:**

He makes a motion to waive the rules and pass.

**LEG. FOLEY:**

I make a motion to waive the rules and approve Sense Number 75.

**P.O. CARACAPPA:**

Second by Legislator Carpenter. All in favor? Opposed? Abstentions?

**LEG. FOLEY:**

Cosponsor.

**D.P.O. CARPENTER:**

And any cosponsors?

**D.P.O. CARACAPPA:**

And it's approved.

**LEG. BINDER:**

Cosponsor.

**LEG. VILORIA • FISHER:**

Cosponsor.

**LEG. ALDEN:**

What did that mean, it didn't go through the committee process?

**LEG. FOLEY:**

It did, very quickly.

**LEG. ALDEN:**

No, no, no, it didn't. We waived the rules, right?

**P.O. CARACAPPA:**

Anything else to come before the Legislature? We're adjourned.

***[THE MEETING WAS ADJOURNED AT 6:24 P.M.]***

***\\_ \\_ Indicates Spelled Phonetically***