

**SUFFOLK COUNTY LEGISLATURE
SPECIAL MEETING
ELEVENTH DAY
JULY 2, 2004**

**MEETING HELD AT THE WILLIAM H. ROGERS LEGISLATURE BUILDING
IN THE ROSE Y. CARACAPPA AUDITORIUM
725 VETERANS MEMORIAL HIGHWAY, SMITHTOWN, NEW YORK**

MINUTES TAKEN BY LUCIA BRAATEN • COURT STENOGRAPHER

MINUTES TRANSCRIBED BY ALISON MAHONEY • COURT STENOGRAPHER

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

P.O. CARACAPPA:

Good morning, everyone. Mr. Clerk, please call the roll.

MR. BARTON:

Good morning, Mr. Chairman.

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

LEG. CARACCIOLO:

Here.

LEG. SCHNEIDERMAN:

Here.

LEG. O'LEARY:

Here.

LEG. VILORIA • FISHER:

(Not Present).

LEG. LOSQUADRO:

Present.

LEG. FOLEY:

(Not Present).

LEG. LINDSAY:

(Not Present).

LEG. MONTANO:

Here.

LEG. ALDEN:

Here.

LEG. CRECCA:

Here.

LEG. NOWICK:

Here.

LEG. BISHOP:

(Not Present).

LEG. MYSTAL:

Here.

LEG. BINDER:

Here.

LEG. TONNA:

(Not Present).

LEG. COOPER:

Here.

LEG. CARPENTER:

Here.

P.O. CARACAPPA:

Here.

MR. BARTON:

Thirteen present (Not Present: Legislators Viloría•Fisher, Foley, Lindsay, Bishop, Tonna).

LEG. ALDEN:

You've got Cooper too now, right here.

P.O. CARACAPPA:

Everyone please rise for a Salute to the Flag led by Legislator Carpenter.

SALUTATION

P.O. CARACAPPA:

Mr. Clerk, would you please read the Special Meeting Notice?

MR. BARTON:

Before each Legislator, dated June 29th, "To all County Legislators from Joseph T. Caracappa, Presiding Officer. Please be advised that a Special Meeting of the Suffolk County Legislature will

be held on Friday, July 2nd, 2004, at 9:30 in the forenoon in the Rose Caracappa Legislative Auditorium, located at the William H. Rogers Legislature Building, 725 Veterans Memorial Highway, Hauppauge, pursuant to Section 2•6B of the Suffolk County Administrative Code for the following purpose; a one hour public portion and to consider and vote on override of vetoes." Signed, Joseph T. Caracappa.

P.O. CARACAPPA:

Thank you, Mr. Clerk. I guess I'll just start briefly by saying I apologize for having to call this Special Meeting, it was unnecessary that we had to but I appreciate the support of the Legislators that came here today that it was •• that were willing to get this done sooner than later. So let's just get to the business of the people, hopefully we can get out of here as soon as •• as soon as possible.

We're going to go into public portion now. I have no cards. Is there anyone wishing to be heard? We have •• as part of the public or ••

MR. ZWIRN:

Well, yes.

P.O. CARACAPPA:

Okay.

LEG. CRECCA:

He has three minutes.

P.O. CARACAPPA:

Ben, you have three minutes.

MR. ZWIRN:

Yes, thank you.

P.O. CARACAPPA:

Okay.

MR. ZWIRN:

Thank you very much, Mr. Presiding Officer. As a representative of the County Executive here today, I'm taking the public portion to just take three minutes.

We had two bills that we were going to lay on the table today, one with respect to the appointment of Jim Morgo to Economic Development and Workforce Housing, and the other one is with respect to an appropriation, a bill for \$1.3 million for modular units, pod units at the County Jail Facility in Yaphank. I brought them today in hopes that we would be able to do them by CN or by unanimous vote, because there are people here from the Sheriff's Office who can speak to this and DPW that the cost of shipping prisoners off of Long Island right now is \$800,000 a month. We could get a six-week head start on building these pods, which cost \$1.3 million, in less than two months time, they would be •• more than pay for themselves. And this would be an excellent project for the Sheriff's Office and the County, and especially the County taxpayers.

We're sorry that this could not be accomplished today, apparently, but I would ask that if it would be possible that I could get the available dates from members of the Legislature for the month of July, as early as possible. Because the County Executive, I think because there's so much money involved here in savings to the taxpayers, will be calling a Special Meeting of the Legislature to consider this legislation.

LEG. BINDER:

Why don't you just keep us in. We'll •• we won't leave. Why don't we do that?

LEG. CRECCA:

Allan, it's public portion.

MR. ZWIRN:

Well, I understand it. I could understand, Legislator Binder, but I have my three minutes. The legislation is prepared, you know, it could be done. It's not a bill for the County Executive or anybody in particular, but it is something that's for the taxpayers. It was arrived at on Wednesday of this week and I discussed it with some of the Legislators yesterday and ••

LEG. ALDEN:

Let's just do the three minutes, he has his time; continue,

Mr. Zwirn.

MR. ZWIRN:

That's all I have to say. Thank you very much.

P.O. CARACAPPA:

Thank you. Anyone else wishing to be heard? I'll make a motion to close public portion.

LEG. CRECCA:

Second.

P.O. CARACAPPA:

Second by Legislator Alden. All in favor? Opposed? Abstentions? Public portion is closed.

LEG. CRECCA:

Mr. Presiding Officer?

P.O. CARACAPPA:

I recognize Legislator Crecca.

LEG. CRECCA:

Just a point of order so that the public record is clear.

P.O. CARACAPPA:

Yeah.

LEG. CRECCA:

I would ask Counsel, given •• my understanding of the Charter Law is that when the Special Meeting is called we cannot go outside the scope of the agenda set; is that correct?

MS. KNAPP:

You can only transact business at a Special Meeting that is on the notice, that's State Law as well as Charter.

LEG. CRECCA:

So while the County Executive requests a CN, we can't consider CN's today; is that correct?

MS. KNAPP:

Cannot.

LEG. CRECCA:

Okay. I just want •• just so the record is clear. Mr. Presiding Officer, I don't know the appropriate time is but I do have some questions for Mr. Sabatino or Ms. Malafi, if they're here.

P.O. CARACAPPA:

The appropriate time would be now, it's next on our agenda, Public Officials Invited to speak. County Attorney Christine Malafi and Chief Deputy County Executive Paul Sabatino; I don't see either. Is Ms. Bizzarro speaking ••

LEG. ALDEN:

Point of order.

P.O. CARACAPPA:

Just let me finish my question. Is Ms. Bizzarro going to speak or answer questions on behalf •• that were •• were you summoned here to answer the questions of the Legislature?

MS. BIZZARRO:

I just want to notify the Legislators that Ms. Malafi is on maternity leave.

P.O. CARACAPPA:

Okay, and Chief Deputy County, Paul Sabatino, was also invited;
Mr. Zwirn.

MR. ZWIRN:

Mr. Presiding Officer, the Chief Deputy is in the Dennison Building today handling affairs as the County Executive has called in ill today. But I don't know if there was a correspondence that had been sent to your office from the County Executive; even if that were not the case, I don't believe that Mr. Sabatino would have been here today in any regard.

LEG. CRECCA:

May I, Mr. Presiding Officer?

P.O. CARACAPPA:

Legislator Crecca.

LEG. CRECCA:

It's my understanding, and I would ask either the Presiding Officer's staff or the Presiding Officer himself to correct me, there was an invitation sent along with •• a request I should say, sent that the Chief Deputy County Executive appear here today to answer some questions. We were told two days ago, our Chief•of•Staff Linda Burkhardt was informed by the County Executive's Office that he would attend, and as recently as yesterday I believe the Presiding Officer, in conversation, was told that Mr. Sabatino would be here today.

P.O. CARACAPPA:

Yeah.

LEG. CRECCA:

You know, what is the change that he's not •• he's decided not to come and answer some questions?

MR. ZWIRN:

Well, I believe the County Executive asked him not to come here today. And he's also, as I say, involved in a number of matters at the County •• because the County Executive's not in the office.

LEG. CRECCA:

Mr. Zwirn, what I would ask is if you could have a member of your staff reach out to Mr. Sabatino at this time since he is just at the Dennison Building, and in the meantime I could ask the County Attorney some questions.

LEG. BINDER:

Mr. Chairman?

LEG. CRECCA:

You know, ask him to please reconsider coming over. It's not to beat Mr. Sabatino up or anything else like that, he's sent over several •• actually a number of correspondences in the last several days, some of which place tremendous •• have tremendous impact on our Local Laws and Charter Laws, not just the eight that he sent over but on the whole process of government, and those memorandums are signed by him. And I would respectfully request that you ask him to take, you know, 20 minutes, 15 minutes out of his day to just to come over with the Legislature, to the Legislature as requested.

MR. ZWIRN:

Okay.

LEG. CRECCA:

Okay?

LEG. BINDER:

Mr. Chairman?

P.O. CARACAPPA:

Legislator Binder.

LEG. BINDER:

I'd just like to make a statement. We have a County Executive who has two Chief County •• two Chief Deputy County Executives, so it seems absurd to me that even if the County Executive called in sick that there's no coverage by at least one of them to be in the Dennison Building doing whatever is possible. It's obvious that Mr. Sabatino just doesn't want to respond to the request of the Legislature.

P.O. CARACAPPA:

Anybody else?

LEG. CRECCA:

Ben, do you need a moment to do that, and maybe I could speak to Ms. Bizzarro while you do that?

MR. ZWIRN:

Sure.

LEG. CRECCA:

If that's ••

P.O. CARACAPPA:

That's fine. There's a request from Legislator Crecca to have the County Attorney come up and answer some questions. Thank you,

Ms. Bizzarro.

MS. BIZZARRO:

Thank you. Good morning.

LEG. CRECCA:

Again •• and I mean no disrespect by this, Ms. Bizzarro, but it was my understanding that Ms. Malafi was coming in, has been in the office regularly lately.

MS. BIZZARRO:

No, that is not true.

LEG. CRECCA:

Okay.

MS. BIZZARRO:

She came in for about an hour•and•a•half or so.

LEG. CRECCA:

Oh, okay. No, that's fine, I know she is on maternity leave.

MS. BIZZARRO:

Yes.

LEG. CRECCA:

I didn't mean any disrespect.

MS. BIZZARRO:

That's fine, she's restricted as well.

LEG. CRECCA:

Yeah, we wouldn't have even asked her to come, we thought that she was keeping office hours, so to speak. But I guess let me start out by asking, do you have a copy of the letter that's dated June 11th, signed by Chief Deputy County Executive Paul Sabatino? I believe the letter itself is dated as June 11th on the front and signed 6/25.

MS. BIZZARRO:

It's regarding •• what's the topic?

LEG. CRECCA:

Local Laws.

MS. BIZZARRO:

And there's a few Local Laws that are referenced in it?

LEG. CRECCA:

There's a lot.

MS. BIZZARRO:

Okay.

LEG. CRECCA:

It's 583, 584, 628, 659, 660, 661••

MS. BIZZARRO:

Oh, yeah.

LEG. CRECCA:

•• 662 and 668 which were allegedly or supposedly •• were filed late.

MS. BIZZARRO:

I have a copy of a letter that was just given to me and this is it; Yes, I have a copy of this, it says Local Laws on the top of it.

LEG. CRECCA:

According to the letter, and if I'm reading it correctly, Mr. Sabatino's position is that these eight Local Laws cannot be legally certified. First of all, is it the County Attorney's •• does the County attorney concur with that letter, with that opinion?

MS. BIZZARRO:

I could not certify these laws, correct.

LEG. CRECCA:

Could you take us through the process of how you handle the eight Local Laws that are subject •• that are the subject of this letter?

MS. BIZZARRO:

What do you mean, from ••

LEG. CRECCA:

Well, we passed them, we sent them over.

MS. BIZZARRO:

Right. Then they're supposed •• right, they're supposed to be filed with the County Executive's Office.

LEG. CRECCA:

I'm sorry, you've got •• pull the mike up a little, just point it up.

MS. BIZZARRO:

Sorry, it's all over the place.

LEG. CRECCA:

It's okay, I'm just not picking you up, there's other conversations going on.

MS. BIZZARRO:

Okay. How's that?

LEG. CRECCA:

Much better, thanks.

MS. BIZZARRO:

They are to be filed with the County Exec's Office, the County Exec is then to send out notice and have a hearing as well, then ultimately, if they are approved, the County Exec executes or signs, and then I believe •• I'm not sure the route they take, but ultimately then they come to the County Attorney's Office.

LEG. CRECCA:

In other words, after the County Executive has either signed them or not signed them?

MS. BIZZARRO:

I believe so, yes.

LEG. CRECCA:

Okay, or vetoed it; obviously if it's vetoed you don't certify it at that point.

MS. BIZZARRO:

Correct.

LEG. CRECCA:

When was the •• let me first ask, was it •• it was the County Attorney's Office that decided not to certify these Local Laws.

MS. BIZZARRO:

Well, we were notified that they were filed late and, therefore, then we could not certify them as the laws themselves specifically state that •• that the •• I will quote, "I, the undersigned, hereby certify that the foregoing Local Law contains the correct text and that all proper proceedings have been had or taken for the enactment of the Local Law annexed hereto," and I couldn't certify them.

LEG. CRECCA:

And when was that decision made on these eight Local Laws?

MS. BIZZARRO:

Oh, I don't recall the date, I'm sorry.

LEG. CRECCA:

Well, let's •• again, I don't want to be here all day, but this is •• this has never happened, at least since I've been here and from my conversations with fellow Legislators who have been here much longer than I, as well as the County Clerk, you know, going back more than a decade; this has never happened before so this is •• and it has monumental consequence. Because I believe other Local Laws have been sent over late in the past and have been certified so we need to go through this. So when did you •• if •• when did this eight Local Laws, when was the decision made not to certify them?

MS. BIZZARRO:

I don't recall, I'm sorry. I just don't have that kind of information that I, you know, mark down exactly what date, I don't know, but it was obviously prior ••

LEG. CRECCA:

Do you realize the impact of this? I'm just •• because again, my concern is is that you're •• I understand what you're saying, but this is a completely new position. I can cite Local Laws, since Mr. Levy and since Ms. Malafi has been the County Attorney, that have been certified by your office which ••

LEG. BINDER:

Are they laws?

LEG. CRECCA:

Which were late, filed late. So the question is when was the decision made to change the policy of certifying •• of not certifying Local Laws that were filed late?

MS. BIZZARRO:

I don't know what was done prior to me, I just know that I was involved with respect to these.

LEG. CRECCA:

Okay. When you say prior to, I'm talking about while you were in the County Attorney's Office. I will be happy to •• I need to find one, hold on. I'm looking at the wrong page, sorry.

Okay. Just for an example, we had a Local Law defining income for disabled persons, it was Local Law No. 1, for property tax exemption; it was adopted on 2/24/04. It was clocked in with the County Executive's Office the next day but at 3:38 P.M, what I believe is beyond the deadline, and it was signed into law by the County Executive. And Mr. Clerk, was •• that was also certified by the County Attorney, that Local Law.

MR. BARTON:

Yes, it was.

LEG. CRECCA:

Okay. Do you know the date that that was certified?

MR. BARTON:

No, but we can find out.

LEG. CRECCA:

Okay. But that was, you know, purportedly some time in March, end of March, that that was certified?

MR. BARTON:

Yes.

LEG. CRECCA:

Now, that was late. I mean, I can tell you right now, I have the list of every Local Law that's been adopted this year, every single one was filed late.

MS. BIZZARRO:

Uh•huh.

LEG. CRECCA:

Not something I'm proud of or whatever, but it's happened, and I'm sure if I go back beyond

this year that I will find a series of more •• of more Local Laws that were filed late. So there are some very important legal questions that need to be answered today. Number one is what caused the County Attorney to certify those laws if the County Attorney's position is legally those laws could not be certified?

MS. BIZZARRO:

I can't speak for the County Attorney; I can't speak for what Christine Malafi did.

LEG. CRECCA:

You are here representing the County Attorney's Office, Ms. Malafi is out on maternity leave.

MS. BIZZARRO:

Correct.

LEG. CRECCA:

I assume you are the Chief Deputy County Attorney?

MS. BIZZARRO:

Correct.

LEG. CRECCA:

Okay, so then I will ask you, okay. Again, there was obviously a decision that you cannot certify, that's what you stated earlier.

MS. BIZZARRO:

Right.

LEG. CRECCA:

Local Laws that were filed late.

MS. BIZZARRO:

Correct.

LEG. CRECCA:

You have done it on at least one, two, three, four, five, at least 15 occasions.

MS. BIZZARRO:

I have not done that, that is not my •• that is not my signature on those laws.

LEG. CRECCA:

Who is it?

MS. BIZZARRO:

I made the •• Christine Malafi's. I made the decision on these laws that they are not to be certified as they were a day late; I don't know what the circumstances are for those. I check them out when they come in and I make the decision. You know, I was making the decision with respect to these laws. They •• in my opinion, they could not be certified as the procedure was incorrect. I don't know what bearing that will ultimately have on this, you know, on these laws.

LEG. CRECCA:

Well, you're the County Attorney, you've come here purporting that these laws are a nullity it, you're saying you agree with the letter.

MS. BIZZARRO:

No, I just state that I cannot certify them, I did not say that they were a nullity.

LEG. CRECCA:

Well, the letter, I believe ••

MS. BIZZARRO:

I'm not talking about the letter, I'm saying what the position of the County Attorney's Office is, is that I could not certify them as there were procedural problems involved, and as a result I could not sign off on them.

LEG. CRECCA:

Okay. What is your position with regard to the 15 Local Laws, the first 15 Local Laws that were passed this year that were also late that were certified by the County Attorney; were those ••

MS. BIZZARRO:

I would have to look at all of them. I would have to look at all of them.

LEG. CRECCA:

Were those certifications improper?

MS. BIZZARRO:

I would have to look at all of them before I make a determination.

LEG. CRECCA:

Okay. Well, I guess let me ask your legal opinion. This isn't •• you know, are these now •• the fact that they've been certified, are they now legally valid laws? They've been sent to the Secretary of State.

MS. BIZZARRO:

I haven't commented on that. All I ••

LEG. CRECCA:

I'm asking you to comment, you're the County Attorney.

MS. BIZZARRO:

And I'm saying to you that I have not done the research on what basis that has as far as whether they're valid or not.

LEG. CRECCA:

I'm sorry, one second.

MS. BIZZARRO:

That's okay.

LEG. CRECCA:

I'm not •• and I apologize if my tone is •• and I'm not •• this is not a game, okay? It is not. There's no act here, there's nothing.

MS. BIZZARRO:

I'll ask you, Legislator Crecca, if you know what my lack of certifying them, what impact that has on these laws? And that's my question to you.

LEG. CRECCA:

I ••

MS. BIZZARRO:

I don't need to know that answer. I just •• it was my belief that I could not certify these laws because there were procedural defects involved, that is why I didn't certify them. I don't know what ultimate impact that has on these laws, but the Legislature should be aware of what that is.

LEG. CRECCA:

I need copies of the certifications, too, for the first 15 Local Laws. The •• now, you said it was your decision, did you consult with the County Attorney so that we know if we have inconsistent decisions at least what we can expect in the future?

MS. BIZZARRO:

I •• it's hard to remember. I may have advised her what I was doing. As I said, she had her •• she's been out on maternity leave since June 16th.

LEG. CRECCA:

Right.

MS. BIZZARRO:

Paul Sabatino executed this letter on June 25th, so obviously after she had gone out on maternity leave; I don't recall whether or not I discussed specifically that we would not be certifying these laws.

LEG. CRECCA:

Was there any consultation by you, beyond the County Attorney, with other County •• Assistant County Attorneys and also with any prior County Attorneys?

MS. BIZZARRO:

Not with any prior County Attorneys.

LEG. COOPER:

Don't look at me.

MS. BIZZARRO:

Perhaps with an Assistant County Attorney in my office.

LEG. CRECCA:

Okay. Is there a technical •• is there such a thing as a technical violation with respect to a Local Law that would not rise to the level of non•certification?

MS. BIZZARRO:

Not non•certification but perhaps non •• not making it invalid; yes, I believe so.

LEG. CRECCA:

All right. And just so I understand, and I just want to be clear, when a Local Law has to get •• it gets certified by you, then it goes back to the County Clerk who then sends it to the Secretary of State?

MS. BIZZARRO:

I think that is ••

LEG. CRECCA:

I mean to the Legislative Clerk.

MS. BIZZARRO:

I think that's the route but I could not be absolutely sure, I give it to someone in my office named Judy Blank and then she takes care of it from that end.

LEG. CRECCA:

Okay. Henry, do they come back to you after they're certified?

MR. BARTON:

Yes.

LEG. CRECCA:

Can you •• and then you send it to the Secretary of State?

MR. BARTON:

Correct.

LEG. CRECCA:

Are you authorized to send it to the Secretary of State if it has not been certified?

MR. BARTON:

It's happened once, in 1990, and the Legislative Counsel, Paul Sabatino, signed the Local Law and it was rejected by the Secretary of State.

LEG. CRECCA:

Okay. So as far as you know, it's required that it be certified by the County Attorney.

MR. BARTON:

Correct.

LEG. CRECCA:

And that's pursuant to State Law?

MR. BARTON:

Correct.

LEG. CRECCA:

Okay. What is the current status, then, of the eight Local Laws, three of which have been vetoed by the County Executive, the legal status of those bills? Because we're not •• at least I'm not sure what they are.

MS. BIZZARRO:

I don't know, that's what I said, I just know that I couldn't certify them, that's it.

LEG. CRECCA:

Okay. Again, and I'm not trying to be confrontational, but as the County attorney I'm asking you for a legal opinion as to we need to know where we're at, either they've been passed by the Legislature.

MS. BIZZARRO:

No, I ••

LEG. CRECCA:

Certainly some of them may have been •• I don't even know if any of them have been signed by the County Executive but they may have been vetoed or pocket approved.

MS. BIZZARRO:

I'd be happy to look into that for you, absolutely.

LEG. CRECCA:

Well, we're here to address that today, obviously.

MS. BIZZARRO:

I didn't even know why •• what you were going to be asking me questions about, so I didn't even know that, but I'd be happy to look into that and get you an opinion.

LEG. CRECCA:

And could you also get us an opinion as to the validity of laws which were past the filing deadline that were certified by Ms. Malafi?

MS. BIZZARRO:

Can you give me the numbers of those laws so I can look into ••

LEG. CRECCA:

It's Local Laws and it's Nos. 1 through 15. I can give you the resolution numbers, but I think you know them as Local Law 1, 2, 3, 4. Once they've been certified, they get a Local Law numbers; is that correct, Henry?

MR. BARTON:

Correct.

LEG. CRECCA:

So it's 1 through 15, two of which were just •• Henry, when was 14 and 15 certified, Local Law 14 and 15?

MR. BARTON:

I received them on June 30th. They were overnight delivered to the Secretary of State.

LEG. CRECCA:

And they're dated, I believe, 6/29, the certification?

MR. BARTON:

Correct.

LEG. CRECCA:

And were •• who were those signed by?

MR. BARTON:

The Chief Deputy County Attorney.

LEG. CRECCA:

Who is Ms. Bizzarro?

MR. BARTON:

I believe so; you signed those?

MS. BIZZARRO:

Yes, I did.

LEG. CRECCA:

Okay. Those were late and you signed those, so I guess what is ••

MS. BIZZARRO:

Well, I was told that they were not. As I said, when I get them, I ask, I find out and I was told that they were ••

LEG. CRECCA:

Well, they were late.

MS. BIZZARRO:

Okay.

LEG. CRECCA:

I have the clock•in times on here.

P.O. CARACAPPA:

They're time•stamped.

LEG. CRECCA:

They're time•stamped right on •• right on what you signed ••

LEG. BINDER:

Stamped on the bill.

LEG. CRECCA:

•• on the bill itself. So I guess my question is, Charter Law 14, for example, was filed at least four hours and forty•nine minutes late, so my question is, is ••

MS. BIZZARRO:

Well, there's a difference between four hours and the next day, so ••

LEG. CRECCA:

What is the legal difference between four hours and the next day?

MS. BIZZARRO:

There would be a difference there, absolutely.

LEG. CRECCA:

What is the legal difference? If it's late, it's late.

MS. BIZZARRO:

No, not necessarily.

LEG. CRECCA:

Well, share with me your legal opinion regarding that.

MS. BIZZARRO:

There would •• there could be a substantial error and then an insubstantial error; I would say that a few hours late would be insubstantial.

LEG. CRECCA:

Okay.

LEG. BINDER:

So who's deciding?

LEG. CRECCA:

Then, I've got ••

MS. BIZZARRO:

I would be deciding, yeah.

LEG. CRECCA:

Okay. I have another Local Law, then, one of the ones that you signed, Ms. Malafi •• Ms. Bizzarro, was, in fact, two days late it was filed and you signed it, so ••

MS. BIZZARRO:

Which one is that?

LEG. CRECCA:

That was Local Law 15.

LEG. MYSTAL:

That's like being almost pregnant.

LEG. CRECCA:

Again, what caused you to •• that was in •• that was ••

MS. BIZZARRO:

Let's see if I have this.

LEG. CRECCA:

That was at the end of March. What caused you at that time to have a different legal opinion than you have now?

MS. BIZZARRO:

These were Local Laws. Which one •• what numbers are these?

LEG. CRECCA:

14 and 15, Local Law 15. Why don't we stick with 15, since that's the one that was •• from what I see, it was a day •• more than a day late.

MS. BIZZARRO:

Just so you know, I have no stamp on any of the Local Laws that I get, so I don't know when they were filed with the County Executive, just for your edification.

LEG. CRECCA:

So then what ••

MS. BIZZARRO:

I have one right in front of me, I have Local Law 14, which on its face looks procedurally correct. I get notification whether or not the procedure was done properly, it was my understanding that it was and I signed off on it on the 29th of June.

LEG. BINDER:

Ask her who told her that.

P.O. CARACAPPA:

Yeah.

MS. BIZZARRO:

I was telling you that.

P.O. CARACAPPA:

If I could just •• when •• how come all of a sudden on these bills you were told they were late when in the past you weren't, you wouldn't have any idea and ••

MS. BIZZARRO:

I can't comment on why.

P.O. CARACAPPA:

Well, what differentiated the time?

MS. BIZZARRO:

I can't comment on why, I don't know.

LEG. CRECCA:

Well, who told you, then?

MS. BIZZARRO:

We were ••

P.O. CARACAPPA:

Who told you they're late and who told you they ••

MS. BIZZARRO:

We're notified from the County Executive's Office that the procedure, that, you know, things were done properly, they had the proper hearing, etcetera. But like I said, I have no idea when the County Executive receives any of these laws.

P.O. CARACAPPA:

So you get word from the County Executive, they tell you it's late, they tell you certify or it's certifiable.

MS. BIZZARRO:

No, they don't tell me whether it's certifiable, they just •• they just give me the facts, and based upon those facts, I make the decision whether I can certify them or not.

P.O. CARACAPPA:

But they just tell you sporadically if it's late or not.

MS. BIZZARRO:

I'm sorry?

P.O. CARACAPPA:

I guess they tell you sporadically if it's late or not.

MS. BIZZARRO:

I can't say what they tell me or why they tell me.

LEG. CRECCA:

Earlier you stated ••

P.O. CARACAPPA:

I'm trying to get to the bottom of it.

LEG. CRECCA:

Yeah, I'm trying to get to the bottom of it, too. So, if you •• again, I'm not trying to be confrontational in any way, shape or form. I really want to understand where we're at, both our prior Local Laws and the current eight Local Laws, because we're here to take action on those today and try to correct whatever errors have been made. So, with that, again, I have to ask you, what would be the status of Local Law 15 that was certified late, but has now been sent to the Secretary of State; would your position be that the law is valid?

MS. BIZZARRO:

I don't know. As I said, I had not researched that issue yet. I just know that, you know, as I told you, I'm dealing on the end of certifying it, not as to what impact this has on the law.

LEG. CRECCA:

Is it your position that Local Law 15, had you known it had been filed late, that you would not have certified it?

MS. BIZZARRO:

In light of what I had •• what I have previously done, I probably would not have certified it.

LEG. CRECCA:

What do you mean; what do you mean by in light of what you previously had done?

MS. BIZZARRO:

Well, I look at this sort of globally. I mean, if there's a pattern of constant basically thumb •nosing to the procedural laws, what originally could be seen as insubstantial can begin to appear substantial; that's the difference. So, in light of the fact this is Local Law 15 ••

LEG. CRECCA:

Right.

MS. BIZZARRO:

•• and you're telling me that perhaps all these laws were filed late, and I don't know how late they were, whether it was a minute, an hour, two hours, two days, four days, ten days, then to me ••

LEG. CRECCA:

It varies from anywhere from an hour and fifteen minutes to •• you know, to 36 hours late.

MS. BIZZARRO:

Okay.

LEG. CRECCA:

You know.

MS. BIZZARRO:

I don't know that, but I'm going by what you're telling me. Then in light of that, Local Law 15, which, if you're telling me that it was filed two days late ••

LEG. CRECCA:

It was filed •• it was adopted at the 3/23 •• on three •• March 23rd of 2004. It was filed or clocked in with the County Executive March 25th at 1:17 p.m., which would have been 25 hours after •• and 17 minutes after the deadline, which, you know, earlier you had stated there was a difference between being a few hours late and a day late.

MS. BIZZARRO:

Uh•huh.

LEG. CRECCA:

The other ones were all a day late, you know, the ones •• the eight in question, I believe at first blush, they're all •• I think they were all filed ••

MS. BIZZARRO:

I think they're all a day, uh•huh.

LEG. CRECCA:

Yeah, a day. Actually •• so, again, what was the difference between 14 •• Local Law 14 and 15 and the other eight that you refused to certify?

MS. BIZZARRO:

I explained that there was no difference. As a said, I got notification that there were no procedural defects in that, so I signed off on it.

LEG. CRECCA:

I would ask in the future that the County Attorney, if there is something that under the Charter Law or State Law that the County Attorney has a responsibility for ••

MS. BIZZARRO:

Yes.

LEG. CRECCA:

•• i.e. certification, that it would behoove the County Attorney's Office to not rely on another branch of government to tell it whether or not it was certifiable or not. You know, you've indicated that on 14 and 15, no one indicated to you that it was not certifiable, and that on Local •• the last eight Local Laws that you've made that decision. You know, ultimately, we have to rely on •• you have to •• you know, on what your duties are and all that, too. So ••

MS. BIZZARRO:

Correct.

LEG. CRECCA:

•• the inconsistency is unexplainable to me. And, again, I am concerned about where we go from the future and what the status of these laws are.

I don't have anymore questions, Mr. Presiding Officer, of Ms. Bizarro at this time, but I would ask that at the soonest juncture, which I know may not be until the end of July or early August, that we have

Ms. Bizarro and the County Attorney. There is obviously an inconsistency of positions here that will have major impact on our Charter and Local Laws, and I just think that we need to have questions answered. So, I'll leave it at that.

P.O. CARACAPPA:

Thank you, Legislator Crecca. Legislator Lindsay.

LEG. BINDER:

Mr. Chairman?

P.O. CARACAPPA:

I'll put you on.

LEG. LINDSAY:

Really a statement to my colleagues, not so much a question. But it's obvious that there's a tit •for•tat game going on here between the Legislative Branch and the Executive Branch, and

that's unfortunate.

LEG. CRECCA:

What's the tit•or•at? I ••

LEG. LINDSAY:

Now, wait a minute. I didn't interrupt you, Andrew.

LEG. CRECCA:

Okay.

LEG. LINDSAY:

Let me ••

LEG. CRECCA:

You're right, I'm sorry.

LEG. LINDSAY:

•• have my say. But I'd like to get at the heart of things, is why •• why are we filing these late?

P.O. CARACAPPA:

That question is directed to the Clerk, I presume?

LEG. LINDSAY:

Yes.

P.O. CARACAPPA:

Mr. Barton?

MR. BARTON:

In any given meeting, you undertake 170 to 200 votes, it takes us several hours to check and double check each of those votes and attach them to the final version of the resolutions that

you've adopted; it's many hours of work. The County Charter indicates that the Clerk is to file with the Executive by noon of the next day Local Laws, and within two days the County Charter requires that I file resolutions. It has been the practice, in the nine years that I've been Clerk and the 34 years that there's been a Legislature, to file everything as one single package, it enables us to track everything from individual meetings. The Local Laws have never, in my experience, been separated out until this week.

When we proposed a change in the County Charter to allow for us to have the two days, and until this particular meeting on June 8th we had never filed anything after the day immediately after the meeting. When we proposed a change, we were told that it was a solution looking for a problem; apparently that problem has been found.

LEG. LINDSAY:

Apparently. So, help me, my recollection; have we changed the procedure to correct this from happening?

MR. BARTON:

We immediately filed the two Local Laws that you adopted on Monday before noon for the first time in the nine years that I've been Clerk.

LEG. LINDSAY:

Okay. So, in the future, we won't have this problem?

MR. BARTON:

It is no longer a problem ••

LEG. LINDSAY:

Okay.

MR. BARTON:

•• because the County Attorney certified the Local Law that changes from noon to two days.

LEG. LINDSAY:

Okay. Then, you know, if •• I admit that this is a procedural thing that has been overlooked in the past, but evidently it isn't going to be overlooked now, so let's repass these bills, send them

over, file them timely and move on. I mean, what else can we do, you know?

P.O. CARACAPPA:

Exactly. Thank you, Legislator Lindsay. If I can just respond to •• I don't know if you meant it directly as you said it, a tit•tor•tat from the County Executive to the Legislature. In this case, we were blind sided here, there's really no reason we should be at the Legislature today. It's a •• gamesmanship is taking place here and it's, again, totally unnecessary.

I'm not going to get into semantics, I'm not going to get into name calling. I'm not going to get into he said/she said, they did/we did because that gets us nowhere. You know, we came here today to be professional, to be a Legislature of the people to do our business, so let's just ask our questions, move on, and we can get going today. Legislator Mystal.

LEG. MYSTAL:

Thank you. This is for Ms. Bizzarro, and you don't have to come up, you don't have to come up. I just want to say to you we do understand your predicament, at least I do, and I'm not trying to shoot the messenger. And I do feel •• I feel your pain.

LEG. BINDER:

You don't look like it.

LEG. MYSTAL:

And I do want to let you know that you •• I like you very, very much. And I know sometimes you have to say things that sound weird, but I know you're a very good attorney and I want to thank you.

P.O. CARACAPPA:

Thank you, Legislator Mystal. Legislator Alden then Binder.

LEG. CRECCA:

Are you asking her out?

LEG. ALDEN:

Henry, in answer to a question to Legislator Lindsay.

MR. BARTON:

Yes?

LEG. ALDEN:

There's a statement that we changed the •• I guess the procedural way that we're going to do business now, and all legislation is going to be bundled up and would have two days to go to the County ••

MR. BARTON:

Correct, two days.

LEG. ALDEN:

The County Executive. You said that it was •• that law has been certified by the County Attorney's Office?

MR. BARTON:

Yes, it has.

LEG. ALDEN:

So the status of that •• now, what happens to that, does it have to go up to Albany?

MR. BARTON:

It is in Albany, it has been received, the Charter has been changed.

LEG. FOLEY:

As of when?

MR. BARTON:

As of now.

P.O. CARACAPPA:

When did it take effect?

MR. BARTON:

Yesterday.

P.O. CARACAPPA:

Yesterday; okay, thanks. Sorry, Cameron.

LEG. ALDEN:

Now, the County Attorney is ••

MR. BARTON:

And I would certify that.

LEG. ALDEN:

Okay. Christine's not here, but did Lynne stay or did she go?

MS. BIZZARRO:

Sorry, I was hiding behind the podium.

LEG. ALDEN:

Now you just heard the testimony that •• are you in agreement with that or is your office in agreement with the status of that change?

MS. BIZZARRO:

Yes, I believe so, assuming it was filed because I signed it a few days ago and if you overnighted it would be, you know ••

LEG. ALDEN:

So you were fully aware that the rules were going to be changed and they were in the process of being changed to the two day?

MS. BIZZARRO:

Oh, I didn't know. I mean, I'm not going to say, you know, I didn't pay any attention to it, but

I had recalled that there was some type of a rule that was changing that, but I didn't know where it was and it just came down recently to my office.

LEG. ALDEN:

And that law was passed how •• when was that law passed, Henry?

MS. BIZZARRO:

It was a while ago; well, maybe not a while ago.

MR. BARTON:

It was adopted on May 11th.

MS. BIZZARRO:

Right, okay.

LEG. ALDEN:

On what?

MR. BARTON:

May 11th. It was not signed by the County ••

LEG. ALDEN:

So how long does it take your office to certify or not certify these ••

MS. BIZZARRO:

Oh, we just got it. We just got it and I think I had it for about three days and I signed it.

LEG. ALDEN:

You just got it from who, though, the County Executive?

MS. BIZZARRO:

Wherever •• from wherever it goes. It starts ••

LEG. ALDEN:

You know what? And this is a shame, but I'm going to have to request and I'm going to ask Counsel ••

MR. BARTON:

It was in the County Attorney's Office from June 16th.

LEG. ALDEN:

It was at the County Attorney's Office?

MR. BARTON:

From June 16th.

LEG. CRECCA:

When was it signed?

MR. BARTON:

It was not signed, it was returned because it was a solution in search of a problem.

LEG. ALDEN:

Who made that statement?

MR. BARTON:

The Chief Deputy County Executive, Paul Sabatino.

LEG. ALDEN:

That it was a solution in search of a problem.

MR. BARTON:

Correct.

LEG. ALDEN:

And that's prophetic because now there are problems.

MR. BARTON:

He found the problem.

LEG. ALDEN:

Under the Davis Law •• Legislative Counsel, through the Chairman •• I mean, through the Presiding Officer. On the Davis Law, if I make a request it has to be in writing and it's a ten day response or turnaround?

MS. KNAPP:

I believe it's a five day.

LEG. ALDEN:

I'm going to direct you •• through the Presiding Officer again •• to make a request of the County Attorney; I really want in writing what the procedure is and what documentation they look at. Because we've just had testimony that they certify and don't certify laws without having firsthand knowledge of whether it was received on time or whether hearings were held on time; they're relying on I don't know what. So I really would like a response in writing to the full Legislative body of what the procedure is and how you make sure that all the laws have been complied with? Because this just sounds like arbitrary and capricious and we really •• you know, we can't operate a government in that manner. So I'm making that request; you'll get that letter, you know, some time today.

MS. BIZZARRO:

Okay. I will say, though, on that particular law, I believe Ms. Malafi went on maternity leave that day and that probably sat on my desk for a few days because I've been a little nuts, and I apologize for that.

LEG. ALDEN:

Right. But then in the same vein, I would think that, you know, because we sent over eight laws •• and this isn't a Republican/Democrat thing because if you look at who's •• you know, who's being affected by that, it's laws proposed by Legislator Cooper, Legislator Vilorio•Fisher, Legislator Alden and others.

MS. BIZZARRO:

The County Executive as well; they were all •• they were all different ones, right? I agree.

LEG. ALDEN:

Right. So we want consistency but we also want something that, you know, you can point at and say, "This is how we do it and this is the procedure that we follow and this is the

documentation that we require for it," and this doesn't sound like we're doing that in, you know, a manner that I'm comfortable with.

MS. BIZZARRO:

Absolutely, yeah.

LEG. ALDEN:

So if you have to make changes over there or whatever you have to do. But are you in agreement now that the law, if it's certified up in Albany ••

MS. BIZZARRO:

Yes.

LEG. ALDEN:

•• that the law would be that we have that two days?

MS. BIZZARRO:

Two days, correct.

LEG. ALDEN:

So none of this would have happened if you had been comfortable with the fact that it went to Albany.

MS. BIZZARRO:

Right, if it had been law at the time, correct. But it had not been, I think, as Henry Barton just stated, it was just filed yesterday.

LEG. ALDEN:

It was sitting •• as you admitted, it sat on somebody's desk for two weeks.

MS. BIZZARRO:

It may have been sitting on my desk, yes.

LEG. ALDEN:

So, you know, I find an inconsistency in those two acts also.

MS. BIZZARRO:

Uh•huh.

LEG. ALDEN:

You know, it's sitting on your desk, you knew about it and then these, you know, kickbacks came. And also ••

MS. BIZZARRO:

Well, I don't know if the filing of that law would have affected the determination on these in any event, because it's not a retroactive •• I don't believe it's a retroactive statute.

LEG. ALDEN:

Well ••

MS. BIZZARRO:

I don't know, but I don't believe it is.

LEG. ALDEN:

The other thing I really need to know, too, is what you've done and where the •• or what the status is of all this legislation is. Because it is in limbo, is it denied, it's not approved or it's approved by us, yet denied by you? What legal status does that create and what legal status does that put this legislation into?

MS. BIZZARRO:

It's not denied by me, as I said, it's just not certified.

LEG. ALDEN:

And if they've •• they've got to answer to it, Dave.

LEG. BISHOP:

I think that's been answered.

LEG. ALDEN:

There was no answer, though, to it.

MS. BIZZARRO:

Right, I don't know •• absolutely, I don't know the answer but I will certainly look into that and see what it comes up as.

LEG. ALDEN:

Because the purpose of this meeting was to do something on these pieces of legislation. If we do something on these pieces of legislation, are you in turn going to come back and say that what you did is illegal?

MS. BIZZARRO:

It depends on what you do, I don't know. Sorry, I don't know what you mean by that.

LEG. ALDEN:

Well, you're the one that certifies it, so I'm asking you, the people that are going to ultimately going to ask •• we're going to ask you to certify these pieces of legislation.

MS. BIZZARRO:

To certify it, right.

LEG. ALDEN:

What do we have to do today to get these pieces of legislation certified; do we revote on them today? Do we have to reassign them to committee and go through the whole process? What do we have to do with these?

MS. BIZZARRO:

You can do them by a CN, I mean ••

LEG. ALDEN:

We can't consider CN's because it's not in the call.

MS. BIZZARRO:

You can't because it's not on your agenda? Isn't there ••

LEG. ALDEN:

It's not on the agenda.

MS. BIZZARRO:

There may be a way to waive that requirement for the agenda? Well, I don't •• your Counsel might know that.

LEG. ALDEN:

I think that we've wasted a whole bunch of time today if we don't know, you know, your position on how to handle these and what legal •• what legal category you've put these pieces of legislation into, because ultimately it comes right back to you to make a decision again.

MS. BIZZARRO:

Correct, I agree. I'm sorry, I didn't ••

LEG. ALDEN:

And if you say that we did it wrong today ••

MS. BIZZARRO:

I just didn't know what this meeting was about and I didn't know what you were even going to be asking me questions on.

LEG. ALDEN:

No, it says it right in the call that we were going to reconsider the vetoed and the ••

MS. BIZZARRO:

I never got that; I'm sorry, I only got a letter from I believe the Presiding Officer just asking for Christine Malafi and Paul Sabatino, that's all I got so I didn't even know there was ••

P.O. CARACAPPA:

Which was said earlier by Mr. Zwirn that never happened.

MS. BIZZARRO:

That one I got, yeah, I got that one.

P.O. CARACAPPA:

Let's move on. Legislator Binder, then Vilorina•Fisher.

LEG. BINDER:

Let me ask, the reason that you didn't certify is because you're concerned legally that if •• I would assume that you didn't have the grounds to certify; what's the legal implication of you certifying something that came in late?

MS. BIZZARRO:

That's exactly it.

LEG. BINDER:

No, what to you; from your perspective, what's the legal implication?

MS. BIZZARRO:

Well, that's what Legislator Crecca has asked me and I said that I did not do the research on that. All I know is that I could not certify them so I did not.

LEG. BINDER:

But you can certify them if they're a couple of hours late; there's a difference, you're saying, between a little bit late ••

MS. BIZZARRO:

As I said, I can see it as a difference, yes. However, if I see a pattern ••

LEG. BINDER:

Have you seen it as a difference?

MS. BIZZARRO:

I'm sorry?

LEG. BINDER:

You've seen it as a difference; in other words, you've ••

MS. BIZZARRO:

Yes, yes, yes.

LEG. BINDER:

Now, you asked the County Executive's Office if things have been complied with, that's what you've just •• you've stated. Who ••

MS. BIZZARRO:

Well, we were notified, I don't know ••

LEG. BINDER:

Who notifies you?

MS. BIZZARRO:

In this case ••

LEG. BINDER:

Is there a consistent notification from any particular individual, group of individuals; who notifies you?

MS. BIZZARRO:

Before I got involved, Judy Blank handles it and I don't know who specifically she deals with in order to get the information enough that we know that we can certify it.

LEG. BINDER:

Does she give you that notification in writing or does she ••

MS. BIZZARRO:

No, she does not.

LEG. BINDER:

So you get a verbal notification.

MS. BIZZARRO:

Verbal notification, correct.

LEG. BINDER:

So now here's the thing. You're concerned enough not to certify something because there's legal implications to saying you did something that's not real, yet it obviously doesn't rise to the level of your getting any paper trail, any backup, anything that you have to make sure that what you're signing as an attorney is legally certified, so you don't even know if it really is, you're taking someone's verbal word.

MS. BIZZARRO:

And perhaps that's something that we have to fix in our office as well.

LEG. BINDER:

Well, that's ••

MS. BIZZARRO:

And I've heard ••

LEG. BINDER:

That's pretty incredible to me. And then I have a hard time understanding the consistency between getting this verbal from the County Executive's Office saying you being able to determine if something's substantially late or very late, because I don't know how you know, because you can't know because you just got some verbal notification as to whether the procedure was followed. So the fact is you really don't know, you couldn't have known, and there's no question to you between substantial and not.

MS. BIZZARRO:

I haven't got that, but.

LEG. BINDER:

Well, do you see the difference? I mean, you weren't told •• when you get a verbal notification, someone •• and they say to you it's fine, do they tell you it's fine but understand it came four

hours late, it came two days late, came a day and a half •• they don't tell you that, just say yes or no. So now how are you •• with just the information from the County Executive's Office telling you whether ••

MS. BIZZARRO:

Well, I didn't say what they say, I just said ••

LEG. BINDER:

Well, tell me what they say; why don't you tell me, what do they tell you? Do they say more ••

MS. BIZZARRO:

In this particular case that they were a day late, yes, and I thought that was substantial enough, I felt uncomfortable signing the certification.

LEG. BINDER:

In the past, have they ever told you ••

MS. BIZZARRO:

I mean, just so you know, Legislator Binder, I'm not looking to not certify these laws. I mean, the Legislature spent •• painstakingly passes these things, I see the process that they have to go through in order to get here. I'm not looking to, you know, hurting anyone. As I said, I basically didn't certify your law probably, Legislator Nowick's law, County Executive Levy's law, I didn't certify anybody's law; I mean, it was across the board, I wasn't partisan in any fashion.

LEG. BINDER:

And that there was clearly not an implication at all today of a person question. The question is there seems to be a legal breakdown here. You're worried about making a legal certification, you base your inquiry •• your inquiry isn't paper trailed, doesn't have documentation, doesn't have backup, you get a verbal and then you make a determination based on what someone tells you ••

MS. BIZZARRO:

And perhaps that needs to be rectified.

LEG. BINDER:

•• which is your •• it's your legal determination and your signature and you put it on and you put it on in the past.

MS. BIZZARRO:

Uh•huh.

LEG. BINDER:

Now, someone in the past has told you that procedure has been taken care of and obviously it hasn't. It would seem to me that someone then has lied to the County Attorney's Office on other legislation, because you've gotten a list from Legislator Crecca of a number of laws. According to the County •• according to Mr. Sabatino, he says that laws •• if you would have certified it, the law would have been open to legal attack, that it's deficient, that it maybe isn't even law. I would like to get an opinion from the County Attorney's Office as to the ones you have certified. Are they open to legal attack? Do we need to repass them, reconsider them, do them over?

MS. BIZZARRO:

Okay.

LEG. BINDER:

We need to know because now we have a new status of laws that have been certified.

MS. BIZZARRO:

Uh•huh.

LEG. BINDER:

I'd like to know what investigation is going to be by the County Attorney's Office as to who lied to them in the County Executive's Office, forcing them to file a false document. Because you've now filed a legally false document according to •• this is now on the record •• because you've been told things were filed on time and timely. You now certified with your legal signature that laws were timely, done exactly in accordance, and you've signed that. We now have laws that you have now •• I don't know who will be responsible for filing a false instrument, that is actually a very big legal question; was a false instrument filed in those cases? Now, that's what's been brought up here today, that's what the County Executive has brought to us and

before us, that we have this concern. And if it has, who advised you and I'd like to know if there's going to be an investigation launched as to who advised you falsely.

P.O. CARACAPPA:

Legislator Vilorio • Fisher.

LEG. VILORIA • FISHER:

Thank you, Mr. Chair. I'd like to try to find a way to expedite today's meeting a little bit and just go through the process and see what our options are.

Option number one is that we pass these Local Laws again today, Counsel; is that correct?

MS. KNAPP:

You couldn't repass them today with the CN's because the special notice ••

LEG. VILORIA • FISHER:

Okay, so what can we do?

MS. KNAPP:

You would have to take ••

LEG. VILORIA • FISHER:

What's our recourse, what are the options?

MS. KNAPP:

You can lay them on the table today. You could •• you could waive the rule about reconsideration, perhaps, and somebody on the prevailing side could make a motion and repass it today that way.

LEG. VILORIA • FISHER:

Okay, so we can repass them today if we waive the rule?

P.O. CARACAPPA:

Yes.

LEG. VILORIA • FISHER:

Okay. Now, Ms. Bizzarro, if we were to waive the rules ••

Ms. Bizzarro? Lynne.

MS. BIZZARRO:

Sorry about that.

LEG. VILORIA • FISHER:

It we were to waive the rules and pass these Local Laws again today, would you be able to certify them?

MS. BIZZARRO:

Yes.

LEG. LINDSAY:

That isn't her call.

LEG. VILORIA • FISHER:

Actually, it is her call, the certification is her call. Waiving the rules and passing it is our call.

P.O. CARACAPPA:

Right.

LEG. VILORIA • FISHER:

But I don't want to waive the rules and pass it if we're going to say that because of the original certification not being permissible that you wouldn't be able to certify them if we were to waive the rules and pass them today.

MS. BIZZARRO:

When you say waive the rules, what rules; the rules regarding ••

LEG. VILORIA • FISHER:

Okay, let me go back to Counsel.

P.O. CARACAPPA:

The rule to reconsider any legislation that has been passed by this body in prior meetings, we'd be able to make a motion, waive our own rules and reconsider a bill that has been considered.

MS. BIZZARRO:

Today, right.

P.O. CARACAPPA:

These bills.

MS. BIZZARRO:

And do it today; that would be fine.

P.O. CARACAPPA:

You wouldn't be able •• you couldn't really •• I guess your answer would be if they are filed in a timely fashion.

MS. BIZZARRO:

If they're done properly, right, and all the procedures are correct.

LEG. VILORIA • FISHER:

Okay. If we were to waive the rules, pass these Local Laws ••

MS. BIZZARRO:

Do everything right, right.

LEG. VILORIA • FISHER:

May I ask the Clerk, would we be able to then file these within •• well, now we have a new law.

MR. BARTON:

Quite candidly, I'm quite confused. I mean, some of these ••

LEG. VILORIA • FISHER:

So am I.

MR. BARTON:

•• haven't even come back yet. The County Executive hasn't taken action on some of these.

LEG. VILORIA • FISHER:

Okay, what does that mean?

MR. BARTON:

He has until July 12th to either veto them or sign them.

LEG. VILORIA • FISHER:

Okay.

MS. KNAPP:

In the absence of the County Executive taking action, we could reconsider, we could do that in the absence the County Executive taking action.

LEG. VILORIA • FISHER:

Okay. So because the County Executive has not yet taken action, they haven't come back to us, we can waive the rules, vote on them again, the Clerk would file them in a timely manner and they can be certified; is that correct? Is that the correct process, everybody, Counsel, Clerk and Ms. Bizzarro?

MS. BIZZARRO:

Are you referring to only the laws that have been filed already?

LEG. VILORIA • FISHER:

The Local Laws which you ••

P.O. CARACAPPA:

Only the ones that have not been ••

LEG. VILORIA • FISHER:

•• have indicated that you could not certify.

P.O. CARACAPPA:

Those bills that are before us that were sent back invalid.

LEG. VILORIA • FISHER:

Local Laws 583, 584, 628, 659, 660, 662 and 668; those were not certified because they were not filed in a timely manner.

MS. BIZZARRO:

Right. Because there were eight of them in total but five of them •• three of them I think were vetoed.

LEG. VILORIA • FISHER:

Correct, 583 was vetoed.

MS. BIZZARRO:

Right; not including the vetoed ones, yes, I think it would be fine, as long as the procedure was done correctly.

LEG. VILORIA • FISHER:

Okay. If we did not include the vetoed ones, the vetoed ones we would have to work separately.

MS. BIZZARRO:

Right.

LEG. VILORIA • FISHER:

So the ones on the covert leases, the defibrillators, the reincorporation and increasing the fines, those •• increasing the fines, penalties, and those one, two, three, four ••

MS. KNAPP:

There were two licensing ones.

LEG. VILORIA • FISHER:

Two licensing ones, okay. Those, if we were to waive the rules, vote on them, file them in a timely manner through the Clerk, you are representing that you would be able to certify them.

MS. BIZZARRO:

Yes.

LEG. VILORIA • FISHER:

Okay. Thank you. Maybe we can move quickly.

P.O. CARACAPPA:

I have a question.

LEG. CARPENTER:

I just have ••

LEG. VILORIA • FISHER:

I'd like to make a motion to waive the rules.

LEG. CARPENTER:

If I could just ••

P.O. CARACAPPA:

Can I ask you just one or two more questions and then I'll recognize you for your motion?

LEG. VILORIA • FISHER:

Okay.

P.O. CARACAPPA:

Thank you. Ms. Bizzarro, in your opinion, seeing that three of the bills that were deemed ineligible have been acted upon by the County Executive via his vetoes, if we were to override those vetoes that are before us today of those three, if they go back overridden, will you come back and say, "These veto overrides are invalid because the bills were originally" •• no, I need to ask these silly, stupid questions because it's getting to, you know, a technical cat and mouse game. Will you send them back saying these overrides are invalid because the bill was originally invalid because they were late being filed but they were vetoed; could you answer that question?

MS. BIZZARRO:

I'm thinking; sorry.

LEG. MYSTAL:

Ding dong, ding dong.

MS. BIZZARRO:

It's a problem. Because I believe all eight were improper, right, they were filed a day late and I would still not be able to certify those three.

P.O. CARACAPPA:

So why were they vetoed? I don't know if you can answer this question.

MS. BIZZARRO:

I don't know.

P.O. CARACAPPA:

You don't know why they were vetoed if they were invalid?

MS. BIZZARRO:

I have the •• I think I have copies of the vetoes, I believe everybody has those.

P.O. CARACAPPA:

No, I understand his reasoning why he •• against the policy disagreement that he had, but why did he act on them when he knew they were technically flawed from the beginning? I don't understand the inconsistency here.

MS. BIZZARRO:

Well, I think in one of them he actually ••

P.O. CARACAPPA:

Why were public hearings held on these bills that were invalid the second they went into the hands of the County Executive? Why did he waste the people's time, staff's time, your time, our time and veto them when he knew then he was sending them back invalid? I don't understand. Could you just answer that question ••

MS. BIZZARRO:

I can't speak for him.

P.O. CARACAPPA:

•• and then try and think a little longer about the veto override question and just give me an answer.

MS. BIZZARRO:

I think I answered that one, that I would still have trouble •• I still couldn't certify them. But I can't speak for the County Executive as to why he did whatever you're stating that he did, I don't know.

LEG. BINDER:

Maybe Ben can, Joe; ask Ben.

MS. BIZZARRO:

Yeah, I just •• I don't know, can't answer that.

P.O. CARACAPPA:

Mr. Zwirn?

MR. ZWIRN:

Yes.

P.O. CARACAPPA:

You heard the questions; why were they vetoed when they were already technically flawed, why were public hearings held, why the whole process? And if we were to send these back overridden as they are before us, and I would assume that they will be overridden, will they come back as technically flawed again based on your original assumption?

MR. ZWIRN:

Well, whether they come back technically flawed again, I can't answer that. But the only thing I can suggest is that they were probably •• the process probably proceeded for a belt and suspenders approach, that they were vetoing them on the merits. I think •• technically, I think

one of them is mentioned in one of the veto messages, but I think it was a twofold approach; one was on the merits and one was a technical.

LEG. BINDER:

So an override doesn't make any difference because they're all not good anyway.

LEG. ALDEN:

No, we have to do two then.

P.O. CARACAPPA:

Okay, we're going to get the same answers over and over again.

Okay, let's move on. Legislator Carpenter, was there •• I know you wanted to say something?

LEG. CRECCA:

I have a question.

P.O. CARACAPPA:

And Legislator Crecca next.

LEG. CARPENTER:

Well, two •• what Legislator Vilorio•Fisher suggested that we do, I agree. The only thing that I think would be important for us to find out, not only •• the County Attorney, through Ms. Bizzarro, was saying that, yes, she would certify them if that was done, but she's getting information from someone else as to whether or not things can be certified. So I think that question has to be asked of that person and I would guess that's Mr. Sabatino, and I know Mr. Zwirn was asked to find out again if he could come; is he coming?

P.O. CARACAPPA:

He's not coming, right.

LEG. CARPENTER:

I don't know, did we get that answer? Because you directed him to go back ••

P.O. CARACAPPA:

Oh, right, yes.

LEG. CARPENTER:

•• and find out if he could please make himself available, as we had originally been told he would be.

P.O. CARACAPPA:

Mr. Zwirn?

MR. ZWIRN:

Yes, Legislator Crecca made that request of me. I called Chief Deputy Sabatino and he said that he will be done with his duties there by two o'clock and he would be glad to meet with the Legislature at that time.

LEG. VILORIA • FISHER:

Would you yield for a moment, Legislator Carpenter?

LEG. CARPENTER:

Go ahead, but I do want to reclaim my time.

P.O. CARACAPPA:

Legislator Vilorina • Fisher.

LEG. VILORIA • FISHER:

Thank you. I'm satisfied with the representation by Ms. Bizzarro that as the person who is representing the County •• the Department of Law here today, that if these Local Laws •• she has put on the record that if these Local Laws are filed in a timely manner that she is going to be approving them. And I believe that having put that on the record, and having represented that they meet all of the requirements, we need to depend on having that done.

I certainly don't want to •• this was a day that was not on our calendar. This was a day that many of us have family obligations and some of us much more than others in creating new families, and we have come here as professionals ••

P.O. CARACAPPA:

Trying to.

LEG. VILORIA • FISHER:

That's the person to whom I'm referring, the Presiding Officer. And I would like to move forward in good faith and hope •• hope that we are •• that we can count on the representation that was put on the record.

P.O. CARACAPPA:

Thank you, Legislator Vilorina•Fisher. Legislator Carpenter still has the floor.

LEG. CARPENTER:

Okay, thank you. There was another issue that was raised by Mr. Zwirn about some modulars for the jail and having the opportunity to save some taxpayer dollars; I think we all are in agreement that we are committed to trying to do just that whenever possible.

Now, we can •• today, we can't address CN's, but certainly as a Legislator, I can ask to have something laid on the table today. And I am a little bit disappointed, because I learned from the Presiding Officer that when he had a conversation with Mr. Zwirn yesterday and said there would be no CN's today, that he certainly could contact any individual Legislator who might be willing to lay that bill on the table today. And as the Chairman of Public Safety, I have to tell you, I am very, very disappointed that I was not called, that I was not contacted. And if you can get that information to me, I would be happy to lay that bill on the table.

P.O. CARACAPPA:

Thank you, Legislator Carpenter. And that is the ••

MR. ZWIRN:

That's correct.

P.O. CARACAPPA:

That is the conversation that Mr. Zwirn and I had yesterday.

MR. ZWIRN:

That's correct.

P.O. CARACAPPA:

I said I would be more than willing, for good government purposes, to get a Legislator to lay that bill on the table for you as opposed to being an obstructionist, which I am not.

MR. ZWIRN:

I understand. We did have this conversation yesterday and in my defense, all I can say is I didn't get this bill until right before •• they were working on this thing all night to get in the proper form. And I didn't get a chance to see the Presiding Officer on her way in, so I brought in what I had at the last minute. But I would be glad to get that information to you through your staff as quickly as possible. Thank you.

P.O. CARACAPPA:

Thank you. Legislator Lindsay, if you just want to follow•up on that real quick.

LEG. LINDSAY:

Yeah. Do you have the bill here today?

MR. ZWIRN:

Yes.

LEG. LINDSAY:

So why don't you give it to her to file it, to lay it on the table?

P.O. CARACAPPA:

Come on up, Ben.

MR. ZWIRN:

Legislator, when I said as soon as possible, I'm going down now to get the bill so I can hand it to a member of Legislator Carpenter's staff.

P.O. CARACAPPA:

That's all.

MR. ZWIRN:

It just took me a minute to get back to my seat.

P.O. CARACAPPA:

Legislator Crecca.

LEG. CRECCA:

Yeah, my questions were for Mr. Zwirn but I don't want to delay him in getting •• either that, or I'm willing to come •• I know most Legislators can't come back at two o'clock, I'm willing to come back at two o'clock to speak with Mr. Sabatino.

P.O. CARACAPPA:

I can't come back for sure.

LEG. CRECCA:

No, I know you can't, I know you can't.

P.O. CARACAPPA:

If I stay here I might as well just stay here the rest of my life. Who's next?

LEG. CRECCA:

Kelli's waiting, Kelli's got the car running outside.

P.O. CARACAPPA:

She's in front of the Dennison Building right now with some sharp instruments. Okay. Anyone else for comments?

LEG. CRECCA:

Should I not ask •• I have all these questions.

LEG. MYSTAL:

Lets roll. Let's roll.

LEG. VILORIA • FISHER:

Motion to waive •• thank you, I saw you pointing, Mr. Chair.

P.O. CARACAPPA:

Yeah, I told you I would recognize you after the debate was over; I recognize Legislator Vioria •Fisher.

LEG. VILORIA • FISHER:

Being on the prevailing side of the following Local •• should I say the Local Law number, Counsel, or the IR number?

P.O. CARACAPPA:

Either one.

LEG. CRECCA:

I would do both; right?

MS. KNAPP:

I think the first motion will be a motion to waive Rule 11•I that prevents us from reconsidering it anything other ••

P.O. CARACAPPA:

There's a motion by Legislator Vioria•Fisher to waive Rule 11•I, seconded by myself. All in favor? Opposed? Abstentions?

LEG. VILORIA • FISHER:

And may we consider all of them together, Counsel.

MS. KNAPP:

Yes.

LEG. VILORIA • FISHER:

The five on which I was on the prevailing side?

P.O. CARACAPPA:

Let's do them one by one, Legislator Fisher.

LEG. CRECCA:

Yeah, I think ••

LEG. VILORIA • FISHER:

Okay.

MR. BARTON:

16 (Not Present: Legislators Tonna & Caracciolo).

LEG. SCHNEIDERMAN:

You still have to be on the ••

LEG. VILORIA • FISHER:

Right. I'm going to make a motion to reconsider •• Well, I'll do the one that I sponsored.

MS. KNAPP:

Use the IR numbers.

LEG. CRECCA:

Which one?

LEG. VILORIA • FISHER:

Use the IR number?

P.O. CARACAPPA:

We have two more motions ••

LEG. VILORIA • FISHER:

To reconsider IR 1348.

P.O. CARACAPPA:

And approve?

LEG. VILORIA • FISHER:

And approve, reconsider and approve.

LEG. BINDER:

Mr. Chairman?

P.O. CARACAPPA:

Legislator Binder.

LEG. CARPENTER:

Why don't we do these in order, I think it might be better.

LEG. VILORIA • FISHER:

Okay, then we'll do it in order.

LEG. BINDER:

They should be separate motions.

LEG. CARPENTER:

1085 would be the first.

LEG. BINDER:

It won't be before us.

LEG. CRECCA:

Can we get some order, please?

P.O. CARACAPPA:

Yeah. Legislator Vilorina•Fisher, we're going to do two motions.

The motion to reconsider is first.

LEG. VILORIA • FISHER:

Okay. And I just wanted to say to Legislator Carpenter, the reason I didn't say five •• 1085 first was because that was a vetoed one, that's a different situation.

LEG. CRECCA:

Yeah, we have to do both, we have to repass it and override the veto.

LEG. CARPENTER:

Yeah, right.

LEG. VILORIA • FISHER:

So the first one would be 584 which is 1328? IR 1328.

LEG. CRECCA:

With all due •• I'm sorry.

LEG. VILORIA • FISHER:

I'm trying to do them in numerical order, I was just asked to do them in numerical order.

P.O. CARACAPPA:

Hold on, let's just take a time out here.

LEG. VILORIA • FISHER:

You want me to do that first? Okay.

LEG. BINDER:

Mr. Chairman?

LEG. CRECCA:

Is it the ••

P.O. CARACAPPA:

Hold on.

LEG. VILORIA • FISHER:

Do you want me to do them in numerical order or as they are on the page?

LEG. CRECCA:

As they are on the page.

LEG. VILORIA • FISHER:

Thank you, okay. ***IR 1440, aka 628 ••***

P.O. CARACAPPA:

There's a motion to reconsider IR 1440.

LEG. VILORIA • FISHER:

•• a Local Law to require defibrillators in health clubs in Suffolk County.

LEG. ALDEN:

Second.

LEG. CARPENTER:

Second.

P.O. CARACAPPA:

Second by Legislator Alden or Carpenter?

LEG. CARPENTER:

Make it Alden.

LEG. BINDER:

Mr. Chairman?

P.O. CARACAPPA:

Legislator Alden. On the motion, Legislator Binder.

LEG. BINDER:

I guess it's almost in the form of a parliamentary inquiry for Counsel, whether we need to have
***•• since we'll be considering reconsidering the laws, do we need to have them before us; in
other words, the actual ••***

LEG. CARPENTER:

They're in your folder, they're in your folder.

LEG. BINDER:

The ones that are vetoed are but the ones that were sent back for technical difficulties weren't, I don't think.

P.O. CARACAPPA:

You're right.

MS. KNAPP:

I would point out, though, Legislator Binder, you do not have them before you in a paper format, but you do have them before you in an electronic format.

P.O. CARACAPPA:

That is true.

LEG. BINDER:

I'm not used to that yet; that works.

P.O. CARACAPPA:

Okay, the bills are before you, they're accessible to each and every one of you.

LEG. FOLEY:

What about the vote slips; the vote slips?

P.O. CARACAPPA:

Well ••

LEG. CARPENTER:

So why don't we do the vetoes ••

LEG. FOLEY:

Mr. Chairman, if I may.

P.O. CARACAPPA:

Hold on, one at a time. Legislator Crecca?

LEG. CRECCA:

Yeah, point of order. Can I just make a suggestion so that we can all follow along a little bit better?

P.O. CARACAPPA:

Certainly.

LEG. CRECCA:

Whether there's a veto •• is everything on this page here, page two, are these all the Local Laws that have to •• that were part of the filed late? Well, they were all filed late anyway, right? Yeah. So then what I would recommend is is that we start at the top of the page and that ones that involve veto overrides, that we first take •• we do a motion to override the veto in case there's a different decision and then also reconsider and revote on it; you can do both. It's called a belt and suspenders approach.

P.O. CARACAPPA:

I've heard that before.

LEG. CRECCA:

Yes. So I would suggest that on the ones that were vetoed we override •• we do a motion to override the veto, take that vote. Then we can still do a motion to reconsider those Local Laws and vote those Local Laws out again, as crazy as it sounds.

LEG. VILORIA • FISHER:

We have a motion on the table, I think we should vote on those motions.

LEG. CRECCA:

No, I wasn't trying to cut it off, just so that after •• maybe after this one ••

P.O. CARACAPPA:

Counsel?

LEG. CRECCA:

•• proceed that way.

MS. KNAPP:

I would suggest to Legislator Crecca that the section of Municipal Home Rule Law that I'm relying on talks about in the •• that before there's executive action, that you can reconsider. Now, I guess what you're saying to me, then, is that if the veto is invalid, then there hasn't been valid executive action.

LEG. CARPENTER:

Right, because you have to be consistent.

LEG. VILORIA • FISHER:

Mr. Chair, could we just do the simple ••

MS. KNAPP:

You're right, we're faced with a novel situation here.

LEG. CRECCA:

Yes, and I just thought better to take both approaches. I'm sorry, go ahead.

LEG. VILORIA • FISHER:

I think it would be easier to do the simple ones first and then talk about the vetoes second. Just do the five that are simple and straightforward which I believe had, you know, 17 or 18 people who voted for them and just move those first; we have a motion on the floor.

LEG. CRECCA:

I don't •• it doesn't matter to me.

P.O. CARACAPPA:

Okay, we will go with that approach; we will take those bills one at a time and then revisit the ones that have been vetoed.

LEG. VILORIA • FISHER:

Okay.

P.O. CARACAPPA:

Okay? So just call out the motion. It's 1440?

LEG. VILORIA • FISHER:

There's a motion to approve 14 •• to reconsider and approve 1440.

P.O. CARACAPPA:

Okay. There's a motion ••

LEG. BINDER:

If you can also read the title because they're doing that, just read the title.

P.O. CARACAPPA:

Right. There's a motion and a second; the title was read earlier.

LEG. VILORIA • FISHER:

Yes.

P.O. CARACAPPA:

Now, this motion is to reconsider the bill. All in favor? Opposed? Abstentions?

MR. BARTON:

16 (Not Present: Legislators Tonna & Caracciolo).

LEG. FOLEY:

Mr. Chairman?

P.O. CARACAPPA:

Legislator Foley.

LEG. FOLEY:

Thank you, Mr. Chairman. Some members of the body would like to have vote slips available,

as much as it may take a few minutes, just to review the votes.

LEG. MYSTAL:

No.

LEG. FOLEY:

Well, there's at least one member besides myself that wanted to look at the vote slips, it's at the discretion of the chair.

LEG. BISHOP:

I think some of it is inherent when you read what the last vote was, many of them were unanimous.

P.O. CARACAPPA:

I believe ••

LEG. FOLEY:

You wouldn't know ••

P.O. CARACAPPA:

This is obviously new ground for us and we're kind of going as it comes up.

LEG. VILORIA • FISHER:

1328.

P.O. CARACAPPA:

The vetoes we have historically had vote slips attached. You know, when we're reconsidering bills such as this, there never have been vote slips because we never prepared for this.

LEG. VILORIA • FISHER:

Excuse me, Mr. Chair?

P.O. CARACAPPA:

Just one second, Legislator ••

LEG. VILORIA • FISHER:

Electronically it shows it.

P.O. CARACAPPA:

It shows the vote?

LEG. VILORIA • FISHER:

It shows the number of votes. For example, on 1326 which is the next bill, there were 18 for it.

LEG. BISHOP:

Right, that's what my point is.

P.O. CARACAPPA:

Okay.

LEG. VILORIA • FISHER:

So, you know, it is there.

P.O. CARACAPPA:

Legislator Foley, would that be satisfactory?

LEG. BISHOP:

He wants it on the vetoes.

LEG. CRECCA:

Do we have the veto •• we have the veto messages?

P.O. CARACAPPA:

The veto messages have the vote slip, yeah.

LEG. FOLEY:

Do we have all the veto •• the veto messages all have vote slips?

P.O. CARACAPPA:

Yes.

MR. BARTON:

Yes.

LEG. VILORIA • FISHER:

Yes.

LEG. FOLEY:

Okay, thank you.

LEG. LINDSAY:

But 1440 was unanimous, adopted unanimously.

LEG. FOLEY:

Okay, fine. Thank you.

P.O. CARACAPPA:

1440 is before us. There's a motion to approve by Legislator Alden, second by Legislator Vilorina •Fisher.

LEG. BINDER:

I think the reconsideration was before us, unless you ••

P.O. CARACAPPA:

Oh, we did that.

LEG. BINDER:

We did that.

P.O. CARACAPPA:

Motion to approve 1440. All in favor? Opposed? Abstentions?

MR. BARTON:

16, 2 not present (Not Present: Legislators Tonna & Caracciolo).

LEG. VILORIA • FISHER:

Mr. Chair?

P.O. CARACAPPA:

1440 is approved again.

LEG. VILORIA • FISHER:

Motion to reconsider 1328; and I've brought it up electronically, that was also a unanimous vote.

P.O. CARACAPPA:

Read the title, please.

LEG. VILORIA • FISHER:

The title is ***a Local Law establishing policy and procedure for undercover covert law enforcement leases.***

LEG. CARPENTER:

Second.

P.O. CARACAPPA:

There's a motion by Legislator Vilorina•Fisher to approve 1328, second •• to reconsider 1328, second by Legislator Carpenter.

All in favor? Opposed? Abstentions? 1328 is now before us.

MR. BARTON:

16 (Not Present: Legislators Tonna & Caracciolo).

LEG. CARPENTER:

Motion to approve it.

P.O. CARACAPPA:

Motion to approve by Legislator Carpenter, second by Legislator Vilorina•Fisher to approve

1328. All in favor? Opposed? Abstentions?

MR. BARTON:

16 (Not Present: Legislators Tonna & Caracciolo).

P.O. CARACAPPA:

1328 is approved.

LEG. VILORIA • FISHER:

Mr. Chair, motion to reconsider 1348; and the vote on that was 17•1, the one opposition was Legislator Binder.

P.O. CARACAPPA:

1348 was the number?

LEG. VILORIA • FISHER:

Yes.

P.O. CARACAPPA:

And the title is?

LEG. VILORIA • FISHER:

A Local Law to amend Local Law No. 5, 1993, to prohibit the County of Suffolk from contracting with corporations that reincorporate overseas.

LEG. BINDER:

Is that before us?

P.O. CARACAPPA:

There's a motion to reconsider 1348.

LEG. CRECCA:

Second.

P.O. CARACAPPA:

Second by Legislator Crecca; or Alden, whoever said that. All in favor? Opposed? Abstentions?

MR. BARTON:

16 (Not Present: Legislators Tonna & Caracciolo).

P.O. CARACAPPA:

1348 is now before us. There's a motion by Legislator Vilorio•Fisher to approve 1348. Do I hear a second?

LEG. ALDEN:

Second.

P.O. CARACAPPA:

Second by Legislator Alden.

LEG. BINDER:

Motion to recommit it to committee.

P.O. CARACAPPA:

Okay. Now that it's before us, there's a motion to •• by Legislator Binder to recommit to which committee?

LEG. BINDER:

Wherever it was, I assume Ways & Means.

P.O. CARACAPPA:

I believe it was Ways •• motion to recommit to Ways & Means by Legislator Binder. All in favor? Opposed?

(* Opposed said in unison *)

LEG. CRECCA:

There's no second.

P.O. CARACAPPA:

Is there a second? I'm sorry. Was there a second?

MR. BARTON:

No.

P.O. CARACAPPA:

I'll second it for the purposes of a vote. All in favor? Abstentions? Opposed?

(* Opposed said in unison *)

Opposed •• anyone who's for recommitting, raise your hand; Legislator Binder.

MR. BARTON:

One.

P.O. CARACAPPA:

Motion to approve 1348 by •• and there's a motion and a second.

All in favor? Opposed?

LEG. BINDER:

Opposed.

P.O. CARACAPPA:

One opposition. Abstentions? One abstention, the Chair.

LEG. VILORIA • FISHER:

Mr. Chair, I'd like to make a motion ••

MR. BARTON:

14 (Opposed: Legislator Binder • Abstention: Legislator Caracappa •

Not Present: Legislators Tonna & Caracciolo).

LEG. VILORIA • FISHER:

•• to reconsider 1401.

LEG. COOPER:

I'd actually like to make that motion since it was my resolution.

LEG. VILORIA • FISHER:

Well, this is just to reconsider.

LEG. COOPER:

Okay. I'll second the motion.

P.O. CARACAPPA:

Motion to reconsider 1401 by Legislator Fisher, second by Legislator Cooper. All in favor? Opposed? Oh, the title is?

LEG. VILORIA • FISHER:

The title is *a Local Law to amend certain occupational license laws to increase maximum allowable fines*, and the vote on that was unanimous •• no, it wasn't; I'm sorry, it was 17•1.

P.O. CARACAPPA:

17•1, Legislator Binder was opposed. There's a motion and a second to reconsider. All in favor? Opposed? Abstentions?

MR. BARTON:

16 (Not Present: Legislators Tonna & Caracciolo).

P.O. CARACAPPA:

1401 is now before us. There's a motion by Legislator Cooper, second by Legislator Vilorina •Fisher to approve 1401. All in favor? Opposed?

LEG. BINDER:

Opposed.

P.O. CARACAPPA:

One opposition. Abstention?

MR. BARTON:

15 (Opposed: Legislator Binder • (Not Present: Legislators Tonna & Caracciolo).

P.O. CARACAPPA:

1401 is approved.

LEG. COOPER:

I'd like to make a motion to reconsider 1358.

LEG. CARPENTER:

Second.

P.O. CARACAPPA:

There's a motion to reconsider 1358, second by Legislator Carpenter. Please read the title.

LEG. COOPER:

A Local Law to amend Local Law No. 22 • 1999 to license and regulate dry cleaning establishments. The resolution was approved by a vote of 17•1, the one no vote was Legislator Binder.

LEG. VILORIA • FISHER:

It was approved 18.

LEG. COOPER:

Oh, I'm sorry.

P.O. CARACAPPA:

There's a motion to discharge 1358 and a second. All in favor? Opposed? Abstentions? 1358 is before us. Motion by Legislator Cooper, second by Legislator Carpenter ••

LEG. CRECCA:

On the motion.

P.O. CARACAPPA:

•• to approve. On the motion, Legislator Crecca.

LEG. CRECCA:

I just want everyone to know, since I voted for this my suits have been coming back pretty wrinkled, so.

P.O. CARACAPPA:

Now they'll come back doubly. All in favor? Opposed? Abstentions?

MR. BARTON:

16 (Not Present: Legislators Tonna & Caracciolo).

P.O. CARACAPPA:

Is there a motion; is that it?

LEG. VILORIA • FISHER:

That was it.

P.O. CARACAPPA:

Okay.

LEG. VILORIA • FISHER:

Those were the five.

P.O. CARACAPPA:

Now we were going to do the vetoes.

LEG. CRECCA:

Motion to override Introductory •• veto •• the veto on Introductory Resolution **1085**, **Resolution No. 583, a Local Law to repeal annual audit of County forfeiture funds**; adopted on 6/8 and vetoed 6/28, after our meeting took place.

P.O. CARACAPPA:

There's a motion, I'll second that veto override.

LEG. VILORIA • FISHER:

On the motion.

P.O. CARACAPPA:

On the motion, Legislator Vilorina•Fisher.

LEG. VILORIA • FISHER:

In reading the veto message, it says that we •• there had been an amended copy, Counsel; I'm a little confused. In the veto message, it says that there was an agreed upon version of this law and that that was the version that the County Executive had thought was •• that Mr. Sawicki was on board with that. Was there an amended copy that we were to have voted on, but it was never filed; is that what happened?

P.O. CARACAPPA:

As the sponsor, I can answer that. It was recommended that I change it as the sponsor and I didn't, I didn't want to amend it.

LEG. VILORIA • FISHER:

Oh, okay.

P.O. CARACAPPA:

I thought it was fine the way it was. And again, I was just carrying this piece of legislation into the new year on behalf of Presiding Officer Postal who ••

LEG. CRECCA:

It's my •• Mr. Presiding Officer, if you would answer a question.

LEG. VILORIA • FISHER:

Okay. It was just a question to see if there was a defect in the filing. Thank you.

P.O. CARACAPPA:

No. There was a request, absolutely, but as the sponsor, I didn't feel the necessity to change it. Legislator Crecca.

LEG. CRECCA:

The District Attorney, this is the resolution that the District Attorney is in favor of, as far as we know?

P.O. CARACAPPA:

And the Comptroller.

LEG. CRECCA:

Okay. I just wanted to make sure that that was the one I thought it was, so.

P.O. CARACAPPA:

Legislator Lindsay?

LEG. LINDSAY:

Yeah, to the sponsor. Again, in the veto message it says that the Comptroller wanted changes; is the Comptroller okay with the version that we passed? I mean, being that he's doing the audits ••

P.O. CARACAPPA:

Yeah. The day after •• the day after the bill was approved, I received a phone call from the Comptroller thanking me.

LEG. LINDSAY:

Okay.

LEG. BISHOP:

On the motion.

P.O. CARACAPPA:

On the motion, Legislator Bishop.

LEG. BISHOP:

It's thrilling that the Comptroller and the DA are in favor of this and appreciative and all that, but this audit mandate came about as a Legislative directive, and we were reacting to problems

in the past. Now, it has been said, well, that particular District Attorney is no longer around, so the problem is no longer around; that's not the point. The point is that you have a fund that is collected by one entity and controlled by one entity, and when •• that is unique in government. And when you have that situation there should be special guards and checks and balances, and the annual audit was the check and balance. This says, "All right, the annual audit was too much, you know, because there's other things to audit in government and we don't want to spend all our time as Comptroller every year on this particular audit." So what I proposed as an alternative was some sort of regular auditing every three years, every five years, something, so that there is some accountability in the system.

I don't know why the rush to swing the pendulum back the •• entirely the other way. And how foolish are you going to feel if there's a problem in the future again with this account? It really •• it just demonstrates that, in the past, the Legislature was playing petty political games, was mad at this guy, or, you know •• and so we're going to pass this law; that's not the way we should do business. The law made sense as an •• you know, a theoretical concept applied to reality. In other words, it was a good idea and it remains a good idea on its own, regardless of who the DA and the Comptroller are at any particular moment.

P.O. CARACAPPA:

This doesn't preclude the Comptroller from auditing the ••

LEG. CRECCA:

Or from us.

P.O. CARACAPPA:

•• forfeiture, or from us at any given time.

LEG. CRECCA:

He can still ••

LEG. BISHOP:

No, it does not preclude, but it •• but as we learned in the Real Estate scandal, or affair •• I'm sorry, we can't •• we're not allowed to say scandal now, some members object to that.

P.O. CARACAPPA:

Call it what you want.

LEG. BISHOP:

The affair of Real Estate.

LEG. ALDEN:

I'll say scandal.

LEG. BISHOP:

We learned that ••

LEG. CRECCA:

Debacle.

LEG. BISHOP:

•• the departments don't get audited for decades at a time. So ••

P.O. CARACAPPA:

If you remember the •• not to cut you. If you remember the testimony between the •• at the last meeting of last year in December in Riverhead, the Comptroller had said the manpower needed to do this sort of auditing on this regular basis was monumental.

LEG. BISHOP:

Right.

P.O. CARACAPPA:

So this is ••

LEG. BISHOP:

And one of the •• just to continue the dialogue, one of the things I said to you is, as the sponsor •• and I realize you inherited the bill from the prior Presiding Officer •• is all right, audit probably has a special meaning, you know, an exact amount of work that has to be done that qualifies as an audit. Aren't there some •• something less than a full blown audit that we could have required on some sort of timely basis? And again, the reason we would treat this special is because it is a special fund, unique in government in that it's collected by one entity

and spent by one entity, and the Legislature, the Executive Branch, nobody else is involved in collecting or spending it, which is quite unique. So there should be special guards ••

LEG. MYSTAL:

Legislator Bishop, would you suffer a small interruption?

LEG. BISHOP:

Sure.

LEG. MYSTAL:

Let's pass the darn thing and then you can amend it with another bill. Let's get out of here, please.

P.O. CARACAPPA:

That's why I love you, Elie.

LEG. BISHOP:

Freshman ought to be seen and not heard.

P.O. CARACAPPA:

Legislator Foley. You're good? Okay. There's a motion and a second to override.

LEG. MYSTAL:

I'm bigger than him.

P.O. CARACAPPA:

All in favor? Opposed?

LEG. BISHOP:

Opposed.

P.O. CARACAPPA:

One opposition, Legislator Bishop. Abstentions?

MR. BARTON:

15 (Opposed: Legislator Bishop • Not Present: Legislators Tonna & Caracciolo).

LEG. CRECCA:

Motion.

P.O. CARACAPPA:

That's overridden. Motion by Legislator Crecca.

LEG. CRECCA:

Now, Counsel, I was going ••

LEG. VILORIA • FISHER:

Excuse me, Mr. Chair?

LEG. CRECCA:

Oh, I was going to do a motion to reconsider the same bill.

LEG. VILORIA • FISHER:

Oh, that was my question.

LEG. CRECCA:

Oh, okay.

LEG. LINDSAY:

The same thing that we just ••

LEG. CRECCA:

No, not the override, the original •• motion to reconsider IR 1085. Well, actually, first I have to do a motion to waive the reconsideration rule with regard to the vote we took on six ••

June 8th, 2004, Introductory Resolution 1085. Should I not be reconsidering this? I see ••

LEG. LOSQUADRO:

She said it will be found deficient for late filing.

LEG. CARPENTER:

No, we already overrode the veto.

LEG. CRECCA:

We already overrode the veto.

LEG. VILORIA • FISHER:

Right.

LEG. CRECCA:

I'm now looking to reconsider the other ••

LEG. VILORIA • FISHER:

The way we did with the other ones.

LEG. CARPENTER:

Right.

LEG. CRECCA:

Yeah, but wouldn't that ••

P.O. CARACAPPA:

Hold on, one at a time. Legislator Crecca ••

LEG. VILORIA • FISHER:

He understands, you're saying the same thing.

P.O. CARACAPPA:

Legislator •• hold on, Legislator Crecca ••

LEG. VILORIA • FISHER:

You're saying the same thing.

P.O. CARACAPPA:

Legislator Crecca ••

LEG. CRECCA:

I don't know if we can do that yet.

P.O. CARACAPPA:

•• you just want to do your reasoning, or Counsel?

MS. KNAPP:

I recognize the fact that given the position that the County Executive has taken, it's created a certain amount of confusion. But it was clear on the first five that what the Legislature was doing was to correct a technical defect on something that it was clear that everyone wanted to repass and apparent that the County Executive wanted to approve. On this particular instance, the County Executive has expressed his disapproval, the Legislature has expressed their contrary position. If we repass another piece of legislation, you may be forcing the County Executive to veto again.

LEG. ALDEN:

Just leave this alone.

LEG. CRECCA:

You know what? Maybe •• maybe what we'll do is, if worse comes to worst, we'll have to reintroduce these in August if they try to get us on a technicality. I'd like to defer the mike to Legislator Fisher.

P.O. CARACAPPA:

Legislator Viloría•Fisher?

LEG. VILORIA•FISHER:

Counsel, that •• I agree with you. However, what we want to do is to make it legal, okay, so that it would have to be certified. We would file it in a timely manner, and if it is vetoed then we would have to decide at our next meeting whether to sustain it or override it at that time. If we don't do anything now, I think it would put the law •• it would set the law much further back in time. I believe that we should reconsider this just the way we're reconsidering all the other •

•

MS. KNAPP:

You are certainly legally free to do that.

LEG. VILORIA • FISHER:

•• and move forward with it.

MS. KNAPP:

You are •• I mean, clearly, the body can take either action; I would not presume to recommend one or the other.

LEG. LINDSAY:

Mr. Chair?

P.O. CARACAPPA:

Legislator Lindsay.

LEG. LINDSAY:

I'm still confused. If the bill was technically flawed, why did •• why did the County Executive act on it then?

P.O. CARACAPPA:

That's what I asked earlier to both Mr. Zwirn and the County Attorney and they had no answer.

LEG. LINDSAY:

And if anything, the vote that we just took to override the veto is probably as flawed as it being vetoed in the first place.

P.O. CARACAPPA:

That was the question ••

LEG. CRECCA:

Does that get certified, the override?

P.O. CARACAPPA:

No. That's the question I asked earlier, and to her credit, Ms. Bizzarro said she really wasn't sure; in her viewpoint, it was still technically flawed.

LEG. LINDSAY:

Well, I think we have to go forward with the ••

LEG. CRECCA:

No, wait a second, though.

LEG. LINDSAY:

•• reconsideration of •• to get it so it isn't flawed. And we might still have to override a veto again in August.

LEG. CARPENTER:

Right.

LEG. LINDSAY:

But let's do everything.

LEG. CRECCA:

Point of order.

P.O. CARACAPPA:

Point of order, Legislator Crecca.

LEG. CRECCA:

You know, I just •• but if •• it only gets certified after the County Executive signs it or •• so this would not have been certified anyway, because he vetoed it. So, wouldn't it now •• our vote to override the veto, if you file that, don't you have to file that by noon tomorrow, or by noon the next day I should say?

MR. BARTON:

Yes.

LEG. CRECCA:

Okay. So then that's the vote that has to get certified by the County Attorney; correct? How do you send this to •• how would you send an override to the Secretary of State?

MR. BARTON:

We don't send the override. There's a certification document and it •• we list all of the actions that were taken. The County Attorney's Office fills out the bottom of it and signs it ••

LEG. CRECCA:

Okay.

MR. BARTON:

•• and then we send it to Albany.

LEG. CRECCA:

Here's my question. If the County Executive •• we send the bill over in a timely fashion to the County Executive's Office.

MR. BARTON:

Correct.

LEG. CRECCA:

The County Executive vetoes the bill, it comes back to us. During that process, by the time it comes back to us, we don't •• the County Attorney doesn't certify the Local Law; correct, if it's vetoed?

MR. BARTON:

Well, if it's vetoed, we type on the bottom if it's overridden, and we forward it to the County Attorney for them to fill out the certification.

LEG. CRECCA:

Right. So the certification would come post veto override.

MR. BARTON:

Correct.

LEG. CRECCA:

So folks, I don't think we need to do anything, because this was not eligible to be certified before this, was it?

MR. BARTON:

Well, I happen to think the County Attorney's wrong.

LEG. CRECCA:

Okay.

P.O. CARACAPPA:

Thank you, Mr. Clerk.

LEG. CRECCA:

Here's my question; are we going to send the override over? Do we have to file that just like we do a Local Law?

MR. BARTON:

Yes.

LEG. CRECCA:

Okay. So, then there will be a certification that takes place; am I right or wrong, Counsel?

MR. BARTON:

She's saying that she's not going to sign it, though.

MS. KNAPP:

I believe that you have to ask Ms. Bizzarro the question in that there is a same form that's filed after a veto is overridden as when the County Executive wants to sign something, or I'm using the word "wants to sign something," usually does sign something that they want to see enacted into law. So, since it's Ms. Bizzarro who's taking the position that she couldn't certify, I think you have to ask her the question now as to whether or not, once the Legislature has taken the action of overriding a veto, can she sign the certification?

LEG. CRECCA:

Ms. Bizzarro, would you please step up to the mike? And I would think that from every legal perspective, before you answer the question, we have now •• to have us revote this again would be silly, because we've now overridden it with more than sufficient votes, and the action that you're actually going to certify is the fact that it's been passed by the Legislature. So my question to you is, if Mr. Barton sends it over to you in a timely fashion, will you certify this to be sent to the Secretary of State?

MS. BIZZARRO:

It depends on what I'm certifying. I mean, I'm thinking about this as you're going through it, because I know there was a procedural defect previously on it.

LEG. CRECCA:

Correct. But now ••

MS. BIZZARRO:

Right. But now ••

LEG. CRECCA:

But you would not have certified it •• once the veto came through, it would not go to your desk for certification, it only comes ••

MS. BIZZARRO:

Right.

LEG. CRECCA:

•• to your desk post veto override.

MS. BIZZARRO:

Right. But it ••

LEG. CRECCA:

Because that's now when it has gone through the actions which require it to go •• to be sent to the Secretary of State.

MS. BIZZARRO:

But I have to ••

LEG. CRECCA:

What you're certifying is ••

MS. BIZZARRO:

That all procedures were proper, and I don't know that I can do that, and that's what I'm thinking in my mind.

LEG. CRECCA:

But we need an answer, because we have to know what kind of action we're taking.

MS. BIZZARRO:

Okay, give me •• give me a couple of minutes. Let me •• because I have to •• I don't know. And I have not had this presented to me in the past yet, so I don't know.

P.O. CARACAPPA:

Neither have we.

LEG. CRECCA:

I'll yield to Legislator Alden.

LEG. ALDEN:

While you're thinking about this, the County Executive vetoed it because •• and in his veto message he mentions that there's a defect; we were aware of that and we overrode the veto knowing that there was a defect in the •• and the defect was that it was filed late, so that should be part of your consideration also.

MS. BIZZARRO:

Okay.

LEG. CRECCA:

And you're also our attorney as well as the ••

MS. BIZZARRO:

All right, give me ••

LEG. CRECCA:

•• attorney of the County Executive.

MS. BIZZARRO:

•• a couple of minutes, if you could just •• thank you.

P.O. CARACAPPA:

Okay. In the meantime, I will make a motion to waive the rules and lay on the table Resolution 1697, sponsored by Legislator Carpenter. This is appropriating funds in connection with the reduction •• this is the modulars for the jail.

LEG. LINDSAY:

Would you list me as a cosponsor?

LEG. CARPENTER:

Sure.

P.O. CARACAPPA:

This is Legislator Carpenter and Lindsay. All in favor? Opposed? Abstentions? 1697 is laid on the table.

MR. BARTON:

16 (Not Present: Legislators Tonna & Caracciolo).

P.O. CARACAPPA:

We have ••

LEG. CRECCA:

We can do the other veto overrides.

P.O. CARACAPPA:

Well, it's the same •• almost the same ••

LEG. MYSTAL:

The same problem.

P.O. CARACAPPA:

The same problem. Oh, and assign that to Public Safety, I'm sorry.

We have the same problems with the rest of the vetoes, which is the rest of our business here today.

LEG. CRECCA:

I'll do a motion to re •• oh. Do I need to reconsider 1387, Counsel?

LEG. BISHOP:

Did we just vote on something?

LEG. VILORIA • FISHER:

Yes. Oh, yes, we voted on the modulars.

LEG. BISHOP:

Oh, laying it on the table?

MS. KNAPP:

1387 was the one that was filed with the Secretary of State yesterday.

LEG. CRECCA:

I apologize, it's on the prior page, too, that's why. Okay, I got confused.

LEG. LINDSAY:

Geez, this is confusing enough without giving us the wrong number.

P.O. CARACAPPA:

Okay.

LEG. VILORIA • FISHER:

Why don't we finish?

P.O. CARACAPPA:

Well, because they're in the same boat.

LEG. VILORIA • FISHER:

Not if they're sustained.

P.O. CARACAPPA:

Well, that's true.

LEG. CRECCA:

Let's do the BRO one.

LEG. VILORIA • FISHER:

It's my defense of marriage, I want to get the Presiding Officer home.

P.O. CARACAPPA:

Motion to override ***Resolution No. 707, which was previously IR 1463, this is creating a position in the County Legislature's Budget Review Office and transferring funds to the County Clerk.*** Motion by Legislator Crecca to override.

LEG. CARPENTER:

Second.

P.O. CARACAPPA:

Second by Legislator Carpenter.

LEG. FOLEY:

Which resolution is this?

P.O. CARACAPPA:

This is 707, formally 1463, creating a position in the County Legislature Budget Review Office.

LEG. FOLEY:

What page is that on?

P.O. CARACAPPA:

This is a veto.

LEG. CRECCA:

It's in the packet.

LEG. CARPENTER:

It's in the packet.

LEG. CRECCA:

This is one of the ones we just passed and it's to create •• there was a request by Mr. Fung and ••

P.O. CARACAPPA:

On the motion. Oh, I'm sorry, Legislator Crecca.

LEG. CRECCA:

Go ahead. No, I'll let you go.

P.O. CARACAPPA:

On the motion. This is funds within the Legislature, it's a position within the Legislature, this is requested from within the Legislature and needed. I don't see us doing anything as it relates to the County Executive's side via positions, via his funding; his house is his house, our house is our house. And I think the veto is disrespectful to the Legislature.

LEG. CARPENTER:

On the motion.

LEG. BINDER:

Mr. Chairman?

P.O. CARACAPPA:

On the motion, Legislator Carpenter.

LEG. CARPENTER:

If I could, I think it's important and this is probably an appropriate time to do so, because sometimes we just take for granted the incredible job that the Budget Review Office does and their technical side, Allen Fung and Cary Flack. The strides that we have made technologically over the last couple of years are really remarkable, but they really are very short staffed, so I think the Presiding Officer's comments were most appropriate. This is something that we are trying to do and with all of the technicalities that have been pointed out to us of late, it seems that much more important that this position be granted.

P.O. CARACAPPA:

Thank you. Legislator Binder.

LEG. BINDER:

Mr. Chairman, we've upgraded a lot. And when I first got here 15 years ago, then Legislator Rizzo at the time didn't want to really move off those memory typewriters to get the computers, it was hard to get him to want to do it and we've, in the time I've been here, come a long way. And Allen Fung has taken up the mantle here, you know, through the Budget Review Office, and he does an incredible job; there's not one of us here that doesn't know when we need something he is all over it and his staff. But the fact is they don't have enough. It is not right for us not to give him enough staff with the kind of upgrade, the kind of demands that we put on him, they're doing a great job but we need to give him the resources so we have to make sure that happens.

LEG. CARPENTER:

Call the vote.

LEG. VILORIA • FISHER:

I have a question, Mr. Chair.

P.O. CARACAPPA:

Legislator Viloría•Fisher.

LEG. VILORIA • FISHER:

Counsel, it says in the veto message that the resolution is illegal and unenforceable because •• and it quotes the Charter regarding offsets and transfers of appropriations; can you, please, explain your position on this?

MS. KNAPP:

What he's referring to is that there is a requirement that there be an offset of funds when you create a new position. I've discussed this with Jim Spero at some length and Mr. Spero's position •• and it's one that in looking at it again last night, has some basis in that the funds exist within his appropriations •• am I correct •• and for that reason that there would be no offset required. And we looked at the creation of the position of Ethics Director last night and we noticed that there was verbiage in that that talked about there were sufficient funds to do this without the amendment to the Operating Budget. So, for that reason, I'm a little bit more comfortable with it, but it's an ongoing discussion between Mr. Spero and myself.

LEG. VILORIA • FISHER:

I have a second question and it's for the Presiding Officer. Joe, if this is for the Legislative Budget Review Office, why are the funds transferred to the Clerk? The title says transferring funds to the County Clerk.

P.O. CARACAPPA:

I'm going to defer this to Budget Review.

MR. SPERO:

Yeah, they're separate actions, one creates the position •• the last resolution was originally submitted creating the title in the Budget Review Office and was amended subsequently to include transfers to the County Clerk's Office because there's an anticipated shortage in permanent salaries in the Clerk's Office.

LEG. VILORIA • FISHER:

So this isn't just for a position in the Budget Review Office.

MR. SPERO:

No, they're independent, separate actions.

LEG. VILORIA • FISHER:

But they're both in one resolution.

MR. SPERO:

They're both in the same resolution and there are sufficient funds in the Budget Review Office budget to fill the position. It's not necessary to offset the cost of the position because that would be transferring funds into our budget that it would not need to fund the title •• the positions for this year, so. The offset is implicit in that there are sufficient funds available to fill the slot.

LEG. VILORIA • FISHER:

Okay. So, if there are sufficient funds in BRO for the position, then what would happen if this veto were sustained?

MR. SPERO:

The position would not be created and the funds would go to fund balance.

LEG. VILORIA • FISHER:

Okay. What are the positions in the Clerk's Office that are supported by this resolution? I just don't ••

MR. SPERO:

The Clerk was underfunded.

LEG. VILORIA • FISHER:

And I was trying to remember why I abstained.

MR. SPERO:

The clerk was underfunded this year because when we adopted the budget last year, the Legislature adopted the budget, we increased turnover savings in a number of appropriations including the County Clerk. And at the time we were unaware that positions were being filled in

the Clerk's Office and the turnover savings went through reducing his permanent salary account which created a shortfall for this year; so this would correct that situation by transferring funds from other permanent salary lines in the budget to the Clerk's Office.

LEG. CRECCA:

If I can, too, answer the question?

LEG. VILORIA • FISHER:

Yes; I yield.

LEG. CRECCA:

Yeah, the original billed that I filed was for the BRO position which, you know, we had discussed and I think it was pretty unanimous that we needed that position, that extra ••

LEG. VILORIA • FISHER:

Correct.

LEG. CRECCA:

Okay. Then what happened was as Chairman of Budget and Finance, I review things with Jim on a regular basis as to where our accounts are and what we're looking at. We had come •• we had seen that there would be a shortfall in the Clerk's salary budget, and then looking back last year historically, the Clerk had come to us right after the adoption of the budget when we had taken the turnover savings and said there was an intention to fill those positions in his office, and there was a representation made to him at that time that if and when he did fill those positions that we would take whatever appropriate action was necessary. In reviewing the budget, I asked Jim to look at it and see whether or not he was going to meet •• his payroll appropriations were going to meet his demands. It didn't create any new positions in the County Clerk's Office or anything else like that, and that's when we noticed that there was a shortfall and that's why I added it to this bill because we can only amend four times a year; just so you understand what action I was taking and why in the bill, as the sponsor.

P.O. CARACAPPA:

I don't think it's mentioned in the veto message.

LEG. VILORIA • FISHER:

Because the title wasn't parallel to what was being discussed.

LEG. CRECCA:

That's what •• because I had no mechanism to take that unless I waited til much later in the year and that's why it was attached to this bill. But understand that I think the veto message override is directed at our BRO position, not at the permanent salary part, I think.

LEG. VILORIA • FISHER:

Yeah, I had two separate questions regarding this.

LEG. CRECCA:

Yeah, no, I know, I just wanted to answer your questions.

P.O. CARACAPPA:

Very good. Motion and a second.

LEG. VILORIA • FISHER:

Two different people.

P.O. CARACAPPA:

All in favor? Opposed?

LEG. CRECCA:

David is opposed.

P.O. CARACAPPA:

Abstentions? One opposed? Yeah, one in opposition.

MR. BARTON:

15.

LEG. VILORIA • FISHER:

Henry, I'm abstaining also.

MR. BARTON:

Okay, 14.

LEG. MYSTAL:

To override?

MR. BARTON:

Yes; what's your vote?

LEG. MYSTAL:

To override.

MR. BARTON:

To override, 14, 2 in opposition (Opposed: Legislators Bishop & Viloría•Fisher • Not Present: Legislators Tonna & Caracciolo).

P.O. CARACAPPA:

Ms. Malafi •• I mean, Ms. Bizzarro, do you have an answer for us?

MS. BIZZARRO:

Yes. Without the benefit of researching the issue, I agree with Legislator Viloría•Fisher. It's my recommendation that you reconsider the bill for a vote; I will not be able to certify it in that all the procedures under the Charter have not been followed. So, it would be my recommendation to you as the Legislative body.

LEG. VILORIA • FISHER:

We consider and vote on it.

LEG. CARPENTER:

This is ridiculous, absolutely absurd.

P.O. CARACAPPA:

Okay. Is there ••

LEG. CRECCA:

It's bizarre.

P.O. CARACAPPA:

What's the next ••

LEG. CARPENTER:

It's bizarre.

P.O. CARACAPPA:

Is there a motion?

LEG. LINDSAY:

Do we need a motion to reconsider? Which one are we doing?

P.O. CARACAPPA:

Well, we have •• all the vetoes have to be reconsidered and voted on.

LEG. BISHOP:

Again.

P.O. CARACAPPA:

Again. And then at that point, I don't see a need to override the veto, because they're just going to come back.

LEG. CRECCA:

No, I want •• I think we need to do it. I think we need to take the action in case ••

P.O. CARACAPPA:

Okay. There's a motion. There's a motion to waive the rules, Rule •• what rule?

MS. KNAPP:

11 (I).

P.O. CARACAPPA:

11 (I), second by ••

LEG. CRECCA:

There's a motion to waive Rule 11 (I) for the remainder of this meeting ••

P.O. CARACAPPA:

Yes.

LEG. CRECCA:

•• today.

MS. KNAPP:

Fine.

P.O. CARACAPPA:

Second by Legislator Crecca; the motion was mine. All in favor? Opposed? Abstentions?

MR. BARTON:

16 (Not Present: Legislators Tonna & Caracciolo).

P.O. CARACAPPA:

There's a motion to reconsider ***Resolution 1566***, second •• by myself, second by ••

LEG. BINDER:

What's the title?

P.O. CARACAPPA:

The title is ***amending Local Law 20•2002 to provide accurate and truthful filing responsibility for County Election Campaign Finances.***

LEG. BINDER:

Motion to just table with that correction.

P.O. CARACAPPA:

Motion, Legislator Binder?

LEG. BINDER:

Just table.

LEG. BISHOP:

Second.

LEG. CRECCA:

Then don't reconsider it; there's nothing to reconsider then.

LEG. VILORIA • FISHER:

I'm sorry. What's the title of 1556?

LEG. CRECCA:

Reconsider it at the next meeting.

LEG. VILORIA • FISHER:

1566.

P.O. CARACAPPA:

Yeah, this is adopting Local Law •• amending •• to provide accurate and truthful filing responsibilities for County Election Campaign Finances.

LEG. BINDER:

We'll reconsider and I'll just table it.

P.O. CARACAPPA:

Okay. 1668 is before us. There's a motion by the sponsor to table it.

LEG. LINDSAY:

1566.

P.O. CARACAPPA:

Correct.

LEG. VILORIA • FISHER:

1566.

LEG. BISHOP:

Motion to table.

P.O. CARACAPPA:

There's a motion to table, second by Legislator O'Leary. All in favor? Opposed? Abstentions?
So, that will be back on the floor ••

LEG. BISHOP:

I'm opposed.

P.O. CARACAPPA:

There's one opposition, Legislator Bishop.

LEG. COOPER:

I'm opposed.

P.O. CARACAPPA:

And Legislator Cooper, Legislator Foley, Legislator Vilorina•Fisher, and Montano. It's just to table.

MR. BARTON:

12 (Opposed: Legislators Bishop, Cooper, Foley, Vilorina•Fisher & Montano • Not Present:
Legislators Caracciolo & Tonna)

P.O. CARACAPPA:

It's tabled, it will be on the agenda at the next regularly scheduled session of the Legislature.

LEG. CRECCA:

Motion to reconsider ***IR 1085.***

P.O. CARACAPPA:

Motion to reconsider 1085 ••

LEG. CARPENTER:

Second.

P.O. CARACAPPA:

•• by Legislator Crecca, second by Legislator Carpenter.

LEG. VILORIA • FISHER:

Could you read the title?

P.O. CARACAPPA:

The title is?

LEG. CRECCA:

The title is ***a Local Law to repeal annual audit of County Forfeiture Funds***; it was the one that we overrode earlier today.

P.O. CARACAPPA:

Right.

LEG. BISHOP:

We're taking the vote again.

P.O. CARACAPPA:

Yeah.

LEG. CRECCA:

We're taking the vote to reconsider the ••

P.O. CARACAPPA:

Motion.

LEG. CRECCA:

•• underlying resolution.

P.O. CARACAPPA:

Motion to reconsider and a second. All in favor? Opposed? Abstentions?

LEG. BISHOP:

Opposed.

MR. BARTON:

15 (Opposed: Legislator Bishop • Not Present: Legislators Caracciolo & Tonna)

P.O. CARACAPPA:

Now, there's one opposition in Legislator Bishop.

LEG. CRECCA:

Motion to approve.

P.O. CARACAPPA:

Motion to approve by Legislator ••

LEG. CARPENTER:

Second.

P.O. CARACAPPA:

Second by ••

LEG. CRECCA:

I'm sorry, Joe, it's your bill.

LEG. CRECCA:

Legislator Crecca makes the motion, second by Legislator Carpenter. All in favor? Opposed? Abstentions? One opposition, Legislator Bishop.

MR. BARTON:

15 (Opposed: Legislator Bishop • Not Present: Legislators Caracciolo & Tonna)

LEG. MYSTAL:

If I may, Mr. Presiding Officer.

P.O. CARACAPPA:

Legislator Mystal.

LEG. MYSTAL:

Can we •• we have the spreadsheet in front of us, can we go to them from the top down and ••

P.O. CARACAPPA:

No, that's ••

LEG. MYSTAL:

There is a reason there.

P.O. CARACAPPA:

No, that's a whole bunch of different ones from times passed as well. Okay, what's next?

LEG. CRECCA:

Motion to •• have we overridden 1385, Resolution 1661?

P.O. CARACAPPA:

Which is?

MS. KNAPP:

No.

LEG. CRECCA:

I'll make a motion to override the County Executive's veto on ***IR 1385***.

LEG. CARPENTER:

Second.

P.O. CARACAPPA:

Which is?

LEG. CRECCA:

A Local Law to authorize the implementation of Subscription Fee Service scheduled for the Suffolk County Clerk's On-line Record System.

P.O. CARACAPPA:

There's a motion to override, second by Legislator Carpenter. All in favor? Opposed? Opposed, Legislator Vilorio•Fisher, Foley, Lindsay, Montano, Bishop, Mystal and Cooper.

MR. BARTON:

9 (Not Present: Legislators Caracciolo & Tonna).

P.O. CARACAPPA:

The veto is sustained.

LEG. CRECCA:

Motion to reconsider ***IR 1385*** which we voted on on June 8th, 2004.

P.O. CARACAPPA:

Motion by Legislator Crecca ••

LEG. CRECCA:

Motion to reconsider.

P.O. CARACAPPA:

•• second by myself. The title is?

LEG. CRECCA:

It's the same bill, ***authorizing implementation of Subscription Fee Service.*** I'm making the motion to reconsider for the purpose of making a motion to table.

LEG. CARPENTER:

I'll second that.

P.O. CARACAPPA:

There's a motion to table and second 1385. All in favor? Opposed? Abstentions?

(Opposed said in unison *)*

This is to reconsider.

LEG. CRECCA:

To reconsider?

P.O. CARACAPPA:

On the reconsider, Legislator Vilorio•Fisher, Legislator Foley, Legislator Bishop, Legislator Montano, Legislator Mystal, and Cooper.

LEG. CRECCA:

Is this why •• with all due respect ••

LEG. BISHOP:

You lost the vote; why would we want you to table it?

LEG. CRECCA:

Because Legislator Caracciolo could not be here for physical reasons, Legislator Tonna could not be here. And in all due respect, I'm just asking to go back before the Legislature, you know, it passed the first time; that was the only reason why. But I understand, Legislator Bishop, I thought we were here to reconsider everything, Democratic and Republican resolutions.

LEG. FOLEY:

Mr. Chairman, just a point of order, if I may?

P.O. CARACAPPA:

I thought so, too, but unfortunately it's not.

LEG. FOLEY:

Mr. Presiding Officer, a point?

P.O. CARACAPPA:

Legislator Foley.

LEG. FOLEY:

Thank you. Mr. Chairman, the point of the matter is there are two meetings in August, this can be submitted at the first meeting in August and we can vote on it at the second meeting of August. So for those who want to take •• who want to review and vote on this bill a second time, we can do it in the month of August; there are two meetings, it can be introduced at the first meeting and voted on in the second meeting. Thank you.

LEG. BINDER:

Joe, why don't we make a motion to reconsider and kill them all?

LEG. ALDEN:

I'd ask for a recess until 2:30 when Mr. Sabatino can come over and address us.

LEG. BINDER:

Second to recall the recess.

LEG. CRECCA:

Call a recess.

D.P.O. CARPENTER:

I think that ••

LEG. BINDER:

I second the motion to recess.

D.P.O. CARPENTER:

•• it was clear that I don't think we'll have a quorum at 2:30.

LEG. BINDER:

He made a motion to recess till 2:30, I second it.

LEG. FOLEY:

Madam Chair?

D.P.O. CARPENTER:

Yes, there is a motion on the floor, a motion to recess ••

LEG. FOLEY:

On the motion.

D.P.O. CARPENTER:

•• and it has been seconded. On the motion, Legislator Foley.

LEG. FOLEY:

Yeah, thank you, Madam Chair. I hope we can defeat the motion to recess. The fact of the matter is even if those bills were reconsidered today, they wouldn't be voted on until early August. By not reconsidering them today, they can be submitted in early August and two weeks later, no more than three weeks later than they otherwise would have been voted on, they can be voted on at the General Meeting at the end of August. So let's not recess the meeting until 2:30 today. We can take care of the business of these particular resolutions in August as we would have otherwise. So I would hope ••

LEG. MYSTAL:

Madam Chair?

LEG. FOLEY:

•• that reason would prevail on this one.

LEG. ALDEN:

Point of order, though?

LEG. MYSTAL:

I can't be here at 2:30, I have four different meetings.

LEG. LINDSAY:

Vote against it.

LEG. MYSTAL:

I'm going to vote against it, I'm just saying ••

LEG. SCHNEIDERMAN:

I can't be here.

D.P.O. CARPENTER:

Legislator Alden.

LEG. ALDEN:

Just as a point of order, it wasn't •• Legislator Foley? As a point of order, to recess til 2:30 was to allow Paul Sabatino to come over and address us, not to any belaboring of the fact on these votes or anything like that.

LEG. MYSTAL:

Legislator Alden, if you could suffer an interruption for one minute.

D.P.O. CARPENTER:

Legislator Mystal.

LEG. MYSTAL:

I don't know •• you're saying to recess till 2:30 so we can have the Deputy County Executive show up, you don't have any guarantee that he will come up at 2:30.

LEG. ALDEN:

You're right.

LEG. MYSTAL:

You'll have the same thing saying, you know, he can't make it and then we wasted the time, he's not going to show up. If he was going to show up he would have showed up already.

LEG. ALDEN:

But in response?

LEG. MYSTAL:

He's right across the street, he would have showed up already if he was going to come.

LEG. ALDEN:

But in response, Mr. Zwirn said earlier that he will be done with his duties over there and he could make it here by 2:30.

LEG. VILORIA • FISHER:

Let's just call the vote.

LEG. FOLEY:

Move the question.

D.P.O. CARPENTER:

Okay, let us move the question on the recess, please. All in favor of Recessing til 2:30?
Opposed?

(* Opposed said in unison *)

Roll call.

LEG. ALDEN:

Why? There's two votes for it.

D.P.O. CARPENTER:

Oh, okay, then no roll call is necessary, the motion to recess is defeated. I make a motion to adjourn.

LEG. ALDEN:

Second.

LEG. BISHOP:

Second.

D.P.O. CARPENTER:

All in favor? Opposed? We're adjourned.

(*The meeting was adjourned at 11:16 A.M. *)