

**SUFFOLK COUNTY LEGISLATURE  
SPECIAL MEETING  
TWELFTH DAY  
AUGUST 3, 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 & ALISON MAHONEY • COURT STENOGRAPHERS  
MINUTES TRANSCRIBED BY ALISON MAHONEY • COURT STENOGRAPHER

***[THE MEETING WAS CALLED TO ORDER AT 1:16 PM]***

**P.O. CARACAPPA:**

Good afternoon. I would like to start the special meeting with a salute to the flag led by Legislator Tonna.

***SALUTATION***

Please remain standing. Although last month we suffered some horrible losses in our public safety community and in our communities as a whole with the losses of Suffolk County Police Officer Edwin Hernandez, Patchogue Village Constable Phil Taldone, and Bay Constable Richard Brooks. I'd ask everyone to keep their souls in your prayer, their souls in your memory and in

your hearts and keep their family in your prayers through this very, very difficult time in their lives.

***MOMENT OF SILENCE OBSERVED***

Thank you. Mr. Clerk, could you please read the meeting notice.

**MR. BARTON:**

Good afternoon, Mr. Chairman. "To all County Legislators, notice of a special meeting from Joseph T. Caracappa, Presiding Officer. Please be advised that a special meeting of the Suffolk County Legislature will be held on Tuesday, August 3rd, 2004, at 1 PM in the afternoon in the Rose Y. Caracappa Legislative Auditorium located at the William Rogers Legislature Building, 725 Veterans Memorial Highway, Hauppauge, New York, Pursuant to Section 2•6B of the Suffolk County Administrative Code for the following purpose; a one hour public portion followed by seven items which may include an executive session." Signed by the Presiding Officer, distributed to the County Executive and all Legislators.

**P.O. CARACAPPA:**

Thank you, Mr. Barton. We're going to go directly to public portion. Keep in mind, three minutes per speaker; the first speaker is Tony LiCausi? I'm sorry if I said it wrong. LiCausi? Come on up. Come on up to the podium right here and you have three minutes to make your statement, Sir. Thank you.

**MR. LICAUSI:**

Good afternoon. My name is Tony LiCausi, I reside at 5 Hill Avenue, Nesconset, and I've been at that same address for 34 years.

In yesterday's newspaper they had a nice write•up about the trailer park and they told you a lot of stories about the owners and how you should feel sorry for these people, and I do. The only thing they didn't let you know is the other side of the story. In 34 years that I've been living there, there's been a lot of trouble there; overcrowding, eight to ten men living in one little unit, brawling in the middle of the night on Smithtown Boulevard, beer bottles being thrown all over. There's been two fires at different times, one fire caused the life of a young lady that lived there, she died in the fire. A few years later there was another fire and the people who

live there lost everything, they were lucky they got out. And of course there was a murder there which was a stabbing, and I don't know what happened with that, if the murderer got away with it or he got caught, I have no idea. So through the years, it's not only an eyesore and these owners who have been making hundreds of thousands of dollars a year without fixing up electrical, plumbing, it's a mess.

They put up a fence a few years ago on Smithtown Boulevard to cover a lot of it; you look inside those fences today and it's a mess, it's an ongoing mess. Smithtown has neglected this part of Nesconset for years, I've seen it go down and under right into Ronkonkoma. Next to the Watermill, past the Watermill, it's one big mess. It's not doing the neighborhood any good and it's time that we the people and the Legislature should act and let's clean this mess up and replace these people into better conditions than what they're living now. Thank you.

**P.O. CARACAPPA:**

Thank you, Sir. Next speaker, Anthony Monteleone followed by Marie Mawn.

**MR. MONTELEONE:**

My name is Anthony Monteleone, I live at 23 Chivalry Lane in Nesconset, I've been a resident for approximately 33 years. I strongly agree with the gentleman who just spoke, the park really •• the trailer park really should be cleared, it should be part of the Lake Ronkonkoma Park, it's an eyesore. But we also feel, and I think all the residents feel after reading the story, even if it was only half the story, that the folks there deserve some decent living conditions. However, I strongly believe that there's someplace in Suffolk County which could have trees and be developed very nicely as there are some beautiful trailer parks out on the east end of the Island which these people can be relocated. I don't necessarily agree that it's Smithtown's obligation to replace these people, I believe that Suffolk County has an obligation to have some kind of a place for not only these folk but even affordable housing for that instance.

I strongly suggest that the Eminent Domain proceeding that Legislator Crecca has put forth be approved by the Legislature for the benefit of all Nesconset and particularly for the benefit of the people who presently reside there. Thank you.

**P.O. CARACAPPA:**

Thank you, Sir. Marie Mawn followed by Fred Gorman.

**MS. MAWN:**

Okay, my name is Marie Mawn and my address is 71 West 5th Street, Ronkonkoma. I'm on the Ronkonkoma •• in the Islip Township. I wanted to just speak about •• having been in the area there for 40 years, I realize that •• and agree that it is an eyesore. If the Eminent Domain procedure takes place, what's going to happen is there's just going to be additional empty land sitting in that spot. Now, what goes on up there is the fact that it's under utilized, it's been under utilized, that particular section of Lake Ronkonkoma has been underutilized for the last 40 years, it will never be any different as far as being underutilized because people just don't go there. It's not a safe place to go, I can't go there with my grandchildren because there may not even be another family coming there for another hour or so. It's quite weeded, it's isolated, it's never going to be any different. If we take away the trailer park, we're just going to have empty land that is still going to be open to undesirable people to come to there to do what they may just want to do with very little control over it because it is hidden, actually, from the Main Street.

I would like to ask Suffolk County to consider something which would be probably a great step in that I would like to see Suffolk County take over that trailer park, possibly put in some new trailers, clean it up, take care of the garbage, possibly put a fence up along Smithtown Boulevard, that would prevent it from being the eyesore that we say it is at this particular point. Because we're thinking •• we just don't want to see it, but there are people who need to have affordable housing, affordable housing in that particular area. People should have a right to be able to live near their relatives, and plus there is that it's on a bus route, people can live in that trailer park and take a bus to go to work. They can live in that trailer park, if it was done correctly, maybe even by privatization, they could live there and save up to buy a home. It doesn't have to be the mess that it is now. I think that we're big enough to be able to do something with that trailer park and make it better for people so that people in Suffolk County don't have •• who live there now don't have to go out to the end of the Island to find someplace that we know they're not going to really find anyways, we're just trying to get rid of them is actually what's going to happen. So I just would like to throw that out to you and say is that a possibility that we could be big enough to do •• to make a thing like that happen.

And then in closing, I would just like to say if we go ahead with the overthrow of the veto and the Eminent Domain, I just would ask that •• and I'm sure that you would all have this in your mind, that the people be located in a way that won't be hurtful to them. Thank you for your

time.

**P.O. CARACAPPA:**

Thank you. Fred Gorman followed by Karla Mayer.

**MR. GORMAN:**

Good afternoon, Legislators. My name is Fred Gorman, I Chair the Nesconset•Sachem Civic Association and I'm very familiar with the Ronkonkoma County Park. I've served on the Ronkonkoma Advisory Board, and Mr. Caracappa is nodding his head because he knows there's very little about this part I don't know. I'm very familiar with its usages and I'm familiar with the surrounding Smithtown and Brookhaven, Ronkonkoma neighborhoods.

Our civic association is comprised of 341 dues•paying families located among the 1,100 closest Smithtown homes to the park. We believe the County has every right to use Eminent Domain to expand this park, particularly since the landlords have refused to negotiate in good faith for a long time, years. However, since this is a County park mostly used by Brookhaven sports teams and Smithtown residents have to pay the same parking fee as a County or a non County resident, we believe County Executive Levy is wrong to suggest that we relocate the people to enhance a County park. Thank you.

**P.O. CARACAPPA:**

Thank you, Mr. Gorman. Karla Mayer followed by Paul Hulahan.

**MS. MAYER:**

Karla Mayer, 26 Ekland Boulevard. I'm living for the last 34 years in the 12th Legislative District and I'm familiar with the area of the park, Lake Ronkonkoma. When the County finally decided that the people on the Smithtown side of the lake also have public access, we were very happy because Islip had public access for decades and Brookhaven had access for decades and when we finally had access to the park we were very happy. And although it's not a Smithtown park, it's a County park, we are using it, we are going by. However, very seldom do we do that because going into the park is not a very pleasant experience. Yes, there is one trailer park that has a beautiful garden with nice flowers, but most of them are having a lot of refuse in front of their property. There are parts that collect rain water which is going to be difficult, it's a health hazard, and all the sewers that are being used there are very close to the

lake and I do not know if this is very environmentally safe.

I hope all the Legislators are voting for the Eminent Domain. I'm sorry to say that an agreement with a regular purchase could not be accomplished. If Eminent Domain is the only way we can go, please go that way and see to it that the County, since it's a County park, is responsible for relocating the people that are presently living in the trailer park. Thank you very much.

**P.O. CARACAPPA:**

Thank you. Paul Hulahan followed by Maria Tattanelli.

**MR. HULAHAN:**

Good afternoon. I'm Paul Hulahan, I'm one of the owners of the park. I would like to say that the County has been trying to buy this park from us for quite a few years, but they wanted us to evict the tenants and I refused to do that. I would like to see the •• what I have been doing is cleaning the park up and getting ready to bring in new mobile homes; I have five empty spots and I have people that want to live there, and there's 30 people living there now including seven children and they call it home. I would like to see this whole thing go by the board and go along with Mr. Levy and save the park. Thank you very much.

**P.O. CARACAPPA:**

Thank you, Sir. Maria Tattanelli.

**MS. TATTANELLI:**

Good afternoon. Maria Tattanelli, I live at 21 Spectacle Lake Drive in Nesconset. I have been here 17 years, I see it hasn't changed much, it's really •• I don't like the way it looks, there are so many •• a lot of times you're driving by there's beer cans everywhere, they're drinking; it's really an eyesore. I hope something can be done about this and really to remove it, I really think it would be the best thing. But we hope we can find someplace better for them to live in an area where all they have is the regular trailer parks. I mean, I really don't •• I like the lake itself, I hate •• I haven't been there, I just don't like going there at all. I hope something can be done. Thank you very much.

**P.O. CARACAPPA:**

Thank you, Ma'am. I have no other cards. Anyone wishing to be heard? Anyone wishing to be heard? Mr. Amper?

**MR. AMPER:**

My name is Richard Amper, I'm the Treasurer of the Long Island Environmental Voters Forum, as you know. This organization evaluates public officials in terms of the performance of their duties and association with the environment and this Legislature, every member of this Legislature earned points on for the tremendous work that you did in terms of trying to improve the real estate function and we're very much appreciative of that.

I understand that you're working toward the possibility of placing on the November ballot a bond issue that would help us fund preservation of farmland and open space. There have previously been resolutions by Legislators Caracciolo and Vilorio•Fisher and I guess we're sort of trying to figure out the best way to get all of that done. We've looked this over very carefully and we're working with the government in Nassau County and the Town of Brookhaven and the Town of Oyster Bay, all with a view to getting the right amount put forward. Given the rate at which land is being developed and the rate at which land is being preserved, it seems to us that not less than \$100,000,000 should be invested by the County of Suffolk in a bond act just to keep us going. We don't want to run out of money in the Open Space Program and we very much appreciate the need for the preservation of farmland under enormous amount of pressure across Suffolk County.

So as you're going through your deliberations, please accept our suggestion that we look to try to balance that between farmland and open space and make sure that we appropriate enough money to get the job done. Very much appreciated. Thank you.

**P.O. CARACAPPA:**

Thank you, Mr. Amper. No other cards; anyone else wishing to be heard? Step forward, Ma'am; please state your name for the record.

**MS. EGAN:**

Good afternoon. My name is Ava Egan, I'm a retired registered nurse and I've lived at 48 St. James Parkway on the corner of Hampton Avenue for approximately four and a half years. And I was born in Brooklyn and raised in Brightwaters, New York, so I certainly have an interest in Nesconset and Suffolk County.

I drove by there at 10:30 this morning and garbage pick•up, of course in area, was today, I'd like to know why all the garbage outside the fence was not picked up. As I stated, I live on the corner of Hampton Avenue and St. James Parkway which is three blocks long. There is a victorian that was built three years ago, he had furniture delivered, all of his garbage and boxes were picked up today, he's across the street from me; why weren't the boxes picked up in the trailer park area? There were some empty garbage pails but it is an eyesore, there is garbage there; however, on my street corner there is no garbage today after pick•up.

And also, as a registered nurse, we have to think about the people that are homeless on Long Island and in Suffolk County. There was just a young lady found in Wyandanch in Newsday this morning dead; they don't know if a car hit her, they don't know what happened to her, nobody cares. But we to do •• the Government, Pataki has a stop gap measure for the schools, I mean, we're on an austerity budget. We need civic communities to pick up the responsibilities of doing something to help these people. As it is, some of the standards are substandard, the owner says he's trying to upgrade it, but the community needs to do something. I still don't understand, if anybody can give me an answer why the garbage wasn't picked up. Thank you kindly.

**P.O. CARACAPPA:**

Thank you very much. Anyone else? Come forward, Ma'am, state your name.

**MS. CLEMENTE:**

Yes, hello. My name is Loretta Clemente, I'm newly moved to the area of Lake Ronkonkoma. I have to say that we have two places in Lake Ronkonkoma right on my block that the garbage wasn't picked up, so why garbage isn't being picked up, there's multiple reasons. We are now, through the civic association, investigating how and why we can do that, so there is a number I can give you so you can figure out how to do that.

But I just want to say how pleased I am to be a Suffolk County resident because any time I have approached the Counsel or different people I have gotten results; maybe they weren't always to my liking, but I have been •• people have spoken to me. What I'd like the say about the Lake Ronkonkoma Trailer Park is two sides of the story. Of course none of us would like people to be evicted, but I moved there with my family and we cannot go to that park; I, as a single person, do not feel safe. I have tried, I'm a jogger/walker and I've tried to go there and

with company and it is not a safe place. And I'm not blaming anybody, I'm just stating the fact that we cannot go and use it there because of the way it is now being run. And I'm sure people would like to fix it up or do things, but it has not been fixed up and it has not been done.

I went twice and people were walking out of their trailers as if they were in their own backyard, which maybe they are but I did not want to see them in their underwear, I did not want to see them not clad completely, I did not want to see things, beer and things done while I had access as a Suffolk County resident to go down that street; I didn't feel safe even to park my car there. So I really think that possibly Eminent Domain is the only way to go so that we could all use it, and I want everybody do consider that. How and what we do for the locals, the people that live there, it's very important.

And I know Suffolk County doesn't just pull put people out and together we'd work on it. But the associations around Lake Ronkonkoma and Nesconset are working very hard to keep Lake Ronkonkoma and Nesconset beautiful. We go monthly, thanks to people in charge, to clean up that area; we are very concerned and we do a lot about it. There's garbage pick•up by the residents every month, the beautification working with Suffolk County, we have put different things in different parts of the lake. But I think that everybody has to realize, as that gentleman said about the environment, we need those wetlands and we need to reclaim that lake, that's our heritage. It is the largest lake on Long Island, we should be proud, as I was, to move there so that when I have grandchildren •• some day, hopefully •• we could go and enjoy the lake. My daughter went with her boyfriend, they could not walk; it wasn't anybody's fault, I'm not •• we as a community have to come together to reclaim the lake part of the thing we need to do is have that area which takes one estuary to the other ••

**(\*Timer rang\*)**

Okay, thank you.

**P.O. CARACAPPA:**

Thank you, Ma'am. I saw another hand go up •• step forward, Ma'am •• and another.

**MS. McCULLAGH:**

My name is \\_Maryann McCullagh\\_ , I am a resident of Nesconset for about 30 years. I also have the privilege to work in Nesconset. Through our Parish outreach, we have had a lot of

involvement in the area in which you're discussing and I really want to congratulate everyone who has spoken so far, because even if you are for this resolution, you seem to be concerned about these families that are living there, and this is the point that I am coming to speak to.

What really concerns me is the lack of a plan. We're all kind of, I think, in agreement that these families would not necessarily have chosen this housing, this is all that they can afford. They would love to live in neighborhoods as we live in neighborhoods. They would love to have access to the park as recreation, but this is their home. And what does it say about us, as citizens of Smithtown or Brookhaven or Suffolk County, that our view of the lake, our access to the parkland may take precedent over these seven children? And this is what I speak to. If this is something that must happen, where is the plan for these families?

As I look around, I don't see any of the people who are living there here speaking, so I am going to speak to that and I am going to hope that however this comes out, that we can walk away and feel that we did everything we could for them. It is not that easy to find housing in Suffolk County. They do not have a home to go to, they may not have family who's going to support them. And I think with a little bit of research we'd be able to convince you that to pick up and relocate and bring your family, your children to another school district on whatever income is coming in that is just about making it in a trailer is not going to make it in any other apartment in Suffolk County.

I also think all of you are aware of the lack of affordable housing and I think it's a challenge to the towns and to Suffolk County to work to make some moderate income available housing available. Thank you.

**P.O. CARACAPPA:**

Thank you. Next speaker, come on up. State your name for the record.

**MS. \\_LABEU\\_:**

My name is Ann \\_Labeu\\_ and I live on Smith •• 357 Smithtown Boulevard, Nesconset. I've lived there since 1948, we came to Ronkonkoma, and a lot of things have happened over the years. The trailer park, I remember when the trailer park was built, Mr. \\_Grice\\_ lived across the street, he had the first trailer in that trailer park. And at that point in time, they built the

spaces for the trailers and most of the people that hadn't move into the trailers, that brought their trailers there, were elderly, retired people who had sold their homes, their families lived in the area and they moved there so that they could live on whatever income they were making.

Now, over the years, 20 years ago, they had the same kind of a thing, same kind of a meeting, and at that point in time, the trailer park was supposed to disappear by attrition; as the people got older and died, the trailer park •• the trailer was supposed to stop. But what happened is when people died, I guess their people that inherited whatever, they rerented it and nobody said anything, and as it went on and on it seemed to go lower and lower. And it got to the point where a lot of noise, a lot of mess. There's no reason for the trailer park to be the way it is, there's nice trailer parks out east, you go by them, you see them, they're lovely and there's no reason why that can't be across the street. It was just that certain amount of people that came there, the element was •• they didn't seem to care.

And so I feel very sorry •• the lady that was talking before me about the people that are there, they are on low incomes and they have very little money, and if the County could straighten it out, clean it up and leave the people there it would be fine. Thank you.

**P.O. CARACAPPA:**

Thank you. Anyone else wishing to be heard? Motion to close public portion by myself, second by Legislator Crecca. All in favor? Opposed? Abstentions? Moving on the agenda.

**LEG. CRECCA:**

Legislator ••

**MR. BARTON:**

18.

**LEG. CRECCA:**

Mr. Chairman?

**P.O. CARACAPPA:**

Yes, Legislator Crecca.

**LEG. CRECCA:**

Because there are so many people here for this issue, I would ask that we take what I believe is Item No. 6 on the agenda out of order which is to consider and vote on override of the veto on this resolution, authorizing the commencement of Eminent Domain Proceedings for the land adjacent to Lake Ronkonkoma Park; I'd make a motion to take it out of order.

**P.O. CARACAPPA:**

Motion by Legislator Crecca to take Item No. 6 ••

**LEG. LOSQUADRO:**

Second.

**P.O. CARACAPPA:**

•• out of order, second by Legislator Losquadro. That is to vote on the veto, ***Resolution No. 700•2004, authorizing the commencement of Eminent Domain Proceedings for land adjacent to Lake Ronkonkoma Park.*** All in favor? Opposed? Abstentions? That veto is now before us. There is a motion by Legislator Crecca.

**LEG. CRECCA:**

Motion to override.

**P.O. CARACAPPA:**

Motion to override by Legislator Crecca.

**LEG. LOSQUADRO:**

Second.

**P.O. CARACAPPA:**

Second by Legislator Losquadro.

**LEG. TONNA:**

On the motion.

**LEG. CRECCA:**

On the motion.

**P.O. CARACAPPA:**

On the motion, Legislator Crecca then Tonna.

**LEG. CRECCA:**

I won't beat a dead horse here so I'll try to keep my comments brief, but what I will say is a number of things directed to this resolution and the history of this acquisition.

First of all, it has been •• it predates my time as a Legislator that this community has been trying to acquire this to make it part of Lake Ronkonkoma County Park. In addition, those residents •• and I'll mention, because I don't think it was mentioned here today, that it is on what I •• what is a pretty steep curve, almost a blind•curve on Smithtown Boulevard where this trailer park is located and the entrance to the park. So from a public safety point of view, on a County Road there's no question we could improve the entrance to the park and make it safer.

You know, in Newsday's article that they reported on Monday, they made it sound as if the County didn't care about these residents and that they were going to take it and throw these people out on the street. Anyone who's been involved in this issue, myself included, knows that that has never been the intention, nor do I think it's the intention of the County Executive's Office or this Legislature to do so.

I've been working with the Nesconset Taxpayers Association, as well as Mr. Gorman's group, for years to try to make this acquisition take place; they've been very active. I've never sat at one of those civic meetings where they said, "Let's throw the people out on the street", it's always been talked about that the County would step in and do everything we could to help relocate these people, and that's still the •• what the intention is here today.

We have tremendous resources that are available here in Suffolk County. And I believe strongly that with the County Executive's Assistants, which I have no indication •• I spoke with Mr. Levy as recently as several days ago, that he would do all in his power to help relocate these people, and I am confident we could. Understand that the end goal here, besides getting this and making this part of the park, is to put these people in better living conditions than they're in right now. Understand, there have been dozens upon dozens of health code violations over the years issued in this park, that there are •• someone brought up that there

have been septic, you know, concerns because you all know Lake Ronkonkoma has been polluted on a number of occasions, this is very close to the park, so all the waste that's going out of that half-acre parcel that's maintaining that many residents eventually probably ends up in Lake Ronkonkoma. So from an environmental point of view, I really think this is really not the place that you want a trailer park.

You know, we can •• by commencing eminent domain proceedings, we will be able to relocate these people, and I don't think that anyone's representing that we won't assist and help those people to relocate. There are 37 trailer parks in Suffolk County, some of them are relatively close to this one, so I think we can relocate them there.

Apparently, somewhere in the process •• we had 14 votes last time; apparently a number of those •• of people who voted for it are leaning towards voting against it now, and that •• I understand that people reconsider things. What I would ask you to consider is this is important to the 12th Legislative District, as well as to my fellow Legislators who border that lake also; Cameron Alden, Legislator Lindsay, their districts are right there, too. I remind you that several years ago when I came here, Legislator •• then Legislator Levy not only voted for this bill, not eminent domain, voted for the acquisition because of the merits of the acquisition but was a cosponsor on the bill and spoke in favor of it.

You know, whether it was fixing up a park in one of your districts or putting astroturf on one of your ball fields, I think even when I haven't agreed with people, when it came to doing something for your district and something that was important to the residents of your district, I've been there for the vote for you, regardless of whether you're a Democrat or a Republican. I say honestly, this is important to the Nesconset residents, to the residents of Ronkonkoma and Lake Ronkonkoma that are there. It is a meritorious acquisition; otherwise I wouldn't have worked so hard for it, and I would have liked to have seen it happen before I leave office at the end of this year.

So with that said, I'd ask those of you who voted in favor of this to, you know, keep your vote and keep •• vote in favor of it again, vote to override. For those of you who didn't vote in favor of this, I'd ask you to reconsider your vote because it is so important. And I'm happy to answer

any questions you have.

**P.O. CARACAPPA:**

Legislator Tonna?

**LEG. TONNA:**

Thank you very much. And I appreciate Legislator Crecca's comments. I at first voted in favor of this and I am going to vote again •• I'm going to vote to sustain the veto today for a few reasons. One is that I was not aware, my first vote I was mistaken, I thought this had to deal with people living in a trailer park within a County park. But more importantly is where is Smithtown for years on the issue of affordable housing? And to tell you quite honestly, we're asking people in, you know, private property, we're going to condemn an area where in every other town, pretty much, in Suffolk County, on a town level they have made, you know, enormous strides, painful decisions with regard to the issue of affordable housing, but they've all said yes. In Smithtown •• and I've heard it a number of times said, not by any elected official in the Legislature or in Suffolk County, but definitely on a town level, it says, "There will be no affordable housing in Smithtown."

And so if there is a problem, let's solve the very first problem which is I would like to hear from the town, who has the housing powers, to say what is their commitment to affordable housing to, workforce housing, to housing for the have•nots, not just the haves but the have•nots? Once I hear about a plan for the have•nots, then I would be more than acceptable and agreeable to help something like, you know, eminent domain to make sure that these people are moved into proper places. The fact is is that residents in Smithtown have been •• anybody who's in an emergency housing situation or whatever else, where do they go? Talk about constituents, they go to Huntington, to Islip, to the Hamptons, to Babylon, to Brookhaven. Okay? They go ••

**LEG. CRECCA:**

My district.

**LEG. TONNA:**

They might go to your district, Andrew, because you're in five districts, okay, but they don't go to Smithtown. Nobody goes to Smithtown. And I think that it's actually in a certain sense what we have here. And again, I think you should stand for the residents in your area, but how

about the residents in your area who have no opportunity in the Town of Smithtown for any affordable housing? Let's take care of the have•nots first, okay? Then let's see and rectify this situation. But the very first situation •• because every other community is dealing with the affordable housing issue and probably every other district is dealing with that, let's first take care •• let's hear about a commitment from Smithtown to say you know what, we're going to put some affordable housing units in, that's what I want to hear first. Thank you.

**P.O. CARACAPPA:**

Thank you. Legislator Alden then Bishop, Montano, then Vilorina•Fisher.

**LEG. CRECCA:**

Legislator Alden, can I just ask for •• for you to suffer one interruption?

**LEG. ALDEN:**

I'll yield.

**LEG. CRECCA:**

Legislator Tonna, certainly I can agree with you that Smithtown has not been at the forefront of affordable housing, okay?

**LEG. TONNA:**

Not even at the forefront, let's say they're not existent.

**LEG. CRECCA:**

But one thing you did state was very much incorrect and that is when it comes to emergency housing, we had one of the largest •• and still do, it's reduced in size because the numbers have gone down ••

**LEG. TONNA:**

Emergency housing?

**LEG. CRECCA:**

Emergency housing, yeah, in Smithtown in my district on Jericho Turnpike and Old Willets Path, about a quarter mile up the road, one of the largest emergency housing units here in the

County. There were complaints ••

**LEG. TONNA:**

Then I apologize for that.

**LEG. CRECCA:**

No, let me just finish. There were complaints from local residents, not only did I step in but we increased the playground hours instead of decreasing them and do what we needed to do to make sure that that site stayed open. And it's not the only site, there's a site in Nesconset, too, the residents in my district have pretty much taken those emergency housing units with open arms and there's only been a reduction in them recently because the numbers have •• the need has reduced. We're not looking to throw these people in the street and that's what I want to make very clear.

**LEG. TONNA:**

Well, let's find a place for them first in Smithtown and then ••

**LEG. CRECCA:**

You can't.

**P.O. CARACAPPA:**

Legislator Tonna?

**LEG. CRECCA:**

You can't put the cart before the horse here, that's the only thing I say to my fellow Legislators.

**LEG. TONNA:**

Sorry.

**LEG. CRECCA:**

If we do the eminent domain proceedings, you know, we can follow through and we can make sure that these people get relocated, but you can't start to relocate people if the Legislature

hasn't, from a policy point of view, said that we're going to go and acquire the property. Okay? So that's the problem here. I know you guys want to do that first, but I don't know how I do legally a resolution to relocate people on a piece of land that's not being taken by the County or being about to be owned by the County. Thank you, Legislator Alden.

**LEG. ALDEN:**

You're welcome. I just want to point out, not only is it the right thing and the morally right thing to do to relocate these people, but it actually is required under the Federal Constitution and under the New York State Law that any time a government takes action that results in displacement of a person, that government is absolutely required to relocate that person to comparable, if not better, type of permanent housing.

So, in essence, if we don't act on this and we allow the veto to go forward, we're saying to the people who live there that we're going to leave you in substandard housing and we're not going to do anything for you. And actually, the procedure that goes on here would be •• the Eminent Domain Procedure Law is pretty clear on it, you establish your case, you go before a judge and that's when you start bringing in the social service workers and the housing relocation experts and that's when you develop the plan that would move these people from the substandard area into some kind of decent living quarters. Thank you.

**P.O. CARACAPPA:**

Legislator Bishop.

**LEG. BISHOP:**

Yes. Thank you. Legislators Tonna and Crecca have very well articulated the two challenges that come together in this one issue.

On one hand, we are constantly searching for ways to preserve open space and create public park space for our various constituencies; on the other, there is no doubt, we all agree, that Long Island faces an affordable housing crisis. I cast a vote in favor of this initially and I'd like to think today I'm smarter than I was yesterday and I'm going to sustain the veto and thus change my position.

I've been made aware of the complexity of the problem and it is a great one. I am intrigued by the notion of undeveloping property, taking •• especially on the western •• western Suffolk,

taking the mistakes of the past and correcting them and we should pursue that policy. I want to expand parks and I want to use eminent domain as a tool, I'm not shy about that. But when we have a situation where we have an affordable housing in whatever form, we want to make sure that our policies are not having the result of directly reducing the number of affordable housing units in the County and this would at this point. So what I would say is that this is an idea that is an excellent idea, this proposal, but its time has not come yet because the proposal is not fully formed.

Now, Legislator Crecca has done everything that he can, it really is now up to the Town of Smithtown to step forward. If the Town of Smithtown can demonstrate that they have other affordable housing locations that they can develop and make available, then this would not have the impact of a net loss. If the Town of Smithtown would be •• join the rest of the towns in Suffolk County and use its funds to partner with Suffolk County, I believe they're the only town that I know of that does not in a way participate with Suffolk County in these endeavors, then that would go a long way towards making this a more fully•formed proposal. And then, of course, we have •• we cannot forget the actual residents of the trailer park and make sure that they're taken care of; I think that that last hurdle is probably the easiest one to clear.

So I think that •• in changing my vote, I want to make clear that I'm sending a message to the Town of Smithtown that you have an opportunity here to do something extraordinarily good and create more affordable housing elsewhere in your town and create more park space, but you need to work with the County in doing that and don't count on the County to do everything.

**P.O. CARACAPPA:**

Thank you, Legislator Bishop. Legislator Montano then Vilorina•Fisher.

**LEG. MONTANO:**

Yes. I also am one of the Legislators that voted initially in favor of this resolution, and I have since re•evaluated my position, reconsidered it and I will be voting to sustain the veto.

I won't repeat the comments that Legislator Tonna made but they're right on point, and also what Legislator Bishop said. I don't want to, you know, attack the Town of Smithtown, I don't live there, but the reality is that every community in Suffolk County has take its responsibility in dealing with the issues that we face as a County. This bill •• this •• Legislator Crecca, I know that this is within your district, but the reality is that the impact of the people that would be

displaced would be, in all likelihood, displaced to other districts. So I don't think it's an issue that's solely within your district, it's something that effects and that could effect all of Suffolk County. We need to look at these issues from a perspective larger than just the small community, you know, we've got to attack this problem of affordable housing all over.

I don't think that this bill, without a plan that deals with the human component of who we're dealing with, is the plan that we should follow at this time. I agree with the County Executive, let him work with the Town of Smithtown, let them come up with some plan, let them come up with a course of action that we could in the future look at. Nobody wants to see Lake Ronkonkoma not be attractive to all the residents of Suffolk County. I just don't think that this bill does it and, therefore, I'm not going to be able to continue support of it at this time.

**P.O. CARACAPPA:**

Thank you, Legislator Montano. Legislator Vilorio•Fisher then Schneiderman.

**LEG. VILORIA • FISHER:**

Thank you, Mr. Chairman. Unlike Legislator Bishop, I am very reluctant to use eminent domain as a tool for the acquisition of open space and parkland. Eminent domain is the most expensive way to acquire property. And with the limited resources that we have •• and today I have submitted a corrected copy of my Save Open Space bill to reach the level of \$75 million on which our County residents will be voting in November if it passes this body •• we owe it to the taxpayers of Suffolk County to exhaust every other means before we get to eminent domain.

And I have confidence that Legislator Crecca has done his due diligence and attempted to reach a negotiated settlement with the •• or a negotiated agreement with the owners of the property and has been unable to get them to the table. But there is one other table where there has been a glaring absence, and that is the Work Force Commission where the Town of Smithtown has been glaringly absent from any discussions regarding workforce housing. If this issue can help bring the Town of Smithtown to the table in the discussion of this critically important problem that we are facing here in Suffolk County, if we can compel the Town of Smithtown to enter into the discussions, to become and engage in the discourse that will help to solve this problem, then certainly the veto of this bill, of this particular eminent domain •• by the way, Legislator Crecca, when we were in committee and you •• and we discussed this eminent domain, you had asked to put it on the consent calendar and I had opposed that particular

move. And clearly, eminent domain shouldn't be on the consent calendar, especially for parkland and that was an indication of my concern regarding eminent domain. And at this point, seeing the complications, knowing that there are 30 people, 30 individuals who will be added to our roster of homeless people for whom we cannot now find affordable housing, I am compelled to withdraw my support.

**P.O. CARACAPPA:**

Thank you. Legislator Schneiderman, then Tonna again.

**LEG. SCHNEIDERMAN:**

First let me say that I also was among the Legislators who did not vote in favor of this, I abstained the first go around. And let me secondly say that I support your goal, Legislator Crecca, in terms of trying to beautify this area of Lake Ronkonkoma and your concern about the individuals who are living there.

I have some experience with eminent domain. In the past when I was Supervisor of East Hampton, we had used that; it is a very strong power to be able to take land in that regard. Typically we would have a strong sense of what we were getting into, appraisals of what that might cost, advice from legal counsel as to whether it met the test, there are several tests that you need to prove before a judge to sustain an eminent domain procedure. I remind the Legislature that the Town of Smithtown has the same eminent domain powers that the Legislative body does, so that if the Town of Smithtown wanted to do this, they could do this on their own.

I want to share with you a story, because I think it illustrates a different approach here, and I think my real problem here is not so much the goal but the path and how to get there. In East Hampton we had a trailer park on Three Mile Harbor, it had a lot of trailers for this small piece of land that it was and they had a very old septic system and this septic system was overflowing into Three Mile Harbor and it was really an environmental problem. What we did is we did not condemn the land, what we did is we worked with the owner and we purchased the land. The second thing we did is we worked with several of the trailer owners there, the homeowners, and who agreed to move from this property; we gave them the value of their trailers which we had appraised, we also gave them money to move, we helped them relocate. We then cleaned up the property, we put in a new septic system, and the last thing which we did was we then sold the entire trailer park back to the people who were actually living there,

so they actually went from tenants to homeowners which was a big move so they had a tremendous amount of pride in it, it was a happy ending; it got us to where we wanted which was to clean up the harbor there, to clean up the facility. And I think a similar thing could happen here where we could work with the owner of this property. Maybe there's another way where we could buy it, we could temporarily become the landlords in this case and then we can work on a relocation plan, maybe even move these people toward homeownership.

**P.O. CARACAPPA:**

Thank you. Legislator Tonna?

**LEG. TONNA:**

Yeah, I •• you know, I had to wait my round.

**P.O. CARACAPPA:**

Thank you.

**LEG. TONNA:**

Just Legislator Crecca, I appreciate what you said and, you know, you have always been very, very helpful with the issue of affordable housing, so obviously I'm not speaking to you or your efforts, your Legislative efforts on behalf of that.

On the other hand, the Supervisor of the Town of Smithtown, who I consider a personal friend, still has done absolutely nothing for affordable housing, has provided absolutely no leadership, and we've gone over this. But now, you know, one other issue is the financial impact. So if we're talking about buying the land and then we're talking also •• which I think has to be part of it, as Legislator Alden mentioned, which I'm not a lawyer, I wasn't aware of Federal guidelines and Federal laws •• that now we have to house these people also, okay?

I'm waiting for the deal in Smithtown when the Supervisor, you know, Supervisor Vecchio comes here and says, "I have a deal for you. Please, County, buy this land. And by the way, we are going to set up a beautiful •• you know, these lands to be developed for, you know, work force housing, for affordable housing;" he's been absolutely mute on this issue.

And the last piece is that three years ago, we reached out to the Town of Smithtown. We said,

you know, there is a lot of brown field land that we have commitments, both utilizing State and Federal money to be able to clean them up to residential standards •• as a matter of fact, there's a 25 acre parcel in the Town of Smithtown •• and all we would need from the town, it would be completely cleaned up, we would work with the Long Island Housing Partnership to make this an affordable housing site, okay, all we would need is a zoning change. You know what we got? \\_Oongots\\_ . So all I can tell you is that there is no, no sense of even dialogue on the issue of affordable housing, even at a place where we were saying is right now contaminated. So, I mean, if you're not willing to allow a zoning change for contaminated land for people to live, you know, in affordable housing, then maybe we need to start there. Thank you very much.

**P.O. CARACAPPA:**

To the stenographer; did you get that, \\_oongots\\_ , you got that spelling right?

**LEG. BINDER:**

I don't know exactly what that means.

**LEG. TONNA:**

It means nothing, you know; I'm Maltese, I don't speak Italian.

**P.O. CARACAPPA:**

Anyone else? Legislator Lindsay.

**LEG. LINDSAY:**

I don't •• I don't want anybody to confuse the issue here. This is not an issue about housing, this is an issue about what Smithtown did or what they didn't do. This is about correcting an environmental mistake that was made decades ago.

Lake Ronkonkoma is one of our most beautiful, natural resources in Suffolk County, it belongs to everybody in Suffolk County. A trailer park should have never ever been located in that location and now we have a chance to reclaim that property for all the taxpayers of Suffolk County.

**P.O. CARACAPPA:**

Thank you, Legislator Lindsay. And I agree with you.

***Applause***

There's a motion and a second to override the veto. Roll call.

**MR. BARTON:**

Mr. Chairman, for the record, when Resolution 700 was delivered to the County Executive on June 29th at 1:17 p.m., the original vote slip did not contain any circles or check marks; I've been asked about that and there were no circles on it.

**P.O. CARACAPPA:**

There are now?

**MR. BARTON:**

Yes.

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

**LEG. CRECCA:**

Yes to override.

**LEG. LOSQUADRO:**

Yes to override.

**LEG. COOPER:**

No.

**LEG. TONNA:**

No.

**LEG. BINDER:**

Yes.

**LEG. MYSTAL:**

No.

**LEG. BISHOP:**

No.

**LEG. NOWICK:**

Yes.

**LEG. ALDEN:**

Yes.

**LEG. MONTANO:**

No.

**LEG. LINDSAY:**

Yes.

**LEG. FOLEY:**

No.

**LEG. VILORIA • FISHER:**

Abstain.

**LEG. O'LEARY:**

Yes.

**LEG. SCHNEIDERMAN:**

Abstain.

**LEG. CARACCIOLO:**

No.

**LEG. CARPENTER:**

Yes.

**P.O. CARACAPPA:**

Yes to override.

**MR. BARTON:**

Nine to override.

**P.O. CARACAPPA:**

Overriding fails. I'd like to move on to the next •• go back to the beginning of the agenda, actually. I'll give the auditorium a minute to clear out.

Okay. At this point, I'd like to ask representatives from the County Executive to come forward, Paul Sabatino I suppose.

**LEG. CRECCA:**

What are you calling, an executive session?

**P.O. CARACAPPA:**

Not yet, we'll ask questions •• just wherever you feel comfortable, Paul.

**MS. MALAFI:**

We have a few people, you want us all to sit up at once or one at a time?

**P.O. CARACAPPA:**

I guess have everyone sit in the front row and each speaker will come up as needed.

We're going to discuss the modular unit bill, the lawsuit that has been brought forward by the County Executive to the State Commission of Corrections. We'll ask as many questions as we can on the record and if we have to go to executive session, we will do that. So I'll •• Mr. Sabatino, if there's anything you'd like to start by saying or you're just here to strictly answer questions.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

I think it's better probably just to react to the questions as we go along.

**P.O. CARACAPPA:**

I'll open up the floor to questions to my colleagues first. Legislator Alden.

**LEG. ALDEN:**

Hey, Paul. We might as well start with just the basics; what's the purpose of the Article 78?

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

The purpose of the Article 78 is to save money for the taxpayers of Suffolk County by setting aside what we believe is an irrational, arbitrary decision that was made by COC back in March.

**LEG. ALDEN:**

I don't want to get too nutty, too, with, you know, technicalities, I know both of us are lawyers but a lot of people here aren't; do we have a basis to bring that suit? Because when I looked at it, it seems that the Sheriff would be the person that would have the authority to bring the type of suit that you've brought; and what authority do you have to bring this lawsuit then?

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

Okay. Well, the authority, first of all, is under the County Charter, Section 16•2 as has been interpreted by the courts. But more importantly, go back in history, 1999. At that time, the County Executive, former County Executive, did not want to sue the State Commission of Corrections with regard to State•ready prisoners, the County Legislature authorized that litigation instead. The County proceeded with the action, it was not the Sheriff that was bringing the action, it was the County Legislature that brought the action, even though the County Executive was not in support of that.

But putting that aside, the County Executive, as the Chief Budget Officer, would have the same standing as the County Legislature would have the same standing that the County Legislature would have with regard to bringing that type of a lawsuit because you're trying to set aside an administrative determination that we believe was made without a solid, sound foundation which we believe is irrational for a variety of reasons, one of which is that it's distinctive •• it's not the same decision that was made despite a similar situation occurring approximately three years before that. It's also based on no objective criteria or standards. The bottom line is that we believe by bringing the lawsuit we have an opportunity to reduce unnecessary expenditures which are ranging anywheres from 500,000 to \$800,000 a month depending on who's calculation you use.

**LEG. ALDEN:**

There's a distinction, though, between that former and what we're bringing now, right? This is an Article 78, the prior one wasn't an Article 78, was it?

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

It makes no difference ••

**LEG. ALDEN:**

Well ••

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

The nature of bringing an action ••

**LEG. ALDEN:**

But the technicality of the action dictates what you can actually recover and what kind of relief you're seeking. And an Article 78, compared to the other one, there's a whole bunch of distinctions that limit what you can do with an Article 78.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

Article 78 is the appropriate vehicle to use here because, again, we're basing it on our belief internally that the decision that was made by State COC was not a decision that was based on objective criteria which has a solid foundation.

**LEG. ALDEN:**

So three years ago it was an improper •• the lawsuit was brought improperly then?

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

That wasn't an Article 78, that was a different proceeding ••

**LEG. ALDEN:**

Right.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

•• but the objective was the same which was to get money for taxpayers.

**LEG. CRECCA:**

There's no money in an Article 78.

**LEG. ALDEN:**

Yeah, in an Article 78 you can't seek monetary damages.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

We can recover damages at the conclusion of the proceeding if we put the information on the record; we will be able to establish damages.

**LEG. ALDEN:**

Well, you'll actually have to bring the same action that was brought three years ago to get damages, you have to go outside the Article 78.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

A different kind of an action and a different predicate.

**LEG. ALDEN:**

Right, to recover damages, so this doesn't really get us to the point where we can get damages.

In your •• in the brief or in the moving papers, you brought something about a cost of \$200,000. And then like the sentence runs on a little bit and then it mentions one million something, one million four; what are our damages that you're looking to get?

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

No, that was •• okay. Early in the process, when the information was first conveyed to the County that COC was inclined to pull the variance and, in fact, was pulling the variance, we thought the decision was so unfounded that making a good faith argument with them, making a presentation to them that a certain level of work to renovate the vandalism that had occurred would convince them that they had made a bad decision. What you're reading there is the reference that we had Public Works calculate about a \$200,000 work program to try to deal with the specific items of renovation that COC was concerned about.

We believe that that, coupled with the one point four or five million dollars that was in the

Capital Budget for renovations together would show a \$2 million commitment to COC, would show good faith on the part of the County of Suffolk, would show that we were trying to get the facility to whatever, in our view, subjective criteria they were trying to achieve and we thought that would put the issue to rest. It would be a heck of a lot cheaper to spend the \$200,000 plus the 1.4 that was already in the pipeline in the Capital Budget than to spend whatever it was, 500,000 or \$800,000 per month. So that •• what you're referring to there is correspondence back and forth between the County Executive's Office and COC.

**LEG. ALDEN:**

Okay. Now, one of the underpinnings of our lawsuit or our cause of action here is the fact that we could save money by doing those repairs, but doesn't it kind of cut against that when our department of •• actually, in an Article 78 it's arbitrary and capricious, right?

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

That's the standard, right.

**LEG. ALDEN:**

So doesn't that kind of cut the actions that the Health Department, our own Health Department took, doesn't that kind of cut against that argument when they actually went in there and said that we're not going to certify these for any prisoners to be housed here, they said it's uninhabitable. There's raw sewage underneath, there's pipes that don't work, you know, they now named countless number of health code violations; wouldn't that kind of cut against our whole argument even?

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

No, because we have the Health Department saying within a few days thereafter and then at a subsequent time in late June that there was no outstanding problem, so it's perfectly consistent.

**LEG. ALDEN:**

We took remedial action ••

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

You have a problem, you address the problem, you remediate it and then you're ready to go.

**LEG. ALDEN:**

Do we excavate underneath the buildings? Because that was raw sewage that went underneath there; did we excavate underneath there?

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

I'm sorry, I don't follow you.

**LEG. ALDEN:**

Do we excavate underneath the buildings? Because raw sewage dropped into like crawl spaces and things like that underneath there.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

If you want to get into the construction part, I'll have to defer to the Public Works guys on that.

**LEG. ALDEN:**

Yeah, maybe he could just answer that.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

Charlie?

**LEG. ALDEN:**

Because we're on remediation right now.

**COMMISSIONER BARTHA:**

There was no need to excavate beneath the building because there was •• a well had been constructed back in 2000 in case of leakage such as this, so all the water was contained from the showers that leaked out, so it was contained in a wet well area.

**LEG. ALDEN:**

Okay. And the Health Department was aware of that when they issued the uninhabitables or the violations?

**COMMISSIONER BARTHA:**

Yes. And what we did is we pumped it out, we sanitized it with essentially Clorox and the

Health Department came back six days after it had been declared •• you know, the problem first became evident and they said it was habitable.

**LEG. ALDEN:**

Charlie, while you're up there, what's the highest temperature that these buildings can attain during the winter months, or had been attaining prior to their closure? I heard a rumor it was like fifty•two degrees.

**COMMISSIONER BARTHA:**

There were certainly complaints about temperature. I don't have temperature records to tell you what it was, but I don't doubt that the temperatures were uncomfortable.

**LEG. ALDEN:**

Do we remediate the heating and air•conditioning system at the same time?

**COMMISSIONER BARTHA:**

Well, the Commission of Corrections didn't close it because of that.

**LEG. ALDEN:**

No, no, I'm just asking. That was a problem that seemed ••

**P.O. CARACAPPA:**

Legislator Alden?

**COMMISSIONER BARTHA:**

That's part of the \$200,000 that we proposed as the figure you cited before, the biggest part of that was to augment the heating system.

**P.O. CARACAPPA:**

Legislator Alden, would you suffer an interruption?

**LEG. ALDEN:**

Absolutely.

**P.O. CARACAPPA:**

Just for one question. Charlie, is that facility substandard, in your professional evaluation? We've all been there so we kind of know, but I'd like to put it on the record.

**LEG. ALDEN:**

Well, wait, we've been there in our progressional capacity.

**P.O. CARACAPPA:**

Yeah, touring the facility.

**LEG. ALDEN:**

Right.

**P.O. CARACAPPA:**

Let me just •• thank you, Legislator Alden, for clearing that up.

**LEG. ALDEN:**

Thank you.

**LEG. TONNA:**

Some Legislators both.

**P.O. CARACAPPA:**

Former.

**COMMISSIONER BARTHA:**

I don't know what standard you want to measure it against. The •• frankly, I believe it's comparable to the area which is occupied by prisoners.

**P.O. CARACAPPA:**

Does that mean the prisoners are in substandard conditions?

**COMMISSIONER BARTHA:**

That's the •• ultimately it's up to the Commission of Corrections to decide that.

**P.O. CARACAPPA:**

All right, I understand the position you're in. Legislator Alden, thank you.

**LEG. ALDEN:**

No, Charlie, while you're still there, though. And I don't know if you go back to this period, I only go back seven years, but when were these things constructed?

**COMMISSIONER BARTHA:**

About 15 years ago.

**LEG. ALDEN:**

And their use for life at that time was estimated to be what, about six years, seven years?

**COMMISSIONER BARTHA:**

Well, certainly I would say less than 15 years.

**LEG. ALDEN:**

Okay. But roughly just, you know, a guess, guesstimate; eight years, seven years?

**COMMISSIONER BARTHA:**

I couldn't say.

**LEG. ALDEN:**

Okay, but they're beyond their projected use for life, I mean, that's safe to say. And it looks like at least double beyond their use for projected life.

**COMMISSIONER BARTHA:**

I won't argue that they are beyond their anticipated life.

**LEG. ALDEN:**

Okay. Thanks, Charlie. And I just have one or two more questions for Paul. Paul, you know, you cited the history a little bit before about the first lawsuit and that was three years ago; was that '99 or 2001?

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

1999, the lawsuit was then commenced in •• it was authorized in '99, it was commenced in 2001.

**LEG. ALDEN:**

What was the thinking, then, to do it this way rather than come to the Legislature? As what occurred in the past, the Legislature brought the lawsuit. What was different about this and this time around as opposed to when it happened pack in '99?

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

The difference was that the former County Executive didn't want to rock the boat and take on the State, this County Executive was willing to rock the boat and take on the State of New York.

**LEG. ALDEN:**

So there was no consideration brought, you know, to bring this before the Legislature for a review at all?

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

Well, quite frankly, no, only because we thought it was a no-brainer that we're going to be bringing action against COC to try to reduce unnecessary expenditures, whatever it is, 500,000, \$800,000 a month. It seemed so logical and so •• you know, it seemed such a reasonable thing to do and since it could be done by the County Executive it was the right thing to do, we did it.

**LEG. ALDEN:**

So •• okay, so the second part of what I was going to ask is you really don't feel that the Legislature had any part or should have had any part in this, there was just an executive action.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

The Legislature wasn't necessary from an authorization standpoint. What happened sequentially was that on the morning of Thursday, which was the 29th, because we had made the decision the night before after weighing all of the different factors and trying to balance it out, the County Executive had instructed Kevin Law as a courtesy, it's not a legal requirement but as a courtesy to contact Mike Donegan who is the Counsel for COC. What was going to happen right after that was contact was then going to be made to the Presiding Officer and the Deputy Presiding Officer to let them know what had happened, because the papers were not

going to be served until the latter part of that day. What happened was, as I understand it from Kevin, is that he made the phone call to Mike Donegan, literally two minutes after he hung up the phone with Donegan he got a phone call from a Legislator which indicated that Donegan must have picked up the phone and called the Legislator immediately thereafter. So the only reason there wasn't the follow-up phone call from Kevin was that, you know, Donegan must have called somebody immediately because that was the sequence of events.

**LEG. ALDEN:**

Well, I kind of find that a little odd because we do have a Public Safety Committee that, you know, is charged with this exact type of duty and reports to the people directly of Suffolk County that, you know, there wouldn't be a coordination between the Executive Branch and the Legislative Branch on any of this but, you know, I guess you answered that question prior to this. Now, you're suing to overturn a waiver, right, because the waivers were pulled.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

No.

**LEG. ALDEN:**

Go ahead.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

We're suing to overturn the determination that the State Commission of Corrections made which was to revoke a certification. So it's not •• we're not knocking out a waiver, what revoked the certification that allowed X number of prisoners to remain at the facility.

**LEG. ALDEN:**

Wasn't it a provisional certification, though, and it required a waiver of rules and regulations.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

No, we're bringing a lawsuit to set aside their determination. We're not setting aside waivers, we're setting aside their determination.

**LEG. ALDEN:**

And their administrative is what, Paul?

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

Their administrative determination was not to allow the prisoners to continue to be housed at that facility.

**LEG. ALDEN:**

They in their determination didn't meet code, right, didn't meet their code of prisons and prison standards.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

Well, we don't believe that it does. If you read the document, they're really •• when you get to that portion of the criteria, it's very vague and nebulous. And quite frankly, given the facts that we've submitted in opposition to that, especially the fact that it's an act of vandalism as opposed to an ongoing structural problem, and when you factor in that when they had the opportunity to pull the trigger in a similar circumstance, whatever it was, three years before that and did not, I think that's irrational.

**LEG. ALDEN:**

Well, isn't it an ongoing thing, though? Because from my recollection, and I've only been here seven years but even a couple of years ago, you know, they threatened to pull the waivers. They were actually allowing us to house prisoners in something that wasn't 100% to their standards but they allowed us to do that if we would go and bring everything up to their standards. So they threatened that years ago in the prior administration, so if we're saying it's arbitrary and capricious because now it's like punitive to this administration, is that part of it?

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

No, the difference •• the difference is that they pulled the certification.

**LEG. ALDEN:**

Yeah. Well, there was more than one episode where maybe they should have.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

No, they didn't threaten, they pulled the certification.

**LEG. ALDEN:**

Right.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

They revoked the certification.

**LEG. ALDEN:**

But you just said that there was acts of vandalism that created a situation where that was substandard.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

No, what I said to you was that the reason, among others, that I believe it's an irrational determination is that three years prior to that they didn't revoke the certification even though they had a comparable or similar situation.

**LEG. ALDEN:**

Okay. But history wise, and it's not good to ignore that history, they've been saying all along that these things are not good and if you don't do something about them you're not going to be housing prisoners there, and all along they've been saying that and we haven't •• we didn't really do stuff at the beginning but then the ball got rolling, I think it was last year or maybe a little bit before that, the ball started to get rolling as far as replacing these with some kind of standard•type of facility, something that actually came up to the standard. So, you know, we're now saying that that was disregarded and that this was just one arbitrary and capricious act.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

I believe somebody looking at it, it's a no•brainer, that they are certainly acting in an inconsistent manner, they're not basing it on criteria, they're ignoring the expert's evidence which is coming from Public Works. So, you know •• but look, at the end of the day all of these things are judgment calls, you know, you weigh it and you balance it out. Bringing the lawsuit is a no worse case situation because the worst that could happen is you wind up where you were which is you're paying money, but ••

**LEG. ALDEN:**

I disagree with you because ••

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

•• in this case we have an opportunity to try to eliminate that cost.

**LEG. ALDEN:**

No, when you bring a lawsuit, especially against somebody that's been cooperating with you, because now we want to do some other type of actions there, you bring a lawsuit, they might interpret it to the point where they might go on a standstill until this lawsuit's done. And in that case, we have just handed the bill to the people in Suffolk County for about ten times more than they should have been paying, so everything adds up.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

Let me ••

**LEG. ALDEN:**

And those are some of the things that, you know, I would hope that somebody in your office played a little bit of a devil's advocate with the position that you took because it can be a dangerous •• you know, let's go to the edge of the precipitous and we'll see who falls off first.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

We did. No, we did play the devil's advocate, we thought it through carefully, we weighed it, we balanced it, I think there are two responses to your point. Number one, in 1999 when we brought the lawsuit against the State with no prior notice, it didn't result in a revocation or a decertification of any of the variances. So the world didn't end in 1999, even though there were outstanding variances, because we brought a lawsuit. Now, were the people in the State angry? Sure. When I went to court they were screaming, they were hollering, the lawyer was, you know, on the telephone like a lunatic, the bureaucrats from Albany were like, "You guys are crazy," but they didn't pull the variances, okay; that's an important consideration. And part number two is that, I mean, if somebody knows something different about the way the process is working in Albany, you know, share it with me. But I really truthfully believe, I honestly truthfully believe that they're going to be looking at objective criteria. They are not going to make decisions on variances based on retribution, you know, being angry about a lawsuit, being passionate one day; I mean, it should really be based on objective items. If somebody is going to tell me that, "Wait, bringing the lawsuit made them angry and now they're going to punish

you," well, then I say, "You know what? Give me the information, we'll add it to the lawsuit either in the verbatim minutes or a signed affidavit because it strengthens our case."

**LEG. ALDEN:**

Well, that may very well be. But when was the last time you consulted or the first time you consulted, prior to filing the lawsuit, with the Sheriff of Suffolk County?

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

On this lawsuit?

**LEG. ALDEN:**

Yes.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

We didn't.

**LEG. ALDEN:**

Oh, you didn't?

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

No.

**LEG. ALDEN:**

This involves the jail, though, right? This lawsuit.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

No, this involves the taxpayers of Suffolk County and the ability to try to recover whatever it is

••

**LEG. ALDEN:**

Oh, involves •• nothing to do with the jail then, right?

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

No, because we're not suing the Sheriff. The Sheriff is not a named defendant in the litigation,

the State COC is the named defendant.

**LEG. ALDEN:**

It has nothing to do with the Sheriff's Office, that's what you're telling me.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

Not with regard to the lawsuit, no.

**LEG. ALDEN:**

Wait a minute, let me get this straight because now I'm getting a little confused. The Sheriff's •  
• aren't the variances issued to the Sheriff; isn't he in control of the jail, isn't that his job?

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

We're not suing the Sheriff.

**LEG. ALDEN:**

What are you suing about then?

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

We're suing the State COC ••

**LEG. ALDEN:**

About what, then?

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

•• about taxpayer dollars that are being unnecessarily expended, in our judgment.

**LEG. ALDEN:**

In regard to what issue, though, Paul?

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

With regard to the housing of inmates in a County correctional facility.

**LEG. ALDEN:**

Doesn't the Sheriff have something to do with that?

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

He's not a named defendant, he's not the Chief Budget Officer, he's not a County Legislator, he wouldn't be part of the legal strategy or the legal discussion to decide whether the lawsuit makes sense or not.

**LEG. ALDEN:**

He's an infinitesimal part of your universe in regard to this.

I'm done. Thank you.

**P.O. CARACAPPA:**

Thank you. Legislator Crecca.

**LEG. ALDEN:**

Unbelievable.

**P.O. CARACAPPA:**

Yeah.

**LEG. CRECCA:**

First of all, to my fellow Legislators I think that we're getting a little too far into points of the actual litigation, that we should be doing some of this in executive session. That's just my ••

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

I'll defer to your judgment because you guys can vote to go in.

**LEG. CRECCA:**

Well, that's just my opinion. You know, I guess I'm more concerned with addressing the fact that we're •• the County is now in litigation, and the first I found out about it was a phone call from a media inquiry regarding what I thought of it, and that's how I found out about it; which is disturbing to say the least.

I know in the past we've been offended when things went forward without being consulted first. But I think here let's focus in on the law and New York State County Law, specifically Section 501. Now, this is my reading of it, and I guess the third department which is the only

Appellate Division case that I'm aware of which indicates that Legislative approval is needed to go forward with a lawsuit. And I guess, again, without going to the merits of the lawsuit because I can •• we can argue that til we're blue in the face, procedurally I'm disturbed by the fact that we were not consulted either in executive session or even informally prior to the bringing of this lawsuit. And I would ask you to address Section 501 and explain to this Legislature why there was a decision by the County Executive not to consult the Legislature on whether or not to proceed with this lawsuit.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

The Segal case which involved EMHP was recently decided and that particular issue which involved the Suffolk County Charter addressed that very point and determined that the County Executive has the authority to bring a lawsuit under that section through the County Attorney. So the issue you're dealing with with regard to 501 was specifically addressed in the Segal litigation that came out of the investigation from last year. With regard to the consultation, as I indicated ••

**LEG. CRECCA:**

If I could just jump back on that, though, for a second, too. In that case, I think it was very specific to the County Executive's authority, directly within his authority, and I think here •• and it goes back to Cameron's point a little bit, that your interpretation of 501 is, you know, I think more of •• Sullivan vs Thompson was more on point than that case because in this case, it is the Sheriff who gets the waivers issued to him and the decision •• the variances, I should say, are issued to him who is an elected, independent elected official in this County, County •wide, and I think he, on the other hand, might have the authority •• might, I say •• to proceed with a lawsuit, but I don't think the County Executive does without consulting. But if you disagree with that legal interpretation, I'll accept a difference of legal opinions.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

Well, I'll defer to the Law Department because I'm no longer the, you know, Counsel to the Legislature and I'm not, you know, County Attorney, so I'll defer to them. But I do have enough knowledge in terms of the case that was decided to know that it's dispositive of the issue. And again, you may want to get into some of the more detailed nuances of that in executive session as opposed to out here. But, you know, as a general principal, I believe the Segal case decided that.

**LEG. CRECCA:**

I guess my other question is then from a policy point of view, what was the reason for not consulting the Legislature on this litigation?

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

It was really simple, it was •• again, there was going to be information provided to the Presiding Officer and the Deputy Presiding Officer on the morning of the 29th, but events really just spun out of control in terms of Donegan making a phone call prior to that.

**LEG. CRECCA:**

Okay. Take us before that, though, Paul, if you would; I'm talking about why not consult the Legislature as to whether or not we wish to proceed with this. I'm not talking about an informative thing where you told us whether we wanted to.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

Okay, right.

**LEG. CRECCA:**

You know, I couldn't think, at least in the years I was here, of an instance where the County Executive brought what I would consider major litigation or at least litigation against another government other than between the Legislature and the County Executive ourselves, but I couldn't think of a situation where we weren't either consulted or there was a formal vote of the Legislature in executive session as to whether or not to proceed with litigation. And I guess the concern is here can we expect in the future that, again, litigation will be commenced without consultation of the Legislature.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

Well, just by way of example, a lawsuit was brought by the current administration against the State of Connecticut regarding the cross sound cable just a couple of months ago, the process that was engaged in was identical. And with regard to the prior administration, you know, again, I would defer to the Department of Law, but I know that literally on a day•to•day basis there are, you know, numerous court •• cases that are being brought just on a regular basis without consultation.

**LEG. CRECCA:**

You would agree with ••

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

I hear your point, you know, in terms of ••

**LEG. CRECCA:**

It's a policy ••

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

•• having, you know, further discussion, but the bottom line was we really thought •• at the end of the day, the case seemed so logical it seemed so sensible, our internal process thought was that, you know, who would not want to take on the State and try to reduce those unnecessary expenditures on a month by month basis that could get into the millions of dollars where there's no risk? Because at the end of the day, even if you lose, you're no worse off, you're back to status quo ante which is you're paying money.

**LEG. CRECCA:**

Paul, from a policy point of view, the County Executive supports the purchase of new modular units, correct?

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

Absolutely.

**LEG. CRECCA:**

Okay.

**P.O. CARACAPPA:**

Legislator Crecca, would you just suffer an interruption again?

**LEG. CRECCA:**

Yes.

**P.O. CARACAPPA:**

Just to make the record clear. The suit •• you said we weren't consulted because it was a last minute thing with the suit, but the suit was filed on July 15th. And you know, I was that Legislator that Mr. Donegan called, but I didn't find out from him about the lawsuit, I found out from the Sheriff's Department; I didn't get a call from Mr. Donegan until sometime afterwards, after I had to call Kevin Law to find out what the hell was going on. So I just wanted to make the record clear based on ••

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

No, July 15th •• yeah, July •• it's like any document that you prepare, okay.

**P.O. CARACAPPA:**

I'm just ••

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

I prepare documents to start on ••

**P.O. CARACAPPA:**

July 15th filed.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

•• July 1st, the documents are prepared but they weren't actually •• they weren't actually served until the afternoon of the 29th.

**P.O. CARACAPPA:**

Yeah, I'll put you on the list.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

I do this all the time, I start a document, you know, at the beginning of the month ••

**P.O. CARACAPPA:**

It's just the point it wasn't a last minute •• it wasn't a last minute thing, though, it was planned I guess two weeks prior.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

No, it was planned on •• it was starting on March •• whatever the day was after the incident took place; if the incident took place on •• if the decision was made on March 17th, I can tell you right now, we asked the Law Department to start researching it on March 18th. I think they took a month or so to complete the research, I mean, I was pretty confident that the outcome would be what it was, but they actually did the research during that period of time. We didn't wait until the last minute to start that, there's a process, you've got to develop the papers, you've got to research, you've got to get the affidavits, it was part of the thought process from day one.

But let me emphasize, it was a last resort, not a first resort. We honestly, truthfully believe that the logic of what we were presenting to Public Works in terms of renovation and repair work would carry the day and they would reverse the silly decision; it was a last resort, not a first resort. We didn't bring the lawsuit on the first day even though we could have because that would, in my judgment, have been precipitous. We waited, we let the process evolve, we exhausted all of the administrative possibilities, we were unsuccessful and then we took the shot at the lawsuit.

**LEG. CRECCA:**

Paul, if you would just be patient with me one second. The \$1.4 million that was referred to earlier, Jim, for renovations to the jail, it was in I think an appropriation this year; that wasn't to fix up the areas in question right now that were shut down, that was for other parts of the jail, was it not?

**MR. SPERO:**

That was for Riverhead.

**LEG. CRECCA:**

Right, which is a totally different facility. I only say that because earlier you indicated the 1.4 million •• and I forgot the additional amount, I don't know if it was 200,000 or whatever, but that had nothing to do with this section of the jail that you're speaking about; I just want to make the record clear on that.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

I was responding to Legislator Alden's comment that he thought the \$1.4 million was the damages that we were seeking; I was just indicating that was the correspondence back and

forth to the State indicating what kind of monies had been expended.

**LEG. CRECCA:**

I guess my other question would be from a legal authority point of view according to the Administrative Code and the Charter, and I guess New York State Law, too; you would agree that the Legislature •• if the Legislature decides to amend the lawsuit or withdraw the lawsuit or proceed with the lawsuit, that ultimately that policy decision is within the Legislature, correct?

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

I'd have to see the details of what you're discussing because there's a whole, you know, array of different options. If you're saying that ••

**LEG. CRECCA:**

If we decide to ••

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

If you're saying can you amend the County Charter and, you know, take away the authority of the County Executive to bring the lawsuit, the answer is yes, you can amend the County Charter.

**LEG. CRECCA:**

No, no, no, I'm talking about this specific lawsuit, that we could •• that ultimately we decide whether or not to proceed with the lawsuit or not.

**LEG. FOLEY:**

Mr. Chairman, I think we should discuss that in executive session.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

That might be for executive session with the Law Department, I •• you know, I have my own view but at the end of the day that's going to be the Law Department.

**LEG. CRECCA:**

Thank you for your response.

**LEG. SCHNEIDERMAN:**

Point of privilege, just from a legal perspective since our Counsel is here. I'd like to know exactly where the parameters of this discussion should go; since there is a lawsuit that's been filed, at what point do we go into executive session?

**MS. KNAPP:**

I think we've reached the point that we should be in executive session.

**LEG. SCHNEIDERMAN:**

Thank you.

**LEG. FOLEY:**

I make a motion to go into executive session, Mr. Chairman.

**LEG. MONTANO:**

Seconded.

**LEG. BISHOP:**

Mr. Chairman?

**P.O. CARACAPPA:**

I'll recognize Legislator Bishop.

**LEG. BISHOP:**

It seems to me that what Legislators are eager to do is to debate the issue, so let's just go to the debate. What secret information are you going to find out in executive session that already hasn't been revealed?

**P.O. CARACAPPA:**

Well, basically this is a debate now.

**LEG. BISHOP:**

So let's do the debate, let's stop doing the ••

**LEG. FOLEY:**

But if there are questions ••

**LEG. BISHOP:**

You know, through the questions ••

**LEG. SCHNEIDERMAN:**

Executive session is not about secretive information, it's about information that might compromise the County's position in the lawsuit, that's it.

**LEG. BISHOP:**

Which is secret, that's why we do it in executive session.

**LEG. SCHNEIDERMAN:**

It's secret because it must be to protect the interest of the taxpayers.

**LEG. BISHOP:**

The most abused thing in government is executive session and we all know it.

**P.O. CARACAPPA:**

I don't think there's anything secret about the Legislature asking why we're going to court and the rationale behind it, I think that's all that's been discussed so far.

**LEG. BISHOP:**

Right.

**P.O. CARACAPPA:**

And the reasoning behind the decision made by the County Executive to do it and when he did it and the reason why we weren't consulted. I respect our legal counsel ••

**LEG. BISHOP:**

Which is all on the record.

**P.O. CARACAPPA:**

•• which I think we haven't crossed that line yet. There's a motion to go in executive session, I think it's premature but I'll recognize that motion and the second by Legislator Montano.

**LEG. TONNA:**

To go into executive session?

**LEG. FOLEY:**

Yes.

**P.O. CARACAPPA:**

Yeah, at this point.

**LEG. TONNA:**

What for?

**P.O. CARACAPPA:**

I agree.

**LEG. FOLEY:**

Well, just on the motion. We heard from our own Counsel saying we're at that point with the line of questioning that we should go in executive session. Secondly, we're entering a field of whether or not we should entertain a resolution or initiative by the Legislature to withdraw the •  
• in essence, withdraw ••

**LEG. TONNA:**

Can you put me on the list?

**LEG. FOLEY:**

Withdraw the lawsuit and that kind of discussion as opposed to when it was submitted and this •• that kind of discussion I think merits and warrants executive session. Then we can come out of that session and others have questions that are more appropriate for the public portion if you will, then we can, you know, re•enter those •• that particular debate. But even our Counsel has just said, we're skating very close to the point where we're getting into some of the minutia

of almost a strategy when it comes to whether to try to withdraw a lawsuit or discuss the finer points of it. So I think, Mr. Chairman, we should go in executive session ••

**LEG. TONNA:**

Just before you do that ••

**LEG. FOLEY:**

•• and hash out those points and then we can go back to the public portion.

**P.O. CARACAPPA:**

I would put it this way. This Legislature isn't suing anybody, just so everybody is fully aware of that.

**LEG. TONNA:**

Right.

**P.O. CARACAPPA:**

If the County Executive's representative do not want to answer a question based on the fact that it might harm their lawsuit, they'll decline to answer and we'll go to executive session; they haven't done that yet. This is not the Legislature's lawsuit, we are not putting ourselves in a bad position.

**LEG. FOLEY:**

I understand that. As I said, Mr. Chairman, we just heard from our own counsel that we're right at that limit and we should go into it.

**LEG. TONNA:**

Can I just ••

**P.O. CARACAPPA:**

On the motion, Legislator Tonna.

**LEG. TONNA:**

Yeah. First of all, I'd like to ask our Counsel, are you in agreement with the County Executive's

Office that they have a right to bring a lawsuit like this? I mean, it's in their purview to be able to do that without •• you know, unilaterally without Legislative vote and stuff?

**LEG. FOLEY:**

Mr. Chairman, that could get to the heart of the State trying to ••

**LEG. TONNA:**

No, it's not going to •• it doesn't get to the heart of anything, we're talking about process. We're not talking about merits, we're talking about process, because the reason I ask this question is very simple. First of all, this is new ground for us, everybody would agree with that; when is the last time we saw a County Executive actually be proactive and put a lawsuit together, one way or the other, all right?

**LEG. ALDEN:**

Nada.

**LEG. TONNA:**

Right, very rarely. And it usually had been the modus operandi of the Legislature to bring actions, all right? So this is a little new ground for us.

Secondly is that it's in the purview of the Legislative Branch to ask questions, that's what we're doing, that's where the check and balance comes. The County Executive is bringing a lawsuit their legal team says they're in the right to bring, from a process standpoint to a bring a lawsuit, we have every right to ask questions about it, why are they doing it, what are they doing? You know, all of those things, these are process questions. To get into executive sessions about the merits of it, it's not our lawsuit. As the Presiding Officer said, I don't think it's appropriate for us to get in, except for the legal question of whether we're legally •• are they •• is the Executive Branch legally allowed to do this without a Legislative vote or whatever else. I understand they are, it's new ground for us, we've never seen it before, at least the 12 years, 11 years that I've been a Legislator, I really haven't seen many lawsuits by a County Executive. So I don't see why we're •• you know, let's ask our questions, find out, you know, from a process standpoint and go from there, that's all.

**P.O. CARACAPPA:**

There's a motion and a second. Anyone else want to speak on the motion to go into executive

session?

**LEG. BISHOP:**

Kill it.

**P.O. CARACAPPA:**

Roll call.

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

**LEG. FOLEY:**

Yes.

**LEG. MONTANO:**

Yes.

**LEG. COOPER:**

Yes.

**LEG. TONNA:**

No.

**LEG. BINDER:**

No.

**LEG. MYSTAL:**

No.

**LEG. BISHOP:**

No.

**LEG. NOWICK:**

No.

**LEG. CRECCA:**

No.

**LEG. ALDEN:**

No.

**LEG. LINDSAY:**

(Not Present).

**LEG. LOSQUADRO:**

No.

**LEG. VILORIA • FISHER:**

Yes.

**LEG. O'LEARY:**

No.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. CARACCILO:**

Yes.

**LEG. CARPENTER:**

No.

**P.O. CARACAPPA:**

No, not yet.

**LEG. LINDSAY:**

Yes.

**MR. BARTON:**

Seven.

**P.O. CARACAPPA:**

It fails.

**LEG. BISHOP:**

Saved.

**P.O. CARACAPPA:**

Keep in mind, we may still go into executive session, I just don't think we're at that point yet.

**LEG. BISHOP:**

All right. Can we debate the merits of this now?

**P.O. CARACAPPA:**

We were going to debate the •• we are debating the merits.

**LEG. BISHOP:**

No, I thought we were asking Paul Sabatino questions.

**P.O. CARACAPPA:**

We are.

**LEG. BISHOP:**

We're debating through that.

**LEG. SCHNEIDERMAN:**

Can counsel define for us where that line is so we know when we've crossed it?

**LEG. MONTANO:**

She already did.

**MS. KNAPP:**

Counsel functions as an advisor to the Legislature, the Legislature acts by ten votes. I believe that when we start talking about the substance of the lawsuit, potential defenses to the lawsuit and validity of the lawsuit, I believe that we may be in the area where we should be speaking in executive session; however, the Legislature acts as a body.

**P.O. CARACAPPA:**

Thank you.

**LEG. TONNA:**

I just don't think we should be talking about the things that the Counsel •• we should •• that's the County Executive's responsibility, they brought the lawsuit. Can they do it? Yes, that's great.

**LEG. BISHOP:**

No, I just want to debate it.

**P.O. CARACAPPA:**

Okay. On the merits, Legislator Crecca left, I believe Legislator Crecca still had the floor, but we'll.

**LEG. TONNA:**

Put me down again.

**P.O. CARACAPPA:**

•• go down the list. Legislator Montano, you had asked to speak earlier, then Legislator Bishop, then Tonna.

**LEG. MONTANO:**

Well, in light of the fact that I seconded the motion to go into executive session, and the reason I did is that, as Counsel believes,

I also believe that we're bordering on some issues that really should be addressed, at least initially, in executive session because they go to the merits of the case, they go to possible defenses. The County is a lawsuit •• the County is a party in a lawsuit, at this point whether we like it or not. Having gone into executive session does not preclude us from coming back here and dealing with some of the issues that we dealt with in executive session.

So, at this point, I think in light of what we've heard and how far we've come, I'm going to refrain from asking any further question with the exception of I just want to be clear on the

County Executive's position as to its standing to bring the action without authorization from the County Legislature. Now, what I'm hearing is •• and I haven't researched the issue, but I'm hearing that it's your position that you have authority as a County Executive to bring a lawsuit •• and that would, I guess, encompass any lawsuit •• without coming to the Legislature either for consultation or approval; is that your position?

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

That's correct.

**LEG. MONTANO:**

And that's based on your interpretation of the Segal decision?

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

Well, it's based on the Law Department which is the official legal representative for the County of Suffolk. The Law Department has thoroughly researched the issue and has confidence that •• just as we brought the lawsuit against the State of Connecticut on LIPA, we have the same legal authority to do this.

**LEG. MONTANO:**

Right, but was that lawsuit brought in consultation with the Legislature or was it initiated prior to any consultation or notice to the Legislature? Because I'm not •• I wasn't here at that time.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

It was done about two months ago. The County Executive brought the lawsuit.

**LEG. MONTANO:**

Oh, the one you just filed.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

This is on the •• this is the State of Connecticut on the cross sound cable.

**LEG. MONTANO:**

Oh, okay. But we did have conversations on that one.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

Not that I'm aware of.

**LEG. MONTANO:**

I'm not going to ask anything further, I prefer to go into executive session on these issues.

**P.O. CARACAPPA:**

Thank you, Legislator Montano. Legislator Tonna.

**LEG. TONNA:**

Yes. My concern, I'm listening to the questions and stuff and I think it's surely in the purview of the Legislature to ask questions, and obviously they've brought every relevant Commissioner, Chief Deputy and everybody else. What's our problem? We're going to sue the State who screws us on a regular basis. Every day, you know, when they're not adopting a budget, believe me, the people of Suffolk County suffer, the school districts suffer and everything. We're suing the state. You know, what are we afraid of? All right? You know, the merits stand or fall on the County Executive. If they want to bring up a lawsuit, hey, if we can get some money, so be it. What's our problem with suing the State when there is even a question of maybe the fact that we can get some money?

And to tell you quite honestly, you know, I try as best I can to call them as I see them; this time the County Executive, proactive, trying to say we're going to sue the State? Let's do it. I'd like to sue the State on a thousand things, to tell you quite honestly; that and reduce their salaries, the elected officials, you know, if they don't pass a budget, we pass our budget in time. So believe me, this is a good group to go to war with, you know, and that's what you have the courts for.

**P.O. CARACAPPA:**

Legislator Bishop.

**LEG. BISHOP:**

Not one of your better speeches, but effective nonetheless. I of course, and I think we all support 1697, and I assume that all policy makers in the State would support 1697 because after all ••

**LEG. NOWICK:**

(Inaudible).

**LEG. BISHOP:**

That's the resolution before us.

**LEG. CARPENTER:**

The modulars.

**LEG. BISHOP:**

That's the new ••

**LEG. MYSTAL:**

That's the reason for this discussion.

**LEG. BISHOP:**

Right, it's the basis for this discussion.

**LEG. CARPENTER:**

No, it's not.

**LEG. ALDEN:**

No, it's not.

**LEG. MYSTAL:**

It's not?

**LEG. ALDEN:**

It has nothing to do with it.

**LEG. TONNA:**

There's no bill in front of us with regard to this.

**LEG. ALDEN:**

No.

**P.O. CARACAPPA:**

Just the modulars that are part of the Yaphank facility and the lawsuit.

**LEG. BISHOP:**

Well, I won't ••

**P.O. CARACAPPA:**

They're intertwined, we all know they're intertwined.

**LEG. BISHOP:**

I won't engage in this discussion and 1697, they're intertwined.

**P.O. CARACAPPA:**

Legislator Bishop.

**LEG. BISHOP:**

So the modular units are to the benefit of everybody, that's the taxpayers, the prisoners and the employees. This discussion, however, of whether we're going to anger the State Correction Commission by pursuing our rights in court is •• to me, strikes me of something called Stockholm Syndrome; do you know what Stockhold Syndrome is? That's when the captor over time begins to adopt the perspective of •• the captive over time begins to adopt the perspective of their captor. New York State has, through extortion, taken over the policy functions of this Legislature and now we're going to be concerned whether we're going to upset them. I mean, my goodness, you know, if we pursue this they might act irrational is the argument and not allow us to go forward with the purchases that are contained in 1697. That would serve nobody's purpose; it wouldn't serve the State Correction Commissions purpose because they're presumably out there to serve •• to regulate to serve the interests of taxpayers, prisoners and employees in the jail. So none of those groups would be served by it, so I don't think that's a real issue.

And by the way, in 1999 when I sponsored the lawsuit to pursue State•readies, we were under the same gun that we're under today in that they had to provide variances to us, and they didn't pull those variances because, like I said, they're not irrational, an irrational agency and if they did, as Paul Sabatino says, that would be part of our lawsuit. So I think it's important for

us to adopt the correct perspective. After all, the State •• New York State has left us in the following situation; they are demanding that we build the largest construction project in Suffolk history without first going through a study on viable alternatives; they're demanding that we build something that is 50% larger than we need at a time when our prison population is stable; they're adopting policies that leave felons and parole violators in the local jail when they should rightfully be sent Upstate; and they've closed mental health facilities that provide more pressure on us.

So given all of those problems, it seems that there's a lot more to sue beyond just this discreet lawsuit which says that when they shut down the quads they did so in an arbitrary and capricious manner. After all, the Health Department, this was not sewage as has been said, I don't know how •• you know, I've heard that debate, I guess it's been clarified since then, but at one point it was discussed that it was sewage; it's shower water and it got underneath the building and the sump pump didn't work. They fixed the sump pump, it was pumped out and the Health Department at first says it was uninhabitable, but once the water was removed it became habitable again. New York State has not reversed its position and has relied on the Health Department's initial position that it was uninhabitable. I think that's arbitrary and capricious, the County Executive does, and the reason he's pursuing this is because that decision is costing us millions of dollars. And we need to fight back against New York State, as we did in the past with the State•ready prisoners, and if we do so successfully it will be the taxpayers who benefit. So we should all be on the same page on this and instead of adopting the perspective of our captors, we should fight against them and do what's right for the taxpayers of Suffolk County.

**P.O. CARACAPPA:**

Thank you, Legislator Bishop; let me respond. We're in a much different position than we were in 1999 as it relates to that lawsuit; the facts were on our side then. We had State•readies, then the Sheriff was Sheriff was trying desperately to get the State to take their State•ready inmates and they didn't and they recognized that and they couldn't hide from that.

What other facts are on our side now? They aren't. What we're asking to do through this lawsuit, or the County Executive is, is allow us to put prisoners back in a substandard, uninhabitable facility. So we win, let's say we win, hypothetically speaking; what do we win? We win nothing. We win the ability to spend millions of dollars to refurbish the current facility

to put prisoners in, or we can go forward without this lawsuit and do the modulars like we had planned, get the certification that we need from the State and move on, because that's what's been needed for 15, 20 years already is the rehabilitation or new modulars there to replace what's there currently. We were nothing with this lawsuit because the State will not certify these new units. Where do we go? What do we win? We're not in the position in '99, we win nothing.

**LEG. BISHOP:**

If I may respond to your response. After these modulars are constructed, I believe it was the Sheriff's testimony, the Sheriffs's Department testimony earlier that we would still need ••

**LEG. ALDEN:**

The Sheriff's Office; the Office of the Sheriff.

**LEG. BISHOP:**

The Sheriff's Office testimony.

**LEG. ALDEN:**

Not department, Office.

**LEG. BISHOP:**

A major distinction. •• that we would still need to send prisoners out of County. If we had this facility refurbished and the new modulars, I think it's entirely possible that we would be in a position over the short term where we wouldn't need to do that, so there would be a gain there. We would also be reimbursed for the expense in this interim period where we've had to send prisoners Upstate because this option has been foreclosed to us.

And I would say about the substandard argument, what was cited by New York State, the triggering event was this leak in the shower, the vandalism event. The Health Department was the one that said it was uninhabitable and then the Health Department said that's been corrected and it is habitable after it was corrected and I think that is a major point of the lawsuit, is that we solved the problem and we should have been allowed back on line. And so I think that ultimately, if we prevail, obviously the taxpayers are the ones to benefit and it could end up with a policy where we wouldn't have to export prisoners in the short term.

**P.O. CARACAPPA:**

Thank you. I'm not going to debate it back and forth, you know how I feel. Legislator Alden, Mystal then Binder.

**LEG. ALDEN:**

I have a comment to make, and I'm sure that Legislator Bishop is going to want to respond to this, too. I would actually like to be on the same page as other branches of government, but it's kind of hard when one of them takes an action and doesn't let anybody else know about it. So, you know, I agree with you a hundred percent.

I also agree with Legislator Tonna's comments before about suing New York State and if we can get some money out of it then find, that shouldn't be the deciding factor. But one of the other things that we have to really consider here, too, is manpower. And I'm a little bit concerned because as of a couple of weeks ago, we still didn't seize drunk driver's cars when they were arrested for felony drunk driving because we don't have the manpower and we did not put into place what is the law of the land, and that is that those cars must be seized.

So we're not doing that because of a lack of manpower, we didn't put that process •• even though that was the will of the Legislature that that process was amended and put back into •• and be implemented, we still don't do it because of a manpower shortage. So that's a consideration that I think all of us have to take into when we're deciding on any of these type of things, whether we go forward with a lawsuit or whether we don't go forward. But I'm very, very discouraged that we don't do that and I'm also concerned that we might not have or we might be diverting the amount of people hours from the County Attorney's normal work to go and put those hours into a lawsuit. Thanks.

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

Legislator Mystal.

**LEG. MYSTAL:**

Thank you. I was trying so hard not to be part of this debate because of making it longer, I just don't •• I don't understand from the perspective that the County Executive is filing a lawsuit. If it has merit it has nothing to do with us, if it doesn't have any merit it has nothing to do with us. It's their case, they do it; what are we debating? It's like let them do it; they want to do it, fine. And if they win we get some money, if they lose we get nothing; if we win and

we get no money we get nothing, we're in the same place. I do not understand the lengthy, heated debate as to whether •• the only thing I wanted to know and we got it from Counsel, that they have the authority to do it on their own without consulting us; fine, they did. To me, end of story.

**LEG. BINDER:**

Counsel didn't say that.

**LEG. MYSTAL:**

You didn't say that, Counsel? Ask the question; do they have the authority to file the lawsuit ••

**MS. KNAPP:**

No.

**LEG. MYSTAL:**

•• without first consulting this body?

**LEG. ALDEN:**

That's what we're trying to figure out.

**LEG. MYSTAL:**

I'm asking Counsel.

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

Mea?

**LEG. MYSTAL:**

You can give me a yes or no.

**MS. KNAPP:**

I think that there's case law that indicates that they do not. However, there's also case law that indicates when there's a Charter provision that permits the County Executive to direct the County Attorney, then the County Executive may have the authority depending on the facts and circumstances.

**LEG. MYSTAL:**

Thank you very much. You know, my son is a lawyer, now I know why I can't talk to him anymore because he give me gobbledygook all the time; you didn't answer a thing for me.

Mea, I'm going to try again. Under these facts and circumstances presently at hand, as currently being stated, and I'm going to talk like a preacher, practically can they do it?

**LEG. LINDSAY:**

Maybe.

**LEG. ALDEN:**

Here comes the judge.

**MS. KNAPP:**

Yes, that's the advantage of having black robes; only a judge can actually answer that question definitively. I do have •• I have doubts as to whether or not under these facts and circumstances ••

**LEG. MYSTAL:**

End of story for me.

**LEG. ALDEN:**

As do I.

**LEG. CRECCA:**

As do I.

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

Legislator Binder.

**LEG. BINDER:**

I think the reason that there's a discussion here is there is a concern that we're about to talk about the modular units and go forward with it to try to solve at least a problem that is before us; it may not be long•term or long enough term, but what we have is a lawsuit that might

actually elicit a State response. Now, we have Legislators who said and the Chief Deputy County Executive that if they act emotionally and irrationally then we'd have it part of the lawsuit; that all sounds well and good. No one acts emotionally and irrationally in government, we know that, we all have reasons, explanations, rationalizations, legal authority, ways to do it. So the State won't look to look as if they are emotional, irrational, that they don't look at the decision we're about to make on these modular units and to say whether •• they're not going to look to say, "We just don't want to do it because we don't feel like it because we're mad that they brought an Article 78".

We understand that government is made up of people, and people act in ways in response. I think we've seen the County Executive act in ways in response to the Legislature over the years, particularly this year. But we have to understand that we have the State who has the potential, I don't know if they will, they have the potential to act in response to this lawsuit. And by the way, they will act totally rationally, totally responsibly, totally supportable. Now, will we be able to overcome their ability to deep•six our modular units, not come to a conclusion, not give us •• give us what we need on these modular units to save the taxpayers money? I don't know. We might have to find out in court, that could take months and months, meanwhile we transport prisoners.

What I think is so unfortunate is that we were moving quickly towards going to sit in this Legislature to pass a bill that would give the modular units, the County Executive was in agreement with us, we were all going to sit down and do the right thing, New York State would have quickly given us the agreement we needed, and now it's in question and in doubt. I don't know that it was a bad thing to bring the lawsuit, everybody, you know, we have Legislators say, "Go ahead, kill them, break them, beat them." Oh, wonderful. But the point is the timing of it was not particularly smart. And I think if the County Executive came to the Legislature and talked to us about it, I know, they said, "Who can disagree with us? We know what we're doing." We all sat around, everybody says it's going to be great, except if they actually came to us and sat with us •• oh, I know, there is a little bit disdain for us; we don't think as well as they do, we're not as quick as they are, we don't know as much as they do.

You know, it's really unfortunate, if they came to the Legislature at minimum to informally sit with us and talk to us, we may have said let's quickly get this done, we're about to go and have a special session, we'll pass the bill, we'll move quickly to get New York State to approve it and then go file your lawsuit; we could have given them the green light, even informally. But now

the question is going to hang out there, will New York State undermine what we're about to do and cost the taxpayers millions which the County Executive says they want to save. That's the real question; it's the timing more than anything else. And I think the timing, personally, is for reasons other than policy, and that's unfortunate also.

So I would •• that's why we're debating this and we're discussing it because we're really concerned that we're about to take an action here that could have been done under at least some kind of good will umbrella. We would have gotten the approvals, it would have gone forward, we would have saved the taxpayers together, the County Executive and the Legislature, we would have done it together and now there's a question mark. The question mark wasn't raised by this Legislature, the question mark was raised by the actions of the Executive and that's what's unfortunate.

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

Thank you. I had •• I wasn't really going to say anything on this, but I do feel compelled to say one or two things. I think it was Legislator Bishop who said it's important that we all be on the same page, but for us to be on the same page we have to communicate. The County Executive has talked in speeches about partnership and working together with the Legislature; you have to communicate, and this really is a total, total lack of communication. To be questioned about why we weren't consulted and to be given reasons about a Segal case and 501 and all of this other legalese doesn't impress me at all, especially when we were trying to work together. Again, I would say we really have to communicate.

And when the Presiding Officer asked about or tried to say, well, the lawsuit or the papers that we have are dated the 15th of July and that it was the 29th when we found out about it. And the reason we were communicated with was the fact that the Commission of Corrections or their attorney had contacted the Presiding Officer and he called Kevin Law; to me, that's not a reason, especially when you say that you've been working on this and the County Attorney's department has been researching this since March. And certainly there have been numerous memos and letters and discussions that have taken place on the situation with the jail and the variances and Yaphank and the new facility, on and on and on and never once, never once were we told that, "You know, we're thinking we might sue the State." Again, I would say you have to communicate. It's really very, very unfortunate.

I had Legislator Crecca down here as wanting to speak, but he seems to have stepped out.  
Legislator Lindsay.

**LEG. LINDSAY:**

Paul, if I might. So as •• using this lawsuit, we are looking for monetary damages from the State as well as the ability to reopen those two condemned wings?

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

Ultimately both, yes.

**LEG. LINDSAY:**

Ultimately both, okay. And simultaneously, the meeting today is to approve the pods which is a bill that was sponsored by Legislator Carpenter, cosponsored by myself, but it was the County Executive's bill, we just put our names on it to expedite it in that meeting in early July.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

Right.

**LEG. LINDSAY:**

Isn't the two contradictory?

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

No, they're complimentary. The idea is to •• approving the money for the modulars helps you to mitigate the damages. It's a belt and suspender approach. You have an obligation, in my judgement, from a fiduciary standpoint to try to do everything in your power to reduce the cost. The goal of the lawsuit is not to have the damages get higher and higher and higher, the goal is to recover whatever the damages are that are going to be out there. Simultaneously by doing the modulars, if you can get them up and running at some point, you start to mitigate those monthly transportation costs off of Long Island so at the end of the rainbow you're collecting maybe less damages than you might in an imperfect world. So they're complimentary, they're not mutually exclusive.

**LEG. LINDSAY:**

Okay. But what happens if you win the lawsuit and we build the modulars and you get approval to use them; won't we have too much space suddenly?

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

What we'll do is we'll collect damages for the cost of the modulars as well because that will have been an expense that wasn't necessary to recover, but that will be a smaller expense than the monthly expenses of whatever it turns out to be for transporting the prisoners.

**LEG. LINDSAY:**

Okay, let's just go to 1697. When we had a meeting in the County Executive's Conference Room when we discussed this informally ••

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

Right.

**LEG. LINDSAY:**

•• I left that room and I was led to believe that the Corrections Commission would approve our use of these modulars; has that changed at all.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

Not to my knowledge.

**LEG. LINDSAY:**

Is it conceivable that they would withhold approval on the modulars pending this lawsuit?

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

The only basis for doing that would be something that would strengthen our lawsuit which is that, again, they would be acting in a manner that would be not based on objective criteria, not based on the merits of the issue and not based on irrational determination. So if you think that the lawsuit is going to cause them to change course on something that, you know, they're supportive of, the only explanation can be is that they're not using objective criteria.

**LEG. LINDSAY:**

Well, couldn't the explanation simply be that you're in court with us now to say we're wrong to condemn those two wings, we don't want to compound the problem, you know, you might go ahead and spend the \$1.3 million to build the modular and ••

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

They can't do that without compromising their case because for them it is illogical and inconsistent to argue that they're wrong and they're right at the same time; they'll have to argue that they're wrong to ask for the modulars in order to not approve them. So our position is consistent because we're doing things to mitigate damages, they're doing things to increase cost to the people of Suffolk County. For them to reverse that position, they're going to have to say yes and no at the same time.

**LEG. LINDSAY:**

Do we have in writing anything that they'll approve these pods?

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

Not a specific •• Public Works? I don't think there was a specific thing in writing, no.

**LEG. CARPENTER:**

Can I respond to that?

**LEG. ALDEN:**

Ask the Sheriff.

**LEG. CARPENTER:**

I had written to the Commission of Corrections when we had that meeting in the County Exec's Office in early July.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

July 8th, right.

**LEG. CARPENTER:**

And when it became obvious that we were not going to be able to get together to have a Special Meeting sooner than this week, that I said we should use that time to get some questions answered. And we talked about it in Public Safety earlier today about the fact that were they going to be certified, and I sent a letter to the Commission of Corrections and I have not as yet received a reply.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

Okay.

**P.O. CARACAPPA:**

Are you done, Bill?

**LEG. LINDSAY:**

Just to make a statement, that I'm very reluctant to spend one and a half million dollars on these structures unless we know we can use them.

**P.O. CARACAPPA:**

Legislator Alden.

**LEG. ALDEN:**

I just have one comment that I'm not so sure it's relevant or irrelevant, but in Suffolk County the Sheriff is charged with dealing with prisoners and also with dealing with the Department of Corrections. At some point in time, I would think, you know, that you might want to ask the Sheriff a little bit about some of the information that we're being •• we're discussing today.

**P.O. CARACAPPA:**

I have a question for the Sheriff's Department, believe it or not.

**LEG. ALDEN:**

You know, that just might be too simple, you know?

**P.O. CARACAPPA:**

If the representative from the Sheriffs Department could just come up for a second, it relates directly to the bill and the modulars. Is the Sheriff here? I don't see him. Oh, I'm sorry, Sheriff Tisch, I didn't see you behind the podium.

**LEG. VILORIA • FISHER:**

He's kind of a tall guy.

**P.O. CARACAPPA:**

He's right behind the podium. Sheriff Tisch, I don't know if Legislator Lindsay asked this question to Mr. Sabatino, I was out of the room and I apologize if you did. We go forward and we approve the modulars, the spending for the modulars today, we go out and we purchase them, the State, based on the conversations I've had with them as it relates to the litigation and the modulars and Yaphank, they're not going to approve until •• they're not going to approve those new modulars until this is all concluded. We have them, we place them, what are we going to do with them if we can't use them?

**SHERIFF TISCH:**

I have no idea. I can tell you that ••

**P.O. CARACAPPA:**

Just turn on the mike, right on top there.

**SHERIFF TISCH:**

I'm technologically challenged, as you can see. I have no idea what we will do with them. I can assume, if we keep them on site, that however many beds are located in those modular units will replace the variances that we presently have that we're not paying extra for, and we'll have to staff it with Correction Officers that we're not utilizing at present because we're supervising the people in existing buildings with existing staff.

**P.O. CARACAPPA:**

We couldn't put a prisoner in there until the State says, "Go."

**SHERIFF TISCH:**

You cannot, number one, and even if the State said, "Okay," what they would do is if we build two modular units to contain two sixty•person dormitories for a total of 120, and we have already reopened North 4 and North 3 •• North and South 4, what they will do is they'll say, "Fine, you can populate those two modular units, you just lost 120 variances from the existing facilities." We will have gained absolutely nothing, but we've spent one•and•a•half million dollars on the buildings, plus we'll need more Correction Officers to staff them.

**P.O. CARACAPPA:**

Have you had any discussions with the COC or Mr. Donegan, who's their counsel, about their willingness to certify these new modulars based on the events of this week?

**SHERIFF TISCH:**

I have no definitive answer in writing or any declaration from the Commission as to what their position would be. If I was their counsel, I would advise them to withhold making a decision until such time as the lawsuit was resolved, but I'm not their Counsel.

**P.O. CARACAPPA:**

Wasn't it stated in a Newsday article that they would do just that a few days ago?

**SHERIFF TISCH:**

That may have been somebody's supposition. I have not been so advised.

**P.O. CARACAPPA:**

I thought that was the quote given by Mr. Donegan, as I glance over at Newsday's reporters.

**SHERIFF TISCH:**

That may very well have been Counsel Donegan's answer in response to a question posed to him by someone in the media. It's not something he has communicated to me, nor has anyone from the Commission communicated that to me.

**P.O. CARACAPPA:**

Okay, I have the quote, "We won't act on it, on an application for a modular housing unit while the suit is pending," so said \\_Lyle Hartog\\_ , a spokesman for the agency. "We won't act on it".

**LEG. BINDER:**

Ask them if they would be rational.

**P.O. CARACAPPA:**

Okay.

**SHERIFF TISCH:**

I guess you have your answer.

**P.O. CARACAPPA:**

I do have my answer. I had my answer prior to that, but I just wanted to make sure if you had any verification from the COC. Any other questions for the Sheriff while he's up?

**LEG. VILORIA • FISHER:**

Yes.

**P.O. CARACAPPA:**

Legislator Vilorina•Fisher.

**LEG. VILORIA • FISHER:**

Good afternoon, Sheriff.

**SHERIFF TISCH:**

Good afternoon, Legislator.

**LEG. VILORIA • FISHER:**

Can you just please go over the statement you just made regarding the modular units? Because it would seem to me that it would be •• it would serve the best interests of the safety and well•being of the inmates to go into the modular units, which would be better suited to housing them. What would the rationale of the State be in not certifying that? Just walk me through it.

**SHERIFF TISCH:**

We had two dormitories in Yaphank that we had housed inmates in. I must say, I agree with some of the comments of Legislators with regard to their habitability, I think a number of you have been through the facility. I think a number of you are aware, from the comments I've heard here, about the fact that we couldn't even get the temperature to approximately 50 degrees during the winter, issuing double blankets, leaks in the place, inadequate plumbing; so we really do need something different than what was there. The issue as to whether or not those were appropriate for the commission to close or not is the subject of a lawsuit and I decline to get involved in that specifically.

My opinion is certainly those modular units would be more suitable for housing than what was

closed. They'll be new, they'll be comfortable, they'll be hermetically sealed and they'll be climate controlled, they'll be secure. The existing ••

**LEG. VILORIA • FISHER:**

So they would be more suitable.

**SHERIFF TISCH:**

Absolutely.

**LEG. VILORIA • FISHER:**

Okay.

**SHERIFF TISCH:**

It was my position on the day after the State shut us down, and that was on March 11th, that we should do something right away. Having had some knowledge of the issue, I brought to the attention of the County Executive's Office that a number of counties Upstate have used modular buildings as a temporary fix when their facility was shut down and I suggested we pursue that. We're four months beyond the date that they were shut down and we've made no forward progress.

**LEG. VILORIA • FISHER:**

Except for having this before us today.

**SHERIFF TISCH:**

Today, that's four months.

**LEG. VILORIA • FISHER:**

Okay.

**SHERIFF TISCH:**

In that four month period, Legislator, we have spent one million, three hundred and sixty•seven thousand •• \$1,367,126 specifically attributed to those inmates that would have been housed on site but could no longer stay there because of the facility being shut down.

**LEG. VILORIA • FISHER:**

And we're having this Special Meeting today so that we could move forward with the modulars so that we don't continue to have this hemorrhaging of dollars.

**SHERIFF TISCH:**

Well, I hope between yourselves, the County Executive and the State Commission you solve the problem because it is a big problem for me.

**LEG. VILORIA • FISHER:**

But you're still pessimistic that we would have the certification from the State to allow prisoners to move into these modulars; this is what's confusing to me, what the rationale on their part would be to a prohibition of having inmates move into modulars that are better suited to habilitation.

**SHERIFF TISCH:**

Legislator, I'm an attorney, I haven't practiced law in a number of years, but I sat here and listened to the Deputy County Executive say that they're successful in that lawsuit, they're going to sue the State for all of the money that we've just spent plus the cost of the modulars. Now, having heard that, if I'm the State, I'm going say, "Why would I undertake the liability of authorizing the County to spend a million and a half dollars which they're going to then ask me to pay them for?" Now, that doesn't make a lot of sense, does it?

**LEG. VILORIA • FISHER:**

But we should not be basing the certification of prisoners to use the •• the modulars to be inhabited by prisoners, we shouldn't be basing that judgment on whether or not there's a pending lawsuit.

**SHERIFF TISCH:**

I can't speak to what the commission's actions will be, I'm not the commission, I'm merely the Sheriff. I'm the person charged under the Constitution with the health, safety and welfare of those individuals, and I can tell you that that facility was shut down, deserved to be shut down a number of years ago. The fact that we weren't sued by an inmate group to force us to shut it down is truly surprising to me because that's happened before in this County.

**LEG. VILORIA • FISHER:**

But being that you do have the best interest of ••

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

Is that comment on the record? I just want to know.

**SHERIFF TISCH:**

Just let the ••

**LEG. VILORIA • FISHER:**

But being ••

**P.O. CARACAPPA:**

I'll bring you back up, Paul.

**LEG. VILORIA • FISHER:**

But Sheriff Tisch, based on what you have just said, that the safety and well•being of the prisoners is your responsibility, speaking from that vantage point then, you are in support of having the modulars.

**SHERIFF TISCH:**

I certainly think it's a better alternative than what was shut down;

I think anybody that toured those facilities would agree with me.

**LEG. VILORIA • FISHER:**

So we should today move ahead with the resolution to move forward with the modulars.

**SHERIFF TISCH:**

That's a decision only this Legislature can make, I'm not going to give you ••

**LEG. VILORIA • FISHER:**

But I'm asking as the person who's responsible for the well being and safety of the prisoners.

**SHERIFF TISCH:**

Would I rather have the modulars?

**LEG. VILORIA • FISHER:**

You would rather have the modulars.

**SHERIFF TISCH:**

Absolutely, I would rather have the modulars.

**LEG. VILORIA • FISHER:**

Thank you. Thank you, Sheriff Tisch.

**P.O. CARACAPPA:**

Thank you. Any other questions for the Sheriff? Thank you, Sheriff Tisch. Undersheriff Denzler, thank you; Chief.

Mr. Sabatino, go ahead, I'll give you the opportunity. Oh, and Legis •• I'm sorry.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

Just two ••

**LEG. CRECCA:**

That's all right, I'll go after Paul.

**P.O. CARACAPPA:**

In case you •• before you come up, just quickly do your rebuttal and then Legislator Crecca has some questions.

**LEG. VILORIA • FISHER:**

But we •• Mr. Chair, since it was during my questioning that

Mr. Sabatino was coming up, may I keep my time in case I wanted to ask •• further ask him a question?

**LEG. BISHOP:**

No.

**P.O. CARACAPPA:**

Well, let ••

**LEG. ALDEN:**

Ask him now, ask your question.

**LEG. VILORIA • FISHER:**

No, he was responding to something I had said.

**P.O. CARACAPPA:**

No, not you, the Sheriff. The Sheriff had made a statement and I'm going to give him the opportunity •• Mr. Sabatino ••

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

I was going to make two points that were made before, one on the timing. There was nothing unusual about the timing of the lawsuit other than the statute of limitations question, so it wasn't linked to any event other than the statute of limitations running out.

The other point was that there was an opportunity to vote on this issue of appropriating the money back on July 2nd, but that opportunity was declined. So it's not as though, you know, the delay that was just talked about by the Sheriff for, you know, the last six weeks happened because the Executive didn't try to do something back on July 2nd.

**P.O. CARACAPPA:**

Legislator Crecca.

**SHERIFF TISCH:**

I'm sorry.

**P.O. CARACAPPA:**

Oh, I'm sorry; Legislator Vilorina•Fisher, you have a question.

**LEG. VILORIA • FISHER:**

Paul, were the modulars on the •• articulated on July 2nd? I don't remember.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

Yes, on July 2nd. In fact, what happened was the County Executive had brought the legislation over to be laid on the table, there was not the ability to do a Certificate of Necessity because the Special Meeting notice had limited the ••

**LEG. VILORIA • FISHER:**

But there was a CN for the modulars?

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

Well, there was a CN as well as the resolution itself. The request that was made by the County Executive was to have the bill just laid on the table if you couldn't do the CN, because you couldn't get a waiver of the rules. The ruling that was given was that you couldn't lay the County Executive's bill on the table to deal with the modulars because it wasn't something that was previously before the County Legislature, so the bill was never accepted for the purposes of laying on the table. Yet 20 minutes later, a Legislator took the exact same bill and was able to lay the exact same bill on the table which was a good thing ••

**P.O. CARACAPPA:**

That's not true.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

•• because the bill got laid on the table twenty minutes later, notwithstanding the previous ruling.

**P.O. CARACAPPA:**

That's not true.

**CHIEF DEPUTY COUNTY EXEC. SABATINO:**

Then there was an attempt to get a vote on July •• I think we were shooting for July 14th with another Special Meeting, but that didn't didn't work out because of scheduling. So there was an attempt in early July is the only part I wanted to make in response to something that the Sheriff had said.

**LEG. VILORIA • FISHER:**

Thank you.

**P.O. CARACAPPA:**

Just to clarify that, I spoke to Ben Zwirn the night before that Special Meeting and I told him, "Do you have anything to bring over," he said, "I want to lay something on the table for the County," and I said, "Well, what is it?" And they told me at that time, the day before, "modulars"; I'm like, "Great." I wanted to •• I told Ben, "Why don't you have a Legislator sponsor it and we'll lay it on the table," because the way we set up the meeting notice, that was permissible that day. And I told him to do that, I recommended that he do that, he said, "Great, I'll do that. Who do you have in mind?" I said, "Why not the Public Safety Chair, it only makes sense to do that, or call someone from your caucus," he said, "Fine"; got off the phone with him with an understanding that we try to make some progress the next day, he came in here the next day and pretended that we never had that conversation. I, on the floor, and the record will show, suggested that that bill that they were looking to lay on the table be laid on the table that day through the vehicle that I mentioned earlier, and it was sponsored by Legislator Carpenter. That bill subsequently, a few weeks later, was told by the new sponsor, and it was word•for•word their bill, was illegal.

So this is, again, gamesmanship, it didn't happen the way that Mr. Sabatino said. I've made every accommodation to put forward legislation, whether it be the County Executive's or yours as individual Legislators, as long as it helped this County and the residents that live here. So it will be said •• for it to be said that I tried to stonewall decent legislation that is needed is utterly false.

**LEG. CARPENTER:**

May I just ••

**LEG. VILORIA • FISHER:**

Mr. Chair, may I ask a question with regards to that ••

**P.O. CARACAPPA:**

Go right ahead.

**LEG. VILORIA • FISHER:**

•• either of you or Legislator Carpenter. Are there substantive differences between this legislation, Legislator Carpenter, and the one that you had introduced on July 2nd?

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

Let me tell you what happened. It happened in front of the public right here at this horseshoe, when Mr. Zwirn was standing at the podium. And I said, "I was told that the County •• the Presiding Officer was not •• there were not going to be any CN's but that he had recommended to you to contact the Legislator, they could lay it on the table," and I said, "I was a little bit disappointed and surprised, as the Chairman of Public Safety, that you didn't reach out to me," and he stood there and agreed and I said, "You know, if you've got whatever it is, you know, we can get it laid on the table here, I'll send my Aide." My Aide went to the back, got a copy of the bill, I gave the bill to Counsel, because it was being laid on the table by a Legislator, the introduced by had to be changed from the County Executive to my name, and Legislator Lindsay right away said, "I'd like to cosponsor that."

It was a week or so later, or whenever, that I get this letter saying that because I chose to introduce my own version of the bill, and pointed out all of these irregularities in the bill. It was not my own version that I was introducing, it was that bill and only to expedite the process to show that we were trying to work together. Why else would we have traipsed over to the County Executive to listen to the whole explanation of the modular units? And I think you had • • one of your Aides was there that day. So, I just can't understand it. And it's very, very frustrating.

Now, when it was pointed out, as we asked at that meeting, do we have to go to bid or not? The resolution that was sent over by the County Executive had the manufacturer's name in the resolution, and if we were going to have to go to bid, it didn't make sense that we would have • • so we were asking that question, we never got an answer and it was just left alone. When that letter came from the County Executive saying that it was legally flawed because it had the manufacturer's name in it, I instructed Counsel, after speaking with Legislator Lindsay, to remove all references to any manufacturer so that we could just go forward with a generic bill that would allow us to go out to bid if, in fact, we needed to go out to bid. So that is the details of the story.

**LEG. VILORIA • FISHER:**

Thank you; thank you for going through that sequence.

**P.O. CARACAPPA:**

Okay. Any other questions? Oh, Legislator Crecca, you have questions.

**LEG. CRECCA:**

Yes. First of all, I think everybody knows where they're voting and what they're doing on the modulars, so I think we should take that vote; that's number one. You know, I think it's a good idea from every perspective, if anything, you know, shame on County government for taking, what is it, four or five months to get this done. I think the lawsuit is going to have to be addressed.

There's a bill, I understand, that will be laid on the table to deal with the lawsuit, later on in this meeting I hope, but right now we've just wasted the money from March to July by not doing the modulars already. We •• there was a •• we haven't dealt with this jail problem in any type of expeditious manner. I don't know the exact date, but I believe the cut-off date was like July 19th that the waivers were going to be pulled on our jail. I understand that literally it wasn't until that day that the County Executive signed the contract with Weidersome, I guess, or whoever to build the jail and, you know, we just keep delaying. I don't understand. We have a plan, we know what we want to do, let's move forward on it. I think it's disingenuous of us to bring a lawsuit when we're the ones who waited till July to sign a contract for the jail, we're the ones who waited till now August to do the modular units.

You know, we know what we have to do; the jail sucks, it's falling apart, okay. The bottom line is we've got to put the modulars in so we can house our prisoners. So let's do that, let's, you know, work with the Commissioner of Corrections. Not everything has to be a little war with the State. Okay? I'm all for •• and I've authorized many a lawsuit in my five years here, okay, but this is something that we got a little bit of a free ride, I hate to say, from the Commissioner •• the COC for many years as to the conditions of our jail and the overcrowding. So let's just fix the problem, let's go forward with the modulars now, let's take a vote without further debate, we can debate whether or not to proceed with the lawsuit or not.

I do have questions for the County Attorney regarding the lawsuit, but I'll wait until after we do the modular vote if that's •• or unless now is the appropriate time.

**P.O. CARACAPPA:**

We'll do the modular vote. Any other comments, questions? Okay. We're going to move to Item 4 and 3 on the agenda; I said it backwards because we do the resolution and then the bond. So is there a motion?

**LEG. CARPENTER:**

I'll make that motion.

**P.O. CARACAPPA:**

Motion to approve 1697 and 1697A.

**LEG. VILORIA • FISHER:**

Second.

**LEG. O'LEARY:**

Second.

**P.O. CARACAPPA:**

Second by Legislator Vilorina•Fisher. Roll call.

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

**LEG. CARPENTER:**

Yes.

**LEG. VILORIA • FISHER:**

Yes.

**LEG. COOPER:**

Yes.

**LEG. TONNA:**

Yep.

**LEG. BINDER:**

Yes.

**LEG. MYSTAL:**

Yes.

**LEG. BISHOP:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. CRECCA:**

Yes.

**LEG. ALDEN:**

Yes.

**LEG. MONTANO:**

Yes.

**LEG. LINDSAY:**

No.

**LEG. FOLEY:**

Yes.

**LEG. LOSQUADRO:**

Yes.

**LEG. O'LEARY:**

Yes.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. CARACCIOLO:**

Yes.

**P.O. CARACAPPA:**

No

**MR. BARTON:**

16 on the bond (Opposed: Legislators Caracappa & Lindsay).

**P.O. CARACAPPA:**

Same motion, same second, same vote on the companion resolution which is the bond and Item No. 3 on the agenda.

**MR. BARTON:**

16 (Opposed: Legislators Caracappa & Lindsay).

**P.O. CARACAPPA:**

Moving on to Item No. 5, to consider •• I'll make a motion to approve 1514, second by Legislator Binder •• Bishop, rather. All in favor? Opposed? Abstentions?

**MR. BARTON:**

18.

**P.O. CARACAPPA:**

1514 is approved (***Amending the 2004 Operating Budget and transferring funds to the District Attorney's Office and Cedar Beach Youth Project (Summer Nights Program).***)

No. 6 was handled.

No. 7. Motion by Legislator Binder to override, second by myself.

On the motion, Legislator Binder.

**LEG. BINDER:**

Mr. Chairman, I know we only got ten on this, so I don't have great expectations of overriding.

But again, I think we see that we had an opportunity for reform and it was turned away by the County Executive. I found it interesting that it was turned away under the guise of, "I had a stronger bill, I could have done more and this is not enough." That was predicated, actually, by Legislator Caracciolo, during his back and forth he said, "Let's not do that," with Mr. Zwirn, "Let's not do that, don't use that excuse, don't use your bill as a set up." Because the truth is when there's reform on the table, even if someone thinks it's only the beginning of reform, why not take that reform, approve it, then put in what you think are reasonable strengthening amendments.

And so there could be legislation to follow up, he could have done •• the County Executive could have followed up with legislation that said that's a good start, but now I want to add these other occupations, I want to add these other employees, I want to go further. But it is clearly a fallacious argument, it's clearly a smoke screen. When you have reform if front of you, when Legislators are willing to vote for a reform, to veto it and just say it's not enough is • well, for someone who says he's the reformer coming in, I think now we have two instances at least, and I think there are going to be more, where the County Executive has turned a waiver form. And of course he has his reasons and he can come up with them, but the truth is that that's what he's done in now a number of instances. And as I say, I think there will be more and I think it's unfortunate and I think the weakness of this veto, one of the many, many vetoes that we've had and one of the many that I think we'll have through this administration, I think points up the manner in which we're looking at an administration that had one agenda and has another agenda when they're actually severing, when they have the agenda going in and then the agenda when you're in is very different; that's unfortunate.

I think this •• I think the veto probably was more likely that there was a particular law office that exists for one of his close administration members and •• actually, it used to say law office on the heading, but now it just says office, but I'm sure it's still a law office. And I think that's probably the reason that the County Executive vetoed the bill, not for a reason which is clearly ridiculous saying it's just not enough for me and I want more. Because he could always amend, you could always take a little bit and go for more later and make your arguments. So I think that's the real reason, and I would hope that members would vote for reform and an opportunity to have an opportunity to look at conflicts of interest and undermine the ability of some that would take advantage of that hopefully we can do that.

**P.O. CARACAPPA:**

Thank you, Legislator Tonna.

**LEG. TONNA:**

I'd like to just mention and really put this with both this and the new County Executive's bill which I've noticed. This to me looks like two most ridiculous bills I've ever seen. First of all, let's go over the bill that we're talking about on the merits.

**LEG. BINDER:**

Mr. Chairman?

**LEG. TONNA:**

I think Allan Binder is going to want to be recognized, Legislator Binder, afterwards.

First of all, this is a political hit bill, all right? Let's call it what it is. This was a bill that was really looked at, there's been no notice of abuse or anything else like that, this didn't come out of, you know, that somebody like, you know, who might have had a position in the Planning Board and who's been arrested or something like that. This is basically how do we get to Paul Sabatino. All right? And what do we get •• what is the mature response from the County Executive? The mature response from the County Executive is to say we're going to play spy versus spy; if Allan Binder wants to put in a political hit bill, then I'll but in a political hit bill. This is a waste of taxpayer money, a waste of our time as Legislators when there is no really good government reason to do this, there's no response to any •• anything that said that a Legislator or a Deputy Counsel, whether he has a sign or not, you know, so what, what do I care?

All I know is that this is the type of stuff if we're going to waste our time with these type of bills and play, you know, a game of chicken, we're wasting our time. Shame on both the sponsor of this bill and shame on the County Executive for putting a ten times more ridiculous bill in to show that he •• you know, what is this, a testosterone injection; he's more of a man, he could put in a bigger bill? They should both •• they should have been both, which I think would have gone the way of normally which would have •• they would have been both just not taken seriously by the vast majority of level-headed thinking Legislators who said, "Let's not involve

ourselves in politics, let's stay on the merits of government." Thank you.

**LEG. BINDER:**

Mr. Chairman?

**P.O. CARACAPPA:**

Oh, Legislator Binder, did you want to be recognized?

**LEG. BINDER:**

Yeah, please, please.

**P.O. CARACAPPA:**

Go ahead.

**LEG. BINDER:**

Please. We've just heard from the Legislator Pot Calling the Kettle Black. When I was here, it was a political hit bill to go after someone named Pat McCrann; the idea of the bill was to say that not only lobbyists but anyone they happen to work for, which is clearly a violation of the First Amendment of the Constitution of the United States. An absolutely ridiculous bill that we sat and we debated in this Legislature so we could get Pat McCrann, because someone was angry over the cigarette bills that were going on. So we should go after her. How do we get her? We say that anyone who's a registered lobbyist in this County, what we want to do is you can't give money and anybody that you've spoken to, anybody you know for ten years •• no, what it is, really, is anyone that you work for. Why? Of course it would destroy anyone's business who registers, that means now we've had •• in all these years, go look at the registration of lobbyists; everybody that lobbys you register, anybody notice? No one registers in Suffolk County.

**LEG. TONNA:**

It's because there are no lobbyists.

**LEG. BINDER:**

We've destroyed the system of even honest lobbying because there's no disclosure. Why is there no disclosure? Because no one wants to come under this completely unconstitutional bill

and no one wants to be the one to bring the lawsuit against the County when you're a lobbyist, so they don't want to come under this. So the pot just called the kettle black; it's an amazing thing when someone uses the word shame in this Legislature.

**LEG. TONNA:**

How about the merits of your bill, Legislator Binder?

**P.O. CARACAPPA:**

Okay, let's go on. There's a motion to override and a second.

Roll call.

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

**LEG. BINDER:**

Yes to override.

**P.O. CARACAPPA:**

Yeah.

**LEG. COOPER:**

No.

**LEG. TONNA:**

No.

**LEG. MYSTAL:**

No.

**LEG. BISHOP:**

No.

**LEG. NOWICK:**

Yes.

**LEG. CRECCA:**

Yes.

**LEG. ALDEN:**

Yes.

**LEG. MONTANO:**

No.

**LEG. LINDSAY:**

No.

**LEG. FOLEY:**

No.

**LEG. LOSQUADRO:**

Yes.

**LEG. VILORIA • FISHER:**

No.

**LEG. O'LEARY:**

Yes.

**LEG. SCHNEIDERMAN:**

(Not Present).

**LEG. CARACCIOLO:**

Absolutely.

**LEG. CARPENTER:**

Yes.

**LEG. SCHNEIDERMAN:**

(Not Present).

**MR. BARTON:**

Nine.

**P.O. CARACAPPA:**

It fails.

Moving on, laying •• I make the motion and a second by Legislator Carpenter to waive the rules and lay on the table the following bills: 1734 which will go to Economic Development; 1736 which will go to Economic Development and setting the public hearing for August 10th at 2:30 p.m.; where are we meeting August 10th?

**MS. BURKHARDT:**

Hauppauge.

**P.O. CARACAPPA:**

In Hauppauge; 1745, Ways & Means; 1748, Ways & Means.

**LEG. ALDEN:**

Oh, come on, lighten up.

**P.O. CARACAPPA:**

1749, Ways & Means; 1750, Economic Development.

**LEG. ALDEN:**

Thank you.

**P.O. CARACAPPA:**

And that's all. So there's a motion and a second. All in favor? Opposed? Abstentions?

**LEG. VILORIA • FISHER:**

Opposed.

**P.O. CARACAPPA:**

One opposition to lay on the late starters in Legislator Viloría Fisher •• two, Legislator Viloría •Fisher •• three, Legislator Viloría•Fisher, Foley, Montano. Okay?

**MR. BARTON:**

14 on the official vote slip.

**P.O. CARACAPPA:**

Oh, I'm sorry. Just for a correction on that, 1736 will go to the Ad Hoc Committee on Affordable Housing.

**LEG. NOWICK:**

Which one is that?

**P.O. CARACAPPA:**

1736.

**LEG. BISHOP:**

What's that committee? I never heard of it.

**LEG. ALDEN:**

It's an Ad Hoc Committee.

**LEG. CRECCA:**

It's only been around since January.

**P.O. CARACAPPA:**

Any other business to come before the Legislature?

**LEG. FOLEY:**

Mr. Chairman?

**P.O. CARACAPPA:**

Legislator Foley.

**LEG. FOLEY:**

Yes, Mr. Chairman. We also had in our packets Resolution 1700 and 1750 •• well, 1750 we

took out as Legislator Crecca, but 1700 was the appointment of Jim Morgo to the Industrial Development Agency. Was that a bill to be •• it says laid on the table 8/3/2004.

**P.O. CARACAPPA:**

That was to be laid on the table ••

**LEG. CARPENTER:**

No, it's been filed and it's going to be •• it will be in the packet.

**LEG. FOLEY:**

That's a different one; not his appointment as the Commissioner, this is ••

**P.O. CARACAPPA:**

No, IDA.

**LEG. FOLEY:**

This is an appointment to the IDA.

**LEG. CARPENTER:**

That will be in the packet.

**LEG. FOLEY:**

That will be in the packet?

**P.O. CARACAPPA:**

Yes.

**LEG. FOLEY:**

Okay, thank you.

**P.O. CARACAPPA:**

Anything else? We're adjourned. Thank you.

**[THE MEETING WAS ADJOURNED AT 3:45 P.M.]**

