**SUFFOLK COUNTY LEGISLATURE**

**GENERAL MEETING**

**FIFTH DAY**

**MARCH 15, 2005**

**MEETING HELD AT THE EVANS K. GRIFFING COUNTY CENTER**

**IN THE MAXINE POSTAL LEGISLATIVE AUDITORIUM**

**300 CENTER DRIVE, RIVERHEAD, NEW YORK**

MINUTES TAKEN BY

ALISON MAHONEY & DONNA CATALANO • COURT STENOGRAPHERS

***[THE MEETING WAS CALLED TO ORDER AT 4:02 P.M.]***

**P.O. CARACAPPA:**

Good afternoon, Mr. Clerk. Roll call.

**MR. BARTON:**

Good afternoon, Mr. Chairman.

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

**LEG. CARACCIOLO:**

(Not Present).

**LEG. SCHNEIDERMAN:**

(Not Present).

**LEG. O'LEARY:**

Here.

**LEG. VILORIA•FISHER:**

Here.

**LEG. LOSQUADRO:**

(Not Present).

**LEG. FOLEY:**

(Not Present).

**LEG. LINDSAY:**

Here.

**LEG. MONTANO:**

Here.

**LEG. ALDEN:**

Here.

**LEG. KENNEDY:**

Here.

**LEG. NOWICK:**

Here.

**LEG. BISHOP:**

Here.

**LEG. MYSTAL:**

Here.

**LEG. BINDER:**

Here.

**LEG. TONNA:**

Here.

**LEG. COOPER:**

(Not Present).

**LEG. CARPENTER:**

Here.

**P.O. CARACAPPA:**

Present.

**MR. BARTON:**

13 present (Not Present: Legislators Caracciolo, Schneiderman, Losquadro, Foley & Cooper).

**P.O. CARACAPPA:**

Thank you, Mr. Clerk. Everyone please rise for a salute to the flag led by Legislator Viloria •Fisher.

***SALUTATION***

Please remain standing. Legislator Caracciolo, are you present?

Oh, he's outside.

**MS. BURKHARDT:**

He's coming in now.

**P.O. CARACAPPA:**

Okay. I recognize Legislator Caracciolo for the purposes of introducing tonight's Clergy.

**LEG. CARACCIOLO:**
Can you do it, Joe?

**P.O. CARACAPPA:**
Absolutely. It's my pleasure, on behalf of Legislator Caracciolo, to introduce Pastor Walford Scofield from the First Congressional Church in Riverhead. Pastor?

**PASTOR SCOFIELD:**
It's Congregational, Congressional are you guys.

**P.O. CARACAPPA:**
Did I say Congressional?

**PASTOR SCOFIELD:**
Yeah, you did.

**P.O. CARACAPPA:**
I'm sorry.

**LEG. CARPENTER:**
Congressional wanna•bes.

**PASTOR SCOFIELD:**
Albert Einstein called God Aging Friend, and because God's of an elusive nature, I always refer to or often refer to God as the wiley one. Let us pray.
Wiley one, traces of your grace are strewn all through our scheduled, puckered lives and sometimes on odd occasions we stumble over them and realize in a stunning heartbeat moment the mystery and majesty and claim of what we take for granted. So come now to this Legislative session and we come to pray on to thank you. But more, we would not leave unchanged, comfortable in our familiar ways, our busily diminished days. God of our deepest disconnect, grant us to recognize in the nag of our longing your spirit working to break in and free us from the cages in which we too often put ourselves. The wearying rush, the politic word,

lying congeniality, the strategies to succeed, the circular socializing, everything that contorts our humanity, closes our ears, glazes our eyes, wilts our hearts and pilfers our souls. We know, our core God, of patient generosity, that our easiest responses to your grace, the quick prayers, the brief span of worship, the shrug of the sermon, the gift of money leave us impoverished still and stuck.

We ask to be stirred and disturbed towards something daring and sweating and fun, outrageously, wonderfully soul satisfying in the grace of your summons. To love you, to love neighbor, to love enemy as we love our truest, freest self. Slow us, calm us, ease us into being good samaritans to each other and to the poor, the abused, the forgotten, the outcast and the rejected, the children and the aged and those whose fears make them obnoxious. Make us bold to hold ourselves, those in power accountable to model generosity, humility to the arrogant, mercy to the self•righteous, compassion to the indifferent. Oh wiley God, meet us in the unexpected places like Legislature meetings and make us glad of heart in our tilt towards justice and joy in our families, our work, this Suffolk Legislature, this community, this County, this nation with this precious earth and human family you love so much, that you press us to join in pressing it a bit closer to your kingdom. Amen.

**P.O. CARACAPPA:**
Thank you, Pastor. Please remain standing. If everyone would observe a moment of silence for a few gentlemen. One, a friend of mine, a friend of many people in this room, Stan Allen who was the Clerk of the Town of Brookhaven and, again, a good friend to us all; and also Mr. Frank Gross who is the former Suffolk County Sheriff. And also, as Legislator Alden points out, men and women in our armed forces serving overseas.

***Moment of silence observed***

Thank you. Please be seated. I recognize Legislator Carpenter for the purposes of a proclamation.

**LEG. CARPENTER:**
Good afternoon. The Public Safety Committee is recognizing some Correction Officers this afternoon and Legislator O'Leary, Vice•Chair, Legislator Nowick and anyone else from the Public Safety Committee who would like to join us.

There was a situation that occurred at the jail and sometimes we forget about the men and women who serve this County in the correctional facility, probably what has been recognized as one of the hardest jobs in law enforcement. And this occurred on February 23rd, an incident happened when an inmate collapsed, and due to the quick thinking of Correction Officer Steve Thorson, he ascertained the situation, he called, he set an alarm in motion, he began to administer CPR and he realized that his breathing had stopped, the inmate's breathing had stopped. Then the other Correction Officers, who I will name •• Correction Officer Lawrence Behr, Correction Officer Brett Hamilton, Correction Officer Thomas Helinski, Correction Officer Steve Horton and Correction Officer Michael Mancuso. These gentlemen saved another human being and every day they go to work and they risk their lives in, as I said earlier but I think it bears repeating, the toughest job in law enforcement, that of a Correction Officer in the correctional facility.

And there's been a lot of discussion back and forth of late about the facility, but sometimes we forget about the men and women that serve in there. So we thought we would use this opportunity, as members of the Public Safety Committee and members of the Legislature, to say that we do really appreciate what you do each and every day of the year. And I know that the President of the Correction Officer's Association is here, Vito Dagnello, if you would like to say a few words, please step forward

***Applause***

**MR. DAGNELLO:**
Thank you, Legislator Carpenter. Thank you other members of the Legislature. I just want to explain a little bit of what transpired that night, because there's a lot of incidents that occur in the facility, both Yaphank and Riverhead, and the media •• and nobody ever hears about it.

On February 23rd, approximately seven o'clock, one of the many incidents occurred, this one happened which could have been fatal to an inmate. The inmate collapsed in the corridor, he had no pulse, no breathing, he was turning blue. Officer Steve Thorson ascertained that he had not been breathing, no pulse, called for assistance and administered CPR. Officer Steve Horton, Mike Mancuso arrived with the stretcher, they immediately placed the inmate on the stretcher while continuing to perform CPR. The supervisors, Lieutenant Sue Baust, Sergeants William Schulz, Trish Cardaci and Nick DeSimone cleared the way for the officers and set up transport

by ambulance of the inmate. This inmate had to get across the whole building into the holding pen area. Upon arriving there in the holding pen, Officers Larry Behr, Brett Hamilton and Tom Helinski took over the life•saving measures. These officers worked as a team using the life saving skills they received as members of various fire departments here in Suffolk County, plus the annual training that the Sheriff's Office provides.

This incident is just an example of the professionalism that is exhibited each and every day by over 800 officers, men and women, who serve as Suffolk County Correction Officers. I want to thank them and I'm honored to represent them, and I want to thank you for honoring them and respecting them in the job they do. Thank you. And thank you, Officers.

***Applause***

**P.O. CARACAPPA:**
Thank you. Legislator O'Leary, you want to stay right up there; do you have your proclamation?

**LEG. O'LEARY:**
Yes, I think so. I will in a couple of seconds.

**P.O. CARACAPPA:**
I recognize Legislator O'Leary for the purposes of a proclamation.

**LEG. O'LEARY:**
Good afternoon, everyone. I'm very happy and pleased to be here to recognize a young girl who has shown us the example of what it means to overcome adversity and to excel in her life with respect to her schooling and extra curricula activities, in spite of the fact of having a debilitating illness.

I would ask if Mr. And Mrs. Zambito and Amanda Kate Zambito come up please. Oh, you're right here. Hi. How are you? Despite being born with a debilitating illness of scoliosis, Amanda has excelled in her schooling attaining the highest academic honors on every grade level that she has passed. In addition to that, she's a member of the school band and recently attained All •County status in playing the clarinet. But most importantly, in April of '04 Amanda underwent a very, very serious operation regarding her illness and thankfully she was very successful in

that and the prognosis is excellent that she might very well overcome the debilitating affects of this illness of scoliosis. So I'm here today to recognize Amanda, her achievements and what she has done. She's a lesson in willpower, perseverance and overcoming adversity. And please welcome and congratulate with me Amanda Kate Zambito being recognized by the Suffolk County Legislature.

***Applause***

**P.O. CARACAPPA:**
Congratulations, and thank you. I recognize Legislator Caracciolo for the purposes of a proclamation.

**LEG. CARACCIOLO:**
Good afternoon. If I could please have the Densieski and Block family come forward. Hello, young lady. What's your name? Emily, okay. Well, we're standing not only with Emily but her big sister Tracy ••

**MS. KENNEDY:**
Ashley.

**LEG. CARACCIOLO:**
Ashley, I'm sorry, who not unlike the Correction Officers that were up here a few moments ago, is a heroine; they're heroes, she's a heroine. And why is she a heroine? Back in mid January, as her family slept at two o'clock in the morning, a carbon monoxide detector went off in their home, everyone was sound asleep. Ashley heard the alarm go off, knew exactly what to do and she immediately went throughout the home and woke up everyone in the family. Had she not done that, we would not be standing here today some six, seven weeks later talking about the heroine, we would have been mourning a family from Riverhead on Daily Drive that probably would have succumbed to a colorless, odorless, noxious, toxic substance that would have killed the family while they slept.

When fire fighters arrived they detected, the Chief on the scene detected 70 parts per million of carbon monoxide in the home, that's not much. But within an hour, according to a KeySpan spokesman, those levels would have easily reached a thousand, and at 2,000 parts per billion •

• million, in eight minutes you're dead.

I want to commend you very much, Ashley, on behalf of the 1.4 million residents of Suffolk County, my colleagues, County Executive Steve Levy and everyone here today on not only a job well done, you are a true lifesaver. God bless you and may you grow up and have many children of your own and teach them these valuable lessons. God bless you.

***Applause***

Dad, Mom, you want to say anything? She saved your life, your family's life. Emily, you want to say anything? Okay, thank you all very much.

**P.O. CARACAPPA:**
Thank you, Legislator Caracciolo, and congratulations. I recognize Legislator Rick Montano for the purposes of a proclamation.

**LEG. MONTANO:**
Thank you, Mr. Presiding Officer and Members of the Legislature.
I would like to call up Yvonne Patterson Quirk; I saw her here two seconds ago. There she is.

On behalf of the members of the Legislature and myself, I would like to issue this proclamation to Yvonne Patterson Quirk for recognition as a Woman of Distinction from the 9th Legislative District. Yvonne is the President of the NAACP Islip Branch. She's been instrumental in voter registration to an extraordinary extent, she's been empowering the community that she comes from and that she represents and I want to join with my colleagues issuing her this proclamation. On behalf of myself as the Legislator from the 9th District, thank you and David for all the work that you've done. Suffolk County is a better place because of your efforts. Yvonne has been instrumental in one cause that's probably not too popular but she's been instrumental in getting some ex•felons back on the voter registration rolls which I think is something that we need to discuss and do more of. Yvonne, thank you very much for all your efforts in the NAACP and on behalf of Suffolk County.

**MS. PATTERSON•QUIRK:**
Thank you.

**LEG. MONTANO:**
Thank you.

***Applause***

**P.O. CARACAPPA:**
Thank you. Congratulations. Any other Legislators have any more proclamations? Okay, we're going to go directly to the public portion. We will be going to public hearings which are the green cards for resolutions that are up for public hearing at 5:30 under law; we deviate a little bit at our afternoon meetings than we do at our morning meetings. So we have a tremendous amount of speakers this evening, each speaker has three minutes, this is your time, it's not a question and answer. You have those •• that time limit to make your comments. I'm going to be rather strict with the three minutes tonight and as soon as your time is up and the alarm goes off, so listen for it, I'd ask that you sum up your comments so we can move on to the next speaker. The first speaker is Cesar Malago.

**MR. MALAGA:**
Good afternoon, County Legislators. My name is Cesar Malaga. I'm representing the Hispanic •American Association of Suffolk County.

**P.O. CARACAPPA:**
Hold on, Mr. Malaga. Can we please have some order? Go ahead.

**MR. MALAGA:**
I would like to talk today about the cost of the new jail in Suffolk County. It's really amazing that people who do not live, work or pay taxes in an area can mandate taxpayers to spend money that they hardly can afford. We are over taxed here in Suffolk County with mandates from the Federal and State government. You Legislators had said two years ago that you will introduce legislation to remove the Police Department from the binding arbitration that awards increases to public servants without any consideration to the people that must pay taxes to meet the mandates; to date you have not done so.

Now the New York State Department of Correctional Services is mandating that we must build a new jail with a capacity to house 1,260 inmates. They're not offering to us any amount of

money to build this new facility. Yes, it's easy for them to mandate since the money is not coming from them. The cost of the new facility to Suffolk County taxpayers is estimated today, I mean today, $334.6 million. We know that any Federal, State, County or town project is close to 25% overrun; therefore, this project will exceed close to $500 million once it's completed. We the taxpayers of Suffolk County cannot afford additional taxes for this new jail, for criminals at the cost of $400,000 per cell. We can build two affordable houses for the people who work and pay taxes for that amount of money. We have to find a way to decrease the number of inmates in jail, and I know some other speakers will address this issue.

Some people talk about the conditions in jail for the inmates. I would suggest you ask Legislator David Bishop about the jail in Yanamayo, Puno, Pero, where a New Yorker was housed; I know Legislator Bishop reads a lot about Peru. A jail is not •• is a punishment for those who commit a crime, it's not a place where they spend their days with all kinds of activities, including special TV channels for inmates. We should not house non•violent offenders in jail, we must find a way to take care of these offenders. The State also •• also, the State should pay for each inmate housed that the court did not hear his or her trial? I would suggest something that you might not •• you might disagree; we should add new cells to the existing jails and the inmates should ••

**P.O. CARACAPPA:**
Mr. Malaga, please sum up.

**MR. MALAGA:**
All right. And the inmates should to the work for their benefits. And I'm saying that actually the prisons have become a source of major industry whose primary purpose is to provide jobs and also some profits •• some people profit from warehousing inmates. We should not build a new jail here in Suffolk County. Thank you.

**P.O. CARACAPPA:**
Thank you. Vito Dagnello followed by Bill Ellis.

**MR. DAGNELLO:**
I want to thank you again for allowing me to speak. Again I'm following somebody talking about not building a correctional facility. What I want to address today •• I have handouts for all the Legislators, if somebody can •• thank you.

This has been a problem that's been around for over 15 years of building a new facility. We've done all kinds of studies and we're looking to do more studies. Well, during this time of waiting for studies to be done, you know what's going to happen? The price tag is going up every day. I wake up February 27th and 6:30 in the morning, I hear Legislator Bishop on a talk radio show saying how we have non•violent inmates in the Yaphank facility, inmates just waiting to make bail because they don't have the money. These are some of the statistics of the inmates housed in Yaphank as of Monday, the 14th.
Four hundred and ninety•two inmates, 201, 41% of them, are charged with one or more felonies; 57 inmates, 12% of them, gang members, identified gang members, Bloods, MS•13, Crips, Latin Kings, Netas, they're just some of the type of gangs. Our Gang Unit has identified over 700 inmates that have passed through our jails that are gang affiliated here in Suffolk County. There's a 112 male inmates charged with violent crimes serving time, they're termers. Assaults; over the last six months eight officers, all requiring medical attention at the farm, the Yaphank facility. Maybe Dave has a house that they can renovate for a halfway house in his neighborhood. Seventy•five sex offenders, 15% are housed at Yaphank. And the reasons why they're held there is because they can't be in Riverhead the max facility, or the Medium in Riverhead.

Inmates over there are housed there with up to $100,000 bail. So to say there's non•violent inmates there is a total lie. That's all I've got to say. I will be speaking more because there's a lot of health and safety issues in that facility and when I start putting the grievances and the violations that are in there, it's going to cost this County more money.

***Applause***

**P.O. CARACAPPA:**
Thank you, Vito. You did that right on three minutes. Bill Ellis?

**MR. ELLIS:**
I'm going to pass, Mr. Presiding Officer.

**P.O. CARACAPPA:**

Thank you, Mr. Ellis. John Gallagher. Welcome back, John. Good to see you; former Police Commissioner.

**MR. GALLAGHER:**
Thank you. Thank you.

**LEG. TONNA:**
We miss you.

**LEG. ALDEN:**
We miss you very much, John.

**MR. GALLAGHER:**
As I said before Legislator Nowick's Energy Committee, it's a pleasure to be able to speak here. It really is a pleasure because I'm not here to defend my budget, I'm not here to defend any actions of anybody else, and if you don't like what I have to say I'll just go home, that's all. It's nice being retired.

I'm here on the topic of the energy program, but I also •• just one moment because I was just listening to Mr. Dagnello. One of the great •• I consider one of the great honors of my career as Police Commissioner was when the Suffolk County Correction Officers made me an honorary member of their group, because if anybody has a hard job in law enforcement, their's is the hard job, that's all, just to get that pitch in.

You all should have received the results of a survey that was commissioned by the Broadwater Energy Group. I myself am here, I am compensated by the company as a security and safety consultant, so I'm here to speak to you under that veil, I'm not going to in any way try to hide that. But I also was concerned over what I see as an inconsistent series of events happening.

You know, while we're doing this security survey that's being done by an outside agency, and while they're doing the security survey that will have to be reviewed by the Federal government and the Coast Guard among other agencies, while we're doing safety surveys that have been commissioned by the Federal government, safety surveys that involve present plants and modeling and table•top type exercises done by the Federal National Laboratory of Sandia, but all this is going on and while our own FRES, Fire, Rescue & Emergency Service is doing I think a

tremendous job in surveying all of the literature, nationally, internationally, about safety issues, you passed a resolution which said you wanted to consider the project as a cross benefit or benefit, pro and con asset and liability aspects of the project, and then a Sense Resolution was introduced saying we're opposed to the project; that passed the committee last week. But that's the part I'm just asking you for •• to consider consistency in the position of this body regarding this project which is simply asking you to think about going ahead with the project's review before you, you know, prejudge the project through a Sense Resolution that opposes it. It's simply that consistency and logic that I'm hoping, you know, that you would find yourself able to consider and go down the line with. Having said you want a review of the project, then go ahead and let's get the review of the project before any position is taken on it. Thank you.

**LEG. FOLEY:**
Thank you, John.

**P.O. CARACAPPA:**
Thank you, John. I appreciate it.

**LEG. TONNA:**
Thank you, John.

**P.O. CARACAPPA:**
Debbie Felber. Hi, Debbie.

**MS. FELBER:**
Hi. How are you doing, Joe? Hi. I'm Debbie Felber, I'm here representing the Selden Civic Association and I'm here today to speak of Resolution 1133, preservation of land in the Hamlet of Selden.

The property is one of the largest pieces left in Selden, about 14 acres, and it's environmental impact to the community is one of great importance. I want to start by thanking our Presiding Officer, Joseph Caracappa, and the Environmental Committee, and also I will add in the Brookhaven Town Council Board. They have made a decision that will make our community more welcoming and a good place to live in the future and for our children's futures.

One of the plans for the property is a passive park for the communities and obviously all of Suffolk. And one of the things that a lot of people always forget is that elected people are there to listen, to act and make things happen, and in this instance they did listen, they did make things happen and we thank them for that. It's important that people know that, that they have a voice and that they can make a difference and also that together they can have a vision and have it become a reality. So I want to thank you on behalf of the Selden Civic community and thank you for giving me the opportunity to speak to you today.

And before I leave, I think I have a few moments, I also wanted to just mention, I also •• on behalf of the Selden Civic, I have been also participating in some of the different meetings around about the Broadwater and one of the things that we feel is that this would be not a good •• not only for Long Island, not only for the shores of the north shore and the also Connecticut to put a facility of this size in our waters. The environmental impacts and the devastating effects it would have not only on the shores but the entire Long Island communities. I feel that we need to look to our elected representatives and I think that we are very lucky here in Suffolk County that you do listen to us and you make good decisions on our environment and you do protect and serve us well. So I want to thank you again and remember us as you vote, vote well and thank you for making good choices for our future.

**P.O. CARACAPPA:**
Thank you very much, Debbie, it's appreciated. Also, thanks to the Town of Brookhaven who is partnering on the Selden project, right?

**MS. FELBER:**
Yes. Thank you.

**P.O. CARACAPPA:**
Katherine Hoak.

**MS. HOAK:**
I am Katherine Hoak, Chair of the Legislative Committee of the League of Women Voters of Suffolk County. I appreciate this opportunity to speak to you.

In 1993 the league adopted a position in support of alternatives to incarceration, or ATI; it has no position regarding the building of a jail. I have, as the league's representative, observed

both County committees set up to oversee the building of the mandated jail and analyzed the functioning of our criminal justice system. These meetings have provided me with the opportunity to hear the philosophies, attitudes and experiences of people working within every department in the criminal justice system and to see an impressive amount of research and statistics. I want to speak to you from this experience and apologize if I repeat what you're already aware of, and I do have handouts for you.

Some factors that have been impacting on the jail overcrowding are, one, the closing of the mental institutions in the 80's; two, the cutback in funding for the Probation Department seriously impeding its ability to provide alternative to incarceration programs for nonviolent offenders at the level needed; and three, changes in legislation which demand more serious response than they had just a few years ago such as DWI and other vehicle and traffic misdemeanors, orders of protection, domestic violence, not paying child support and many others. The mentally ill make up 16% of the jail population, 75% of them are nonviolent. Even a short stay in a County jail ends their Federal disability and Medicaid. Once these people are released, it can take a minimum of three months for them to be restored. The severe lack of adequate housing, community support services and supervision result in many discontinuing their medications, being homeless and dillusional. Many are inevitably rearrested for behaviors related to their illnesses.

The Probation Department has effective ATI programs in operation now, but those programs need adequate funding to expand to desperately needed levels. Our County now is truly at a crossroads. This is the time for us to set up programs within our criminal justice system that will help build or rebuild the lives of some of our citizens in difficulty and simultaneously provide greater public safety for all of us. It is the humane and economically feasible route to go. Thank you.

**P.O. CARACAPPA:**
Thank you, perfect timing.

**LEG. FOLEY:**
Thank you.

***Applause***

**P.O. CARACAPPA:**

Frank McWade. Frank McWade followed by Cynthia Chaffee. Mr. McWade, are you present? Yes; is Frank McWade present? Okay.

**MS. CHAFFEE:**

I'm Cynthia Chaffee.

**P.O. CARACAPPA:**

No, Mr. McWade is first.

**MS. CHAFFEE:**

Okay.

**P.O. CARACAPPA:**

Followed by Mrs. Chaffee.

**MS. CHAFFEE:**

Thank you.

**MR. McWADE:**

My name is Frank McWade. I am from the Unitarian Universalist Fellowship of Huntington. I want to speak about my son. Twelve years ago he was a senior at Carnegie Melon University in Pittsburgh. We got a call, my wife and I, from him one night and he said, "I'm going to fail one or two courses." It turned out he failed all of his courses and eventually he was suspended by the university. He received a diagnosis of manic depression, he had mental illness. He left school and eventually he kept on •• tried to find a job, tried a little therapy, didn't like it. And eventually I took a tough•love approach, I said, "If you don't get a job and stick to it and you don't try some therapy, I will no longer subsidize you"; we didn't hear from him. He had become homeless and then one day we got a call from him, "I'm in jail, what do I do?" Nobody in my family had ever been in jail, I really didn't know what to do. I knew there was a public defender, I said to my wife, "Let's call the public defender"; we did, nobody responded. My wife said, "They have a mental health division, let's call the mental health division". We did that, we got a social worker right away, she listened to our story, everything about my son, his history.

She went to his cell, she called us back and said, "He doesn't belong here. I'm going to try to work out a deal with the Judge." There was a hearing two days later and we were there and this wonderful social worker, true to her word, she had prepared a list of requirements for David, my son, the first of which was that he be hospitalized and evaluated thoroughly. There were many others but he was extremely resistant to entering any kind of hospitalization. We could not force him to go and even the night he was to leave the jail and go to the hospital, he didn't show up at the hospital and it took a lot of work to find out where he was and then get him in to the hospital.

The University of Pittsburgh Medical System stayed with my son, persevered with him for the last ten years. At one point he had five types of therapists working with him, he had the help he needed. Now ten years later he's back in school, he's doing very well, he's focused, he's going to be an ultrasound technician and he's doing very well. He could have been languishing in a jail cell. To say I am grateful to the people in Pittsburgh, the court system, the mental health division and the medical system there, the psychiatrists, psychiatric system, is putting it mildly, I am very, very grateful. Thank you.

**P.O. CARACAPPA:**
Thank you, Mr. McWade. Cynthia Chaffee followed by Harriet E. Spitzer.

**MS. CHAFFEE:**
I am here this afternoon speaking on behalf of the social Justice Committee of the Unitarian Universalist Fellowship of Huntington. It is our position that spending $432.6 million for a huge new County jail, that figure includes the projected debt service, is a serious mistake. It is a mistake financially and the cost is expected to triple the County tax rate, and it is a mistake because it is inhumane, it is inhumane to construct ever larger jails for a population of people who are primarily mentally ill, substance abusers and nonviolent offenders. Fortunately you have the opportunity to do both the smart thing and the right thing for taxpayers and offenders alike. You can either go ahead and build a huge costly jail, ironically at a time when serious crime rates are their lowest levels since 1975, or you can use less money more effectively for programs that provide treatment and alternatives to incarceration that provide better protection to the public.

There are many alternatives to incarceration. For example, many of the Suffolk County Jail

inmates wait before trial for at least two weeks because they cannot make bail. The Probation Department used to employ two bail expediters who would try to find family or friends who would help them make bail, but the position of one expediter was eliminated on a budget cutback; this makes no sense. At a cost of $120 a day, for two weeks it would be $1,680 that could be saved by finding bail for just one inmate. Clearly, unless the salaries and benefits of expediters are much higher than we can imagine, restoring that position and probably adding another can cut the number of prisoners immediately.

Also, offenses that once resulted in no jail time but did require supervision by Probation Officers now result in at least some jail time. This trend must be reversed. Providing offenders with the oversight and support of trained Probation Officers enables offenders to rebuild their lives, they can once again become contributing members of the community.

The Suffolk County Legislature has been a pioneer in many areas of policy and law. We urge you now to once again be leaders, find solutions to this problem that will make us proud of you. We urge you to reject the State's so•called mandate to build a giant jail and instead choose to build a smaller facility and beef up the many alternative ways to reduce and properly treat the prison population. Thank you.

***Applause***

**P.O. CARACAPPA:**
Harriet Spitzer followed by Christine Fasono.

**MS. SPITZER:**
I'm here this afternoon to speak to the Sense of the Legislature Resolution in opposition to the proposed Broadwater Energy Project.

I live in Huntington and some people have asked me in the group that I represent, the Long Island Citizens Action Network, why in Huntington are we opposed to this, we don't after all live downwind from Wading River, we don't live in Riverhead, and how would we be effected. Long Island Sound is everybody's sound and we who live in western Suffolk are as concerned and troubled by the possibility of some larger facility with the dangers that it proposes. What we should be doing is working on energy conservation, on supporting clean renewable sources of energy that no terrorists and no can saboteur can endanger the lives of Long Islanders.

I know that Broadwater has tried very hard to make the case that more energy would make energy less expensive for Long Islanders. Broadwater has also talked about making things more agreeable for the people who live in Riverhead by offering tax reductions. Broadwater has not said what would be the effect on local communities in terms of the high cost of such a facility, these are hidden costs and local people would have to bear the burden of these things. We can turn to a case in point, the facility that exists right now, it's not a floating terminal but it is a facility, the Everett Facility in Boston. That city assumes 47% of the cost of the security operation that amounts to about $80,000 for each tanker arrival or 160,000 or 240 a week depending on whether two or three tankers dock in a given week. The Broadwater proposal, as I understand it, expects that there will be two or three tankers coming in to our waters every single week. Who will pay for that? The citizens of Suffolk County. At 47% of the cost of this, Long Islanders will have to pay for it. Broadwater is now talking about it but this is usually the case what happens. Does this sound like a sweet deal for taxpayers? It seems to me that it's a sweet deal for Broadwater.

I want to commend the four Legislators who have sponsored this resolution. I want to thank you for your civic mindedness and your courage in the face of tremendous odds that are being exerted by the Federal government. We appreciate your hard work. Thank you.

**P.O. CARACAPPA:**
Thank you. Christine Fasano.

**MS. CHAYES:**
Hi, good afternoon. I'm representing the New York League of Conservation Voters today and I'm here to speak on the two green power bills. I understand that IR 1092 may not be voted on today but I believe that IR 1118 is going to and my comments really refer to both and I'm going to go on a little bit longer today than usual because we feel that renewable energy is such a critical issue facing Suffolk, New York State and the whole country.

1092, Legislator Cooper's bill, directs the County to purchase a growing proportion of its energy from renewable sources with a goal of no less than 25% by 2010. This bill recognizes that leadership does come with an attendant cost but it limits that cost to $500,000 per annum. And I know there may be some sticker shock associated with $500,000, that is approximately 2

1/2% of Suffolk's total electricity tab and a tiny, tiny fraction of Suffolk's overall budget. As you may know. Westchester County passed a similar bill last year and Nassau unanimously passed a virtually identical bill earlier this month. Additionally, the towns of Riverhead, Southampton and Southold have all committed to using wind power for some or all of their electricity needs. We think it is imperative that Suffolk join these forward•thinking towns and neighboring counties in moving to renewable energy now, and I'm just going to tick off the reasons that you'll see in the paper that's been provided to you. Obviously renewable energy is clean and it can be produced domestically; this is important for air quality reasons, it's important for global warming reasons and it's important for Suffolk to do its part to help the United States reduce its dependence on foreign sources of energy.

The second point I want to make is that the price of wind energy is coming down very rapidly, it's already come down 90% and it's now competitive with virtually every other source of energy including coal which it's now in striking distance of.

And lastly, a report just came out just the other day, very conveniently, by State Comptroller Allen Hevasi urging New York to make significant investments in green power. There are currently about 170 renewable energy companies in the state but the report says that this should quickly expand. And in fact, it highlights that Long Island should be one of the key beneficiaries of this movement across the state because we already have university research under way here. So you're not only doing your part to boost the economy of New York State but the economy right here.

And just quickly on IR 1118, Legislator Schneiderman's bill which is actually a mandate, it requires the County to opt in for 5% of its annual usage into the LIPA Green Choice Program at a cost not to exceed $100,000. It's completely consistent with Legislator Cooper's bill and we urge you to vote on them •• to vote yes on both and they're both going to be on the NYLCV environmental score card this year. So please vote yes. Thank you.

**P.O. CARACAPPA:**
Thank you. Gordian Raacke followed by Louise Harrison.

**LEG. TONNA:**
Score cards.

**P.O. CARACAPPA:**

The score card.

**LEG. FOLEY:**

The score card, we want to stay on the honor roll.

**LEG. TONNA:**

Reminds me of when I just used to get report cards.

**MR. RAACKE:**

For the record, my name is Gordian Raacke, I'm Executive Director of Renewable Energy of Long Island. It's a pleasure to be here again today and to get your attention I brought you some dirty pictures, I'm going to hand them out. It's going to come around, but when you see this, what you're going to be looking at is the reason why you should be adopting today the bills before you, IR 1092•2005 and IR 1118•2005, the bills that would establish a percentage of renewable energy for County facilities.

When you look at this chart, this is the carbon dioxide concentrations in the upper atmosphere over the last 1,000 years; this is over 1,000 years what we're looking at, it goes to 1997. Put your finger here, you don't have to divulge your age but put your finger on this chart on your birthday, see when you're born and then take a look as to what we've done since then. We have increased carbon dioxide emissions •• and this is largely from fossil fuel combustion, tail pipe and smoke stack emissions •• tremendously, just in our short lifetime here and this is certainly not sustainable.

When you look at the bills before you today to purchase renewable energy, to purchase just a small percentage of renewable energy, whether it's 5% or 25% of the County facilities energy, you're not only leading by example, you're not only showing that you want to be part of the solution here in Suffolk County, but you're also encouraging each and every resident and each and every business on Long Island and in the County of Suffolk County to become part of the solution. We have the technological solutions in front of us and they consist of solar energy and wind energy, other clean energy sources and of course energy efficiency and conservation. When you look at the cost, when you ask yourself, whether they're $100,000 annually or

$500,000 annually, it's worth it. I would ask you to consider the cost of not doing something on this, the cost of changing the climate of this planet, the cost of our children's health and the cost of clean air, as the Mastercard commercial says, is priceless I think. So consider that when you make up your mind on these bills, I would urge you to vote in support of the bill 1092 and 1118, requiring the County to become part of the solution when it comes to clean energy. Thank you very much.

***Applause***

**LEG. VILORIA•FISHER:**
Thanks, Gordian.

**P.O. CARACAPPA:**
Thank you. Louise W. Harrison followed by Maureen Dolan,

**MS. HARRISON:**
Thank you. Good afternoon, Mr. Presiding Officer, Members of the Legislature and Ladies and Gentlemen here today. My name is Louise Harrison, I'm the Co•Chair of the Coalition for the Future of Stony Brook Village, and by profession an ecologist and an environmental analyst. Thank you for the opportunity to address you this afternoon.
The Coalition for the Future of Stony Brook Village formed in 1999 for the sole purpose of saving Stony Brook's last forest. We quickly grew to over 2,000 County residents, 65 businesses and several civic organizations. In 2000, at our urging and following Legislator Viloria•Fisher's resolution, Suffolk County acquired 36 acres of this last forest, now known as Forsythe Meadows County Nature Preserve. And by the way, by doing so you helped to bind up carbon in trees and prevent their release into the atmosphere; thank you for that.

We now ask you to pass Legislator Viloria•Fisher's Introductory Resolution 1117 so the County may proceed with planning steps for acquiring Smoke Run Farm's development rights. Smoke Run is part of our County's rural heritage, it's a farm where young people can learn horsemanship and animal care, so it carries on important traditions. It's a place for healthy exercise. You'll hear more today, especially by people wearing these pink ribbons, about why people want to preserve the farm for all of its intrinsic and community value. Coalition members want you to know about the farm's relationship to the existing nature preserve. Smoke Run is surrounded on three sides by this County land. The farm's driveway, in fact, runs

in a right•of•way over the nature preserve. If the farm were developed into houses, we could expect significant adverse ecological changes to the nature preserve, changes over which the County would have no control.

Forsythe Meadows doesn't yet have a management plan which, as you know, is required for each one of the County's nature preserves. Because of the Stony Brook Village Center's gigantic expansion and a fence erected by its owners, public access to Forsythe Meadow's Nature Preserve is now nearly impossible. But if we acquire Smoke Run's development rights, the County may have a good opportunity to manage the preserve and allow for controllable public access by coordinating with the farm's activities. We are thankful that the late Joan Johnson's heirs are open to preservation solutions as they settle her estate. Please vote to protect Smoke Run as a working farm in perpetuity and pass Legislator Viloria•Fisher's resolution 1117 tonight. Thank you.

***Applause***

**P.O. CARACAPPA:**
Thank you. Maureen Dolan? Maureen Dolan followed by David Smith.

**MS. DOLAN:**
Hi. Maureen Dolan with Citizens Campaign for the Environment.

CC appreciates the opportunity to testify on Resolution 1092 sponsored by Legislator Cooper which requires the County to purchase 25% renewable energy by the year 2010, and the Resolution 1118 sponsored by Legislator Schneiderman which requires the County to purchase 5% wind energy immediately. CC strongly supports both renewable energy resolutions because they are complementary towards each other. One bill provides an easily attainable short•term goal, while the other bill encourages a well•thought plan to achieve a long•term energy goal. CC believes a long•term goal is necessary for Suffolk County to become a leader in renewable energy and to combat unnecessary, risky energy proposals.

As you may be aware, last week Nassau County passed a resolution to commit a 25% renewable energy purchases by 2010. CC is hopeful that Suffolk County will match Nassau's commitment and future planning to implement the 25% goal which could become a joint effort

with both Counties participating. Currently 80% of New York State's energy mix is derived from non•renewable polluting sources such as oil, gas, coal and nuclear energy. These energy sources will be diminishing in the coming years and will leave behind a legacy of pollution that damages public health and the environment. This damage is not felt in some distant land. All parts of New York experience a considerable impact of acid rain, poor air quality and degraded water quality. Thousands of individuals in New York State each year have respiratory problems related to poor air quality. By contrast, using renewable energy contributes to better human health, reduces national dependence on foreign oil and helps to reverse some of the most serious damages caused by polluting air emissions. Buying renewable energy to power government buildings, vehicles and operations is one way that public money can be used to directly boost renewable energy production. Currently, most government energy purchases mainly subsidize fossil fuel production.

By Suffolk County selecting energy produced from renewable sources, they can increase demand and help grow the renewable energy production capacity; this is simple supply and demand. This was done with Governor Pataki's Executive Order 111 which requires 20% renewable energy by the year 2010, and also recently the New York Public Service Commission approved Governor Pataki's Renewable Portfolio Standard which requires all electricity generated in New York State, not just State agencies, to use clean renewable energy for 25% of their energy purchases.

CC encourages Suffolk County to be at the forefront of renewable energy issues, joining their County partners of Westchester and Nassau County in a long•term renewable energy plan and we hope that both bills will be voted on today as promised. Thank you.

***Applause***

**P.O. CARACAPPA:**
Thank you. David Smith.

**MR. SMITH:**
Hi. My name is David Smith, I'm speaking today on behalf of the Smoke Run Farm acquisition of the development rights. I'm speaking on behalf of myself and also Camille and Bob Johnson of the Stony •• past Chairs of the Stony Brook Civics who wanted to be here today, but I guess I'm retired and they're not.

I see that you Legislators are from all over this County and I also see that you have many needy projects from all over this County. So I just want to say that I •• I'm from the north shore but I go to your many County preserves on the south shore because that's where the beauty is, and likewise I can tell you that this Smoke Run Farm is a very beautiful place. I know because I lived next to it for 26 years before I moved out and when I bought that property from Ward Melville, the local Stony Brook philanthropist, he made me promise to only build a colonial house and put up strip fencing to preserve the look of the place. And that is why I think that if he were alive today he would certainly agree with me that the Smoke Run Farm and the Forsythe Meadow go together, they compliment each other. If the Smoke Run Farm were replaced by houses, it would much •• it would cause the deterioration of your present park facility.

Now, the route that I used to take down through there all those years in to the Stony Brook Village has been closed off at the village end ironically by the present •• those presently responsible for the Ward Melville Heritage. But I would certainly be hopeful that at some time in the future they might see their way to be more public spirited in this regard, but in the event that they do not, and there's no sign that they are, the County has purchased a park which has no effective public access. So by adding the six acre development rights to the 36 acre park now, you'll both secure the access to this park and preserve its beauty in perpetuity. So I really urge you to do it. Thank you very much for your time.

***Applause***

**P.O. CARACAPPA:**
Thank you, sir.

**LEG. VILORIA•FISHER:**
Thank you, Dave.

**P.O. CARACAPPA:**
The Honorable Steve Fiore•Rosenfeld, Councilman, Town of Brookhaven.

**UNKNOWN AUDIENCE MEMBER:**

I don't think he was able to make it and the Town Council starts at six o'clock, so.

**P.O. CARACAPPA:**
Okay, thanks. Cynthia Barnes followed by Adrienne Esposito.

**LEG. TONNA:**
How does a card get filled out for somebody who is not here?

**P.O. CARACAPPA:**
I don't know how a card gets filled out if they're not here.

**LEG. CARPENTER:**
Magically.

**P.O. CARACAPPA:**
Magically. Go ahead, ma'am.

**MS. BARNES:**
My name is Cynthia Barnes and I am Co•Chair of the Coalition for the Future of Stony Brook Village and also the President of a new land trust called the Three Village Community Trust. And I'm here speaking on behalf of the Board of Directors of the Land Trust who urge you to vote to pass Vivian Fisher's planning resolution to purchase the development rights of Smoke Run Farm for all the reasons that you've already heard. And I would urge you •• it is an important community asset and it is a gateway to our park and it would provide a very interesting opportunity for not only education and wholesome activities as continuing as a farm but also an enriched program for environmental and stewardship for our nature preserve. And please accept my remarks as written, as read •• as if read.

***Applause***

**P.O. CARACAPPA:**
Thank you. Thanks for your brevity. Adrienne Esposito. You think you can do it in less time than that, Adrienne?

**MS. ESPOSITO:**

You made that brevity comment because I was coming up next, didn't you?

**P.O. CARACAPPA:**
Yes, I did.

**MS. ESPOSITO:**
Good evening, Legislators. Adrienne Esposito, Executive Director for Citizens Campaign for the Environment, and I also will be brief.

We're here asking you to please vote yes on Sense Resolution No. 8 which is the resolution in opposition to the proposed Broadwater project, and the reason for that, Legislators, is that because what you say matters. What this legislative body says is important to even, yes, Federal public policy, and I think it's important to remember that.

Yes, this is a decision that ultimately will be battled out and fought on the Federal scene, but town, County and State government are all now saying that they don't want this project and we're asking you and we need you to join in that collective voice making that same statement. This is an important turning point and a fork in the road for Long Island and the Long Island Sound. You've heard all the statistics before, you've heard the statistic that New York State taxpayers alone have put in almost a quarter of a billion dollars of State tax monies into restoring and protecting the Long Island Sound. You know the number that Long Island Sound generates $5.5 billion per year into our regional economy, and you know better than anybody that Long Island relies on a tourist industry which generates $4.5 billion per year into our regional economy for Long Island. These are not coincidences. One of the true economic drivers for Long Island are clean, safe bays and estuaries and we're asking you to keep them clean, keep them safe and say no to Broadwater. That's the bottom line, we're asking you to please vote yes. Thank you very much.

***Applause***

**P.O. CARACAPPA:**
Thank you, Adrienne. Charles Capp followed by Maurice Mitchell.

**MR. CAPP:**

Thanks. Good afternoon. For the record, my name is Charlie Capp, I'm an Environmental Planner at the Group for the South Fork.

The Group for the South Fork is a non•profit organization committed to the preservation of eastern Long Island's natural resources and rural heritage. We have over 2,500 members comprised of residents, second home owners, local businesses and foundations. The Group for the South Fork would like to take this opportunity to support Legislator Schneiderman's bill restricting the use of toxic lawn chemicals in Suffolk County. Despite the scientifically documented health risks, chemicals that the Environmental Protection Agency has listed as known, suspected or probably carcinogens and toxins are still widely used by homeowners and professional applicators. These are compounds that have been reviewed and studied by the EPA, International Agency for Research on Cancer and National Toxicology Program, all of whom have determined that the chemicals present a serious health risk to wildlife, marine life, domestic pets, men, women and children. It is remarkable that in this day and age, with cancer rates higher than ever, the County permits the blanket application of these substances by both licensed applicators and homeowners themselves.

No one should have the right to introduce toxic and carcinogenic substances into the environment that all Suffolk County residents share. When a homeowner blankets his or her lawn with this stuff, it does not just kill whatever it is supposed to kill and then disappear; it kills beneficial organisms and poisons wildlife. It seaps into and poisons the groundwater that we all drink from. It mixes with rain water and poisons our watersheds. The application of toxic pesticides is not a personal right when it directly affects the environment that sustains the health of all of us.

It cannot be stressed enough that this bill is not a prohibition on an immaculately green lawn. There are safe, effective, environmentally sound alternatives that allow any homeowner to maintain his or her lawn as they like. Form an economic standpoint, a ban on the blanket application of toxic lawn chemicals should be analyzed in terms of the positive economic impact it will have on a more environmentally responsible lawn care industry. As our locally elected County government, it is your responsibility to provide the residents of the County with the greatest amount of protection from environmental health risks. The New York State preemption issue is not a reason for a Legislator to side•step supporting this bill. We see the emergence of this bill as the perfect opportunity for Suffolk County and the State of New York to work

together on companion legislation that will give counties the authority to look after the health and safety of its residents as it pertains to lawn chemicals.

In conclusion, the Group for the South Fork supports Legislator Schneiderman's efforts on a toxic lawn chemical ban and urges all of the Legislators to do the same. On behalf of Group for the South Fork, thank you for your time.

***Applause***

**P.O. CARACAPPA:**
Thank you. Maurice Mitchell followed by Mardythe DePirro.

**MR. MITCHELL:**
Good afternoon, Legislators. My name is Maurice Mitchell with the Long Island Progressive Coalition. I'm going to be brief, I have •• I'm going to try to truncate my testimony here.

I just want to alert you to some statistics that came out of the County's own Criminal Justice Coordinating Committee that I think might enlighten you when making decisions as to the future or the scope of the Yaphank facility, the Yaphank Correctional Facility. The first board here is the ••

**LEG. VILORIA•FISHER:**
Maurice, you can take the mike off.

**MR. MITCHELL:**
Sure, I'll do that. The first board here is the jail population and it fluctuates from 1,300 to 1,700 people throughout the year. Seventy•five percent of the people that enter the jail are considered non•violent offenders; these statistics are from the County's own Criminal Justice Coordinating Committee. Also, 35% of these people are charged with drug or alcohol offenses; 16, and I've heard even 20% of these people, are mentally ill. So this demonstrates that there's populations •• and these are superficial numbers and this system is more complex than a three minute presentation, but this demonstrates that there's populations that could be dealt with outside of the jail if the Legislature and the County Executive demonstrates some form of

leadership on this issue which we're asking him to do.

The second board is of the cost of alternatives to incarceration, and also, the trend from Federal and State funds, a downward trend in alternatives to incarceration. So from 1998 to 2004 we've seen 75% decrease in Federal funds to alternatives to Suffolk County. From 1999 to 2005 we've seen a 31.5% decrease in alternatives and other programs and we know these things are effective, why we always find money for incarceration. So it's just not logical.

Two hundred and three dollars per day per person is the current jail cost. While $1.65 is the current per day/per person cost of the most robust alternative program which is the Community Service Program that currently is in Suffolk right now. So these are all County facts that you have at your disposal.

The last board, I think you're familiar with these facts, is the huge cost of the super jail, close to half•billion dollars and, as we know, with overruns it could exceed that. And 60 million, the yearly operating costs, that's actually relatively conservative, it may exceed 60 million per year operating. And as we know, it's going to cost a hundred percent from the County capital construction budget. No money from the Federal government, no money from the State, yet the State is mandating this while decreasing money for alternatives •• I'll wrap it up. And we don't know how much the increase to tax is, it could be more than a hundred percent.

So these are really cool facts. You know, other people have come up with facts, tried to scare us with, you know, facts about sex offenders and things like that. But what we're interested in doing is doing the sensible thing here. And we're not calling for no construction whatsoever, we're recognizing that the Yaphank facility is deplorable but the conversation about overcrowding and the conversation about renovation was a two separate conversation that should not be conflated and we're asking the Legislature and the County Executive to demonstrate some Statewide, some sort of leadership on this issue. And the people who are holding the yellow placards are people who also support sensible positions when it comes to alternatives to incarceration. Thank you.

***Applause***

**P.O. CARACAPPA:**

Okay, thank you. Seeing that you all held up the yellow cards, does that mean you want to

bypass these yellow cards? I didn't think so. Mardythe DiPirro followed by Mark Klein.

**MR. DIPIRRO:**

Thank you for this opportunity to speak to you once again. We are concerned that the tremendous increase in the cost that is proposed for the construction of such a huge super jail, and I was struck in reading Sunday's Newsday by the fact that a pro in this field agreed with so many of the things that we have been telling you. The opinion piece was written by Michael Jacobsen who has written books on the topic of how to reduce crime and end mass incarceration who was a New York City Corrections Commissioner from 1995 to 1998. And the things that stood out in this article include the fact that many jail systems have recidivism rates of 50% of more in the first year after people are released; when we spoke to the warden at Riverhead, he said our numbers were closer to 78%.

There are other ways to achieve public safety than by simply building more and more jail cells. To see this clearly, all Suffolk has to do is look at its neighbors to the west, New York City; in fiscal 1991 the jail population in the city peaked at almost 21,500; by 2004 it was down 36% to 13,750; and from 1993 to 2003 the city led the nation in crime reduction with a 68% drop in crime and a 70% decrease in murders. How do such alternatives to incarceration work? And it gives an example of the various programs that we've outlined to you before as they were given to young people. Studies in New York City's programs have found no increased risk to public safety with fewer offenders in jail and less recidivism than occurs after people are in jail. It's no coincidence that crime in New York City continues to drop as the jail population drops.

The lesson for Suffolk is less about exactly how New York City lowered its jail population and reduced crime but that it is possible to have fewer people in jail and increased public safety simultaneously. It's a lesson that should frame Suffolk's effort to make sure in an environment of incredible scarce resources that it makes all reasonable efforts to build only what is absolutely necessary. This is what we're asking of you; we are asking that you give us the leadership to make intelligent decisions. We want to be safe on the streets but we want to be able to afford to pay our taxes and to live here. We look to your leadership to make that possible. Thank you.

***Applause***

**P.O. CARACAPPA:**

Thank you. Mark Klein followed by Bob DeZafra.

**MR. KLEIN:**

I'm Mark Klein, father of four, resident of Huntington for over 40 years, founder of the Long Island Progressive Coalition's Huntington Chapter. If one were managing ••

**P.O. CARACAPPA:**

Hold on, sir, hold on. Can you close that door back there? And if you're crowding the aisle, I have to ask you just to slip out to the lobby for now. Is there a Deputy Sheriff back there that could help out? Out of the aisle and the door closed.

Okay, sir, go right ahead. I apologize, I just wanted to give you the respect at the podium you deserved.

**MR. KLEIN:**

That won't come out of my three minutes?

**P.O. CARACAPPA:**

No, no, I turned it off. Oh, times up, by the way.

**MR. KLEIN:**

I don't know if you heard me initially, I'm Mark Klein, father of four, resident of Huntington for over 40 years and one of the founders of the Long Island Progressive Coalition's Huntington Chapter. If one were managing a business and had a 40 •• I'm sorry, 70% of their products consistently returned as unacceptable by the consumer, one wouldn't seek to produce another plant that in the same way produced the same type of product but would investigate the situation and institute alternative means of production.

With the national rate of recidivism of over 70% which encompasses conversion of non•violent detainees into violent criminals doing the same thing over and over again is counterproductive, obviously. We are calling upon you to employ alternatives to fail wholesale incarceration. Let us not perpetuate a failed system by building a massive jail. Let us marshal our resources to be effective and sensible; one can be sensible and safe at the same time. Thank you.

***Applause***

**P.O. CARACAPPA:**
Thank you. Bob DeZafra followed by Roger Clayman.

**MR. DEZAFRA:**
For the record, my name is Robert DeZafra and I'm here as a Trustee of the Stony Brook Environmental Conservancy.

**LEG. VILORIA•FISHER:**
Bob, it's hard to hear you.

**P.O. CARACAPPA:**
Sir, just step right into that microphone, if you wouldn't mind.

**MR. DEZAFRA:**
Okay. Sometimes I'm too loud. I'm speaking here as a Trustee of the Stony Brook Environmental Conservancy, a group which concerns itself with sound environmental practices on the State University Campus at Stony Brook and also the surrounding watershed area leading into Stony Brook Harbor.

I'm here to speak in favor of Legislator Viloria•Fisher's bill No. 1117, to move forward with acquisition of the development rights for Smoke Run Farm. Several speakers have already addressed you on the merits of this bill and I'm not going to clog up a very busy session by saying much more than they have already said, but the Stony Brook Environmental Conservancy and its membership and its trustees strongly back this bill and hope that you will vote favorably for it. It's a wonderful preserve that was created in the forest and it really needs this access area which can be acquired relatively inexpensively for the development rights. There is someone waiting in the wings who would like to take over operation of the horse farm and continue it's riding and horse training and boarding facilities which would give a very welcome and needed continuance of this recreational facility. I have a letter here from Malcolm Bowman which I will turn in and thank you very much.

***Applause***

**P.O. CARACAPPA:**

Thank you, sir. Roger Clayman followed by Mark Seidler.

**MR. CLAYMAN:**

My name is Roger Clayman, I'm a National Representative for the AFL•CIO working with the ••

**LEG. LOSQUADRO:**

Can you pull the mike down a little bit?

**MR. PODD:**

Too high? I'm too short. Working with the Long Island Federation of Labor, AFL•CIO. I'm here to talk about the exemption to the Living Wage Act and to support the bill which would remove the exemption that exempts certain child care agencies and other non•profits from the living wage. We think it's an excellent idea to raise the standards of those people who take care of our children and to raise their standards of living within the community, it makes perfect sense to raise their professionalism.

Back in 2001 when the living wage bill was being debated, the Long Island Federation came here to you and said the following; "The advantages of this bill for working families and our communities are many. Living wages will improve the quality of life for all workers, union and non•union. Having more good paying jobs that can support a family is good for our local economy and our entire community. When workers paid decently, they are more productive, have more time to spend with their families and are more likely to be self•sufficient and more able to spend money in the local economy. For companies and organizations that pay living wages, studies have found that these employers are able to retain more workers and actually save money because they don't constantly train new staff."

Nothing has disappointed us about the legislation over this period of time; in fact, studies have shown that it has actually brought higher wages into an area and has not caused a great hardship to the businesses who are paying living wages and we feel any adverse effects for agencies can be offset by the Living Wage Contingency Fund. So I hope you'll pass that exemption. Thank you.

**P.O. CARACAPPA:**

Thank you for your comments, we appreciate it. Mark Seedler, Seidler?

**MR. SEIDLER:**

Seidler.

**P.O. CARACAPPA:**

Seidler; sorry, sir. And followed by Erica Chase.

**MR. SEIDLER:**

Thank you first for the opportunity to speak, and I would like to acknowledge all the listening that you have to do here.

My name is Mark Seidler, I'm here as a private citizen from Hampton Bays and I also want to add my voice to the Yaphank Jail proposal. I don't doubt the need for incarceration for a lot of people. I don't claim to be any expert on criminal justice or law enforcement, but I have volunteered inside of several County jails, I've been a consultant to the New York City Sheriff's Office and I've worked in community justice for about seven years and it seems to me that this jail is not a good idea. And people have already said this to you in many ways so I don't think I have anything to add in terms of substance, but perhaps I want to say it in a little bit different way.

So my question is why would we do this in terms of financial cost and other impacts when for a small fraction we have lots of alternatives; speciality courts, alternatives to incarceration, electronic monitoring, programs for the mentally ill, pretrial diversion services, citation programs, etcetera. And I just want to add to what my colleague, Mardythe DiPirro said speaking about what the Commissioner, the former Commissioner of Corrections in New York City said, in that same article he mentions a program that they have which costs $12 million a year, it's called the Center for Alternative Sentencing and Employment, its budget is 12 million and it treats 14,000 offenders a year. So somehow that needs to be put alongside this jail proposal. Thank you.

***Applause***

**P.O. CARACAPPA:**

Thank you, sir. I'm glad you used the colorful eggs as your props to remind us that the holy holidays are coming and that this winter is ending soon, thank God.

**LEG. CARPENTER:**

You shouldn't put all your eggs in one basket.

**P.O. CARACAPPA:**

Or you shouldn't put all your eggs in one basket, as Legislator Carpenter says. Phyllis DiBenedetto •• Benedetto rather, sorry.

**MS. BENEDETTO:**

And I'm also very short, usually not quiet, though. Hi. My name is Phyllis Benedetto, I want to thank everybody for the opportunity. This is the first time I'm speaking here but I hope to be invited again and again and again because, as anybody who knows me, knows I have a lot to say.

I started the Babylon Child Care Center 24 years ago because I was tired of my children being taken care of by babysitters who put them in front of TV's. I want to thank Legislator David Bishop, because I only have three minutes, for bringing in awareness for the need of a living wage for child care workers. Thanks to your law, directors of the child care and their employees are no longer embarrassed when people ask about our salaries. I pray that this is only the beginning for child care workers to be recognized for the most important work they do. I am in favor of the living wage no exemptions amendment. This is our center's second year, and while it was a little rough the first year because the funding didn't get to us in a timely manner, everybody pulled together and helped us, and I want to thank them all.

I want you to know that I've seen a major boost in morale among my employees who no longer have to tell me that McDonald workers make more moan than they do. It has led to better job performance; better job performance leads to better care. I hope that everybody here will work on this so that this continues, that this is only the beginning so that we in child care can hold our heads up high and know that all of our leaders respect and honor the work we do. That's it. Thank you.

**P.O. CARACAPPA:**

Thank you, ma'am. Good job.

***Applause***

Cheryl Felice. Cheryl Felice?

***Applause***

**LEG. FOLEY:**
She heard.

**P.O. CARACAPPA:**
They can hear outside. There she comes. Ah, we had a feeling you could be heard out there.

**MS. FELICE:**
It's a little crowded out there.
**LEG. FOLEY:**
And loud.

**MS. FELICE:**
And loud? Sorry about that. Anyway, are we ready?

**LEG. CARPENTER:**
We're ready.

**MS. FELICE:**
Okay. Thank you very much. My name is Cheryl Felice, I am the President of the Suffolk County Association of Municipal Employees.
And I'm very proud to be here to represent the group of people who is clogging up your lobby tonight. The reason ••

***Applause From Lobby***

The reason that we are here tonight, I've spoken with a number of the Legislators here, once

again this Legislature has been very, very kind to this membership and you have been very receptive to our opposition to 1140.

**LEG. VILORIA•FISHER:**
Where are the cheers out there?

**MS. FELICE:**
They'll cheer, they'll cheer.

**LEG. LINDSAY:**
There's a delay.

***Applause From Lobby***

**MS. FELICE:**
There you go, there you go. The problem that we encountered, we know that the County Legislature and the County Executive have a very difficult job administering this County, but what we're here to remind you of is that this membership is your front line. This membership are your constituents, and this membership can no longer do more with less.

***Applause From Lobby***

This membership is here to tell you that you cannot ••

**P.O. CARACAPPA:**
Cheryl, I'm going to stop you for one second. Why don't we open the doors, at least for this speaker.

**MS. FELICE:**
Okay.

***Applause From Lobby***

This membership is here to ask you and to tell you that we can no longer balance Suffolk County's budget on the back of its workers.

We are doing the jobs of two and three people. Many of you have called me with situations you have experienced in the blue color division with getting cars repaired; half the amount of mechanics are doing the job today of the same number of fleet vehicles. Those same mechanics are the mechanics who have been out there every single snow storm and in those snow storms they have to repair the very same vehicles they keep our streets safe with; those members can no longer do more with less.

***Applause From Lobby***

Our members at JJ Foley, John J. Foley, one of the most distinguished Legislators all of you have had the distinct pleasure of working with and we have had the to or to have fight for us. The members there are doing more mandated overtime at unbelievable rates; they can no longer do more with less.

***Applause from Lobby***

It's interesting to note that the two Legislative Auditoriums we now come to are also named after two very distinguished Legislators who fought very hard for this membership; Maxine Postal and Rose Caracappa.

***Applause from Lobby***

Absolutely. This membership remembers how hard the three Legislators, prior Legislators I just named fought for this membership and we're here to ask you again to fight for us. Fight for AME.

***Applause From Lobby***

We know that 1140 is tabled, we are asking that it not be discharged. We are asking you not to go after any more vacant positions. We are at an all•time staffing low and we simply can't do it anymore and we're asking you to make sure that you look out for AME members who look out for you and the resident of Suffolk County every single day.

***Applause From Lobby***

**P.O. CARACAPPA:**
Thank you, Cheryl. Just sum up.

**MS. FELICE:**
I would just like to conclude, I would just like to conclude. Also, many of you have asked how our contract negotiations are going and I told that you they were moving along we. Have had 10 sessions so far, we have another session scheduled for April. We are working very hard with the County Executive's Office and will be coming to you for approval of that contract. This membership deserves a contract, they deserve it now. We came to you today, we're going to the County Executive on Thursday because we deserve that contract and we deserve your support as well.

**P.O. CARACAPPA:**
Yes, you do.

**MS. FELICE:**
Thank you very much.
**P.O. CARACAPPA:**
Thank you.

***Applause From Lobby***

Okay. Ladies and Gentlemen, if you filled out a yellow card to speak during the public portion, we're going to have to put you on hold, by law, because we now have to go to public hearings.

**LEG. FOLEY:**
After the public hearings you can come bark.

**P.O. CARACAPPA:**
After public hearings we will come back to the public portion where your yellow card will eventually be reached and then you can speak for your three minutes. If you filled out a green card to speak on any of the given public hearings that are before us today, stay put, stick around, we'll eventually call the public hearing and your name associated with speaking at the public hearing.

Mr. Clerk, the publications are in order, the affidavits of publication are in order for the public hearings?

**MR. BARTON:**
Yes, they are, Mr. Chairman.

**P.O. CARACAPPA:**
Thank you. The first ***Public Hearing is on IR 2102•05 • A Local Law to promote the health of Suffolk County residents by restricting the use of toxic lawn chemicals by unlicensed applicators in Suffolk County (Schneiderman)(SEQRA Incomplete)(Recessed from 2/15).*** We have a tremendous amount of cards and if the people leaving want to know this, public hearings are going to go on for some time. So if you want to stick around and come back and speak your mind on the yellow cards you're more than welcome to, but I just want to warn you that we'll be on public hearings for a substantial amount of time.

**LEG. TONNA:**
We're going to be able to clear out some of the yellow cards.

**P.O. CARACAPPA:**
Well, I just wanted to give them the option of knowing that it will be lengthy, a lengthy amount of time before they're able to speak again.

**UNKNOWN AUDIENCE MEMBER:**
Lengthy meaning two hours or three hours?

**P.O. CARACAPPA:**
Could be, it depends on the speakers. We have a tremendous amount of cards.

Okay, 2102, the first speaker •• well, why don't we just give the room a second to clear out. If you're leaving, please leave, thank you. Just make your way out of the auditorium. Please do not clog the aisle, take up your conversations outside. Thank you very much.

Okay, we're going to get right to the Public Hearings, please clear the aisle. The two gentlemen in the aisle there having a conversation, if you could take it outside. Okay, thanks. The first speaker, Donald Burton or Burn? Please step up, sir.

**LEG. CARPENTER:**
Mr. Chairman?

**LEG. ALDEN:**
Take a seat.

**P.O. CARACAPPA:**
Please take a seat.

**MR. BURTON:**
Who's the Clerk of record; is that you?

**MR. BARTON:**
Yes.

**MR. BURTON:**
Okay.

**P.O. CARACAPPA:**
Just a second, sir. I recognize Legislator Carpenter.

**LEG. CARPENTER:**
Thank you. Mr. Chairman, I notice that there are a number of speakers who have filled out cards to speak on this public hearing, 2102, the pesticide bill.

**P.O. CARACAPPA:**
Yes.

**LEG. CARPENTER:**
This has been recessed a number of times, we've have had a number of speakers; in fact, some have been here before and have already spoken. But just so that you are aware, regardless of

what you're saying today, this hearing has to be recessed again, there will be no action whatsoever. So again, there are a number of cards, so I don't know if that, you know, has any bearing on whether or not you want to speak, but there will be no action on this today.

**P.O. CARACAPPA:**
There'll be another public hearing on this matter at the April 5th meeting in Hauppauge as well. The first speaker is Donald Burton.

**UNKNOWN AUDIENCE MEMBER:**
What time?

**MR. BURTON:**
Okay, fine.

**LEG. SCHNEIDERMAN:**
The request is to keep your comments as brief as possible.

**MR. BURTON:**
I would be happy to do that and I'll keep it under five minutes, probably about three and a half or four if that will expedite matters. I'm Don Burton, I'm the President of the New York State Lawn Care Association headquartered in Rochester and pleased to be down here. I've got a few comments. I know you folks have received a lot of literature from us and hopefully that you've had a chance to peruse our concerns about Introduction bill 2102 I believe is what it is and our apprehensions about any further consideration of that bill before you.

Our main concern here is a couple of things. One, that the concerns about the health aspects of these products and materials we're using is really germane to the authorities that are charged with it, EPA, DEC, the Health Departments and their constant review of what's going on. And with all the literature that we have, we find it very hard to see any correlation or relationship from the materials that apply for an ornamental standpoint, I'm talking about lawns and what have you for aesthetic purposes, showing up in the groundwater. And I've got the reports, as a matter of fact, from the County Health Department for the last three years, I've been going over it with her, it doesn't seem to be too much of a recognition as a matter of fact stating that this is not appearing in groundwater in the County here, and that's quite clearly stated,

particularly the products that we're using here. And that's a concern to us, it's also a concern to us, of course those people who are thinking they may have exposure to these materials. So we go to the authorities again and we look for information, we can't seem to get any as far as exposures from these ornamental pesticides, that they're causing any effect, that they are cancer causing, this is simply not the case. So we would hope you would defer that to them and they're supported by your taxpayer money.

Another part of this is we don't see in all good justice how you could come down on the aesthetic use of pesticides for lawn care and not obviously go against pesticides that we have in the home or let's say for swimming. If you take swimming, that's a very toxic pesticide, as a matter of fact it's classified as a warning use label and danger, and there are others; Lysol, for example. So if you are going to do something with pesticides, in all good justice and fairness, you really should cover the market on it. It's not correct just to single out one particular source outside when we maintain from our studies really exposure isn't there and even incidental exposure is not a health hazard at all for the general use pesticides.

And finally, with this business of the aesthetic use of pesticides that there's really no value •• and to the Clerk, I think you have this and for the record, when you get involved in the aesthetic use of pesticides you are going a lot more than simply trying to make the surroundings or your grass look attractive and keep the up the property values. There's a whole host of tangible benefits that, as a matter of fact, effect favorably your health, your health actually, and also a better environment as far as the ability of grass (inaudible) for the environment in a whole lot of ways and you have that.

So I want you to just be aware of these concerns.

**LEG. CARPENTER:**

Thank you. If you could sum up, please.

**MR. BURTON:**

Yes. I just want you to be aware of these concerns and please review the literature that we have given you. And we just caution you once again •• to the Clerk of record, please •• that you consider the information we have and I appreciate being here for our members which, as a matter of fact, cover four million people in the State and have a million contracts presently

handled by our industry. Thank you.

**LEG. CARPENTER:**

Thank you very much. Next speaker, Joe Gergela to be followed by Patrick Parker.

**MR. GERGELA:**

Good evening, everybody. I'm Joe Gergela, Executive Director of the Farm Bureau. You have heard me speak on this at committee meetings and also before the full Legislature. Just a couple of comments this evening. First of all, I do want to commend Legislator Schneiderman for spending time with industry representatives, he's been meeting with the landscape industry, my leadership at Farm Bureau and also with the Arborist Association and other people and he has narrowed the focus of his bill. My problem still goes back to preemption and I want to give you a little explanation of why we are concerned.

I want to give you a real life thing that just happened in the last year so you can understand my point. The number one pesticide product used around the world is registered by Bayer Corporation and it's called _amitaclopid_ we use it for potatoes, vegetables, greenhouses, it's used extensively now for control of Asian Long Horn Beetles which is a major problem on Long Island. The Department of Ag and Markets uses the product. Homeowners use the product and it's called Merit. Ten years ago this product was registered in the State of New York by DEC and they negotiated the registration with Bayer at that time ten years ago and Bayer did modeling to show what was going to wind up •• you know, how it was going to work and would it wind up in groundwater, yadah, yadah, they did extensive testing and water monitoring conducted by Suffolk County Health Department in cooperation with Bayer.

Over the last couple of years the water monitoring results indicated that out of several thousand test wells that the product was, in fact, getting into groundwater. We know where it's used in agriculture and, yes, it was found in the wells at very low levels, very low levels. The agreed upon threshold for action which is unusual is far below the State standard of 50 parts per billion, they established a standard of ten parts per billion for this product. Two years ago the product was found in a couple of locations at point five parts per billion, a very low number. We tracked it down to two point spills, one was in a community where it was homeowner use, or not homeowner use but applied by a commercial applicator on a number of homes in an area where there was a sump. We had a five inch rainfall, the material washed into the sump and

then they were detected in the water monitoring wells at point five.

The other situation was natural commercial operation on the north fork. And in fact, DEC wound up taking enforcement action because there was a mistake and it was found in a commercial setting. We have been going back and forth with Bayer and DEC about the future of the product; this past November DEC rendered a decision to Bayer that they were going to not register the product for homeowner use, it's been removed; it's been removed. We will have it for agricultural and for commercial applicators, for professionals that are trained to use the material.

My point being, and this is what I've said to the Legislature time and time again, it is not necessary to do the other bill. EPA and DEC are on top of what has to happen with pesticide use, and again it goes back to the preemption issue. That is Farm Bureau's major concern. We do appreciate and respect what Legislator Schneiderman is trying to do. We agree, we agree in principal that homeowner use of pesticides is a problem in certain situations for the environment. But we believe that the better way to attack it is public education, not bad public policy, and we express that concern. And I thank Jay for his willingness to continue to meet with us and continue the dialogue and for all of you and I thank you for your time.

***Applause***

**D.P.O. CARPENTER:**
Thank you very much, Joe. Patrick Parker followed by Dan Sculnick.

**MR. PARKER:**
Hello. My name is Patrick Parker and I'm an arborist with Save•A•Tree. Even though this bill contains an exemption for trees and shrubs, I still am against its passage for several reasons, only a couple of those have been outlined for you tonight. The first being that this law would be illegal and that it is in direct conflict with New York State Conservation Law and the whole preemption situation.

Beyond that, I also believe this law will not achieve its stated intents, primarily in Section 1 of the bill it lists that one of these intents is that minimizing the use of these products would promote the future health of Suffolk residents; I don't believe this to be true because there's no

evidence to support this statement. There's actually no scientific evidence that the proper use of any of these materials on residential landscapes poses any threat or harm to humans or the environment.

In fact, just to reiterate points that a couple of the speakers previous to me had made, all these products are extensively tested and labels else developed by the EPA and NYSDEC to take into account all the data that's a result of these tests, and labels are designed so that if they are followed and the materials are applied properly there will be no expected harm to the environment or to humans.

I also wanted to touch briefly on the testing process for these products. There's not a lot of direct correlation between the testing that's done and what the experience with the product is when it's used on the landscape. These tests are conducted at very high concentrations of the materials in very large doses. When we go out to use these materials we dilute them hundreds, even thousands of times before they're applied to a property, so they're never applied in the same dosages that show up in these tests that are done when the products are registered.

I also just wanted to point out, there's also no evidence that applicators and the people who handle and formulate and manufacture these products are at any elevated risk of harm from these products. There's no studies that show that there's any direct correlation between the amount of time these people spend using these products and our applicators are out there using them, handling the concentrated forms every day, day in and day out, with no adverse effects.

So in conclusion, I just wanted to say that I think Resolution 2102 will hurt the long lawn care industry in Suffolk County. It will hinder us from providing the residents of Suffolk of what they want from us which is as an aesthetically pleasing landscape with all of its associated benefits. And that's about all I have, so I wanted to thank you guys.

**LEG. SCHNEIDERMAN:**
Can I ask one question, Ang?

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

**LEG. SCHNEIDERMAN:**

Just one question. I want to make sure you have the current version of 2102, because in the current version it doesn't place restrictions on licensed applicators in using these chemicals, it only takes the chemicals out of the hands of unlicensed applicators. The only restriction on licensed applicators is in the blanket preventative treatment of lawns; other than that, there's no •• there's no restrictions on trees and shrubs or general spot applications of weeds on lawns.

**MR. PARKER:**

Right. Yeah, I just feel that, you know, there's no scientific basis to prohibit these products or restrict these products and those blanket applications in many cases are required to protect the turf and provide a healthy turf and all of its associated environmental benefits.

**LEG. SCHNEIDERMAN:**

Well, just before you said it would hurt the industry and I just want to make sure that you understand that licensed applicators would not be affected by the bill.

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

Okay, I think he understands. Thank you.

**MR. PARKER:**

Right, other than the blanket applications. Thank you.

**LEG. CARPENTER:**

Dan Sculnick next speaker, followed by John Iurka. Go ahead.

**MR. SCULNICK:**

Hi, thank you. Originally I came here as a certified applicator, but the three people before me spoke better than I could so I'm going to come here as a Suffolk County homeowner.

I appreciate you clarifying that as far as certified applicators go.
I don't know if that's just for two years as part of the bill or that's been ••

**LEG. SCHNEIDERMAN:**

Two years is out.

**MR. SCULNICK:**
Okay, that's out? All right. But as a Suffolk County homeowner, I also am against the bill because I don't understand why Suffolk County would choose to tell me that I can't apply materials to my own property that New York State deems relatively safe as long as I follow the label. Nassau C`ounty can do it, I don't understand what Suffolk County •• why there's a problem, I really don't.

I wish I was a little more versed in the bill, I just found out about it yesterday and I just found out about the meeting today. Again, I am a certified applicator, I've been doing this for 15 years, I deal with the concentrated materials daily. I am actually an applicator on the road and many of the businesses are all mom and pop organizations, all small. Any passage of a bill similar to this, as far as I was told, in the way that I was told about this bill, would just damage us beyond belief financially. My entire business is pesticide application. I don't do landscaping, so I'm extremely concerned about it. Again, I wish I had a little more knowledge on the actual, I came here mostly to listen, but I did want to let you know that there are a lot of applicators that aren't going to be able to get here with no notice and we're all very upset about it. It's not clear, it just seems like another attack on the industry, to be perfectly honest with you.

**LEG. CARPENTER:**
Okay, thank you very much. And there is going to be another hearing because this is going to be recessed.

***Applause***

**LEG. SCHNEIDERMAN:**
Just very briefly to what you said. One is you are a licensed applicator so your own house would certainly be able to apply.

**LEG. TONNA:**
No, you can't do this, you can't do this. Stop, you've got tons of cards.

**LEG. SCHNEIDERMAN:**

Just ••

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

Excuse me, Legislator Tonna. I don't say I don't disagree with your sentiments, however, he does have a right to ask a question.

**LEG. SCHNEIDERMAN:**

And just in an effort to speed up the public hearing.

**LEG. TONNA:**

No, he's not ••

**LEG. TONNA:**

You have a right to ask a question; do you have a question to ask, Legislator Schneiderman?

**LEG. SCHNEIDERMAN:**

No, I just wanted a clarification on the bill itself ••

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

Okay, thank you.

**LEG. SCHNEIDERMAN:**

•• that hopefully would ••

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

You can do the clarification out in the lobby. Thank you. Next speaker, John Iurka.

**LEG. LINDSAY:**

Thanks for coming down.

**MR. SCULNICK:**

Thanks for trying anyway.

**LEG. CARPENTER:**

Thank you.

**MR. IURKA:**

Good afternoon and thank you for allowing me to speak here. I would also like to offer to Legislator Schneiderman our thanks that he has worked somewhat tirelessly to try to adapt his proposed legislation to industry purposes.

My name is John Iurka and I'm the Vice•President of Greenport of New York, a non•profit association of arborists and green industry professionals who live and work in the State of New York. The goal of Greenpoint is to assist lawmakers and regulating agencies in New York State with the promulgation of laws, rules or regulations that have the potential to impact the environment and the green industry. Since its inception in 2002, Greenpoint has demonstrated to the Legislature, New York State DEC and other government agencies that it is a trusted partner that will share information and impart knowledge about the environment and horticulture.

I am testifying today in support of the resolution introduced by Mr. Schneiderman which seeks to restrict the use of certain pesticides by unlicensed applicators and to prohibit certain application techniques of pesticides within Suffolk County. For the record, Greenpoint does believe that this commission may be preempted from establishing laws relating to pesticide use and we believe that the establishment of such a Local Law could set a dangerous precedent for those who seek to circumvent the State's authority and expertise over the subject matter. However, we find ourselves in agreement with the principals this proposed law bring to the public forum which are set forth in our statement below.

The reason that Greenport supports this proposed resolution is that like Mr. Schneiderman, Greenpoint believes that pesticide application should only be made by trained professionals who are licensed and monitored by the New York State Department of Environmental Conservation. Greenpoint recognizes that there are legitimate reasons for utilizing pesticide products but agrees with the concept that applications should be limited only to those who have educated themselves as to the issues involved in pesticide use, passed the State certification exam and the uphold the legal standards necessary to maintain licensing.

Furthermore, it is important to understand that our State has made a deliberate and concerted effort to promote integrated pest management practices, the cornerstone of which is to inspect

properties, understand specific problems on the landscape and select the treatments that will allow the applicator to use the least toxic pesticide and the smallest amounts possible to protect the health of the plant material in question. The practice of applying indiscriminate treatments of any pesticide product contradicts this effort and circumvents the positive results we have all seen from integrated pest management process. For these reasons, Greenpoint respectively asks this committee to support the concepts that this proposed law brings forward. In addition, we ask that this committee actively works with Greenpoint as Legislative and Executive bodies throughout the State previously have so that it may better understand the green industry and the issues involved with plant health care treatments. This process will allow the committee to promulgate educated and fair laws that protect the environment and the people of Suffolk County. Thank you for your time and consideration.

**D.P.O. CARPENTER:**
Thank you.

**MR. IURKA:**
I am also submitting another statement on behalf of RISE, a national institution, Responsible Industry for a Sound Environment.

**D.P.O. CARPENTER:**
Thank you. Next speaker, Peter Behensky,

**MR. BEHENSKY:**
Hi. I'm a certified pesticide applicator ••

**D.P.O. CARPENTER:**
If you could just please speak into the microphone. Thank you.

**MR. BEHENSKY:**
I'm a certified pesticide applicator, I have been applying pesticides since 1974. And I just wanted to •• many of the points that I planned to make have been made already, I'll just keep this brief. I just wanted to offer a couple of my observations in the business for 31 years. Myself and my colleagues, I have known of no one who has become ill from the use of these products, I feel they're safe. And I do feel threatened by this legislation because it's the understanding of many of my colleagues that at the four year point this legislation is going to

take away our ability to apply pesticides as pesticide applicators. That's the story going around, I don't know how true it is.

**LEG. SCHNEIDERMAN:**
It's not true.

**MR. BEHENSKY:**
Okay.

**LEG. SCHNEIDERMAN:**
No, it's not true at all.

**MR. BEHENSKY:**
Okay, I'm glad to hear that. The other thing would be that I just dont' •• I think that there's misconception that the public is against pesticides. I •• part of my marketing technique is to work •• is to be in home shows. At least 100,000 people pass my booth every season and in the last few years I have to say that I have had no one come into my booth objecting to the general use of pesticides. There was a period of time about five to eight years ago where I was commonly hearing things where people were aggressive and felt that what we were doing was wrong or dangerous. I do think that there's political reasons for this bill and I think the political people need to know that the public generally supports care of the lawn •• of lawns and the landscape, they feel they're comfortable with its safety and they want it. That's all I wanted to add. Thank you.

***Applause***

**D.P.O. CARPENTER:**
Thank you, sir. Next speaker, Gary Carbocci.

**MR. CARBOCCI:**
Gary Carbocci, I am here •• I am the President of the New York State Arborists ISA Chapter and I just wanted to thank you for allowing me to speak. I'm not going to talk about pancakes this time, last time it was pancakes, but I do have an analogy that I would like to pass by you. But I have some observations that I've made and hopefully I can come up with some solutions

that may work.

One last night, I was graced by getting to see Vinny Palmer speak, Vinny Palmer is the Enforcement Officer at the DEC and he said that people that have like goals or goals like mine will not cause me any problems, so people with like goals get along real well together. And I would like. To show how we all have like goals and I'm going to use an analogy, too I think the goals are shrouded by fear. The public is afraid, they don't know. The Legislators are afraid, they want to be elected; is that a true thing? The DEC is afraid that maybe they'll fall short of their mission providing water that's clean and a healthy environment for everyone. Those are •• I think we can all say that we all have like goals, that everybody here has like goals. We want clean water, we want a healthy environment, we need to work together; I like that. Things are good when people work together.

We see that too many times we are afraid to make the change. Well, here's my analogy; it wasn't pancakes this time but it's an analogy. Picture yourself as the Captain of one of the most graphic disasters of American history, the Titanic. Now, do you think for one minute that if that Captain knew that that iceberg was up ahead, do you think that he would turn or when his crew yelled, "Captain, Captain, there's an iceberg up ahead. Are you sure it's an iceberg? Well, this is the North Atlantic, Captain. Are you positive? Don't you want to make a test and see if" •• who cares if it's real or not, this is the North Atlantic, let's make a right turn, let's get away from that iceberg. If we're going to hit it, let's stop right now."

We have people that can make •• can work wonders. We have the DEC, we have Cornell Cooperative Extension, we have associations like Greenpoint that work, that want to work and make things work. The solution is work together, work together and we can accomplish anything. We can have •• our goals are the same. Let's make these goals happen, let's put together the force that we need to bring clean environment, a safe environment. That's all I have to say and I really thank you for ••

**D.P.O. CARPENTER:**
Could you sum up, please?

**MR. CARBOCCI:**
Sure.

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

Thank you very much.

**MR. CARBOCCI:**

Thank you.

**LEG. CARPENTER:**

Bruce Herlich. Go ahead.

**MR. HERLICH:**

Good evening. My name is Bruce Herlich and in addition to my volunteer duties with the Nassau •Suffolk Landscape Gardners Association and running my family's landscape design installation firm, I am also on Cornell Cooperative Extension's Agricultural Program Advisory Committee in Suffolk County.

Today I am here before you representing the NSLGA. I am a past President of its Suffolk Chapter and currently Vice•Chairman of its Executive Board. We have approximately 1,500 dues•paying members who represent thousands of employees, their families and the families who employ our member firms to care for the residential and commercial properties. We are the residents, taxpayers and voters of Suffolk County. It is the informed opinion of the elected leadership and the members of the NSLGA that adopting Resolution No. 2102 is a wasteful and redundant duplication of regulation and enforcement tasks already well executed at the Federal and State levels of government. For Suffolk County to create another level of government bureaucracy is counterproductive for the goals of our residents and the business community. Despite its good intentions, if enacted it may compromise the health of our County's residents and negatively effect property values and the local economy.

Additionally and most importantly, Resolution No. 2102 is beyond the County's relm of statutory authority and expertise. Rather than pursue a piece of legislation which will surely invite litigation, we join the Farm Bureau in urging the Legislature and County Executive to make use of the Community Integrated Pest Management Program developed at Cornell University and funded by New York State to do the job of protecting Suffolk County's citizens, health and environment.

In closing, the NSLGA believes that working hand in hand with New York State's Department of Environmental Conservation, pesticide applicators have made great strides over the past two decades to provide competent lawn care services using best management practices. Today, certified pesticide applicators and technicians take great pride in their stewardship of the environment while providing satisfactory customer service. We hope that you and your peers will take note of our comments before you today and continue to work with Green industry to improve this proposed legislation in such a manner that will carry out the Legislature's intent to protect the public and enhance the greater good without violating Federal or State laws. We believe that regulations which encourage best management practices bounce responsible, environmental and business concerns to the benefit of •• are to the benefit of all involved. Thank you for the opportunity to submit the NSLGA's comments into the public record.

***Applause***

**P.O. CARACAPPA:**
Hold on, sir. Sir? There's a question, Legislator Viloria•Fisher.

**LEG. VILORIA•FISHER:**
Good evening.

**MR. HERLICH:**
Good evening.

**LEG. VILORIA•FISHER:**
I'd like to ask a question •• actually I was thinking about this question when the earlier speaker was speaking, but perhaps you can address it. I believe that one of the problems that we have is that you represent several professional organizations, or you're part of professional organizations, and some of the difficulty arises with the misuse of applications by residents, by individuals who over fertilize and over water, they just don't have the kind of expertise, professional use ••

**MR. HERLICH:**
They don't have the training to do it.

**LEG. VILORIA•FISHER:**

•• and they •• how do we •• I suppose through education we could have people limit their use, learn how to use, you know, different chemicals more appropriately and more efficiently. Where do you stand on this and how do you see a way to address that problem, the way individual residents misuse these chemicals?

**MR. HERLICH:**
It's difficult to speak for 1,500 members without having talked to a good number of them, taking votes with the three chapters and the Executive Order.

**LEG. VILORIA•FISHER:**
But you're here to speak on the subject so I'm sure you have an opinion.

**MR. HERLICH:**
Yes. You know, it's funny but what comes to mind is that you think about certain pesticides, certain chemicals and exterminators can use them but a homeowner can't use them; you might be able to kill a wasp near your house but you can't handle certain chemicals.

**LEG. VILORIA•FISHER:**
Right.

**MR. HERLICH:**
It makes sense that people who are licensed and who have been trained in it and we pay for licenses to New York State, we go for continual training every year so we can renew our licenses, not only are we using less product because it costs us money out of our pocket, but also you just only need a certain amount to perform the job. Obviously education is important, Cornell Cooperative Extension is a tremendous source of knowledge and, in fact, I believe there are some people who are going to read something into the record later from Cornell and from their staff entomologist.

The Farm Bureau and Joe Gergela are an excellent source of information and have done a lot of outreach to communities and going to schools and help educate the people as to what's available, what is called the best management practice. And in fact, the arborists in New York State and Long Island also have their own set of best management practices for the treatment of trees and shrubs. I think it is •• as Gary might have said, it pays for everybody to sit down

and talk about it. What I believe our membership is really most upset about is the idea that laws we pass that almost definitively the association will take to court because it's against State law. And as a taxpayer in New York State, in Suffolk County, why am I going to •• why is a law going to be passed that you don't have the right to pass, so to speak; I say you, but one doesn't seem to have the right to pass. We have •• we have a Legislative affairs person who is out of the country right now, but that is our point person in terms of what we can and can't accomplish as an association. I'm sorry I don't have any more to share with you right now on that.

**LEG. VILORIA•FISHER:**
Thank you.

**LEG. SCHNEIDERMAN:**
Can I ask a question, too?
**MR. HERLICH:**
Sure.

**LEG. SCHNEIDERMAN:**
In the case of the most toxic of those chemicals here, known and suspected carcinogens, endocrine disrupters, neurotoxins, reproductive developmental toxins, do you think that they should be in the hands of untrained professionals? When there are a lot of chemicals that are potentially available to homeowners that could be used that don't fall into those categories of acute human toxicity.

**MR. HERLICH:**
I personally don't think the people who haven't been trained to handle those chemicals should have them in their hands; that's my own opinion.

**LEG. SCHNEIDERMAN:**
Thank you.

**LEG. VILORIA•FISHER:**
Isn't that what you're saying in there?

**LEG. SCHNEIDERMAN:**

Yes, that's what the bill does.

***Applause***

**LEG. SCHNEIDERMAN:**
That's what the bill does, that's precisely what the bill does

**P.O. CARACAPPA:**
John, I believe it's Seib maybe, Seib? My apologies.

**MR. SEIB:**
I'm a big speaker.

**P.O. CARACAPPA:**
Followed by Jerry Sluker. Go ahead, sir.

**MR. SEIB:**
John Seib from All Pro Horticulture. I'm speaking on behalf of myself and my partner, Butch Starky, that couldn't be here tonight, owner of Starkey Brothers Garden Center.

I kind of tightened this thing up a little bit, because I guess we're going to go through this again, maybe once, twice, three times. It would probably help the environment by not having so much paper, but that's okay. I'm against any legislation to limit the use of pesticides in Suffolk County; I'm going to go through just a couple of quick points.

I would like to present to the group, I have a letter that was sent to Mr. Levy and the Legislators from Martin _Patrovik_, a professor at the Turf Grass Science at Cornell University, done from 1990 to 2004 scientifically showing that this legislation would cause more problems than solve; that was the first point.

**LEG. FOLEY:**
Go ahead.

**MR. SEIB:**

Okay, I'm just making sure everybody is listening. My second point, the Federal •• this was already talked about. The Federal EPA and New York State DEC have jurisdiction over the regulations with pesticides, herbicides and fungicides. Solid science is involved before the New York State DEC allows these products on the store shelves. And now just a point here, point number three, just to talk a little bit about the homeowners. This is kind of •• the way the legislation is written, you would be creating a class system of haves and have•nots. The people with means that could hire a professional to apply these products and the less well•to•do, or we call them DIY's, Do It Yourself customers, would be facing fines for trying to maintain their properties. The have neighborhoods would remain with beautiful gardens and lawns and the have•not neighborhoods would have no lawns and no gardens to speak of.

And just my last point here, I just wanted to know if anyone in the Legislature has done any economic study on what the impact would be to the lawn and garden industry in Suffolk County if this legislation was passed.

And in closing comments, we want to keep it vigilant and we all know where our water comes. And in Nassau County where our •• where we're located, the landscapers now are required and actually the homeowners are required to post signs letting people know where pesticides are put and there might be something in the Legislature that we can do, require stores that want to sell pesticides to have trained professionals, to staff better and to educate the public properly on the handling of those pesticides. Thank you very much.

***Applause***

**P.O. CARACAPPA:**
Thank you, sir. I think your point of the have and have•not communities is a very good one and something this Legislature really should keep in mind as we ••

**MR. SEIB:**
I've been a have•not all my life.

**P.O. CARACAPPA:**
Yeah, me too, believe it or not.

**MR. SLUKER:**

Hi, good afternoon. My name is Jerry Sluker.

**P.O. CARACAPPA:**
Thank you.

**MR. SLUKER:**
I have grown up on Long Island and, as you can guess by the hair, I've been around here a long time. I'm an Islip resident for over 25 years, I have kids and I am totally in agreement that we should do everything we can to protect our sole source aquifer which is under Long Island. I own a distribution business based out of Bay Shore and it is, you know, a distribution business to the pest control tree and landscape trade. I, however, want to commend Jay on this bill. I think it has some great merits. I also know that the theory of what we were talking about before of homeowners, if you think about this, think of Costco; you're going to Costco, you're not buying a bag. You know, if it could treat 10,000 or 15,000 square feet, a homeowner like myself who has 3,000 square feet, what do you do with the extra? You know what the homeowner is going to do with the extra, you know what, I'm not going to stick it in the shed because it's going to go bad, it's going to turn hard like a rock and then I'm going to throw it out, so what do they do? They're going to apply it again and apply it again, they're going to keep applying it. So in this situation, when you think about homeowners applying pesticides, they're going to keep applying it until they use up what they have.

If you think about applicators; applicators are trained, they have to maintain a license, that licensing has now gone down to a three year term meaning they have to have renew their license. And if they're certified for ornamental or turf only, they have to renew it every year. So what this comes down to is they have to go to training, have to go to training at least and renew that license every three years, they have to get credits, they're trained to handle pesticides.

Four years ago they went to a neighbor notification bill and as a distributor I can tell you, our business changed drastically from selling Malathion and _Carlboro_ and other chemicals that would be a lot harsher to the environment, we're now selling soaps, oils, BT's, blue boards, sticky traps, _farmone_ traps for the arborists. I think it's going in the right direction, I really do. I'm a distributor, I'm ••

***Applause***

So I commend Jay on this bill. However, I think that you do have to consider a certain couple of issues here. Mosquitoes; we're talking about not blanket spraying. All right, Suffolk County, Smiths Point, Fire Island; what do we do if we can't blanket spray for mosquitoes? Ticks, ticks are a great problem along the south shore; what are we going to spot spray? How can you possibly spot spray for ticks? You can't do it. I would ask that the Suffolk County Legislature consider emergency spraying for areas concerning mosquitoes, ticks, fleas.

**LEG. SCHNEIDERMAN:**
The bill allows for that.

**MR. SLUKER:**
I didn't see it in there.

**LEG. TONNA:**
Let him finish his testimony.

**LEG. SCHNEIDERMAN:**
There is a full exemption for use pertaining to health such as the killing of insects, mosquitoes, human insects.

**MR. SLUKER:**
Well, you know what? I didn't ••

**LEG. SCHNEIDERMAN:**
It's in the exemption provisions.

**MR. SLUKER:**
Okay.

**LEG. SCHNEIDERMAN:**
So it wouldn't apply to ticks.

**P.O. CARACAPPA:**
Jay. Sir, finish ••

**MR. SLUKER:**
Okay, no problem.

**P.O. CARACAPPA:**
No, you can finish your statement because you were interrupted. And I'd ask all Legislators, if you have something to say about the speaker's testimony, wait till they're finished and then you can ask a question, not a comment, a question. Go ahead, sir, finish up.

**MR. SLUKER:**
Okay. Also, if you remember back 81•83, 86•87, we had major outbreaks of gypsy moth on the Island here, totally defoliating trees, shrubs, all over the sides of houses. Homeowners were coming out telling people, "You cannot leave this block until you spray my house or my trees. " So there are certain situations here which you guys have to consider in this bill to protect the homeowner's rights.

I have one other issue on this in that one of the items in here says that, "The Legislature further finds that the Federal Environmental Protection Agency Office of Pesticides Programs maintains a list of chemicals evaluated for carcinogenic potential which classifieds pesticides as rolls in causing cancer in humans and laboratory animals," and I just had a question. Naphthalene; does anybody know what Naphthalene is here?

**LEG. VILORIA•FISHER:**
Dry cleaners.

**MR. SLUKER:**
Naphthalene, anybody? Does anybody use moth balls? Does anybody use mothballs at home, do they use mothball flakes? That is a known impossible carcinogen; are we going to ban that? There are so many things that you could take a look at that homeowners use right in their home which could cause cancer and are possible carcinogens that I think we have to consider also. If we're going to single out this industry and say let's look at this, which I'm all for, I'm all for providing a clean environment and also for protecting the sole source aquifer on Long Island, but I think we really have to look at other avenues. In conclusion, I thank you very much for your time. Anybody?

**P.O. CARACAPPA:**
Thanks for the testimony, we appreciate it.

***Applause***

Sterling Churgin. Sterling?

**MR. CHURGIN:**
Hello? My name is Sterling Churgin, I own a small tree care company. I've been involved with pesticide application now for probably 20 years and I've been in this industry since I was five years old. For me to get up here and argue the merits of a bill that's illegal is moot. However, assuming that it goes beyond the preemption issue, I did have the opportunity to spend a few hours with Mr. Schneiderman about this bill. Aside from the fact that it's illegal, I don't think it's a good idea for homeowners to have access to products that I have to go out and get a license for.

I've seen a lot of misapplication on the homeowner's end and I don't •• just in my opinion, homeowners should not have access to many of the products. But again, keep in mind that this is a moot issue because it's illegal. If you want to do something to •• you know, about the pesticide issue on Long Island, I think you would be better off giving the money that you're going to spend on litigation to the DEC and maybe they can put another two agents in the field, because I think that the EPA and the DEC are doing an excellent job regulating this issue. Thank you.

***Applause***

**P.O. CARACAPPA:**
Thank you. I appreciate your testimony this time and last time. George Iannaccone; sorry if I mispronounced it. Followed by Bruce Karas.

**MR. IANNACCONE:**
Hello. My name is George Iannaccone, I am a licensed pesticide applicator for 20 years, I'm also a certified arborist as well. I wouldn't do anything that would hurt my family or myself with

regard to this bill, your hearts in the right spot but I really •• this is really a State issue, they can regulate it better than anybody else can with regard to that. Pesticides, certainly there are some of them that should not be in the hands of residents, but by the same token, I'm a regular guy, I work for some filthy rich people who can afford to have us do some wonderful things. I live in a little house in Holtsville, I can't afford to use my own company on my own property. You know, there has to be more of a balance than this law and it's not being thought out. And I know, I've heard people say, "Well, what about other carcinogens and everything else?" Well, here's a carcinogen right here that anybody can buy in this County over 19 years old I think it is, and you can't stop that either; put the effort to that more than ••

**LEG. TONNA:**
We're trying.

**MR. IANNACCONE:**
Well, I applaud you for that. But this is more effective than •• this would be more effective than this will ever be. Thank you.

**LEG. ALDEN:**
Thank you. Who's that, Bruce Karas; is that Bruce?

**MR. KARAS:**
Thank you, yes. Hi, I'm Bruce Karas. I own a lawn care company and I'm in Suffolk County and my entire living comes from applying chemicals to lawns. A couple of the questions that were asked, everything that I wanted to say has just about already been said, but there were a couple of questions asked over here that I'd like to address. And there's already a system in place and that system is that when a chemical is found to be causing a problem or it's found to be dangerous, that it can be made into a restricted use product. There was a speaker earlier that talked about _Maird_ or _Emitaclopred_ and that's exactly what's been done with that product, it's been taken away from the homeowners, it's only being allowed to be used by people like myself who are licensed. People like myself, we have to jump through hoops to go out there and put down pesticides. There are so many rules that we have to follow with posting signs, with getting contracts, with handing out warnings in 12•point type, with giving out copies

of all the labels, with notifying the neighbors; we have to do all these things. And it is definitely very annoying for a registered pesticide applicator who's obeying all these laws and going to all these meetings and learning these things and continuing his education to see homeowners going in and buying the same products that we're buying and putting them down and all they have to have is the money to pay for it, absolutely no training, they don't have to know how to read the label, they don't have to speak English, they have nothing except the money, they can do it. And I think that when a product is found to be causing a problem that this is what should be done, it should be made a restricted use product.

However, there's also many products that are not causing a problem. So to just blanketly make a statement that we're not going to allow pesticides to be used for aesthetic purposes, I don't think that's a good statement to make because there are many pesticides that are being safely used by unlicensed people and by licensed people.

Also, as far as blanket applications or applications that are done for the prevention of a problem, a good example is putting down crab grass pre emergent. Okay? If we don't put down crabgrass pre emergent, we're going to be on a customer's lawn probably 15 or 20 times making subsequent applications of a post•emergent product. Every lawn on Long Island just about gets crabgrass and the only way to prevent it is by putting down a pre•emergent product. And when you have to go back you have to post the signs, you have notify the neighbors if you are treating more than nine square feet in the property and you're exposing people to the product nine times instead of the one application. Most lawn care situations can be taken care of in one or two, I use two applications a year unless people get a preventive grub control and I'm doing three days of out the year I'm putting down applications. By using preventive materials, I'm avoiding putting down many more applications to go back and solve problems.

**LEG. ALDEN:**

Please sum up.

**MR. KARAS:**

I think a good analogy, you know, might be that waste oil is a problem. So we wouldn't make it illegal to not change your oil until there's damage to the engine in your Cadillac, okay? If we're going to wait until the lifters are clicking and the motor is shot to change the oil, it's a real problem. That's what we're being asked to do with the lawns now. We're saying, you know, wait until there's a problem, wait till the grubs are destroying the lawn, wait till the crabgrass is overtaking the lawn, wait till the weeds are running throughout the lawn and then keep coming

back several times and solve the problem.

**LEG. ALDEN:**
Thank you for your comments.

**MR. KARAS:**
I don't think that's the way to do it.

**LEG. ALDEN:**
Thank you. Next up, Kevin McAllister.

***Applause***

**MR. McALLISTER:**
Hello. Kevin McAllister. Happy spring, everyone.

**LEG. ALDEN:**
Kevin, you might have to pick it up so that everybody can hear you.

**MR. McALLISTER:**
Okay, sure. Thank you. I'm going to speak anecdotally first but not without merit. As a local growing up out here in the 70's, certainly we all recognize the residential lawns. At that time I think we were tolerant over a brown lawn in the summer, we didn't have the irrigation demands that we have now, and certainly I think the cosmetic applications that we now see. Dandelions might have grown freely in our lawns. We have changed societally over the last 20 years and there is a demand for a more suburban of trophy lawn, if you will.

I do want to speak to the fact, though, many of these pesticides, obviously being water soluble, do enter into the groundwater and that's potentially a significant contribution to our surface waters. Suffolk County Health Department has done some very fine work in certainly water monitoring and if I recall this correctly, in their 2000 study looking at many wells, approximately I believe over 50% of those wells showed signs of multiple contaminants. And again, I go back to the fact that we're glacial soils. So once we're down below into groundwater, that is going to upwell into our receiving waters. And I encourage everyone one, whether or

not you recognize this, you know, whether it be Carmen's River, Connectquot River, Sag Harbor or the edge of a title creek, you sink your feet down there, you will feel that cold groundwater welling. If this bill reduces that pesticide load, that's a positive thing.

And I want to point out one other point. And some of the speakers were very eloquent and some very good points about I guess irresponsibility or just lack of knowledge on residential applications, and that's why it is important. I believe the previous speaker spoke about just his knowledge of landscape applications and the reduction, and perhaps this bill would actually increase those businesses, increase the demand for those businesses. So I think it's a positive thing, we reduce the pesticide loads into our receiving waters, at the same time I think the demand for trained professionals increases and we have a positive, you know, a win/win situation.

And I'll just close with I guess asking yourself to reflect, just think in recognition of pesticide loads coming into our waters. And there should be no question, I mean, we can site multiple studies, and again, including Suffolk County's fine work. But there is no question that the loads, the pollutant loads into our receiving waters is increasing, you know, it's a matter of density, population. So anything we can do to reduce that is a positive thing and I ask you to give consideration to this bill, I know it's going to undergo a revision and I ask you to support it.

**LEG. ALDEN:**
Kevin, can you stay there for one minute?

**MR. McALLISTER:**
Sure.

**LEG. ALDEN:**
Legislator Caracciolo?

**LEG. CARACCIOLO:**
Hi, Kevin.

**MR. McALLISTER:**
Hello.

**LEG. CARACCIOLO:**
How are you doing?

**MR. McALLISTER:**
Good.

**LEG. CARACCIOLO:**
Kevin, I know you recently have been very pleased with the directive the County Executive has issued with regard to dredging and •• the mosquito control trenching, I should say, not dredging, trenching issue.

**MR. McALLISTER:**
Yes.

**LEG. CARACCIOLO:**
Let me ask you, you just mentioned about nitrogen loads and pesticide loads and the groundwater and how it contaminates, has the potential to contaminate our sole source supply. Are you familiar with for four years Suffolk County had in effect a fee•waiver program for homeowners who had private wells who could call on the Suffolk County Health Department and request a free water sample?

**MR. McALLISTER:**
I was aware of that, yes.

**LEG. CARACCIOLO:**
Okay. I mean, I know that, you know, you're a champion in trying to protect our waterways and bays. Would you support that initiative? Right now it has expired.

**MR. McALLISTER:**
Absolutely. I think ••

**LEG. CARACCIOLO:**
Okay, okay.

**LEG. ALDEN:**
That's a little sneaky, Mike.

**LEG. CARACCIOLO:**
Pardon me?

**P.O. CARACAPPA:**

**LEG. ALDEN:**
It's a little sneaky working that other bill in there. We have a public hearing on this one.

**LEG. CARACCIOLO:**
Well, when we get to it later there's a reason why. You know, someone like Kevin who is well respected by everyone on this horseshoe, when he makes a statement like that I believe it has import and it means something. But Kevin, back to the bill; have you had an opportunity to look at it and Section 3 specifically and the 13 exemptions in the bill?

**MR. McALLISTER:**
Yes, I have.

**LEG. CARACCIOLO:**
Okay. Because when I look at these exemptions, this bill, as much as I would like to support it, has been watered down to the point where I don't even think the objective, as the sponsor really started out to accomplish, will be accomplished. And that's one of the questions I have, Mr. Chairman, when we get to the debate, is I'd like somebody to quantify exactly what is the load reduction that we're going to accomplish with the passage of this legislation. Then there's preemption, there are a lot of other issues, but I just wanted to make sure that you did read the bill and you're aware that •• for example, agricultural land is exempt, private and public recreational facilities. Hello, that's where the preponderance of these products are applied, homeowners put them down. And I agree with most of the speakers that spoke, that homeowners don't have the training and they often not put down more than they should.

**LEG. ALDEN:**
Mike, I'd like to ask you to hold that thought until when we're debating it. Thanks, Kevin. Next •

•

**MR. McALLISTER:**
Just a brief response?

**LEG. ALDEN:**
Real quick.

**MR. McALLISTER:**
Very quick. That's a valid question, but if the bill raises awareness in education, and again, the populous out here understands the impacts of pesticides and they start asking questions among themselves ••

**LEG. CARACCIOLO:**
Oh, I'm all for awareness.

**MR. McALLISTER:**
•• that's a positive thing.

**LEG. CARACCIOLO:**
And when we get to the Cancer Awareness Division, we'll talk about awareness. Thank you.

**LEG. ALDEN:**
Thanks.

**MR. McALLISTER:**
Thank you very much.

**LEG. ALDEN:**
Sue Avedon.

**MS. AVEDON:**
Hi. My name is Sue Avedon, I'm here today representing the East Hampton Environmental Health Committee. And I want to talk •• I want to respond to some of the things that some of

the other speakers have said and make a few points.

First of all, as far as Kevin's •• the question to Kevin about the bill being very watered down, I, too, had a reaction to that, feeling it was too watered down; however, I do think we have to start somewhere. I know it's going to be kind of tricky and that there are legal issues involved with the County being able to regulate anything in regard to the use of chemicals such as this. And if this bill can be passed and, as Kevin said, raises public awareness in education, I think, you know, that certainly has •• that's a good thing.

As far as what some of the other speakers said, particularly the industry speakers, somebody stated that the public wants pesticides on their lawns. Well, that may be true but I think that's largely in response to million dollar ad campaigns that they see for Scott's Turf Builder or Round •Up or any of those products and they're exposed to constantly on TV. Who among us that are on the other side have been able to wage such campaigns? Nobody. I mean, you know, we do what we can in small ways locally. So if people aren't made aware of the dangers of these exposures, of course they're not going to object to buying them and they think that having this beautiful green lawn, you know, is exactly what they want without thinking about what the effect might be on themselves, their children, their pets.

Somebody talked about the have and have•not neighborhoods. Well, in fact, you can have a beautiful green, lawn, thick, beautiful green lawn without the use of pesticides. There are many books out explaining how to do it, so you don't have to, you know, kill everything out there on your lawn including all the beneficial insects, etcetera, that keep your lawns healthy to have this terrific lawn. I know I'm running through time here real fast and I just want to •• somebody said, though, there are no studies showing health hazards; that's ridiculous, there have been numerous, numerous studies showing heath hazards.

I wanted to talk a little bit about children and the reason why children are at greater risk even than adults in regard to pesticides being used on lawns. Children are small, they're closer to the ground, they crawl around on the lawn and they frequently ingest what's on their hands, what's in their hands and it goes into their bodies. Children ••

**LEG. ALDEN:**
You have to sum up at this point.

**MS. AVEDON:**
Excuse me?

**LEG. ALDEN:**
You have to sum up at this point.

**MS. AVEDON:**
Oh. Well, you know, the whole notion that pesticides do not raise health risks, we have so much increased problems as far as childhood cancer, learning disabilities, autism, all kinds of problems that have increased enormously since the sort of chemical revolution in the last 50 years and there have been many studies showing relationships between exposures and all the problems that we are now passing on to our children. Thank you.

**LEG. ALDEN:**
Thank you for your comments. Next up, Julie Penny.

**MS. PENNY:**
I'm Julie Penny from the South Fork Groundwater Task Force.

**LEG. ALDEN:**
I have to just ask you to bring the microphone a little closer. Thanks.

**MS. PENNY:**
Is that better?

**LEG. ALDEN:**
Thank you.
**MS. PENNY:**
Okay. I'm going to read this into the record. The South Fork Groundwater Task Force is a not •for•profit organization dedicated to protecting the south fork's groundwater from contamination, depletion and misuse. Our organization gives its whole•hearted support to this legislation and asks that the members of the Suffolk County Legislature do likewise.

Since the mid 1990's we have witnessed rapid and unabated development of Southampton and

East Hampton and with it a concomitant degradation to our upper glacial aquifer upon which we depend. Certainly west of us the problem is so much worse and remediation expensive. It is to be noted that not all contaminants can be fully remediated from our water supply once it gets in.

While we have made some inroads in educating the public about pesticides' ill effects to health and to our environment, we still have a ways to go in raising their consciousness and changing their habits. While some people have, to some extent, changed their attitudes and landscaping techniques using indigenous species and tending to their grounds with organic methods, the great majority have not, so untold amounts of toxic chemicals are still being used. Homeowners frequently overuse pesticides, fungicides and herbicides, these chemicals are either carcinogenic, neurotoxic, fetotoxic, endocrine inhibitors or mimickers or impair the immune system. We are exposed to them by airborne drift where they can travel miles from their source of origin where they settle on yard furniture, children's outside toys and get tracked into our homes and settle as dust. They also get into our groundwater and contaminate it. Long Island's Plymouth•Carver soils are uniquely porous compared to the rest of New York State and therefore contaminants easily make their way into our sole source aquifer.

Toxic chemical pesticides that go on people's lawns and gardens needlessly degrades groundwater quality and, therefore, injures people's health. At least eliminating retail sales of toxic lawn chemicals and restricting the use of them by unlicensed applicators in Suffolk County, we will limit our exposure to these toxins. Doctors are ••

**LEG. ALDEN:**
You have to sum up.

**MS. PENNY:**
Doctors admonish us, "First, do no harm". We say that government should follow that maxim as well. By passing this law in Suffolk County, you will be taking steps in lessening the exposure around us and, therefore, eliminating an avenue of harm. Other countries in Europe and in Canada are doing precisely this in adopting the precautionary principal. Suffolk, and especially the east, has one of the highest breast •• the east end has the highest breast cancer rates in the nation, higher than the rest of New York. We also have a high rate of prostate cancer. Studies have shown a link between breast cancer and organochlorine pesticides. Environmental chemicals, including pesticides, that interfere with hormones, are culprits for the decreasing

quantity and quality of men's sperm ••

**LEG. ALDEN:**

Your time's up. If you want to make another couple of seconds worth of statement, then ••

**MS. PENNY:**

•• the increasing incidences of undescended testes and increasing incidences of testicular cancer. A lot has been said about not having a lot of studies on the health effects of pesticides, but there are massive amounts of the deleterious effects of pesticides, fungicides and herbicides on people's health.

**LEG. ALDEN:**

Thank you for your comments. Larry Wilson is up next.

***Applause***

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

Larry Wilson to be followed by Peter Muller.

**MR. WILSON:**

Mr. Presiding Officer, distinguished Legislators, my name is Larry Wilson. I'm a landscaper, I volunteer with the New York Alliance for environmental concerns, I'm the Chairman. The New York Alliance for Environmental Concerns has friends and contributors throughout New York State from the far reaches of the northern parts of New York State, along the Canadian border, through western New York, Central New York, and we're heavily represented down here in southern New York. I'm a volunteer and I'm here today, I've been here several times already, to ask you to reject Mr. Schneiderman's bill.

I'd like to make clear from the beginning that certified applicators are, of course, included in this. If I can read Section 3 under Prohibitions, 3C; "Commencing on the effective date of this law, no licensed applicator shall perform any preventive blanket application of any lawn chemical containing an active ingredient, any substance listed by the environmental protection agency as a known or suspected, suspected or probable carcinogen, neurotoxin," etcetera, etcetera.

Okay? I think that restricted use products are already in the hands of certified applicators only, according to the Environmental Conservation Law. I'm a little unclear about what a suspected carcinogen is. There is a list of suspected carcinogens that I have seen and none of the chemicals that I use are on it. I know that you don't come to these public hearings without a study, I didn't want to be left out, I didn't bring a study today, what I brought is the repudiation of a study. This is a document, and I wanted to have copies issued by the Office of Research Integrity, U.S. Department of Health and Human Services, findings of scientific misconduct. This was a very significant pesticide study that the findings could not be duplicated and the researcher was actually penalized and censured by HS; and I'll give you this, this is my only copy but you're free to take it.

I would like to remind you that Nassau County spent $8 million of your tax money, your Federal tax money to fund a study to look for links between pesticide use and cancer and found nothing. And of course, the people that are advocating these studies, you know, what could they say, they didn't go far enough. And you know, how far are we going to go, I really don't know.

I have a request. I think that you should let the State Legislature handle this. I mean, it's clearly in their purview, I can't for the life of me understand why, you know, you're even tackling this. This is my third trip here, I'm wondering when all this is going to end. Already we had one rewrite, there have been press conferences, photo opportunities ••

**D.P.O. CARPENTER:**
Please sum up.

**MR. WILSON:**
At some point you have to wrap this up; I'll wrap it up myself. I'll ask you to please reject this bill and let the State Legislature do its job. Thank you very much.

***Applause***

**D.P.O. CARPENTER:**
Thank you very much, Mr. Wilson. Peter Muller.

**MR. MULLER:**

Good evening. My name is Peter Muller. I am certified arborist in the State of New York, I'm a certified landscape technician. I serve as the Vice•President for the Professional Landscape Association of Rockland County, I serve on the Board of Consumer Protection for Rockland County I have served on two of their environmental committees, the Environmental Resources Committee and the Pest Management Committee for Rockland County.

I have heard two things tonight from Legislators that I would like to comment on. The first was it was only going to effect homeowners, but if you read Section 3, Part C, it will effect licensed applicators. One example you had heard tonight was the pre emergents for crab grass; that is applied before crab grass is actually there, it stops the seed from germinating. That would be considered preventive, that wall would stop that use which would require much more chemical applications to stop.

The other thing that comes to mind with that, the first thing you learn about pesticides when you are trained and you become licensed is the letter •• the label is the law. If you deviate from the instructions on the label you're breaking the law. Manufacturers put their instructions on it, the DEC reviews it, it's passed, if you deviate for those instructions you break the law. One example would be funguses on your lawn. It states that during wet weathers you need to do applications as a preventative basis, it's the only way that you will keep control. All fungicides on the label say do it in seven day applications or ten day applications; we no longer would be able to do it in that manner in this County and that would be going against the law, you wouldn't be following their instructions. There would be a great loss of revenue, not only for the businesses but it would actually diminish the values of the homes. A very nice lawn is more valuable than one that is less attractive.
The second comment I heard, and I don't know who brought it up, they ask what can we do. In Rockland County we've taken great steps to require contractors to do more. We just did a sweeping change of the laws, they were in place for 25 years, it actually made more restrictions on contractors. We believe that pesticides should be in the hands of the professionals, they should be well trained. There's almost three tiers of people; you have the professional applicators, you have the people that are flying by night and you have the homeowners. One step we've taken is to make sure that all people that are doing horticultural work will be licensed in Rockland County; they'll be easier to trace, easier to monitor.

One question I heard from the audience was that in respect to children and washing their

hands, I know in Rockland County we advocate, and I have several customers that request from me exact times that we come so that they can monitor their own children and make sure that their hands are washed; that's just responsible presence. I strongly believe that pesticides should be in the hands of the professionals, we are trained, we are trained often, we are good at what we do. I don't believe that homeowners show the respect or have the knowledge or the understanding that they should, they should not be handling it.

And the last thought I have tonight, when a person takes a law into his own hands he's often called a vigilante; even though his intentions are good, he's breaking the law. The laws of New York State, governed by DEC, say they regulate pesticide and their uses and their regulations. If you go against that, you will actually be breaking the law, even though you believe it's for a good cause you're still breaking the law and I would ask you not to do that. Thank you very much.

***Applause***

***[SUBSTITUTION OF STENOGRAPHER • DONNA CATALANO]***

**LEG. CARPENTER:**
Thank you very much. The next speaker, Prudence Carabine.

**MS. CARABINE:**
Good evening. Thank you for the opportunity for the second time to come before you. My name is Prudence Carabine, and I'm the Chair of the East Hampton Town Health Advisory Committee involving environmental health issues. I'm also the mom of a cancer son still struggling to survive. We now have 16 people in the Town of East Hampton who are struggling to survive. We have a bonafied cancer cluster out of East Hampton High School, as you know. And in my mind and heart, that means we've already hit •• the Titanic has already hit the iceberg.

When you stand beside your child for seven years, as I have done, and watched him twice be told to get a Hospice Program, to loss the ability to use face, to have his breathing impaired, and then to regain some of that use and to go and lead his life with courage and dignity, and from time to time discuss the fact that he has now heard that when he dies, he can be a diamond, you can make a diamond out of a human body. That was a conversation we had this

Christmas. I beg you to take these issues very, very seriously.

We have brought our cancer cluster issues to the County. George Trent and I became bosom buddies for several years. We have taken our cancer cluster issues to the state. _Dr. Ora Wynstein_ and I knew each others phone numbers by heart. We have taken our cancer cluster issues to the Federal Government, and I'm very pleased to tell you that in the next few weeks we have been informed that we will have a report after four and a half years from the feds on what their suppositions are.

All these organizations say agricultural chemicals and pesticides are the probable issue along with X, Y, Z unknown issues. So I understand people's livelihoods, I understand green grass, I understand politics to some degree, I understand finances, I understand good health and happiness, but I'm asking you to remember that there are 16 people in East Hampton fresh out of high school and many other people all over Suffolk County in clusters who are depending on you to protect them as best you know how. And I thank you for continuing to spotlight this very difficult and troublesome issue. Thank you.

**LEG. CARPENTER:**
Thank you very much.

**LEG. CARACCIOLO:**
Madam Chair, I have a question.

**LEG. CARPENTER:**
Yes. Could you, please, come back to the podium, there is a question from Legislator Caracciolo.

**LEG. CARACCIOLO:**
Hi. Thank you very much for that courageous statement and testimony. Of the 16 students you enumerated ••

**MS. CARABINE:**
Yes.

**LEG. CARACCIOLO:**

•• would you have an idea of how many of them came from households that their portable water was private wells?

**MS. CARABINE:**
All 16 were born and raised in East Hampton and went through the East Hampton School System. I live on Roberts Lane, which is down the street from East Hampton High School, and we have our own well. Our well was part of the New York State _Toomic_ Research Project in 1980, where we were offered a filter by Union Carbide and $100 to never sue, an we took it, because we were really stupid at that point. The rest of those people, I understand, live anywhere between the Village line, which is just a few yards away from the school to Montauk, and most of them are on public water.

**LEG. CARACCIOLO:**
Now, when was your son born? What's his age?

**MS. CARABINE:**
My son now 33, he was born in 1972. He was in the Marine Corps when he was diagnosed, and so he was treated at Bethesda Naval Hospital for a brainstem glioma. He was told he had a month to live. And at that point, they said he had had his tumor since he was 14 years old in East Hampton High School.

**LEG. CARACCIOLO:**
And the other children that have been afflicted, what type of cancers?

**MS. CARABINE:**
Predominantly Hodgkins and non Hodgkins, which is was granted the state •• which is why the state granted us a cancer cluster. But also, Ewing Carcoma, which is a bone cancer. My godson has Ewing Carcoma. My son had a brainstem glioma, another boys has lung cancer. We now have •• the 16th is another brain tumor, a young woman who just graduated from East Hampton, also testicular cancer. But the predominant numbers are Hodgkins and non Hodgkins. And that means that 16 families East Hampton, whenever there's a fever or somebody has a swollen gland under their arm, it's Stony Brook ASAP, or in my case, my son goes to Bethesda right away. He has an MRI eight times a year.

**LEG. CARACCIOLO:**

Thank you.

**MS. CARABINE:**
Thank you.

**LEG. CARPENTER:**
Thank you. Next speaker, Alexander Peters.

**MR. PETERS:**
Hello. My name is Alexander Peters. I am the President of Amagansett Springs Aquifer Protection, and we are a local environmental group out east in the eastern portion of East Hampton Town. And we are basically there to protect the Stony Hill Aquifer. The Stony Hill Aquifer is a tiny little sole source aquifer that provides all the wells of Springs, Amagansett, Northern East Hampton and 85% of the public water to Montauk. So this little aquifer provides all the water to the folks of Eastern East Hampton, or almost all.

I'm here to urge you very much to support Jay's bill, because the fact of the matter is there's no more questions about this stuff. People who don't want to deal with the truth and want to stick their heads in the sand, and there's lots of sand on Eastern Long Island, can act as if there's no connection between pesticides and cancer. But as you've just heard Prudence speak, there's no question in our minds that there is a connection. And we have a tiny little aquifer. We don't have the three aquifers that we have in this part of Long Island. We just have the Upper Glacial. We have no Magothy, we have nothing beneath. So if we pollute our one aquifer, we are done, we are in big, big trouble. That means that all of the water then would be polluted.

And one of the big sources out east is homeowner's ignorance. I am completely in favor •• I thought that the point that was made before about how professional applicators should be the ones to put this down is absolutely the case. But there's so many people who can buy this stuff all over the place, at every hardware store it's available. And people just don't know. They are just •• so many people still don't get the connection between what they put on their lawn and what they are drinking from their well. And virtually everybody in Eastern East Hampton, unless you are in the village themselves, if you are in any outlying areas or in the country side at all, you have a well.
And it is vitally important that we pass this very important legislation. And I applaud Jay

Schneiderman for moving ahead with this and having the courage to have Suffolk County contend with this issue. We need your support, and we need it now. We no longer have the time to have more people come up here like Prudence to tell you about the children if we're just going to stick our heads in the sand for another five or ten years. You need to have the courage to pass this now. We need the protection. Thank you very much.

**LEG. CARPENTER:**
Thank you. There no other cards on this hearing, is there anyone else who wishes to address the Legislature on this hearing? If not •• yes, please, come forward.

**MS. ANKER:**
One more. I was hoping to come later on, but I don't think I'll be able to stay so I wanted to the infrared technology, but unfortunately, I won't be able to.

**LEG. CARPENTER:**
No. I'm sorry. We can only speak on this particular hearing.

**MS. ANKER:**
Absolutely. I just wanted to mention, I can also see where the nervousness of the applicators as far as their livelihood, and I think everyone can, but again, I started a coalition about four years ago, because I live in a breast cancer cluster. And I'm still waiting on the state to do something, just to come in and say, you know, change your diet habits or change your lifestyle or lower your pesticide use, and they have not.

So the point is as far as the state regulating toxic pesticides, I can't see why we should wait around. And I do •• I also applaud Jay's effort in trying to do what he can. And the other Legislator had mentioned that, well, it's water down, you know, you do have a compromise. And I understand that to get anything put through. And, yes, it is to create an awareness, but, you know, the County, you guys have to do something. Suffolk County has one of the highest breast cancer rate in the country. And, you know, what is it? I don't know. It's probably pesticides, it's probably the pollution, and it's probably a lot of other things that's floating around, but if there's something we can do right now just to reduce our •• our rate of getting it. Again, it's a combination. As far as •• the woman up here mentioned the precautionary principal of the cynergenic effects, all this stuff coming at us.

And I think the most important thing to think about when you decide on this legislation, whether or not you're going to pass it, not pass it or table it, is the children. The children •• there is such a rapid increase in cancer. And what they're finding now, cancer starts in the •• when the woman is pregnant, as a baby. You get •• it takes ten, 20, 30, 40 years sometimes to get cancer, and it's been proven. There are scientific studies from all type of universities. So please think about this with this bill. And, again, I give Jay a lot of credit and, you know, coming out here and speaking. And we need to change the mindset. I hope one day •• and you know, it was encouraging to hear one of the applicators mention that you use oil, dormant oil, and certain other types of applications other than chemical. And I hope we see that trend progress, because I think people really want to go there, and I think they're afraid. But I applaud Jay, though, for taking the leadership and pulling us forward. And I think it will take time. I'm not saying it's going to happen overnight, but I applaud everybody here, because I've been going to the Community Advisory Pesticide Committee with Amy Juchatz, and I know they're trying very hard. And I thank everybody here for their efforts. Thanks.

**LEG. CARPENTER:**
Thank you very much. Okay. Is there a motion on this hearing?

**LEG. BINDER:**
Motion to close.

**LEG. ALDEN:**
Second.

**LEG. CARPENTER:**
We have a motion and second to close. All those in favor? Opposed? Resolution •• I mean, the hearing is **closed.**

The next hearing is **2128, Authorization of alteration of rates for Davis Park Ferry Company**. Is there anyone who wishes to speak on this hearing? We have no cards on this hearing. This has to be recessed, the report is not completed on this.

**MR. BARTON:**
Correct.

**LEG. ALDEN:**

Motion to recess.

**LEG. CARPENTER:**

Motion to recess, second. All those in favor? The hearing is **RECESSED.**

**1069, approving the ferry license for Fire Island Water Taxi.** We have one card, George Hafele.

**MR. HAFELE:**

Thank you, Mr. Chairman, members of the Legislature. My name is George Hafele, I'm the President of Fire Island Ferries and Fire Island ••

**LEG. CARPENTER:**

George, if you could, just speak up a little.

**MR. HAFELE:**

•• Fire island Water Taxi. This evening Fire Island Water Taxi has two separate public hearings; IR 1071, approving a rate alteration, and IR 1069, approving a license extension. Our current operating license approved by this body in March of last year is said to expire at midnight tonight. If it is at all possible, I respectfully request that the on•demand service that Fire Island Water Taxi provides at this time of year, albeit sporadic, be permitted to continue.
There is a core group of year•round Fire Island residents who are not privileged enough to have obtained driving permits. Senior citizens and families with young children are examples of some residents who have trouble accessing mainland facilities after regular ferry service ends. Doctor appointments, dentist appointments, extracurricular and scholastic activities are reasons that the residents use our services. After hours access from time to time is also provided to the Long Island Power Authority, Suffolk County Water Authority and Verizon to service their facilities on Fire Island. Please allow this service to continue past midnight tonight by closing this public hearing and allowing a vote on IR 1069. I'd be happy to answer any questions, I'd be equally as happy to go sit down.

**LEG. BISHOP:**

I have a question.

**LEG. CARPENTER:**

Legislator Bishop.

**LEG. BISHOP:**

Are these eligible for votes? I mean, these hearings have to be recessed, right? There's no report.

**MS. KNAPP:**

My notes indicate the report is not complete yet.

**MR. BARTON:**

The license.

**MR. SPERO:**

I was editing the report, here at the table, on the rate application. But I believe the public hearing for the license can be closed. The rate public hearing must be recessed.

**MS. KNAPP:**

I stand corrected.

**LEG. CARPENTER:**

So you are talking about the license only, and the license is due to expire?

**MR. HAFELE:**

Midnight tonight.

**LEG. CARPENTER:**

Okay. Legislator Bishop, does that answer your questions?

**LEG. BISHOP:**

Right. So the rate one has to stay open?

**LEG. CARPENTER:**

The rate one has to be recessed, but the operation of the ferry •• the license to operate ••

**LEG. BISHOP:**

So how do you operate without a rate schedule?

**LEG. CARPENTER:**

Well, you would have to go with the prior years.

**LEG. BISHOP:**

Can you do that?

**LEG. CARPENTER:**

Yeah. You have to go with the prior rate schedule. You have to go with the old rate.

**LEG. ALDEN:**

Hold•over.

**LEG. CARPENTER:**

Hold•over.

**LEG. FOLEY:**

So the intention, Madam Chair, then is to ••

**LEG. BISHOP:**

And, therefore, the •• everything from the prior year •• there's no change of substance in approving the license, that's what I want to get at, because we're approving the license.

**LEG. CARPENTER:**

The license is basically the license to operate with the same conditions that we approved last year.

**LEG. BISHOP:**

Is that correct?

**MR. HAFELE:**

That's correct.

**LEG. CARPENTER:**

It was a new venture. We only gave a one year license.

**LEG. BISHOP:**

So it's the same rules and regulations as last year with the same rate as last year.

**MR. HAFELE:**

Same locations.

**LEG. FOLEY:**

Yes.

**LEG. BISHOP:**

Okay. Thank you very much.

**LEG. ALDEN:**

Motion to close.

**LEG. CARPENTER:**

All right. So we have a motion to close, I'll second that motion to close. There was just one card. Are there any other speakers on this particular hearing?

**LEG. FOLEY:**

We have to have copies of the bill distributed, Madam Chair.

**LEG. CARPENTER:**

We would have to have it age an hour. So we have a motion and a second to close. All those in favor? Opposed? The hearing is closed. We will •• if there is someone willing to do that.

**LEG. ALDEN:**

I don't make copies, sorry.

**LEG. CARPENTER:**

I'll make a motion to discharge, is there a second? Seconded by Legislator Foley. All in favor?

Opposed? Resolution is discharged.

**P.O. CARACAPPA:**
Opposed.

**LEG. CARPENTER:**
We have one opposed. And we'll get copies of the bill distributed. The next is **IR 1071, approving the rates established for Fire Island Water Taxi**. Are there any cards on this hearing? Anyone wishing to speak on the hearing? Motion to recess.

**LEG. BISHOP:**
Second.

**LEG. CARPENTER:**
And a second. Hearing is **recessed.**

**P.O. CARACAPPA:**
Public hearing on **1108, a Local Law to extend and further strengthen the reporting for the Anti•Nepotism Statute.** Legislator Caracciolo. Motion to close by myself, is there a second? Second by Legislator Viloria•Fisher. All those in favor? Opposed? Public hearing on 1108 is **closed.**

**1109, (a Charter Law adopting the extension of the smart government plan for environmental protection for County taxpayer protection and for sewer stabilization).** Legislator Caracciolo? I make the same motion, same second. **Closed.**

**1113, (a Local Law to permit the seizure of vehicles to protect Suffolk residents from unlicensed drivers).** No cards. Anyone wishing to be heard. This is on 1113. Motion to close by Legislator Carpenter, second by Legislator alden. All in favor? Opposed? **Closed.**

**IR 1127, (a Local Law to prohibit the use of mobile telephones by persons under the age of 18 while operating a motor vehicle).** 1127, we have no cards.

**LEG. ALDEN:**
Motion to close.

**P.O. CARACAPPA:**
Anyone wishing to be heard? I have no cards. Motion to close by Legislator Alden, I'll second that. All in favor? Opposed? **Closed.**

I'll make a motion, seconded by Legislator Carpenter to set the dates and times for the following public hearings, March •• Monday, March 21st, 2005 at 9:30 at the Ways and Means Committee in the Rose Caracappa Auditorium in Hauppauge for the following public hearings; 1225, 1283, 1326. Also in that motion setting the date of Monday, March 21st, 2005 at 11:30 a.m., the Health and Human Services Committee in the Rose Caracappa Auditorium in Hauppauge, IR 1293; also within that motion, the date of Wednesday, March 23rd, 2005 at 1:00 p.m. at the Consumer Protection Committee at the same location, IR 1191; also within that motion is Tuesday, April 5th, 2005 at 2:30 p.m. •• actually I'm going to withdraw that. There's a motion and a second on those prior hearings. All in favor? Opposed? Abstentions?

There's a motion and a second by myself and Legislator Foley to set Tuesday, April 5th, 2005, 2:30 p.m. at the General Meeting in Hauppauge for the following public hearings; 1073, 1184, 1285, 1300 and 1327. All those in favor? Opposed? Abstentions? Those public hearings are set. As promised, we are going to go back to the yellow public portion cards for those who have stated around. Thank you. Jim Avery. Linda Fleming. Herb Mones. Herb? He was here for the Smoke Run. Herb is year?

**AUDIENCE MEMBER:**
John Broven will take his place.

**P.O. CARACAPPA:**
You can't do that. Pearl Granat.

**MS. GRANAT:**
Hi. Thank you and good evening, Legislators. My name is Pearl Granat, and I come to you to speak on support of the resolution to clarify the Living Wage Bill that has been sponsored by Legislators Bishop and Lindsay. I also just want to add, although I waited four hours to speak less than three minutes, I really have been quite impressed with your process here in Suffolk County.

I'm Vice•President of 1199, the New York State Health Care Workers Union, and we respect 20,000 workers on Long Island. And having that background, of course, we certainly as you could assume like to support the living wage of child care workers. And I was here earlier when a child care provider was quite eloquent in her statements. I just support those that when we pay working people a living wage, they are professional, they are dependable, whether they're union or nonunion. And certainly child care workers take care of our most precious resource.

Child care workers are predominantly women, and they generally have their own children to raise as well. So with that in mind, this is a win•win bill. I understand that you have money set aside in a contingency fund. We're not interested in driving providers out of business. We urge you to pass this resolution and think again. I thank you for your time and commend you. It's been a wonderful experience here.

**P.O. CARACAPPA:**
Thank you very much. We appreciate that. Thank you for sticking around to give your testimony. Chris O'Connor. Rick, we were actually making sure you those first few comments, Rick, on how good the Legislature is. Make that the Suffolk County Legislature. Very good. Thank you. Chris O'Connor. Yvonne Patterson Quirk. John Hritcko.

**LEG. BISHOP:**
The pesticides did them in.

**MR. HRITCKO:**
Thank you. My name is John Hritcko, Jr. I'm Senior Vice President and Regional Project Director for the Broadwater Energy Project. Thank you for this opportunity to make a few brief comment before the Legislature.

Broadwater is an energy project that would deliver safe, dependable, diversified supply of clean burning natural gas directly to the New York•Connecticut region, and more importantly to the people in businesses of Long Island and Suffolk County. The direct benefits of the Broadwater project to the people of Suffolk County are enormous. They include a supply of natural gas that would reduce the cost of energy to the region by several billion dollars, supporting the ability of power producers to repower existing power plants with efficient natural gas leading to cleaner air, removing the hidden tax of high energy costs off the backs of Suffolk County residents and

businesses already struggling to survive in one of the highest cost of living regions in the country. In short, improving the quality of life in Suffolk County.

The project will not be built, however, if it cannot pass the extensive and detailed regulatory review process now under way. Numerous federal and State of New York agencies will examine the project in detail before they decide whether to issue the myriad of permits that are required by the project. We are in the early stage of that extensive review and much more information will be made available to allow parties to make objective and informed decisions about Broadwater.

Broadwater is pleased to see Suffolk County act in a thoughtful and engaged manner by approving the retention of an outside expert counsel who will •• who will advise you on the complex technical issues associated with the project. Likewise, we are delighted to cooperate with the work now underway by the FRES Chairman who is studying the implications of having such a facility located nine miles off the coast of Long Island. These activities demonstrate the proper open, deliberative and engaged manner in which Suffolk County should approach its assessment of Broadwater.

Needless to say, we are dismayed that the Legislature is considering the Sense Resolution in opposition to the project at this early stage of the regulatory review, when by its own admission within the resolution, the impacts of the project are yet unknown. Even more troubling is the willingness of this Legislature to act prematurely before the facts are laid before it and to consider this resolution when nearly three•quarters of the Long Islanders indicate that they want to see the extensive regulatory review process completed. Quite frankly, we are confused why the Suffolk County Legislature would vote to appropriate resources to properly participate in the review of the project when they're entertaining this resolution to oppose.

I'd like to say in closing, that we, Broadwater, would urge you to reject the vote on this resolution at this time and continue your rational, objective review of the process. Thank you.

**P.O. CARACAPPA:**
Thank you.

**LEG. CARACCIOLO:**
Mr. Chair.

**P.O. CARACAPPA:**

You can't ask questions. This is public portion. No questions. Dr. Richard D. Bartel. Going once, twice. DeWitt Davies. Is that you, Mr. Davies, standing?

**MR. DAVIES:**

Yes. Good evening, Mr. Chairman and members of the Legislature. For the record, my name is DeWitt Davies. I am Chief Environmental Analyst in the Suffolk County Planning Department. Mr. Thomas Isles. Planning Director, has asked me to provide you with a comment this evening with respect to supporting Resolution Number 2226•04, which pertains to the Suffolk County Aquaculture Leasing Program.

The project envisioned under this resolution was recently approved for funding by the Suffolk County Water Quality Review Committee on March 2nd. It responds to a new law adopted by the State of New York last fall. Chapter 425 of the Laws of New York 2004, seeded 110,000 acres of state•owned underwater lands in Peconic and Gardiners Bays to Suffolk County for the purpose of establishing and implementing a shellfish farming leasing program in that region.

The proposed project includes a variety of technical components which will be conducted in a very deliberative manner. Suffice it to say that all maps, procedures and criteria developed and recommended under the project must be approved by the County Legislature upon adoption of Local Law. It is worth while to reiterate that the enabling state law contains a sunset provision relating to lease program implementation. In the event that Suffolk County fails to issue a shellfish cultivation lease by December 31st 2010, it will loss title to 110,000 acres of underwater lands in Peconic and Gardiners Bays.

Perhaps more importantly, the County will forfeit its local authority to control and designate locations in the Peconic Estuary for the conduct of compatible water dependent activities in the future. Thank you for the opportunity to address the group.

**P.O. CARACAPPA:**

Thank you, sir. Marie Pendzich. Going once, twice. John Broven.

**MR. BROVEN:**

Hi. Good evening, Mr. Presiding Officer and members of the Legislature. For the record, John Broven. I'm speaking on behalf of the Civic Association of the Setaukets, despite the accent, and I'd like to say a few words at the end. But if I may, on behalf of the Civic Association of the Setaukets, by vote of the membership at this association's monthly meeting in January of 2005, we strongly endorsed the County acquisition of development rights for Smoke Run Farm in the Hamlet of Stony Brook.

***[RETURN OF REGULAR STENOGRAPHER • ALISON MAHONEY]***

**MR. BROVEN:**
This would secure a valuable and much loved area of open space within the local communities as well as strengthen and complete the counties adjacent, and if I can emphasize the word adjacent, Forsythe Meadow County Nature Preserve for the future enjoyment and benefit of all County residents. In my past life in banking in England, part of farming folk law was that a farmer would always purchase a piece of land adjacent to his own farmland.

I would, therefore, commend on behalf of the civic association and myself, that you follow the Environment, Planning and Agricultural Committee and pass Resolution No. 1117. And in closing, Mr. Presiding Officer, if I may say that the Shirwood Jayne Property, of which the County purchased the development rights, is looking an absolute picture, a real credit to you. And can I say, or can I ask, when did you last hear the rooster crow at the crack of dawn? Thank you.

**P.O. CARACAPPA:**
Thanks.

**LEG. ALDEN:**
I hear it in my neighborhood every day.

**P.O. CARACAPPA:**
Usually it's just shrieking tires in my neighborhood. Not so much the face but the accent is familiar, we appreciate it, you've been here before for other aquisition debates and bills. So we appreciate your activity on it.

**MR. BROVEN:**

Thank you.

**P.O. CARACAPPA:**

Dr. Brian Harper. Dr. Harper?

**LEG. ALDEN:**

He probably got a third job, too.

**P.O. CARACAPPA:**

Barbara Allen? Barbara Allen? Barbara Allen? Ian Burlick.

**MR. BURLICK:**

I'm Ian Burlick, I'm President of the Southampton Town Bayman's Association. I've been a commercial fisherman for approximately 30 years and a bayman as well. I'm here tonight to express my support and the support of the Bayman's Association for Suffolk County to continue to promote aquaculture in the Peconics, specifically bill 2226•04 that DeWitt Davies mentioned earlier. We in Southampton Town have been working with the town to promote aquacultural in town waters, in town waters we're looking basically to have those areas serve as a nursery area and we're looking to grow out full size oysters, scallops and clams in Peconic Bay. For us to be able to do that successfully, it would be a tremendous benefit for us if the new program, which we pushed with the law that passed through the State recently, if that were approved and this process could continue to go forward.

The benefits of this bill are twofold. First of all, growing oysters and other shellfish, they all filter and basically feed by removing microorganisms from the water. That in turn improves water clarity and quality, it's good for the environment, it will promote the growth of eel grass by clarifying the water and it will also •• it's been shown that high concentrations of shellfish having a positive effect on preventing browntide. These are all areas which have received a lot of funding to, you know, promote the benefits of these things. Aquaculture, if it's allowed to develop in the Peconic, will benefit us in these areas.

Additionally, it will be a tremendous financial benefit for the County. Already we have people working, importing aquaculture gear from Australia, we have boat builders building boats for people who are getting into the business. I myself build small•scale commercial fishing gear,

I've built gear for people in the business. We have had people start hatcheries. As President of the Baymen's Association, I've seen the numbers of baymen in Southampton Town decline seriously over the last 20 or 30 years. The few baymen that are left are in support of this bill, they see this as an opportunity for them to continue to work on the water, to continue to make a living in a way that's at least compatible with the way they have traditionally. And at the same time, the way the bill is written, there's no reason to exclude wild harvest. The wild harvest that has been ongoing should be able to continue, the two should be able to coincide.

So I just want to state again, we are in full support of this bill, the Southampton Town Baymen's Association, myself, the east end marine farmers and others.

**P.O. CARACAPPA:**
Thank you.

**MR. BURLICK:**
Thank you.

**P.O. CARACAPPA:**
Chip Maran.

**MR. MARAN:**
For the record, my name is Chip Maran. I'm going to speak on the same bill, I'll keep it short, you guys have had a long night.

**LEG. CARPENTER:**
It's only just begun.

**MR. MARAN:**
The aquaculture around the world is far ahead of the U.S. and New York State is behind a lot of the rest of the country, especially the west coast of the U.S. I studied in Australia and Tasmania, I was there for two years, I import gear from Australia. I'm a boat builder, jack of all trades and I think a testament to all this is tonight you talked about we have problems with the jail systems, I tell you what, you get kids working out on the water they're going to be too tired to be cutting up. So it doesn't just serve as an environmental, it's historical, it's for an all

•around •• you've got to have people working on the water, you've got to have people in the New York Stock Exchange to have a well balanced community. I appreciate your time. Thank you.

**LEG. VILORIA•FISHER:**
Thank you.

**P.O. CARACAPPA:**
Thank you, sir. Sarah Anker? Ms. Anker? Oh, she spoke?

**LEG. VILORIA•FISHER:**
No, she had to leave so she spoke at the public hearing.

**LEG. CARPENTER:**
Yeah, remember she came up, she snuck in.

**LEG. VILORIA•FISHER:**
She's gone.

**P.O. CARACAPPA:**
Joe Gergela? He spoke earlier. Joe? Kenneth Comoski.

**LEG. VILORIA•FISHER:**
You're not going to sing?

**MR. KOMOSKI:**
Thank you very much. For the record, my name is P. Kenneth Komoski, I think the P this evening stands for persistence.

**P.O. CARACAPPA:**
Patience.

**MR. KOMOSKI:**
And perhaps your patience. But time and attention are the currency of the new millenium, and

I want to thank you for the investment you're going to make for the next couple of minutes. When I came in this afternoon, the gentleman who spoke second about the jail situation I believe is a representative of the workers ••

**LEG. BISHOP:**
Correction Officers.

**MR. KOMOSKI:**
Correctional workers, thank you, and he said, "Are you going to sing?" And I said, "No, I'm not going to sing." I have a prop; I couldn't bring the prop tonight, it's in my car and you have this prop, it's no your cars and it's called a rearview mirror. And I want you to know that if you don't do something about shifting the emphasis from meeting a State mandate to beat •• to build an extremely costly and we've heard all about this all earlier today. To build that institution and reinforce that mandate and if you don't do something about breaking that mindset and changing your view to really funding alternatives to incarceration in this County, the last line of that blues I sang you was "If you want to change this situation, we need a lot more education and alternatives to incarceration for everyone who hasn't committed a violent crime ". And if we can •• as a citizen, what I want to see you do is to really do your homework on knowing what alternatives to incarceration are doing in this country today. I have a colleague of mine who has established for many years a youth court in Washington D.C; it now runs itself and the kids are keeping kids out of jail by meeting with kids who have, in fact, been brought before the law and adjudicating those cases and keeping them out of the Penal system. All right? This is just one example of that. And that gentleman, by the way, is the Dean of the District of Columbia School of Law, his name is Dr. Edward Kahn •• Edgar Kahn, excuse me.

Why do I say you have that thing in your car that can remind you of what I'm going to leave with you now in the next few moments? If you don't shift your emphasis, you are going to be looking at the future through your rearview mirror; I just want you to remember that when you get into your car tonight. And when you get into your car tomorrow morning, the prison industrial complex in New York State is, in fact, mandating you to ••

**P.O. CARACAPPA:**
Please sum up, sir. I'm sorry.

**MR. KOMOSKI:**

I just want to say one final thing, please. You're being asked to build a prison, a jail that is not needed because the incarceration rate in New York State is going down and that's the future. And you are •• if you don't change your emphasis and do your homework on alternatives to incarceration, you will be looking at that future through your rearview mirror every day. Thank you.

**P.O. CARACAPPA:**
Thank you, sir. Lucius Ware? I think I saw Lucius leave. Lorry Werner? David Quirk? Jim Morgo, who I •• he was here but he's rather ill and I told him to go home before he got everyone else sick, but Charlie Bartha will be speaking on the same issue I believe in just a few moments. Well, I have a second card for Steve Fiore•Rosenfeld; he was the 12th card, he's also the 47th card. You can't speak for him, ma'am.

**MS. DAVIS:**
Okay, there's another card there.

**LEG. FOLEY:**
Unless she has a letter from him; you have a letter from him?

**MS. DAVIS:**
Yes, I do.

**P.O. CARACAPPA:**
Did you fill out a card?

**MS. DAVIS:**
I did.

**P.O. CARACAPPA:**
When you come up to speak you could just submit his letter as part of the record of your testimony and we'll get a copy of it. Vito Minei? Actually I don't have a card. What's your name?

**MS. DAVIS:**
Roberta Davis.

**P.O. CARACAPPA:**
Did you fill out a card; a yellow card with Roberta Davis?

**MS. DAVIS:**
Yes, I did.

**P.O. CARACAPPA:**
All right, we'll get to you. Vito?

**MR. DAGNELLO:**
Thank you, Mr. Presiding Officer, for allowing me to speak during public portion. I'm Vito Minei, I'm the Director of the Division of Environmental Quality for the Department of Health services. I'm here tonight on behalf of Commissioner •• Dr. Brian Harper to speak on IR 1008 which essentially directs the department to eliminate the fees for all homeowners who have private wells.

We certainly support the intent. In fact, the Suffolk County Health Department is very proud of the fact that we're one of the few jurisdictions in the country that has a very ambitious private well testing program. However, this open•ended directive to allow any homeowner in areas impacted by agricultural chemicals we believe would place an unreasonable, logistical, technical and an administrative burden on the department.

We would prefer a very modest change to the wording which would continue the authorization for the department to conduct free testing in survey areas. We think that accomplishes the intent, but we also think that that minimizes the impact on staffing and laboratory resources. The reason I make this statement is that we estimate that there are still about six to 7,000 private wells in areas impacted by agricultural chemicals. We think that might be a conservative estimate and if people feel they're being impacted they may call and ask for it.

So again, we concur with the intent. We only ask for an ability to authorize surveys and conduct those surveys to sample private wells but not leave it open. We have done this in the past and believe me, it does not provide a service, it equates to a very long waiting time of

several months and we believe that would be the case if this resolution were passed in its current form. Thank you very much.

**LEG. CARACCIOLO:**
Mr. Chairman? I know we're in public portion, I don't have a question but I would like a point of personal privilege.

**P.O. CARACAPPA:**
As long as it's brief.

**LEG. CARACCIOLO:**
Yes. Let me clarify for Mr. •• for Vito, rather, that the resolution speaks very specifically to the testing of private domestic wells in areas of high risk of pesticide contamination. So this is a targeted approach, it's not a blanket approach, and when we debate the resolution later on, I would like to inform my colleagues of a number of inaccuracies with regard to correspondence I did receive from
Dr. Harper which came out of Mr. Minei's shop. So, you know, Vito, someone I've respected tremendously and never thought for once that you would state your integrity as a career civil servant looking out for the people's welfare by providing ••

**P.O. CARACAPPA:**
Legislator Caracciolo?

**LEG. CARACCIOLO:**
•• erroneous information to our Budget Review Office, but we'll get into that when we get to the resolution.

**P.O. CARACAPPA:**
Okay. Before I call the last card which might have •• well, actually, Ma'am, in the back, what was your name again?

**MS. DAVIS:**
Roberta Davis.

**P.O. CARACAPPA:**
Why don't you come up now. Before you speak, did you fill out this card for the Councilman?

**MS. DAVIS:**
Yes, I did.

**P.O. CARACAPPA:**
Okay.

**MS. DAVIS:**
Okay. There's probably two or three now, okay?

**P.O. CARACAPPA:**
Okay. Go ahead.

**MS. DAVIS:**
I'm Roberta Davis and I'm here on behalf of Councilman Steve Fiore•Rosenfeld. Dear Presiding Officer Caracappa and Suffolk County Legislators, I would like to thank the Presiding Officer and the entire County Legislature for allowing my staff to make these comments on my behalf today concerning Smoke Run Farm in Stony Brook, as the Brookhaven Town's meeting is also scheduled for this evening.

I wish to express my strong support for the acquisition of farmland development rights of this parcel under the Suffolk County Save Open Space Farmland Preservation and Hamlet Parks Fund. As such, I urge you to pass this resolution introduced by Legislator Viloria•Fisher and passed by Chairman Losquadro's •• excuse me, Losquadro's committee on Environmental Planning and Agricultural on March 10th, 2005. On January 27th, 2005, the Brookhaven Town Board authorized the town's land management staff to obtain a secured appraisal of this approximately six acre horse farm that borders the recently acquired 36 acre County preserve known as the Forsythe Meadow Preserve.

As a member of the town board and as the 1st District representative wherein this property lies and based on the public statements from the supervisor as well as John Turner, our Director of Public Statements from •• I'm sorry, our Director of the Division of Environmental Protection, I can say that the town has a strong interest in working with the County toward the preservation

of this parcel. Due to its location just next to the Forsythe Meadow Preserve, Smoke Run Farm amounts to virtually the only point of entry on this beautiful expanse of natural preserve which so many of our community residents, local Legislators and environmentalists fought so hard and for so long to acquire.

The purchase of the Smoke Run Farm development rights would now compliment that earlier acquisition and make this active horse training, boarding and riding farm, in operation for decades, a part of this unspoiled asset. Moreover, I strongly submit to this committee that the best use of this parcel, one of the last remaining equestrian centers in the County, is in training horsemanship, a healthy past time that fosters significant life skills and guidance, particularly to young people. Additionally, this very property used to have a relationship with Stony Brook University with accredited courses in Horsemanship, a relationship that should be reestablished if preservation is achieved. It is for these reasons that our community is so supportive of this land preservation.

Lastly, I wish to stress the importance of preserving this critical parcel for its own sake to prevent even more development in our community, one that is already feeling the pressures of intensifying over development. This is, in my opinion, perhaps as important a reason as any outlined above for this committee to pass the resolution that is before you today. Thank you for consideration of the foregoing remarks. Respectfully submitted, Steve Fiore•Rosenfeld, Councilman, 1st District. Thank you.

**P.O. CARACAPPA:**
Thank you very much. We appreciate those comments. Next speaker, Commissioner of the Department of Public Works, Charles Bartha.

**LEG. ALDEN:**
Point of order.

**P.O. CARACAPPA:**
Legislator Alden.

**LEG. ALDEN:**

Charlie is handing stuff out so I'm not really cutting into his time, but ••

**P.O. CARACAPPA:**
No, I haven't started it yet.

**LEG. ALDEN:**
Wouldn't it actually be better if any officials or, you know, people that are basically on the payroll come down during that portion because then there can be a little give and take.

**P.O. CARACAPPA:**
Well, there is an option for them to do that but they opted to fill out a yellow card, as is their right as well.

**LEG. ALDEN:**
So then he's here as an individual.

**LEG. LINDSAY:**
He's here to speak against the jail.

**P.O. CARACAPPA:**
He's here as Commissioner of the Department of Public Works, according to his card, but ••

**LEG. ALDEN:**
If he's here •• and if this is an inquiry than, you know, parliamentary inquiry; if he's here as Commissioner then he falls into the time allotted for Commissioners and officials.

**P.O. CARACAPPA:**
Yeah.

**LEG. ALDEN:**
And that would allow some, you know, debate or •• I'm just raising it as an issue.

**LEG. FOLEY:**
Give and take, Cameron, point to point?

**LEG. VILORIA•FISHER:**

I don't think we have that time anymore, do we?

**P.O. CARACAPPA:**

Commissioner?

**COMMISSIONER BARTHA:**

Thank you for the opportunity to speak about IR 1122, this is the resolution which would fund the engineering to design a five million gallon a day expansion of the Bergen Point Waste Water Treatment Plant. Jim Morgo asked me to say that there's no more important issue to economic development or workforce housing, every day since he's been in office it comes up that the need for sewers for economic development purposes.

It's been 35 years since Suffolk County undertook a major initiative with respect to sewers. On the second page of my handout you see the service area for the Southwest Sewer District which includes approximately 70,000 properties in a 57 square mile area. We have •• the treatment plant was designed and is permitted to operate at 30 million gallons per day, presently that flow is committed between the district connections, the district connections that are pending, contractees from outside the district, as well as a factor of safety that the New York State DEC requires us to maintain of 5% which is a million and a half gallons per day which has to be maintained unless we have a capital improvement plan. We have a letter from DEC saying that if this resolution passes tonight it will constitute the start of a capital improvement plan and they will allow us to start contracting out that 1.5 MGD which we see as so important to economic development as well as workforce housing opportunities.

Presently there is only 15,000 gallons left to contract out which is the equivalent of approximately 50 homes. On the next page of the handout you see connection fee use. We have contracted out capacity in the past, a total of $17 million of connection fees has been received by the district and that has been used for projects which have improved the treatment plant and conducted major maintenance activities for which debt service of almost $30 million would have been entered into by the district. These improvements were made at no cost to the district residents and the taxpayers.

Contractees, not only do they pay the initial connection fee, they also pay annual user charges,

5% above that of residents, businesses in the district. In 2004 those connection •• those user fees totaled almost $ million. I believe that expanding Bergen Point is good for the County as a whole and is good for the district. This resolution will •• is for $3.1 million and it's very early to project a construction cost at this point which is why I hesitate to give a figure, however, a very rough figure is 35 to $40 million for construction of this $5 million gallon a day expansion.

The connection fees associated with a five million gallon expansion are $75 million, so there is a clear net revenue to the district would be accomplished by doing this. The last page of the handout you see the improvements that would be necessary to expand the plant, the darkened areas, two irration tanks would have to be constructed, two primary settling tanks and an additional raw waste water pump at the head of the plant would have to be constructed. Thank you.

**LEG. ALDEN:**
Mr. Presiding Officer? As it's prohibited by our rules to engage in any questioning and debate or anything like that, I would ask that, if possible, the Presiding Officer could ask Mr. Bartha to maybe make himself available in a little while when we debate the bill?

**P.O. CARACAPPA:**
Charlie, can you stick around?

**COMMISSIONER BARTHA:**
Okay.

**P.O. CARACAPPA:**
In fact, I think there's going to be an effort to pull it out of order.

**LEG. BISHOP:**
Such formality.

**P.O. CARACAPPA:**
I appreciate the formality, thank you for that; whatever it means. Okay, I have no other cards. Anyone else wishing to be heard? Okay, we'll wait for the stenographer to change paper.

**LEG. CARACCIOLO:**

Mr. Chairman, I request a ten minute recess for a conference meeting.

**P.O. CARACAPPA:**
Um ••

**LEG. CARACCIOLO:**
Five, take five minutes.

**P.O. CARACAPPA:**
Could I have the right to •• I have asked the County Attorney to come down to ask a series of questions.

**LEG. CARACCIOLO:**
That's fine.

**P.O. CARACAPPA:**
Can I go about that first?

**LEG. CARACCIOLO:**
Sure.

**P.O. CARACAPPA:**
All right, I'd appreciate that.

**LEG. MYSTAL:**
Can we also put on the calendar to pull out the sewer district bill, pull it out early so we can relieve ••

**P.O. CARACAPPA:**
Well, you can make that motion as soon as we're done with the public officials who ••

**LEG. MYSTAL:**
So we can relieve Mr. Bartha so he can go back to do his regular work.

**LEG. BISHOP:**
What about the farm, get that out of the way. It's the last farm.

**P.O. CARACAPPA:**
It's a point actually well taken. As soon as we get through the public officials that have been asked to come down and speak on certain matters, we'll either take the quick break or we'll actually pull out a few of those bills out or order so some of these folks can go home. First I'd ask the County Attorney, Christine Malafi, to come forward.

**MS. MALAFI:**
Thank you.

**P.O. CARACAPPA:**
Thanks for coming. I had asked you to come down to answer a series of questions as it relates to your legal opinions or the legal opinions issued out of your office. So my first question to you is would you please explain the process to •• by which a legal opinion is issued.

**MS. MALAFI:**
Well, you have to start with how a legal opinion is requested. Any department head, County Legislator, member of the County Executive's staff, the County Executive himself or the Chief Deputies ask me in writing for a legal opinion on a topic.

**P.O. CARACAPPA:**
So it's Commissioners and department heads; can it be from •• and Legislators; can it be from individual employees as well?

**MS. MALAFI:**
No, they have to come through department heads or elected officials.

**P.O. CARACAPPA:**
Okay.

**MS. MALAFI:**
What had happened is that when we first started, we were just bombarded with opinions from so many people from each department and it got to the point where people in a department did

not know that somebody else in the same department was asking a similar question or something and the department heads themselves didn't know what was being asked.

**P.O. CARACAPPA:**
Do requests come to you directly once they come to the ••

**MS. MALAFI:**
Now they do.

**P.O. CARACAPPA:**
Okay.

**MS. MALAFI:**
Either myself or my Chief Deputy, Lynne Bizzarro.

**P.O. CARACAPPA:**
What do you mean now they do?

**MS. MALAFI:**
The first couple of months it was a little different because it was trying to start running a law office with 120 employees with not a single piece of paper to let me know what was out there or what was going on and the computers had been purged. So the first three or four months it was a little different only by •• because it was harder to keep managing everything.

**P.O. CARACAPPA:**
No, understood.

**MS. MALAFI:**
But since that's been resolved, every single request, substantive request for an opinion must be from a department head, elected official, Chief Deputy is okay and they must come through me, substantive ones.

**P.O. CARACAPPA:**
And those opinions, as they're requested, are they done in order as they're requested?

**MS. MALAFI:**
No, not ••

**P.O. CARACAPPA:**
Or are they priority requests?

**MS. MALAFI:**
It •• in a perfect world it would be done as requested, but sometimes it might be on a piece of •• a resolution that somebody intends to lay on the table so we might •• we'll put that one to the front, it may depend on the issue, some issues can be researched and written more quickly than other issues. So there's really not •• I can't tell you there's an exact prioritization. Nothing gets put on the back burner, though, nothing, everything is worked on.

**P.O. CARACAPPA:**
Okay. I've got a whole list of questions. Legislator Alden.

**LEG. ALDEN:**
Just one quick thing. You said department heads, but you also said that the Chief County, what, Executives, the Deputy Chief County Executives?

**MS. MALAFI:**
Chief Deputy County Executives.

**LEG. ALDEN:**
How far below that can they make a direct request?

**MS. MALAFI:**
Do you mean they can •• below in my office or below in the County Executive's Office?

**LEG. ALDEN:**
Below the Chief Deputy County Executives.

**MS. MALAFI:**
It would have to come through ••

**LEG. ALDEN:**
It would come through.

**MS. MALAFI:**
•• one of the three, the County Executive or the Chief Deputies.

**P.O. CARACAPPA:**
All right?

**LEG. ALDEN:**
Deputies because he has a whole bunch of them.

**P.O. CARACAPPA:**
My next question is ••

**MS. MALAFI:**
Well, I have to say, if one of the Deputies asked me a question I would say, "Oh, I'm not talking to you." I would just run it by •• Kevin Law is who I report to and I would run it by Kevin Law and say, "This is what I'm doing."

**LEG. ALDEN:**
Can I follow?

**P.O. CARACAPPA:**
Go ahead.

**LEG. ALDEN:**
Even if it came from one of the other Chief County Deputy, whatever he is?

**MS. MALAFI:**
I report directly to ••

**LEG. ALDEN:**
Kevin Law.

**MS. MALAFI:**
•• Kevin Law.

**LEG. ALDEN:**
Okay.

**P.O. CARACAPPA:**
Well, my next question, that will lead me into my question •• thank you, Cameron. Who do you consider to be your client when you're asked to issue a legal opinion on various issues? Is it the County Executive, is it other County officials, agencies, departments; what's the order and who do you represent?

**MS. MALAFI:**
I always represent this Legislature and the County Executive's Office, those are my clients, at all times for every single opinion that I do.

**P.O. CARACAPPA:**
Does your office have in place any procedure to make sure that the opinions of all relevant County official, departments and agencies are consulted before a legal opinion is issued by your office?

**MS. MALAFI:**
When we get an opinion •• when we get a request for an opinion, it gets assigned to an Assistant County Attorney through my Municipal Law Bureau to do the research. If it's a substantive opinion, either Lynne Bizzarro or myself physically reads all of the law and support that is behind the draft opinion, we physically do it ourselves, yes. And we make sure that anyone that we think is •• or that we know of that is interested in it is contacted and spoken to.

**P.O. CARACAPPA:**
Then what's the procedure, if any, to determine whether there might be any conflicts or disagreements between various County officials or departments or agencies before you issue a legal opinion?

**MS. MALAFI:**
If we know •• if we know something is up, if we've read something in the paper, if the person who would have a problem with the opinion •• if we don't know about it, there's no way we can call every •• all 18 of you or even check with Mea to have her check with all 18 of you if we know •• if we've read something in the paper, if we've heard rumblings we try to get in touch with everyone who might be affected by it.

**P.O. CARACAPPA:**
Are you aware or do you acknowledge that in the event of a conflict or disagreement between the County Executive and the County Legislature that your office is legally and ethically required to represent the interest of the Legislature?

**MS. MALAFI:**
And the County Executive's Office as a whole ••

**P.O. CARACAPPA:**
In what order?

**MS. MALAFI:**
•• the County of suffolk. In no order, your both equal, equally my clients. And I know •• I want to say something but I can't say it open, not in executive session, because I know what you're talking about.

**P.O. CARACAPPA:**
All right. Specifically with respect to the Lutz opinions; did your office make any effort to consult any authorized representative of the County Legislature before issuing your opinion supporting Mr. Lutz' position? And did you consider the possible conflict of interest inherent in issuing such opinions, given your knowledge of the Legislature's position adverse to the Lutz position?

**MS. MALAFI:**
In hindsight, it should have been done, it was not done. I hate to say this, but both of the •• the two opinions, the dates are right before and right after I came back from maternity leave and the normal procedures did not happen here, and I apologize for that.

**P.O. CARACAPPA:**
So what is the normal procedure?

**MS. MALAFI:**
Just what I told you; the opinion would come in, we would look at it and we would consult with the people that we felt we had to consult with based upon the things that we know which, like I said, sometimes come from the newspaper. And we would •• it would have been discussed.

**P.O. CARACAPPA:**
So your office erred in this case?

**MS. MALAFI:**
I'll say the procedures that are in place were not followed.

**P.O. CARACAPPA:**
Are opinions delivered directly to the person who is requesting it or are they reviewed by the County Executive's Office first?

**MS. MALAFI:**
They are given to the person who' requested it with a cc to the County Executive's Office, Kevin Law. And if it is •• comes from one of the Legislators or if any of the Legislators are being cc'd on an opinion, Mea Knapp gets cc'd on it also.

**P.O. CARACAPPA:**
Is that true?

**MS. KNAPP:**
The County Attorney's Office cc's me when they communicate with Legislators on resolutions.

**P.O. CARACAPPA:**
Okay. Explain to me the paragraph or the wording that appears on all opinions regarding the confidential nature of the opinion.

**MS. MALAFI:**

When •• none of the people in my office had ever put a privilege that •• the top language that now appears on all of the opinions had never been on, as far as we can tell, any of the opinions that come out of the County Attorney's Office. When we realized that, that was not on and that people that were getting opinions, department heads mostly •• it was just for a couple of weeks at the beginning, like I said, when we were just in our start•up •• we said people don't realize that this is attorney/client.

We have to make sure they know on everything and that language was put there for two reasons; one, so that people would know that there's the attorney/client privilege whenever my office issues a letter, a correspondence to somebody in the County, first. Second, that we put the "Not Subject to FOIL" disclosure so that somebody •• we don't review every FOIL request that comes in to a department, we review those that a department requests that we review •• "How should I respond to this FOIL? Can you help me?" •• but we don't respond to all of them and we wanted to make sure that they knew on the face of it that this was not subject to FOIL disclosure, even if it was exactly on the topic that was a subject of the FOIL request.

**P.O. CARACAPPA:**
Hopefully you can answer this one. Who requested the opinions written in June and September as it related to the Lutz case?

**MS. MALAFI:**
I will tell you I do not know.

**P.O. CARACAPPA:**
You don't know who •• who requested them?

**MS. MALAFI:**
No, I did not do either one of them, I did not review either one of them before they went out.

**P.O. CARACAPPA:**
Well, you knew you were coming here today, I'm sure you consulted with I think Ms. Bizzarro who actually wrote them; where did they come from?

**MS. MALAFI:**

George Nolan wrote the first one.

**P.O. CARACAPPA:**

Okay.

**MS. MALAFI:**

And Lynne wrote the second one. I believe they came from Mister •• the request came from Mr. Sabatino.

**P.O. CARACAPPA:**

And they were sent to Mr. Sabatino.

**MS. MALAFI:**

Yes.

**P.O. CARACAPPA:**

With the personal and confidential ••

**MS. MALAFI:**

Absolutely.

**P.O. CARACAPPA:**

•• writing on it. He's an attorney, right?

**MS. MALAFI:**

Yes.

**P.O. CARACAPPA:**

As we all know, and you would assume he knows the rules of engagement, is a term he likes to use, as it relates to that •• that statement on all your opinions?

**MS. MALAFI:**

I would assume.

**P.O. CARACAPPA:**

Was that request reviewed by •• before you began the opinion by anyone in the County Executive's Office?

**MS. MALAFI:**

Other than Mr. Sabatino, I don't know.

**P.O. CARACAPPA:**

So again, the answer would be Paul Sabatino?

**MS. MALAFI:**

He would know if anyone else reviewed •• he's in the County Executive's Office so I know somebody reviewed it in the County Executive's Office.

**P.O. CARACAPPA:**

Who did your office deliver the legal opinion to?

**MS. MALAFI:**

I believe both of them were addressed to Mr. Sabatino and they had some cc's on them.

**P.O. CARACAPPA:**

CC'd from your office or subsequently from Mr. Sabatino?

**MS. MALAFI:**

You know what, you're right.

**P.O. CARACAPPA:**

Because that's very important to know.

**MS. MALAFI:**

The first one went solely to Mr. Sabatino.

**P.O. CARACAPPA:**

The first one went solely to Mr. Sabatino?

**MS. MALAFI:**

The second one also went only to Mr. Sabatino. And I will tell you that every opinion in my office, whenever we send it to somebody, if that person or that department head calls us and says, "Can I publish this to somebody else," we say no.

**P.O. CARACAPPA:**

So you said those opinions were cc'd eventually so they were done from Mr. Sabatino.

**MS. MALAFI:**

They were eventually. I ••

**P.O. CARACAPPA:**

Seeing that you hadn't put him on the opinion.

**MS. MALAFI:**

I saw •• attached to the complaint is a memo that •• from Mr. Sabatino to several people all within the County, and that still •• that doesn't violate the attorney/client privilege, so I wouldn't have •• even if I had seen that cc immediately, I wouldn't have done anything about it.

**P.O. CARACAPPA:**

I'm sorry, could you repeat that; after Mr. Sabatino cc'd that personal and confidential memo?

**MS. MALAFI:**

Everyone that I am aware of that he cc'd it are all employees of the County; that does not violate any of the privileges, at least the ones I'm aware of. You know, I only •• I have a copy of a memo that's attached to the complaint, that's all I have.

**P.O. CARACAPPA:**

Did you file •• deliver a copy of the opinions to Mr. Lutz or his attorney?

**MS. MALAFI:**

Absolutely not.

**P.O. CARACAPPA:**
Who did?

**MS. MALAFI:**
I have •• I don't know.

**P.O. CARACAPPA:**
Do you have any idea how they received them and how those personal and confidential memos between you and Mr. Sabatino were put in a lawsuit filed against us as a County?

**MS. MALAFI:**
I can tell you that I checked in my office to make sure that no one in my office who touched the opinions had ever given them to anyone outside of the County, anyone in the County, I believe it's just
Mr. Sabatino, and no one did.

**P.O. CARACAPPA:**
So in your investigation, as I'm sure you did once you found out that these memos were part of a filing against us, what did you come up with?

**MS. MALAFI:**
That it was •• no one in my department had done it and that the only memo that I was •• that I came across was two other •• was from
Mr. Sabatino to other people within the County.

**P.O. CARACAPPA:**
And what's your opinion of that; I'll call it a mishap, you may call it something else?

**MS. MALAFI:**
Mishap that the memo by Mr. Sabatino was written and cc'd to people?
**P.O. CARACAPPA:**
No, that your personal and confidential memo between you to
Mr. Sabatino on this issue with Mr. Lutz was in the hands of his attorney and put into papers in

a lawsuit filed against the Leg •• myself, members of Budget Review, the County Comptroller and the Campaign Finance Board of all people.

**MS. MALAFI:**
My reaction?

**P.O. CARACAPPA:**
Yeah.

**MS. MALAFI:**
Anger.

**P.O. CARACAPPA:**
Why?

**MS. MALAFI:**
Because it should never be let out of anyone in the County.

**LEG. ALDEN:**
Is it a crime or an ethical breach?

**P.O. CARACAPPA:**
A question from Legislator Alden is do you feel that it's criminal in nature or ethical breach?

**MS. MALAFI:**
It would only be an ethical breach if the attorney releases a legal opinion that a client has paid for. And the County of Suffolk pays us to issue opinions to the County of Suffolk, that's all we •• that's the only people that we released it to. If our client decides that they don't want to hide behind or keep the confidential nature of it, that's up to the client. So if somebody from the County has decided that they would like to release the opinion, there's nothing I can do about it and that I don't think is a breach of anything.

**P.O. CARACAPPA:**
Okay, the question had to be asked.

**MS. MALAFI:**
I think it's only if the attorney does it.

**P.O. CARACAPPA:**
Did Mr. Sabatino have the right to cc the Campaign Finance Board or
Mr. Lutz?

**MS. MALAFI:**
Mr. Lutz is not cc'd. I don't know how he got it, I don't know; his name is not on any cc, I don't know how he got it. I don't know how his attorneys got it.

**P.O. CARACAPPA:**
But it didn't come from your office •• I just want to ••
**MS. MALAFI:**
It absolutely ••

**P.O. CARACAPPA:**
In summing •• in wrapping this up, it didn't come from you, it didn't come from your office, it didn't come from any of your County Attorneys. You sent it to Mr. Sabatino and subsequently it was landed in the hands of Mr. Lutz, the Campaign Finance Board, Ms. Ann Riordan who has now resigned as the chair as well as Mr. Lutz' attorney.

**MS. MALAFI:**
It absolutely did not come from my office, it absolutely did not, I can say that unequivocally.

**P.O. CARACAPPA:**
And I'll ask this one last time; do you have an opinion or a guesstimate as to where the breakdown was from Mr. Sabatino where you sent it as to how it got in the hands of the attorney of Mr. Lutz, and/or Lutz and the Campaign Finance Board?

**MS. MALAFI:**
All I can say is that the memo that's attached to the Lutz complaint is cc'd to Ann Riordan; I would assume that Ann Riordan have it to them, but I don't know.

**P.O. CARACAPPA:**
Did she have the right to give that memo to them?

**MS. MALAFI:**
She technically is a board of the County so it's part of my, quote, client, and if the client wishes to not stand behind the privilege, that's up to the client, not up to me. I can only advise not to release it which is done very conspicuously on the top of every opinion that goes out.

**P.O. CARACAPPA:**
Okay.

**MS. MALAFI:**
And like I said, if anyone calls •• and I've gotten some department heads, Charlie Bartha is one of them •• you know, absolutely not under any circumstances would I always tell everybody.

**P.O. CARACAPPA:**
My questions •• I wanted this to be not an attack, I need it for myself to find answers to these questions and you've done that for me. Not all of my questions have been answered, I will have more because I think this is a serious, serious infraction, not •• I'm not saying so much from your office, but what happened subsequently after you issued your opinions.

**MS. MALAFI:**
I'm available to talk to you at any time, it doesn't have to be •• I'll come meet with half of you if you're available and then the other half whenever you want, it doesn't have to be •• you don't have to wait until the Leg meeting.

**P.O. CARACAPPA:**
And I hope my colleagues understand the magnitude of this questioning and the breakdown of what has happened here. And those of you who are attorneys can I'm sure understand better than I at the •• I'll call it malfeasance, but ••

**LEG. O'LEARY:**
Through the Chair, please?

**P.O. CARACAPPA:**
•• we won't go there at this point in time.

**LEG. O'LEARY:**
Sir?

**P.O. CARACAPPA:**
Legislator O'Leary.

**LEG. O'LEARY:**
I just have one question, Ms. Malafi. And I don't know, perhaps you may have already covered this area, but my direct question to you is has •• did anyone within the county employee ask your opinion on whether or not it would be an ethical breach or any sort of violation of confidentiality if copies of those opinions were sent to others than those that it was intended for? Did your office ever ••

**MS. MALAFI:**
Specifically the Lutz opinions?

**LEG. O'LEARY:**
Yes.

**MS. MALAFI:**
No, not that •• I asked my Chief Deputy and she said no, and no one asked me. But, I mean, I hate to say this but it was literally during the time period right before and right after I got back.

**LEG. O'LEARY:**
All right. So then you never received an inquiry on whether or not there was a breach of confidentiality or an ethical question with respect to releasing copies of that opinion and memo to any others than those that it was intended for, that's your ••

**MS. MALAFI:**
On this Lutz opinion, no.

**LEG. O'LEARY:**
Okay. And how could you be certain that it did not come from your office?

**MS. MALAFI:**

Because I run my office and everyone knows the rules and the privilege is on there for a reason and I've chosen the attorneys in my office who handle things like this very specifically and I can trust all of them and we're all ethical attorneys and we run a tight ship and we all work our butts off. And we would not do something like that and violate the confidence that I hope that we've instilled in all 18 of you as well as the County Executive's Office, we would not do that, period, the end; there's not even a discussion about it.

**LEG. O'LEARY:**

Thank you.

**P.O. CARACAPPA:**

One last question from myself. Do you believe that this is worthy, not so much from your office because you've explained that but where the breakdown happened, do you think it's worthy of forwarding this to the Ethics Committee of the Bar, as your personal opinion as an attorney?

**MS. MALAFI:**

The Grievance Committee?

**P.O. CARACAPPA:**

Yeah.

**MS. MALAFI:**

I believe that if it was released in the manner that it's believed, that that person was not acting as a lawyer and I don't think at the time •• I don't think just because that person was a lawyer that that's sufficient to warrant a grievance, but that's up to you. You have to be acting as a lawyer, that's my opinion.

**P.O. CARACAPPA:**

Okay. Legislator Alden, and then we'll wrap it up.

**LEG. ALDEN:**

Where is the cutoff or where is the procedures that protect the release of potentially damaging information to Suffolk County as a whole?

**MS. MALAFI:**
The protection is the notation that we place at the top of everything that goes out of my office. And if it's •• I mean, if it's that sensitive that it would affect Suffolk County as a whole, maybe we would meet with someone and talk with them instead of putting something in writing.

**LEG. ALDEN:**
Well, you raised •• you raised something, to me, that really can be potentially multi•billion dollar losses to Suffolk County. If some Commissioner or if somebody that you mentioned before that's allowed to request information from you or a legal opinion, if they're not bound to hold on to that and can release it to the public •• like you said, they're your client, what they choose to do with it is beyond your control •• how about if it's in an accident or, you know, another case where we're being sued for, you know, a hundred million dollars or something along those lines; they can actually choose to release that information.

**MS. MALAFI:**
Well, I know •• I can tell you that department heads, we have meetings with the County Executive's Office and we're all •• all of the department heads are advised that if I say it doesn't get released it doesn't get released. Other elected officials who ask for my opinion I have no control over nor does the County Executive's Office.

**LEG. ALDEN:**
There's a gap then and somebody is going to have to develop some kind of safeguard there because I remember as •• you know, last year I was Chairman of Ways & Means, there's information that is developed in executive session ••

**MS. MALAFI:**
Oh, absolutely.

**LEG. ALDEN:**
•• there that if I chose to just go and disseminate it to the public, we're going to take a hit.

**MS. MALAFI:**
Oh, absolutely.

**LEG. ALDEN:**
Major hits. And if somebody else is doing that in government, which in this instance the Presiding Officer has brought up, there's got to be a safeguard developed there.

**LEG. TONNA:**
Joe?

**P.O. CARACAPPA:**
Okay, there's a list now. Legislator Caracciolo then Tonna then Cooper.

**LEG. CARACCIOLO:**
Thank you, Mr. Chairman. Are you at liberty, Ms. Malafi, to share with us what the nature of the request for opinion was, what the subject matter was? Because speaking of gaps, Mr. Alden, I don't have a clue of what we're talking about here. All I heard was a name, I am aware that individual is no longer in County employ.

**LEG. ALDEN:**
Mike, you're being sued for about $10 million.

**P.O. CARACAPPA:**
No we're not.

**LEG. CARACCIOLO:**
No I'm not.

**LEG. TONNA:**
You'd have to be on double ••

**P.O. CARACAPPA:**
The reason why I kept it vague, to be quite honest with you, is out of respect for the County Attorney, out of respect to the process we're involved in with the lawsuit. I needed just a clearer understanding of breakdown.

**LEG. CARACCIOLO:**

No, I understand •• you, as I understand it, are named in a lawsuit and as a result you're trying to make sure that you are being properly protected by the County Attorney and others, I understand that well and that's clearly I'm sure your objective as well. So I can appreciate when you very candidly stated that you were angry when you learned that this privileged and confidential confidential memo was shared with people who are not privileged to have that information and, in fact, are now using that information against the County ••

**MS. MALAFI:**
It's •• I was angry and then, to take it one step further, embarrassed.

**LEG. CARACCIOLO:**
Sure.

**MS. MALAFI:**
My clients are being sued and something ••

**LEG. CARACCIOLO:**
But you've cleared the record that the leak, so to speak, or the transfer of that information, that document, did not occur from you or anyone on your staff, the County Attorney's Office.

**MS. MALAFI:**
Absolutely not.

**LEG. CARACCIOLO:**
So then the simple question is, this isn't rocket science; it either was Mr. Sabatino or it was Mrs. Riordan. Now, when the did she resign from the County?

**LEG. TONNA:**
This sounds a little like Clue.

**P.O. CARACAPPA:**
Well, Ms. Riordan should never ••

**LEG. TONNA:**

I mean, is this •• do you have the candlestick in the red room.

**P.O. CARACAPPA:**
Ms. Riordan had no right to have those memos. She had no right ••

**LEG. CARACCIOLO:**
Well, that was going to be my next question because •• first going back to my question, are you at liberty to share with us what the request for an opinion was?

**MS. MALAFI:**
I have •• first of all, not in open •• it would have to be in executive session, first.

**LEG. CARACCIOLO:**
Okay, then ••

**MS. MALAFI:**
Second, the request did not come in from me and I don't think that it would be •• if I were to repeat what I know ••

**LEG. CARACCIOLO:**
I'm sorry, I can't hear you, there's a lot bantering going on.

**MS. MALAFI:**
That's okay. If I were to repeat what I have been told, I know that I would miss gaps, it would not be fair for you to hear it from me. If you want, Lynn Bizzarro can answer ••

**LEG. CARACCIOLO:**
You can tell me privately or you can tell the board in executive session what the nature of Mr. Sabatino's request for a legal opinion was.

**MS. MALAFI:**
Yes.

**LEG. CARACCIOLO:**
Okay, you can tell me privately.

**MS. MALAFI:**
And that's what I know, it did not come in to me. I am so sorry to tell you, as I stand here before you, that I did not get the request, I didn't take part in writing the opinions and I did not know ••

**LEG. CARACCIOLO:**
Do you think this breach, do you think this breach will have a detrimental effect in the County defending the defendants in the lawsuit?

**LEG. TONNA:**
She can't answer •• don't answer that.

**LEG. BINDER:**
Don't answer that.

**LEG. FOLEY:**
That's speculation.

**LEG. CARACCIOLO:**
Oh, speculation that we have ••

**LEG. FOLEY:**
Not in open session.

**LEG. CARACCIOLO:**
•• Mr. _Bailey_.

**LEG. LINDSAY:**
We should be in executive session.

**P.O. CARACAPPA:**
Well, without getting •• without having our answer, I can tell you that the main effect it has is that we have to hire a bunch of outside counsel.

**LEG. CARACCIOLO:**
Sure, we have to spend money, so it does have an effect.

**P.O. CARACAPPA:**
That's the obvious impact.

**LEG. TONNA:**
Wait, did you have your gold shield? I know you were a regular patrolman, I thought O'Leary would be asking these type of questions, more the detective line.

**LEG. CARACCIOLO:**
No, I turned down the gold shield.

**MS. MALAFI:**
I can tell you something. I make no decisions for the County. I am not a policy maker, I do not make the decision. I am a lawyer, I do •• I follow directions given to me by my client. It doesn't, in my opinion, matter what is in a memo, it is not anything •• it is not the position of the County, it is not collateral stopple against the County, it's not ••

**LEG. CARACCIOLO:**
No, I understand that.

**MS. MALAFI:**
It does not affect your defenses in any way.

**LEG. CARACCIOLO:**
But I think what the Legislature, and particularly the Legislators involved in this lawsuit, are trying to ascertain is if Mr. Sabatino or Ms. Riordan or someone else at the Campaign Finance Board shared that document with a •• I guess he was the •• well, no, he's the plaintiff in this lawsuit, right •• that now that puts the County in a position where it's at risk for potential monetary damages. And one of those County employees that the opinion was shared or issued to I think has to be held accountable for those actions

**LEG. TONNA:**

Well, that leads to my question.

**LEG. CARACCIOLO:**
And I'll leave it there; do you agree with that?

**MS. MALAFI:**
No, because •• the only reason why I don't agree with it is because the opinion •• the fact that the man was not paid is the result •• is the suit, that's the reason the suit was instituted.

**LEG. ALDEN:**
He was paid very well.

**MS. MALAFI:**
The memo is not the reason the suit was instituted. So no, I don't think that the memo is the basis for the lawsuit, I think maybe it helped the plaintiff's attorney along, but it's not the basis for the lawsuit. The man was alleging that he should have been paid and was not paid, that is the basis for the lawsuit and the sole basis for the lawsuit.

**LEG. CARACCIOLO:**
Final question; do you have any recommendations?

**MS. MALAFI:**
And I will say one more thing. The •• Ann Riordan, the Campaign Finance Board is my •• is one of my many •• not my client, it's a subsidiary of my client, it is my client; releasing that opinion to Ann Riordan ••

**P.O. CARACAPPA:**
But you didn't.

**MS. MALAFI:**
I did not ••

**P.O. CARACAPPA:**

Or your office.

**MS. MALAFI:**
We did not, but releasing it ••

**P.O. CARACAPPA:**
It wasn't written for her, to her, cc'd not to her or any other member of that board or Mr. Lutz.

**MS. MALAFI:**
No.

**P.O. CARACAPPA:**
I'm sorry, Legislator Caracciolo, I just wanted to make it clear.

**LEG. CARACCIOLO:**
As Counsel to the Legislature, do you have any recommendation as to what should •• what action should be taken now to try to ascertain the identify of the individual who may have leaked this document? No, what are you laughing at? You know, everybody wants to go so far and then stop, play nice.

**LEG. TONNA:**
No, no, no, that's a question, accountability.

**MS. MALAFI:**
You'll have to ask everyone that has got that memo.

**LEG. CARACCIOLO:**
You know, if we're going to sit here for an hour and discuss this, I mean, let's get something out of it.

**P.O. CARACAPPA:**
Well, I believe I asked that question to her three times and I asked even as far as with relation to the Bar Association and I think she answered that earlier, that's all; didn't I ask that question?

**LEG. VILORIA•FISHER:**
Yes.

**LEG. CARACCIOLO:**
No, I heard you ask the question but the question I have is what was your response to going to the ethics panel at the Bar Association?

**MS. MALAFI:**
I think that you can only report an attorney for violating an attorney ethical obligation. And I do not believe that Mr. Sabatino is an attorney for the County, he's not, I'm the attorney for the County, and as far as I know he's not acting as an attorney for anyone in his position.

**LEG. CARACCIOLO:**
Okay. Mea, you're our Legislative Counsel; do you agree with that opinion?

**LEG. TONNA:**
Take the Fifth.

**MS. KNAPP:**
I actually think that the ••

**LEG. CARACCIOLO:**
Oh, you lawyers stick together, I hear it coming.

**MS. KNAPP:**
No, actually we are going to disagree on this, we are going to disagree on this.

**LEG. CARACCIOLO:**
Oh.

**MS. KNAPP:**
I believe that a lawyer, so long as the lawyer is a member of the Bar, is subject to censure for any of his activities, even if those activities are not within the scope of his practice of law. I do think you can be •• you can be •• that's my opinion.

**LEG. CARACCIOLO:**

Okay. So we have ••

**LEG. TONNA:**

Can I just ask this question?

**P.O. CARACAPPA:**

Legislator Caracciolo still has the floor.

**LEG. CARACCIOLO:**

No, I'm going to leave with that.

**LEG. TONNA:**

Wait. Have we •• are we •• we're speculating about Mr. Sabatino, right? I mean, this is speculation.

**P.O. CARACAPPA:**

No, I needed to know how the breakdown •• how that breakdown happened.

**LEG. TONNA:**

But what I'm saying is nobody has said that Mr. Sabatino has done this, right?

**LEG. CARACCIOLO:**

No.

**LEG. TONNA:**

You're just speculating. It's like, you know ••

**LEG. CARACCIOLO:**

But it's not hard to figure out.

**LEG. TONNA:**

Well, you might think that but, I mean, this is like •• I played Clue and I thought I had the answers, you know, lead pipe in the red •• green room with Professor Plum and I was wrong. So all •• my point ••

**LEG. CARACCIOLO:**

And you lost all your hair over it.

**LEG. TONNA:**

My point is is that, you know •• the consequences of an action, if we found •• and this is my question. The consequences, if we found out somebody and actually it's proved ••

**P.O. CARACAPPA:**

It was.

**LEG. TONNA:**

•• whatever else, what are the consequences if they are not a lawyer?

**LEG. VILORIA•FISHER:**

None.

**LEG. BISHOP:**

In terms of scrabble?

**LEG. TONNA:**

What are the consequences of somebody giving a confidential document to •• you know, are there any consequences? Do they get a slap on the wrist, do they get fired?

**P.O. CARACAPPA:**

Well, that's what we intend to find out, at least with the Bar Association.

**LEG. TONNA:**

Do they get, you know, a Steve Levy monologue; I mean, what do they get?

**MS. MALAFI:**

I believe if you find out •• I don't think you can make a grievance even against a lawyer just on

the supposition that he released it, right now I don't know that, that's first. Second, we have an Ethics Commission and if you believe a County employee has violated a confidence of the County of Suffolk you can report them to the Ethics Commission, and believe you me, I can tell you personally that the Ethics Commission is very active, they look at every request, they work very hard and they will look at it, they will investigate, they will issue an opinion.

**LEG. TONNA:**
Okay.

**P.O. CARACAPPA:**
My point of asking these questions, there was a colossal mistake made in the handling of these personal and confidential memos by somebody; I didn't implicate anybody. I needed to hear from where it originated from, the County Attorney's Office, at least from her point of view, where it started and where it went. Well, the request came from somewhere that she's not sure about, but at least the actions of her department. She came down here knowing she was going to be in the hot seat and she handled it very well and I do appreciate that and I respect it. So I'm not ••

**LEG. CARACCIOLO:**
Honestly.

**P.O. CARACAPPA:**
My point today wasn't to try and say, "I got you, Paul Sabatino." I needed to know what happened at least from her perspective because I'm involved in it, we're involved in it, the County is involved in it, but most importantly the taxpayers are involved in it and they're going to pay dearly because of a mistake that was made somewhere down the line and that we, as people who oversee this sort of thing, need to know and that's the whole basis of my questioning. You still have the floor, Legislator Tonna.

**LEG. BISHOP:**
Can I go on the list?

**LEG. TONNA:**
Okay. So we have •• what we have is just a fact which is that the plaintiff in this case had a confidential document, right?

**LEG. CARACCIOLO:**
Received.

**LEG. TONNA:**
Received a confidential document; he hasn't said who he got the document from, right?

**LEG. LOSQUADRO:**
Of course not.

**LEG. TONNA:**
The County Attorney's Office says that as best that they can find out it didn't come from them, right?

**MS. MALAFI:**
Absolutely not.

**LEG. TONNA:**
Okay, as best you can tell based on the veracity of the people that you spoke with and everything else; that's all we have, right?

**P.O. CARACAPPA:**
So far.

**LEG. TONNA:**
Okay. So I would say before we speculate and, you know, mention any names ••

**LEG. CARACCIOLO:**
Oh, come on, you love to speculate.

**LEG. TONNA:**
No, I •• but that •• not •• I don't like to speculate this way.

**P.O. CARACAPPA:**

Get the questions asked and move on.

**LEG. TONNA:**
I just think that we should know the facts and hopefully say that there needs to be then an investigation.

**MS. MALAFI:**
Well ••

**LEG. TONNA:**
There needs to be something because obviously we're setting a precedent here. If we let this get •• if we let it go then, you know, other things could happen, and this is not the way that •• when Legislators or County Executive or anybody else in the County is being sued so, you know, this is not a good thing. So ••

**P.O. CARACAPPA:**
Legislator Cooper.

**LEG. CARPENTER:**
I think she ••

**MS. MALAFI:**
Excuse me for one second? Instead of just •• I don't think there's any reason to, at this point, start a, quote, investigation. We'll be conducting depositions in the Lutz case, the outside counsels very shortly, Mr. Lutz will be sworn in under oath and can be asked the question how he got it. And then instead of everyone wasting their time trying to figure it out ••

**LEG. TONNA:**
That's a very good point.

**MS. MALAFI:**
•• he can tell you.

**P.O. CARACAPPA:**
Yeah.

**MS. MALAFI:**
I mean, I'm just ••

**P.O. CARACAPPA:**
I certainly •• I personally believe the Bar Association should be made aware of this, that's my own personal opinion. Legislator Cooper.

**LEG. COOPER:**
What criteria need to be met for a document to be marked privileged and confidential and who gets to decide whether or not a document is so marked?

**MS. MALAFI:**
Every single correspondence that goes from my office to another employee, elected or not, of the County has that privilege on it, every single. It's my position that everything I do for the County is privileged because all I do is practice law and all I do is service one client, so that means everything that I do is for a client in the context of the attorney/client relationship, period, the end. Even e•mails, I don't know if any of you have ever •• I mean, if we do a one line e•mail, "Thanks," or "See you then," something like that doesn't have it, but even if we do an e•mail with a question or a quick answer, it has not only the privilege on top but it has a confidentiality notice on the bottom, they all do.

**LEG. COOPER:**
And ••

**MS. MALAFI:**
If it doesn't it's just an oversight and it's here and there, but I have not seen an opinion come out of my office, I haven't looked at an opinion that doesn't have the required language on it since maybe two, three weeks, you know, in the position.

**LEG. COOPER:**
And are there some documents that are more confidential than others or are they all treated exactly the same?

**MS. MALAFI:**

They're all treated as if the County would go ••

**LEG. TONNA:**

It's not like politics; "This is really confidential", "No, no, this is REALLY confidential," you know.

**MS. MALAFI:**

I have to say, they're all treated the same ••

**LEG. MYSTAL:**

A little bit pregnant, Paul.

**MS. MALAFI:**

•• because you can't make •• once you make an exception and say this one is only a level nine and this one is a level one, you would have instances where department heads or other people would say, "Well, this one isn't that important," without knowing. So they're all treated exactly the same as if the County would sink if it was let out, at least by my office.

**LEG. COOPER:**

And can you repeat again who can legally be cc'd on a confidential or privileged memo?

**MS. MALAFI:**

Anybody who's the client, and ••

**LEG. COOPER:**

And who is that again?

**MS. MALAFI:**

It's the County of Suffolk, the Leg •• each of you, the Legislature as a whole, the County Executive's Office and any board, commission of the County.

**LEG. COOPER:**

Now, it's the head of any board or member of any board?

**MS. MALAFI:**

I would say the head because that's just our procedure, we don't •• you know, somebody who's not the head of a board. Sometimes we do like •• I don't know, pick a commission •• sometimes every member of the commission gets a copy of the memo.

**P.O. CARACAPPA:**
Keep in mind, Jonathan, it was cc'd to one person, that opinion.

**LEG. COOPER:**
No, I understand.

**P.O. CARACAPPA:**
Okay.

**LEG. COOPER:**
And so, for example, if Charlie Bartha •• I'm just using you as an example •• were to request a copy of a confidential memo involved in this case.

**MS. MALAFI:**
Oh no, I would not have released it even to him because there's no reason for him to ••

**LEG. COOPER:**
So then how do you further delineate who •• I'm trying to understand ••

**MS. MALAFI:**
Oh, okay. I'm sorry, I didn't understand your question. I would ••

**LEG. COOPER:**
Because he is a department head.

**MS. MALAFI:**
Correct. I would give the opinion to the person who requested it and anyone I knew was involved in the issue or had been consulted or knew about it. But if •• like, for example, let's just use Mr. Lutz' opinion, if Charlie Bartha called me and asked for a copy of it I would say, "Why do you need it?", and he wouldn't be able to tell me why in a satisfactory manner and I

would not give it to him. I would say, "Call Mr. Sabatino, he's the one who asked for it, he's the one who got it, I'm not giving it to you."

**LEG. COOPER:**
And why in this case would you •• would you have felt that it would be okay to cc the head of the Campaign Finance Board?

**LEG. MYSTAL:**
She did not.

**MS. MALAFI:**
I did not.

**LEG. VILORIA•FISHER:**
She didn't, she said that five times.

**LEG. COOPER:**
But legally you would have had not problem, that would have been legally permissible.

**MS. MALAFI:**
No, no, I wouldn't have •• I don't •• because the Campaign Finance Board is a board of the County and I do represent them. As a matter of fact, right now the Campaign Finance Board is still a Charter board, it still gets mail, it doesn't have •• it used to have an outside attorney also, it does not have the outside attorney, now by default I become the attorney, I have been collecting the mail, I open it to make sure there's no summonses and complaints, legal actions, anything like that that needs immediate attention, legal attention and I just make sure that that •• and I have it all •• all of the mail to the Campaign Finance Board is in my office in an envelope waiting for the board to either start again or something.

**LEG. COOPER:**
I guess so your opinion is that it would have been okay to share •• or it would not have been illegal to share it with Ann Riordan.

**MS. MALAFI:**
I would not have been breaching any ethical obligations, no. And I believe •• my understanding

of it is that Ann Riordan didn't know how to go about getting Mr. Lutz paid, she was signing •• she was going through a procedure and it wasn't resulting in payment to Mr. Lutz and that was what prompted Mr. Sabatino to ask for the opinion, that is what I've been told, that's my understanding of it.

**LEG. COOPER:**
And then once it gets into the hands of, let's say in this case Ann Riordan, she's legally free to cc anybody.

**MS. MALAFI:**
I don't •• I don't think •• I think she •• I think every County employee has an obligation to the County.

**P.O. CARACAPPA:**
But how did she get it if she wasn't cc'd, Jonathan?

**MS. MALAFI:**
So I don't want to say •• I can't say yes to that.

**LEG. COOPER:**
But ••

**P.O. CARACAPPA:**
It didn't come from the county attorney. How did Mr. Sabatino, if it was Mr. Sabatino, whoever it was •• who gave them the right to give those documents over?

**LEG. COOPER:**
Well, that's the question.

**P.O. CARACAPPA:**
They are not acting as the County Attorney.

**LEG. COOPER:**
Did they •• but I thought you said earlier that they did have the right.

**P.O. CARACAPPA:**
If it came from her.

**MS. MALAFI:**
Well, somebody who is in the county can give it to somebody else who's in the County who's affected by it.

**LEG. COOPER:**
No, that's the •• that's why I'm totally confused at this point.

**LEG. TONNA:**
(Inaudible).

**LEG. COOPER:**
No, I thought that you said that, for example, Paul Sabatino, legally he got a copy, but I thought you said it was okay for Paul Sabatino to cc the department heads.

**MS. MALAFI:**
They're all my client, it's all the same client.

**LEG. COOPER:**
So, I mean, if that's the case, I don't want to •• setting aside this case, I mean, just ••

**LEG. NOWICK:**
It was Lutz that got it that wasn't supposed to get it, he was no longer employed.

**LEG. COOPER:**
The procedure •• there's something broke here. I mean, if ••

**LEG. TONNA:**
Absolutely.

**LEG. COOPER:**

And Mea, do you agree that it was •• that there was no legal prohibition in, let's say, Paul Sabatino once he got a copy, however he got a copy, it was fine for him to share it with others, because he was the client and a client could share it with whoever they want to, and if that's the case, that's insane.

**MS. KNAPP:**
I don't think that it was necessarily wrong to share it with Ann Riordan, I think that the consequences of that action, though, is that the County may face a liability as a result of that decision, if indeed that was the decision that was made.

**LEG. COOPER:**
At my business, when we sign a confidentiality agreement with another company or with an individual, we always have a clause in there that says that if they pass it on to someone else on a need•to•know basis, that confidentiality agreement passes on, again, it's a continuous chain. It looks like at the County at least the chain can be very easily broken and a document that could be very sensitive and could perhaps adversely impact taxpayers in this extent could find its hands into the •• way into the hands of the public, or in this case the plaintiff. And so I think, again, setting aside the specifics of this case, we need to pass a law to prevent that from happening, and I'm surprised that this hasn't transpired in the past.

**MS. MALAFI:**
It has.

**LEG. COOPER:**
It has?

**MS. MALAFI:**
It has. I have the •• I'm trying to think, the prior President LaLima, there was a prior County Attorney wrote an opinion directly •• there was a controversy between the President of the college and the County and an opinion was written directly to Mr. LaLima and that formed in the same way that this did, formed the basis for a lawsuit against the County which is now with outside counsel; so it has happened before.

**LEG. COOPER:**
And what action, if any, was taken in that case, do you know?

**MS. MALAFI:**
I don't know, I came into it •• the opinion had been issued before I came into my position and the lawsuit was started after I came into my position.

**P.O. CARACAPPA:**
Those opinions were attached to the complaint?

**MS. MALAFI:**
Uh•huh.

**P.O. CARACAPPA:**
Okay.

**MS. MALAFI:**
So it has happened and it has happened directly from the County Attorney's Office. That's why I feel that we've done everything that my office possibly can by now putting directly on the opinions that we issue, "This is privileged, this is not FOILable"; it's putting everyone who gets that opinion on notice, "don't give it to anyone."

And I have had laughs with some of the people in some of the departments who call and say, "Are you sure?" You know, for example, if somebody is disqualified from an RFP and they're giving Mr. Bartha •• you don't mind, Charlie, do you?

**COMMISSIONER BARTHA:**
Why not?

**MS. MALAFI:**
And I write him an opinion and say, "This ••

**LEG. COOPER:**
Last time you sit in the front row.

**MS. MALAFI:**
You know what? It's a very innocuous example. He's say, "But the bidder is giving me a hard

time, he wants to know why, can I give him a copy of your opinion?", it's always the same, "No."

**LEG. BISHOP:**
All right.

**LEG. BISHOP:**
That's crazy.

**LEG. ALDEN:**
It's not crazy.

**LEG. BISHOP:**
Of course it is.

**P.O. CARACAPPA:**
Jonathan, you done?

**LEG. COOPER:**
I'm done.

**P.O. CARACAPPA:**
Legislator Montano.

**MS. MALAFI:**
It's not, you can give a reason •• once you start letting people see your attorney's work product, you're setting a very bad precedent and you're making it seem that it's okay, you can't make an ••

**P.O. CARACAPPA:**
Thank you.

**MS. MALAFI:**

In my opinion, you can't make an exception.

**P.O. CARACAPPA:**
Rick?

**LEG. MONTANO:**
You might have answered this and I just want to clear with respect to the procedure. A request •• generally a request comes in for a legal opinion, your office drafts it and you send it to the person that requested the opinion.

**MS. MALAFI:**
Basically yes.

**LEG. MONTANO:**
That person •• and it's marked privileged and confidential and there's a confidentiality section in the bottom, but that basically just goes interoffice, does it not? In other words, the secretary opens it, it's not addressed to •• it doesn't say "To be opened by addressee only," it just goes to that department or that person. So anyone in the chain really has access to the legal opinion, the ••

**MS. MALAFI:**
But they're all County employees.

**LEG. MONTANO:**
And if a County employee gets a legal opinion and they feel the need to share it with another County employee for legitimate reasons, they're free to do so.

**MS. MALAFI:**
I can't tell you that there's a rule that they can't; yes, they can.

**LEG. MONTANO:**
For legitimate reasons.

**MS. MALAFI:**
I personally think that even though it's one big client ••

**LEG. MONTANO:**
It should be limited.

**MS. MALAFI:**
It should be limited to the person on an as needed ••

**LEG. MONTANO:**
Need•to•know basis.

**MS. MALAFI:**
Need•to•know basis.

**LEG. MONTANO:**
And I agree with that. So my question is now if someone from the outside somehow has access to this information through an employee of the County, because in reality that's the only way you can get it, what course of action would be taken or •• is the employee of the County who releases that information to an outside person, is that employee subject to any discipline and, if so, what would be the process?

**MS. MALAFI:**
If it's in my office? They're fired.

**LEG. MONTANO:**
Well, that I understand, but if it's not in your office.

**MS. MALAFI:**
If it's not in my office I have no ••

**LEG. MONTANO:**
Let's say it's a secretary in a department who opens the mail, sees that there's a document that the employee for some reason has an interest in or has a ••

**LEG. MYSTAL:**
Let's say Charlie Bartha sent it.

**LEG. MONTANO:**
Ditto. Where does she wind up next is what I'm asking.

**MS. MALAFI:**
I would •• I'm trying desperately to remember like section a of the Code of Ethics off the top of my head that I could point you to.

**LEG. MONTANO:**
That's what I'm asking essentially.

**MS. MALAFI:**
I don't •• I can't tell you, the Code of Ethics has very specific •• it's more geared toward business relationships and making sure that no money changes hands. It would depend, if the person was paid for releasing the opinion, I have no doubt you could have them terminated from their employment if the Ethics Commission found that they had done so. Just the release of it, I don't think that the •• I'm sorry, but I don't think the Code of Ethics would cover it.

**LEG. MONTANO:**
Okay. So ••

**MS. MALAFI:**
Off the top of my head. You know what? If I had it in front of me, I just don't have Article 30 in front of me, I could probably find something to fit it under to say that they violated but I can't tell you without having it in front of me.

**LEG. MONTANO:**
Right. So if it happened in your office you would fire the employee.

**MS. MALAFI:**
Absolutely.

**LEG. MONTANO:**
But isn't it •• am I accurate in saying that you can only fire the employee if the employee serves at your pleasure? Because if it's a union employee or someone that's protected, you

would have to bring them up on an article; is it Article 75, or something like that, in other words.

**MS. KNAPP:**
Section 75.

**LEG. MONTANO:**
Section 75.

**MS. MALAFI:**
I'm still new to my Civil Service employees. I believe that no matter •• unless it's •• a complete breach like this, I would just go for the •• I would do whatever I could do to just go for the immediate termination because something like this, especially in the Department of Law, its utmost •• it's more important than anything else in the department. And I think that because of the language that's on top of each of the opinions, that we would have a very good basis to terminate them •• my opinion would be to terminate them, let them bring the Article 75 against us to justify why we should take them back. But I really •• if I had the Code of Ethics in front of me, I'm sorry, I had it yesterday and I put it down and I didn't bring it with me. That would be my suggestion, report them to the Ethics Commission if there's an ethical violation, the ethical code itself provides for termination of employment and it does not make any distinction between union/non union, exempt/non/exempt.

**LEG. MONTANO:**
So that would be under the employee manual and the procedure •• just I'm asking. The procedure for that if a department head, for instance, wanted to fire a secretary for having released a document such as this, they would basically send the complaint to the Ethics Committee?

**MS. MALAFI:**
That would be my suggestion because, you know, I don't know ••

**LEG. MONTANO:**
Or would it go somewhere else? That's what I'm trying to figure out, where does it go, Other than if I were the department head calling the employee and then saying, "I don't like what you

did, you're hereby fired."

**MS. MALAFI:**
I would call Labor Counsel, Lamb, Barnowski and ask them what •• they do •• this is what •• we have outside counsel that specifically does this type of thing, so I would definitely contact them to say, "Could I do this? Could I at least try it in good faith?" And I think when something that's confidential in nature, just like in any big corporation, I mean, in reality Suffolk County is a huge multi•million dollar corporation and when confidential information is leaked out to the public you take the necessary action to make it not happen again.

**LEG. MONTANO:**
Thanks.

**P.O. CARACAPPA:**
Legislator Bishop.

**LEG. BISHOP:**
You know, we're not a big multi•million dollar corporation, we're a big multi•million dollar government. And I think you have to •• what concerns me is the consensus that I hear emerges between Legislators and the County Attorney that we should have an entire department that's allowed to be secret. Everything they do, everything they do, they're lawyers, so it's not subject to any public scrutiny; now that's crazy. You're not even drawing a distinction between stuff that's produced in direct response to a lawsuit and material that's produced just as a matter of course of what we do as a government. So a department comes to you and says, "Look, we're engaged in the following behavior, is it illegal", right?

**MS. MALAFI:**
It's a request for a lawyer's opinion.

**LEG. BISHOP:**
And you write back and you say it's entirely illegal; it's a secret.

**MS. MALAFI:**
It's a lawyer's opinion, it completely is.

**LEG. BISHOP:**
It's a secret; that is just wrong.

**MS. MALAFI:**
And there is scrutiny in my department because there are contracts that go out of my department, there are lawsuits that are litigated with people outside my department, there are trials that are conducted, there is public ••

**LEG. BISHOP:**
But there's superior public interest to all that and the public interest is openness in government and accountability. We are not Enron and we should not be behaving like Enron where, you know, everything is measured in terms of liability exposure. We represent the public and the public interest and open government is what this country is based on.

**LEG. ALDEN:**
This has nothing to do with open government.

**LEG. BISHOP:**
It absolutely has everything to •• she's saying that everything they do in that department is a secret.

**MS. MALAFI:**
No, it's ••

**LEG. BISHOP:**
And you're all accepting it.

**MS. MALAFI:**
I'm a lawyer, I do lawyer's work for a client.

**LEG. BISHOP:**
I understand your position, I just think ••

**MS. MALAFI:**

It is privileged, everything I do.

**LEG. BISHOP:**
I just think that the fact that the elected officials sit here and nod like, "That's good, that's a good idea," is horrifying.

**P.O. CARACAPPA:**
No. My point for this, David, is how do you justify it? And the County Attorney even said she was embarrassed by the fact that it happened, that an opinion from her office made it into the hands of an attorney suing a whole host of County officials; how does that happen?

**LEG. BISHOP:**
She's wonderfully and professionally myopic. She's looking at it from a purely litigation, lawyer's perspective. But if the question that's been asked of the County Attorney's Office is is it legal or illegal and the answer comes back that it's illegal, it shouldn't be a secret.

**LEG. ALDEN:**
Point of order.

**LEG. BISHOP:**
You can't say, "Oh, God forbid the public gets this, then we can get sued." It's illegal activity that's occurred and, you know, we're the government and they're stating it and the document trail shuts down ••

**LEG. ALDEN:**
Point of order.

**LEG. BISHOP:**
•• and the policy makers, in fact ••

**P.O. CARACAPPA:**
Hold on.

**LEG. BISHOP:**

•• can very well at that point ••

**MS. MAHONEY:**
Can you use the microphone, please?

**LEG. LOSQUADRO:**
Dave, use the mike.

**LEG. BISHOP:**
Choose to continue.

**P.O. CARACAPPA:**
Okay, thank you. Legislator Lindsay. Were you done, Legislator?

**LEG. BISHOP:**
I'm done.

**P.O. CARACAPPA:**
Thank you. Legislator Lindsay.

**LEG. ALDEN:**
Point of order.

**P.O. CARACAPPA:**
Legislator Lindsay, just a point of order was asked for first by Legislator Alden, if you wouldn't mind.

**LEG. LINDSAY:**
Go ahead.

**LEG. ALDEN:**
They're employees of the County but they're lawyers, they're bound by a Code of Ethics that anybody that's an attorney is bound by; is that not right? I'm asking that to Legal Counsel.

**MS. MALAFI:**

I'm a lawyer first, I've always said that.

**P.O. CARACAPPA:**

Are they bound by a Code of Ethics?

**MS. KNAPP:**

Well, lets see now. Was your •• your question was are employees bound by a Code of Ethics? I'm sorry.

**LEG. ALDEN:**

No, are employees of the County that are lawyers and they're employed as attorneys, are they bound by the Code of Ethics and all the requirements ••

**MS. KNAPP:**

Of course.

**LEG. ALDEN:**

•• of the Second Judicial Department?

**MS. KNAPP:**

Of course, I'm sorry.

**LEG. ALDEN:**

First, first and foremost.

**MS. KNAPP:**

Of course.

**LEG. ALDEN:**

Thank you.

**P.O. CARACAPPA:**

Thank you. Sorry, Legislator Lindsay, go right ahead.

**LEG. LINDSAY:**

Yeah, I really have an opposite view than Legislator Bishop, I really think that our discussion here should be in executive session. We're talking about an active lawsuit, we're talking about actually two active lawsuits. And I do not think it's to the benefit of the public of Suffolk County that, you know, vital information winds up in a lawsuit where the County is being sued and the taxpayers have to pay that lawsuit.

As far as the issue of we're dealing with a memo, being that it's out in the open, it originated in your department, you've unequivocally said that it went from you with a confidentiality across the thing to Paul Sabatino, with no other cc's. So, I mean, I don't think it takes Clue to find out we should ask Paul Sabatino if he shared it with anybody and, you know, if you want to pursue it, that's how you get to the bottom of it. But I think there's absolutely something wrong, especially in the incident of President LaLima, you know, requesting a legal opinion from our Law Department and that legal opinion winding up in a private lawsuit.

And somewheres along the line, I mean, I tend to agree with Legislator Cooper, you know, we might have to initiate some kind of legislation. Because, you know, at different times we all share very sensitive information that, you know, if it wound up in the hands of someone that's suing us could be very detrimental to the voters of •• to the citizens of Suffolk County.

**P.O. CARACAPPA:**
Just to •• Legislator Montano and then O'Leary.

**LEG. MONTANO:**
I have to agree with Legislator Lindsay in reference to the comments of Legislator Bishop. You know, as a County, when we ask for an opinion from the County Attorney we're not working in secret, we're asking our Counsel for guidance. And your opinion is simply that, your opinion. And the County Attorney's opinion has been known to be wrong in the past, it will be wrong in the future, on a number of issues; there's a higher authority in the courts in terms of deciding. But if we can't have access to a confidential opinion from our lawyer, then we don't really need a lawyer, I'd rather go outside.

And as a lawyer, I think, you know, I'm very clear that we need to have this confidentiality. This is a unique relationship between the County, the County employees and its counsel or their counsel. So it's not that we want to hide information, it's just that we want guidance. And a lot

•• you know, and I'll repeat, it's only guidance, it doesn't make law, it will be disclosed at the appropriate time. You know, with respect to the other question I asked you and that had to do with whether or not there are any sanctions against employees who disclose confidentiality, our Counsel has come up with •• she researched and I think it's Section A30•4 of the code and it says, "No officer or employee of the County of Suffolk, whether paid or unpaid, shall disclose confidential information acquired by him in the course of his official duties," yada, yada, yada. So there really is something already on the books that addresses this issue. Now the question is once it's ascertained how this information got into the hands of someone outside the County, where do we go from there? So, you know ••

**MS. MALAFI:**
You're quoting from the Ethics Code which would mean you make a complaint ••

**LEG. MONTANO:**
Is it the Ethics?

**P.O. CARACAPPA:**
Yep, Code of Ethics.

**MS. MALAFI:**
Yes. You would make a complaint to the Ethics Commission.

**LEG. MONTANO:**
So then the complaint would go to the Ethics Committee.

**MS. MALAFI:**
And according to the Code of Ethics, I believe it's the very last section, 30•12 or whatever, if there is •• if the Ethics Commission finds a breach, they are obligated to notify the District Attorney's Office; obligated, it says must.

**LEG. MONTANO:**
Right, it doesn't mean that it's a crime per se, it's just that they'll notify the District Attorney's Office, but that would be for criminal proceedings. With respect to any violation that doesn't rise to the level of a criminal proceeding, where would it go at that point?

**MS. MALAFI:**
The section right above it says the person can be subject to I believe it's a fine of $500, suspension, termination of employment.

**LEG. MONTANO:**
Termination. Okay, thank you.

**P.O. CARACAPPA:**
Legislator O'Leary.

**LEG. O'LEARY:**
The •• you have stated that as the County Attorney you represent both the County Executive and the County Legislature; now, that's two separate branches of government. And in a situation where there's a difference of opinion and apparent conflict arises, who would you be obligated to represent if there had to be a choice made by the County Attorney's Office, either the Executive Branch or the Legislative Branch?

**MS. MALAFI:**
To write an opinion, do you mean, or to ••

**LEG. O'LEARY:**
No, to determine if a conflict has arisen. I mean, you can't represent both; I mean, what if there's a conflict between the two separate branches of government?

**MS. MALAFI:**
If there's a conflict I can't represent either one.

**LEG. O'LEARY:**
You can't represent either one. So in a situation where both branches are obviously have taken opposite opinions and positions with respect to an issue, if you're asked to render an opinion you can do so even though you can't represent •• because if there's an obvious conflict with respect to an opinion regarding a legal question, you're saying you can't take a position one way or the other as to who ••

**MS. MALAFI:**

To the outside world? No.

**LEG. O'LEARY:**

No, no, to who you would be representing, the Executive Branch or the Legislative Branch?

**MS. MALAFI:**

In litigation or an opinion?

**LEG. O'LEARY:**

No, in an opinion that is conflicting.

**MS. MALAFI:**

Well, I don't represent anyone in an opinion. What I could do is do the research and determine which way my legal opinion would go to help both clients try to either work it out or •• you know, if you asked me for an opinion on something you know the County Executive's Office would not agree with, it does not mean that I can't answer your question and it doesn't necessarily mean that I'm either going to •• I'll do the research. If I legally agree with your position I'll tell you, if I don't I would tell you that also.

**LEG. O'LEARY:**

But my point is is that if the request of an opinion is in direct conflict with an opinion of another client that you represent, how would you proceed with that? Would you indicate that because you represent both that you can't render an opinion, or if you render an opinion can you not •• do you have to declare a conflict and there has to be counsel for the other?

**MS. MALAFI:**

In issuing an opinion there is no conflict, it's a legal opinion ••

**P.O. CARACAPPA:**

Can we have some quiet? Thank you.

**MS. MALAFI:**
•• to my client. I don't •• no one person at the County owns the opinion. So it's not a conflict to issue an opinion that all of my clients don't agree with, that in and of itself is not a, quote, conflict.

**LEG. O'LEARY:**
Okay. All right, thank you.

**MS. MALAFI:**
In my opinion.

**P.O. CARACAPPA:**
Point of personal privilege; Legislator Kennedy, did you want to say something?

**LEG. KENNEDY:**
Yeah. I want to pick up on some of the comments that were made here earlier, Legislator Lindsay made reference to it and a couple of other people did. I'm wondering, Counsel, at this point if you're still comfortable having this conversation where we're having it now.

**MS. MALAFI:**
Where we're having it now?

**LEG. KENNEDY:**
No, how we're having it now to the extent that ••

**P.O. CARACAPPA:**
As opposed to executive session.

**MS. MALAFI:**
As opposed •• I don't think you've said anything that I would have said •• as you know, I have no problem telling you I think you should go into executive session. I don't think that ••

**LEG. KENNEDY:**
Pardon me; can you say that again?

**MS. MALAFI:**
I have no problem telling •• giving you an opinion that I believe we should go in executive session; we fought about it a couple of times.
**LEG. KENNEDY:**
Is that your opinion now?

**MS. MALAFI:**
Right now?

**LEG. KENNEDY:**
Yeah.

**MS. MALAFI:**
I don't think we have to.

**P.O. CARACAPPA:**
Okay. Legislator Viloria•Fisher.

**MS. MALAFI:**
I have to be honest, my opinion means literally •• that's all it is is a legal opinion.

**P.O. CARACAPPA:**
Understood.

**MS. MALAFI:**
My clients do what they want to do, it is not policy, nobody can rely on it and say it's the position of the County, they can't.

**P.O. CARACAPPA:**
And that's why I'm recognizing Legislator Viloria•Fisher.

**LEG. VILORIA•FISHER:**
Getting back to the point that Legislator Bishop made regarding disclosure, I'm going to refer anecdotally to a recent discussion that you and I had where I asked for your opinion or your

recollection of something that involved constituents of mine who are in contract with the County. You sent me the information and I saw that the information said privileged and confidential, so I used my own good judgment to call you up and say "What can I say to my constituent regarding this?" Had I not done that, had I given all of the information to my constituent, would then I have been in ethical breach?

**MS. MALAFI:**
The information that we discussed that you should not give to that constituent could have placed the County in a worse position in that contract.

**LEG. VILORIA•FISHER:**
But would I have been ••

**MS. MALAFI:**
Technically?

**LEG. VILORIA•FISHER:**
Yes.

**MS. MALAFI:**
Yeah.
**LEG. VILORIA•FISHER:**
Okay. Well ••

**MS. MALAFI:**
But that's why when I sent you the e•mail it said privileged on the top, confidential on the bottom, you knew to call me and that's why I do it that way.

**LEG. VILORIA•FISHER:**
Okay. But the point is that each person in the County who is receiving that information does have an obligation to somehow clear what it is that would put the County in a position of liability or in a bad position before they disseminate or pass along the information; that's the obligation of each person who's getting that confidential information.

**MS. MALAFI:**
Yes, but ••

**LEG. VILORIA•FISHER:**
But.

**MS. MALAFI:**
In the situation you're talking about, it's different than an opinion because in that situation it had to do with contract negotiations and what we would agree to and what we wouldn't agree to and where our middle ground may have been. In the opinion situation, I still don't think it should ever be disclosed, I make no bones about that, I do not believe it should ever be disclosed. But I'm not •• you know, it's confidential because of the attorney/client privilege. It's not a position of the County and no one can ever say, "County, this is your •• you're bound by this," because it's not that, I do not make policy, all I do is advise clients. And clients, as I know very well since taking this new position, clients don't always follow your legal opinion.

**LEG. VILORIA•FISHER:**
But what I inferred from what you said before regarding •• well, from what Mea had researched, we all have some kind of implied confidentiality as public officials or as public employees, so that we are all bound to that and we have to use judgment as to how we disseminate information.

**MS. MALAFI:**
Absolutely.

**LEG. VILORIA•FISHER:**
Okay, thank you.

**MS. MALAFI:**
And it's my job as your counsel to let you know that you shouldn't be giving something out and that's why privileged and •• everything, it's all over them.

**LEG. VILORIA•FISHER:**
And that really doesn't •• that really doesn't make us less transparent as a government, I think what that just does is protect some of the areas where there might be exposure.

**MS. MALAFI:**
You would be less likely to ask me is something illegal if you knew that once I said it the public would know about it; there wouldn't be the openness and the ability to ask me is a resolution •• is it preempted, is it not, is it •• you wouldn't ask me if the public was going to know what I told you.

**LEG. VILORIA•FISHER:**
Thank you.

**P.O. CARACAPPA:**
Legislator Nowick.

**LEG. NOWICK:**
A quick question and a comment. The information that was passed on to •• and I just learned as Legislator Caracciolo, I was a little confused at the beginning. This information evidently was passed on to Mr. Lutz who has a case ••

**P.O. CARACAPPA:**
Mr. Lutz' attorney.

**LEG. NOWICK:**
Mr. Lutz' attorney, okay. Mr. Lutz' attorney is a private attorney, at this point Mr. Lutz is a private citizen, correct? Was that a document handed to him or was that passed on •• or did you just •• did we just find out he had knowledge; did he have the actual document?

**MS. MALAFI:**
I don't know but I will tell you that part of the reason for the opinion was is he an employee who is entitled to be paid or is he not an employee to be paid? The •• so there is even a question if releasing it to him is a violation, because there is a question, that was the whole purpose, was is he an employee who is entitled to be paid or is he not an employee who is entitled to be paid?

**LEG. NOWICK:**

Just as a comment, we represent the people, you represent us.

**MS. MALAFI:**
Those interests are not always the same.

**LEG. NOWICK:**
Okay. However, the only analogy I can make, having been involved in a legal battle a few years ago, is that if my attorney passed around decisions that he made to what seems to be hundreds of people in the County •• first of all, more than two people know it, it's no longer a secret anyway, so there's a real glitch here. Private •• I mean, you mark something privileged, it's a glitch, it's really not protected information. And if my attorney had let that information out to the attorney of the defendant in the case, I would have fired him.

**MS. MALAFI:**
I did not •• my office did not give it to anyone.

**LEG. NOWICK:**
So some •• yes, I know, and I understand that, and thank you so much for your patience and the way you handle yourself. But the system is •• this system cannot possibly work, I had no idea it worked like this. But you're saying that any employee of the County could know these decisions; there are hundreds and hundreds of people then that can know this decision, how can we ever keep things ••

**MS. MALAFI:**
I just know that they're ••

**LEG. NOWICK:**
•• secret for the protection of us and then the people?

**MS. MALAFI:**
Well, the way my office does it and the way that I am aware that it's done is, like I said, if somebody or an employee of the County who has no interest in whatever the topic of the opinion is would not get a copy. Now, I can't •• I don't think anyone can do anything about the fact that secretaries open mail. If you want me to, I will put everything in sealed envelopes and

put on it "Personal and Confidential, to only be opened by the person it's addressed to," and that's fine, but in reality you get so much mail every day •• you know, I personally get a little bit annoyed when I get six or seven pieces of confidential mail that I have to open, I have to stamp in instead of my secretary opening and stamping in. So it's up to my client, if that's what •• the procedure that everyone wants me to do that's fine, but I think it's up to to each employee of the County to, A, not release it to people unnecessarily and, B, to have the person opening your mail not be someone that you don't trust.

**LEG. NOWICK:**
The only thing I would see here is, and I'll end it right here because it is going on long, the only thing I would see here is when there is a decision made and it involves the lawmakers of a certain County, a case that involves the lawmakers, that might have been •• I know you don't like to number them highly confidential, confidential, but if there is a case against the County Executive or a case against the lawmakers, I would think that those are very, very confidential and shouldn't be passed through the secretaries.

**MS. MALAFI:**
If it was something •• I mean, I will tell you, I won't give you any examples, but there have been maybe two or three occasions where I physically take •• I do a lot of my own typing, my secretary either prints or maybe she makes things look pretty sometimes, but there have been times when where I physically take it and hand it to somebody, that's how it would be.

**LEG. NOWICK:**
Thank you.

**P.O. CARACAPPA:**
Legislator Binder. Finally, Legislator Binder.

**LEG. BINDER:**
Thank you. A couple of things we have to, I think, keep in mind, and I think we have to be careful when we talk about questions of open government, whether we have open government, when Counsel is keeping documents confidential. When Legislators raise that they put everyone in a political position of saying, "Well, if you think there should be confidentiality,

you're against open government and transparency and so, ipso facto, you're a bad guy for the voter," and I don't know that that's the case.

We're not Enron, we're not a corporate body and we are a government, but I think we have to think of a couple of things. Number one, I think Counsel was clear that there could be a chilling effect on not having confidentiality. Someone •• and that was Mr. Bishop's •• his own example was if someone says, "Am I doing illegal activity here," to Counsel and you don't know that Counsel would keep that quiet, then you might just continue doing the illegal activity, not wanting to know the answer because you don't want it to get out because in case it is you might be subject to prosecution.

So I think we have to •• you know, one of the reasons that Counsel has historically, not only here, in every government, in every level of government and back to the 1700's, the reason we've had this system of Counsel confidentiality is to protect the ability of those to get that confidential decision which actually could lead to good government, and so we should be mindful of that.

Number two, we have to remember that government is not just this monolithic thing, it's actually a group of individuals. And so understand that an opinion that leaves and goes into hands that it shouldn't could put individuals at risk, and understand that's an opinion. We're not talking about •• and that's •• my next point is no, we're not talking about a finder of fact. If, in fact, Counsel was also an investigator and a finder of fact, in the end that finder of fact has a responsibility to the public to release those facts. You couldn't take those facts as the Comptroller, let's say, does an audit, he can't put it away and say, "You know, I don't really want to talk about this audit, this is going to hurt Suffolk County"; he found fact. You don't find fact, what you find is opinion and that opinion can put the County taxpayers in a bad light if it were to go out. And in this case, it may have caused a problem for County taxpayers, whether the opinion was a good opinion or a bad opinion, it could put the County taxpayers at risk. And so I think County taxpayers have to be careful that what they call transparent government actually might put them at risk. So I don't know that this is the kind of thing that needs to be transparent, as much as investigation needs to be.

The other thing I think we have to be careful about today, and I think no one around the horseshoe maybe in the last year•and•a•half has spent more time going back and forth about Mr. Sabatino, I think we have to be careful in terms of even alluding to an individual, though we

have specifics as to who had documents, it's not for us to be the finders of fact as to who, where, how; we should be very careful at this horseshoe as to any even speculation about that. We •• that's for someone else to do. And I think that we, in the end, do need to know, it was stated by Counsel that could be asked on the witness stand. Another thing that can be asked is was that document, if we figure out if it was given, was that document given in contemplation of the lawsuit. So now you've got even a higher standard because if that was just given because, you know, you felt bad for Mr. Lutz, whoever that person is that gave it to them and you felt bad for them, you say, "Yeah, take a look at this, you were right," and didn't think they were going to sue, you would have a different standard than if they did it here; you know, "I heard you were going to sue, Mr. Lutz; here, look what I got for you." And then they were affirmatively trying to hurt the County, the taxpayers, the institution, and at that point I would think that it probably rises to some level of mal or misfeasance in office if they're a County official at some level.

But I just would caution us to be real careful about speculation. I think it is important that we find out, that there is a process that we find out and a process to understand how we could make it tighter and to protect, I think, at a level we should talk about, protecting the County taxpayers. But in no circumstances in a finder of fact situation should we ever, it should always be open. If Counsel did an investigation, then I •• but if you had and let's say you were asked to do and you did an investigation, that should be public because then you've found fact and that would be different.

**LEG. ALDEN:**
String them up, hang him.

**P.O. CARACAPPA:**
Okay. Ms. Malafi, again, I appreciate you coming down. I respect the fact that you came and answered the questions as honest as you possibly could, so you're excused. Thanks.

**MS. MALAFI:**
Thank you.

**LEG. BISHOP:**
And let's keep it a secret.

**P.O. CARACAPPA:**

As Legislator Bishop said, next time let's just keep it a secret.

Okay. There was a request; is there a motion?

**LEG. MYSTAL:**

Motion to take 1122 out of order.

**P.O. CARACAPPA:**

Which is?

**LEG. MYSTAL:**

The sewer district.

**LEG. ALDEN:**

That's going to take a while.

**LEG. MYSTAL:**

No. Is it going to take a while?

**LEG. ALDEN:**

Yeah, because you've got to put some stuff on the record first.

**LEG. MYSTAL:**

Oh.

**LEG. ALDEN:**

This goes for five minutes.

**LEG. CARACCIOLO:**

I said five minutes.

**P.O. CARACAPPA:**

What about •• let's do •• I'd like to do the Stony Brook ••

**LEG. VILORIA•FISHER:**

Thank you very much.

**P.O. CARACAPPA:**

Absolutely.

**LEG. BISHOP:**

Smokey Mountain.

**P.O. CARACAPPA:**

And I apologize, I wanted to do it •• I should have done it earlier.

**LEG. BISHOP:**

The last farm.

**P.O. CARACAPPA:**

What's the number of that bill?

**LEG. VILORIA•FISHER:**

Watch or we'll put you out to pasture.

**P.O. CARACAPPA:**

Motion by Legislator Viloria•Fisher, second by myself to take 1117 out of order, it's on page eight. All in favor? Opposed? Abstentions?

**MR. BARTON:**

18.

**P.O. CARACAPPA:**

***1117*** is now before us, ***Authorizing planning steps for acquisition under Suffolk County Save Open Space (SOS), Farmland Preservation and Hamlet Parks Fund (Middle Country Road Property)(Town of Brookhaven) (Caracappa).*** Motion by Legislator Viloria •Fisher, second by Legislator Losquadro and Foley.

**LEG. CARACCIOLO:**
On the motion.

**P.O. CARACAPPA:**
On the motion, Legislator Caracciolo.

**LEG. CARACCIOLO:**
Yeah, refresh my memory. The speaker that was here represented one of the Town Councilman; has the Town of Brookhaven taken a position in support or 50/50, 70/30?

**LEG. VILORIA•FISHER:**
Yes. The •• oh, go ahead, as Chair of Environment.

**LEG. LOSQUADRO:**
No, as chair of the committee, I not only spoke to the Town Supervisor but to their planning director and the town expressed an interest in partnering for the development rights acquisition. There was obviously a reluctance for the outright acquisition, now that it has been changed to the acquisition of development rights the town is a willing participant.

**LEG. CARACCIOLO:**
Okay. And what was the ranking on our criteria for this property?

**LEG. LOSQUADRO:**
That I do not recall offhand.

**LEG. CARACCIOLO:**
Did it meet the minimum qualification of 25?

**LEG. VILORIA•FISHER:**
Yes.

**LEG. LOSQUADRO:**
Yes, absolutely.

**LEG. VILORIA•FISHER:**

It's contiguous to a preserve.

**LEG. CARACCIOLO:**

Okay.

**P.O. CARACAPPA:**

Very good. There's a motion and a second and second to the second.

All in favor? Opposed? Abstentions?

**LEG. FOLEY:**

Cosponsor, Henry.

**P.O. CARACAPPA:**

That is approved, so you guys can go home.

**LEG. VILORIA•FISHER:**

Thank you, Mr. Chair.

**P.O. CARACAPPA:**

There was another motion?

**LEG. MYSTAL:**

1122.

**LEG. TONNA:**

Yeah, 1122.

**P.O. CARACAPPA:**

Motion to take 1122 out of order, second by Legislator Mystal.

All in favor? Opposed? Abstentions?

**LEG. BINDER:**

Which one?

**LEG. TONNA:**
1122, the sewer district.

**P.O. CARACAPPA:**
It is the expansion of Bergen Point.

**LEG. TONNA:**
On the motion.

**P.O. CARACAPPA:**
Planning for expansion of Bergen Point, right?

**LEG. TONNA:**
Yeah. On the motion?

**MR. BARTON:**
18 to take it out of order.

**P.O. CARACAPPA:**
All in favor •• okay, it's before us. On the motion, Legislator Tonna.

**LEG. TONNA:**
On the motion, just a couple of things. And I know we have our Commissioner of Public Works here to answer any questions. But right now, just so that everybody knows, we've talked about sewer district problems for quite some time. We have basically an opportunity •• excuse me?

**P.O. CARACAPPA:**
You have the votes.

**LEG. TONNA:**
Oh, we have the votes? Okay, good. I just thank you all for doing your due diligence and making such an educated vote.

**P.O. CARACAPPA:**
Good man.

***[SUBSTITUTION OF STENOGRAPHER • DONNA CATALANO]***

**P.O. CARACAPPA:**
Legislator Alden, then Bishop.

**LEG. TONNA:**
We have the votes. We have the votes. This works on both sides. I'm not going to have a ••

**LEG. BISHOP:**
I understand that. I just need to put some things on the record as the representative for Southwest •• for the Bergen Point area. I am supporting this, because I understand the County •wide need, and it's very imperative. But it's also imperative that we have respect for the community that this is going to impact. And it is my understanding from the documents that have been provided to me and the conversations I've has with the Commissioner that there will be a minimal impact to the surrounding community, that there will be process as we move forward of dialog with the community that the plan will be presented to them, and that the emphasis here is on using new technology and not in expanding the physical plant. And in so doing, we should be able to get a 12% additional capacity with a very minimal construction project.

**LEG. TONNA:**
And if not, you'll be out of office by then anyway.

**LEG. BISHOP:**
In terms of impact on the community.

**P.O. CARACAPPA:**
And we know, aside from the caveats, you would not be supporting this.

**LEG. BISHOP:**
Moreover, it's also my understanding that there will be additional votes. So if these documents do not represent the actual project and there's community opposition, then my successor will have an opportunity to make the case.

**LEG. FOLEY:**
You're going to have all your bases covered, David. All your bases are covered. Conditional qualified support.

**P.O. CARACAPPA:**
Legislator Alden.

**LEG. ALDEN:**
Just real quick, I've always expressed a little bit of a concern as far as the capacity of Southwest Sewer District right now and that there are a whole bunch of upgrades that have to be done to it. I still •• I'm still concerned with that, and I'm still concerned with the spread of the cost of that amongst the Southwest Sewer District users right now.

The other thing is too, and I hope it's being taken into the consideration, the ability of the people are that going to be hooked up to pay for the hookup, because still in the Southwest Sewer District there's thousands of people that haven't hooked up. And my guess is judging by some of the people that have come to my office, they don't have the ability because they don't have the money. It's running into the thousands of dollars now to have some of these houses hooked up. So I hope those two things will be taken into consideration when we look at the expansion of the Southwest Sewer District.

And one final thing, and this would cover all of it, we really do have to establish a criteria for hook•ups outside the Southwest Sewer District. And I hope that would be taken care of when we start looking at this.

**P.O. CARACAPPA:**
Okay. Anyone else?

**LEG. TONNA:**
No. No.

**P.O. CARACAPPA:**
We have to do a roll call. There's a motion and a second. Roll call.

**(ROLL WAS CALLED BY HENRY BARTON • CLERK OF THE LEGISLATURE)**

**LEG. TONNA:**

Yes.

**LEG. MYSTAL:**

Yes.

**LEG. CARACCIOLO:**

Yes.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. O'LEARY:**

Yes.

**LEG. VILORIA•FISHER:**

Yes.

**LEG. LOSQUADRO:**

Yes.

**LEG. FOLEY:**

Yes.

**LEG. LINDSAY:**

Yes.

**LEG. MONTANO:**

Yes.

**LEG. ALDEN:**

Yes.

**LEG. KENNEDY:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. BISHOP:**

Yes.

**LEG. BINDER:**

Yes.

**LEG. COOPER:**

Yes.

**LEG. CARPENTER:**

Yes.

**P.O. CARACAPPA:**

Yes.

**LEG. TONNA:**

I would have to say I'm pretty impressed. It's a Tonna resolution. I mean, you know, it actually •• I haven't seen this in a very long time.

**MR. BARTON:**

18.

**P.O. CARACAPPA:**

Thank you. Same motion, same second, same vote on the companion resolution[.|. |.] There's a motion by Legislator Carpenter to take 1069, which was discharged earlier out od order. All in favor? Opposed? It was discharged at 7 o'clock.

**LEG. CARPENTER:**

Motion to approve.

**P.O. CARACAPPA:**
What's the number?

**LEG. CARPENTER:**
It's **Resolution 1069, approving the ferry license for Fire Island Water Taxi, LLC.**

**P.O. CARACAPPA:**
It was discharged earlier. There's a motion by Legislator Carpenter, seconded by Legislator Alden. All in favor? Opposed? Abstentions?

**MR. BARTON:**
18.

**P.O. CARACAPPA:**
Mark me as an abstention.

**MR. BARTON:**
17, one abstention.

**P.O. CARACAPPA:**
Ten minutes. Ten after, we will be voting, and we have a lot of work to do ladies and gentlemen.

**(*THE MEETING WAS RECESSED AT 9:00 P.M.*)**
**(*THE MEETING WAS RECONVENED AT 9:14 P.M.*)**

**P.O. CARACAPPA:**
Roll call.

**(ROLL WAS CALLED BY HENRY BARTON • CLERK OF THE LEGISLATURE)**

**LEG. CARACCIOLO:**
(Not present).

**LEG. SCHNEIDERMAN:**

Here.

**LEG. O'LEARY:**

Here.

**LEG. VILORIA•FISHER:**

(Not present).

**LEG. LOSQUADRO:**

(Not present).

**LEG. FOLEY:**

Present.

**LEG. LINDSAY:**

(Not present).

**LEG. MONTANO:**

(Not present).

**LEG. ALDEN:**

Here.

**LEG. VILORIA•FISHER:**

Nice tie, Henry.

**MR. BARTON:**

Thank you.

**LEG. KENNEDY:**

Here.

**LEG. NOWICK:**

Here.

**LEG. BISHOP:**

Here.

**LEG. MYSTAL:**

Unfortunately here.

**LEG. BINDER:**

Here.

**LEG. TONNA:**

Here.

**LEG. COOPER:**

Here.

**LEG. CARPENTER:**

Here.

**P.O. CARACAPPA:**

Here.

**LEG. BINDER:**

Here.

**LEG. LOSQUADRO:**

Here.

**LEG. O'LEARY:**

Here.

**LEG. VILORIA•FISHER:**

Here.

**MR. BARTON:**
All 18 have returned, Mr. Chairman.

**P.O. CARACAPPA:**
Thank you. Okay motion to approve Consent Calender by Legislator O'Leary, seconded by myself. All those in favor? Opposed? Abstentions?

**MR. BARTON:**
18.

**P.O. CARACAPPA:**
Page 6, resolutions tabled until March 15th. **1086, (adopting Local law No. •2005, a Charter Law to create the Real Estate Acquisition Anti•Corruption Reform Act).** Motion by Legislator Binder to table, seconded by myself. All those in favor? Opposed? Abstentions?

**MR. BARTON:**
18.

**P.O. CARACAPPA:**
**1694, (Authorize the commencement of Eminent Domain Proceedings for Mediavilla Properties, Town of Huntington).** Same motion, same second, same vote.

**MR. BARTON:**
18.

**P.O. CARACAPPA:**
**1928, (adopting Local Law No. •2005, a Local Law to establish smoke free bus stops in Suffolk County).** Motion to table by Legislator Tonna, seconded by Legislator Alden. All those in favor? Opposed? Abstentions?

**MR. BARTON:**
18.

**P.O. CARACAPPA:**

**1981, (adopting Local Law No. •2005, a Local Law to update Suffolk County Living Wage Law).** Motion by Legislator Bishop to approve. Oh, I'm sorry.

**MR. ZWIRN:**
I thought there would be an opportunity for the County Exec's Office •• you want to go through the bills?

**P.O. CARACAPPA:**
We'll go through the bills. Just shout out.

**LEG. TONNA:**
By the way, can I just •• this is •• for those of us who are term•limited out, this is our last night Riverhead meeting. Let me tell you something. This is one of the biggest pain in the necks, coming out here. I'm joking. Anyway.

**P.O. CARACAPPA:**
There's a motion on 1981 by Legislator Bishop, I'll second. All those in favor? Opposed? Abstentions? Mark the one opposition.

**MR. BARTON:**
17, one.

**P.O. CARACAPPA:**
2313. I'm going to skip over this one, if you wouldn't mind. **1057, 57 A, (Amending the 2005 Capital Budget and Program and appropriating funds in connection with improvements to active parklands/recreation areas at Nautical Park, Village of Amityville).** Motion by Legislator Mystal, seconded by Legislator Bishop. Roll call.

**(ROLL WAS CALLED BY HENRY BARTON • CLERK OF THE LEGISLATURE)**

**LEG. MYSTAL:**
Yes.

**LEG. BISHOP:**
Yes.

**LEG. CARACCIOLO:**

Yes.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. O'LEARY:**

Yes.

**LEG. VILORIA•FISHER:**

Yes.

**LEG. LOSQUADRO:**

Yes.

**LEG. FOLEY:**

Yes.

**LEG. LINDSAY:**

Yes.

**LEG. MONTANO:**

Yes.

**LEG. ALDEN:**

Yes.

**LEG. KENNEDY:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. BINDER:**

Yeah.

**LEG. TONNA:**

Yes.

**LEG. COOPER:**

Yes.

**LEG. CARPENTER:**

Yes.

**P.O. CARACAPPA:**

Yes.

**MR. BARTON:**

18 on the bond.

**P.O. CARACAPPA:**

Same motion, same second, same vote. 1057 is approved. **1086, 86 A, (Amending the 2005 Capital budget and Program and appropriating funds in connection with the purchase and installation of playground equipment in Suffolk County parks, customized for disabled young children).** Motion by myself to table, second Legislator Carpenter. All those in favor? Opposed?

**MR. BARTON:**

18.

**LEG. COOPER:**

Mr. Chair, I'd like to make a motion to discharge tabled Resolution 1092.

**LEG. FOLEY:**

Second.

**LEG. COOPER:**

This resolution was before Public Works, but the meeting wasn't held because of a snow storm.

**P.O. CARACAPPA:**

What bill is this?

**LEG. COOPER:**
Green Power resolution.

**LEG. SCHNEIDERMAN:**
Can we take this up at the end of the night?

**P.O. CARACAPPA:**
There's a motion and a second to discharge. On the motion, was this ever debated in committee?

**LEG. COOPER:**
Not in committee.

**LEG. VILORIA•FISHER:**
No. There was no scheduled on account of the snow.

**P.O. CARACAPPA:**
I know, but was it tabled in committee prior? Was there ever a discussion in committee about this bill?

**LEG. COOPER:**
No. Nor was there one on Jay Schneiderman's bill, his Green Power resolution.

**P.O. CARACAPPA:**
I'm asking for my own reason.

**LEG. COOPER:**
I'm explaining. So Jay did a discharge petition for his, and I'm doing a discharge motion for mine so both bills can be before the Legislature at the same time.

**P.O. CARACAPPA:**
There's a motion and a second.

**MR. BARTON:**

Who was the second, Mr. Chairman?

**P.O. CARACAPPA:**

Legislator Foley was the second.

**MR. BARTON:**

Thank you.

**P.O. CARACAPPA:**

All in favor? Opposed?

**LEG. ALDEN:**

Abstain.

**P.O. CARACAPPA:**

There's an abstention, Legislator Caracciolo, Schneiderman, Losquadro. Roll call.

**MR. BARTON:**

On the motion to discharge.

**(ROLL WAS CALLED BY HENRY BARTON • CLERK OF THE LEGISLATURE)**

**LEG. COOPER:**

Yes.

**LEG. FOLEY:**

Yes.

**LEG. CARACCIOLO:**

Abstain.

**LEG. SCHNEIDERMAN:**

Abstain.

**LEG. O'LEARY:**

No.

**LEG. VILORIA•FISHER:**

Yes.

**LEG. LOSQUADRO:**

Abstain.

**LEG. LINDSAY:**

Yes.

**LEG. MONTANO:**

Yes.

**LEG. ALDEN:**

Abstain.

**LEG. KENNEDY:**

No.

**LEG. NOWICK:**

Abstain.

**LEG. BISHOP:**

Yes.

**LEG. MYSTAL:**

Yes.

**LEG. BINDER:**

No.

**LEG. TONNA:**

Yep.

**LEG. CARPENTER:**
Abstain.

**P.O. CARACAPPA:**
Abstain.

**MR. BARTON:**
Eight to discharge.

**P.O. CARACAPPA:**
That will be discussed next week in Public Works.

## BUDGET AND FINANCE

**1094, (amending the 2005 Capital budget and Program and transferring funds from the Smithtown health Clinic for the contract agency Pederson•Kraig Act Team to the Wyandanch Health Clinic for the contract agency Person•Kraig, Inc.).** Motion by Legislator Nowick, seconded by Legislator Binder. All in favor? Opposed? Abstentions?

**MR. BARTON:**
18.

**P.O. CARACAPPA:**
**1103, (amending the 2005 Operating Budget transferring funds to the IGHL Foundation for maintenance of the TWA Flight 800 Memorial at Smith Point County Park).** Motion by Legislator O'Leary.

**LEG. LINDSAY:**
On that resolution.

**P.O. CARACAPPA:**
Which one?

**LEG. LINDSAY:**
03.

**P.O. CARACAPPA:**

Let me get a second. Seconded by Legislator Foley. On the motion, Legislator Lindsay.

**LEG. LINDSAY:**

Really to the sponsor, is this for remediation of the problem with the eroding?

**LEG. O'LEARY:**

No. No. This is for maintenance of properties itself.

**LEG. LINDSAY:**

And does it take $70,000 a year, is that an annual fee, to maintain this?

**LEG. O'LEARY:**

Yes. According to Mr. Seaman, who is the individual in charge with the overall management of the memorial and condition of it. He has indicated •• this is his request. He has indicated that those are the monies that would be necessary. I just want to point out too that in previous resolutions, this body has passed legislation requiring that the County be responsible for the maintenance of the TWA Memorial. To date, that has been done by individuals volunteering their time, which has been diminishing over the years, and it's thought best that there be a dedicated groud. The IGHL will dedicate their efforts and services to maintaining these properties. And the $70,000 will cover that annual basis, the cost incurred as a result.

**LEG. LINDSAY:**

I don't think anybody has a problem with appropriating money to maintain it. It just seemed like $70,000 is an exorbitant amount of money to maintain a memorial. I mean, it isn't a building. Is this to catch up on something that we haven't funded an money up to now?

**LEG. O'LEARY:**

As far as I know, this is what •• this is the number that's going to be required to bring it up to the standards that we should expect of it, and the continuing maintenance.

**LEG. LINDSAY:**

So it's maybe a one•time cost and then the annual maintenance fee will be less?

**LEG. O'LEARY:**
The number itself might diminish or decrease.

**LEG. LINDSAY:**
Okay. And from here on, do we intend to put that into the maintenance in the Operating Budget?

**LEG. O'LEARY:**
As part of a pseudo code?

**LEG. LINDSAY:**
Well, it should be in the Operating Budget, it's an ongoing expense.

**LEG. O'LEARY:**
That would be my intent to hope that that would occur.

**LEG. LINDSAY:**
We should be handling it in the first quarter of the new Operating year.

**LEG. O'LEARY:**
I totally agree. I would hope that would be in the Operating Budget, in the ensuing Operating Budget over the years.

**LEG. LINDSAY:**
So this is to get it up to speed, and once it's we get it up to speed, it's probably going to cost us less to maintain.

**LEG. O'LEARY:**
I would hope so.

**LEG. LINDSAY:**
Right.

**P.O. CARACAPPA:**
Legislator Bishop.

**LEG. BISHOP:**
I have no problem with paying to maintain it and paying to •• the proper amount to do it right, but perhaps we should get something in writing as to what is the •• how •• what's the itemization of this $70,000? Who is requesting this? There is a person who is charges with maintaining it?

**LEG. O'LEARY:**
Mr. John Seaman, who is the person that has taken it upon himself to ••

**LEG. BISHOP:**
He's a volunteer I take it.

**LEG. O'LEARY:**
Yes. There's a TWA Memorial Committee.

**LEG. BISHOP:**
Right.

**LEG. O'LEARY:**
He has taken it upon himself to get some volunteers to come down and maintain the properties themselves.

**LEG. BISHOP:**
Right. And they're volunteers, right. And that's all great.

**LEG. O'LEARY:**
And they've been doing that for a period of time, I'm told. And those members have been diminishing, and Mr. Seaman and the committee that he represents like to see a dedicated group to do just that on an annual basis. Rather than seek volunteers, the IGHL will be on retainer.

**LEG. BISHOP:**
I would even accept if you reviewed the itemization. I mean, has anybody taken a •• I mean, is it just a number or is there •• you know, is there, you know, 10,000 for X, 5000 for Y, you know? Does it makes some sense to you?

**LEG. O'LEARY:**
You mean a back up?

**LEG. BISHOP:**
Yeah. Maybe you should table it for two weeks to get that.

**LEG. O'LEARY:**
I'm judging Mr. Seaman's opinion with respect to what he had requested would be necessary to have the IGHL personnel conduct this particular maintenance job.

**LEG. BISHOP:**
But good causes without any checks and balances could be, you know trouble. So I don't know. I just think •• and I don't mean this in a hostile way, I think you should table it for one cycle and just check it out or have somebody else check it out.

**LEG. FOLEY:**
Mr. Chairman.

**P.O. CARACAPPA:**
You're up, Brian.

**LEG. FOLEY:**
Thank you, Mr. Chairman. As a Legislator who represents Smith Point, and having worked with Legislator O'Leary on the issues at the park as well as with the Flight 800 Memorial, we think IGHL would be a perfect fit for maintaining the memorial site. But the point is well taken by some of the Legislators. Normally for this size of an appropriation by •• essentially by a contract agency, there normally is an itemization of how these monies would be utilized. So because •• I haven't asked the sponsor before this moment, but since the General Meeting, Legislator O'Leary, is no more than two weeks away, would you seem any harm if we would

table for one round just to get the itemized sheet, if you will, from •• either from IGHL or from the Flight 800 Memorial?

**LEG. O'LEARY:**
No, I would see problem with that. I would ask Mr. Seaman to submit that as a backup. I would point out, however, to my colleagues that initially the request was for $125,000, which was reduced substantially. And I had some discussions with the Legislator, Legislator Foley, whose district this particular site is in, and we had some discussion as to whether or not this particular number was necessary. So I would have no problem with tabling it for one cycle until the next General meeting, at which point in time, Mr. Seaman hopefully will supply to us a backup just listing the anticipated expenses incurred as a result of this.

**LEG. FOLEY:**
And I don't think it's going to delay what needs to be done, particularly with the spring plantings.

**LEG. O'LEARY:**
Yeah. I would only go one more cycle, and I'll move it next cycle.

**LEG. LINDSAY:**
Thank you.

**LEG. O'LEARY:**
Motion to table.

**LEG. FOLEY:**
Second.

**P.O. CARACAPPA:**
There's a motion to table and a second. All in favor? Opposed? Abstentions?
**MR. BARTON:**
18.

**P.O. CARACAPPA:**

Okay. **1110, (amending the 2005 Operating Budget and the Salary and Classification Plan to establish a Compliance Officer to insure accountability).** Motion to table by Legislator Caracciolo.

**LEG. CARACCIOLO:**
Yes. And let me put on the record that since this resolution was introduced, I have not heard from the County Comptroller. I'm glad at the eleventh hour he has reached out to you to voice some concerns, and I look forward to his direct communications within the next few days.

**P.O. CARACAPPA:**
I'm sure you will get that. Motion to table and a second. All in favor? Opposed? Abstentions?

**MR. BARTON:**
18. Tabled.

**P.O. CARACAPPA:**
**1111, (amending the 2005 Operating Budget and transferring funds in connection with contracted services for youth, child care and prevention of domestic violence).** Motion by myself.

**LEG. O'LEARY:**
Second.

**P.O. CARACAPPA:**
Seconded by Legislator O'Leary. Legislator Lindsay, go right ahead.

**LEG. LINDSAY:**
Just an explanation, it was a bit confusing. You're taking money from some agencies and then giving it back to the same •• maybe you could explain the reason for this resolution.

**LEG. CARACCIOLO:**
Mr. Chairman, excuse me. You know, we went in committee, Bill, and you had •• every one of these resolutions, you had questions.

**LEG. LINDSAY:**

Do you mind if I ask a question about when we're •• I'm not saying I'm opposed to it. I have a right to ask a question. And why are you taking away my time? This isn't a point of order.

**P.O. CARACAPPA:**
Okay. There's a question.

**LEG. LINDSAY:**
I've been recognized. You haven't been recognized.

**P.O. CARACAPPA:**
Okay. He asked me as the sponsor, I'm going to answer through Budget Review if they wouldn't mind. Gail.

**MS. VIZZINI:**
This resolution corrects funding where it is in the budget. You are correct, Legislator Lindsay, they are the same agencies. When we did the omnibus, they were in areas of the budget where it makes it more difficult for the agencies to get the money and spend the money. This makes those corrections.

**LEG. LINDSAY:**
That's all I wanted.

**P.O. CARACAPPA:**
Thank you. Let's vote on bill first, then I'll recognize you for a point of personal privilege. All in favor? Opposed? Abstentions?

**MR. BARTON:**
18.

**P.O. CARACAPPA:**
I recognize Legislator Caracciolo for a point of personal privilege.

**LEG. CARACCIOLO:**
I don't need any time, Mr. Chairman. Thank you.

**P.O. CARACAPPA:**

Okay. Thank you. **1115, (amending the 2005 Operating Budget and transferring funds to the Islip Public School District).** Motion by Legislator Alden, seconded by Legislator Carpenter. On the motion, anyone? All in favor? Opposed? Abstentions?

**MR. BARTON:**

18.

**P.O. CARACAPPA:**

**1116, (amending the 2005 Operating Budget and transferring funds to Brighter Tomorrows).** Motion by Legislator O'Leary, seconded by Legislator Carpenter. All in favor? Opposed? Abstentions?

**MR. BARTON:**

18.

**P.O. CARACAPPA:**

**1119, (amending the 2005 Operating Budget and transferring funds from the General Capital Reserve Fund for the purchase of radios for the Suffolk County Society for the Prevention of Cruelty to Animals).** Motion by Legislator Carpenter, seconded by •• seconded by myself. On the motion, Mr. Zwirn.

**MR. ZWIRN:**

Thank you, Mr. Presiding Officer. The County Executive is very much in support of this resolution. He thinks the organization does a great job, and he's supportive of the sponsor. But he would ask if this could be tabled for a short cycle to see if we could come up with another offset to pay for it. That's the only •• we have short •• it's just two weeks and ••

**P.O. CARACAPPA:**

Legislator Carpenter.

**LEG. CARPENTER:**

If I can just respond to this. Budget Review, what was the offset we used on this, was this the

police overtime one?

**MS. VIZZINI:**
Pay•as•you•go.

**LEG. CARPENTER:**
Oh, pay•as•you•go. And how much is it?

**MR. SPERO:**
26,400.

**LEG. CARPENTER:**
Right.

**MR. ZWIRN:**
Most everything has been tabled, but I would have said on the other bills •• what I'll try to do in the next two weeks is sit down with Budget Review. Before Budget and Finance, we had asked that the County Executive's Budget people with BRO get together to see if we can find an offset. I know we are looking at a deficit next year somewhere in the neighborhood of 23 to $90 million. But we were going to try not to use the pay•as•you•go money at this stage on all of them, if we can find another offset.

**LEG. CARPENTER:**
Well, let me just say, you know, philosophically, I hear what you are saying, but for this small amount, the bill is before us now, it is something that, you know, helps in the public safety endeavor, it is not a lot of money. And if I'm not mistaken, Budget Review, how much is in pay •as•you•go.

**MR. SPERO:**
We budgeted over 11 million.

**LEG. CARPENTER:**
Over 11 million, and this resolution is for 22,000. So I think in the whole scheme of things, in this particular resolution •• maybe on some of the others, I'd be willing to go along with it ••

but I think we should just pass this one. Especially with the County Executive supporting the initiative, I'm sure he'll agree.

**P.O. CARACAPPA:**
Mr. Zwirn, the comments on behalf of the County Executive have been noted.

**LEG. BISHOP:**
On the motion.

**P.O. CARACAPPA:**
On the motion, Legislator Bishop.

**LEG. BISHOP:**
I just want to say that when John Gallagher was here earlier, I should have questioned him, because I passed a resolution like this like six years ago, and the police never got the radios for this. So I hope that it actually happens this time.

**LEG. CARPENTER:**
Why don't you cosponsor it?

**LEG. BISHOP:**
I would like to cosponsor. That's where I was going.

**P.O. CARACAPPA:**
Are there any other motions? All in favor? Opposed? Abstentions?

**MR. BARTON:**
18.

**P.O. CARACAPPA:**
**1124, (amending the 2005 Operating Budget and transferring funds for pediatric capable automatic external defibrillators in the Suffolk County Police Department).**
Motion by Legislator Carpenter, seconded by Legislator Losquadro. Mr. Zwirn.

**MR. ZWIRN:**

It's the same issue.

**P.O. CARACAPPA:**

Same argument, pay•as•you•go. This is police overtime.

**MR. ZWIRN:**

Police overtime.

**P.O. CARACAPPA:**

You're asking for it to be tabled for the purposes of ••

**MR. ZWIRN:**

Just until April 5th to see if we can come up with another offset.

**P.O. CARACAPPA:**

Legislator Lindsay. Motion to table by Legislator Viloria•Fisher, seconded by Legislator Montano. It takes precedence. There's a motion to table and a second.

**LEG. CARPENTER:**

1124?

**P.O. CARACAPPA:**

Yes.

**LEG. CARPENTER:**

All right. No to table.

**P.O. CARACAPPA:**

I didn't do the roll call yet.

**LEG. CARPENTER:**

I thought that ••

**P.O. CARACAPPA:**

I was giving you the opportunity to speak on the tabling.

**LEG. CARPENTER:**
All right. Well, on the tabling, I think the fact that •• the comments that I made, that this is 22,000, that we have 11 million in pay•as•you•go, that was what pay•as•you•go is all about. These are radios.

**P.O. CARACAPPA:**
These are defibrillators. This is police overtime.

**LEG. CARPENTER:**
All right. No, general •• so I'll ask Budget Review, because I went over to him earlier asked him if he thought it was practical to find another offset, and, Jim, if you would share our conversation, I'd appreciate it.

**MR. SPERO:**
The police budget is finite. So within the police budget, I mean, if you take it from one account or another, you're still taking the money. So if the overtime was short move, they could always move •• transfer the money later in the year. The only other comment I would make is that maybe if positions aren't going to be filled in the police budget, there would be excess Social Security costs to, you know, use as an offset.

**LEG. CARPENTER:**
Well, I know that this was something that the department had originally requested, because there was an opportunity to get some credit for some of the defibrillators that we had, because the factory or the manufacturer had this offer to trade in some because we have defibrillators that are not pediatric capable. So they originally came to me with this, and we have been working with the department, they were working with the Budget Review on this bill for a number of months. So I was of the assumption that we were all in agreement that this was a good way to go with the offset. So I'd kind of like to move it.

**P.O. CARACAPPA:**
Okay. Motion to table takes precedence. Legislator Lindsay.

**LEG. LINDSAY:**

On the issue. And the issue •• I'd like to point out to Legislator Caracciolo, I voted no against this in committee, so don't tell me I changed my. Mind, but there's two issues here really, and I don't know whether I'm right or wrong, but is there a need for pediatric defibrillators? Do we need them •• I mean.

**LEG. CARPENTER:**
The defibrillators that we have now are not pediatric capable meaning we can't not them use on a kid. And the department •• I mean, I certainly wasn't aware of it, they brought to my attention there was an opportunity to convert and trade in some of the defibrillators that we had to get these that are pediatric, you know, capable.

**LEG. LINDSAY:**
I mean, we just bought a whole slew of these over the last two •• what two years, three years? You think somebody would have told us that at the time of purchase.

**LEG. CARPENTER:**
Well, I don't know if they were made like that originally where they could be used for either adults or children. But I don't know that for a fact. All I can tell you is that this is something the department brought to me as the Chairman of Public Safety, asked if I would, you know, help move this forward, they were working with the Budget Review to find the appropriate offset, and we have been working on it for months. It wasn't until now, because this is the time that we could amend the budget, that I was able to move forward with it.

**LEG. LINDSAY:**
And the second point is the offset. Absolutely right. The police fund is finite, because if we deplete the overtime budget, we have to refund it. So, you know ••

**MR. SPERO:**
If there's excess appropriations in other accounts, they can be transferred.

**LEG. LINDSAY:**
We're in the first quarter of a new budget year. You know, I just •• I just think it's the wrong way to go with the •• and I would encourage that it be tabled and we could look for another offset.

**P.O. CARACAPPA:**
Legislator Mystal.

**LEG. MYSTAL:**
My question to the sponsor, it seems to be we are having a very contentious relationship right now with the Commissioner of Police.

**LEG. CARPENTER:**
You think so?

**LEG. MYSTAL:**
Okay. We are trying to beef up the Police Department. And we are constantly talking and at least questioning his judgment in term of what he does with his people and how he deploys his people. And the explanation that gave us is that he is trying to save money during the winter time and safe overtime money in the winter time so he can deploy his people in the summer time to help this County. I do not understand with all of the other accounts that are available why we have to dip into the police overtime. You know, raid something else, you know, some other account.

And I understand what Jim said, you know, we take it from one person and we pay the other, but at least that account to me is very sensitive. I don't have anything against the bill itself, I think it's a great bill. I just don't wasn't to rape •• put any money •• take any money out of the Police Department overtime when we are constantly questioning the Commissioner in terms of how he is deploying his people, what overtime he his giving to other •• to service this County. I'm sure we can find •• I'm sure Jim Spero can find someplace else to fund that money. I'm sure. I don't know why we have to take it out of overtime. That's my problem with it, that's why I can't vote for it.

**LEG. CARPENTER:**
You know what? In the interest of trying to be accommodating ••

**P.O. CARACAPPA:**
Motion to table by Legislator Carpenter, second by Legislator Viloria•Fisher. All those in favor?

**LEG. CARPENTER:**
But I will tell you, if we can't come up with a reasonable offset, we're going to move this in two weeks, okay?

**P.O. CARACAPPA:**
There's a motion to table. All in favor? Opposed? Abstentions?

**MR. BARTON:**
18 to table.

**P.O. CARACAPPA:**
**1138, (transferring contingent funding for various contract agencies).** Motion by myself, seconded by Legislator O'Leary. All in favor? Opposed? Abstentions?

**MR. BARTON:**
18.

**P.O. CARACAPPA:**
**1139, (amending the 2005 Operating Budget and transferring funds to various agencies).** Motion by Legislator Kennedy, seconded by myself. All in favor? Opposed? Abstentions?

**MR. BARTON:**
18.

**P.O. CARACAPPA:**
**1170, (to readjust, compromise, and grant refunds and chargebacks on corrections or errors/County Treasurer by: County Legislature #184).** Same motion •• motion by myself, seconded by Legislator Carpenter. All those in favor? Opposed? Abstentions?

**MR. BARTON:**
18.

**P.O. CARACAPPA:**

**1171, (to readjust, compromise, and grant refunds and chargebacks on corrections or errors/County Treasurer by: County Legislature #207).** Same motion, same second, same vote.

**MR. BARTON:**
18.

**P.O. CARACAPPA:**
**1172, (to readjust, compromise, and grant refunds and chargebacks on corrections or errors/County Treasurer by: County Legislature #208).** Same motion, same second, same vote.

**MR. BARTON:**
18.

**LEG. BISHOP:**
Can I have information on 39 that you rushed through? What's 39, 1339?

**P.O. CARACAPPA:**
Where are we?

**LEG. BISHOP:**
Can we set aside money for him.

**LEG. MYSTAL:**
Mr. Kennedy was not here when we divvied up our pork money, so now we're giving him some pork, okay?

**LEG. BISHOP:**
Leaving aside that description ••

**P.O. CARACAPPA:**
There was money set aside for funds for programs within that Legislative district even though there was a vacancy at the time.

**LEG. BISHOP:**

I understand that. There was money set aside.

**LEG. LINDSAY:**

There was money was set aside.

**LEG. BISHOP:**

Thank you.

**P.O. CARACAPPA:**

**1176, (amending the 2005 Operating Budget and transferring funds for the observance of Memorial Day for national cemeteries and other cemeteries in Suffolk County).** Motion by Legislator Kennedy, seconded by Legislator Losquadro. All those in favor? Opposed? Abstentions?

**LEG. LOSQUADRO:**

Cosponsor.

**LEG. CARACCIOLO:**

Cosponsor.

**MR. BARTON:**

18.

**P.O. CARACAPPA:**

**1177, (amending the 2005 Operating Budget and transferring funds from the General Capital Reserve Fund to the Suffolk County Department of Planning for a study on the effects of the Duck Farming Industry on Long Island).**

**LEG. FOLEY:**

Explanation, please. How is this different from ••

**P.O. CARACAPPA:**
I think it changes the offset from 477 to pay•as•you•go with a total amount of $22,000, I believe.

**MR. ZWIRN:**
IR 2313, which you skipped over earlier is a 477 account that would pay for this. This did go through committee at the request of the Legislature. It did pass out of committee unanimously as qualifying for 477. So we would ask you to use the 477 account for this.

***[RETURN OF REGULAR STENOGRAPHER • ALISON MAHONEY]***

**LEG. CARACCIOLO:**
Same motion?

**LEG. ALDEN:**
We're not bound to use it.

**P.O. CARACAPPA:**
We're not bound to use it, no. There are options.

**LEG. ALDEN:**
You made a motion?

**P.O. CARACAPPA:**
There's two different resolutions, two different options.

**LEG. SCHNEIDERMAN:**
The issue ••

**P.O. CARACAPPA:**
The bone of contention is this; you either want to do a pay•as•you•go or you want to do a 477, that's the issue.

**LEG. SCHNEIDERMAN:**
Right.

**P.O. CARACAPPA:**

We've debated this forever for the last couple of months.

**LEG. CARPENTER:**

We have a motion and a second.

**P.O. CARACAPPA:**

There's a motion ••

**LEG. ALDEN:**

I second the motion.

**P.O. CARACAPPA:**

Okay.

**LEG. SCHNEIDERMAN:**

I'll make a motion.

**P.O. CARACAPPA:**

Motion by Legislator Schneiderman.

**LEG. ALDEN:**

Second.

**P.O. CARACAPPA:**

Second by Legislator Alden. Roll call.

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

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. ALDEN:**

Yes.

**LEG. CARACCIOLO:**

Yes.

**LEG. O'LEARY:**

Yes.

**LEG. VILORIA•FISHER:**

No.

**LEG. LOSQUADRO:**

Yes.

**LEG. FOLEY:**

No.

**LEG. LINDSAY:**

No.

**LEG. MONTANO:**

No.

**LEG. KENNEDY:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. BISHOP:**

Abstain.

**LEG. MYSTAL:**

No.

**LEG. BINDER:**

Yes.

**LEG. TONNA:**

Pass.

**LEG. COOPER:**

No.

**LEG. CARPENTER:**

Yes.

**P.O. CARACAPPA:**

Sure.

**LEG. TONNA:**

Yes.

**MR. BARTON:**

11•6 and one abstention.

**P.O. CARACAPPA:**

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

***1112•05 • Establishing policy for appointments to the Board of the Suffolk County Industrial Development Agency (Caracappa).***

**LEG. MONTANO:**

Motion.

**P.O. CARACAPPA:**

I'll make the motion.

**LEG. FOLEY:**
Second.

**P.O. CARACAPPA:**
Second by Legislator Foley.

**LEG. BISHOP:**
This is 1112?

**P.O. CARACAPPA:**
Yes.

**LEG. BISHOP:**
This is for prevailing wage policy?

**LEG. FOLEY:**
Yes.

**LEG. BISHOP:**
I would ask the sponsor if he would join me in •• I wouldn't change this bill, but can we file one together for living wage policy as well?

**P.O. CARACAPPA:**
I don't see why not.

**LEG. BISHOP:**
These are •• we did these by Sense Resolutions in the 90's and the appointees ignored them, so I'd like to close that loophole. Perhaps we can ••

**LEG. LINDSAY:**
Well, I think it's something that we have to ask the employees.

**LEG. BISHOP:**

Well, all right.

**P.O. CARACAPPA:**
We can codify it in a resolution, but I'd more than happy to work with you trying to formulate something.

**LEG. BISHOP:**
I see there is an appointment in the new batch, right, for the IDA?

**P.O. CARACAPPA:**
Yes.

**LEG. BISHOP:**
So I hope we can resolve that we'll actually hold them to it.

**LEG. ALDEN:**
You can't.

**P.O. CARACAPPA:**
Legislator Tonna, did you want to ••

**LEG. TONNA:**
Yeah, just can I get the scope of the bill?

**P.O. CARACAPPA:**
Sure. This bill •• appointments that come before us for the IDA, which all do, they would be basically making a pledge that they would abide by prevailing wage when appropriating IDA funds throughout the County.

**LEG. TONNA:**
Do you have •• I mean, you know, I'm a huge proponent of the prevailing wage. Do we set a cap; in other words, over $10,000 or whatever?

**P.O. CARACAPPA:**

All.

**LEG. TONNA:**
Okay.

**LEG. BISHOP:**
Cosponsor, please.

**LEG. TONNA:**
List me as cosponsor also.

**LEG. MYSTAL:**
Cosponsor.

**P.O. CARACAPPA:**
Motion and a second. All in favor? Opposed?

**MR. BARTON:**
18.

**P.O. CARACAPPA:**
***1135•05 • Approving the purchase of a used snow blower for the Department of Economic Development and Workforce Housing (O'Leary).*** Motion by Legislator O'Leary, second by Legislator Alden. All in favor? Opposed? Abstentions?

**MR. BARTON:**
18.

**P.O. CARACAPPA:**
***Procedural Motion No. 3 • Resolution to retain counsel for the purpose of representing the County of suffolk at the federal Energy Regulatory Commission (FERC) in connection with a proposed liquid natural gas project in the Long Island Sound (Caracciolo).***

**LEG. CARACCIOLO:**
Motion.

**P.O. CARACAPPA:**
Motion by Legislator Caracciolo, second by Legislator Losquadro.

**LEG. COOPER:**
On the motion.

**LEG. TONNA:**
On the motion.

**LEG. FOLEY:**
On the motion.

**P.O. CARACAPPA:**
Hold on. I heard Cooper first, then Tonna, Lindsay then Foley; Jonathan?

**LEG. COOPER:**
Thank you. I had a few questions. I don't have the resolution before me, but is there a cap on the amount of monies that would be expended to retain Counsel; either the sponsor or Legislative Counsel?

**LEG. CARACCIOLO:**
One hundred thousand dollars. It's $100,000 and that can be exceeded by another motion of the Legislature which I would anticipate. As I have said publicly, we'll run into the hundreds of thousands of dollars.

**LEG. COOPER:**
And ••

**LEG. CARACCIOLO:**

Well, you better be forewarned, you don't get before FERC on a matter like this without spending money to defend the 1.4 million residents of this County. You don't want to do it? Vote no.

**LEG. COOPER:**
For further clarification, I assume that if this Legislative body supports the Broadwater project there would be no need for us to retain counsel before FERC, so this would only makes sense if the Legislative body came out in opposition to Broadwater, correct?

**LEG. TONNA:**
No, no.

**LEG. CARACCIOLO:**
I mean, I support that, Jonathan.

**LEG. COOPER:**
And I'm just asking ••

**LEG. CARACCIOLO:**
But I don't know if there's a majority of other people who do that. Irrespective of whether we come out formally today and go there ••

**LEG. COOPER:**
No, no, that's not my •• excuse me, it's an honest question; why would we spend several hundred thousand dollars to represent Suffolk County in support of Broadwater before FERC? We went ••

**LEG. CARACCIOLO:**
Ask that question to the people that might not support your Sense Resolution, not to me.

**LEG. COOPER:**
Legislative Counsel, could you explain? The point I'm getting at is I think that the only reason that we would want to spend several hundred thousand dollars of taxpayers' money would be if the Legislature takes a position against Broadwater and then to further that position before FERC, because FERC is going to try to force this down our throats, would be if we would be

retaining counsel to support our position opposing the Broadwater project. So my point is that we should probably put off voting on this until we vote on the Sense Resolution and determine whether or not the Legislature opposes Broadwater. And then once we decide whether we oppose or support Broadwater, then we can decide whether we're going to oppose or support this resolution. It makes no sense to vote on this to retain Counsel when the Legislature, for all I know, may not be opposed to Broadwater.

**P.O. CARACAPPA:**

Legislator Caracciolo, did •• I'm sorry, Jonathan, I cut you off.

**LEG. COOPER:**

No. So I would just respectfully request that we pass over this.

**P.O. CARACAPPA:**

Didn't we discuss this last week that you were going do add language to the title of this resolution to use the word oppose within it?

**LEG. CARACCIOLO:**

That is correct, Mr. Chairman.

**LEG. TONNA:**

But you don't have that now.

**P.O. CARACAPPA:**

I thought you were going to make that change on the floor. You can on a Procedural Motion, you can change instantly.

**LEG. TONNA:**

At this instance, have you changed it?

**LEG. CARACCIOLO:**

As of right now? No. No, but as of this moment I can make a motion to change the title. It's a Procedural Motion. Counsel? Okay, so then rather than represent the County before FERC, I'll make a motion to represent the County of Suffolk in opposition.

**P.O. CARACAPPA:**

Because your original bill did say that ••

**LEG. CARACCIOLO:**

That's correct.

**P.O. CARACAPPA:**

•• and I asked you to remove it until we had more discussion on the matter.

**LEG. CARACCIOLO:**

Right, right.

**P.O. CARACAPPA:**

And then you said when the time came for a bill such as this to be passed, you would inject the word opposition into the title again, and we just talked about it ••

**LEG. CARACCIOLO:**

Which I just made a request to Counsel to reflect the Procedural Motion 3, have language in it to represent Suffolk County before FERC in opposition.

**LEG. VILORIA•FISHER:**

Mr. Chair, I have a question.

**LEG. FOLEY:**

That position with the proposal.

**P.O. CARACAPPA:**

There's a very long list. Legislator Tonna.

**LEG. TONNA:**

Yeah, just two quick •• are you done?

**LEG. COOPER:**

Sure.

**LEG. TONNA:**

Is that •• your verbals were saying sure, but your non•verbals were saying no, you interrupted me, I'm just trying to get which one?

**LEG. COOPER:**

Yes, I'm done.

**LEG. TONNA:**

Okay. Thank you, Mr. Presiding Officer. Two things; one is I find it difficult, I cast a vote that said we wanted to have a study, all right?

**LEG. VILORIA•FISHER:**

Yes.

**LEG. TONNA:**

That's the vote that I took, that's the only vote that I've taken so far. And I've said that we need the study which I thought was a good idea. As a matter of fact, Mr. Caracciolo, I think you were the one who suggested that we study this thing, right?

**LEG. CARACCIOLO:**

That was my Procedural Motion.

**LEG. TONNA:**

Right. Now, all I know is this. Usually you try to base your voting opinions or •• I don't do it all the time, I have to admit, but usually you try as best you can to base it on facts, you know, on some merit, on something that you would have. Now, we've already as a Legislature said that we need to study this, that it needs to be studied, needs to be looked at, that we need, you know, to have some competent group of people, experts, whatever, accumulate some facts. Today, though, we have •• and with all due respect to my colleague in the 18th District, we have a press conference, you know ••

**LEG. CARACCIOLO:**

Some of us, some of us.

**LEG. TONNA:**
•• to talk about already, before we study this, let's already move on this. And now we have a resolution that basically says not only that, but we're going to retain counsel in opposition to the tune of at least $100,000, possibly •• you know how lawyers work, you know, a hundred thousand. I remember the car leasing, you know, I remember that and all the other things that we've done, escalating legal bills. And all I'm saying is I don't want to be ••

**LEG. CARACCIOLO:**
Good cause.

**LEG. TONNA:**
You know, we already have a reputation, but we're also the employer of large groups of law firms, all right. Let's get this study done. Let's look at the facts and then let's from there decide to legislate.

**LEG. CARACCIOLO:**
That's a policy decision.

**LEG. TONNA:**
I am •• you know, I haven't met with the Broadwater people yet, I know that they have great lobbyists in executive, past County Executive Bob Gaffney who's always made such a cogent argument in front of the Legislature for the last 12 years and issues that were very appealing and very compelling on things, so I haven't even met with these guys yet. But I do know this, we voted one thing, do a study, so let's do the study, let's get it done and we've got time, we've got time. You know, as your Procedural Motion, we could anything in the instant.

So, you know, I'm sure that the Presiding Officer, if he needed to have a special meeting because they're going to be right in front of FERC or something like that, so let's get this study done. Let's take a pedestrian approach, let's look at this thing, let's do the things that everybody here, the majority of people asked for, and then let's put the legislation in based on facts. I would suggest and I would ask respectfully, whereas I might be very inclined after reading some facts to support this legislation right now, both Legislator Cooper's legislation and yours, I would not, I would abstain, you know, until such a time where we follow through with your first resolution which was, you know, to gain some facts, to hire a group to do that. So I

would ask people, we look kind of •• we're setting a really bad precedence here. We're asking for studies and at the same time, all right, we're •• well, that's why I said right up front I'm not always consistent, Dave.

**LEG. BISHOP:**
(Inaudible).

**LEG. TONNA:**
No, I was actually with Dave on that one thing. But just in general I would say let's get the study done, all right, and then let's worry about all this stuff. You know, the other community, the environmentalists and everybody else, I hear there's going to be report cards out, we just heard that from the League of Conservation Voters, you're going to all be graded. So when we get all the grades and stuff, you'll still be able to make a good grade, just, you know, you'll all have your opportunities to make a grade, let's just do it on some facts.

**LEG. CARACCIOLO:**
Let me footnote, Mr. Chairman, that late last week the County Executive came out and formally opposed Broadwater.

**P.O. CARACAPPA:**
Duly noted.

**LEG. CARACCIOLO:**
So this is a joint County Executive/Legislative opposition.

**LEG. O'LEARY:**
That seals it.

**P.O. CARACAPPA:**
Legislator Lindsay, then Foley.

**LEG. TONNA:**
That's my point.

**LEG. MYSTAL:**

Just because the County Executive had a knee jerk reaction doesn't mean we have to.

**LEG. LINDSAY:**

I'm troubled by some of the same points that Legislator Tonna brought up. I supported the study resolution and, you know, I don't really know that much about the project. What I read about the project, I'm not prone to support it because I don't really see a lot of value for Suffolk County, it doesn't seem that we're going to use much of the energy, it doesn't seem like it's going to produce any local jobs or anything like that, but that's just a preliminary thing. I was looking forward to the study, too. I assume by your current resolution that you don't think we need the study anymore.

**LEG. CARACCIOLO:**

I do not, I think the evidence is overwhelmingly ••

**LEG. LINDSAY:**

But that was just last month, we approved $25,000 on your bill.

**LEG. CARACCIOLO:**

No, no, no, that was six weeks ago, it was six weeks ago. And the fact of the matter is if you're going to go before FERC you're going to need expert testimony which that 25,000, and that's all it was in Procedural Motion 1, would permit you to spend •• and again, I'm going to repeat it •• it's going to run in to the hundreds of thousands of dollars. So I don't want anybody saying down the road, "Oh, we didn't know it was going to cost that much."

**LEG. FOLEY:**

You made the point.

**LEG. CARACCIOLO:**

If you want to represent your constituents, overwhelmingly people in Suffolk County, from east to west, are coming out in opposition to this. Not just environmental organizations, we had over 250 people last week at a meeting from Nassau, Suffolk, Connecticut officials came down, Legislator Losquadro was there, the County Executive had a representative there, State officials were there.

**LEG. LINDSAY:**
Again, at this point, I am leaning towards not being supportive of the project but I don't know whether I'm ready to spend hundreds of thousands of dollars without having the backup.

**P.O. CARACAPPA:**
Legislator Foley.

**LEG. TONNA:**
Briefly.

**LEG. FOLEY:**
Oh, now we have to be brief, okay. I'm going to support the Procedural Motion, however, it really should be amended. Because it's not just in the Federal Regulatory System where we need to have intervener status, but there's also going to be a host of State regulatory reviews as well. So I'd ask the sponsor whether at this •• whether it's this Procedural Motion •• it should be this Procedural Motion or at least a follow•up, that would also include the appropriate State regulatory agencies as well because it has to go I believe, then the DEC gets involved in this, the DOS may have to, Coastal Zone Management and the Department of State, there could be some other State agencies. So Legislator Caracciolo, whether you want to amend this or do a follow•up Procedural Motion, but we should also include those State agencies in order to have, as we would say in basketball, a full court press on this which Legislator Tonna was rather fond of years ago when he could run up and down the court.

**LEG. TONNA:**
That's right. That's right.

**LEG. CARACCIOLO:**
Counsel, I would be happy to amend it to include all regulatory agencies that will consider and be required to act on that matter. Counsel, do you have a recommendation?

**MS. KNAPP:**
My only recommendation on that is that practice before the Federal Energy Regulatory Commission, there are limited number of lawyers and they're usually Washington law firms that do that kind of practice while practice before Albany regulators is usually done by New York

State practitioners who are either based in New York City or in Albany. I would •• you could put it in one resolution but I would never suggest using the same firm.

**LEG. FOLEY:**
All right.

**LEG. CARACCIOLO:**
Okay. So you put it in the same resolution but not use the same firm as your common; right, Counsel?

**LEG. LOSQUADRO:**
No.

**LEG. CARACCIOLO:**
No, no, no, no, she said ••

**LEG. FOLEY:**
She wants a second resolution.

**LEG. CARACCIOLO:**
You want a second resolution? No, she said no.

**LEG. FOLEY:**
Oh.

**LEG. CARACCIOLO:**
Use separate law firms is what I heard you said •• say.

**MS. KNAPP:**
Yes.

**LEG. CARACCIOLO:**
Okay. So we'll include before New York State as well as Federal Regulatory Agencies.

**P.O. CARACAPPA:**
Okay? Legislator Viloria•Fisher then Cooper then Binder.

**LEG. NOWICK:**
Am I on the list?

**P.O. CARACAPPA:**
You are.

**LEG. VILORIA•FISHER:**
I'm going to reiterate the position that has been stated by Legislators Tonna and Lindsay. I'm looking at the memo that we received •• the e•mail we received from Joe Schroeder and the Budget Review Office, and I'm sure, Legislator Caracciolo, you've read it, it's some 12, 13 pages long. And I'm just going to quote the commentary on page five which is, "Given the emotionally charged nature of the debate regarding the Broadwater proposal, the Legislature's decision to undertake a study is a bold move. An objective study will form the basis for a more credible Suffolk County role in the siting and approval process."

Further along on page ten, the comment made by Joe Schroeder in Budget Review is, "By undertaking the Broadwater study, Legislature is performing due diligence on behalf of all Suffolk County energy consumers and taking an important step in regional energy planning for Long Island."

I really believe that there is a lot of pressure to make a rash decision. Although I go along with Legislator Lindsay and my tendency is to be opposed to this, it's going to take •• it says here in the conclusion that the proposal will take several •• that the regulatory process will take several years. Legislator Caracciolo, many times you have said, "Why are we jumping ahead of this? Why don't we take time to look at it?" And I supported your proposal to have a study, I think it was levelheaded, I think it was clear thinking and I think you're to be commended for positing that. And as I said, I supported it, I think we should wait to see. According to this report from BRO, it can be done during your time line and having lawyers from the Washington D.C. area represent us is going to cost us a great deal of money.

**LEG. CARACCIOLO:**
Without a doubt.

**LEG. VILORIA•FISHER:**

And I think that if we start out with some studies that can begin with giving us the kind of data that we need, we'd be in a better position to have a strong position based on facts that are given to us by objective professionals. So I'm not going to support the Procedural Motion because I believe that we're putting the cart before the horse.

**LEG. CARACCIOLO:**

I respect that.

**P.O. CARACAPPA:**

Legislator Cooper then Binder.

**LEG. COOPER:**

First of all, for the record, I want to point out that I was the only Legislator that did not support the study, the resolution that called for the study, not because I didn't want to learn all the facts about Broadwater but because when I realized that we were only appropriating $25,000 it made it clear that it's really not a study that we're calling for and we should be very clear about that; twenty•five thousand dollars is not going to buy us a study. Many, many millions of dollars, millions of dollars have already been spent on very comprehensive studies that have been done to date, the Sandia National Lab Study, many others. When I met privately with Broadwater representatives about six or eight weeks ago, shortly after I introduced my Sense Resolution, about ten people representing Shell Oil, Trans Canada, their local PR firm, John Richco who is the Senior VP and Regional Project Director for Broadwater told me that we didn't need another study, a study was ridiculous, that it's already been studied to death, we just needed to move forward with the project.

All we will accomplish with this $25,000 expenditure of taxpayer dollars is we'll hire someone that will look at the documents that are already readily available to any of us, if you want to download the Sandia Lab study as I have done, several hundred pages, but it's right there, you can go through it. There are many other studies that have been done on LNG facilities that are there in the public domain, you can look at that. I don't think we need to hire someone for $25,000 to provide us with a digested version of the comprehensive studies that have been done to date.

I don't want to reiterate all the concerns about the Broadwater project in detail, but they

basically fall into three categories; environmental concerns, health concerns and public safety concerns. At the first private meeting I had with these top officials from Broadwater, I said, "Look, if the information that was given to me by environmental groups and the civic organizations and others" •• please.

**LEG. TONNA:**
Sorry.

**LEG. COOPER:**
"That the LNG facility can explode, catch on fire and explode, that it can pose environmental risks, that it is a potential terrorist target; if any of these are wrong, let me know" •• Paul, I can't •• "Let me know and I'll withdraw my Sense Resolution," and John Richco told me that he couldn't say that none of those things were possible; it does pose environmental risks, he admitted, it does pose health risks and it is a potential terrorist target. Now, he did go on to say that, well, there are even other targets that are more inviting for terrorists like Yankee Stadium or a chemical plant in New Jersey, but it doesn't take away from the fact that this 1,200 foot long floating LNG terminal, ten stories tall, the length of four football fields, filled with liquid natural gas is a potential terrorist target, can explode. And at the Energy Committee meeting we heard testimony from FRES and we said, "Well, if it does explode, if it does catch on fire, what could you do as first responders? And Legislator Nowick, what was their answer? Nothing, we just have to let it •• what was it, burn itself out.

**LEG. NOWICK:**
Which it does in 90 minutes.

**LEG. COOPER:**
One thing that I'm •• first of all, there are no benefits, no benefits to Suffolk County for this. I could see why Connecticut may want this and New York City may want this, because 80 to 90% of the natural gas from this floating terminal, they're going to go there. It's not going to be used on Long Island let alone in Suffolk County, maybe 10%, maybe 15%; the vast majority is going to benefit Connecticut and New York City, but they're siting it here in New York waters in the middle of the Long Island Sound. Yes, it's moored right now several miles off, but the mooring can break and if it floats the wrong way it's floating towards our shores. We heard testimony about the vapor clouds and the liquid plumes; I mean, you had to sit in on the

committee. That's why Legislator Nowick, who was on the fence, at the end of the meeting came out against Broadwater because of the testimony that we heard.

But one of the key questions what is the process at play here? And this is probably why I'm most upset with Broadwater about. And by the way, Broadwater, it's really Shell Oil and Trans Canada, two of the largest energy companies in North America, they've come up with this innocuous name Broadwater, but it's really Shell and Trans Canada we're talking about that have billions of dollars behind them. They're going to be spending 40 to $50 millions in just the permitting stage, the initial permitting stage. And I asked them, I said, "Do you guys know something that I don't know? You're going to risk $50 million on this and you're saying you don't know the ultimate outcome?" And they said, "Oh, yeah, we don't know, we take these risks all the time."

Anyway, what John Richco said •• and he lied to me personally, he lied to the Energy Committee not once but twice, and if he was here today and if I questioned him he may lie again. I'll tell you what he said •• I'm sorry, to preface it, I had explained that I've lost confidence in the desire of our Federal Government to protect the Long Island Sound. If you look at the US EPA, which is proposing to dump dredge spoils in the sound at two long•term dump sites, one across from Lloyd Harbor, one further out east. If you look at the Bush Administration Policy where they propose slashing Long Island Sound Protection Programs by 93% for 2005, 93%; obviously we can't count on the Federal government to protect our interest in the sound. But I explained to Broadwater that I had more confidence in New York State DEC and New York State Department of State, but I said do we have the ability to stop this project? This is what Broadwater said before Legislator Nowick's committee, and I quote, this is John Richco; "Broadwater will and must obtain all applicable permits and approvals in order for it to go forward, and that includes those required by the State of the New York. We need to have permit approvals from all appropriate State authorities before we can proceed forward, not just the Federal Energy Regulatory Commission, so if he don't obtain those the project cannot go forward." And outright lie; he knows it's a lie, Broadwater knows it's a lie, anyone knowledgeable about this process, Joe Schroeder is not here, if you ask Joe Schroeder, he'll tell you that it's not factual.

But they intentionally tried to mislead the Energy Committee and the full County Legislature. These energy companies are used to winning on this, used to ramming projects like this down the throats of local municipalities, and unfortunately right now we don't have anyone at the

Federal level to protect us. And I think it's important for us to take a position early on, the longer we delay the more it plays into the hands of Shell and Trans Canada, they would like nothing more for us to wait three months or six months or twelve months.

Now, there are two questions before us. If you believe that you have enough evidence that there are environment risks, health risks, public safety risks, which even Broadwater admits that there are, and if you agree that there are no benefits to Suffolk County, they are not going to build this facility using any local labor, it's not going to be manned by local people, they'll be bringing in professionals from outside the area and the energy, for the most part, is not going to be used here in Suffolk County, and there's also a concern that if we set this precedent and allow one twelve•hundred foot long floating energy terminal, what's to stop a second one and a third one and a fourth one down the road?

**LEG. ALDEN:**
A million of them.

**LEG. COOPER:**
So if you share that concern of environmental groups, civic associations •• and I must say that for my constituents, I don't know one constituent that supports Broadwater, they all oppose it •• then at the very least you should support the Sense Resolution opposing Broadwater. If you feel strongly enough to also vote to spend several hundred thousand dollars in the courts fighting this, that's another matter, but taking a position on the Sense Resolution should be an easy call. Thank you.

**P.O. CARACAPPA:**
Thank you, Legislator Cooper. I was about to say, you were starting to fall right into Broadwater's plans with the long delay there. Okay, who's next? Legislator Nowick.

**LEG. NOWICK:**
Yeah, I just wanted to comment on the Energy Committee meeting. We've had the last two committee meetings trying to get all sides of Broadwater, the Broadwater company came and presented their facts, FRES came and presented their facts. And just to clear it up, Legislator

Cooper, I was not on the fence, I wanted to table the Sense Resolution because we were looking to hear more testimony because we voted for a study, because we had a Procedural Motion. To me it sounded as though if we were going to do all these studies, why not table the Sense until we got some more answers. And I believe we also had testimony going into public safety, right, Legislator Carpenter?

**LEG. CARPENTER:**
Uh•huh.

**LEG. NOWICK:**
I just wanted to hear all sides. As I said in committee, Broadwater is not going to be built until another ten years, so I thought another month or two wouldn't make a difference. But given the fact that the tabling went down, I did not want the Sense never to get out of committee, so therefore I allowed the Sense to go out of committee.
Just the one thing that does bother me, and I am in support of the Procedural Motion because I do think you need all the facts, my only fear here is that if we spend $200,000, God knows what they do for $200,000, I can't believe they don't have all the information. But be that as it may, if we spend all of that money and at the end we say, "Okay, we are against Broadwater and we support the Sense Resolution," can anybody tell me if anybody is going to read the Sense and if they're going to stop the project because we send it up there? Do we have a shot at that, or are we just, you know, making ourselves happy with a Sense Resolution?

**P.O. CARACAPPA:**
Is that a rhetorical question?

**LEG. NOWICK:**
That's my fear.

**LEG. ALDEN:**
I'll answer that.

**LEG. COOPER:**
But if I could respond to that.

**LEG. ALDEN:**

I can answer it.

**LEG. NOWICK:**
Counsel, do you know, will anybody look at our Sense after we spend •• let's assume we spend $200,000 and we say we're against •• that's my only fear, we're against Broadwater.

**LEG. MYSTAL:**
I ••

**LEG. BINDER:**
Let Counsel answer.

**P.O. CARACAPPA:**
The money we spend is going for attorneys to represent us at either the State or the Federal government. Our Sense Resolution is just only and only that, a Sense of this body that we are taking a position on this. But Counsel, as •• regarding the Sense Resolution, how much weight will it carry for this Legislature in the Federal Government proceedings?

**MS. KNAPP:**
Well ••

**LEG. BISHOP:**
That's a legal question?

**LEG. TONNA:**
It's got to be confidential.

**LEG. BISHOP:**
She's seen FERC action.

**LEG. BISHOP:**
This is like the Sabatino•esque questions.

**MS. KNAPP:**
I have been actually in Washington and Federal Energy Regulatory Commission is not

responsive to local government; I think that's a fair answer.

**LEG. ALDEN:**
There you go.

**LEG. MYSTAL:**
Can I add to that?

**LEG. BINDER:**
Hundreds of thousands later it means nothing.

**LEG. MYSTAL:**
I just want to add something to it. Having spent two and a half years as an aide to a Congressman, having spent some time as an aide to a Congressman in Harlem, I can tell you exactly what happened to any Sense Resolution that was sent either to Washington D.C. or to Albany; they go immediately into the trash can, immediately.

**LEG. CARPENTER:**
But they didn't come from here.

**LEG. MYSTAL:**
Even those that came from here.

**P.O. CARACAPPA:**
Everyone, one at a time. Okay, Legislator Montano is up.

**LEG. MONTANO:**
I'm going to be brief, I think we heard a lot on this. Two points; one is that we voted for the study and whether it's four weeks or six weeks later, now we're appropriating what appears to be $100,000 and now we're asking to extend this to a representation before all regulatory bodies. Do you have any idea how many money this is going to cost and how much money we're committing?

**P.O. CARACAPPA:**

Lots.

**LEG. MONTANO:**
I mean, because a hundred thousand is going to get us nowhere.

**LEG. CARACCIOLO:**
I'll repeat what I said earlier; it could run into hundreds of thousands of dollars. And it wouldn't be the first time Suffolk County spent ••

**LEG. MONTANO:**
I think it's going to run into seven figures.

**LEG. CARACCIOLO:**
•• good money for a good cause.

**LEG. BINDER:**
The lawyer support clause; there's a lot of lawyers, they're really starving.

**LEG. CARACCIOLO:**
You know, the tobacco lawsuit.

**P.O. CARACAPPA:**
You guys are unbelievable.

**LEG. MONTANO:**
Wait, I have the floor, if I may.

**LEG. CARACCIOLO:**
Go ahead.

**LEG. MONTANO:**
The other issue is that we're not really a party in these proceedings, are we? I mean, we're essentially •• what I think you're asking us to do at this early stage in the process is to send someone, whether it's intervenor status if it's permitted or really just to sit there and watch

these proceedings, because the issues that affect us will probably be addressed •• not probably, are going to be addressed with all the attorneys that you're going to have in the room from various agencies. And I'm not saying I'm opposed to repre •• to getting representation, I just think that it's early in the process. And even with respect to the Sense Resolution, I think for myself it's early in the process for me to make that kind of decision without getting more facts. And I know that there are a lot of studies out there, but I don't know that time is of the essence with respect to this particular Procedural Motion or with respect to the Sense Resolution. And, you know, in that light, we've heard a lot but I think it really would be in our interest to just slow up a little bit, get everything that we need and then come back and have a conversation or a debate so we can really deal with the policy issues.

I'm going to vote no on this motion at this point, you know, for the reasons expressed. That doesn't mean that I'm not •• that I'm in favor or opposed to it, I just want to know more before I make that decision, I think its an important decision.

**P.O. CARACAPPA:**
Legislator Losquadro.

**LEG. LOSQUADRO:**
Thank you. I also will attempt to be brief here. First let me say that I oppose •• I support Legislator Caracciolo's Procedural Motion for a number of reasons and I also support, obviously I was outside his press conference, the Sense Resolution to oppose Broadwater. And as far as who will pay attention to this? A lot of people are paying attention. You already have State officials who have come out in opposition to this, you have Federal officials who have come out in opposition to this already. So there is a groundswell here and I think this Sense Resolution will back that up. It's not just us; it is town, it is County officials, it is State officials, it is Federal officials. Unfortunately our Senators from New York State have been conspicuously quiet on this. So I would like to see the weight of this Sense Resolution be brought to bear on them, along with •• thank you for chuckling over there, Legislator Mystal, because there are Federal officials and there are high ranking State officials who have come out in opposition to this already. This was not a knee•jerk reaction as you suggested it was, people like myself and Legislator Caracciolo researched this for months. I was out in opposition to this back in September, just because you haven't heard of it until recently doesn't mean it hasn't been out there. We heard about this in the middle of the end of the summer.

**LEG. VILORIA•FISHER:**
That's true.

**LEG. LOSQUADRO:**
This has been out there quite a while. There's a lot of information available I did support Legislator Caracciolo's first bill to do a study only because I thought it was a step in the right direction, let's get some information out there. Now I would like to see that money rolled into this representation because we are going to need to pull that commercially available information together in •• as part of our pretrial or prehearing preparations to be properly represented. I do not think it is right that a County such as ours or towns for that matter who are direct stakeholders in this will not have a say and will not be represented. So I would like to see many this move forward and I am obviously feverently in support of it, so thank you.

**P.O. CARACAPPA:**
Legislator Carpenter.

**LEG. CARPENTER:**
Thank you. In the Energy Committee, the representatives from FRES made a presentation and said they were still in the information gathering stage, would like to come before the Public Safety Committee. Also, a statement was made about •• when we were discussing the safety issues that the Coast Guard •• now at a time when the Coast Guard is pulling out resources and I had someone look into that and the Coast Guard is not pulling out resources; the only resources that were pulled out was the Coast Guard helicopters at Floyd Bennet. The Coast Guard as a matter of fact has made major commitments to both the sound and the bay and the ocean as far as resources are concerned. And I was contacted by someone from the Coast Guard who wants to come appear before the Public Safety Committee. So I think that we are still in the information gathering stage and I think many of the things that have been said tonight really lead us to the conclusion that we've got to get the information, we've got to do the study. And when we do come forward, and as Legislator Viloria•Fisher said, I probably am along that same line of thinking that, you know, if I was doing a knee•jerk I would probably say, "Oh, I don't know, this doesn't sound like a good idea," but I don't feel comfortable saying that at this point without getting the information.

**P.O. CARACAPPA:**
Legislator Cooper again.

**LEG. MYSTAL:**
Again?

**P.O. CARACAPPA:**
Again.

**LEG. COOPER:**
The problem is even FRES admitted that any analysis is going to be theoretical, not reality •based. There's no facility like this anywhere in the United States, nothing like this on this scale. FRES, they were asked repeatedly how would you respond to fires, explosions, they repeatedly said, "We don't know, we don't know, we don't know." They're not going to have the answers at the next Public Safety meeting or the one after that or the one after that. We're going to learn nothing from this $25,000 study, we'd learn nothing from a $100,000 study or a $300,000 study, it would be a multi•year study taking hundreds of thousands of dollars a year. And the information is all in the public domain already, it's all out there, Broadwater admitted as much; they told me that we don't need more studies, they just need the project to move forward.

**LEG. TONNA:**
Of course they're going to say that. These are the same guys you said are lying to you anyway.

**LEG. CARPENTER:**
Yeah, right.

**LEG. COOPER:**
But that was before they came to the Legislature and ••

**P.O. CARACAPPA:**
Jonathan, please continue.

**LEG. COOPER:**
Okay.

**LEG. TONNA:**

Sorry.

**LEG. COOPER:**

And they now support this study, so no, they did flip on that. Now I want to echo what I think was Dan •• what Legislator Losquadro said. A Sense Resolution can have a real impact, because what I'm hoping through the resolution here in Suffolk County, it would put pressure on Nassau County to act, it would put increasing pressure on our State elected officials to act, there's been deadening silence from Governor Pataki's office, they haven't taken a position, Bruno and Silver haven't taken positions, there's been silence from Senators Schumer and Senator Clinton, although I've reached out to both of their offices.

So I hope that this will build and it will put increased pressure at higher levels of government and it can make a difference. Take the EPA proposal for the •• to designate long•term dump sites in the sound. Does anyone think that if Suffolk County •• and we were the first Legislative body to take a position against dumping of dredge spoils in the sound and that led to action by Nassau County and then State authorities who ultimately came out against this. Does anyone think that if environmental groups and civic groups and just grass root citizens coupled with local governmental bodies had not taken a strong position early on against the EPA's plan to dump dredge spoils in the sound that that would not have been approved already? The only reason it's been delayed this long is because of the grassroots public pressure and the pressure from bodies like the Suffolk County Legislature.

I'm absolutely convinced that we need to act not in six months, not in nine months, not in two years, not •• now we're talking about, what, a potential of hundreds of thousands of dollars for a study and hundreds of thousands of dollars to hire an attorney to represent us in FERC proceedings? This plays into the hands of Broadwater, it plays into their hands. And they've disrespected our body, they have lied before this body repeatedly, they continue to misrepresent their position and we shouldn't let them get away with it, we should take a stand now, at the very least with the Sense Resolution expressing our position that there are no benefits to Suffolk County and a lot of risks. As far as the Procedural Motion, if you want to wait until this $25,000 study, quote/unquote, is completed, again, I don't know what we'll really learn from that, then fine. The study will be completed in, what, 30 more days? We'll get those

results and then decide whether you want to spend $400,000 to hire counsel. But at the very least, I think we should take a strong position now on the Sense Resolution. Thank you.

**P.O. CARACAPPA:**
Legislator Schneiderman.

**LEG. SCHNEIDERMAN:**
About a year ago I came to this Legislature asking for money to hire an attorney to oppose the Millstone relicensing application and we ended up bringing in an expert in nuclear regulatory affairs to talk to this Legislature and we learned at that point that we were too late, that we had missed some very important comment periods; I don't want to see that happen again.

Certainly with Millstone we have broad opposition in Suffolk County to Millstone, yet the NRC is ready to hand out those license extensions. We're in a situation now where this Broadwater application will be before FERC in September. If we are to move forward and hire an attorney, which I suggest that we do, it's going to take us several months to interview attorneys, get somebody on board. It's going to take them several months, I would say three or four months, before they're ready even to start to submit papers. We are basically up against a time frame or a time line right now, that if we don't take action now we could miss some very important filing periods.

So I'm going to encourage the Legislature to not delay. I think we need to send an important signal and we need to participate because we can jump up and down and oppose Broadwater, but if we're not there at the table filing the right papers with FERC, we're going to find ourselves at a real disadvantage here.

**P.O. CARACAPPA:**
Legislator Mystal.

**LEG. MYSTAL:**
Yes. This is •• I feel like the kid in the back of an airplane in my district, my only concern is that if the airplane goes down then I can put my head between my legs and say good•bye.

The basic point I'm trying to make is that •• to Legislator Losquadro, yes, maybe you guys have

a lot of information, Schneiderman, Losquadro and so many people, but that information has not been shared completely with this body and some of us don't know exactly what's going on. I am not in favor of Broadwater, nor I am •• you know, I'm probably leaning 90% against it for the simple fact that if it blows up, you know, then we all go. The problem •• what I don't understand is there is a process that we have been engaging here. The process has been first we said we're going to do a study, then we said no, then we have a Sense of the Legislature then we said no, now •• then we said we're going to hire counsel to pay them a whole lot of money for the next, you know, probably ten years to fight this thing. And I do not understand at this point why Legislator Caracciolo put a bill in to do a study and then a couple of •• a few weeks later then said, "Okay, well, I don't need the study anymore," then let's move and let's hire a lawyer because we're going to oppose this no matter what.

And then Legislator Cooper, my good friend Cooper who sits there to tell me I'm supposed to support him because this is, you know, a very good thing that everybody is supporting •• Schneiderman, you just said that •• you know, a broad coalition of people in this County is against this thing; I haven't heard a peep from my district on this, not a peep. Okay? I haven't heard anybody much even •• if I say Broadwater to them, they think I'm talking about the board walk, okay. So I am saying •• and I'm supposed to be their representative and I don't know any more than they do know. I have no idea whatsoever what this thing is all about. I am probably leaning against it, but I would like to have a little bit of backup so when somebody asks me why are you against this, I can just open my mouth and say, "I'm against it because of this and this and that," I don't have to go, "Ah, bah, bah, bah •• bah, I don't know. I'm just against it because Mr. Schneiderman told me I'm supposed to be against it, boss."

**P.O. CARACAPPA:**
You got that, Alison?

**LEG. MYSTAL:**
"Okay, boss?" Now can I have a little bit of fact, boss? Thank you.

**P.O. CARACAPPA:**
Legislator Caracciolo.

**LEG. CARACCIOLO:**

Thank you, Mr. Chairman.

**P.O. CARACAPPA:**
You're welcome.

**LEG. TONNA:**
Now, what was that •• wait. What was that a rendition of?

**LEG. MYSTAL:**
Amos and Andy.

**LEG. CARACCIOLO:**
I'll repeat what I stated at the time that we passed Procedural Motion 1 to hire an independent consultant to undertake a study. I said at that time the reason why we need a study is that the despite the Sandia National Laboratory Report, which Legislator Cooper has mentioned and others have mentioned, the report didn't go far enough to address the implications rather of what could happen under different scenarios than what was contained in the report.

The report was very limited in scope. We would hire consultants to look at a catastrophic event. Apparently Mr. Mystal is more interested in the computer than the debate or the discussion, I'm trying to ••

**LEG. MYSTAL:**
We're already on there, on the news that we're discussing this.

**LEG. CARACCIOLO:**
Yeah. Now, let me draw your attention to the Newsday website, they have a complete menu of why I and Cooper and others, Losquadro, have come out, Senator LaValle, the Supervisors and the Town boards of both the Town of Riverhead, Brookhaven, Republicans, Democrats, Independents, environmentalists, civic groups. Why? It's very, very •• to us it's a no•brainer. You can't have this floating time bomb in the Long Island Sound ••

**LEG. MYSTAL:**
I agree.

**LEG. CARACCIOLO:**
Okay. So the only ones that are late in getting up to speed on this are Senators Clinton, Schumer and Governor Pataki. All of you know me well enough, I don't play partisan politics on issues that are important to the people of Suffolk County, not something of this scope.

**P.O. CARACAPPA:**
Okay, Jon?

**LEG. TONNA:**
Only the unimportant ones.

**LEG. COOPER:**
I just ••

**LEG. CARACCIOLO:**
I've written to those elected officials, like others, we have not gotten responses back, they're hiding. It's time for them to come out of their little cocoons and take a major policy stance on a major policy issue. This State has invested hundreds of millions of dollars, along with the Federal government, trying to bring back the Long Island Sound. Now I'll use the words of others, we don't want to industrialize the sound, we don't want to commercialize the sound, we want the sound to recover, it's a resource we can't afford to lose with a project like this. So if you care about the environment, that's why you should support opposing it. If you care about public safety, which when you raised your hand and took an oath of office you agreed that you would look out for the people of Suffolk County and protect their health and safety. There are major health and safety ramifications to from this ill•fated project. And despite what Legislator Cooper said, there are no floating LNG terminals in this country. This would be one of several that are being planned and several that have been proposed that have been defeated. They were defeated in other states because there was early vociferous and overwhelming opposition ••

**LEG. LOSQUADRO:**
Locally.

**LEG. CARACCIOLO:**

•• by local officials, local populous and it stopped them dead in their tracks. If you want to wait, as Legislator Cooper said, you are playing into Trans Canada and Shell's hands. If you want to make this a political issue, go right ahead. We are on the right side of the issue, we ask you to join us in getting on the right side of the issue, it will be back; if it doesn't happen today, I will reintroduce the resolution before we leave this auditorium tonight and we'll vote on it and we'll bring in hundreds of people. You want to see the people who are opposed to this? And we'll spend hours and days and I'm confident in the end this Legislature will do the right thing. Thank you.

**LEG. TONNA:**
Can I just ask a technical question of Legal Counsel before the next speaker, Angie?

**P.O. CARACAPPA:**
Go ahead.

**LEG. TONNA:**
Can you •• are we allowed •• can we rescind our study resolution?

**MS. KNAPP:**
Yes.

**LEG. COOPER:**
I was just going to say that I'm going to put in that resolution.

**LEG. TONNA:**
Can we •• I mean, all I'm saying is if already what we hear by the sponsor who said we needed a study, now we don't need a study, and I understand you have testimony, you have already had all of this; if Legislators feel •• I mean, can we at least save our 25,000?

**LEG. CARACCIOLO:**
I'll be happy to rescind that, make a motion to rescind Procedural Motion 1, but ••

**LEG. TONNA:**
Great.

**LEG. COOPER:**
I would second the motion.

**P.O. CARACAPPA:**
We'll do that at the next committee.

**LEG. CARACCIOLO:**
Okay. But I think, you know, the time to act is now. They're going before FERC with an application as early as September, we need to go out and interview law firms, that's going to take several months to hire the right law firm, they have to get up to speed. They're going to have to hire expert, independent consultants. Let's have a vote, let's have it now, otherwise what I know will happen here and I've seen it happen so many times before, we'll come back next month, there will be 300 people here to speak on this issue and in the end the Legislature will do the right thing. Thank you.

**P.O. CARACAPPA:**
Legislator Binder.

**LEG. BINDER:**
Counsel, you said that in your experience they don't listen. Basically you had experience with FERC when you worked on the other side in the County Exec's Office, can you just flesh that out a little bit? Let's understand how we would be spending a hundred thousand dollars. Would it be effective at all?

And let me just add the other question. Legislator Schneiderman said we were too late on Millstone because we missed some important milestones at FERC. Let's say we were earlier; how much of an effect do you think we would have had on Millstone? So we can understand if we would have spent thousands and thousands of more of the taxpayers dollars, how much effect would we have on Millstone and how much effect could we have at FERC now, just so we can understand what we're doing with the money.

**LEG. ALDEN:**
As your attorney, I advise you not to answer those questions.

**MS. KNAPP:**
There are some of those questions, you know, that I couldn't answer. I think to just clarify the other comment, though.

**LEG. BISHOP:**
Six percent.

**MS. KNAPP:**
To the extent that the Sense Resolution, I think the question was a Sense Resolution at FERC. I point out, FERC Commissioners are appointed as opposed to elected, and to the extent that appointed officials particularly in such a highly technical field, tend not to be responsive to a broad stroke political statement, unlike elected officials who tend to be more responsive to those kinds of things. And that was the comment that I was making, that FERC Commissioners would not probably respond responsive.

The only other comment I'd make is that it is a very specialized practice and requires practitioners who are very familiar with the Federal Energy Regulatory Commission, those practitioners, if they're respected by the commission, do have the ability to, you know, get their ear, so to speak. But it's a very lengthy •• I mean, you all know what the 211 process was like, it went on for years at FERC, it was ultimately •• it was successful and then not successful. The Legislature hired lawyers and the County Executive hired lawyers.

**LEG. BINDER:**
We had standing in that case.

**MS. KNAPP:**
We did have standing, there's no question about that.

**LEG. BINDER:**
Not in this case, right.

**MS. KNAPP:**
Again, that would •• it's very difficult to say this Legislature established a tradition in the Shoreham litigation where probably, you know, this body made a difference. However, it is going to be very, very, very costly.

**LEG. BINDER:**

Now, my just quick comment is obviously not withstanding the comments of the experts around the horseshoe on liquid natural gas and energy matters, the deep expert opinion as we've looked at these hundreds and hundreds of pages of studies and then we say that, well, there's never really been one of these so we can't really know, it's unfortunate that we would go forward without the information. I'm not for this, I'm not against it, but you know what, I think the people of Suffolk deserve to know what this is about before we do the political •• the political act of just trying to say no.

**P.O. CARACAPPA:**

No one else? There's a motion and a second?

**LEG. CARACCIOLO:**

Yes.

**P.O. CARACAPPA:**

To approve?

**LEG. CARACCIOLO:**

Yes.

**P.O. CARACAPPA:**

Roll call it.

**LEG. VILORIA•FISHER:**

Wait ••

**P.O. CARACAPPA:**

On the Procedural Motion.

**LEG. VILORIA•FISHER:**

Just one more comment. I'm sorry.

**LEG. BISHOP:**

Come on.

**LEG. BINDER:**

Just speak once, everybody gets a shot.

**LEG. VILORIA•FISHER:**

Last night I was at an event and there was a scientist there who had testified at the State Legislature and what he said to me, this is someone from marine sciences who said that their testimony to the State was that there was no environmental impact to the Long Island Sound, that's what he said to me. What concerns me is that whatever happens at the FERC hearings, if there are scientists who are saying •• and there are scientists who are saying there is environmental damage and there are scientists who will say there aren't, so we're •• this is not a sure thing. And I just feel it would be better for us to see what we get as objective data before we commit to spending a tremendous amount of taxpayer money without feeling a real sense of what all of the data is that's out there.

**P.O. CARACAPPA:**

Thank you. I'm going to cut debate off there.

**LEG. BISHOP:**

Thank you.

**LEG. CARACCIOLO:**

Just a final comment.

**LEG. BINDER:**

Ah, come on.

**P.O. CARACAPPA:**

Michael.

**LEG. CARACCIOLO:**

All right, all right.

**P.O. CARACAPPA:**

I'm cutting debate off.

**LEG. ALDEN:**

I haven't spoken on it, I'd like to be put on the list.

**P.O. CARACAPPA:**

Only three of us haven't spoken on this matter.

**LEG. ALDEN:**

How many?

**P.O. CARACAPPA:**

Three of us.

**LEG. ALDEN:**

Who?

**LEG. BISHOP:**

Me.

**P.O. CARACAPPA:**

Four.

**LEG. O'LEARY:**

I haven't spoken.

**P.O. CARACAPPA:**

Five, you wanted to.

**LEG. O'LEARY:**

I know I wanted to.

**P.O. CARACAPPA:**

Okay. The motion •• it is a Procedural Motion, there's a motion and a second. It will read, the new words "in opposition" ••

**LEG. CARACCIOLO:**

Correct.

**P.O. CARACAPPA:**

•• and "Before both State and Federal regulatory" ••

**MS. KNAPP:**

Can we also add the words "Attorney or Attorneys"?

**P.O. CARACAPPA:**

Also add the word "Attorneys".

**LEG. CARACCIOLO:**

Why doesn't Counsel read the new language?

**P.O. CARACAPPA:**

Yeah, go ahead.

**MS. KNAPP:**

I think •• can we amend the title to substitute the word "opposition" for "in connection with", it will be in opposition to a proposed, in the title. And in the first RESOLVED, the first three lines will stay the same. In the fourth line where it says, "The selection of an attorney," can we add "or attorneys to represent the County of Suffolk at the Federal Energy Regulatory Commission," and then it will be in opposition to, as opposed to in connection with, the proposed Broadwater Energy Project. And I'm sorry, can we also add the words after the word commission in the next to last line "and other New York State regulatory bodies, agencies or courts, if necessary."

**LEG. BISHOP:**

Mr. Chairman, motion to table the •• what is it called?

**P.O. CARACAPPA:**

Procedural Motion.

**LEG. BISHOP:**

Procedural Motion until the first meeting of August.

**LEG. BINDER:**

Second.

**P.O. CARACAPPA:**

Till the first meeting of August ••

**LEG. BISHOP:**

Yes.

**P.O. CARACAPPA:**

•• of 2005?

**LEG. BISHOP:**

And I'm not going to repeat arguments, I associate myself with the argument of Legislator Tonna and others, Fisher.

**P.O. CARACAPPA:**

Very good.

**LEG. BISHOP:**

But hopefully we'd have the report by then and then we could vote.

**P.O. CARACAPPA:**

There's a motion to table till the first meeting in August, 2005. Is there a second?

**LEG. VILORIA•FISHER:**

Second.

**P.O. CARACAPPA:**

Second by Legislator Viloria•Fisher.

**LEG. CARACCIOLO:**

On the motion.

**LEG. FOLEY:**

Let's roll call.

**P.O. CARACAPPA:**

On the motion to table? There's a new motion.

**LEG. CARACCIOLO:**

On the motion.

**LEG. BINDER:**

Yeah, but he doesn't have to speak again.

**LEG. CARACCIOLO:**

That's clearly an attempt to provide Suffolk County with the ability to hire competent counsel prepare for a FERC application that's going to be submitted in September; that is way too late.

**LEG. BISHOP:**

Well, it's not decided in September, it's submitted.

**LEG. CARACCIOLO:**

If you wanted to table it for one cycle, I would support that.

**LEG. ALDEN:**

Yeah, support that.

**LEG. LOSQUADRO:**

I wouldn't even support that, I think we're up against a deadline.

**LEG. SCHNEIDERMAN:**

No, I don't think we should table it at all. Call the vote.

**LEG. CARACCIOLO:**

Well, call the vote then.

**P.O. CARACAPPA:**

Roll call on the tabling till August, the first August meeting.

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

**LEG. BISHOP:**

Yes.

**LEG. VILORIA•FISHER:**

Yes.

**LEG. CARACCIOLO:**

No.

**LEG. SCHNEIDERMAN:**

No.

**LEG. O'LEARY:**

Yes.

**LEG. LOSQUADRO:**

No.

**LEG. FOLEY:**

No.

**LEG. LINDSAY:**

Yes.

**LEG. MONTANO:**

Yes.

**LEG. ALDEN:**

Yes.

**LEG. KENNEDY:**

Pass.

**LEG. NOWICK:**

No.

**LEG. MYSTAL:**

Yes.

**LEG. BINDER:**

Yes.

**LEG. TONNA:**

Yes.

**LEG. COOPER:**

No.

**LEG. CARPENTER:**

Yes.

**P.O. CARACAPPA:**

No.

**LEG. KENNEDY:**

Yes.

**LEG. BISHOP:**

Get the report done.

**MR. BARTON:**

11, it's tabled till August.

**LEG. CARACCIOLO:**

We'll have people here, folks. You're going to have fun for the next four months.

**P.O. CARACAPPA:**

Yes we will.

***Environment, Planning & Agriculture:***

***2226•04 • Amending the Adopted 2004 Operating Budget to transfer funds from Fund 477 Water Quality Protection, amending the 2004 Capital Budget and Program and appropriating funds in connection with the Aquaculture Leasing Program (CP 7180).*** Motion by myself, second by Legislator Caracciolo. All in favor? Opposed? Abstentions?

**MR. BARTON:**

18.

**P.O. CARACAPPA:**

***2314•04 • Amending the 2005 Operating Budget to transfer funds from the Suffolk County Water Protection Fund (477) Reserve Fund to the Suffolk County Department of Health Services, Division of Environmental Quality for a feasibility study and other planning needs assessment related to the dredging of Meetinghouse Creek (County Executive).*** Same motion, same second.

**MR. BARTON:**

18.

**P.O. CARACAPPA:**

Same vote.

***1019•05 • Amending Resolution No. 1308•2004, authorizing acquisition under Suffolk County Multifaceted Land Preservation Program (Part of Tedford Parcel, Town of Shelter Island)(Caracciolo).*** Motion by Legislator Caracciolo.

**LEG. CARACCIOLO:**
Yep.

**P.O. CARACAPPA:**
Second by Legislator Schneiderman.

**LEG. ALDEN:**
(Inaudible).

**P.O. CARACAPPA:**
Mark Legislator Alden as an abstention on 2314 and 2226.

**LEG. ALDEN:**
No, not 2226.

**P.O. CARACAPPA:**
Okay. I'm sorry, he abstained on 2314.

**MR. BARTON:**
Okay. So the vote on 2314 is 17 with one abstention (Abstention: Legislator Alden).

**P.O. CARACAPPA:**
Yes. 1019, motion by Legislator Caracciolo, second by Legislator Carpenter. All in favor? Opposed? Abstentions?

**LEG. MYSTAL:**
Opposed.

**MR. BARTON:**
17•1 (Opposed: Legislator Mystal).

**P.O. CARACAPPA:**
1117 was done.

***1133•05 • Authorizing planning steps for acquisition under Suffolk County Save Open Space (SOS), Farmland Preservation and Hamlet Parks Fund (Middle Country Road Property) Town of Brookhaven (Caracappa).*** Motion by myself, second by Legislator Foley. All in favor? Opposed? Abstentions?

**MR. BARTON:**
18.

**P.O. CARACAPPA:**
Thank you.

***1134•05 • Authorizing planning steps for acquisition under Suffolk County Save Open Space (SOS), Farmland Preservation and Hamlet Parks Fund (Borella Property) Town of Smithtown (Nowick).*** Motion by Legislator Nowick, second by Legislator Kennedy. All in favor? Opposed? Abstentions?

**MR. BARTON:**
18.

**P.O. CARACAPPA:**
***Health & Human Services:***

***1008•05 • Re•Establishing a Legislative policy for the charging of fees for private well water testing by the Suffolk County Department of Health Services (Caracciolo).*** Motion by Legislator Caracciolo.

**LEG. ALDEN:**
Second.

**P.O. CARACAPPA:**

Second by Legislator Alden.

**LEG. FOLEY:**

Motion to table.

**LEG. COOPER:**

On the motion.

**LEG. FOLEY:**

Motion to table.

**P.O. CARACAPPA:**

Hold on. There's a motion to table by Legislator Foley.

**LEG. COOPER:**

Second the motion.

**LEG. CARACCIOLO:**

Roll call.

**LEG. VILORIA•FISHER:**

Second.

**P.O. CARACAPPA:**

Second by Legislator ••

**LEG. FOLEY:**

On the motion.

**P.O. CARACAPPA:**

Hold on.

**LEG. BINDER:**

Hey, Mike, how many people you bringing down at the next meeting?

**P.O. CARACAPPA:**

Motion by Legislator Cooper. On the motion, Legislator Cooper, then Foley.

**LEG. COOPER:**

Could I have an explanation from Counsel as to exactly what this bill seeks to accomplish?

**MS. KNAPP:**

This resolution reestablishes a Legislative policy that was in effect from 2002 •• 2000 to 2003, it was a three year program. And what it did was allowed •• those who lived in areas that were identified as areas with contaminated water could get free water testing.

**LEG. COOPER:**

Do you have any information as to what the cost was per well to have the testing done?

**MS. KNAPP:**

During that three year period? I do not personally have that. There was some testimony at the Health Committee, was it 60,000?

**LEG. CARACCIOLO:**

I have a copy of correspondence which we'll distribute right now that will answer that question from Dr. Harper. I have the information while you're waiting for the copy. Legislator Cooper? This is a very interesting piece of correspondence.

**LEG. COOPER:**

I just asked the question as to what this is going to cost. What I'm getting at is I'd like to find out how much taxpayer dollars from ••

**LEG. CARACCIOLO:**

Yeah, I'm going to answer your question. I want you to get a copy of this very curious response to a very simple question.

**LEG. CARPENTER:**

This is pretty funny; it says privileged and confidential.

**LEG. BISHOP:**

Well, you gave it to the wrong person, you gave it to me.

**LEG. O'LEARY:**

Don't give this out, guys.

**LEG. TONNA:**

Hey Vito, don't give it to Professor Plum.

**LEG. CARACCIOLO:**

Legislator Cooper, if you look at this memorandum •• pardon me, I think Mr. Cooper asked a question that this correspondence will ••

**P.O. CARACAPPA:**

Jonathan, you asked a question, did you?

**LEG. COOPER:**

Yes, but ••

**LEG. CARACCIOLO:**

He wanted to know how much revenue is lost as a result of the fee waiver program?

**LEG. COOPER:**

Right, but I ••

**LEG. CARACCIOLO:**

Okay. If you look at the first three years, this was a four year •• I'm sorry, this was a three year program and in 2003 the fee went from $65 waiver to $100, that's when the fee was raised. If you look at the number of wells sampled, not in this program but the number of wells sampled, you see that the numbers steadily declined, actually they fluctuated between a high of 986 in 2000 to a low of 580 in 2003, that's all well sampled. There were •• the next line is the number of people who paid to have their wells sampled. And then the next line is the number you want to •• Legislator Cooper, the next line is the line you want to focus on, that's the number who received free samples that had fee waivers. So if you do the arithmetic •• and

Kim, you wrote the numbers here but it's very light •• you can do the arithmetic.

**LEG. COOPER:**
Well, actually the answer to my question is on page two, it says that the fee •• I wanted to know the fee per well and it's $100.

**LEG. CARACCIOLO:**
Well, now it's $100, correct.

**LEG. COOPER:**
It was 65, now it's $100. Now, I know in ••

**LEG. CARACCIOLO:**
Right. And if you look at last year, there were 167 fee waivers, if you multiply that by $100 what do you get, Jonathan, $16,000. The financial impact statement in its original form, in itself current form, has been intentionally manipulated to talk about we're going to lose $65,000 a year. That is absolutely nonsense, it's not supported by any of the evidence that the Health Department supplies, but yet they want to maintain that they'll need more equipment, more staff. But you know what? We should create a Department of Energy and we should create within that department a Division of Cancer Awareness so we can make the people of Suffolk County more informed, better educated. But no, if you live in an area where you have private wells and you may have contaminated water, we want your money so that when you get cancer •• you know, come on.

**LEG. COOPER:**
Excuse me, can I have the floor back?

**LEG. CARACCIOLO:**
Such a shell game.

**LEG. COOPER:**
We're sort of digressing here slightly.

**P.O. CARACAPPA:**

Slightly.

**LEG. COOPER:**

In my district ••

**LEG. MYSTAL:**

Hey, Mike, that was a good argument.

**LEG. COOPER:**

In my district there are a number of communities that have private wells where I live.

**LEG. CARACCIOLO:**

That's correct; I have a map, by the way.

**LEG. COOPER:**

Many households have private wells.

**P.O. CARACAPPA:**

Legislator Caracciolo, just one at a time, please.

**LEG. COOPER:**

If we wanted to have our wells tested, and I have a neighbor whose next door neighbor had an oil tank on the property, the tank leaked and all the properties in the area were contaminated with oil; they all had to have their private wells tested, no one offered to subsidize them.

**LEG. CARACCIOLO:**

In Lloyd Harbor? Come on.

**LEG. TONNA:**

Let them eat cake.

**LEG. COOPER:**

Oh, excuse me.

**LEG. CARACCIOLO:**

What hutzpah.

**LEG. TONNA:**

Let them eat cake.

**LEG. BISHOP:**

What kind of argument is that?

**LEG. COOPER:**

Excuse me. Excuse me. Believe it or not, there are a number of residents in Lloyd Harbor ••

**LEG. BISHOP:**

I'm going to go under don't believe it category.

**LEG. COOPER:**

A number of residents in Lloyd Harbor ••

**LEG. MYSTAL:**

Who are what; who are poor?

**LEG. COOPER:**

Yes.

**LEG. MYSTAL:**

Who are poor?

**LEG. ALDEN:**

All two of them.

**LEG. MYSTAL:**

Oh, give me a break.

**LEG. TONNA:**

The cops had to stop them squeegeeing Jon's car.

**LEG. COOPER:**

I want to thank the Presiding Officer for stifling, for stifling his smirk; he's the only one who •• thank you, Joe. But a brief history lesson, many families settled in Lloyd Harbor in the 40's that were airline pilots, I don't know why historically, but dozens and dozens of homes there are retired airline pilots, these are elderly people, fixed income. And yeah, their houses may be wealthy if they ever sold their house, but I know people, senior citizens that are doing odd jobs, pet sitting to try ••

**P.O. CARACAPPA:**

Jonathan, get to your point about the wells, because I'm about to start laughing.

**LEG. COOPER:**

The point is •• okay, I set myself up for that one. But the point is that let's broaden it beyond •• •

**P.O. CARACAPPA:**

I give up.

**MR. ZWIRN:**

Mr. Presiding Officer, can I •• while Legislator Cooper catches his breath, can I just ••

**LEG. MYSTAL:**

I'm moving to Lloyd Harbor.

**LEG. TONNA:**

Joe? Joe, what kind of meeting do you run here?

**LEG. BINDER:**

Are you a pilot?

**P.O. CARACAPPA:**

It's like the good old days.

**MR. ZWIRN:**
One of the issues, and I think that ••

**P.O. CARACAPPA:**
Mr. Zwirn, Mr. Cooper has the floor.

**LEG. COOPER:**
No, no. Ben, I can fight my own battles here, thank you.

**LEG. TONNA:**
Oh, really? Oh really?

**LEG. MYSTAL:**
Ben, we don't need your help.

**LEG. COOPER:**
The point is why should taxpayers across Suffolk County be subsidizing a few east end residents?

**LEG. MYSTAL:**
I thought you meant a few Lloyd Harbor residents.

**LEG. COOPER:**
Forget Lloyd Harbor, take other ••

**LEG. BINDER:**
Or should we say only if they're pilots?

**LEG. COOPER:**
Other western towns where we may well have low income residents with wells, they don't get subsidies. Now, if this was a County wide policy ••

**LEG. CARACCIOLO:**
It is.

**LEG. COOPER:**

Excuse me; what is it?

**LEG. CARACCIOLO:**

It is. Where are you going east, west? This is a County wide bill.

**P.O. CARACAPPA:**

This is County wide, Jonathan.

**LEG. MYSTAL:**

It's a County wide bill.

**LEG. CARPENTER:**

Never mind.

**LEG. COOPER:**

No, no, no. Wait, wait, hold your horses.

**P.O. CARACAPPA:**

Why do I keep banging this thing for no reason?

**LEG. COOPER:**

Before I say never mind, is this means tested or how do they determine who gets to have their well tested? For example ••

**LEG. CARACCIOLO:**

Mr. Chairman, I can answer that question.

**P.O. CARACAPPA:**

Seriously, Ladies and Gentlemen.

**LEG. CARACCIOLO:**

There is •• Jon, if you look at this piece of correspondence from Dr. Harper, you'll see the number of fees waived at the bottom, that's where individuals that

met a means test of earning $25,000 a year or less.

**LEG. COOPER:**

Okay, now I'll say never mind.

**P.O. CARACAPPA:**

Thank you. Who else? Legislator Foley. Brian, you're the next comic.

**LEG. FOLEY:**

We should hear from Mr. Zwirn in a moment, but we had lengthy discussion about this in the Health Committee.

**LEG. VILORIA•FISHER:**

Very lengthy.

**LEG. FOLEY:**

Many of us, we didn't discuss Lloyd Harbor but we mentioned some other geographic areas of the County. But one of the facts that came out at the committee meeting that has not been discussed here tonight is the fact that for $100, if the homeowner attempted to have that done by a private testing lab it would cost anywhere from $1,000 to $1,500. So this is a heavily •• if you want to call it a heavily subsidized test that for $100 to review anywhere from 130 to 140 different chemical constituents, as they call it, they're getting a great bang for their dollar which they could never get from a private testing lab.

Secondly, the administration said in committee that they would raise the income thresholds from 25,000 to a higher level in order to include a larger pool of County residents who could be eligible for a full waiver. The concern some of us had is that particularly when you read the first RESOLVED clause, and while it may be believed to be County•wide, when you read the RESOLVED clause it speaks of areas of high risk of pesticide contamination; that really more or less is in eastern Suffolk County and not in the west or in the north. That being the case, this area, even under the present practices, when survey work is done in those areas, those survey areas automatically receive this for no charge at all.

So the fact of the matter is the survey areas under the present program largely is free, for those •• the administration is going to raise the income, those and other areas of the County

who aren't in the survey areas could get it for free, then those who are left to pay for it •• particularly the more well off, for instance •• they should pay something in order to help subsidies this in order to help pay for this test which otherwise the County, if it was done privately, it would be anywhere from $1,000 to 1,500. So for $100, our constituents are getting a great, great test, the results of •• getting great bang for the dollar, if you will, return on the dollar for that very small fee. And I would •• I'm going to •• I have a motion to table the resolution. I hope we don't change the fee structure. It does bring some money into the County and helps to offset the cost to our laboratories.

**LEG. CARACCIOLO:**
Move the motion.

**P.O. CARACAPPA:**
Thank you. There's a motion and a second to table. Roll call.

**MR. ZWIRN:**
Presiding ••

**P.O. CARACAPPA:**
Oh, Mr. Zwirn, I apologize.

**MR. ZWIRN:**
That's okay; I can understand how you would miss me. One of the things that the Health Department is concerned about is that if it's announced that this program, it has no charge at all, that they're going to be inundated and with the staff that they have, they're going to get backed up. Because the fee now is only $100 and I think anecdotally I mentioned at the committee that in the eastern part of Long Island, in the Hamptons, what happens is when purchasers buy a home, generally what is required now is that they have to have the well tested. The new purchaser •• the purchaser wants to see what the water quality is before they close on the house. And now •• and some of these houses are going for, you know, millions and millions of dollars, and to give that •• to subsidies that just seems •• that's not the point of your bill but that's what will happen tangentially.

So what we would like, we understand •• the Health Department does exactly what Legislator Foley says, when they find an area that has a bunch of contaminated wells, they will do the

test, they will do a survey at no charge. But they're concerned about if it's free •• they may be looking at six to 10,000 wells and if everybody comes in saying, "Well, we have an opportunity to come in and have the suffolk County Health Department, which has an excellent lab, to do the test," they just might be overwhelmed.

**LEG. ALDEN:**
Call the vote.

**LEG. MYSTAL:**
On the motion, just before we call the vote. To Legislator Caracciolo, the problem with this bill to me is that I have Wyandanch which is not hooked up to the sewer, we have a very high water table and we have a lot of wells that are contaminated. My problem is that your bill only concerns itself with ••

**LEG. BISHOP:**
(Inaudible).

**LEG. MYSTAL:**
I don't have public water in Wyandanch.

**LEG. BISHOP:**
You don't have private wells in Wyandanch.

**LEG. MYSTAL:**
They do, they have private wells.

**LEG. FOLEY:**
Save that discussion for another time.

**LEG. MYSTAL:**
Anyway,you're talking only pesticide. I have a plume coming down from what we call •• the garbage dump that we have, we call it _Montrash_ Mall off of Southern State, some of them would like to have, you know, tested for more than just pesticides.

**LEG. ALDEN:**

Ellie, the town pays for that.

**P.O. CARACAPPA:**

Roll call.

**LEG. TONNA:**

Dave, you should have a better familiarity with this considering that you might be running town wide.

**MR. BARTON:**

On the motion to table.

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

**LEG. FOLEY:**

Yes to table.

**LEG. COOPER:**

Yes to table.

**LEG. CARACCIOLO:**

No.

**LEG. SCHNEIDERMAN:**

No to table.

**MR. BARTON:**

On the motion to table, Mr. O'Leary?

**LEG. O'LEARY:**

On the motion to table the testing of the wells?

**LEG. VILORIA•FISHER:**

Right.

**LEG. O'LEARY:**

No to table.

**LEG. VILORIA•FISHER:**

Yes.

**LEG. LOSQUADRO:**

No to table.

**LEG. LINDSAY:**

Yes.

**LEG. MONTANO:**

Yes.

**LEG. ALDEN:**

Nope.

**LEG. KENNEDY:**

No.

**LEG. NOWICK:**

No.

**LEG. BISHOP:**

No.

**LEG. MYSTAL:**

Yes.

**LEG. CARPENTER:**

Good•bye, David.

**LEG. BINDER:**

No.

**LEG. TONNA:**

Yes to table.

**LEG. CARPENTER:**

No.

**P.O. CARACAPPA:**

No.

**LEG. BISHOP:**

Yeah, in Lindenhurst there's a lot of retired gravediggers.

**MR. BARTON:**

Seven, the motion failed.

**P.O. CARACAPPA:**

There's a motion and a second?

**MR. BARTON:**

Yes, there is.

**P.O. CARACAPPA:**

Roll call.

**MR. BARTON:**

On the motion to approve.

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

**LEG. CARACCIOLO:**

Yes.

**LEG. ALDEN:**

Yes.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. O'LEARY:**

Yes.

**LEG. VILORIA•FISHER:**

No.

**LEG. LOSQUADRO:**

Yes.

**LEG. FOLEY:**

No.

**LEG. LINDSAY:**

No.

**LEG. MONTANO:**

No.

**LEG. KENNEDY:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. BISHOP:**

Yes.

**LEG. MYSTAL:**

No.

**LEG. BINDER:**

How many people you have, Mike? Yes.

**LEG. TONNA:**

Pass.

**LEG. COOPER:**

No.

**LEG. CARPENTER:**

Yes.

**P.O. CARACAPPA:**

For the airline pilots, yeah.

**LEG. TONNA:**

Yes.

**MR. BARTON:**

12.

**P.O. CARACAPPA:**

It's approved.

***1009•05 • Adopting Local Law No. 2005, a Local Law to create a Division of Cancer Awareness within the Suffolk County Department of Health Services (Caracciolo).***

**LEG. CARACCIOLO:**

Motion.

**P.O. CARACAPPA:**

Motion by Legislator Caracciolo.

**LEG. ALDEN:**
Second.

**P.O. CARACAPPA:**
Second by Legislator Alden. On the motion?

**LEG. LINDSAY:**
On the motion.

**P.O. CARACAPPA:**
Legislator Lindsay.

**LEG. LINDSAY:**
I mean, this bill looks vaguely familiar. We had a prior bill doing the same thing with the environmental department which is still being tabled in committee, we haven't resolved yet. To circumvent it with this bill at this time I think is inappropriate.

**P.O. CARACAPPA:**
Thank you. Legislator Foley.

**LEG. FOLEY:**
Yeah.

**LEG. VILORIA•FISHER:**
Ditto.

**LEG. FOLEY:**
No. Thank you, Mr. Chairman. Again, this was another bill,
Mr. Caracciolo had bills that took up quite a bit of our time in the Health Committee and this there was lengthy discussion. Quite a bit of well earned emotion, if you will, with many of us who have had cancer in our families and how we had mentioned the fact that there will be disagreement on this, in no way, shape or form does it mean that any of us are any less

concerned about this particular disease that has really hit and hurt so many different families.

But what we had mentioned, what some of us mentioned in committee was the fact of whether or not this was the right approach to take vis•a•vis the Department of Environment & Energy. So while I had agreed to take it out of committee and before the full Leg, I think we needed to have some debate, even though it's at this late hour. It's my understanding, Mr. Chairman, that the leadership of both the Republican and Democratic Caucuses are meeting with the County Executive's Office within the next several days and they're very close to coming to some kind of agreement with the Department of Environment & Energy.

**LEG. CARACCIOLO:**

Oh, we are?

**LEG. FOLEY:**

So what I would hope that we could do is that if we could table this today, that with these discussions that are going on between the Legislature and the Executive Branch, that by the next General Meeting two weeks from today that there could, in fact, be agreement on some form of the Department of Environment & Energy and at that time, we could also move forward with this particular resolution. I think there will be some good and artful compromise with that particular department and where this bill could still be considered at that point and I think that would be the best approach to take ••

**LEG. BINDER:**

Okay, second to table. Keep going.

**LEG. FOLEY:**

•• so that there could be some cooperation to move that bill out. And at the same time, many of us who stand ready ••

**LEG. BINDER:**

Okay, second to table.

**LEG. FOLEY:**

Who stand ready to support this would want to see what would happen with the department. So there's a motion to table for one round.

**LEG. BINDER:**

I'll second.

**LEG. FOLEY:**

Thank you, Legislator Binder.

**LEG. CARACCIOLO:**

Move the motion.

**P.O. CARACAPPA:**

Okay, there's a motion and a second to table. Roll call.

**MR. BARTON:**

On the motion to table.

**LEG. BINDER:**

No.

**P.O. CARACAPPA:**

You just made a second to table.

**LEG. TONNA:**

Guys, that's why you have a caucus. You know, you're supposed to have hand signals.

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

**LEG. FOLEY:**

Yes to table for one round.

**LEG. BINDER:**

I'm withdrawing my second to table.

**LEG. TONNA:**

I'll second to table. Don't worry, I'll second to table.

**P.O. CARACAPPA:**

There's a motion and there's a second.

***(*Roll Call Continued by Mr. Barton • Clerk*)***

**LEG. TONNA:**

Second to table.

**MR. BARTON:**

Your vote?

**LEG. TONNA:**

Yeah, yeah, second to table.

**LEG. CARACCIOLO:**

No.

**LEG. SCHNEIDERMAN:**

No to table.

**LEG. O'LEARY:**

No.

**LEG. VILORIA•FISHER:**

Yes.

**LEG. LOSQUADRO:**

No.

**LEG. LINDSAY:**

Yes.

**LEG. MONTANO:**

Yes.

**LEG. ALDEN:**

No.

**LEG. KENNEDY:**

No.

**LEG. NOWICK:**

No.

**LEG. BISHOP:**

Yes.

**LEG. MYSTAL:**

Yes.

**LEG. BINDER:**

No.

**LEG. COOPER:**

Yes to table.

**LEG. CARPENTER:**

No.

**P.O. CARACAPPA:**

No.

**LEG. CARACCIOLO:**

Motion to approve.

**LEG. ALDEN:**

Second.

**LEG. TONNA:**
On the motion?

**MR. BARTON:**
Eight.

**LEG. FOLEY:**
Put me on the list, please.

**LEG. TONNA:**
On the motion.

**P.O. CARACAPPA:**
Legislator Tonna.

**LEG. TONNA:**
My only concern is when I got into the Legislature 12 years ago there was a lot of copycat bills. It would be the spy•vs•spy thing, somebody would put in a bill, we used to do it to each other in the Legislature where one party would put in a bill, then the other party would say •• you know, down it and then they would say, "Hey, you know what? Now we put it in because then we could say we did it." Now it seems like some of us are doing this with the County Executive.

In the long run, it's defeating because what happens is is that you start building up this payback stuff, and when you're in the payback mode, all right, unfortunately it retards the Legislative process and the stuff that we need to do that's proactive. So all I would suggest is that if we are in a copycat mode where somebody has an idea and instead of working with somebody on the idea and saying, "If you make these amendments" ••

**LEG. ALDEN:**
A what?

**LEG. TONNA:**
Copycat.

**LEG. ALDEN:**
An idear?

**LEG. TONNA:**
Copycat mode. Idea? Did I say idear? I don't know, but I do a lot of that. Anyway, so if we •• with the meetings, with the meetings. Anyway, I just think •• I would ask my colleagues to use some restraint. Although, you know, instead of being plagiarizers, maybe it's better just to have some honest dialogue with people and start trying to work those things out. If you can't work those things out, you know, you do what you have to do. But it's really unfortunate when we start taking each other's agendas and start stealing ideas and making little changes and saying, "That's ours." I just think in the long run we all end up losing. Thank you.

**P.O. CARACAPPA:**
Okay. I think though there are similarities to the bill, they are quite different because the Levy, original Levy bill had a Division of Cancer awareness ••

**LEG. CARACCIOLO:**
In a department that don't exist.

**P.O. CARACAPPA:**
•• in a Department of Energy & Environment which some of us feel is a stupid department and we've stated our opposition to it for various reasons. Legislator Caracciolo, and I don't want to speak for him, but I believe his •• in listening to him, his idea with this is to put it •• I think we all agree it should have the focus that we're trying to give it, but in an area where there's health professionals dealing with it, not people running the environment.

**LEG. TONNA:**
But my point is this. It's like, you know, in academia, if somebody comes up with an idear (sic) •• an idea; how do you say it, idear?

**LEG. ALDEN:**
Idea.

**LEG. FOLEY:**

Say it the way you like to say it.

**LEG. TONNA:**
Idea. Okay, if somebody •• I like saying idear, all right? I'm born in Brooklyn.

**LEG. CARPENTER:**
A concept.

**LEG. TONNA:**
Anyway, so if you come up with an original thought, all right, my sense is is that whoever came up with that original thought should have at least the opportunity for dialogue with somebody. In other words, Legislator Caracciolo did not come up with •• you know, they didn't have this thought, original thought simultaneously, all right, and started writing about this; this isn't what happened. Somebody had an •• an original thought and then somebody didn't have an original thought. And I just think that we need •• you know, because people are very, you know, protective of their own thoughts, so I would ask people to respect that process and think twice about it.

**P.O. CARACAPPA:**
Okay. Regardless of where this vote goes, I think if it passes obviously the County Executive most likely would veto it. There is that meeting happening on Thursday which I'm looking forward to participating in and hopefully we can have some of that healthy dialogue that Legislator Tonna has discussed discussing.

**LEG. MYSTAL:**
Hopefully you won't get a letter in the newspaper.

**LEG. FOLEY:**
Mr. Chairman?

**P.O. CARACAPPA:**
Legislator Foley.

**LEG. FOLEY:**
Yeah, on that •• see, on that very point. If this is approved today, the Executive more likely

than not is going to veto it.

**LEG. CARACCIOLO:**
Why? It's a good idea.

**LEG. FOLEY:**
Well, I'm just ••

**LEG. CARACCIOLO:**
According to Paul Tonna it was his idea.

**LEG. FOLEY:**
Let me just •• let me finish the point, okay?

**LEG. TONNA:**
It was his idea.

**LEG. FOLEY:**
I didn't interrupt you. More likely than not he's going to veto it, then comes Tuesday's meeting •• well, Thursday's meeting. There could be an agreement on the Department of Environment & Energy, but then ••

**LEG. CARACCIOLO:**
Don't hold your breath.

**LEG. FOLEY:**
Let me just •• then comes the following General Meeting on Tuesday and, you know, there still might be a •• well, there will be a vote on the override and we'll probably sustain the override. My point is if we tabled it today ••

**LEG. BISHOP:**
We can't sustain the override ••

**LEG. FOLEY:**
We could sustain the veto rather, we could sustain the veto. By tabling this today and then

having the leadership of the Legislature work out something with the Department of Energy & Environment, then by the following Tuesday, two weeks from today, we could approve this bill along with an amended version of the other bill. Whereas now there's going to be competition with the other bill, with this bill being vetoed which is going to prolong the process past two weeks from now.

**LEG. ALDEN:**
Mike?

**LEG. FOLEY:**
So that's the only point I would raise about it.

**P.O. CARACAPPA:**
Thank you. Legislator Binder.

**LEG. FOLEY:**
We're prolonging the process when we could have it all wrapped up in no more than two weeks.

**P.O. CARACAPPA:**
Call the vote;

**LEG. MYSTAL:**
Call the vote.

**MR. ZWIRN:**
Joe?

**LEG. BINDER:**
Mr. Chairman?

**LEG. BISHOP:**
Please, show some leadership, make this stop.

**P.O. CARACAPPA:**
I'm trying.

**LEG. BINDER:**
Mr. Chairman? When Legislator Bishop has a lot to say he talks a long time and then when he doesn't want to hear from other people ••

**LEG. BISHOP:**
This is all about process, this is nonsense.

**LEG. BINDER:**
The fact is that there is a very big difference between the two ideas that have been proffered, ideas.

**LEG. TONNA:**
I thought I said that first.
**LEG. BINDER:**
No, you said idear; there's no R in the end.

**P.O. CARACAPPA:**
That's been stated.

**LEG. BINDER:**
And what does it •• it comes down to a very specific difference. In the first instance the County Executive proposed that cancer has a very specific cause and almost exclusively is environmental in nature, it's an environmental question. If you look at the specific language in the County Executive's bill, it doesn't talk about coordinating any programs or studies that have to do with obesity and other factors, life•style factors and other things outside of environmental. So what happens is cancer becomes only an environmental question under the County Executive's proposal. What Mr. Caracciolo did, he took that idea and said that's a proper thing but we have to expand that, because cancer is not an environmental question, it's a health question that may, in a lot of instances, have environmental factors, but that's a second question; the first question is that it's a health question.

So Mr. Caracciolo says that we should be looking at this from an environmental standpoint, it should be •• from a health standpoint, it should be in the Health Department and we shouldn't

take the focus away. And while in the Health Department, it can be discussed in terms of questions and environment because we have a Health Department that deals with environmental questions. And so that's the proper place for this to be.

And when we have legislation with different concepts, there's nothing wrong with the second piece of legislation where you are comfortable with voting on something else but not the original thought. And that's what we should do here, we should vote on this, we should say it's a health question, cancer is health and environment, but first and foremost it's a health question, it should be in the Health Department.

**LEG. CARACCIOLO:**
Mr. Chairman? As the sponsor I have to respond. As Legislator Binder just pointed out, there are a number of factors that are known to cause or to lead to cancer; genetics plays a role, diet plays a role, exercise or lack of exercise plays a role. Yes, there are environmental factors, but it's interesting to note that in this State and in the tri state area, every State and local government that has something that would be comparable to this division •• first of all, they're not in their own department, they're within their own Health Department, whether it's a New York State Health Department, the New York City Health Department, half a dozen counties in New Jersey, the State of New Jersey Health Department, Connecticut State Health Department.

What the County Executive is attempting to do is create a new Department of Energy and justify it by putting in entities like this division. It's so transparent, I'm looking forward to his veto message because I don't think this his Department of Energy is going anywhere, but if it does because some of you for whatever reason get sucked into that, so be it. The bottom line is we all care about our constituents and those who have had family members afflicted with cancer. And if we really care about them, just like the well testing program, just like the mammography van that we should be buying but was tabled in committee because it's now $600,000, what price do we put on preventive medicine in this County? We complain about State unfunded mandates, but at the same time we don't want to spend an additional $300,000 a mammography van, one that we haven't had in the field now and God only knows how many women have not been tested because they can't afford to go to a doctor and get a mammography. I hope when that comes up in Health Committee next month, for the additional $300,000 that resolution gets approved because ••

**LEG. BINDER:**

It wasn't the money, it was the number that needed to be in the bill.

**LEG. FOLEY:**
Yeah, it was the wrong number.

**LEG. CARACCIOLO:**
Okay. All right, so we'll amend the bill to reflect the right number.
Either we're going to talk with our mouths or we're going to walk the talk. I mean, let's stop playing these games.

**P.O. CARACAPPA:**
Let's vote. Okay, Mr. Zwirn? Very quickly.

**LEG. TONNA:**
Hey, I'm the worst at this; I mean, you're right up there, but I'm the worst at this and I'm just trying to understand it.

**LEG. CARACCIOLO:**
It's getting late.

**P.O. CARACAPPA:**
Mr. Zwirn, please.

**MR. ZWIRN:**
The County Executive came up with this idea and put it in the budget.

**P.O. CARACAPPA:**
Listen, without giving us the whole year•long rehash of why it happened; what's the opposition to the bill?

**MR. ZWIRN:**
It was a question of philosophy as to where this division should be placed. At the committee last week there was a dialogue that was opened up and Legislator O'Leary said, "Look, we have a difference of philosophy in the Legislature. We like the idea, the County Executive deserves

full credit for the idea, but we think that it should be" ••

**LEG. CARACCIOLO:**
I'll give him credit; is that what this is about, credit?

**P.O. CARACAPPA:**
Legislator Caracciolo, please.

**MR. ZWIRN:**
I didn't interrupt anybody.

**P.O. CARACAPPA:**
Yes, go ahead.

**MR. ZWIRN:**
But there was a difference of philosophy of where it should be placed; that's fine. That's good for debate, that we can understand, the County Executive understands that. He was hoping that the dialogue could continue and that somehow some sort of compromise could be worked out so that the Department of Energy & Environment and perhaps this bill with some other suggestions that were made at committee by members of the Legislature could be incorporated and encompassed in this meeting that we're hopefully having later this week.

That's why we'd hope that the bill would be tabled in good faith, because there has been some good faith as a result of that meeting and we could have expanded it. I think that putting the County Executive's •• some Legislator said put it in the position where he would consider vetoing this bill would be, you know, unfortunate at this stage.

**P.O. CARACAPPA:**
Well, I guess I would have to put on the record I did make the request to have it tabled, I think my caucus will back me up on that, even the sponsor. But at this point in time, they're willing to move forward with what they believe is the best way to go and it is a •• it's not a power struggle, it's a difference of philosophy basically. So with that being said, again, the process will play out where if this gets ten, I'm sure it will be vetoed, he let's us go to the table again on Thursday and discuss it anyway, which will happen. Roll call.

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

**LEG. CARACCIOLO:**

Yes.

**LEG. ALDEN:**

Yes.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. O'LEARY:**

Yes.

**LEG. VILORIA•FISHER:**

No.

**LEG. LOSQUADRO:**

Yes.

**LEG. FOLEY:**

Abstain.

**LEG. LINDSAY:**

No.

**LEG. MONTANO:**

Abstain.

**LEG. KENNEDY:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. BISHOP:**

Pass.

**LEG. MYSTAL:**

Abstain.

**LEG. BINDER:**

Yes.

**LEG. TONNA:**

On this? Pass.

**LEG. COOPER:**

Wholeheartedly abstain.

**LEG. CARPENTER:**

Yes.

**P.O. CARACAPPA:**

Yes.

**LEG. BISHOP:**

Abstain.

**LEG. TONNA:**

No.

**MR. BARTON:**

10.

**P.O. CARACAPPA:**

Okay, it's approved; we'll await the veto.

***1021•05 • Adopting Local Law No. 2005, a Local Law to prohibit the sale and purchase of marijuana flavored candy in Suffolk County (Losquadro).***

**LEG. LOSQUADRO:**

Motion.

**P.O. CARACAPPA:**

Motion by Legislator Losquadro, second •• is there a second?

**LEG. LOSQUADRO:**

Oh, come on, somebody make a second.

**LEG. ALDEN:**

Fails for lack of a second.

**LEG. SCHNEIDERMAN:**

I'll second it.

**LEG. LOSQUADRO:**

Thank you, Jay.

**P.O. CARACAPPA:**

Second by Legislator Schneiderman. Roll call.

**LEG. CARPENTER:**

No roll calling on this.

**LEG. COOPER:**

On the motion?

**P.O. CARACAPPA:**

No roll call? Fine. All in favor? Opposed? Abstentions?

**LEG. LINDSAY:**

Abstain.

**LEG. MONTANO:**

Abstain.

**LEG. BISHOP:**

How do you define a marijuana taste?

**LEG. CARPENTER:**

I guess you have to taste it.

**LEG. TONNA:**

After you eat it you go, "Oh, wow".

**LEG. COOPER:**

Excuse me.

**MR. BARTON:**

I have two abstentions; any other abstentions? Two abstentions.

**P.O. CARACAPPA:**

If this meeting keeps going the way it is I'll tell you in about an hour.

**LEG. TONNA:**

Well, what if you chew and you don't swallow?

**LEG. COOPER:**

Excuse me.

**LEG. TONNA:**

I mean, Clinton did it.

**MR. BARTON:**

Any other votes, you're all in favor?

**P.O. CARACAPPA:**

The abstentions were Legislator Lindsay and Legislator Montano.

**MR. BARTON:**

Okay, 16, two abstentions.

**P.O. CARACAPPA:**

Approved; it takes a licking, keeps on ticking.

**LEG. BINDER:**

"Did you ever eat that candy? Well, I didn't swallow it." That's good.

**P.O. CARACAPPA:**

***1095•05 • To institute a pilot program to provide state•of•the•art breast cancer detection for Suffolk residents (Alden).*** Motion by Legislator Alden.

**MR. ZWIRN:**

Mr. Presiding Officer?

**LEG. CARACCIOLO:**

Second.

**P.O. CARACAPPA:**

Second by Legislator Caracciolo.

**LEG. FOLEY:**

Motion to table, Mr. Chairman?

**P.O. CARACAPPA:**

Motion to table by Legislator Foley, second by ••

**LEG. MYSTAL:**

Second.

**P.O. CARACAPPA:**
•• Legislator Mystal.

**LEG. FOLEY:**
On the motion, Mr. Chairman?

**P.O. CARACAPPA:**
On the motion, Legislator Foley.

**LEG. FOLEY:**
Thank you, Mr. Chairman. This resolution also, Mr. Chairman, had quite a lengthy discussion and debate where ••

**LEG. CARPENTER:**
So we're going to do it again?
**LEG. FOLEY:**
Yes, because we're before a larger body, okay? Where the Chief Medical Officer of the County had some reservations about this particular resolution. And I know that he was here earlier in the day, whether or not Mr. Zwirn has any communications from the Commissioner that he could share with us.

Again, many of us want to move forward with comprehensive cancer care for those patients who utilize our health center services. But one of the primary points raised by the Commissioner was that while this was FDA approved, and that's mentioned in the resolution, he had a concern that the Association of Radiologists had not yet completed their peer review of the ethicacy of this particular diagnostic technology, and that was one of the reasons why. Again, he didn't want to oppose it and, let's say, kill the bill, but at the very least give another round which was only two weeks ago from last week, give another round of time until he could muster up some other information.

Now, there was a lot •• again, there was a lot of spirited debate, discussion, particularly between the sponsor of the bill and the Commissioner. But as one person who had abstained on the resolution, they had made a motion in committee to table it, was because our Chief

Medical Officer had some questions, and usually we would, if not defer to that particular Commissioner, at least agree to have it tabled for a brief period of time until the additional information could be endeavored to be received. So it's my understanding Mr. Zwirn has some of that information that, Mr. Chairman, I would like to have him share it with the body here. Mr. Zwirn •• through the Chairman; Mr. Zwirn, could you please?

**MR. ZWIRN:**
Joe? We had questions at committee. There was never any medical data, any information provided whatsoever about the company or the technology, we've had no medical input. You know, we're not questioning the motive of the bill or the intent of the bill or to try to deny the people of Suffolk County the most cutting edge technology, but there are questions here that haven't •• I have a statement from the Health Commissioner which I'll read into the record or give to you to look into the record, but I've just done some preliminary research about the company.

There is a real benefit to this company to be able to use our health clinic to put up a machine, because they will be able to gather data which otherwise they would not be able to get. From what I could gather by just a preliminary investigation into the company •• and this technology was approved in February of last year by the FDA under the umbrella of thermography which has been accepted for about 20 years in the field. And I am not a medical expert and I'm sorry Dr. Harper isn't here to answer •• you know, to speak to some of these issues. But I was curious, how much does this machine cost? I mean, the impression was that this is a very expensive machine that's being given to the County. The machines cost upwards to $75,000. Now, if this machine and the technology is so cutting edge, what this company says on their website is that they will provide a machine to any radiology group that can use •• can get 200 patients to use this machine a year absolutely free, absolutely free. As far as I can tell, there are three machines in existence in the last year that exist that people have taken the opportunity to use. It doesn't mean anything by itself but it might suggest that maybe this technology, as cutting edge as it might be, has not been accepted. Certainly there's no insurance reimbursement for use of this equipment at this time.

We had questions as to who would operate the machine. Would it be County employees, was the company going to supply their own technician to operate the machine during the periods it would be available? We don't know. The liability issues that exist, we don't know what happens

when false positives are registered; and apparently with this type of technology, that happens a lot. Now, the company argues that maybe ten years from now, if somebody develops breast cancer, it wasn't a false positive, but in the short run we don't know.

And the County Health Commissioner said the County Health Department is not equipped, he would rather see this go to an academic institution where it could be tested and where the results could be reviewed before we started using it in Suffolk County. But we had none of this information, we still don't have it and we think a presentation before this board, before the committee would even vote on it would have been made by the people who run the machine, who built the machine and by some radiologists who can testify to its effectiveness. Before we start using people in Suffolk County, you know, on this machine, what happens if somebody gets injured, what's the liability to the County? We just don't know. And it's not to pick a fight and it's not to try to raise emotions, it's trying to do this thing we hope the right way.

**LEG. ALDEN:**
I've got to say a couple of things.

**P.O. CARACAPPA:**
There's a list. The cautiousness on part of the administration has been noted; is that the right word, you're cautious?

**MR. ZWIRN:**
Yes.

**P.O. CARACAPPA:**
Okay. Legislator Cooper, Tonna, then Alden.

**LEG. COOPER:**
Actually, I'll let Paul go first.

**LEG. BISHOP:**
Let's yield to the sponsor.

**P.O. CARACAPPA:**
Legislator Tonna?

**LEG. TONNA:**

Yeah, I have a couple of questions. I'm looking over and just legal Counsel, if you're there; Mea? First of all, so there •• from what I understand from your testimony, the very first thing is there is not a diagnosis code or a CPT code that is associated with this procedure; in other words, there is no reimbursement right now that an insurance carrier or anybody else would give for this test.

**MR. ZWIRN:**

According to the company, that's correct.

**LEG. TONNA:**

Okay. The second thing, if I understand you correctly, what you're inferring is that the company is making a generous offer to the professional radiology, you know, community out there and it seems that with this generous offer of a free instrument for only 200 patients, which they would see within a month's time probably or maybe two months time, that nobody is jumping on this, that ••

**MR. ZWIRN:**

All I can tell is what I can read, you know, read about the company. There were three machines, one in East Setauket, one in Stony Brook and one in Great Neck; those are the only ones that they talked about in existence.

**LEG. TONNA:**

On Long Island?

**MR. ZWIRN:**

Anywhere.

**LEG. TONNA:**

Okay. What I would ask is •• now, there has to be a whole release system, right? I mean, the way that •• HIPPA laws say we're not allowed to turn over the data of any patient, okay, at all to •• I know because I live with this each day, that you're not allowed to turn over any information to any company, to anybody. So there would have to be a whole series of releases

that are set up, I guess this company would set those releases up? A patient has to actually sign ••

**LEG. ALDEN:**
That's contained in the bill, if you read it.

**LEG. TONNA:**
Okay, I haven't, it was just based on •• the concern that I have is •• and it's one that you raised, but I'm sure that the sponsor would be able to answer •• when you have a patient, first of all, who's going do to cover the malpractice insurance, okay? Is there any data with the false positives, which we have false positives, drug testing has false positives; I mean, almost every test that you have, you know, has a tendency for false positives. And is this company going to pay us for the data? In other words, obviously we're going to be improving their marketability because they're going to have the data; I'd like to see that this company somehow would reimburse back the County just like we did with the ballpark where we gave somebody some name, signage, they paid us for the signage rights. Are we going to •• what are we going to get? Because we're adding huge value as, you know, probably one of the largest test studies, what are we going to get back as far as dollars or cost back to the County that it's going to cost for us to do whatever we have to do, have our legal department look at it; what are we getting back?

**LEG. ALDEN:**
You're asking me that question, as the sponsor?

**LEG. TONNA:**
Yeah.

**LEG. ALDEN:**
Well, first off, let me tell you this. You got questions for me, you put them in writing.

**LEG. TONNA:**
All right, but go ahead.

**LEG. ALDEN:**
Oh, no, no, no, wait a minute, we're not talking to the Police Commissioner.

**LEG. TONNA:**
No, I can't, that's confidential; if it's writing, that's confidential.

**LEG. ALDEN:**
We're not talking to the Police Commissioner. In all seriousness, Paul, they're giving us the machine for nothing.

**LEG. TONNA:**
Okay.

**LEG. ALDEN:**
This could possibly save lives and that's the primary thing we're trying to do here. This does not replace any technology that we're using now, it does not replace any diagnostic test that we're using now. So for instance, if somebody goes in, like myself, goes into one of our clinics and a doctor, through the normal procedures, feels that there might be breast cancer present, this gives us one more tool to try to identify if breast cancer is present or not. Now •• and it's non•invasive. The problem with some of the other tests that we do give right now, even mammography, are the false positives, are the pain that we put the patient through.

And here's another little bit of pain, too, that we don't really, you know, quantify, but when you send somebody home after they've had a mammography and you found something that they don't know about, well, you know what the normal procedure now is? We'll send them home and we'll wait about six weeks or two months, let them come back and then we do another study. You know what happens then? Sometimes it's too late because it metastasizes right in and right through to a vital organ. This gives the doctor the added, and it is an added layer of possibly identifying at an early stage cancer, it could save lives. And that's what the payment is to Suffolk County, because we could provide that free to the people of Suffolk County.

**LEG. TONNA:**
But Cameron, what I'm asking, the question is what doctor is saying this? Is it the company doctor or is there a group of oncologists; who is asking for this test? Who's asking for this from the medical community? You know, I ••

**LEG. ALDEN:**

Actually it's patients that are asking for it right now.

**LEG. TONNA:**

No, no, no. Patients are going to ask ••

**LEG. ALDEN:**

And there's people out there paying between 100 and $300.

**LEG. TONNA:**

Wait. But Cameron, this is what I'm saying, and with all due sincerity because I'm with you. If we have a tool that we can get for free and it's going to help somebody, I'm with you.

**LEG. ALDEN:**

Paul.

**LEG. TONNA:**

But from the standpoint, you know •• and again, it's only been my experience. I have worked in health care, I've worked in hospitals, I have 23 doctors who work for me now. When it comes to telling them about, you know, "This is our budget, this is whatever," you know, basically they listen to me. When it comes to issues of medical practice, that's when I sit down and I say, "Okay, what are we supposed to do? What are the medical procedures? What do you need, what do you request?" And all I'm saying is by analogy, who in the medical profession, all right, who •• not the patients because, you know, of course the patients •• everybody wants, you know, another test or something like that that's going to help them, we all want that. But who in the medical profession say that this is a viable tool, medical tool at this current stage right now to be utilized to do what this company says that they can do? That's what I want to find out.

**LEG. ALDEN:**

Okay. There's a number of doctors out there that do that, but here's the problem.

**LEG. TONNA:**

Are they willing •• are they willing then to head ••

**LEG. ALDEN:**

No, here's the problem, Paul, here's the problem. This technology is available, we have prided ourselves on being on the cutting edge. We have people out there that are suffering from cancer.

**LEG. TONNA:**
Right.

**LEG. ALDEN:**
We have people that are misdiagnosed.

**LEG. TONNA:**
Right.

**LEG. ALDEN:**
This is a new, and basically is rather new as far as the development to diagnose breast cancer. I am shocked that our Commissioner of Health didn't seek this out when he knew about this and try it out on his own. But now what I'm doing is I am going to, if you guys will join me and I hope, you know, the men and women of this body do join me, we're going to ask our Commissioner of Health to do a pilot program and see if this can save people's lives.

**LEG. TONNA:**
But Cameron, what I'm suggesting is we're in the area of oncology, right, we're in the area of radiology? Who's going to interpret these results? Who is going to •• in other words, when ••

**LEG. ALDEN:**
I wish you were at the Health Committee meeting.

**LEG. TONNA:**
I wasn't, I couldn't be there.

**LEG. ALDEN:**
I know, I know.

**LEG. TONNA:**
If I was, I'm sure it would have been a shorter meeting, too. But what I'm suggesting is is that who •• whether it be from the County or whatever else. Here's the results, okay, they go through the test, now that result is going to be sent back to their primary care physician or to their radiologist.

**LEG. ALDEN:**
No, no, no, no, no.

**LEG. TONNA:**
Who is going to give the diagnosis, who is going to be able to say that this is a useful tool and now •• who's going to get that?

**LEG. ALDEN:**
Good question. I'll give you a scenario and then you tell me if it answers your question.

**LEG. TONNA:**
Yeah.

**LEG. ALDEN:**
I walk into the health clinic at Bay Shore •• oh, no, Bay Shore they're never going to open it again; okay, I'll use another one. I walk into another health clinic ••

**LEG. TONNA:**
Right.

**LEG. ALDEN:**
•• okay, facility for Suffolk County. The doctor in there gives me an exam and says, "Cameron, I think you might have breast cancer. I'm going to put you through a number of" •• you know, like the CA•15 and all that kind of stuff, right? So they do some blood work, they do a couple of other tests and he says, "These are inconclusive, but we do have one other diagnostic procedure, you'd have to sign a waiver for it, it's using some infrared. And if you're willing to go and have this done, it could pinpoint •• I think you have cancer and I think it might be over here. Are you willing to take that test?" I say, "Yes, I'll sign the waiver." I go and take it, my

doctor looks at it; whatever doctor it was that recommended to me that I waived my right, that doctor will take a look at it and say, "Wow. You know what? I was right. When I felt that little lump there, I think I'm right. And you know what I'm going to do now? Instead of sending this guy home and let this cancer maybe develop into something that kills him, I'm going to do the fine needle biopsy that I had the option maybe to do or not to do." So that's who's going to take care of it.

**LEG. TONNA:**
But that gets to the heart of my question. What doctor is going to •• what doctor is saying that they're going to do that? In other words, not the company because the company has a ••

**LEG. ALDEN:**
Well, I'll tell you what doctor told me that he's not going to do that and that's Dr. Harper and I'll just read you ••

**LEG. TONNA:**
No, no, no, I don't want to know who isn't.

**LEG. ALDEN:**
And I'll just read you a little something, that's why it's important to pass this because he won't even look at.

**LEG. TONNA:**
Yeah, but Cameron ••

**LEG. ALDEN:**
He won't look at a tool to save lives.

**LEG. TONNA:**
I'm with you. I just want to know, okay, what doctor is going to really say what you say which is that they're going to say, "We have another diagnostic tool right now that I feel very confident in that it is going to be able to help." Has there been •• the Society of Radiologists, has there been •• you know, has there been any group out there in the medical profession, because they covered this stuff pretty well, is there any group out there, independent doctors

who say, "This is a valid tool that we need with new technology," even on an experimental basis, that we're willing to work and be trained in it, they have to be trained in it.

**LEG. ALDEN:**
No, you don't have to be trained in it.

**LEG. TONNA:**
Well, any doctor who's going to •• any doctor who's going to trust a technology, whatever technology it is, all right, opens themselves up to huge malpractice if they're not comfortable in being able to say, "Here's the results. I understand the process, it's a good tool that's being used and I'm going to use that as part of my basic practice." Because if they're not, one, we're going to pass a great law and then no doctor is going to order the test because no doctor wants to put their malpractice on the line for something that they don't feel comfortable about.

**LEG. ALDEN:**
These are our doctors, Paul.

**LEG. TONNA:**
I want to know about that, that's what I want to know.

**LEG. ALDEN:**
These are our doctors.

**LEG. FOLEY:**
I can answer the question.

**LEG. ALDEN:**
They're in our facilities. And if we say as a pilot program, "We want you to try to save lives," I would expect a doctor to actually go along with the hippocratic oath. And then you know what it is?

**LEG. TONNA:**
They will never do that because ••

**LEG. ALDEN:**

Paul, there's doctors using it right now on Long Island. Sorry.

**P.O. CARACAPPA:**
Okay. You guys can go back and forth for hours and you keep saying the same stuff. Legislator Foley?

**LEG. BISHOP:**
Is there something new?

**LEG. FOLEY:**
I will answer Legislator Tonna's question which was •• one of the reasons that Dr. Harper wanted the resolution tabled, he had told the committee that the peer review by a group of radiologists has not yet been completed. It's under way, that's what he said on the record last week, it's under way, but the peer review is not completed and that was one of the reasons ••

**LEG. ALDEN:**
(Inaudible).

**LEG. FOLEY:**
Well, that's what he said and that was one of the reasons why he wanted to have it tabled, all right? So that stands to your question directly.

**P.O. CARACAPPA:**
Peer review is under way.

**LEG. FOLEY:**
It's done by a group of radiologists on the Island, it has not yet been completed.

**P.O. CARACAPPA:**
Thank you. Legislator Cooper.

**LEG. COOPER:**
According to the press release issued by this company, fist of all, they only got FDA approval

two•and•a•half weeks ago. And they say in the press release that they just completed the initial testing phase and they're expecting that the outcome of additional clinical studies by several universities will have the same positive result, but they're waiting for those results, all they have is the initial testing that was completed.

So my concern revolves around the liability issue. I don't •• and Cameron, I'm sure you know a lot more about this than I do, but I guess this would be an adjunct to mammography or MRI's or ultrasound. But what if a mammography detects something that may be breast cancer and then as an adjunct to that they have the patient undergo this test •• which, again, they haven't had the final clinical studies, they just did initial testing •• and this test says no, it's not cancer. And they accept that, the patient goes home but it was cancer, and if they didn't have this tool maybe the would have done a biopsy or whatever they could do to confirm for sure. I know that this is less invasive than a biopsy, but I guess a biopsy would be certain. What is our liability as a County if this test is incorrect and gives a false negative or positive?

**LEG. ALDEN:**
It would be a false positive •• false negative, you're right.

**LEG. COOPER:**
False negative. I'm more concerned about false negative than false positive, actually.

**LEG. ALDEN:**
With the Chairman's permission?

**P.O. CARACAPPA:**
Go right ahead.

**LEG. ALDEN:**
Unfortunately what we have now, all of the techniques to diagnose breast cancer are unreliable. So if you're taking about the CA•15, that's a blood survey, if you're talking about mammography, every one of them registers false negatives and false positives in a huge number. And unfortunately, what we do now, and this is a technique that we use now, if you have something and it's inconclusive, we send the patient home out of Suffolk County clinics; we send them home now and we tell them, "Come back in six weeks, come back in two months, come back in whatever and we'll retest you." And unfortunately for some people, during that

period of time, it moves from stage I to stage II or II to III, and now when they've come back they've received a death sentence; "Go home and we'll check it again" is a death sentence. All this does is give a doctor and a patient, because a patient has to actually participate in this whole procedure and elect to do this, they would have to say, "Yes, give me another test." And it's only when a doctor feels that he's got something, whether he feels it or whether he sees it in another type of test or whether the CA•15 comes back in a positive manner. This gives them another tool to identify and possibly isolate where they have to go and look a little bit further, that's all it does. Try to save lives, that's really what the whole focus here is. And you know what? If we wait, sure, they'll perfect this or somebody else will come up with something, but what have we done if we wait two years, if we wait three years? We've allowed a couple of people to die. Even if it's one person, why send them home to die, why not give them the option of using this?

And the reason why I'm pushing so hard here is because the Commissioner •• and I'm going to really •• this is contrary to what Legislator Foley said, the Commissioner sat right there •• not here, in Hauppauge •• and said, "I'm not interested in it. Send it to academia land." And here his comments, not to me but to Legislator Binder •• and I guess it's mislabeled because it was supposed to go to me, "This is not a reliable diagnostic test." He doesn't want it, he says it right in his memo to me, he will not look at it, he will not evaluate it. That's what I'm asking him to do here. I'm asking him, this is brand new technology, please take a look at it, please institute a program where we can save some lives. If it doesn't work, and I told him this at the Health Meeting, I'll be the first one to ask to pull it out, if he feels any kind of whatever.

**P.O. CARACAPPA:**
All right.

**LEG. COOPER:**
A question for Legislative Counsel. My concern is let's say that this doesn't work. I mean, apparently they've finished the initial testing phase, it's now gone to the clinical study phase, and I'm not quite sure what the difference is but obviously clinical studies are more definitive than initial testing. What if it doesn't work? Mea, would this open us up to any additional liability if the County sort of gave premature to this and a patient underwent testing using technology that's not •• I mean, it's proven to a certain extent but not completely proven and as a result we miss something.

**MS. KNAPP:**

I think that there's always a concern. The medical malpractice people, there are barriers to medical malpractice suits, however, those barriers can be overcome and I think it's a potential.

**LEG. COOPER:**

Could we incorporate some sort of a waiver of responsibility? There must be ••

**LEG. TONNA:**

How could you do that? There's no way you could do that.

**LEG. COOPER:**

Because if not, I really have a concern that although it's very well intentioned, I'm just concerned that the technology may not be sufficiently proven and may open us up to malpractice suits.

**MR. ZWIRN:**

Can I just say one last thing, Mr. Chair?

**P.O. CARACAPPA:**

Legislator Carpenter and then ••

**LEG. CARPENTER:**

If I could. You know, just looking at the resolution, what I understand this to do, and I just went on the website too and the technology looks very, very interesting and promising. But we're developing the Health Commissioner to develop a pilot program and I would imagine that he would have to work with the County Attorney's Office to address the liability issue, but that we take advantage of the opportunity of getting this technology in there and then he comes back and reports on whether or not this pilot program worked. So I think that all of those issues of liability and everything would be addressed as they're developing the pilot program which is what this resolution is telling them to do.

**P.O. CARACAPPA:**

Mr. Zwirn and then we'll vote.

**MR. ZWIRN:**
Let me just explain. I think why Commissioner Harper said some of the things that he did, and left this with me, it's from the American Cancer Society and this is what it says about thermography or thermal imaging. And it's just one paragraph and I'm just going to read the second part, "However, studies have not proven this to be an effective screening tool for early diagnosis of breast cancer and it is not a replacement for mammograms. While thermography is approved by the U.S. Food and Drug Administration is safe, it is not approved as a stand •alone screening test for breast cancer. It is not a reliable diagnostic test since it can miss some cancers, it can give a high false positive rate."

And that's not Commissioner Harper, that's coming •• and I'm not trying to be argumentive, but this is the concern I think that he tried to raise at the committee. This isn't Ben Zwirn, it's not Steve Levy, this is coming from a group that's committed their entire being to try to find cures and treat cancer. We're on the same page, everybody wants to find a cure, everybody wants to find cutting edge technology, we're on the same page with you. But I think, you know, the Chief Medical Officer for the County, before he's going to use people, you know, in a test like this, he wants to have enough data to make sure everything is going to work and it's going to do what it says it does. It's a new company. I'm just saying, let them come in, let them make a presentation, let them bring some radiologists in, maybe they can be persuasive and that we would all be on the same page. But I think we have not had one doctor, one radiologist, any medical data at all presented before the committee or before the Legislature, so it would be kind of hard to go against the Chief Medical Examiner •• not Chief Medical Examiner, Chief Medical Officer for the County, that's all.

**LEG. TONNA:**
Joe?

**P.O. CARACAPPA:**
The sponsor and then we're going to wrap it up; we've got a lot of work to do still in 25 minutes.

**LEG. ALDEN:**
I just find it, you know, like remarkable that there's a resistance. And you just •• you actually •• your words that you just quoted there make the case. It's not meant as a replacement for

anything, its meant as a new tool, it's meant as something that gives great promise to I think people that want to see cancer and especially breast cancer stomped out in our time and people to stop dying from this disease. So basically to really grieves me to see the fight that's being put up to even evaluate this, and that's what I'm asking you to do.

If this resolution is passed it's going to force somebody, and that's the Commissioner who said no to this technology •• as a meter of fact, he wasn't even looking for this type of technology •• it's going to force him to evaluate it and see if it will save lives in Suffolk County, that's all it does. So I would just ••

***[Substitution OF STENOGRAPHER • DONNA CATALANO]***

**LEG. TONNA:**
It asks the Commissioner to study it, or it says he has to use it?

**LEG. ALDEN:**
He doesn't have to do anything. I'm not going to ask somebody to do something that's going to be harmful to anybody. This is going to force him to actually look at it. He's going to have to call in people on this technology, and he's going to have to institute a program to try to use it, that's •• and to study it. So if it can save lives, that's what we're going to here. And I really can't understand the resistance to saving people's lives and making it so that cancer is more of a survivable type of illness rather than a death ••

**MR. ZWIRN:**
I don't mean to ••

**LEG. ALDEN:**
No. Ben, thanks a lot. I didn't ask you a question.

**MR. ZWIRN:**
Study it or use it?

**LEG. ALDEN:**
I didn't ask you as a question, Ben.

**P.O. CARACAPPA:**

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

**MR. BARTON:**

On the motion to table.

**(ROLL WAS CALLED BY HENRY BARTON • CLERK OF THE LEGISLATURE)**

**LEG. FOLEY:**

Yes.

**LEG. MYSTAL:**

Yes.

**LEG. CARACCIOLO:**

No.

**LEG. SCHNEIDERMAN:**

No.

**LEG. O'LEARY:**

No.

**LEG. VILORIA•FISHER:**

Yes.

**LEG. LOSQUADRO:**

No.

**LEG. LINDSAY:**

Yes.

**LEG. MONTANO:**

Yes.

**LEG. ALDEN:**

No to table.

**LEG. KENNEDY:**

No to table.

**LEG. NOWICK:**

No.

**LEG. BISHOP:**

Yes.

**LEG. BINDER:**

No.

**LEG. TONNA:**

No.

**LEG. COOPER:**

Yes.

**LEG. CARPENTER:**

No.

**P.O. CARACAPPA:**

No.

**MR. BARTON:**

7.

**P.O. CARACAPPA:**

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

**LEG. FOLEY:**

Roll call.

**P.O. CARACAPPA:**

You heard it.

**(ROLL WAS CALLED BY HENRY BARTON • CLERK OF THE LEGISLATURE)**

**LEG. ALDEN:**

Yes.

**LEG. CARACCIOLO:**

Yes.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. O'LEARY:**

Yes.

**LEG. VILORIA•FISHER:**

No.

**LEG. LOSQUADRO:**

Yes.

**LEG. FOLEY:**

Abstain.

**LEG. LINDSAY:**

I'll vote for it. I don't want to see it die, just a couple more weeks to look at it.

**LEG. MONTANO:**

Abstain.

**LEG. KENNEDY:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. BISHOP:**

Abstain.

**LEG. MYSTAL:**

Abstain.

**LEG. BINDER:**

Yes.

**LEG. TONNA:**

Yes.

**LEG. COOPER:**

Abstain.

**LEG. CARPENTER:**

Yes.

**P.O. CARACAPPA:**

Yes.

**MR. BARTON:**

12.

**LEG. ALDEN:**

Thank you.

**P.O. CARACAPPA:**

**1130, (authorizing Estee Lauder Breast Cancer Awareness Program a H. Lee Dennison Executive Office Building and Cohalan Court Complex).** Motion by Legislator Alden,

seconded by Legislator Carpenter. All in favor? Opposed?

**MR. BARTON:**
18.

**P.O. CARACAPPA:**
**1131, (extending deadline for Domestic Violence Prevention Commission).** Motion by myself, seconded by Legislator Nowick. All in favor? Opposed? Abstentions?

**MR. BARTON:**
18.

**P.O. CARACAPPA:**
**1156, (transferring 89% federal pass•through grant funds from the Department of Probation to the Department of Health Services, Division of Community Mental hygiene Services, to continue the functional Family Therapy Treatment Model for PINS youth and their families and authorizing the County Executive to execute grant related agreements).** Motion by Legislator Foley, seconded by Legislator Viloria•Fisher. All in favor? Opposed? Abstentions?

**MR. BARTON:**
18.

**P.O. CARACAPPA:**
**1157, (authorizing the transfer of cardiac monitor•defibrillators from the Department of Health Services, Division of emergency Medical Services to volunteer ambulance services within Suffolk County).** Motion by Legislator Montano, seconded by myself. All in favor? Opposed? Abstain?
**MR. BARTON:**
18.

## PARKS AND CULTURAL AFFAIRS

**P.O. CARACAPPA:**
**2323, (appointing Maria Figalora as a member to the Suffolk County Vanderbilt**

**Museum Commission).** Motion by Legislator Carpenter, seconded by Legislator O'Leary. All in favor? Opposed? Abstentions?

**MR. BARTON:**
18.

**P.O. CARACAPPA:**
**1107, (authorizing use of Indian Island County Park by Gift of Life, Inc. for a fundraising walkathon).** Motion by Legislator Caracciolo, seconded by Legislator Schneiderman. All in favor? Opposed? Abstentions?

**MR. BARTON:**
18.

**P.O. CARACAPPA:**
**1132, (authorizing use of Smith Point County Park property in 2005 by William Floyd Community Summit for a 5 K race).** Motion by Legislator O'Leary, seconded by Legislator Foley. All in favor? Opposed? Abstentions?

**MR. BARTON:**
18.

## PUBLIC SAFETY AND PUBLIC INFORMATION

**P.O. CARACAPPA:**
**1025, Adopting Local Law No. • 2005, a Local Law extending property tax exemption to volunteer firefighters and ambulance workers whop reside in cooperative apartments).** Motion by myself, seconded by Legislator Losquadro. All in favor? Opposed?

**MR. BARTON:**
18.

**P.O. CARACAPPA:**
**1149, 49 A, (amending the 2005 Capital Budget and Program and appropriating funds**

**in connection with the acquisition of IFMS Release 3.0).** Roll call.

**MR. BARTON:**

I need a motion.

**P.O. CARACAPPA:**

Motion myself, seconded by Legislator Carpenter. All in favor?

**MR. BARTON:**

Okay. On the bond.

**(ROLL WAS CALLED BY HENRY BARTON • CLERK OF THE LEGISLATURE)**

**P.O. CARACAPPA:**

Yes.

**LEG. CARPENTER:**

Yes.

**LEG. CARACCIOLO:**

Yes.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. O'LEARY:**

Yes.

**LEG. VILORIA•FISHER:**

Yes.

**LEG. LOSQUADRO:**

Yes.

**LEG. FOLEY:**

Yes.

**LEG. LINDSAY:**

Yes.

**LEG. MONTANO:**

Yes.

**LEG. ALDEN:**

Yes.

**LEG. KENNEDY:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. BISHOP:**

Yes.

**LEG. MYSTAL:**

Yes.

**LEG. BINDER:**

Yes.

**LEG. TONNA:**

Yes.

**LEG. COOPER:**

Yep.

**MR. BARTON:**

18 on the bond.

**P.O. CARACAPPA:**

Same motion, same second, same vote on the companion resolution. **1150, 50 A, (appropriating funds in connection with the acquisition of an Uninterruptible Power Supply Replacement).** Motion by Legislator Carpenter, seconded by Legislator O'Leary. Roll call.

**MR. BARTON:**

On the bond.

**(ROLL WAS CALLED BY HENRY BARTON • CLERK OF THE LEGISLATURE)**

**LEG. CARPENTER:**

Yes.

**LEG. O'LEARY:**

Yes.

**LEG. CARACCIOLO:**

Yes.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. VILORIA•FISHER:**

Yes.

**LEG. LOSQUADRO:**

Yes.

**LEG. FOLEY:**

Yes.

**LEG. LINDSAY:**

Yes.

**LEG. MONTANO:**

Yes.

**LEG. ALDEN:**

Yes.

**LEG. KENNEDY:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. BISHOP:**

Yes.

**LEG. MYSTAL:**

Yes.

**LEG. BINDER:**

Yes.

**LEG. TONNA:**

Yes.

**LEG. COOPER:**

Yes.

**P.O. CARACAPPA:**

Yes.

**MR. BARTON:**

18 on the bond.

**P.O. CARACAPPA:**

Same motion, same second, same vote on the companion resolution. **1151, 51 A,**

**(appropriating funds in connection with the acquisition of a Disaster Recovery).**

Motion by Legislator Carpenter, seconded by Legislator Montano. Roll call.

**MR. BARTON:**

On the bond.

**(ROLL WAS CALLED BY HENRY BARTON • CLERK OF THE LEGISLATURE)**

**LEG. CARPENTER:**

Yes.

**LEG. MONTANO:**

Yes.

**LEG. CARACCIOLO:**

Yes.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. O'LEARY:**

Yes.

**LEG. VILORIA•FISHER:**

Yes.

**LEG. LOSQUADRO:**

Yes.

**LEG. FOLEY:**

Yes.

**LEG. LINDSAY:**

Yes.

**LEG. ALDEN:**

Yes.

**LEG. KENNEDY:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. BISHOP:**

Yes.

**LEG. MYSTAL:**

Yes.

**LEG. BINDER:**

Yes.

**LEG. TONNA:**

Yes.

**LEG. COOPER:**

Yes.

**P.O. CARACAPPA:**

Yes.

**MR. BARTON:**

18 on the bond.

**P.O. CARACAPPA:**

Same motion, same second, same vote on the companion resolution. **1152, 52 A, (Appropriating funds in connection with the acquisition of a Virtual Private Network Server).** Motion by Legislator Carpenter, second by Legislator Viloria•Fisher. Roll call.

**(ROLL WAS CALLED BY HENRY BARTON • CLERK OF THE LEGISLATURE)**

**LEG. CARPENTER:**

Yes.

**LEG. VILORIA•FISHER:**

Yes.

**LEG. CARACCIOLO:**

Yes.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. O'LEARY:**

Yes.

**LEG. LOSQUADRO:**

Yes.

**LEG. FOLEY:**

Yes.

**LEG. LINDSAY:**

Yes.

**LEG. MONTANO:**

Yes.

**LEG. ALDEN:**

Yes.

**LEG. KENNEDY:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. BISHOP:**

Yes.

**LEG. MYSTAL:**

Yes.

**LEG. BINDER:**

Yes.

**LEG. TONNA:**

Yes.

**LEG. COOPER:**

Yes.

**P.O. CARACAPPA:**

Yes.

**MR. BARTON:**

18 on the bond.

**P.O. CARACAPPA:**

Same motion, same second, same vote on the companion resolution. **1153, 53 A, (appropriating funds in connection with the acquisition of a HCluster Replacement).** Motion by Legislator Schneiderman, seconded by Legislator Kennedy. Roll call.

**(ROLL WAS CALLED BY HENRY BARTON • CLERK OF THE LEGISLATURE)**

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. KENNEDY:**

Yes.

**LEG. CARACCIOLO:**

Yes.

**LEG. O'LEARY:**

Yes.

**LEG. VILORIA•FISHER:**

Yes.

**LEG. LOSQUADRO:**

Yes.

**LEG. FOLEY:**

Yes.

**LEG. LINDSAY:**

Yes.

**LEG. MONTANO:**

Yes.

**LEG. ALDEN:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. BISHOP:**

Yes.

**LEG. MYSTAL:**

Yes.

**LEG. BINDER:**

Yes.

**LEG. TONNA:**

Yes.

**LEG. COOPER:**

Yes.

**LEG. CARPENTER:**

Yes.

**P.O. CARACAPPA:**

Yes.

**MR. BARTON:**

18 on the bond.

**P.O. CARACAPPA:**

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

## PUBLIC WORKS AND PUBLIC TRANSPORTATION

**1118, (to promote efficient free energy by purchasing power from renewable sources).**

**LEG. LINDSAY:**

Motion to table.

**P.O. CARACAPPA:**

Motion to table by Legislator Schneiderman, seconded by Legislator O'Leary. All in favor? Opposed? Abstentions?

**MR. BARTON:**

18.

**P.O. CARACAPPA:**
1122 is done. **1179, 79 A, (amending the 2005 Capital Budget and Program and appropriating funds in connection with the County share for emergency erosion control, dune restoration and sand replenishment along Dune Road in the vicinity of Tiana Beach, Town of Southampton).** Motion by Legislator Schneiderman, seconded by Legislator O'Leary and Carpenter. Roll call.

**MR. BARTON:**
On 1179, the bond.

**(ROLL WAS CALLED BY HENRY BARTON • CLERK OF THE LEGISLATURE)**

**LEG. SCHNEIDERMAN:**
Yes.

**LEG. O'LEARY:**
Yes.

**LEG. CARACCIOLO:**
Yes.

**LEG. VILORIA•FISHER:**
Yes.

**LEG. LOSQUADRO:**
Yes.

**LEG. FOLEY:**
Yes.

**LEG. LINDSAY:**
Yes.

**LEG. MONTANO:**

Yes.

**LEG. ALDEN:**

Yes.

**LEG. KENNEDY:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. BISHOP:**

Yes.

**LEG. MYSTAL:**

Yes.

**LEG. BINDER:**

Yes.

**LEG. TONNA:**

Yes.

**LEG. COOPER:**

Yes.

**LEG. CARPENTER:**

Yes.

**P.O. CARACAPPA:**

Yes.

**MR. BARTON:**

18.

**P.O. CARACAPPA:**
Same motion, same second, same vote.

## VETERANS AND SENIORS

**1175, (adopting Local law No. • 2005, a Local law to amend Section 2•15 of the Suffolk County Administrative Code to authorize and increase in funding for Memorial Day observance).** Motion by Legislator Kennedy, seconded by Legislator Losquadro. All in favor? Opposed? Abstentions?

**MR. BARTON:**
18.

## WAYS AND MEANS

**P.O. CARACAPPA:**
**2296, (authorizing the sales of surplus property sold at the November 30th and December 1st, 2004 auction pursuant to Local Law 13•1976 as per Exhibit A).** Motion by Legislator O'Leary, second by Legislator Caracciolo. All in favor? Opposed?

**MR. BARTON:**
18.

**P.O. CARACAPPA:**
**1005, (requesting Legislative approval of a contract award for Unemployment Insurance Administrative Services for the Department of Civil Services/Human resources).** Motion by Legislator O'Leary, seconded by Legislator Kennedy. All in favor? Opposed? Abstentions?

**MR. BARTON:**
18.

**P.O. CARACAPPA:**

**1102, (amending Resolution No. 1004•2004, to extend the deadline for the Delinquent Properties Tax Task Force).** Motion by Legislator Cooper, seconded by Legislator Carpenter. All in favor? Opposed? Abstentions?

**MR. BARTON:**

18.

**P.O. CARACAPPA:**

**1121, (authorizing use of H. Lee Dennison Executive Office Building property by Suffolk County Police Athletic League Twirlers for Memorial Day celebration).** Motion by Legislator Carpenter, seconded by Legislator O'Leary. All in favor? Opposed? Abstentions?

**MR. BARTON:**

18.

**P.O. CARACAPPA:**

**1143, (authorizing the sale of County owned real property having a Suffolk County Tax Map Identification Number of district 0400 section 208.00 Block 02.00 Lot 025.000 pursuant to Section 72•H of the General Municipal Law).** Motion by Legislator O'Leary, seconded by Legislator Lindsay. All in favor? Opposed? Abstentions?

**MR. BARTON:**

18.

**P.O. CARACAPPA:**

**1147, (amending the Suffolk County Classification and Salary Plan in connection with a new position title in the Department of Public Works).** Motion by myself, seconded by Legislator Lindsay.

**LEG. ALDEN:**

Motion to table.

**LEG. O'LEARY:**

Second on the motion to table.

**P.O. CARACAPPA:**

There's a motion to table by Legislator Alden, second by Legislator O'Leary.

**LEG. FOLEY:**

Explanation why, why the tabling.

**LEG. ALDEN:**

Why what?

**LEG. FOLEY:**

Why the tabling.

**LEG. ALDEN:**

Because I woke up on the wrong side of the bed this morning.

**LEG. FOLEY:**

No. No. 1147, what's the problem with the new position?

**P.O. CARACAPPA:**

I think it's •• I made the motion and second originally a little too hastily •• because we haven't •• we haven't shifted the print shop to the Department of Public Works yet, and this involves that.

**LEG. FOLEY:**

Okay.

**LEG. FOLEY:**

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

**LEG. FOLEY:**

Mr. Chairman, I'd like to make a motion to reconsider 2296, the auction resolution. I'd like to •• the reason for •• well, let me first make a motion to reconsider.

**P.O. CARACAPPA:**

Motion to reconsider 2296 second by Legislator Montano. All those in favor? Opposed? Abstentions? Sorry, Mr. Clerk.

**LEG. ALDEN:**

Opposed.

**LEG. FOLEY:**

Just the reason for the reconsideration, and I meant to speak with Mr. Zwirn, I just want to table it for two weeks. There's a couple of parcels on there that I meant to speak with the Executive Branch on that I haven't as of yet. Since we will be meeting again in two weeks time •• you have waited months, so another two weeks should not make a difference. So, Mr. Chairman, with the indulgence, if we could just table for one round.

**LEG. CARACCIOLO:**

Motion to table.

**MR. ZWIRN:**

I want to thank Legislator O'Leary for helping get this through committee, because this is almost $14 million here.

**LEG. FOLEY:**

I understand that.

**MR. ZWIRN:**

And some of the purchasers •• I'm not saying •• objecting, I'm just saying that there are purchasers there who are waiting with their commitments out there.

**LEG. FOLEY:**

We know that. It's been months, it will just be another two weeks.

**P.O. CARACAPPA:**

There's a motion to table by Legislator Caracciolo, second by Legislator Foley. All those in favor? Opposed? Abstentions?

**LEG. ALDEN:**

Opposed.

**LEG. BISHOP:**
Opposed.

**LEG. CARPENTER:**
Opposed.

**P.O. CARACAPPA:**
Mark the oppositions.

**LEG. CARPENTER:**
Roll call.

**P.O. CARACAPPA:**
Oh, roll call.

**LEG. FOLEY:**
Just before we get to the roll call. There are several parcels that some local municipalities may be interested in for local parks, and I would hate to have those lost for public purposes.

**P.O. CARACAPPA:**
These are already auctioned.

**LEG. FOLEY:**
I know. But we've had in the past •• this has happened over the years, where several times where we've auctioned properties that there has been •• late in the game, yes •• but there has been opportunities where there's been a reconsideration, and some of those parcels where in fact then used ••

**LEG. ALDEN:**
On the motion.

**LEG. FOLEY:**
Let me finish. Were then used for other public purposes. We've done this before on occasion,

it's not often, but we've done it. So I just wanted two or three weeks on this to see whether, in fact, that could be done in this particular case. It's happened on occasion. I'm asking simply for consideration on it, okay?

**P.O. CARACAPPA:**
All right. There's a motion and a second.

**MR. BARTON:**
Can I have them again, please?

**P.O. CARACAPPA:**
Motion to table by Legislator Caracciolo and Foley. There's been a roll call requested.

**MR. BARTON:**
Okay. Before I call the roll, the vote on 1147, I didn't get a chance to announce it, was 18 tabled. 2296, the motion to table.

**(ROLL WAS CALLED BY HENRY BARTON • CLERK OF THE LEGISLATURE)**

**LEG. CARACCIOLO:**
Yes.

**LEG. FOLEY:**
Yes.

**LEG. SCHNEIDERMAN:**
Pass.

**LEG. O'LEARY:**
Pass.

**LEG. VILORIA•FISHER:**
Yes.

**LEG. LOSQUADRO:**
Yeah.

**LEG. VILORIA•FISHER:**

I'm not happy about it.

**LEG. LINDSAY:**

No.

**LEG. FOLEY:**

I didn't ask you to be happy.

**LEG. MONTANO:**

Yes.

**LEG. ALDEN:**

No, it's illegal.

**LEG. KENNEDY:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. BISHOP:**

No.

**LEG. MYSTAL:**

Pass.

**LEG. BINDER:**

No.

**LEG. TONNA:**

No.

**LEG. COOPER:**

Yes.

**LEG. CARPENTER:**

No.

**P.O. CARACAPPA:**

No.

**LEG. SCHNEIDERMAN:**

No.

**LEG. O'LEARY:**

No.

**LEG. MYSTAL:**

Yes.

**MR. BARTON:**

Nine.

**P.O. CARACAPPA:**

Fails. There's a motion and a second to approve by myself and Legislator O'Leary. All in favor?

**LEG. CARACCIOLO:**

On the motion.

**P.O. CARACAPPA:**

On the motion, Legislator ••

**LEG. CARACCIOLO:**

Is this the auction that Mr. Toussie was denied access to? Counsel, what ramifications, possible ramifications, might there be as a result?

**LEG. SCHNEIDERMAN:**

That might be an Executive Session question.

**LEG. CARACCIOLO:**
Well, I request we go to Executive Session then. People want to work and people want to go home. Those of you who want to go home, go home in 15 minutes. I'm staying.

**P.O. CARACAPPA:**
By yourself?

**MS. KNAPP:**
As you know, lawyers for Mr. Toussie have served a notice of claim on the County. I don't think there were any surprises in that he served a notice of claim. The County Attorney and I spoke about it yesterday, and we agreed that we were not surprised, and that we should anticipate a lawsuit from Mr. Toussie. The County Attorney is in the middle of other lawsuits with Mr. Toussie and feels very confident that the County will prevail.

**LEG. CARACCIOLO:**
You agree with that opinion?

**MS. KNAPP:**
I am not quite as sanguine mainly because I have not been involved in the lawsuits. However, I think •• you know, I think we have a •• certainly, I have no reason to counsel the Legislature to do anything other than approve, if they wish to.

**LEG. CARACCIOLO:**
Approve this auction? So we would all be fulfilling our fiduciary responsibility and not putting ourselves in any risk of being named defendants in a lawsuit.

**MS. KNAPP:**
Interestingly enough, Mr. Toussie has taken this somewhat unusual step of naming several individuals personally in this lawsuit. Whether or not •• he certainly is free to name each and every member of the Legislature in his lawsuit, should it be approved and the Legislators voted on that. I feel certain though that no court would attach individual liability. It would be unprecedented to do that.

**LEG. CARACCIOLO:**
Only those who denied them access could potentially be at risk of some type of judgement.

**MS. KNAPP:**
That seems to be the basis of the claim.

**LEG. CARACCIOLO:**
Okay.

**MR. BARTON:**
Mr. Chairman, given the history of this one, can we recap what we've done here? I have a motion to approve that was approved, then we reconsidered it, then the motion to table failed, now you have entertained a motion to approve it, again?

**P.O. CARACAPPA:**
Yes.

**MR. BARTON:**
Okay.

**P.O. CARACAPPA:**
All those in favor? Opposed?

**LEG. FOLEY:**
Opposed.

**LEG. CARACCIOLO:**
Abstain.

**P.O. CARACAPPA:**
One abstention, one opposition.

**LEG. FOLEY:**
Opposed.

**MR. BARTON:**
16, one, one.

**P.O. CARACAPPA:**
**1148, (authorizing the transfer of 15 items of traffic signal control hardware to Local Union No. 25 of the International Brotherhood of electrical Workers).** Motion by Legislator Lindsay, seconded by myself. All in favor? Opposed? Abstentions?

**MR. BARTON:**
18.

**P.O. CARACAPPA:**
**1166, (amending the Classification and Salary Plan and authorizing a fee schedule for the Suffolk County Board of Elections Inspectors and polling places).** Same motion, same second, same vote.

**MR. BARTON:**
18.

**P.O. CARACAPPA:**
Sense resolutions.

**LEG. CARPENTER:**
Can we do CNs first?

**P.O. CARACAPPA:**
Yeah. Let's do the CNs first before we do the senses. **1182, (appropriating funds in connection with the purchase and replacement of nutrition vehicles for the Office of the Aging).**

**LEG. CARPENTER:**
On 1182, I just ask the County Exec's rep, Ben, to come forward, please, Mr. Chairman. On this resolution for nutrition vehicles, and I mentioned this to Ben earlier, in the Operating

Budget, I think it was two years ago, we had established a policy that any vehicles that were purchased like this with County dollars that when the money was sent on the to towns that the vehicles have display the fact that the funding came from the County. So I just wanted to be sure that that policy is still in existence and make sure that perhaps all future resolutions when they come over like this that the language is embodied in the resolution.

**MR. ZWIRN:**
We will do that.

**LEG. LINDSAY:**
Good point, Angie.

**P.O. CARACAPPA:**
I have a quick other point. Though we waived 5•25•5, the lifespan of these vehicle are less than five years, and we have money for pay•as•you•go in the budget, so I know •• I guess since •• since we waive 5•25•5, it is the County Executive's prerogative to put it in with bonding as he his. Is there a reason why they went that route as opposed to the 5•25•5, seeing that we did put money in the budget?

**MR. ZWIRN:**
I think •• I think because we're not sure exactly what the financial situation is for the County is. We're trying to hold back on using the pay•as•you•go money, because that was •• that was real money, and we're trying to cushion it a little bit.

**P.O. CARACAPPA:**
All right.

**LEG. ALDEN:**
It costs more money though.

**LEG. CARACCIOLO:**
That makes a lot of sense.

**P.O. CARACAPPA:**
There's a motion and a second.

**MR. ZWIRN:**

And Allen Kovesdy advised me that we always bond.

**LEG. CARACCIOLO:**

Roll call.

**P.O. CARACAPPA:**

Motion by myself, seconded by Legislator Kennedy. Roll call.

**(ROLL WAS CALLED BY HENRY BARTON • CLERK OF THE LEGISLATURE)**

**P.O. CARACAPPA:**

Yes.

**LEG. KENNEDY:**

Yes.

**LEG. CARACCIOLO:**

No.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. O'LEARY:**

Pass.

**LEG. VILORIA•FISHER:**

Yes.

**LEG. LOSQUADRO:**

Yes.

**LEG. FOLEY:**

Yes.

**LEG. LINDSAY:**

Yes.

**LEG. MONTANO:**

Yes.

**LEG. ALDEN:**

Abstain.

**LEG. NOWICK:**

Yes.

**LEG. BISHOP:**

Yes.

**LEG. MYSTAL:**

Yes.

**LEG. BINDER:**

Yes.

**LEG. TONNA:**

Yes.

**LEG. COOPER:**

Yes.

**LEG. CARPENTER:**

Yes.

**LEG. O'LEARY:**

Yes.

**MR. BARTON:**

16, one, one abstention on the bond.

**P.O. CARACAPPA:**

Same motion, same second, save vote on the bond. **1183, (amending 2005 Capital Budget and Program and accepting and appropriating 50% Grant Funds in the amount of $260,000 from NYS Energy Research and Development in connection with the installation of solar at Suffolk County Police Department Headquarters).** This is a bond as well, right? But it's a grant, 50%. Okay. Motion by myself, seconded by Legislator Lindsay. Roll call.

**(ROLL WAS CALLED BY HENRY BARTON • CLERK OF THE LEGISLATURE)**

**P.O. CARACAPPA:**

Yes.

**LEG. LINDSAY:**

Yes.

**LEG. CARACCIOLO:**

Yes.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. O'LEARY:**

Yes.

**LEG. VILORIA•FISHER:**

Pass.

**LEG. LOSQUADRO:**

Yes.

**LEG. FOLEY:**

Yes.

**LEG. MONTANO:**

Yes.

**LEG. ALDEN:**

Abstain.

**LEG. KENNEDY:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. BISHOP:**

Yes.

**LEG. MYSTAL:**

Yes.

**LEG. BINDER:**

Yes.

**LEG. TONNA:**

Yes.

**LEG. COOPER:**

Yes.

**LEG. CARPENTER:**

Yes.

**LEG. VILORIA•FISHER:**

Yes.

**MR. BARTON:**

17, one abstention on the bond.

**P.O. CARACAPPA:**

Same motion, same second, same vote on the companion resolution. **1335, (approving the appointment of Donald J. Hughes to Detective in the Suffolk County Police Department).** Motion by myself, seconded by Legislator O'Leary. All in favor? Opposed? Abstentions?

**MR. BARTON:**

18.

**P.O. CARACAPPA:**

**1336, (approving the appointment of Christopher M. McDonald to Detective in the Suffolk County Police Department).** Same motion, same second, same vote.

**MR. BARTON:**

18.

**P.O. CARACAPPA:**

That's it for the CNs?

**LEG. FOLEY:**

Yes, sir.

**P.O. CARACAPPA:**

Very good.

## SENSE RESOLUTIONS

**Sense Resolutions. Sense 2, (memorializing resolution requesting the New York State Legislature to enact legislation to prevent identity theft).** Motion by •• who is the sponsor?

**LEG. CARACCIOLO:**

Cooper.

**LEG. CARPENTER:**

Motion to table.

**LEG. COOPER:**
Motion to approve.

**P.O. CARACAPPA:**
Motion to approve, seconded by Legislator Caracciolo. All in favor? Opposed? Abstentions?

**MR. BARTON:**
18.

**P.O. CARACAPPA:**
**Sense 6, (Sense of the Legislature resolution to request that New York state lower the blood alcohol level for driving while intoxicated in Suffolk County to 0.07).** I'll make a motion to table Sense 6, seconded by Legislator Binder •• Bishop, Binder, take your pick. All those in favor? Opposed? Abstentions?

**MR. BARTON:**
18.

***[RETURN OF REGULAR STENOGRAPHER • ALISON MAHONEY]***

**P.O. CARACAPPA:**
***Sense 8•2005 • Sense of the Legislature Resolution in opposition to the proposed Broadwater Energy Project (Cooper).***

**LEG. COOPER:**
Motion to approve.

**LEG. CARACCIOLO:**
Second.

**P.O. CARACAPPA:**

Motion to approve by Legislator Cooper, second by Legislator Caracciolo and Losquadro.

**LEG. O'LEARY:**

Motion to table.

**LEG. CARACCIOLO:**

Roll call.

**P.O. CARACAPPA:**

Motion to table by Legislator O'Leary, second by Legislator Carpenter.

**LEG. CARACCIOLO:**

Roll call.

**P.O. CARACAPPA:**

Roll call on the tabling.

**MR. BARTON:**

On the motion to table.

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

**LEG. O'LEARY:**

Yes.

**LEG. CARPENTER:**

Yes.

**LEG. CARACCIOLO:**

No.

**LEG. SCHNEIDERMAN:**

No to table.

**LEG. VILORIA•FISHER:**

No.

**LEG. LOSQUADRO:**

No to table.

**LEG. FOLEY:**

No to table.

**LEG. LINDSAY:**

Yes.

**LEG. MONTANO:**

Yes.

**LEG. ALDEN:**

Yes.

**LEG. KENNEDY:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. BISHOP:**

No.

**LEG. MYSTAL:**

Abstain.

**LEG. BINDER:**

Yes.

**LEG. TONNA:**

Yes.

**LEG. COOPER:**

No to table.

**P.O. CARACAPPA:**

No.

**LEG. TONNA:**

No to table. Oh, table? Yes to table.

**MR. BARTON:**

Nine.

**P.O. CARACAPPA:**

Nine.

**LEG. CARACCIOLO:**

Motion to approve.

**P.O. CARACAPPA:**

Tabling fails? Motion to approve by Legislator Caracciolo, second by •• Cooper first, second by Legislator Caracciolo.

**LEG. LOSQUADRO:**

And Losquadro.

**P.O. CARACAPPA:**

And Losquadro and whoever else wants to be a second. Roll call.

**LEG. BISHOP:**

Motion to table 'til the first meeting of August.

**LEG. CARPENTER:**

Second.

**LEG. LOSQUADRO:**
Oh, come on.

**LEG. FOLEY:**
Dave, you're unbelievable.

**P.O. CARACAPPA:**
Motion to table till the first meeting of August by Legislator Bishop, second by Legislator Carpenter.

**LEG. TONNA:**
On the motion?

**P.O. CARACAPPA:**
Roll call.

**LEG. TONNA:**
Just on the motion. Obviously there are a lot of people who would like to vote for this but feel that we have this study. But if you force our hands, I would ask those people who did not vote to table, think about it, you know.

**LEG. BISHOP:**
Right, reconsider. I was on the prevailing side of the tabling, so I'll reconsider.

**LEG. CARPENTER:**
Second.

**P.O. CARACAPPA:**
Motion to reconsider on the tabling vote by Legislator Bishop.

**LEG. O'LEARY:**
Second.

**P.O. CARACAPPA:**

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

**MR. BARTON:**

18.

**P.O. CARACAPPA:**

Sense 8 is now before us once again. There is a motion ••

**LEG. SCHNEIDERMAN:**

I'm opposed to reconsidering.

**P.O. CARACAPPA:**

•• to table once again.

**LEG. SCHNEIDERMAN:**

I'm opposed to reconsidering.

**LEG. O'LEARY:**

It's too late.

**P.O. CARACAPPA:**

We have to make a different date.

**LEG. BISHOP:**

Just to table.

**MR. BARTON:**

The vote on the reconsideration is 17•1 (Opposed: Legislator Schneiderman).

**LEG. BISHOP:**

I was on the prevailing side so I'm reconsidering it and I got a second.

**LEG. ALDEN:**

He can do whatever he wants with it.

**P.O. CARACAPPA:**

But the original motion failed.

**LEG. ALDEN:**

You're reconsidering it.

**LEG. CARPENTER:**

Yeah, but he was on the prevailing side.

**P.O. CARACAPPA:**

That's just to get it reconsidered. The motion failed to table it to the next meeting.

**LEG. CARACCIOLO:**

Counsel, could you rule?

**LEG. CARPENTER:**

So table it to the May meeting.

**LEG. TONNA:**

Right, right, you're right.

**LEG. BISHOP:**

All right, table it to the May meeting.

**P.O. CARACAPPA:**

Motion to table to the May meeting, the first meeting in May.

**LEG. FOLEY:**

On the motion. On the motion, Mr. Chairman.

**LEG. LOSQUADRO:**

What's the point?

**LEG. CARACCIOLO:**

What's the purpose of May, August? I mean, you're all over the place.

**LEG. FOLEY:**

On the motion, Mr. Chairman.

**P.O. CARACAPPA:**

You have four minutes.

**LEG. FOLEY:**

On the motion, Mr. Chairman. What's the purpose of tabling it till May, Legislator Bishop?

**LEG. TONNA:**

Because he forgot on this vote.

**LEG. FOLEY:**

I want to hear what he's got to say.

**LEG. BISHOP:**

I have nothing to say.

**LEG. FOLEY:**

You have nothing to say.

**LEG. VILORIA•FISHER:**

Mr. Chair? Mr. Chair, I voted against the Procedural Motion because I didn't want to commit ourselves to spending that much money without having seen more data. However, I think there seems to be a sense of this Legislature that we're opposed to the project, so I •• and it's not costing us anything to state that opinion, so I believe we should support the Sense Resolution and approve it.

**P.O. CARACAPPA:**

Sense 8 is before us again. You can't make a motion to table till the next meeting; what is the motion?

**LEG. CARACCIOLO:**

Motion to approve.

**LEG. LOSQUADRO:**

Motion to approve.

**LEG. BISHOP:**

Counsel, do you agree that I can't make a motion to table?

**LEG. FOLEY:**

Move the question.

**P.O. CARACAPPA:**

To the next meeting.

**LEG. FOLEY:**

Move the question.

**LEG. BISHOP:**

I just want to get that opinion.

**MS. KNAPP:**

It does need to be to a date certain now.

**LEG. BINDER:**

Say for two meetings.

**LEG. BISHOP:**

Okay, then to the next available meeting which would be May. I can't go to the next meeting so I'm going to go two meetings.

**LEG. CARPENTER:**

Do we have two meetings in April?

**LEG. BINDER:**

Two meetings.

**LEG. FOLEY:**

No, one.

**LEG. LOSQUADRO:**

Just one.

**LEG. BISHOP:**

To the May meeting, the first meeting in May.

**P.O. CARACAPPA:**

The first meeting in May is the motion that stands.

**LEG. CARPENTER:**

Okay.

**P.O. CARACAPPA:**

And there's a second by Legislator Carpenter.

**LEG. CARACCIOLO:**

Roll call.

**P.O. CARACAPPA:**

Roll call.

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

**LEG. BISHOP:**

Yes.

**LEG. CARPENTER:**

Yes.

**LEG. CARACCIOLO:**

No.

**LEG. SCHNEIDERMAN:**

No.

**LEG. O'LEARY:**

Yes.

**LEG. VILORIA•FISHER:**

No.

**LEG. LOSQUADRO:**

No to table.

**LEG. FOLEY:**

No.

**LEG. LINDSAY:**

Yes.

**LEG. MONTANO:**

Yes.

**LEG. ALDEN:**

Yes.

**LEG. KENNEDY:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. MYSTAL:**

Yes.

**LEG. BINDER:**
Yes.

**LEG. TONNA:**
Yep.

**LEG. COOPER:**
No.

**P.O. CARACAPPA:**
No.

**LEG. BISHOP:**
That's eleven.

**MR. BARTON:**
11•7.

**P.O. CARACAPPA:**
Sense 8 is tabled to the first meeting in May.

I am going to make a motion on the Cinderella Rule to recess this meeting until 12:02 tomorrow •• AM, tomorrow.

**LEG. FOLEY:**
We've got about ten minutes left.

**P.O. CARACAPPA:**
I have to recess the meeting by midnight and set it for the next day which will be in two minutes.

**LEG. TONNA:**
Or we could vote to extend 15 minutes. I make a motion to extend for 15 minutes because I'm not ••

**LEG. CARPENTER:**

Yeah, that's better.

**P.O. CARACAPPA:**

Okay.

**LEG. TONNA:**

I'm not coming tomorrow.

**LEG. CARPENTER:**

Right. I second that.

**LEG. CARACCIOLO:**

Five minutes, you don't need 15.

**LEG. TONNA:**

Oh, 12:01, not 15 minutes.

**P.O. CARACAPPA:**

I recess this meeting until 12:01 of March 16th, AM, 12:02

***[THE MEETING WAS RECESSED at 11:58 P.M.]***

***[THE MEETING WAS RECONVENED AT 12:02 A.M.]***

**P.O. CARACAPPA:**

It looks like 12:02 to me. Roll call.

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

**LEG. CARACCIOLO:**

Yes.

**LEG. SCHNEIDERMAN:**

Here.

**LEG. O'LEARY:**

Here.

**LEG. VILORIA•FISHER:**

Here.

**LEG. LOSQUADRO:**

Yes.

**LEG. FOLEY:**

Here.

**LEG. LINDSAY:**

Yes, here.

**LEG. MONTANO:**

Here.

**LEG. ALDEN:**

Here.

**LEG. KENNEDY:**

Yeah.

**LEG. NOWICK:**

Here.

**LEG. BISHOP:**

Yes.

**LEG. MYSTAL:**

Here.

**LEG. BINDER:**

Here.

**LEG. TONNA:**

Here.

**LEG. COOPER:**

Here.

**LEG. CARPENTER:**

Here.

**P.O. CARACAPPA:**

Here.

**MR. BARTON:**

18.

**P.O. CARACAPPA:**

Okay, thank you. This is a continuation of the March 15th meeting. We're on ***Sense 11•2005 • Sense of the Legislature Resolution in opposition to the re•licensing of the Millstone Nuclear Power Plant (Caracciolo).*** Motion by Legislator Caracciolo, second by Legislator Schneiderman. All in favor? Opposed? Abstentions?

**MR. BARTON:**

18.

**P.O. CARACAPPA:**

***Sense 12•2005 • Sense of the Legislature Resolution requesting a moratorium on the Broadwater LNG Project (Caracciolo).***

**LEG. MYSTAL:**

Another one?

**LEG. CARACCIOLO:**

No, motion to approve.

**LEG. BINDER:**

Motion to table to the May meeting.

**P.O. CARACAPPA:**

Motion to table to the May meeting by Legislator Binder, second by Legislator ••

**LEG. CARACCIOLO:**

Roll call. Roll call.

**P.O. CARACAPPA:**

Second by Legislator Bishop. Roll call.

**LEG. BISHOP:**

That will be Broadwater Day.

**MR. BARTON:**

On the motion to table.

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

**LEG. BINDER:**

Yes.

**LEG. BISHOP:**

Yes.

**LEG. CARACCIOLO:**

Yes. No, this is to table. No, no, no to table.

**LEG. SCHNEIDERMAN:**

No to table.

**LEG. O'LEARY:**

Yes to table.

**LEG. VILORIA•FISHER:**

Yes, till May.

**LEG. LOSQUADRO:**

No to table.

**LEG. FOLEY:**

No.

**LEG. LINDSAY:**

Yes.

**LEG. MONTANO:**

Yes.

**LEG. ALDEN:**

Yes.

**LEG. KENNEDY:**

Yes.

**LEG. NOWICK:**

No to table.

**LEG. MYSTAL:**

Yes to table.

**LEG. TONNA:**

Yes to table.

**LEG. COOPER:**

Yes to table.

**LEG. CARPENTER:**
Yes.

**P.O. CARACAPPA:**
No.

**MR. BARTON:**
12.

**P.O. CARACAPPA:**
It's tabled.

**LEG. MYSTAL:**
All right; May Day will be Energy Day.

**P.O. CARACAPPA:**
***Sense 13•2005 • Sense of the Legislature Resolution requesting prevailing wage on all Industrial Development Agency Projects (Caracappa).*** Motion by myself, second by Legislator Kennedy.
All in favor? Opposed? Abstentions?

**MR. BARTON:**
18.

**P.O. CARACAPPA:**
***Sense 14•2005 • Sense of the Legislature Resolution urging candidates and officials in all ten towns to join Suffolk County in full campaign finance disclosure (Binder).***
Motion by Legislator Binder.

**LEG. FOLEY:**
Second.

**P.O. CARACAPPA:**

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

**MR. BARTON:**
18.

**P.O. CARACAPPA:**
Back to Resolutions Tabled, page six.

***2313•04 • Amending the 2005 Operating Budget to transfer funds from the Suffolk County Water Protection Fund (477) Reserve Fund to the Suffolk County Department of Planning for a study on the effects of the duck farming industry on Long Island (County Executive).*** Motion to table by myself, second by Legislator Carpenter. All in favor? Opposed? Abstentions?

**MR. BARTON:**
18.

**LEG. LOSQUADRO:**
What are we on?

**P.O. CARACAPPA:**
That was just the 477 money that we skipped over, that was the County Executive's.

Motion by myself, second by Legislator Carpenter to waive the rules and lay on the table the following Late Starters; 1333 to Economic Development, 1334 to Public Works, 1337 to Parks & Recreation, or whatever it is now. There is a motion and a second. All in favor? Opposed? Abstentions? Those bills are laid on the table.

Any other business to come before the Legislature? We stand adjourned.

***[THE MEETING WAS ADJOURNED at 12:03 A.M.]***

***_ _ • Denotes Spelled Phonetically***