

**SUFFOLK COUNTY LEGISLATURE
SPECIAL MEETING
SEVENTH DAY
APRIL 21, 2005**

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

MINUTES TAKEN BY
ALISON MAHONEY, COURT STENOGRAPHER

(The meeting was called to order at 9:39 A.M. *)*

P.O. CARACAPPA:

Good morning, Mr. Clerk.

MR. BARTON:

Good morning, Mr. Chairman.

P.O. CARACAPPA:

Roll call, please.

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

LEG. CARACCIOLO:

Here.

LEG. SCHNEIDERMAN:

(Not Present).

LEG. O'LEARY:

(Not Present).

LEG. VILORIA • FISHER:

(Not Present).

LEG. LOSQUADRO:

(Not Present).

LEG. FOLEY:

(Not Present).

LEG. LINDSAY:

(Not Present).

LEG. MONTANO:

(Not Present).

LEG. ALDEN:

(Not Present).

LEG. KENNEDY:

(Not Present).

LEG. NOWICK:

(Not Present).

LEG. BISHOP:

(Not Present).

LEG. MYSTAL:

(Not Present).

LEG. BINDER:

(Not Present).

LEG. TONNA:

Yeah, I'm here.

LEG. COOPER:

(Not Present).

LEG. CARPENTER:

(Not Present).

P.O. CARACAPPA:

I'm here.

LEG. ALDEN:

I'm here.

LEG. MONTANO,

Here.

MR. BARTON:

16 (Not Present: Legislators Foley & Binder).

P.O. CARACAPPA:

Everyone please rise for a salute to the flag led by Legislator Nowick.

Salutation

Thank you. Everyone, please be seated. Mr. Clerk, please read the Special Meeting Notice.

MR. BARTON:

To all Legislators, dated April 18th from Presiding Officer Caracappa; "Please be advised that a Special Meeting of the Suffolk County Legislature will be held on Thursday, April 21st, 2005 at

9:30 AM in the Rose Caracappa Legislative Auditorium located at the William Rogers Legislature Building, 725 Veterans Memorial Highway, Hauppauge, pursuant to 2•6(B) of the Suffolk County Administrative Code for the following purpose;" and there are seven items and it's signed by the Presiding Officer.

P.O. CARACAPPA:

Thank you, Mr. Clerk. I recognize Legislator Schneiderman for a point of personal privilege.

LEG. SCHNEIDERMAN:

Just very briefly. We lost someone this past Saturday who died in Baghdad and I would like to read this brief editorial that appeared in the papers this week and ask for a moment of silence.

"The Death of a Young One: As a community we have endured a lot of deaths over the years and it is always harder to bear when one suffers a tragedy. This one hurts particularly badly. Marla Ruzicka, a former student of the Friends World Program based at Southampton College was killed on the road to Baghdad Airport on Saturday by a suicide bomber. This remarkable young lady who captured the hearts of her fellow students, teachers and administrators while stationed here was more than an idealist and an activist, she was a doer."

"Only 28 when she died, Marla had already founded The Campaign for Innocent Victims in Conflict Worldwide (CIVIC) and helped raise millions of dollars to help war•torn communities all over the globe. She went to Iraq not to fight but to help civilians. Over the Internet hours after her death, a worldwide community came together. Scores of friends remembered their lost comrade. What struck us most was how many recalled Marla's unbridled happiness, her ability to enjoy life, her jokes and laughter. This was a young lady who understood the purpose of life. She was on a mission, yet she understood a smile is the most important thing any individual has to share. To say she will be missed is an obvious understatement. The question to be asked is who among us has the courage to step in and try to fill her shoes?" And if you would just join me for a moment of silence.

Moment of silence observed

P.O. CARACAPPA:

Thank you. We will go directly to the public portion. The first speaker is Ben Zwirn. Before you speak, Mr. Zwirn, just let me remind the public, you have three minutes, this is not a question

and answer period, this is your time and your time only. Mr. Zwirn?

MR. ZWIRN:

Thank you, Mr. Presiding Officer. And good morning, Ladies and Gentlemen of the Legislature. I'm here today to speak on behalf of County Executive Steve Levy with respect to the vetoes that are before you.

With respect to Resolution 156 of 2005 which is a Division of Cancer Care Awareness within the Suffolk County Health Department, the County Executive would ask you to sustain his veto on this today. The Division of Cancer Awareness was his suggestion, his suggestion was to put it in the Department of Energy & Environment, it is something that has been a discussion which has been ongoing at the Legislature. He still would like to work with the Legislature and get that division established. I know that Mike Dearing and Chief Deputy County Exec Kevin Law have come over to talk to members of the majority and are willing to come back again another time, but at the present time the County Executive would ask that that would be sustained.

With respect to Resolution 340 of 2005, creating a Geographical Information Systems Committee, the County Executive would ask you to sustain the veto because this would be duplicative of a committee that he has set up and that has already been meeting, it's had three meetings already. Jim Daly is the Chairman of that committee, it is already working and ongoing and that this resolution would be unnecessary to set up another committee at this time.

With respect to Resolution 235 which is amending the Operating Budget, transferring funds with respect to the TWA Flight 800 Memorial at Smith Point County Park, the County Executive is in support of this concept but he would ask that the funds used for this be taken from a different offset, and one of the recommendations that have been made was the social security account. The Parks Department is working with the people who are on the board of the TWA Flight 800 Memorial, I have spoken with him, the County •• as I said, the County Parks Department is working in the interim to try to get everything set up so that there's no lag in getting the monument taken care of on a regular and ongoing basis.

And I know Legislator Caracciolo was wondering what would happen with respect to Legislator Mystal's amendment, resolution with respect to the Amityville Firefighters which was also using pay•as•you•go money. The County Executive has been consistent and vetoed that as well

asking that it just come from a different source of revenue to be paid for.

With respect to the Yaphank County Center Development Review Committee, the County Executive wants to work with Legislator O'Leary, has no problem with •• the purpose of this is to get input from the community, we support that. We want the community to be involved, it's in their neck of the woods, but we're afraid that the language in there as it is stated, despite what has been represented by Legislator O'Leary and by Counsel. And I have a Court of Appeals case which will tell you that the Legislator, what they say on the floor does not bind what the Statute says, even though the intent may be one thing and there's just a gray area here and that we don't want this to be impeded.

P.O. CARACAPPA:

Sum up, Ben.

MR. ZWIRN:

Okay. Just with respect •• that's it, those were the vetoes I wanted to speak to. Thank you very much.

P.O. CARACAPPA:

Thank you. John Kennedy.

MR. KENNEDY:

Good morning.

P.O. CARACAPPA:

Good morning.

MR. KENNEDY:

Is this mike on?

P.O. CARACAPPA:

Just lift it up. Thank you.

MR. KENNEDY:

I came this morning •• first of all, before I make my comments, it's a rare, rare opportunity for me to appear before a body that my son is a part of and I haven't had the opportunity to congratulate him in public and I'm quite proud of him.

LEG. KENNEDY:

Thank you.

MR. KENNEDY:

I couldn't be more proud of him. It's probably a wish of every parent that your children wind up better or do better than you, and I couldn't be more proud and his mother more proud than we are of John.

Applause

LEG. TONNA:

That doesn't mean he's going to vote the way you want him to vote, though, right? Jackie, this is Paul. That doesn't mean he's going to vote the way you want him to vote, though.

MR. KENNEDY:

Well, probably a testament to that is I'm a lifelong Democrat and John is a Republican. In fact, I saw Hillary Clinton the other day in Washington and she said to me, she said, "I met your son," and she said, "How did you ever let him become a Republican?"

LEG. FOLEY:

We're working on it, Jack.

MR. KENNEDY:

She said it quite affectionately.

The reason I came here this morning is to talk about the 13th RESOLVED relating to Resolution 341, establishing a committee for the Yaphank Development Review Committee. And I met with some of the Legislators before and one of the things that worries us or bothers us is that probably eight •• I'm going to talk about maybe eight years ago the process, in order to get a construction project to the Legislature, took forever. We went to County Executive Gaffney and we said, "We need to find some way to expedite this process because it's taking projects forever to get going, our people are unemployed." Right now we have severe, severe

unemployment. We're fearful, when we look at this committee, that it will be another layer of government or a process that we're going to have to go through in that Yaphank area. There's probably four projects that are going to put a lot of our people to work and our people, the way we see it, would have to go through this committee.

After some dialogue behind chambers here, there was some compromise to the way the language is proposed right now. That compromise seemed that it would be something that we could work with. Also, in my comments, in the makeup of the committee or the fabric of the committee we would like to see that there be some kind of labor representation on that committee. We certainly have •• we probably have close to 18,000 union members that live in the township, so we would look for some kind of representation on that committee. I'm not looking for the job myself but I'm sure that we could find somebody from the building trades that would be willing to sit on it.

So again, this is a very, very, very, very and of much importance to us that the way the language is right now, we would be in objection to the way it is now. But if it's modified, some of the language in the last sentence, if it was changed we would be able to •• we would be in favor of the way it is.

P.O. CARACAPPA:

Thank you.

MR. KENNEDY:

I'll be glad to answer any questions if anyone has any.

LEG. ALDEN:

We're not allowed to ask any.

P.O. CARACAPPA:

Yeah, this is just the public portion, we don't have any questions.

MR. KENNEDY:

I'm sorry. Thank you.

P.O. CARACAPPA:

Johan McConnell.

MS. McCONNELL:

Good morning. As President of the South Yaphank Civic Association and as a resident who lives within a quarter of a mile of the 400 acres that Executive Levy proposes to develop, I wish to express my support for Resolution 341•2005, Establishing a Yaphank County Center Development Review Committee.

Over the years our community has become a literal dumping ground for County and town projects; for example, the expanded County jail, the proposed juvenile offender facility, the Suffolk County Trap and Skeet Range, the proposed expanded waste treatment facility, the proposed 350 megawatt power plant with a 170 foot stack, the expanded dump, the Long Island Compost Facility. The residents of the hundreds of existing homes in the Yaphank area are not opposed to positive development in the areas vacant land. It is the opinion of the community that having this task force, which would include two residents who would represent our community and our interests, is absolutely necessary. Area residents should be allowed to have a voice in the planning and development of the County•owned 400 acres, as any decisions made for their use will have a significant impact on our quality of life.

As the committee now stands, there will be ten members on that committee and only two of them will be community residents. So that if it went to a vote it would be approximately eight against two for anything that would be decided. I feel that having a resolution allowing two County residents to be on the board would be a show to the community that there is an interest in what the community has to say. Thank you.

P.O. CARACAPPA:

Thank you very much. James E. Wisdom.

MR. WISDOM:

Good morning.

P.O. CARACAPPA:

Good morning.

MR. WISDOM:

I represent the IBEW Local 25, we have about 2,500 members. Most of our people live in Suffolk County, a large majority anyway, and we're urging the County, the Suffolk County Legislators to sustain on the County Executive's veto regarding this language. We're not opposed to the language, we just want to change the language a little bit. That's pretty much all I have to say.

P.O. CARACAPPA:

Thank you. Jimmy Rogers.

MR. ROGERS:

Good morning, Members of the Legislature.

P.O. CARACAPPA:

Good morning.

MR. ROGERS:

My name is Jim Rogers, a representative of District Council No. 9, Painters and Allied Trades.

Just to echo what Jack Kennedy had said before, I had sent out an e-mail last night, I sent it out kind of late after reading and doing a little research on this, and I apologize for that but I'll read what my e-mail had said concerning this.

"Dear Suffolk County Legislator, it has come to my attention that the Legislature will be voting tomorrow to consider and vote on override Resolution 341•2005. While I believe establishing a Yaphank Center Development Review Committee will indeed be beneficial and help to make the best use of this important County property, the manner in which this resolution is written could put too much of a restriction in the RFP or RFEI process. Like any review advisory committee, their job is to give recommendations and opinion to the entity that appointed them and not to have the authority to make binding obligations which in this instance would have a negative impact on the RFP process. I strongly recommend two changes to the resolution, the 180 day timeframe in the 12 RESOLVED clause should be deleted, it can unnecessarily delay the RFP process. And second, delete the last sentence in the 13th RESOLVED clause for the reasons

I've stated above. Our members are counting on the jobs that will be created, affordable workforce housing and recreational opportunity for their families. Thank you."

P.O. CARACAPPA:

Thank you, Mr. Rogers. I have no other cards. Anyone else wish to be heard?

LEG. LINDSAY:

Mr. Chairman?

P.O. CARACAPPA:

I'd make a motion to close public portion.

LEG. ALDEN:

Second.

P.O. CARACAPPA:

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

Public portion is closed.

I recognize Legislator Lindsay for the point of personal privilege.

MR. BARTON:

18.

LEG. LINDSAY:

Yeah, what I wanted to say is that I appreciate seeing a lot of the building tradesman here this morning. And I understand why you are here because there's a lot of unemployment in the building trades and you need the jobs, and I welcome you here.

The issue you're here on this morning is an argument over one word; it isn't really a major issue, I'm sure we'll get it straightened out. But I want to express to you that I'd like to see you come back. You know, right now for the last two years we've been debating probably the largest Public Works project in the history of Suffolk County and your voice hasn't been heard here and we need your voice because we hear the other side an awful lot, and of course I'm talking about the jail. Don't be strangers. That's all I want to say.

P.O. CARACAPPA:

Legislator O'Leary.

LEG. O'LEARY:

Thank you, Mr. Chairman. Just as a point of personal privilege, I wanted to thank the members of the trades for coming down here today and bringing to our attention something that they hold very dearly and that's jobs, I understand that clearly.

I have had conversations with the administration regarding the language of this particular resolution and I rely on the advice of Counsel that says it's not a binding situation. In particular we're talking about the language shall utilize •• I will consider in the future to look at that as well as for the representative of the trades on this committee. But before I do so, I would like to have the opportunity to sit in caucus with my colleagues so I request a recess for about ten minutes to do so.

P.O. CARACAPPA:

There's a motion to recess for ten minutes.

LEG. MONTANO:

Second.

P.O. CARACAPPA:

Second by Legislator Montano. All in ••

LEG. TONNA:

Let me just understand.

P.O. CARACAPPA:

On the motion, Legislator Tonna.

LEG. TONNA:

Yeah, just you're caucusing just because we're talking about one word, the understanding word?

LEG. O'LEARY:

Uh•huh.

LEG. TONNA:

Okay, great. Okay, have fun.

P.O. CARACAPPA:

I share that sentiment, Legislator Tonna. All in favor? Opposed? Abstentions? We'll be back in ten minutes.

(Brief Recess Taken: 9:58 A.M. • 10:09 A.M. *)*

P.O. CARACAPPA:

Roll call.

LEG. CARACCIOLO:

(Not Present).

LEG. SCHNEIDERMAN:

(Not Present).

LEG. O'LEARY:

Here.

LEG. FISHER:

(Not Present).

LEG. LOSQUADRO:

Present.

LEG. FOLEY:

(Not Present)

LEG. LINDSAY:

Here.

LEG. MONTANO:

Here.

LEG. ALDEN:

Here.

LEG. KENNEDY:

Here.

LEG. NOWICK:

Here.

LEG. BISHOP:

I'm here.

LEG. MYSTAL:

Yep.

LEG. BINDER:

Here.

LEG. TONNA:

Yep.

LEG. COOPER:

(Not Present)

LEG. CARPENTER:

Here.

P.O. CARACAPPA:

Here.

LEG. CARACCIOLO:

Here, Henry.

MR. BARTON:

16 present (Not Present: Legislators Schneiderman & Foley).

LEG. ALDEN:

Point of order?

P.O. CARACAPPA:

Point of order, Legislator Alden.

LEG. ALDEN:

Ben chose the public portion to address us before and that means that we can't ask him questions, but as long as ••

P.O. CARACAPPA:

He can come back.

LEG. ALDEN:

As long as he's here, can I ask him a question?

P.O. CARACAPPA:

On which bill?

LEG. BISHOP:

You can ask him a question.

LEG. ALDEN:

It's actually on another construction project that I noticed.

P.O. CARACAPPA:

Is it on today's meeting notice?

LEG. ALDEN:

No.

P.O. CARACAPPA:

I'd like to keep it to items on the agenda today, but if it's not going to be a showdown here ••

LEG. ALDEN:

No, he's not going to have an answer so I just want to just ask him to go and get an answer for it. In the Capital Budget •• is that all right, Mr. Presiding Officer?

P.O. CARACAPPA:

Ask the question and I'll •• trust me, I'll cut this off in a second if it gets ugly.

LEG. ALDEN:

This won't get •• it's not going to get ugly, Ben's a good guy.

In the Capital Budget that just came over, the Proposed Capital Budget it says about the Bay Shore Health Center; do you know if there's a location that's been chosen to build it?

MR. ZWIRN:

This is easy, I don't know the answer; no, I don't.

LEG. ALDEN:

No, that's what I just said.

P.O. CARACAPPA:

Okay.

LEG. TONNA:

All right, there we go. Good.

LEG. ALDEN:

Could you get that answer?

MR. ZWIRN:

Absolutely.

LEG. ALDEN:

Thanks a lot, Ben.

P.O. CARACAPPA:

Well done, Gentlemen. Okay, moving ••

LEG. TONNA:

I have a question for Ben; no, I'm joking.

P.O. CARACAPPA:

Moving to the items on the agenda.

Item No. 2, (To consider and vote on override of Resolution 156•2005; a Local Law to create a Division of Cancer Awareness within Suffolk County Department of Health Services). Is there a motion.

LEG. CARACCIOLO:

Motion.

LEG. O'LEARY:

Second.

P.O. CARACAPPA:

Motion to override Resolution 156•2005 which is a Local Law to create a Division of Cancer Awareness within the Suffolk County Department of Health Services. There's a motion and a second. Roll call.

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

LEG. CARACCIOLO:

Yes.

LEG. O'LEARY:

Yes.

LEG. COOPER:

No.

LEG. TONNA:

No.

LEG. BINDER:

Yes.

LEG. MYSTAL:

No.

LEG. BISHOP:

No.

LEG. NOWICK:

Yes.

LEG. KENNEDY:

Yes.

LEG. ALDEN:

Yes.

LEG. MONTANO:

No.

LEG. LINDSAY:

No.

LEG. FOLEY:

No to override.

LEG. LOSQUADRO:

Yes to override.

LEG. VILORIA • FISHER:

No.

LEG. SCHNEIDERMAN:

Yes to override.

LEG. CARPENTER:

Yes.

P.O. CARACAPPA:

Yes.

MR. BARTON:

10.

P.O. CARACAPPA:

That's sustained.

Moving on to ***No. 3 which is Resolution No. 340•2005 • Creating a Geographical Information Systems Committee.*** There's a motion to override by Legislator Kennedy.

LEG. ALDEN:

Second.

LEG. O'LEARY:

Second.

P.O. CARACAPPA:

Second by Legislator Alden and O'Leary. Roll call.

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

LEG. KENNEDY:

Yes.

LEG. ALDEN:

Yes.

LEG. COOPER:

No.

LEG. TONNA:

Yes.

LEG. BINDER:

Yes.

LEG. MYSTAL:

No.

LEG. BISHOP:

No.

LEG. NOWICK:

Yes.

LEG. MONTANO:

No.

LEG. LINDSAY:

No.

LEG. FOLEY:

No to override.

LEG. LOSQUADRO:

Yes to override.

LEG. VILORIA • FISHER:

No.

LEG. O'LEARY:

Yes.

LEG. SCHNEIDERMAN:

Yes.

LEG. CARACCIOLO:

Yes.

LEG. CARPENTER:

Yes to override.

P.O. CARACAPPA:

Yes.

MR. BARTON:

11.

P.O. CARACAPPA:

That's sustained.

Moving on to ***No. 4, Resolution No. 235 • 2005 • Amending 2005 Operating Budget and transferring funds to the IGHF Foundation for Maintenance of the TWA Flight 800 Memorial at Smith Point County Park.***

LEG. O'LEARY:

Motion to override.

LEG. CARACCIOLO:

Second.

P.O. CARACAPPA:

Motion to override by Legislator O'Leary ••

LEG. FOLEY:

On the motion.

P.O. CARACAPPA:

•• second by Legislator Caracciolo.

LEG. FOLEY:

On the motion, Mr. Chairman?

LEG. CARPENTER:

On the motion, Legislator Foley and then Bishop.

LEG. FOLEY:

Thank you, Mr. Chairman. Speaking as a Legislator who has worked with Legislator O'Leary on a number of issues, particularly in this area of the County, and Smith Point being part of my Legislative District, we have endeavored to move forward with a number of initiatives to improve that particular facility. And over a period of time IGHL has been an outstanding partner in maintaining the Flight 800 Memorial grounds that have become hallowed grounds for those who wish to walk and sit and contemplate a variety of things.

I was prepared today to support the override vote on this particular matter because •• not only because it was in my particular district, but I have always respected that when different Legislators have district initiatives, the understanding has always been, whether Republican or Democrat, that when there are bills within each person's Legislative district, that that district initiative, if you will, has always been honored by Republicans and Democrats alike. And when you look at today's agenda for overrides, there's also another district initiative that's here in the Amityville area that Legislator Mystal has endeavored over a period of time to help that area through a number of initiatives, and today that's another bill that's before us and I would hope that we could move forward with overriding that particular veto, and I would say that on the record. But the fact of the matter is with this particular proposal for IGHL and for the Flight 800 Memorial, the County Executive has identified two other sources of funding that he is ready,

willing and able to immediately proffer a resolution to access those dollars.

So I just wanted to state on the record here today that while I will be sustaining the veto today, I fully expect the County Executive to move forward with all due alacrity to put the other funding source in place. We will support it and we can support it as quickly •• even if it's submitted today or at the next General Meeting through a Certificate of Necessity so that by May we would have that bill in place and we could move forward.

I would not support sustaining the veto if the County Executive did not identify other sources and other allocations of appropriation monies. He has cited the other alternatives. As the Chief Executive Officer of the County government, he's identified either a surplus in the Social Security account or the marine helicopter squadant account which, according to his managers in the administration of County government, those are areas of surplus monies that could be readily and identifiably utilized for this particular purpose of moving forward with the maintenance of the TWA Flight 800 Memorial.

So while there's not going to be any long, long delay in appropriating these dollars, it would be a matter of weeks, I'll stand ready, and since I am the Legislator who represents the Smith Point area, that I will sustain the veto today with the understanding and the full support of the County Executive to move forward with the allocation of the other dollars.

I have always honored other Legislators' district initiatives, whether it be Republican or Democrat, and I think all Legislators should do the same, whether it's here or whether it's in Amityville or anywhere else. But for today's purposes, I will sustain the veto full•well knowing that we will have the monies in place by next •• well, within the next several weeks. Thank you, Mr. Chairman.

P.O. CARACAPPA:

You're welcome. You forgot another district initiative that's on the agenda today, there's the Yaphank one, too, I believe that's district one. Legislator Bishop then Carpenter.

LEG. BINDER:

According to the people of Brookhaven.

LEG. BISHOP:

Thank you, Mr. Chairman. I hope my colleagues have noted the strong leadership skills of my colleague, Legislator Foley; they come through every meeting up until November.

I want to speak to this resolution and number six on the agenda, they are both resolutions which seek to spend money for projects using as an offset the 5•25•5 Fund which is cash that we set aside in order to spend for pay•as•you•go programs. Now, the Legislature in its wisdom is making a mistake, and that's a bipartisan mistake, if it seeks to draw down from this fund to fund new initiatives, new spending initiatives, that's not what this fund is for. This fund, as we will recall, is to fund pay•as•you•go ongoing, recurring expenses that we know are coming down the pike year after year and to do it out of operating funds rather than out of Capital funds, hence saving the taxpayers money over the long•term. That's what the fund was created for, I was the sponsor of the fund, I had your support when we did it. We suspended it for a year or two, much to our regret, we've reinstated it and we've reinstated it for the correct purpose, the purpose that I stated, so we should use it correctly.

The County Executive is also not using it correctly. This is not a fund that is ultimately designed to balance the budget later on. This is a fund that is designed to avoid borrowing costs and it should be used for it's intended purposes. So both of us, both branches of government should get together, and at this point we're almost halfway through the year, figure out exactly how much we're going to spend on pay•as•you•go projects and then allocate any remainder that exists in an appropriate bipartisan, both branches agreed upon way. That would be the logical, correct, best public policy solution. What we're doing now, fighting over it, is unseemly and it's counterproductive. Both these projects need to get done but they need to get done out of the right funding source and that's why I'm going to sustain the vetoes. But I don't sustain them in any kind of solidarity with the County Executive's position, his position is wrong as well; we all need to get to the right position.

P.O. CARACAPPA:

Thank you. Legislator Carpenter then Schneiderman.

LEG. SCHNEIDERMAN:

No, I'm off.

P.O. CARACAPPA:

You're off? Okay.

LEG. CARPENTER:

I just have a question for Budget Review.

P.O. CARACAPPA:

Then Tonna.

LEG. TONNA:

Forget it.

P.O. CARACAPPA:

He said it? I'm sorry, go ahead.

LEG. CARPENTER:

The offset on this original resolution was pay•as•you•go and the amount for this maintenance of this memorial is slotted at \$70,000. How much is in the pay•as•you•go account?

MR. SPERO:

We budgeted about 11.6 million, there's well over 11 million still left.

LEG. CARPENTER:

And based on what I just heard from Legislator Bishop, it seems that this would be the appropriate way to go for the maintenance of this memorial to use the money that we set aside in the budget for pay•as•you•go.

MR. SPERO:

Yeah, the funding is there. A number of pay•as•you•go projects have been sent over from the County Executive that were borrowed instead of using the pay•as•you•go funding, so the pay•as•you•go funding is not being used for pay•as•you•go projects, at least as so far we've progressed this year. So the funding is there. From a fund balance perspective, it doesn't matter what pot you take the money out of because a dollar spent is a dollar spent and it will impact a fund balance negatively by one dollar, so if you're going •• the pot of money that you use for the offset, from our perspective, isn't really that important.

LEG. CARPENTER:

Well, I feel confident that we are going in the right direction. And since this original resolution was approved 18•0, I would hope that my colleagues would support the override.

LEG. BINDER:

Mr. Chairman?

P.O. CARACAPPA:

I'm going to say something and then you can go, you're next. We've always used pay•as•you•go, as Legislator Bishop •• he and I have been together on this issue for many years •• for low cost maintenance purposes. You know, it says maintenance right in the title of the bill and it's fairly low cost, we're talking \$70,000. If this doesn't meet the criteria for using pay•as•you•go money, I simply do not know what does.

To use another •• to aggressively seek out a different funding source seems like a waste of energy at this point in time. We put millions and millions of dollars into a pay•as•you•go account for this specific purpose, it's almost in the Charter written this way, it's low cost, year after year, maintenance type of projects and, again, this certainly fits the bill, no pun intended. Legislator Bishop •• Binder, Binder, sorry.

LEG. BINDER:

Whoops. If that happens any •• well, it won't happen after December, so that won't happen again.

Considering what this bill is, how important this bill is, the meaning behind the bill, and I think as the Presiding Officer says, the appropriateness of the monies that we're spending and the types of money we're spending on this, this is obviously, of all of the bills today, the most •• the one that gives the transparency in what's going on here today. This is a message by the County Executive to say that he controls veto overrides through his caucus, and that's fine if that's how it's going to be here. Just put it on the record here, let's be open and honest, that's what's happening here. Everyone is going to see and everyone understands that's what's going on and it's been going on a little bit more as the year went on, that the •• that we're going down this road. So let's just put it on the record, that's where we are, that's what's happening today. The message has been sent that government is completely split on partisan lines and that's where the County Executive is going and that's fine. We'll do the best we can as the

majority group to express our concerns, we're going to continue to express them. I'm sure they'll be vetoed, I'm sure they'll continue to be sustained over the year. But we're going to continue to express our view of what government should be and we'll keep putting those forward and I would hope that we'll have at least the ten votes, when we think we have a direction that government should go in we'll continue to do that and go down that road.

But by looking at this, you know, we're looking at a very •• it was 18•0. The offset didn't change, the numbers didn't change, the source of funding didn't, nothing changed. And all of a sudden there's an epiphany, after 18•0, "Wow, I can't believe it, the County Executive pointed out something I didn't even see, I couldn't believe it." Well, look, come on, let's not" •• we know what this is about, that's clear today; I'm looking forward to hearing the Democratic Caucus talk about how it's not, this will be very interesting.

LEG. COOPER:

Joe?

P.O. CARACAPPA:

Wait, wait. Got you, Jon. Legislator Lindsay.

LEG. LINDSAY:

Thank you for that big political announcement.

LEG. BINDER:

Oh, we're having that today, the veto overrides.

LEG. LINDSAY:

What Legislator Caracappa talked about the propriety of using pay•as•you•go money for this we agree with. We also agree with it with the following resolution for the fire memorial in Amityville and, you know, the offer is still there. I think we could agree with both of them, we're not agreeing with one and then have you's turn down the second one.

LEG. O'LEARY:

Joe?

P.O. CARACAPPA:

There's a list, I'll put you on the list. I think we're all •• we're looking for consistency across the board, I think that's the problem here today. Legislator Tonna.

LEG. TONNA:

Yeah. My colleague made some statements and I guess I'm in between, I wouldn't consider myself either with the minority or the majority, as all of you know.

I don't see this as much a political statement as I see •• or maybe it's a different type of political statement, I'd give it a different interpretation. This Legislature, at least for 10 of the 12 years that I've been on it, has always been a free•floating with Democrats and Republicans have gotten together on issues. But you can't have arrogance or recalcitrance on one hand when you think that a majority has the votes and controls votes, and then on the other hand when they need something then they're willing to deal, and that is the philosophy that I think has been espoused. I found that present last year when just asking simply, move some dates because I'm on vacation, they said, "We don't need you to be here and, you know, you're not in the Republican caucus so guess what, we're not going to move any dates."

It was interesting that this time around people were saying, "Boy, we would really like you at this meeting."

My sense is is that maybe Democrats who voted one way or another, I'm not going to divine, you know, why people are voting, maybe a message is sent just for us alone, is that we need to deal with each other. There are going to be times •• and I have found that there are Democratic Legislators who disagree vehemently with some of the County Executive's positions and have been able to voice that. And maybe we need to just step back and say how do we deal with Legislative priorities, with priorities where Legislators are focused in on districts, focused on, you know, the smallest minutia as an elected institution with really what constituents need and want, and that sometimes is a very, very different vision and offers a different worth than what is happening when somebody looks at just from a County level.

So I would encourage my colleagues on both ends to make sure that you deal respectfully with each other, try to understand each other and don't let partisan politics one way or the other color the merits of an issue. I found that I'm sustaining some vetoes, I'm not sustaining other vetoes because I think on the merits there are some things that are here that we need to override County Executive Levy, and everybody knows that County Executive Levy and I

disagree on a lot of different issues. But maybe it's a time to take a step back and say we have two budget processes coming up, we have a Capital Budget and we have an Operating Budget coming up and maybe this is a good message for everybody to say let's get back to some of the basics. We're the Legislature, we should be able to deal with each other respectfully, honestly and look to build consensus whether it be along Democratic lines or Republican lines. So I would encourage my colleagues on both ends maybe to take a step back for the future and say how do we make sure that we ensure initiatives that we think are right together and build consensus there. Thank you.

P.O. CARACAPPA:

Legislator Bishop, you're back.

LEG. BISHOP:

Thank you. I want to speak to the notion that a dollar spent is a dollar spent and it doesn't matter which pot it comes out of. If you draw down from the 5•25•5 fund, from this fund, for new, unanticipated expenditures, then when the fund is depleted towards the end of the year and you are trying to identify how much you're going to spend on pay•as•you•go projects, the fund is down to five million, you'll only spend five million on pay•as•you•go, that's a fact. You're not going to raid Social Security then to do pay•as•you•go projects, it's never happened and it's unlikely that it ever will.

You know, our budget is our spending plan and when the integrity of that plan is interrupted it should be done prudently and planned. And to simply say, as BRO opines, that a dollar is a dollar and it doesn't matter is just looking at this in the most myopic way possible. And it does not reflect •• it does not credit us with what we are capable of which is that if we're going to engage in new spending then we ought to identify exactly what we're willing to cut in order to have that new spending. And 5•25•5 is not what we ought to cut, especially when we haven't identified what we're willing to spend on pay•as•you•go this year. And that's the first step in this process, it hasn't been taken yet and that's why I'm going to sustain this veto.

And then I want to speak to Legislator Binder's notion of arrogance and minorities controlling and all that. Who is behaving poorly, which caucus? When bills are blatantly stolen, intellectual property is blatantly stolen, when there are negotiations, the negotiation rules are with the County Executive, "Yeah, we'll talk to you but we'll never put your name on this resolution in the end," and that's deplorable, political behavior. It's not unprecedented, you can see it all

the time Upstate in Albany, but we have always been better than that and we shouldn't be doing that here.

Similarly, when the Executive rightfully raises an issue, a technical issue on a bill about wording, the attitude shouldn't be, "Well, I got the votes and we're going to try to jam it through and embarrass this one and show you," it ought to be, "Well, if we have the same goal in mind and everybody speaks to having the same goal, then we ought to work it out." That's how the Legislature should function and that's, unfortunately, how we're not functioning today.

LEG. LINDSAY:

Mr. Chairman?

P.O. CARACAPPA:

There's a list. Legislator Cooper.

LEG. COOPER:

I have to respectfully disagree with statements that were made by Legislator Binder. The vote on this resolution, 1103 and 1106, have nothing whatsoever to do with supporting the County Executive or opposing the County Executive. We have two resolutions before us, two votes coming up on veto overrides where we have similar types of projects. I think we'd all agree that they're very worthwhile expenditures, identical funding sources; they're really sister bills, they're equivalent bills. And I believe that the Democrats were willing to support overriding both vetoes and we attempted to work things out with the Republican Caucus for a quid pro quo; if they supported the override, if they supported an override for a bill that was sponsored by a Democrat, we would support the override of a bill that was sponsored by a Republican, both very worthwhile projects, and the word that came back to us was that that wasn't acceptable to the Republicans.

P.O. CARACAPPA:

Jonathan, I've just go to interrupt you. No, it's not what was said. It was said just stay consistent with your original vote a couple of weeks ago and we would do the same, that's •• on all the bills.

LEG. TONNA:

By the way, I'm not ••

LEG. COOPER:

We knew it had 12 and we knew it didn't have 12.

LEG. TONNA:

•• part of any quid pro quo, I just want to make that for the record.

P.O. CARACAPPA:

And I'm not part of a quid pro quo either.

LEG. TONNA:

I've never made it part of any quid pro quo.

P.O. CARACAPPA:

Yeah, and that was a poor choice of words, I might add. There was no deal, we just said we know what had 12 a couple of weeks ago, let's just keep it the same, that was all that was said.

LEG. COOPER:

It ••

LEG. TONNA:

I don't speak Latin.

LEG. COOPER:

Every Legislator around this horseshoe at some point has changed their vote on a bill from a previous session, either because of new information ••

LEG. TONNA:

New information.

LEG. COOPER:

Thank you, based on new information, new arguments.

LEG. BISHOP:

Never.

LEG. COOPER:

And I can speak at length about my rationale for changing a vote on a bill that we're going to be considering soon. But on these two, setting that aside, on these two we all agree, virtually all of us agree that both of these vetoes should be overridden. And because •• whether it's partisanship or whether it's personal rivalries or whether it's •• I don't know what, two good bills are going to go down to defeat, and for what?

P.O. CARACAPPA:

It is a shame.

LEG. COOPER:

These are two equivalent bills, same funding, same sorts of projects, they're worth while projects; we want these to be approved so they can move forward and we can work this out right now. There's enough good will around this horseshoe, if we were all willing •• hopefully there's enough good will, if we're all willing to just take a step back and in two minutes we can work all this out, but I'm afraid that partisanship or whatever you want to call it is going to get in the way. And we can't throw other bills into the mix because then it becomes a lot more complicated. These are two bills that are almost identical bills, the only difference is one is sponsored by a Democrat, one is sponsored by a Republican. And unfortunately, if they were both Republicans bills or both Democratic bills we wouldn't be having this discussion, and it's very unfortunate.

P.O. CARACAPPA:

That's not true.

LEG. COOPER:

I think that if these bills, if the vetoes are sustained •• and I hope that they're not, but if they are •• both bills will be introduced again and I'm hopeful that at a future meeting they'll both be approved unanimously. But we can do it today, we can sustain both vetoes, if we all knock the chips off our shoulders and are willing to reach out to the other side we can make this happen and I hope that we do.

P.O. CARACAPPA:

Thank you. Legislator Montano.

LEG. MONTANO:

Well, I find that every time I get on the list after Legislator Tonna, I find that he articulates my position as well if not better than what I would say. But I think that the reality is that although we're in •• myself in the minority party, I think that what we're seeing today is a display where both parties have to really reanalyze where we're going because we are members of the Legislature, we're one body. While we may have some philosophical and some political differences, we still need to work together. We need to work together fairly, we need to be reciprocal in our bills, we need to be reciprocal in our support for one another's positions when we agree with those, and sometimes unfortunately the debate deteriorates into a side show, and the comments that precipitated this debate now are unfortunate. I think maybe we need to just sit back, cool our heels, reanalyze what we're doing and then come back with a more positive approach.

P.O. CARACAPPA:

Well said, Legislator Montano. I appreciate your comments. Legislator O'Leary.

LEG. O'LEARY:

Thank you, Mr. Chair. I take into account comments made by Legislator Cooper alluding to the caucus position on this issue. I don't want to amplify on that, but I think perhaps there was a bit of a misunderstanding with respect to our position.

Our position was that we're going to override all these vetoes; now, I don't know how much clearer I can make that, with the exception of perhaps one but our position is very, very clear. And I totally agree that items four and six are intertwined, it's the funding source that I absolutely agree with and BRO had indicated there's 11.6 million in pay•as•you•go and the Presiding Officer has indicated that this is the reason why we use these moneys out of this particular fund, just like we're doing.

So I absolutely agree that four and six are intertwined. My position is that I will support an override of motions to •• I will support motions to override the vetoes of everything that comes before us today •• well, which you'll find out as you guys go along. But basically four and six

are intertwined, I agree, but obviously what's going to occur first is the TWA Memorial; there is a motion to override before us and there's a second. There will be a motion to override, I'm assuming from the Democratic Caucus, on number six.

LEG. COOPER:

Right.

P.O. CARACAPPA:

Legislator Lindsay then Vioria•Fisher.

LEG. LINDSAY:

I really hate to do this, Mr. Chairman, but I would like another five minutes.

LEG. VILORIA • FISHER:

I don't think we need it, Bill.

P.O. CARACAPPA:

If that's a motion, I will honor that motion if there's a second.

LEG. LINDSAY:

The request came from my caucus, if they want. They want two minutes, all right?

P.O. CARACAPPA:

I will recognize that motion, of course.

LEG. FOLEY:

Second.

P.O. CARACAPPA:

There is a second by Legislator Foley. If you need the five minutes you'll get the five minutes.

LEG. LINDSAY:

No more.

LEG. COOPER:

Yeah, let's do this.

P.O. CARACAPPA:

All in favor? Opposed? Abstentions? Five minutes. Thanks.

(* Brief Recess Taken: 10:38 A.M. • 10:45 A.M. *)

P.O. CARACAPPA:

Okay. Do a roll call.

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

LEG. CARACCIOLO:

Here.

LEG. SCHNEIDERMAN:

Here.

LEG. O'LEARY:

Here.

LEG. VILORIA • FISHER:

Here.

LEG. LOSQUADRO:

Present.

LEG. FOLEY:

Present.

LEG. LINDSAY:

Here.

LEG. MONTANO:

Present.

LEG. ALDEN:

Here.

LEG. KENNEDY:

Here.

LEG. NOWICK:

Here.

LEG. BISHOP:

Remain here.

LEG. MYSTAL:

Still here.

LEG. BINDER:

Here.

LEG. TONNA:

Yeah, I'm here.

LEG. COOPER:

Yep.

LEG. CARPENTER:

Here.

P.O. CARACAPPA:

Here, I think I'm here.

MR. BARTON:

18 present.

LEG. TONNA:

Let's get this over with. Let's vote.

P.O. CARACAPPA:

Okay, we're back with a motion and a second on 235•2005. You were on the list, Legislator Vilorina•Fisher.

LEG. TONNA:

No more list, come on, let's just vote.

P.O. CARACAPPA:

A lot needs to be said.

LEG. VILORIA • FISHER:

Thank you, Mr. Chair.

P.O. CARACAPPA:

You're welcome.

LEG. VILORIA • FISHER:

I just wanted to state on the record that there are many of us around this horseshoe who are not pleased with the necessity to call a special meeting to deal with the vetoes.

P.O. CARACAPPA:

Uh•huh.

LEG. VILORIA • FISHER:

I believe we have made those feelings very clear to the County Executive. We also came here to treat each of the resolutions on their merits. I spoke with Legislator O'Leary this morning, as I spoke with you, Mr. Presiding Officer, regarding Item No. 5. When we voted on that resolution, there had been concerns presented to us by the County Executive's Office regarding the wording of RESOLVED No. 13, the 13th RESOLVED I believe, and the use of the word "shall utilize". When we voted on that resolution we were assured by the Legislator who sponsored that bill as well as Counsel that those words would not compel the County to use the

recommendation as part of an RFP process. However, as you deliberate and consider the merits of a bill, you do have to listen to new information and new information was presented to us. Also, it was agreed upon by Legislator Montano that we would run the risk of a lawsuit if we supported that, that there had been cases where an individual could file a 72•h I believe was said by somebody in the County Executive's office.

P.O. CARACAPPA:

Legislator Viloría•Fisher? I'm sorry ••

LEG. FOLEY:

This is not ••

LEG. VILORIA • FISHER:

Okay.

P.O. CARACAPPA:

We're not on that bill yet.

LEG. VILORIA • FISHER:

Okay, but I'm just speaking in general terms about today which has been alluded to quite a few times. So we are looking at each individual resolution on its merits and what I'm saying is that the terms quid pro quo or people jumping together to be the County Executive's caucus I think are unfortunate and I wish that we would remain on the merits.

As far as having to change a vote because of new information, yes, it actually does happen, there can be new information that is presented. So we need to, again, maintain that level of respect for the integrity of people who are around the horseshoe and why they're casting votes.

P.O. CARACAPPA:

Thank you. Bill, I had you on the list but you were asking for ••

LEG. LINDSAY:

No.

P.O. CARACAPPA:

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

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

LEG. O'LEARY:

Yes to override.

LEG. CARACCIOLO:

Yes.

LEG. COOPER:

Yes to override.

LEG. TONNA:

Yes to override.

LEG. BINDER:

Yes.

LEG. MYSTAL:

Yes.

LEG. BISHOP:

Pass.

LEG. NOWICK:

Yes.

LEG. KENNEDY:

Yes.

LEG. ALDEN:

Yes.

LEG. MONTANO:

Yes.

LEG. LINDSAY:

Yes.

LEG. FOLEY:

No.

LEG. LOSQUADRO:

Yes to override.

LEG. VILORIA • FISHER:

Yes.

LEG. SCHNEIDERMAN:

Yes to override.

LEG. CARPENTER:

Yes.

P.O. CARACAPPA:

Yes.

LEG. BISHOP:

No.

LEG. TONNA:

There you go, loyal opposition.

MR. BARTON:

16•2 (Opposed: Legislators Foley & Bishop).

P.O. CARACAPPA:

That's overridden.

Moving on, ***Item No. 5 (To consider and vote on override of Resolution No. 341 •2005, Establishing a Yaphank County Center Development Review Committee)***. There's a motion •• is there a motion?

Fails for lack of a motion.

Moving on to ***Item No. 6 (To consider and vote on override of Resolution No. 351 •2005, Amending the 2005 Operating Budget and transferring funds to the Amityville Chamber of Commerce for improvements to the Amityville Police/Firefighter Memorial)***. Motion by Legislator Mystal, second by Legislator Vilorina•Fisher. Any discussion?
Roll call.

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

LEG. MYSTAL:

Yes.

LEG. VILORIA • FISHER:

Yes.

LEG. COOPER:

Yes.

LEG. TONNA:

Yes.

LEG. BINDER:

Pass.

LEG. BISHOP:

I'll pass.

LEG. NOWICK:

Pass.

LEG. KENNEDY:

Pass.

LEG. ALDEN:

Punt.

LEG. MONTANO:

Yes.

LEG. LINDSAY:

Yes.

LEG. FOLEY:

Yes.

LEG. LOSQUADRO:

Yes.

LEG. O'LEARY:

Yes.

LEG. SCHNEIDERMAN:

Yes to override.

LEG. CARACCIOLO:

No.

LEG. CARPENTER:

Yes.

P.O. CARACAPPA:

Pass.

LEG. BINDER:

Yes.

LEG. BISHOP:

No.

LEG. NOWICK:

Yes.

LEG. KENNEDY:

Yes.

LEG. ALDEN:

Yes.

P.O. CARACAPPA:

Yes.

MR. BARTON:

16•2 (Opposed: Legislators Caracciolo & Bishop).

P.O. CARACAPPA:

It's overridden.

Last one, this is a motion by Legislator Losquadro, second by myself to waive the rules, lay on the table bill •• **Resolution No. 1436 which will go to Public Safety (To consider and vote on Introductory Resolution No. 1436•2005, accepting donation of two (2) All •Terrain Vehicles (ATV's) from KeySpan Electric Services, LLC, for the Suffolk County Police Department's 7th Precinct).** There's a motion and a second. All in favor? Opposed? Abstentions?

MR. BARTON:

18.

P.O. CARACAPPA:

No other business to come before the Legislature. Anyone else have any other comments, statements? Thank you all very much for coming today. We're adjourned.

(*The meeting was adjourned at 10:51 A.M.*)