# SUFFOLK COUNTY LEGISLATURE

## SPECIAL MEETING

## SIXTH DAY

## MARCH 28, 2007

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

MINUTES TAKEN BY LUCIA BRAATEN, COURT STENOGRAPHER
MINUTES TRANSCRIBED BY KIMBERLY CASTIGLIONE, LEGISLATIVE SECRETARY

***[THE MEETING WAS CALLED TO ORDER AT 9:35 A.M.]***

**P.O. LINDSAY:**
Could I have all Legislators to the horseshoe, please? Mr. Clerk, would you call the roll, please?

(Roll Called by Mr. Laube, Clerk)

**LEG. ROMAINE:**
(Not Present)

**LEG. SCHNEIDERMAN:**
Here.

**LEG. BROWNING:**
Here.

**LEG. CARACAPPA:**
(Not Present)

**LEG. LOSQUADRO:**
Present.

**LEG. EDDINGTON:**
Here.

**LEG. MONTANO:**
Here.

**LEG. ALDEN:**
Here.

**LEG. BARRAGA:**
Here.

**LEG. KENNEDY:**
Here.

**LEG. NOWICK:**
Here.

**LEG. HORSLEY:**
(Not Present)

**LEG. MYSTAL:**
(Not Present)

**LEG. STERN:**
Here.

**LEG. D'AMARO:**
Here.

**LEG. COOPER:**
Here.

**D.P.O. VILORIA-FISHER:**
(Not Present)

**P.O. LINDSAY:**
Here.

**MR. LAUBE:**
Thirteen. (Not Present for Roll Call - Romaine, Caracappa, Horsley, Mystal and Viloria-Fisher)

**P.O. LINDSAY:**
Could we all rise for a salute to the flag by Legislator Browning.

***(Salutation)***

**P.O. LINDSAY:**
While we -- if we could all remain standing for a moment of silence for the father of John Kennedy and the mother of Ed Romaine, Legislator Ed Romaine.

***(Moment of Silence)***

**P.O. LINDSAY:**
Thank you. Mr. Clerk, would you read the meeting notice, please?

**MR. LAUBE:**
Please be advised that a Special Meeting of the Suffolk County Legislature will be held on Wednesday, March 28th, 2007, at 9:30 a.m. in the Rose Y. Caracappa Legislative Auditorium, located at the William H. Rogers Legislature Building, 725 Veterans Memorial Highway, Hauppauge, New York, pursuant to Section 2-6(B) of the Suffolk County Administrative Code for the following purpose: A one-hour public portion to consider -- and also to consider a vote on an override of Resolution No. 120-2007, and also to consider a vote on the override of Bond Resolution No. 121-2007.

**P.O. LINDSAY:**
Thank you, Mr. Clerk. Do we have any cards for the public portion?

**MR. LAUBE:**
I don't believe we do.

**P.O. LINDSAY:**
Would anyone in the audience like to address us about the subject of this meeting? Please come forward, Ms. Katz.

**MS. KATZ:**
Good morning. I'd like to thank the Presiding Officer and all the Legislators for coming out to this Special Meeting this morning, particularly Legislator Kennedy; our sympathies.

**LEG. KENNEDY:**
Thank you.

**MS. KATZ:**
Thanks for coming. I just have a couple of very brief remarks. Obviously, if anybody has any questions, but we've been to Public Works. We were at the main meeting, so many of you have heard our presentation before.

The Department of Justice has made it very clear that in 2008 we will have the new machines for the Federal Presidential Election. We have had several meetings with the Department of Public Works. They have explained to us that to get the air-conditioning done in the second warehouse at the Board of Elections where there is none, we need 18 to 24 months. If we don't get it in the budget in this go-round, we will not be able to get it completed for the 2008 election.

Just a quick reminder. We have three warehouses where we store the machines now, one behind each other. Warehouse one and three has air-conditioning. Warehouse 2, no one can explain why, has no ducts, no chiller, no air-conditioning. We would have to store the machines in all three warehouses. Once we have electronic machines of either kind, they need to be stored in a place with proper air-conditioning. So we're here today to ask you to override the veto. Again, we can answer any questions that you have, and thank you very much for calling the meeting.

**P.O. LINDSAY:**
Legislator Losquadro, do you have a question?

**LEG. LOSQUADRO:**
Yes. I would just like you to respond to the section of the New York State Session Laws quoted in the Executive's veto message. Chapter 181, Section 10, I believe it is.

**MS. KATZ:**
Sure, I've got it in front of me in the veto message. Not a problem. This law was written in 2005. If you will notice, in the veto message in the section underlined in the third line at the back end, after the effective date of this act and prior to September 1st, 2007. That is the clause that everyone is debating. To the State Board of Elections, for whom we work, as well as for the County, obviously, that law was written to carry us through 2007 when the consent decree was to have kicked in and we were to have new machines for this year, which we will not, obviously. The law was written so that we could use lever machines from 2005, when this law was actually passed, through November of 2007. That's why the phrase -- or through the primary, prior to September 1st, 2007. The State Board interprets that as meaning that once we pass September 1st, 2007, we cannot use the lever machines. That's how the law was written.

To get around that question, since obviously it is now 2007, a judge will have to modify the consent decree and say we can wait until 2008, if obviously the Attorney Generals Department and the Department of Justice agrees. So that's really the status of it now. But the law was written very clearly to say that you cannot use lever machines after 2007 and that's how the State interprets it.

**LEG. LOSQUADRO:**
Follow-up. If a judge does not modify that consent decree as of September 2nd of this year, will we be out of compliance or would we be out of compliance if it was not modified?

**MS. KATZ:**
We're already out of compliance with HAVA. We are the only state in the country that does not have HAVA compliant machines. That's one level where we're already out. Then there's the question of being out of compliance with the State law. It's our understanding from the State Board that the State Legislature will then modify this language to carry us into 2008, which they can do. Everyone understands that we will be using the old machines this year. The State has not put out a list of certified manufacturers yet. It's supposed to be in June, but we don't know exactly when it will be. The practical reality is no manufacturer could make machines in time for this election if the list doesn't come out until June or July.

**P.O. LINDSAY:**
Legislator Cooper.

**LEG. COOPER:**

Good morning, Commissioner. I respectfully disagree with your interpretation of the State law. I agree with the County Executive that it would permit us to use lever machines. But be that as it may, can I assume that if we do win the lawsuit that you would agree it's not necessary to proceed with the expenditure for a million dollars to upgrade the warehouse and therefore this is -- it's all sort of moot?

**MS. KATZ:**
It's moot if we win the lawsuit, yes. But, of course, we've all been involved in government and we win ones we should lose and we lose ones we should win, which is why we're asking to have it included. And as we stated at the Legislative meeting, if the County Executive does win his lawsuit, obviously there would be no need because we would still be using the lever machines and we do have air-conditioning in the other two warehouses.

Just a quick point of the order, Legislator Cooper. I was giving the State Board of Elections interpretation rather than our own. Thank you.

**LEG. COOPER:**
So noted. Thank you.

**P.O. LINDSAY:**
Legislator Kennedy.

**LEG. KENNEDY:**
Thank you, Mr. Chair, and thank you to everybody around this horseshoe and everybody in the audience who has been supportive for what's gone on for this past year with my father.

It comes to mind, Madam Commissioner, that as we sit here and we debate what may or may not be going on regarding a lawsuit that the County's brought, I have looked and I see nobody here from the County Attorney's Office who can advise us, I guess, on the County's position. Are you a party or do you know, has there been any attempt in order to go ahead and include you in the particulars associated with this suit?

**MS. KATZ:**
No. I have discussed it with the County Executive. I think we've agreed to disagree, and we are not -- the County Board is not a party. The County of Suffolk sued the State Board of Elections. Obviously all the local County boards of elections work under the State, so the County sued the State.

**LEG. KENNEDY:**
So ironically at this point your party's in opposition, as a matter of fact, actually as your agents of the State and the County Executive has elected --

**MS. KATZ:**
My position is -- we're not a party to the lawsuit, thus we're not parties in opposition. But obviously we are part of the State Board, yes.

**LEG. KENNEDY:**
I understand, I understand. I struggled to try and understand when I read the veto message that somehow approving this would compromise the County's position in suit. And I am usually loathe to go ahead and have these discussions in this public forum because litigation should be something that's able to be brought, but it escapes me what the rationale is as usual.

I guess I'm going to ask Legislative Counsel. You must have seen the veto message, George. Is there anything that you're aware of that might cause an issue here as far as going forward with what seems to be a fairly pragmatic vote to allow for construction?

**MR. NOLAN:**
Well, based on the Commissioner's representation at past meetings and this meeting that if the County succeeds in the lawsuit they won't go ahead with the project, I don't see that this particular resolution would compromise the lawsuit, no.

**LEG. KENNEDY:**
Thank you.

**P.O. LINDSAY:**
Do we know, either from one of the Commissioners or Counsel, do we know the status of the lawsuit, where we are with it at this point?

**MS. KATZ:**
I know at the last meeting it was represented by Mr. Zwirn that it would be approximately a couple of months until they got a decision. And I believe Legislator Montano pointed out as well that of course that does not mean that the State Board would not appeal it. These things tend to go on and on. The only other issue, we did call the County Attorney's Office yesterday and just check in and see if there was anything new on the lawsuit. I know that Nassau County has requested to file an amicus brief. They haven't been given the opportunity by the judge to participate and there is no other county in the lawsuit to my knowledge, according to the County Attorney's Office.

**P.O. LINDSAY:**
And just to recap, the project that we're talking about was actually in the 2006 Capital Program.

**MS. KATZ:**
Yes. It was tabled into oblivion basically.

**P.O. LINDSAY:**
It was tabled and then we, in order to move forward to accept the machines, we have to progress down this road and this resolution was put in and offsets were found in '07 to fund this.

**MS. KATZ:**
Yes, so that it would be ready for Presidential Election in '08.

**P.O. LINDSAY:**
And it's fully the intention of the Board, if this moves forward and progresses and something happens with the lawsuit, that the project would be cancelled?

**MS. KATZ:**
Absolutely. We cannot go out and bond for the money on our own. It's not as though there's a check being written obviously. So we can't access this money without it going through proper channels and we would not put through the project in any way if it's not required.

**P.O. LINDSAY:**
Okay. Legislator Alden.

**LEG. ALDEN:**
Just, and maybe George would know this or maybe you'd know that over at the Board of Elections. Who's going to run the project, our DPW?

**MS. KATZ:**
That's my understanding. I believe -- obviously, they'll put it out to bid and an HVAC company would respond.

**LEG. ALDEN:**
So even if it was a surprise to the County Executive as far as the results of his lawsuit, he's got

control of the project anyway.

**MS. KATZ:**
Very true.

**LEG. ALDEN:**
And would have the ability to stop it immediately. Thanks.

**P.O. LINDSAY:**
Okay. Everybody satisfied? Miss Geier, did you want to make a --

**MS. GEIER:**
I would go along with what Commissioner Katz has said, and I don't want to drag it out any longer. So we'll let it go at that.

**P.O. LINDSAY:**
Okay. Yes, Legislator Barraga.

**LEG. SCHNEIDERMAN:**
Bill.

**LEG. BARRAGA:**
If the State Legislature does modify the law, extend the use of the lever machines to 2008, if that's the case, what is the problem waiting for final disposition of the lawsuit?

**MS. KATZ:**
Because according to the Department of Public Works it will take at least 18 months to finish this project. If we do not get the money in for this cycle and start the process by getting a consultant by putting out a bid, we would not be ready to receive machines for 2008. That's our position.

**LEG. BARRAGA:**
And what if the lawsuit is dragged out? At some point do you proceed -- do you have to go and start expending dollars even though the lawsuit -- there's no final disposition. It could be in the courts, it could be appealed. At what point is there no turning back?

**MS. KATZ:**
It's our understanding that it is being put through as an expedited election law case, but of course expedited is a word in quotations in the judicial system. That could mean two or three months. We take our mandate from the State Board. If those machines -- if the judge says those machines are coming in 2008, those machines are coming in 2008 and we will have to store them in those three warehouses. So that is why we are here today. Do not put the County in the position, please, of having to put these machines in a hot warehouse for lack of air-conditioning. It's just -- it's not a logical step to take when something as serious as voter confidence of the citizens of this County is really in the balance. And that's why we're here today.

**MR. BARRAGA:**
Thank you.

**P.O. LINDSAY:**
Commissioner Katz, what's the value of the machines that we'll be purchasing?

**MS. KATZ:**
Our HAVA money is $12 million to purchase machines.

**P.O. LINDSAY:**
Will that be enough to -- well, we don't know until the regs come out.

**MS. KATZ:**
Exactly, depending upon which machines it is hopefully.

**P.O. LINDSAY:**
And how many machines, right.

**MS. KATZ:**
Exactly, and the regulations on how many voters will be allowed per machine is something the State has not announced yet. So we are certainly hoping that it will be enough. But if these machines are in a hot warehouse and have to be replaced, they're $8,000 apiece. That -- once the HAVA money is gone that comes out of our County budget.

**P.O. LINDSAY:**
So it's a minimum of $12 million.

**MS. KATZ:**
Yes. That's the money that we will get reimbursed from the Federal money.

**P.O. LINDSAY:**
And the other thing that I would be remiss to point out is if we don't override this veto, the next time that we could put this project into the Capital Program would be 2008.

**MS. KATZ:**
Correct. And as of this point, we have had a meeting with the Attorney General's Office and the Department of Justice and I can only repeat to you what they've said to us. This was -- HAVA is a Federal law, they expect it to be in place in New York for the Presidential Election, which is 2008.

**P.O. LINDSAY:**
Anybody else have any questions? Legislator Schneiderman. I'm sorry.

**LEG. SCHNEIDERMAN:**
No. I mean, I hear what you're saying, that these are expensive machines and if we store them improperly this could actually cost us a lot more down the road than if we set up the proper storage. But on the lawsuit itself that -- maybe this is a question for Counsel. It wasn't our lawsuit as a Legislature, it was County Executive who brought this lawsuit, right? Did we do anything in support of that lawsuit or has this been from the Executive Branch the entire time.

**MR. NOLAN:**
That originated with the County Executive, directing the County Attorney, I believe, to bring the case.

**LEG. SCHNEIDERMAN:**
Did we have to appropriate funding for the lawsuit?

**MR. NOLAN:**
No, we haven't done anything in connection with that.

**LEG. SCHNEIDERMAN:**
So it's basically the County Executive's lawsuit.

**MR. NOLAN:**
I think it was at his direction, which he's entitled to do under the Charter.

**LEG. SCHNEIDERMAN:**
I understand it, but we as a body haven't taken a position to -- whether to comply or not comply

with the HAVA laws, so it's really -- it's basically the County Executive has been challenging those laws and those mandates.

**MR. NOLAN:**
It's his case.

**LEG. SCHNEIDERMAN:**
Okay.

**LEG. NOWICK:**
Bill.

**P.O. LINDSAY:**
Legislator Nowick.

**LEG. NOWICK:**
I'm just trying to make this clear in my mind, this lawsuit, this lawsuit brought about by the County Executive's Office that states that we as a County should not have to have these machines.

**MS. KATZ:**
Correct. I certainly --

**LEG. NOWICK:**
But this is a Federal mandate?

**MS. KATZ:**
There's two issues. There's the HAVA requirement which -- I mean, I certainly -- I'm loathe to speak for the County Executive, but I do understand his lawsuit. The HAVA requirement says that a handicapped person should be able to vote independently on a machine. That's why you would need an electronic machine, so that they can be aided in some way. It could either speak to them or -- that's the HAVA requirement.

This is also -- he's suing New York State Board of Elections, which is the requirement that said not only HAVA compliance, but that you have to get rid of the lever machines. That is his issue that he is debating, whether or not you would also have to get rid of the lever machines, which are not HAVA compliant.

**LEG. NOWICK:**
Okay. Now, other counties in New York State, have they complied yet?

**MS. KATZ:**
No one in New York State is in compliance. The State itself has not put out its list on manufacturers on who to choose. We'll all choose the same time and for the same election statewide.

**LEG. NOWICK:**
Okay. So then -- I'm just trying to understand. There is a requirement, it should be in place by the Presidential Election. If you don't get the air-conditioning but you get the machines, the machines for how many, $12 million, are at risk?

**MS. KATZ:**
Correct.

**LEG. NOWICK:**
So one way or the other the time will come where the machines will come.

**MS. KATZ:**

Correct.

**LEG. NOWICK:**
So this is what we're doing here.

**MS. KATZ:**
Right.

**LEG. NOWICK:**
We're playing Russian Roulette. Okay. Thank you.

**P.O. LINDSAY:**
Anyone else have any questions for the two Commissioners? No? Not seeing any, okay, thank you ladies for coming down. I appreciate that.

**MS. KATZ:**
Thank you.

**MS. GEIER:**
Thank you.

**P.O. LINDSAY:**
Is there anyone in the audience that would like to address us on this issue?

**LEG. SCHNEIDERMAN:**
I'd like to hear from the County Attorney or County Executive's Office.

**P.O. LINDSAY:**
Okay. Does the County Attorney's Office want to weigh in on this issue?

**MS. LOLIS:**
Only if there are any questions.

**P.O. LINDSAY:**
Only if there are questions. Okay. Do you have questions?

**LEG. ALDEN:**
Sure.

**LEG. BARRAGA:**
A general question.

**P.O. LINDSAY:**
Legislator Alden and then Barraga.

**LEG. ALDEN:**
Hi. Thanks for coming down. Where are we with the lawsuit?

**MS. LOLIS:**
As far as the State action, all the papers have been filed I believe in January, January 19th, something that like that and we're waiting for a decision. As far as the Federal lawsuit where we're seeking to intervene, those papers are being filed on -- they have to be filed by Friday. They're in final draft. We're just reviewing them now. That's the date that Nassau is also filing.

**LEG. ALDEN:**
Could you just give us a brief summary of what we're intervening in, in the Federal action and also

what we're doing on the State?

**MS. LOLIS:**
The United States brought an action against the New York State, very simply put, that they're not moving quick enough in compliance with their HAVA requirements. The State has not certified what machines will be appropriate, so that was why the State -- that was why the Federal Government brought the lawsuit against New York State.

**LEG. ALDEN:**
Can I stop you there?

**MS. LOLIS:**
Sure.

**LEG. ALDEN:**
On the Federal, has any other state been successful in challenging the Federal requirement?

**MS. LOLIS:**
I do not know that. I'm not aware of any -- let me put it this way. I'm not aware of any State decision that has -- that has been ruled on one way or the other defeating what -- succeeding in what we're trying to do. I'm not aware of any other state that has received a ruling for or against.

**LEG. ALDEN:**
How about anybody -- any other state that's actually challenged it? That's going to be key to your case really.

**MS. LOLIS:**
Offhand I do not know. There are other counties, Nassau County has intervened, there are other counties in the state that were interested in intervening. Whether or not they have intervened we'll find out by Friday.

**LEG. ALDEN:**
And our argument is that the Federal Government doesn't have jurisdiction or there's a less restrictive way to accomplish a legitimate government concern? What's our argument on that?

**MS. LOLIS:**
There are various arguments. On the -- in the Federal litigation, one of the arguments is that it would be impossible, number one, for the counties to comply because the State has not even certified a machine. That's one. Two is even though there are Federal requirements, those federal requirements do not mandate the discontinuance of lever machines. If we can use lever machines in a way to comply with the HAVA requirements, then lever machines should be continued. Those are the -- briefly, those are the arguments there. It's time arguments as well as substance arguments in terms of the types of machine.

**LEG. ALDEN:**
The first argument still gets us in trouble because all we do is point the finger at the State and then Feds find the State out of compliance, which means we're out of compliance. Okay. Now, our State action is?

**MS. LOLIS:**
Our State action is -- there's several arguments in the State action. Number one, under the State -- the State law goes one step further than the Federal law saying that we must discontinue the use of level machines. The way we read the law, the counties have an option to opt out and continue to use lever machines. The State is arguing that we are not reading the law the way it should be read, and that's one of the issues that's before the court.

The second issue is that the State has gone too far in requiring the discontinuance of lever machines where had they followed the HAVA requirements, the County should still be -- the County should be able to continue to use lever machines into the future as long as they meet the minimum requirements of HAVA.

**LEG. ALDEN:**
And we're inconvenienced how, because there's federal money that's going to take care of like all the problems that we're saying we're facing as a County and a State. So where would we say our damages, so to speak, are on that? Our problem with complying.

**MS. LOLIS:**
There are various arguments there, too. I mean, you're talking right now about having to fund for warehouses. I mean, that's an expense. There's also the -- there's also the argument that these new machines, these electronic machines, are not reliable. There are numerous articles, there's commentary on that throughout the country of how these machines are not reliable. And until they can be verified as being reliable, we should not be required to have to pick one of them.

**LEG. ALDEN:**
Did any other -- and I'll go back to the first question I asked. Did any other state or county in the United States challenge on the reliability?

**MS. LOLIS:**
I can't -- I cannot say yes or no. Offhand, I just do not know. I mean, I could find that answer by a phone call, but offhand I don't know.

**LEG. ALDEN:**
Thanks.

**P.O. LINDSAY:**
Legislator Barraga.

**LEG. BARRAGA:**
No. Cameron asked the question.

**P.O. LINDSAY:**
Legislator Montano.

**LEG. MONTANO:**
Just very quickly. The lawsuits, the one in the federal and one in the State court. Are they being handled in-house or outside counsel?

**MS. LOLIS:**
Yes.

**LEG. MONTANO:**
Both of them.

**MS. LOLIS:**
Yes.

**LEG. MONTANO:**
In-house. Thanks.

**P.O. LINDSAY:**
Anybody else? I have one question as well. The Federal Government, the Justice Department, sued New York State for being slow to comply with this Federal statute that was passed in 2002?

**MS. LOLIS:**
Yes. There had been a consent judgment that had been entered in that -- in that action requiring certain actions.

**P.O. LINDSAY:**
So a consent agreement was worked out between New York State and the Federal Government to resolve this suit.

**MS. LOLIS:**
Yes, but the State is not even in compliance with the consent judgment, and now there has been -- there have been discussions from what we understand, and listening to the Commissioners, that the State's deadlines are being extended, although there's nothing in writing at this point. That was one of our concerns and that's one of the things we're addressing.

**P.O. LINDSAY:**
Okay. Does anyone else have any questions? I see the Board -- would you please come forward just to clarify this issue for us, Commissioner Katz.

**MS. KATZ:**
Although the State will have to extend, the Department of Justice has made it clear that they are only extending to '08. Obviously anything could change, but we are taking them at face value. At the meeting with the Attorney General and the Department of Justice they said we have got to be ready for the Presidential Election of '08. That is not very far away.

I understand that it seems that this is an ongoing process that never ends. We've been here many, many times and I understand that issue. It really would be pennywise and pound foolish to not put this in at this moment and jeopardize, as Legislator Lindsay said, $12 million from the Federal Government for machines, and that's why we're here today.

**P.O. LINDSAY:**
Legislator Montano.

**LEG. MONTANO:**
Good morning, Anita. I just want to be clear. What you said before with respect to the September first deadline, the primary is after September first, if there is a primary. Did you say earlier that we would need a modification of the consent decree in order to use the lever machines for the primary? I'm not sure I understood that properly.

**MS. KATZ:**
Yes, because the consent decree says the 2007 election. It's our understanding that the judge would modify it and change it to the 2008 election so that we can have the extension and use the machines.

**LEG. MONTANO:**
The judge would modify it or there would be an agreement.

**MS. KATZ:**
Well, it's a consent decree with the judge. It would be an agreement with the parties.

**LEG. MONTANO:**
For arguments sake, if there is no agreement then what is the -- what happens if either the judge decides not to sign-off on the agreement or the parties can't reach an agreement? What happens with the September first date?

**MS. KATZ:**

I'm not sure anyone really has the answer to that question. I know the State Board of Election's position has been, inefficient though it may be, that it is more important for the voters to have confidence in the final outcome than to have issues where states have had to change machines and throw out an entire set of machines and change it. So although we will -- you know, we would be in violation obviously, I think it is their position that it is more important to have an election where people know that who was elected is actually the person who got the most votes. No one is really considering that issue. It's the ultimate doomsday scenario really. No one has an answer to that question.

**LEG. MONTANO:**
What I'm hearing is that if there is no agreement, then you're essentially saying that we would hold an election and essentially be in contempt of the court order in violation of the act.

**MS. KATZ:**
In theory but --

**LEG. MONTANO:**
In theory but it's not going to happen.

**MS. KATZ:**
-- it was made clear by justice that that is not going to happen. I mean, that's not anyone's goal obviously.

**LEG. MONTANO:**
So the extension would then be for one more cycle.

**MS. KATZ:**
This is what they are talking about at this point. And although we can all complain about the length of time New York State has taken, many of you sitting around this horseshoe have spoken to us directly about the fact that you are not happy about the way it was going in other states. New York State took that into account. We have the most stringent rules and regulations. Many of you remember Legislator Bishop was the one who put in a resolution. We were the first ones to come out for a paper trail in the state.

This has been something that Suffolk has really been at the lead of trying to make sure that whatever machines we pick, they will have all the requirements so that there is a sense of voter confidence in the State and that is one of the reasons it has taken so long. We have such stringent requirements it is taking the manufacturers a longer time than they expected to meet what New York State says it needs.

**LEG. MONTANO:**
And then last thing, you said earlier we're the only state in noncompliance?

**MS. KATZ:**
In the country.

**LEG. MONTANO:**
It the country. That means that every other state has already moved forward on this and they're using the other type machines.

**MS. KATZ:**
Correct.

**LEG. MONTANO:**
Okay.

**P.O. LINDSAY:**
I'm going to recognize Legislator Kennedy in minute, but just something that you touched on that I just want to clarify. In order to extend the consent agreement, we need agreement from the State Attorney General, the Feds.

**MS. KATZ:**
And the New York State Board.

**P.O. LINDSAY:**
And then the judge has to sign-off on it. And by your dialogue, it seems that there is the framework for this type. You said that there has been agreement from the Federal Government and the State Attorney General to extend it beyond the September one?

**MS. KATZ:**
They're in negotiations at this point, yes.

**P.O. LINDSAY:**
Okay.

**MS. KATZ:**
I mean, we were giving the impression, obviously unofficially, that it could be accomplished.

**P.O. LINDSAY:**
Okay. Legislator Kennedy.

**LEG. KENNEDY:**
Thank you, Mr. Chair. Just two other areas, I guess, that I'd like to ask so that I can have a better understanding of this. First I'll go to the Madam Commissioners again. Again, what brings us to this point to talk about this is Federal legislation that was enacted in 2002, HAVA?

**MS. KATZ:**
Yes.

**LEG. KENNEDY:**
Okay. Since that time, has Congress done anything to modify this act, to the best of your knowledge?

**MS. KATZ:**
No.

**LEG. KENNEDY:**
Okay. So there's been five years that the Federal Government could have, Federal Legislative body could have opined, taken action, if they chose to, but they've not.

**MS. KATZ:**
Correct. And in response to Legislator Alden's previous comment, I can't think of any state that has challenged the HAVA law in any successful way.

**LEG. KENNEDY:**
Fine. Thank you. Now my question is to BRO. Gail, we have a resolution before us for a million dollars, I guess, to modify the '07 Capital Budget.

**MS. VIZZINI:**
Correct.

**LEG. KENNEDY:**
What is the size of the '07 Capital Budget at this point?

**MS. VIZZINI:**
The 2007 adopted Capital Program is -- the 2007 adopted budget is for the Capital Program $242 million.

**LEG. KENNEDY:**
Two-hundred and forty-two million dollars? And we're debating now about taking some prudent acts to enable us to be in compliance regarding a million dollars?

**MS. KATZ:**
Nine-hundred and twenty-four thousand actually.

**LEG. KENNEDY:**
Oh, nine-hundred and twenty-four thousand. Thank you. Okay.

**P.O. LINDSAY:**
I mean, could a consequence of not complying with the consent agreement that we lose the $12 million in matching Federal fund and still have to go forward and modify our voting machines anyway?

**MS. KATZ:**
It's theoretically possible. I think certainly having the two Senators from the State of New York in the new majority may help. It's an issue. New York is an important state in the country, obviously. I don't know if the Justice Department wants to go that far, but there's always the threat of losing the money.

**P.O. LINDSAY:**
Okay. Anybody else want to say anything? Okay. Thank you, ladies. Okay. We have another 18 minutes for the public portion. Is there anybody else in the audience that would like to address us? Seeing none, I'm going to make a motion to waive the rules and to forego the rest of the public portion.

**LEG. COOPER:**
Second.

**P.O. LINDSAY:**
Seconded by Legislator Cooper. All in favor? Opposed? Abstentions?

**MR. LAUBE:**
Thirteen.

**P.O. LINDSAY:**
And I'm going to make a motion to override the veto of 1139.

**LEG. COOPER:**
Second.

**P.O. LINDSAY:**
Of 2007. Seconded by Legislator Cooper.

***120-2007 (IR 1139-2007), Amending the 2007 Capital Budget and Program and Appropriating Funds in Connection with Modifications to Warehouse at the Board of Elections (CP 1461).***

**P.O. LINDSAY:**
Can we do all in favor?

**MR. NOLAN:**
Roll call.

**P.O. LINDSAY:**
Roll call.

(Roll called by Mr. Laube - Clerk)

**P.O. LINDSAY:**
Yes.

**LEG. COOPER:**
Yes.

**LEG. ROMAINE:**
(Not Present)

**LEG. SCHNEIDERMAN:**
Yes.

**LEG. BROWNING:**
Yes.

**LEG. CARACAPPA:**
(Not Present)

**LEG. LOSQUADRO:**
Yes to override.

**LEG. EDDINGTON:**
Yes.

**LEG. MONTANO:**
Yes.

**LEG. ALDEN:**
Yes.

**LEG. BARRAGA:**
No.

**LEG. KENNEDY:**
Yes to override.

**LEG. NOWICK:**
Yes to override.

**LEG. HORSLEY:**
(Not Present)

**LEG. MYSTAL:**
(Not Present)

**LEG. STERN:**
Yes.

**LEG. D'AMARO:**
Yes.

**D.P.O. VILORIA-FISHER:**
(Not Present)

**MR. LAUBE:**
Twelve. (Opposed: Legislator Barraga; Not Present: Legislators Romaine, Caracappa, Horsley, Mystal and Viloria-Fisher).

**P.O. LINDSAY:**
I'd also like to make a motion to override the bonding resolution that was vetoed, 1139A.

**LEG. COOPER:**
Second.

**P.O. LINDSAY:**
Seconded by Legislator Cooper.

***121-2007 (IR 1139A-2007), Bond Resolution of the County of Suffolk, New York, Authorizing the Issuances of $924,000 Bonds to Finance the Cost of Modifications to the Warehouse at the Board of Elections (CP 1461.110 and .310).***

**P.O. LINDSAY:**
Roll call.

(Roll called by Mr. Laube - Clerk)

**P.O. LINDSAY:**
Yes.

**LEG. COOPER:**
Yes.

**LEG. ROMAINE:**
(Not Present)

**LEG. SCHNEIDERMAN:**
Yes.

**LEG. BROWNING:**
Yes.

**LEG. CARACAPPA:**
(Not Present)

**LEG. LOSQUADRO:**
Yes.

**LEG. EDDINGTON:**
Yes.

**LEG. MONTANO:**
Yes.

**LEG. ALDEN:**
Yes.

**LEG. BARRAGA:**
No.

**LEG. KENNEDY:**
Yes.

**LEG. NOWICK:**
Yes.

**LEG. HORSLEY:**
(Not Present)

**LEG. MYSTAL:**
Yes.

**LEG. MYSTAL:**
(Not Present)

**LEG. STERN:**
Yes.

**LEG. D'AMARO:**
Yes.

**D.P.O. VILORIA-FISHER:**
(Not Present)

**MR. LAUBE:**
Twelve. (Opposed: Legislator Barraga; Not Present: Legislators Romaine, Caracappa, Horsley, Mystal and Viloria-Fisher).

**LEG. SCHNEIDERMAN:**
Twelve is all that's needed on a bond?

**P.O. LINDSAY:**
Yes, yes. Okay. By the advertisement of today's meeting, that is the only thing before us on the agenda. I thank you for coming out. I know this is a busy time of the year for the Legislators. If anybody did not get it, I have the arrangements on the two wakes and funeral services for the parents of our colleagues. If anybody wants them, please come and see me. We stand adjourned.

***(The meeting was adjourned at 10:14 A.M.)***