

**SUFFOLK COUNTY LEGISLATURE**

**GENERAL MEETING**

**FOURTH DAY**

**MARCH 8, 2011**

**VERBATIM TRANSCRIPT**

**MEETING HELD AT THE EVANS K. GRIFFING BUILDING  
IN THE  
MAXINE S. POSTAL LEGISLATIVE AUDITORIUM  
300 CENTER DRIVE  
RIVERHEAD, NEW YORK**

**Verbatim Transcript Taken By:  
Lucia Braaten & Alison Mahoney - Court Reporters**

*[THE MEETING WAS CALLED TO ORDER AT 9:40 A.M.]*

*(\*The Following Was Taken By Lucia Braaten-Court Reporter\*)*

**P.O. LINDSAY:**

Could I have all Legislators to the horseshoe, please? Okay. Mr. Clerk, would you, please, call the roll?

*(Roll Called By Mr. Laube, Clerk)*

**LEG. ROMAINE:**

Present.

**LEG. SCHNEIDERMAN:**

Present.

**LEG. BROWNING:**

Here.

**LEG. MURATORE:**

Present.

**LEG. EDDINGTON:**

Here.

**LEG. MONTANO:**

(Not Present).

**LEG. CILMI:**

Yes.

**LEG. BARRAGA:**

Here.

**LEG. KENNEDY:**

(Not Present).

**LEG. NOWICK:**

Here.

**LEG. HORSLEY:**

Here.

**LEG. GREGORY:**

Here.

**LEG. KENNEDY:**

Here.

**LEG. STERN:**

Here.

**LEG. D'AMARO:**

Here.

**LEG. COOPER:**

(Not Present).

**D.P.O. VILORIA-FISHER:**

Present.

**P.O. LINDSAY:**

Here. Okay. If everyone --

**MR. LAUBE:**

Fourteen. *(Not Present At Roll Call: Legs. Montano, Kennedy and Cooper)*

**P.O. LINDSAY:**

-- would rise for a salute to the flag, led by Legislator Romaine.

**LEG. ROMAINE:**

Thank you.

*(\*Salutation\*)*

**P.O. LINDSAY:**

And now I would ask if everyone would remain standing. I'd ask Legislator Romaine to introduce our visiting clergy.

**LEG. ROMAINE:**

Yes. Our visiting Clergy is the Reverend Joan Fink from the First Congregational Church in Riverhead. Ms. Fink is a resident Long Islander, graduated -- graduated from Central Islip High School, went to Pace University, and New York Theological Institute; has been a C.P.A. since 1979, a Pastor since 2000; formerly was at Bay Shore Congregational Church, and now ministers to her flock right on Main Street in Riverhead, Bring the Word of God To All, and that is her calling today. And I'm very happy that she agreed to come here today and start our meeting, as we should start all meetings, with a call to prayer.

**REVEREND FINK:**

I'm very honored to be here and I thank you for inviting me. Let us pray.

Creator God, you have given us the splendor of the universe and the gift of life itself. In Genesis you gave us dominion over our world, along with the awesome responsibility to care for it. Bless those who are in leadership and our governments. Bless those who support them and work behind them, and help all to strive for justice. As we are all liable for creation, we pray that all people would do their share of preserving and improving our Island home. In Suffolk County, we ask you to guide and lead our Legislature to actions and laws and conversations that would preserve the good, lift up your people and establish equity for all. Amen.

*(\*"Amen" Said in Unison\*)*

**P.O. LINDSAY:**

If everyone could remain standing for a moment of silence for Frank Murphy. At the age of 81, a former Supervisor of Southold Town, passed away at his home in Mattituck at the end of January. Frank will be remembered for his many contributions to the people of Southold and the citizens of Suffolk County.

For Seamus Byrne, brother of John Byrne, survived the badlands of Afghanistan with a concussion and a purple heart. Tragically, he was fatally struck by a car last week crossing Main Street in Smithtown after celebrating his 33rd birthday with his family.

And let us also remember, as we do every month, all our men and women in the military who put themselves in harm's way every day to protect our country.

*(\*Moment of Silence\*)*

Everybody be seated. Welcome to our first of two March meetings in our Riverhead auditorium. We have two proclamations today. First, I would like Legislator Romaine to go to the podium for the purposes of a proclamation.

**LEG. ROMAINE:**

Thank you very much. Last year, Touro Law School, a law school in which my son graduated, my son was Law Review there, established an award in his name to chose the most outstanding elected official in the area, both Nassau, Suffolk. This year, at the first ceremony of that award, they decided to give that award to Brookhaven Town Councilman Dan Panico, who attended law school with my son, and actually was my son's best friend, and also was President of the Student Bar Association at Touro. In honor of that, I thought I would present a proclamation on behalf of this Legislature to congratulate Councilman Panico for the award. It is a prestigious award. He was in competition with a number of Touro graduates, like Ken LaValle and Kathleen Rice, and a whole host of other people, but he was selected. And for that, I've issued this proclamation in which we've congratulated him upon this award, and wish him much success in his continued career in public service. Councilman Panico.

*(\*Applause\*)*

**MR. PANICO:**

Ed, thank you very much, and thank you to all members of this body. I can say definitively that I learned from the best in this building. When I came out of law school, I came to work for Ed at the County Clerk's Office, and you won't find a more dedicated elected official than Ed. Thank you.

*(\*Applause\*)*

**P.O. LINDSAY:**

We only have one other proclamation today and this one I'm going to present myself, and it's really a great honor. I guess it was last month, the front page of Newsday carried a picture of a New York City Police Officer, a helicopter pilot that really flew a mission that encompassed both bravery and pure guts. He led the flight that saved the two cadets from West Point. They were on a cliff in a windstorm that was really ferocious, and it was a very dangerous mission, and he's a resident of Suffolk County. So I'd like to call Detective Steve Browning and his family to come to the podium for the acceptance of a proclamation from all eighteen of us.

*(\*Applause\*)*

You might notice that part of the family is very familiar to us. Legislator Kate Browning's husband,

Steve, deserves tremendous amount of credit for really a yeoman's job, you know.

*(\*Applause\*)*

**MR. BROWNING:**

I am not shy. I guess I get it from my wife. I just want to say I appreciate the proclamation and all honors that have been given to myself, but I just want to reiterate that I say at every meeting, it wasn't me, it was my whole crew. There was four other guys on that aircraft. And what my Crew Chief did to get me to a cliff face and drop another ESU officer on an 18-inch, you know, cliff face was just tremendous, and I can credit those guys. And, you know, the ESU officer to trust in me that I'm not going to slap him off the side of cliff or knock the other two cadets off the cliff. But it was a team job and I must commend also my crew. Thank you.

*(\*Applause\*)*

**P.O. LINDSAY:**

Vivian, could you start the public portion while I go out?

**D.P.O. VILORIA-FISHER:**

Sure thing. He's also a nice guy.

**MR. BROWNING:**

Thank you very much.

**D.P.O. VILORIA-FISHER:**

Our first speaker is Supervisor of the Town of Southampton, Anna Throne-Holst.

**SUPERVISOR THRONE-HOLST:**

Ladies and Gentlemen, good morning, Colleagues. I stand before you, yet again, today on the issue of the sex offenders, that we need to find a fair and equitable solution for one that is a County-wide solution and doesn't continue to burden only the Town of Southampton and parts of Riverhead.

It's been four years now since I was here the first time. In my hand I hold the sheets with the information on our current sex offenders, homeless sex offenders. It's not a couple, there are almost 30 names in here, and these people, the burden of caring of for these people, housing those people resides in the Town of Southampton and the Town of Southampton only.

There are a couple of issues around this that really, really need to be thought about. First of all, I believe that we are all elected to serve and to represent together, and unless we do that, I think we're letting our communities and our constituents down. It's a well-known fact that when sex offenders are put in an environment where they congregate with only each other, which is a fact today, the recidivism is many, many fold. If a child or any individual in this County is hurt by one of these being a repeat offender because they have not been housed properly, because they have not been cared for properly, and the oversight has not been dealt with properly, that rests on all our shoulders.

This is your opportunity to override a veto that was a wrong veto to begin with. It gives the County the opportunity to consider two established caregivers here and to provide a solution that is a fair one, it's an equitable one, and it is a right one in terms of making sure that no one gets hurt. It makes sure that these offenders will be scattered throughout the community, not just all of them, the 20 or 30 or so, and that's what this speaks to. This is fact I hold in my hand. It's not two or three of them, there are 20 or 30 of them at any given time right now and they are all housed in my town. It's not right and it is going to have some dire consequence. Please, give the County the

opportunity to provide the proper care, the proper housing and a fair and equitable solution here. I'm counting on you. Thank you.

**D.P.O. VILORIA-FISHER:**

Thank you, Supervisor.

*(\*Applause\*)*

Our next speaker is Brookhaven Town Councilman Dan Panico, who was recently honored by this body.

**COUNCILMAN PANICO:**

Thank you very much for giving me the opportunity to address you again. I'm speaking on two substantive resolutions. Unfortunately, because I have a Town Board meeting today, I cannot stay until the twilight of the evening, as your meetings tend to go. But I'm here to speak about, first, the proposed acquisition of heritage square, a property in East Moriches that is pristine, densely forested property, and to impress upon you how important this is to the community.

Many of you came here today from Sunrise Highway. This property spans over three-quarters of a mile on the Route 51 corridor on Moriches-Riverhead Road. It's an important parcel. And at the adjoining parcel, known as the Oaks, which has the same owner, Brookhaven Town has moved forward to preserve that parcel. Together, these parcels make up over 100 acres of densely treed property that are of vast benefit to the community, and also the preservation of drinking water for this entire Island. The other parcel is Shaw Nurseries. Shaw Nurseries, it is dead smack in the middle of the Forge River watershed. The Town of Brookhaven and the County of Suffolk have long been partners to preserve this watershed. It is a polluted river. It is on the impaired waters list of this state, and the Town, we've moved forward as a Chairman of the Forge River Task Force to preserve properties around the Forge River and to mitigate the consequences of unchecked development in that watershed.

Much has been made about the Carman's River Watershed Management Plan. However, the Forge River Management Plan started years before. And Forge River is in dire circumstances, and the consequences of not preserving this property and allowing homes with septic and cesspool to be built in this watershed would go against everything the County, the Town, and the State have worked to prevent.

So I thank you for the opportunity to speak, and I ask you to, please, pass on these resolutions. Thank you.

**D.P.O. VILORIA-FISHER:**

Thank you, Councilman.

**P.O. LINDSAY:**

Next up is our Mayor of Greenport, David {Meyer}

**LEG. ROMAINE:**

Nyce.

**P.O. LINDSAY:**

Mice. Mice.

**LEG. ROMAINE:**

Nyce.

**LEG. SCHNEIDERMAN:**

Nyce.

**P.O. LINDSAY:**

Nyce.

**MR. NYCE:**

It's nice to be Nyce.

**P.O. LINDSAY:**

I'm sorry, David, that I messed up your name.

**MAYOR NYCE:**

It's quite all right. It's nice that you forgot the last time I was here when we were fighting over Clark's Beach.

*(\*Laughter\*)*

**P.O. LINDSAY:**

We never fight. We never fight, we just come to a middle ground.

**MAYOR NYCE:**

I'd like to thank this Board again for the support in that effort. Thank you for allowing me to address the Legislature this morning. The two items that I'd like to discuss I'm just trying to keep on the front burner. I know that this Board has already dealt with the first item, which is the MTA and the MTA tax, and particularly for the East End, the lack of service. We went through a winter now where they decided to eliminate service entirely to Greenport on the weekends in their infinite wisdom when we're still struggling to try and get tourists to come to the East End. There were major efforts by groups like the Wine Council, etcetera, trying to fund events throughout the course of the winter primarily on weekends. And at a time when we're trying to get people off the roads and into public transportation, the MTA has decided to cut that service.

And I know that you have joined with Nassau County in for the -- against the MTA for the MTA tax, etcetera, etcetera, I believe that to be correct. I encourage you to continue the efforts. I had a conversation at the last New York Conference of Mayors last week with the new head of the Local Government Committee at the State Senate, which I believe is Jack Martins. He said they are starting an effort to redistribute that tax. Whether or not that's going to come to fruition or not I don't know, but I encourage you to keep up the fight on our behalf, anything we can do. I know our Legislator had a press conference a couple of weeks ago. We need to keep the fight in their face. We need additional public transportation to the East End.

The second item that I'd like to go over with you has to do with taxes as well, and that is the State tax cap that has been passed. In their infinite wisdom, they are -- they're putting a cap on the income that we can make. They are not necessarily putting a cap on the expenses that they are mandating to us. Pension and health care are numbers that at a small local level I have no control over. I have an increasingly large ghost salary in a small village that I can't control. And again, I realize that this is not necessary -- this is at the State level, but I would encourage the Legislature to put pressure on the State government. They are saying they're going to do mandate relief. We haven't seen or I haven't seen what that mandate relief is yet. The first couple of things I saw are "Carrying Coals to Newcastle". They're not doing anything about it. I appreciate that we need to cap taxes, I appreciate that. I know the Legislature is doing that County-wide, but you've got to do it -- with one hand, if you take away, you have to give with the other, and it's got to be equitable

and it's got to be fair.

With that, I will leave you with this final thought. The drive here today to this meeting was considerably better than the one to Hauppauge. I would encourage this group to consider the 50-50 split that they used to do. I think you'd get much more involvement from the East End Towns and Mayors and East End groups if we have more meetings on the East End. I appreciate you allowing me to take the time.

**LEG. ROMAINE:**

I'm applauding.

*(\*Applause\*)*

**P.O. LINDSAY:**

Thank you, Mayor. Jennifer Clement.

**MS. CLEMENT:**

Good morning, everyone. Thank you for letting me speak here. I'm here as a lifetime resident of Brookhaven Hamlet. I've seen many changes over the years, and I've been to many of these meetings, and I'm sure you'd find a lot more people here concerning the sale of surplus property in Yaphank if they didn't have to work. A lot of these meetings are scheduled so that people that work can't come and speak their voices, so here I'm -- here I am. I'm not a very good speaker.

Times are changing. We elect all you esteemed people in hopes that you'll provide us with a sustainable future. And as the Pastor said at the beginning of this meeting, preservation is the key now. And if we want Long Island to be sustainable, we're going to have to do a lot more about open space. I believe that open space is going to be a lot more valuable, if it isn't already, a lot more valuable than developed land. We can't see it monetarily immediately, but if we had to buy water, can you imagine having to ship water from who knows where, the Adirondacks, or whatever, to Long Island? If we spoil our sole source of water, our future is going to be really pretty grim.

That's all I want to say. I just hope we're not going to be shortsighted about selling land that we already own that's open space.

**P.O. LINDSAY:**

Thank you.

**MS. CLEMENT:**

That would be very shortsighted. Thank you.

**P.O. LINDSAY:**

Thank you, Ms. Clement. Mary Ann Johnston.

**MS. JOHNSTON:**

Is there a button I need to hold? No?

**LEG. ROMAINE:**

No, not here.

**MS. JOHNSTON:**

Thank you very much for allowing me to speak. I'm the President of the Affiliated Brookhaven Civic Organizations, and I'm here to speak on several resolutions, and to encourage you to do the right thing.

Preservation is our only future. We are already past carrying capacity on this Island, we know that. We know it when we breathe the air that's dirty, we look at the soil that's been contaminated, and we look at the harbors, bays and creeks that no longer sustain fish. On that note, I ask that you would pass and vote to acquire on Resolution 2200-10 the Shaw Nursery.

I personally worked to save the Shaw Nursery for more than five years. It is eighteen hundred feet from the surface waters of the Forge River, and the Forge River is a dead water body, a dead water body. Along that, we have Heritage Square, and Councilman Panico has spoke glowingly of that parcel, a wondrous vista, but also near, very near Seatuck Creek, which is still alive, still healthy.

I also want to congratulate you on purchasing the development rights to Wickham Farm. Wickham Farm is a part of Suffolk's history. You know you have reached the North Fork when you pass Wickham Farm. Where will we send next generation's pumpkin-pickers, Westchester, Upstate? We cannot do more than preserve a way of life and sustain our Island.

And last, but certainly not least, I ask that you reconsider the sale of 221 acres in the center and in the heart of the Carman's River watershed. It is within the zero-to-five-year groundwater contribution zone. Once you put it up for public auction, I submit to you, you have no control who purchases it. We've heard in Brookhaven that it might be Brookhaven, but, realistically, this land was purchased through eminent domain. So I can't possibly imagine why the residents of Brookhaven would be asked to buy that which they already own. So, realistically, why is it the job of Brookhaven residents to fill the budget gap? And this is unsustainable.

Mr. Schneiderman spoke glowingly, and I can't say that I agree with him more. This is about not being able to meet your mortgage payments and holding garage sales in the hopes that things will get better. But after a period of time, you have sold all your furniture, given away your dishes, put price tags on everything and are left with nothing to sell. That is not a way forward, it isn't a plan, and it certainly isn't sustainable. Thank you.

*(\*Applause\*)*

**P.O. LINDSAY:**

Elsa Ford.

**MS. FORD:**

Good morning. I'm Elsa Ford, President of the Brentwood/Bay Shore Breast Cancer Coalition. I hold a anti-cancer activist group position on a Suffolk Community Advisory Committee that oversees the implementation of Suffolk County's law mandating the phase-out of pesticides on Suffolk County property.

Introductory Resolution 1035-2011 is important to enable us to model pesticide practices and to be a resource for Suffolk County residents to do the same. The ongoing education, monitoring, and search for and adoption of new developing techniques is vital to our mission. An example of work to be done is learning to use native species in place of exotic pampered species and current plantings and future landscaping. It's not just a different plan, but a group of compatible plants that includes bird and other insect predator attractions.

Killing is easy and may include more than intended, but organic is more labor intensive and requires an understanding of natural systems initially, but leads to self-sustainability, perhaps with a little soil testing and monitoring after that.

Our program is funded through the Water Protection Fund, which stands today with a sufficient

unexpended dedicated reserve fund balance. As breast cancer activists, we have learned that in planning the first step in health and the environment is prevention. This saves lives, treatment costs and irreplaceable loss. The problem is that prevention savings do not have a column on the budget ledger sheet to show their value. The increased costs of ignoring prevention are inevitable. Pass Introductory Resolution 1035-2011 today, please. Thank you.

*(\*Applause\*)*

**P.O. LINDSAY:**

Thank you, Ms. Ford. John Lund.

**MR. LUND:**

Good morning, and thank you for allowing me to speak before you today. A little confusing. I want to speak on a resolution that I -- and a petition that I do not see on the agenda, but I believe it's got to be coming any day, since the license that you are about to think about renewing expires at the end of this month. And the calendar process that we go through requires time, so I'm going to read a statement and then leave you to other business.

My name is John Lund. I live in Sayville, with a summer home at Davis Park, Fire Island. I've been President of the Davis Park Association since the mid-1990's, and Vice President of the Fire Island Association for the past two years. I acquired a 100-ton Coast Guard captain's license while working for the Davis Park Ferry Company in the late '50's and early '60's. I currently work part-time at Sayville Ferry Service in Sayville and I am looking forward to my 55th year boating on the Great South Bay.

The license renewal before you, I hope, is of the utmost importance to the ferry company wishing to stay in business, and to the 284 homeowners who, for the most part, haven't been able to get to the beach this winter and now are uneasy with the renewal process. Davis Park Ferry Company has had its difficulties with the Suffolk County Legislature in the past, and the Davis Park Association has come before you asking for your help to approve rate increases so we may access our houses. In the past, BRO has completed the required financial analysis and made the recommendations to you, and you acted positively on Resolution 668-2008. That resolution contained four recommendations that were to be complied with by March 30th, 2009. County Executive Levy, in his September 4th, 2008, letter to Presiding Officer Lindsay, didn't sign the document and stated, "I cannot endorse rate increases for a company that has had a history of flagrantly disregarding the recommendations and procedures set forth by the County." It is my understanding the recommendations were completed last week, March, 2011.

Legislator Eddington held meetings in his office with the DPA, the ferry company, making sure we all understood the recommendations and the path forward. Procedures set forth by the County state at least it's necessary to apply for a license, and the ferry company and Town have been working on a lease since summer's end. The Town, as of March 6th, 2011, has not responded to DPA inquiries regarding minimum levels of service contained in the lease that in the DPA's estimation should correspond with County requirement, as per the last rate increase in 2008. The DPA has asked to be part of the process, since our homeowners use the ferry from March to the end of November as their only access to Fire Island. We were not included.

The Town will present a resolution tonight including the revised lease we are told, but have seen no details. We respectfully point out that the County Legislature could be pushed into a corner if it proceeds with a license renewal without a passed Town resolution, the contents of the lease not conforming to your recommendations in 2008. We suggest it may serve us all well to consider extending the current license until the resolution they plan to introduce is passed, becomes an actual resolution, and works through the permissive referendum process and is confirmed by the

Brookhaven Town Clerk sometime in mid-April. May I finish the last paragraph?

**P.O. LINDSAY:**

Go ahead. Go ahead.

**MR. LUND:**

Thank you. Mid April. An -- I'm sorry. An extension allows service to continue, while verification of all conditions, recommendations and requirements is completed and a Town process moves through the Legislative calendar. It also would diminish the need for a CN from County Executive Levy, who, as -- who, as I have stated, doesn't seem to be sympathetic to those not complying with procedures set forth by the County.

Without a CN, I don't believe this process can establish a new license before the current one expires. I would hope you consider the wishes of homeowners of Davis Park to have access to their communities and homes, as well as compliance with procedures set forth by the County. Thank you.

**P.O. LINDSAY:**

Thank you, John. Brad Bender.

**MR. BENDER:**

Good morning. My name is Brad Bender and I am the President of the Flanders, Riverside and North Hampton Community Association. I actually live less than one mile from the spot where I stand now.

My community has been held hostage with the undue responsibility of housing all the homeless sex offenders from Suffolk County. Residents from each and every district represented in this room are being cast off. Their elected officials continue to turn their backs on them through indecisiveness, failure to act, turning a blind eye. Why? Is it unpopular? Yes. May it cost you a vote? Maybe. Are you afraid of what they might say? Of course. But, no, this Legislature would rather do nothing than to stand for the people it represents. Our option is currently the voucher system. Ninety dollars a day and the ability to run the neighborhood willy-nilly with no oversight, that makes no sense. The trailers. Throw them in a cab, send them east, shift the burden. Not in my backyard. Can't see them from my house. No oversight. Oh, you think they're in the jail. Yeah, in the parking lot, free to come and go as they please.

So today, you can choose today to be the difference in the lives of many, for those who have offended by offering them a secure place to bed down, counseling, oversight. For the taxpayers and their families, knowing that this Legislature is wise enough to make the tough decisions that protect them, and for yourself, discovering that doing the right thing for the people in the end will be your greatest reward. Thank you.

**D.P.O. VILORIA-FISHER:**

Thank you.

**P.O. LINDSAY:**

Thank you, Brad.

*(\*Applause\*)*

**P.O. LINDSAY:**

Mason Haas.

**MR. HAAS:**

Good morning, Ladies and Gentlemen of the Legislative Body. My name is Mason Haas. I come here before you as a community member of the Town of Riverhead, with for 20 years of service to the community in EMS; also, as an elected official of the Town of Riverhead.

As you've heard Brad before me speak of the trailer issue, I wish to just take a moment to bring some notes to your attention regarding an article written by Patty Wetterling. Patty Wetterling is the mother of Jacob Wetterling, who was kidnapped and disappeared in 1989, never to be seen again. They worked with the government, the state, county and Federal levels to bring forth laws regarding sex offenders. In her article, it's entitled *The Harm in Sex Offender Laws*.

We have stated from the very beginning in this town, one of the issues we see is that the continuing restrictions we place on this group of people creates homelessness. I just wish to point out one thing here. She says we need better answers. We need to fund prevention programs that stop sexual violence before it happens. We need to look at what can help those released from prison to succeed so they don't victimize again, and that probably means housing, and jobs, and treatment, and community support.

Given that current laws are extremely popular, taking truly effective measures may extract a political price. I do understand that as being an elected official in the Town. We have turned around and we've had the trailers come into the community in 2007. We turned around and saw the size of the trailer increase in 2009. This has gone back and forth and back and forth, and Steve Levy has turned around and tried to push forth a voucher system, which I do not agree with, and you, yourselves, do not agree with. You've moved forward with a bill. Mr. Lindsay's brought forward a bill that went through to create several areas in the communities, you know, throughout the County, six areas. I think that is a good way to go. It will turn around, spread this out, keep it where we do not have all of them congregating in one location.

From the Department of Justice website, from the general criminal recidivism rates research, we know that shelter use, both before incarceration and after release are associated with increased risk of returning to prison. The idea of housing them all in one location does not work, and that is from the Department of Justice. Let's break it up, let's spread it out.

I've sat in conversations with Mr. Levy on numerous occasions and he has turned around and most recently, the last press conference that was done out here by the trailer, he contacted the Supervisor's office in my Town, I sat in on that conversation, and Mr. Levy, we -- I said to him then, "If you want to resolve the issue, let's have a sit-down," with representatives from this body, with representatives from the Town, the two Towns that this trailer is located by and in, and turn around and let's solve the problem. He has yet to do that. He promised to do it, he has yet to do that.

I urge you to override his veto and let's move forward and let's find a sensible solution. I again ask you, Gentlemen, to think about this, and Ladies, to think about this, please. Thank you.

*(\*Applause\*)*

**P.O. LINDSAY:**

Thank you, Mason, I appreciate it. Michael Fenn.

**MR. FENN:**

Good morning. I'm here to speak to the Legislature about the bill before you for banning the sale of tattoo and body art equipment to unlicensed individuals.

Suffolk County has been a leader in establishing new laws and regulations that have gone past the

County level to the State level, and even some to the Federal level. We have been a model, County, in the State of the United -- you know, in the United States. Body piercing and tattooing is a regulated industry here in Suffolk County. Sale of tattoo equipment should be regulated also. Unfortunately, there's too many supply houses selling to these people working out of their houses. They are commonly known as "scratchers", "kitchen magicians", and these supply houses are nothing more than, in my opinion, morally negligent, and they're a menace to society in providing this equipment to unlicensed, untrained individuals who are working on unsuspected or people from the County who do not know any better. They don't know that these people are not licensed, that they're not clean, that they're not working with safe and sterile procedures.

In the past month, I have seen over 17 staph infections come into my studio asking, "What can I do? Why did this happen?" It's happened because these supply houses are continuing to supply these "kitchen magicians", these "scratchers" with the equipment that they need to apply their misery, their disease, their disfigurement, and possibly death can occur from some of the diseases that are being transmitted. It is with depraved indifference that these people, these supply houses sell their equipment.

I ask you to take and vote in favor of the law, in favor of the bill before you, and to set -- to send the message out to these supply houses that we're not going to tolerate you selling equipment to unlicensed individuals. Once again, it's a regulated industry. As in all regulated industries, you need certain proof that you are within the industry in order to purchase equipment.

The best thing that I can do is I -- in my opinion, I equate these supply houses to pimps who are putting infected prostitutes out on the street. They're doing nothing more than pushing disease and aiding and abetting these people in doing it. Thank you.

*(\*Applause\*)*

**P.O. LINDSAY:**

Thank you, Mr. Fenn, I appreciate it. The timing was perfect. Andrea Spilka.

**MS. SPILKA:**

Good morning, and thank you for the opportunity to speak. I'm Andrea Spilka. I've spoken to you several times, again on the trailers for the homeless sex offenders in our area. I'm President of the Southampton Town Civic Coalition, which is a group of civic organizations west of the canal in Southampton Town. I also am part of organizations in Brookhaven, living in Eastport, on both sides. In my mind, you've already done the right thing in the past, you've voted on numerous occasions, and I thank you again, Presiding Officer Lindsay, to make these trailers -- you know, come up with a better solution. You've done what you needed to do in the past, which is to vote to close the trailers. I'm asking you to do it one more time, to override County Executive Levy's veto. You've done the brave thing, frankly, but it's important that it be done again. Let's not forget that children from all over the area, not just from Westhampton and Riverside or Riverhead, hang out in Riverhead. Children from every area come here. They study, they shop, they boat all in this area. Having all of these people in one trailer is a disaster waiting to happen.

Again, I thank you for your votes in the past. I urge everyone to add one more vote to -- so that we can be sure that we override Levy's veto, and to, please, close the trailers and to add that additional vendor so that they can be closed.

If I have one more second, I guess I do, I'm putting on my Eastport hat, and on the Brookhaven side, and asking you to, please, vote to preserve the parcel known as Heritage Square. Eastport is under -- Eastport, East Moriches are under tremendous development pressure, and I would appreciate that as well. But most importantly, thank you for what you've done in the past, those of

you who voted to close the trailer. The voucher system doesn't work and it's not going to work right now in Suffolk County. The only alternative is to add the additional vendor and then close the trailers. Thank you very much.

*(\*Applause\*)*

**P.O. LINDSAY:**

Thank you, Andrea. Cliff White.

**MR. WHITE:**

Good morning, Ladies and Gentlemen, and Members of the Legislature, and thank you for allowing me to speak. My name is Cliff White. I am the owner of Cliff's Tattoo. I've been in the industry -- actually, this August will be 30 years that I've been tattooing. My establishment opened up in 1989. I currently write for Skin and Ink Magazine, and I have a book coming out some time in August about history of tattoo designs.

At the turn of the century, Thomas Edison patented an electric pen. It was a little perforating device. It had a needle that went in and out, and what it did it was it punched holes in paper, and then they would take a fluid and put it over this. And it was basically the first thing that was invented for like mimeographing, for copying of stuff. There was a Professor Samuel O'Reilly at the time of this during the turn of the century who looked at this device, made some changes, patented his ideas, and invented the first modern day electric tattoo machine, and that was in Brooklyn, New York, which is not very, very far from here.

What we're here about is the ban of the sales of tattoo equipment to the unlicensed individuals. Here in Suffolk County, if you want to be a tattoo artist, Suffolk County has an apprenticeship program where you -- if you can find a tattoo studio that is looking for an individual, you go in, we sit, we talk to you, we look at your art, we want to know how serious you are on this, and if you pass our little tests, then we might take you in as an apprentice, which means you're going to do a lot of the dirty work in the shop; cleaning the bathrooms, getting lunch, working the counters, knowing the work, the inner workings of a tattoo shop. Along with that, we're going to teach you all about cross-contamination, sterilization procedures, things that you need to know, things that are regulate by Suffolk County Health Department. We've worked with the Health Department to keep tattooing safe.

Now we're having a large problem. It's not just here in Suffolk County, it's across the nation, the rampant sales of tattoo equipment, especially because China is online and they are making this -- they're manufacturing this equipment very, very cheap.

I know I'm on a time limit and I'm running out. I do have a tattoo machine here, which I would like to pass around to the Legislators to show you what is actually out there for sale. The problem is selling this stuff to the people on the street. This is not a hobby, this needs to be done correctly. You can sell sterilized tubes, sterilized needles. Once you take this stuff out of the package and you set all this stuff up, it's the cross-contamination of what these untrained people are doing. So you have a health risk right there to the general public who are going to these people in the homes, because they're -- hey, why should I go to a tattoo shop, I can go to this guy out of his house for 20 bucks. So it's also affecting the economy. If there's any questions, feel free to ask.

**P.O. LINDSAY:**

Unfortunately, Mr. White, we are not allowed under our rules to ask questions --

**MR. WHITE:**

Okay.

**P.O. LINDSAY:**

-- under public portion in the interest of time. But thank you very much for your testimony.

**MR. WHITE:**

Thank you for allowing us to speak.

**P.O. LINDSAY:**

All right.

*(\*Applause\*)*

Rob {Wick}.

**MR. ROB WHITE:**

Good morning, Ladies and Gentlemen. I'm actually Rob White, I'm actually Cliff White's son. I'm here this morning --

**P.O. LINDSAY:**

I'm sorry I mispronounced your name.

**MR. WHITE:**

That's okay. I just looked around to see if there was a Rob Wick here and I was wrong. I'm here also this morning representing the tattoo community. And basically, what we have here with the sale of tattoo equipment, this started as a result of the malls. What happened was in Jersey, New Jersey, Paramus, there's a mall that was actually selling tattoo equipment in the kiosks that you see, like, you know, the Sun Glass Hut and the Piercing Pagoda. This started off as a small thing there, no one thought it was going to be bigger than that, but now it's spread all throughout New Jersey. You even have it as far as the Roosevelt Field Mall in Nassau County. So this is coming out here no matter what.

We've worked tirelessly in the tattoo profession to raise ourselves above these stereotypes that everyone knows. You hear tattooing and all of a sudden you think, you know, bikers and people in their basement and these dirty guys. We've worked tirelessly to become professionals and to, you know, put that out there to the community. And when you go to the mall and you see someone selling tattoo equipment in a kiosk and you see 16-year-old kids tattooing in their basement, that does nothing but bring us backwards, not to mention the health risks involved with things like hepatitis and, I mean, you know, you have at least, I'd say, what, you got like six to seven different tattoo studios here representing themselves this morning trying to make a difference and trying to uphold that professionalism and to move forward.

So I just wanted to urge the Legislature here today, and I thank you for all this stuff that you've done so far, but really wanted to urge you to push this forward and to make this a bill so that we don't have 16-year-old kids in the basement tattooing their friends and causing God knows what. Thank you very much.

*(\*Applause\*)*

**P.O. LINDSAY:**

Thank you, Rob. Jean Bean. God, I hope I got this one right. Is that right, Jean?

**MS. BEAN:**

That's right.

**P.O. LINDSAY:**

Okay. I'm not doing too well today, Jean, so I'm a little punchy, you know.

**MS. BEAN:**

Good morning. My name is Jean Bean and I live in Westhampton, I live in Westhampton Pines, which is adjacent to the trailer in Westhampton. As our Town Supervisor said, and as Andrea said earlier, and as the other speakers have spoken, it is important that you continue to follow the path of a solution. The trailers are a huge problem. I am -- have a mental health history with treatment, and I know that when people are given the opportunity of treatment, it really does help. Not having any oversight on these people is very bad, so we really implore you to continue, as Andrea had spoken, to continue along the path of a solution.

Please, override the legislation that the County Executive has vetoed, and, please, I implore you to live in a solution, so that we can move forward and close the trailers in both Riverside and Westhampton. I thank you for your time this morning. Thank you.

*(\*Applause\*)*

**P.O. LINDSAY:**

Thank you, Jean. John Rogers.

**LEG. BROWNING:**

He left. He left.

**P.O. LINDSAY:**

He left, okay. Bill O'Leary.

**MR. O'LEARY:**

Good morning, everyone. Well, the topic's been already addressed, but I kind of bring a different lens to it. The issue, of course, is the sex offender trailer. I'm a therapist. I work with victims of sexual abuse, as well as perpetrators of sexual abuse. I pretty much deal with every dark aspect there is.

According to the FBI, one out of four people in this room have been sexually abused by the age of 18. So we talk about things as politics and numbers and everything else, but when you bring it to a human level, it's immense in how significant this issue is. Unfortunately, our efforts, the trend in legislation has really been more about punishment than it has been about prevention. The more restrictive we make the laws, the more desperate the individuals, the less we're protecting the children that we're supposed to be protecting.

Sir, I teach for New York State in terms of child protective investigations, sexual abuse investigations. I was offered a job by the F.B.I. as a profiler. So again, I work with every angle of this issue, and I really only see two viable solutions at this point. One is what you're looking at today in terms of having two vendors that have the mini shelters. There's been discussion about group homes not working, but with oversight and with treatment, which is kind of my role, as well as my work with law enforcement, oversight and treatment work when we're allowed to do our jobs. The amount of guys that go back to jail from the trailer, when a parole officer takes the time, when they have the day to follow someone, chances are they're going to catch them doing something wrong, and a lot of that I think is exacerbated by the situation that we're creating.

Most homeless sex offenders are on parole or probation. Now, that doesn't mean that everyone else found places, that means that they've gone underground. I know of an individual that I

testified against and sent him back to prison, because he presented a considerable risk to the community. He maxed out and now he lies about his address so that he doesn't have to go to the shelters. So this is just an example of what we're creating because of the over-restrictiveness of legislation.

There was a Med analysis on sex offenders and they found that on average, most sex offenders traveled a minimum of one mile from their home to commit their crimes, meaning we're making restrictions based on proximity, and all that's doing is tightening where someone can live and it's not serving to protect children. Ultimately, I think, and I'm more than willing to be available to you either individually or collectively to look at what actually serves to prevent child abuse and sexual abuse. Education: I've been on the news a number of times trying to bring the facts to families. I've already mentioned before, 93% of sexual abuse, the victim knows the perpetrator. So again, I don't -- we're -- 94% of crimes, of sexual crimes are committed by someone who hasn't -- who's not on the registry. So we're doing a disservice to families by telling them we're protecting them from the individuals on the registry, because 94% of sexual crimes are committed by people that haven't committed the crimes yet or haven't been known to. So what we do is we create a false sense of security by telling them we're protecting them and what we really need to be doing is educating them. Thank you.

**P.O. LINDSAY:**

Thank you very much. That was Bill O'Leary?

**MR. O'LEARY:**

Yes.

**P.O. LINDSAY:**

Yeah. Olivia Straub. I hope I got this name right. Strube, Straub, Olivia? On the body art? No? No Olivia? Patricia Seubert.

**MS. SEUBERT:**

Good morning, Ladies and Gentlemen of the Legislature. I'm Pat Seubert from Medford, and I want to say, first of all, that I'm saddened by the sale of the Foley Nursing Home, but I can certainly -- I understand the problems, but it's a tough situation. It's been something here helping the communities, people from the area for so long. It's a shame that something like this has to be done.

I'm also here to speak against the sale of Legacy Village. Brookhaven Town has undertaken a great -- a plan to save the Carman's River, which we all applaud the saving of the Carman's River. What that will do is add dense, multi-family housing to land in all our other communities as a trade-off. But I -- since you already own Legacy Village, taken by eminent domain, I think it is a disgrace to attempt to sell that property, because it is part of the Carman's area, and this is something we need to save. And also, this makes me fearful of what building and what property is going to be for sale next year just to balance your budget. Thank you. Applause.

*(\*Applause\*)*

**P.O. LINDSAY:**

Eric Brooks. Is Eric Brooks in the auditorium? No? Nanci Dallaire.

**MS. DALLAIRE:**

Hello. I've come here this morning just to state for the record my objection to the sale of the John J. Foley Skilled Nursing Facility. I feel to place a price on these vital health services that our County has provided for decades and to place blame on our century-old institution is wrong. I believe

mandatory procedures were not followed or requirements were not met. The process did not include the vote of 18 Legislators representing their districts. Is this how we want to decide this crucial County decision? Without permission or the proper documentations, why was this County able to accept any money on this deal? How did it get that far? Why do we have laws to protect us if these very laws can now be changed and manipulated?

This County has shown their creative financing to buy us out, but they couldn't use that creativity to build us up? Why was the success of John J. Foley never an option? This County found the money and the means to rescue the Vanderbilt Museum. We could have found a way to restore our County health facility. And with facilities in our area closing and downsizing, do we really have enough facilities to handle the needs of our community? I hope so, because the price we're paying is very high, and I believe it's a costly mistake for Suffolk County.

I hear that four out of the five -- four out of the top ten lobbyists in Albany are for health care. With the struggles our centers have and closures being the result, exactly what are they lobbying for? We are suffering the loss of these services at the expense of our most vulnerable. Is it worth it? I cannot see how this is such a sweet deal for Suffolk County.

*(\*Applause\*)*

**P.O. LINDSAY:**

Mary Finnin.

**MS. FINNIN:**

Good morning. Excuse me, I've got laryngitis. Thank you for the opportunity to speak. I am really upset, angry over the sale, or the proposed sale of the John J. Foley Skilled Nursing Facility. Resolution 48 passed in the wee hours of the morning of March the 4th. There were many questions about the contract of that sale. I reviewed the contract, I reviewed the materials that were submitted to Legislators by attorney Lawrence Gray. Those questions were never answered.

The passage of this resolution was a 12-4 vote. I question whether or not there was a conflict of interest in that vote, since one of the Legislators that voted on the issues, his wife is the attorney for the County Exec Levy, and, in fact, handles some of the motions and litigation in some of this case. So I would ask that someone voting on the prevailing side move to reconsider the vote on Resolution 48 and put it back on the table where it belongs, and let the public hearings go forward, and let's get all the information clear and out in the public.

In addition, in Resolution 48, it's not clear when, in fact, John J. Foley becomes the property of Rozenberg, rather than continue to be the property of Suffolk County. I think, also, that the gifting of ten to 14 acres of land is against the interest of the taxpayers of Suffolk County. We, the people, own that land. You can't give it away as a gift to this man, and that's basically what's happening here.

The legal date of transfer is not clear in this document, and my understanding of legal documents, I'm not an attorney, is that if it isn't there, it didn't happen. So does Foley remain a County facility until December? Does it become a private facility on April 1st? These -- you know, we don't know from looking at these resolutions the impact. I do know from looking at the resolution that you've set aside four million dollars for transitional money for County employees who are being displaced. However, you didn't have three million to continue the funding of the John J. Foley for this year. Where did the money come from?

And, you know, also there's supplementary opportunities for contracting and giving additional money to this Mr. Rozenberg for providing services. Is he providing it to County and as a County facility?

Because if he is, why are we giving him more money? I can't tell the date in terms of when is it County and when is it private? I think these are things that have to be clarified before we go forward and turn this over our public land, our public facilities, our safety net for health care in Suffolk County to private sector.

*(\*Applause\*)*

**P.O. LINDSAY:**

Jane Fasullo.

**MS. FASULLO:**

Good morning. I'm here to speak to the Yaphank land bill, the 2236. I find it very ill-advised. Oh, I'm a resident of the Town of Brookhaven, and that means I'm a resident of the County, and that also means I'm a part owner of this land. I find it unacceptable that it's being sold at a time when the market shares are down. If your investment broker came to you and said, "I'm going to sell a lot of what we hold because we need money and it wasn't necessary to sell all of those properties, if they could have been leased instead of sold, if somebody were willing to give you loans on those properties, which essentially is a lease, I think you would take that deal rather than get rid of your holdings. I don't see it as a wise investment move to sell properties when the market is down.

In addition, I understand that the Town of Brookhaven paid for part of the ownership of this property, and that raises the question of the Town being bitter in the process. And I could be wrong about that situation, but my understanding, that when it was originally purchased, part of that money was supplied by the Town. Would that give a Town -- the Town an advantage if they were one of the bidders? I don't know, but I'd like an answer to that question. I know you can't answer here, but I wish somebody would contact me and let me know.

The other issue, of course, is the Carman's River watershed issue. The boundaries of where that watershed actually lies, even though we have made a 90-day quick decision and a map has been produced by the Town, it really is not consistent with other maps that have been set up for the watershed. And until that issue of why the maps are so very different is basically established. I think it's unwise to go ahead with the move to sell that land.

The last thing is the issue of leasing again. I want to bring you back to the fact that one of the government entities was wise enough to lease parking lots to do solar. In so doing, they did not lose control of the land, should they need that land for other purposes such as making a multi-story parking garage or putting in additional building. They still own it. When it comes to 20 or 30 years from now and they need that land, they don't have to go purchasing when the land is available and prices will necessarily be higher. I think you need to keep these things in mind. Thank you.

**P.O. LINDSAY:**

Thank you. We had two people that didn't respond when we called their name. Olivia Straub? Strube? No. Are Eric Brooks. Okay, not in the room. That completes all my cards. Is there anyone else in the audience that would like to speak to us? Please come forward. Just identify yourself, Kathy, for the record.

**MS. REEVES:**

Okay. My name is Kathleen Reeves, I work for John J. Foley.

**MR. LAUBE:**

You've got to speak into the microphone, ma'am.

**MS. REEVES:**

My name is Kathy Reeves and I work at John J. Foley. I sat through your -- whatever you want to call it you had the other night until one in the morning, and I have to tell you, I strongly disagree with the decision you came up with.

First of all, this is something that came -- Steve Levy sent out in 2003. It said, "This election will determine if we have the same ol' boys network that worships the patronage gods or an Executive who wants to uphold our Civil Service system and base promotions on merit, what you know rather than who you know." It also says, "We need honesty." And he also paraphrased Dr. Mary Hibberd, who quit in frustration. "They can never seem to find the money for important needs, but they can always find the money for their patronage." These are things from County Executive Levy when he was running for office.

One of the things I want to bring out is that the County Executive presented you with an illegal budget by putting the sale of John J -- counting on the sale of John J. Foley when he had not had the permission to do so at that time. He didn't get that permission until Friday night -- morning, whatever you want to call it. All right? And the Legislature passed an illegal budget, and now everybody's trying to fix the holes in it. All right?

One of the reasons that John J -- a few of the reasons that John J. Foley is in such -- has such a deficit is because they're not billing. Billing of Medicare Part B and Medicare Part D for prescriptions isn't being done. Last year they billed for approximately \$100,000 for the whole year. That sucks. All right?

Also, between 19 -- 2009 and 2010, two million dollars was spent on agency nurses. Also, we have four doctors and two nurse practitioners in the facility, which we don't need. We used to have a Medical Director who spent part of his time at John J. Foley and part of his time at Peconic Bay, and ran his private practice out of his office at John J. Foley. These are all reasons why John J. Foley was set up to fail any way you slice it. All right?

We had 11 Legislators vote to join in the lawsuit. Seven backed out, because come the other night, we only had four that were in our favor of keeping John J. Foley open. All right? And not only have you turned your back on the current residents of John J. Foley, but you have turned your back on all the residents in the future who may have a need of John J. Foley, because I can guarantee you, Rozenberg is not going to let them in if he buys the facility.

Also want to let you know that layoff notices were handed out on Friday. I spoke to Mr. Lindsay. According to --

**(\*Timer Sounded\*)**

Can't be -- Mr. Levy's Office, they were a mistake. Well, they were still being handed out on Saturday, Sunday and yesterday. Now, at what point does it become a mistake and what point does it become in contempt of court? Because there is a restraining order against them that he's not allowed to do this. Okay? You know, Legislators are elected to do for the people.

I had one Legislator tell me the other night that he changed his vote to advance his own political career. Now, I find that appalling. All right? Also, as Mr. Dwayne -- Legislator Gregory said, if John J. -- if Steve Levy's name was on that facility, you'd have money pouring out of the woodworks to keep that place open.

**LEG. ROMAINE:**

Levy Town.

**MS. REEVES:**

That's right, pretty much. You got it. Another thing with John J. Foley, it is a facility that employs basically women, there's very few men on our payroll, and the elderly. Some could look at it as discrimination. We also have a lot of minorities that work there. Again, somebody could look at that as discrimination. More to the point, Brookhaven -- that needs to be sold. That is owned as County property. It would have to be rezoned before Mr. Rozenberg could take ownership. All right?

Mr. Barnes is in the audience. His son, Chris, you're all familiar with. Chris gets \$750 a month. Even at what the basic costs are now, that's two days. As a private facility, Steve -- Chris is going to be the first one shipped out, and he can be shipped within 100 miles. It took his family five-and-a-half years to get him here from England, so he could wind up in Massachusetts, Rhode Island, New Jersey, Pennsylvania, Buffalo, without any say, because there aren't going to be enough openings on Long Island. And all these empty beds that we have, we don't have.

All right. And one more thing I want to say before I stop, is someone had written on the wall in the stairwell at John J. Foley that character or the measure of a man is when you do the right thing when no one is watching. I think it's more important to do the right thing when everyone is watching and you're open for criticism, and closing John J. Foley is not the right thing, because that's something that belongs to the people of Suffolk County from now and into the future, because many, many Suffolk County residents are going to need that, especially with the economy -- especially with the economy and the baby boomers coming of age and hitting -- them be hitting retirement age and beyond. Thank you.

*(\*Applause\*)*

**P.O. LINDSAY:**

Is there anyone else that would like to address us? Dan, do you want to address us?

**MR. TOMASZEWSKI:**

Good morning, Ladies and Gentlemen. I'd like to briefly comment on --

**P.O. LINDSAY:**

Dan.

**MR. TOMASZEWSKI:**

Yes. Oh, I'm sorry.

**P.O. LINDSAY:**

Your name for the record.

**MR. TOMASZEWSKI:**

Dan Tomaszewski, Vice President of the Longwood Board of Education. And I'd like to briefly comment on Introductory Resolution 2236, the sale of the Yaphank property and declaring it surplus and sale. There are a couple of sides to that. Obviously, the first side, which is very attractive, which would end Legacy Village. Legacy Village is a bad plan, I think very -- not everyone, but many of us know that, most people know that. It's a disaster plan for the Longwood School District, and that's why we've been so vocal on it, so that's a good thing. But sometimes you got to be careful, you don't want to jump out of the frying pan and into the fire. What may happen with that property down the road is of major concern. Certainly, you know, multi-family development could be very disastrous; that's what we went through with Legacy Village. So, you know, very often good advice is, if you don't know what to do, don't do anything. So maybe, you know, that bill

needs to be re-looked at, reworked, take some time, and put something forth that is a little bit more workable and is not going to create a problem that it has just solved. So I would urge you to take a look and see what you can do with that. But right now, as it stands, it's a major concern. So thank you very much.

*(\*Applause\*)*

**P.O. LINDSAY:**

Thank you. Is there anyone else that would like to speak? Please come forward, sir, and identify yourself.

**MR. TRUSNOVEC:**

Good morning. My name is Chad Trusnovac. I'm the President of the Yaphank Taxpayers Civic Association. I don't have a prepared speech this morning, but I did want to take the advantage and take a couple of moments just to address you and thank you again for allowing me to speak. Certainly, the Yaphank community is very, very concerned and watching closely what it is that happens with the Legacy Village property. To also reiterate Dan Tomaszewski's comments, probably a very good thing is putting a stop to Legacy Village. The Yaphank community has fought vigorously against this project. A disaster plan for the school district is also a disaster plan for the Yaphank community and we're very, very concerned. To turn around and sell this property afterwards raises a lot of concerns as well. If we're going to stop Legacy Village, what are we going to open the door to in the future?

So, as taxpayers, we are already own this land, and the Yaphank community, the surrounding area, which this will certainly affect the Carman's River watershed, which is a very large concern, which is being undertaken by the Town of Brookhaven, needs to be watched and addressed as well. So at this time, just as a representative of the Yaphank community, I'd certainly like to applaud the bill for the sale and defeat of Legacy Village. But we are certainly watching closely and hoping the correct decisions are made in regard to the future of this property. Thank you.

**P.O. LINDSAY:**

Is there anyone else that would like to speak? Seeing none, I'll accept a motion to close the public portion.

**LEG. ROMAINE:**

So moved.

**P.O. LINDSAY:**

Wait. You can only speak once. I'm sorry.

**AUDIENCE MEMBER:**

I just want to address the Foley thing.

**P.O. LINDSAY:**

I can't, sorry.

**AUDIENCE MEMBER:**

Thank you.

**P.O. LINDSAY:**

All right.

**LEG. ROMAINE:**

Motion to close.

**P.O. LINDSAY:**

Motion to close by Legislator Romaine, seconded by Legislator Barraga. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Seventeen.

**P.O. LINDSAY:**

We stand closed. We're under the portion of our agenda where the County Executive's staff has an opportunity to address us on anything that they would like. I do not see them in the audience. I know they're in the back. They kind of indicated to me before that they didn't want to make any public comments, but I just want to give them an opportunity so I can avoid criticism.

*(\*Applause\*)*

Okay. With that, we will go to the agenda, but I would like to make an announcement. At 12 o'clock, we are going into Executive Session to hear from the attorneys from OTB on that whole issue, which has to do with some legal actions, and they asked that it be done in Executive Session, which I've been told is appropriate. Did you want to say anything, Eric?

**MR. KOPP:**

You are correct.

**P.O. LINDSAY:**

Okay, thank you.

### **TABLED RESOLUTIONS**

Okay. So we go to tabled resolutions. 1559, amending the Suffolk County --

**LEG. ROMAINE:**

Consent, Consent.

**D.P.O. VILORIA-FISHER:**

What about the Consent Calendar?

**P.O. LINDSAY:**

Oh, I'm sorry, we've got to do the Consent Calendar. First --

**LEG. ROMAINE:**

Motion to approve.

**D.P.O. VILORIA-FISHER:**

I'll make a motion.

**P.O. LINDSAY:**

Motion by Legislator Romaine on the -- to approve the Consent Calendar, seconded by Legislator Viloría-Fisher. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Seventeen.

**TABLED RESOLUTIONS**

**P.O. LINDSAY:**

Resolutions tabled to March 8th, 2011: ***1559 - Amending the Suffolk County Classification and Salary Plan in connection with a new position title in the Police Department (Range Officer I) (Co. Exec.)***. Do I have a motion?

**LEG. COOPER:**

Motion to table.

**LEG. ROMAINE:**

Second.

**P.O. LINDSAY:**

Motion to table, second by Legislator Romaine. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Seventeen.

**P.O. LINDSAY:**

***2008-10 - Calling a public hearing upon a proposal to amend the map and plan of service for Suffolk County Sewer District No. 4 - Smithtown Galleria, in the Town of Smithtown, to determine whether it is in the public interest to extend the boundaries in the district and amend the operation and maintenance budget to reflect full current costs and annual rate to be charged for sewage treatment (Co. Exec.)***.

**LEG. KENNEDY:**

Motion to table subject to call.

**P.O. LINDSAY:**

Motion to table subject to call; I'll second that. Do I -- on the question, all in favor? Opposed? Abstention?

**MR. LAUBE:**

Seventeen.

**P.O. LINDSAY:**

Okay. ***Procedural Motion No. 11 of 2011 - To designate Local Newspapers on which County notices may be published***. We've been sitting on this for a while, John, I want to move it.

**LEG. KENNEDY:**

Okay.

**P.O. LINDSAY:**

Okay. Motion to --

**LEG. KENNEDY:**

Yes.

**P.O. LINDSAY:**

-- approve by Legislator Kennedy, I'll second it. All in favor? Opposed? Abstentions?

**MR. LAUBE:**  
Seventeen.

**P.O. LINDSAY:**  
Okay. We'll go to Page 7. We're doing -- I hate to say this, but we're doing good. We got through that --

**LEG. NOWICK:**  
Don't.

**D.P.O. VILORIA-FISHER:**  
Shhhh.

**LEG. HORSLEY:**  
Don't say anything.

**P.O. LINDSAY:**  
Budget and Finance: *1026 - Amend the 2011 Operating Budget to support Parents for Megan's Law (Presiding Officer)*. I'm going to make a motion to approve, seconded by Legislator Eddington. Just for everybody's edification, this is money that I had allocated in the budget and have reappropriated, took some money from some to help Megan's Law. So all in favor? Opposed? Abstentions?

**MR. LAUBE:**  
Seventeen.

**P.O. LINDSAY:**  
*1035 - Amending the 2011 Operating Budget to support Cornell Cooperative Extension Diabetes Prevention Program and Integrated Pest Management Program (Romaine)*.

**LEG. ROMAINE:**  
Motion.

**P.O. LINDSAY:**  
Motion to approve by Legislator Romaine.

**LEG. COOPER:**  
Motion to table.

**P.O. LINDSAY:**  
Motion to table by --

**LEG. KENNEDY:**  
Second to approve.

**P.O. LINDSAY:**  
By Legislator Cooper, seconded by Legislator Kennedy. On the --

**LEG. KENNEDY:**  
Second on the approval.

**P.O. LINDSAY:**

I know, I got you on the second on the approve. Legislator Cooper tabled, second by Legislator Stern. On the question. I would like to comment on the question. And this was an extremely difficult budget that we put together, and we did it with much angst. And this came up in discussions at committee and there was a request to Legislator Romaine to split the two resolutions because of the offsets. The Pest Management would come out of Water Quality Fund, which we they think is very appropriate. The other part has offsets within the budget that I'm not anxious to reopen the budget after struggling with the budget for so long and hard. So I will be supporting the tabling, and I would request that Legislator Romaine for now split it and let's get part of it done and we'll continue to look at the offsets for the other part. Yes, Legislator Romaine.

**LEG. ROMAINE:**

I would simply say that I understand with the Integrated Pest Management it's 37,000 and change and we're taking that from the 477 Fund. This is the Integrated Pest Management for County-owned properties so we can comply with the law, and I appreciate your support on that.

The Diabetes Prevention I'm taking from automobiles, \$77,000. The Diabetes Prevention Program, and we heard testimony, and not everyone was at the Budget and Finance Committee, but those who were heard testimony from the Budget Review Office that the money -- that 77,000 is leveraged by the Health Department to obtain approximately 3.7 million dollars in grants. I would say that's a pretty good bargain. And I would say that diabetes is one of the fastest growing diseases in the United States today, and obviously, as the County government, what a lot of people don't understand is the County government has the responsibility for health care. It's not the State, it's not the Federal, we think of it, but those programs, those Federal and State programs are run by the County. That's one of our primary functions as a county.

Three-point-seven million dollars that I speak about are the HIV/AIDS money, which requires a fully funded nutrition program, Diabetes Program, which Cornell Cooperative Extension provides. That money, and I believe that's the testimony of our Budget Review Office, would be jeopardized. This doesn't spend an additional dime, this is not one extra penny of taxpayer dollar, this is just simply moving money from automobiles. And, as Legislator Kennedy can tell you, as he looks out his window every day across to the Fourth Precinct, there's a lot of cars not in use. We're just moving some of this to make sure that our Health Department has the ability to get that 3.7 million in HIV/AIDS money.

So that's the best argument I can make. That's the testimony of the Budget Review Office. I don't know if they want to add anything or if I've encapsulated everything that they said at the committee meeting.

**MS. VIZZINI:**

Just to clarify, it's not clear what portion of the 3.7 million dollars could be jeopardized by a reduction of expenditures of the 77,000. However, the diabetes education and prevention component, as provided by Cornell, is critical to the prenatal care in the clinics, and the other portion of the 3.7 is, as Legislator Romaine said, the HIV grant monies. So I'd just add that for clarification.

**LEG. HORSLEY:**

Bill.

**P.O. LINDSAY:**

Legislator Kennedy, and then Horsley.

**LEG. KENNEDY:**

I'm happy to second this resolution by my colleague, Legislator Romaine. Diabetes education I

think is something that's paramount across the board. We hear about the escalating rate of childhood obesity. Once again, Legislator Romaine I believe hits the nail on the head about our responsibility for health education, health awareness and health prevention, despite the fact that we seem to go ahead and have amnesia on a constant basis. However, in this case, I in particular in the Working Group singled out the three million dollars committed to automobile procurement for this year, which I find to be unconscionable, absolutely unconscionable as we contemplate laying people off, privatizing facilities and going through draconian types of acts that are disharmonious with the simple funding for educational activities.

I am happy to second this. As a matter of fact I'll ask the Clerk to put me as a cosponsor. I think it's reasonable, responsible and we should go forward with it. Thank you.

**P.O. LINDSAY:**

Legislator Horsley.

**LEG. HORSLEY:**

Yeah, just quickly. Gail, I just wanted to know, does Ed have the last dollar amounts that were allocated for the Diabetes Program? Because I know I gave monies in my omnibus and I understand Legislator Gregory did as well.

**D.P.O. VILORIA-FISHER:**

I did, too.

**LEG. ROMAINE:**

So did I.

**LEG. HORSLEY:**

Yeah, so --

**D.P.O. VILORIA-FISHER:**

So did I.

**LEG. HORSLEY:**

Do you have those numbers in totality, because I don't know what they are.

**LEG. ROMAINE:**

I don't have the numbers in totality. I know what we need to make the program complete. I know what I've heard in terms of what it will do for our AIDS situation. This is something that the Health Department uses to leverage. This is a requirement of the Federal Government that there be a Diabetes Nutrition Program to make sure that there is sufficient funding to HIV/AIDS, the Ryan White Program, and a whole host of other programs, including prenatal care. Some of that money will be lost, certainly a multiple of 77,000 that I'm moving from cars. We put three million dollars-plus in to purchase new cars and many of them sitting vacant, some of them right across from John Kennedy's office. I mean, so we have three less cars. We give the Health Department the opportunity to leverage this money and to get 3.7 million dollars.

I mean, I don't know about you, but I know HIV/AIDS, the Ryan White Program, the Prenatal Care Program, and the Diabetes Program in general are something that I think are worthwhile funding. This is not adding one penny. This is simply shifting \$77,000 out of the three-point-plus million that we put for cars so we can continue to provide a health program, a primary responsibility of County government. You know, you've got to do what you think is right.

**LEG. HORSLEY:**

Well, no one argues the importance. I just wanted to just question Gail on that. Are those dollars compiled now as far as what Diabetes is going to be getting?

**MS. VIZZINI:**

The 77,000 would make the funding level comparable to what was initially recommended.

**LEG. HORSLEY:**

So that means -- as far as the omnibus dollars, were they thrown in -- are they in that figure, that last -- that \$77,000 figure?

**MS. VIZZINI:**

Yes. The 77,000 is needed to bring it back up to what it was originally recommended, even after the augmenting of the Legislature.

**P.O. LINDSAY:**

Legislator Eddington.

**LEG. EDDINGTON:**

Yes, good morning. And I want to start by saying I recognize the budget constraints, but I have been saying for five years that we need to do more education and stop legislating behavior. We've legislated the sale of jewelry, trying to do it for snow, text messaging, which we've seen headlines saying that one-third of the young people text message anyway, phone use, energy drinks, tattoo equipment. And here we have proof that it's a rising problem and we're going to say, "Well, I just think we have to put more money into education." Every piece of legislation that just gets sitting on our desk costs \$3,000 worth of work from the people in Budget Review and around. We could have saved 70 what? Whatever it was, thousand dollars by not putting in frivolous legislation trying to legislate human behavior, and start deciding that maybe, because it's not working, we should try putting money into education. I will be supporting this.

**P.O. LINDSAY:**

Legislator Viloría-Fisher.

**D.P.O. VILORIA-FISHER:**

Thank you, Mr. Chair. When I spoke with Legislator Romaine regarding this legislation, I had recommended that we split it so that we could make the funding sources clearer, because I wasn't certain regarding the amount of money available for the purchase of cars. With the information that has just been provided by Budget Review, it seems that it's really not going to have that much of an impact on the -- or did I misunderstand what you said, Gail? We have enough money to purchase the cars that we need to purchase?

**MS. VIZZINI:**

There's -- there was four million dollars originally in the recommended budget, we reduced that by a million dollars, so there is three million dollars; this takes out 77,000.

**D.P.O. VILORIA-FISHER:**

Okay. And as my colleagues who served on the -- in the Working Group with me, I fought very hard to try to keep the IPM and the Diabetes Program at the funding levels that were recommended because they're such critical programs. So with the amount of money that's already allocated to cars, seeming to be sufficient, I will be supporting this legislation.

By the way, we just made a decision at this horseshoe to close -- I mean, to sell the nursing home. I don't want to keep making decisions that limit the services that we provide that protect people's health. So that's another reason why I'm voting for this.

**P.O. LINDSAY:**

If nobody else, I'll just finish it up. Jon, did you want to say something else?

**LEG. COOPER:**

I just wanted to say that the members of the Working Group made -- you know, worked -- labored long and hard going over line item by line item. We made some very hard decisions. There were a lot of other very worthwhile organizations that were cut dramatically. As we all know, the Foster Grandparents Program was cut 44%. Long Island Association for AIDS care was cut 20%. Are we going to work to restore funding for those organizations as well? And there are hundreds of others.

So, I admit, this is a very valid program, but we have to decide as a Legislative Body whether we want to revisit selectively, and if so, what is the next organization that we're going to restore the funding to, and at some point, are we going to bust the budget as a result? So I'm conflicted on this. I applaud Legislator Romaine for focusing on this issue, but we have to come together as a body to decide whether we should prioritize this program over all the other programs that we cut.

**LEG. SCHNEIDERMAN:**

Bill.

**P.O. LINDSAY:**

Legislator Montano, and then Schneiderman.

**LEG. MONTANO:**

Yeah, I also agree with Legislator Cooper. You know, I've been getting calls all week from Adelante, which is one of the few agencies that provides specialized services to the Hispanic community in my district. They were cut \$37,000. And they have been asking me to try and restore the money, and I have told them that we have a budget process. This was a decision that was made during the budget, and I don't want to be doing the budget every month, every other month. We made some decisions, they were difficult decisions, but if we start dipping back into particular programs in districts, then if you're going to pass this, then I will introduce a resolution to restore funding for Adelante. And I'm sure that there are other Legislators that will introduce resolutions to restore very needed programs in their communities. So we either need to know that we're going to have a budget process and we're going to be able to be disciplined and follow it, or we might as well just then every week submit our resolutions and play our politics. I'd like to avoid that. I understand the need of the program. I also -- I take medication myself for diabetes, I understand the need, but I just don't think that we need to be busting the budget at the first opportunity, because when you do it for one you have to do it for all.

**P.O. LINDSAY:**

Legislator Schneiderman.

**LEG. SCHNEIDERMAN:**

I also served on that Budget Working Group and we had an enormous job and we made some extremely difficult choices and one of them was to cut back this Diabetes Program. But had we had that information that doing so might put into jeopardy almost four million dollars worth of other costs that we might have to cover, I think we personally would have made a different decision. I think that's what differentiates this from some of the other cuts. That is just -- you know, by spending the extra 70,000, we may be saving the County up to four million dollars. I think that is significant and worthy of revisiting this issue. And I will, although I may have supported cutting that Diabetes Program, at this point restoring it so that we can get the money for all those other important programs.

**LEG. ROMAINE:**

Let's call the question. Call the question.

**P.O. LINDSAY:**

Jon.

**LEG. COOPER:**

Just briefly, Gail, can you clarify? My understanding was that you said that what Legislator Schneiderman just stated, was not definitive.

**MS. VIZZINI:**

It's unclear yet what portion of the 3.7 million could be jeopardized, if that's your question. I don't know if it's 77,000 or a portion of 77,000 and then the HIV grants. We cannot get that answer from the Health Department. But it's true, the Working Group did not know that -- well, they knew that there's some potential concerns, but not those precise numbers.

**LEG. COOPER:**

If we gave the Health Department two more weeks, could they get that information, or are you saying that it's just not forthcoming?

**MS. VIZZINI:**

I don't know if they know what the State would do, you know, but there is a commitment for -- some of it is reimbursed based on expenditure, and some of it conditional upon providing a certain level of service.

**P.O. LINDSAY:**

We'll take -- Legislator Browning.

**LEG. BROWNING:**

Yeah. You know, I do want to remind everyone, you know, like Jack had said already about all of these other bills that we passed, Legislator D'Amaro, you're, you know, doing bills about caloric content at fast food stores, about the no trans fats, and I think this ties very well with what this is. And, you know again, we're talking about specific district issues. This is a County-wide issue. This goes from the West End to the East End. Cornell services all of our communities, all of our districts, so I will support this.

**P.O. LINDSAY:**

Okay. I'm going to have the last word, I guess, and I got to be the downer on everything. You know, we -- I'm going to renew my request to Legislator Romaine to split this legislation, that we could address this in two separate pots.

When we went through the budget process, it was painful on all of us. And what we decided to do is we didn't have enough money to fund everything that we all wanted to fund. And, you know, we had allocated a certain pot of money that each Legislator could decide on their own what was important to them. And, you know, there wasn't enough refunding to bring it up to the level that it was.

The whole issue about automobiles, the initial request for replacement automobiles was for eight million dollars. The County Executive cut it in half to four million, and then we cut it to three million. I see the same police cars that are laying dormant in the parking lot. I don't know whether they're disabled or they're high mileage vehicles, or whatever reason, and I'm not certainly depending any -- defending any position of the Police Department, but I just am very reluctant to take money out of that line. And it isn't the 77,000, it's two vehicles. I'm reluctant to open that

door that's going to open the budget again. I don't know how we're going to get through this year as it is.

Many of us attended a meeting on Saturday with our State officials, and most of it, it had to do with school funding, PTAs. But we got into a general discussion about unfunded mandates that are being passed down to us by the State and I don't know where we're going to get the money from. Forty-six million dollars more in pension costs this year. Forty-one million dollars more in Medicaid, our share of Medicaid costs, forty-one. That's before the snafu with the Article 6 money, that's another 20 million dollar that they're passing along to us. And I hate to say it, but all I got out of that discussion was a blame game. You know, I was told that the pension costs are as a result of 25% of elected officials and appointed officials being in the pension plan. And that's because we have term limits, and after term limits, our Legislators go into government somewheres else, OTB, or whatever, which just baffled me. I just scratch my head on that. I mean, this body a long time ago decided implement term limits because it was a good thing for the democratic process in this County. The State has never done that, and, yet, they -- one Assemblyman throws that criticism at us, I thought was kind of outrageous.

But I'm getting off the track. I can't support this the way it stands now, Legislator Romaine. It's not that I'm not sympathetic to it. I'd like it divided. I'll be most happy to approve the Water Quality funding, and I'll keep an open mind, and when we get more numbers on the effects of the Diabetes Program. So with that, I'd just call the vote.

**LEG. ROMAINE:**

Roll call.

**P.O. LINDSAY:**

Roll call, Mr. Clerk.

**LEG. SCHNEIDERMAN:**

Is this on the tabling?

**LEG. ROMAINE:**

Tabling.

*(Roll Called by Mr. Laube, Clerk)*

**LEG. COOPER:**

Yes to table.

**LEG. STERN:**

Yes.

**LEG. ROMAINE:**

No to table.

**LEG. SCHNEIDERMAN:**

No to table.

**LEG. BROWNING:**

No.

**LEG. MURATORE:**

No.

**LEG. EDDINGTON:**

Pass.

**LEG. MONTANO:**

Yes.

**LEG. CILMI:**

No.

**LEG. BARRAGA:**

No.

**LEG. KENNEDY:**

No.

**LEG. NOWICK:**

No.

**LEG. HORSLEY:**

Yes.

**LEG. GREGORY:**

No.

**LEG. D'AMARO:**

Yes.

**D.P.O. VILORIA-FISHER:**

No.

**P.O. LINDSAY:**

Yes to table.

**LEG. EDDINGTON:**

No.

**MR. LAUBE:**

Six.

**P.O. LINDSAY:**

Tabling fails. Motion to approve.

*(Roll Called By Mr. Laube, Clerk).*

**LEG. ROMAINE:**

Yes.

**LEG. KENNEDY:**

Yes.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. BROWNING:**

Yes.

**LEG. MURATORE:**

Yes.

**LEG. EDDINGTON:**

Pass.

**LEG. MONTANO:**

No.

**LEG. CILMI:**

Yes.

**LEG. BARRAGA:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. HORSLEY:**

No.

**LEG. GREGORY:**

Yes.

**LEG. STERN:**

No.

**LEG. D'AMARO:**

No.

**LEG. COOPER:**

No.

**D.P.O. VILORIA-FISHER:**

Yes.

**P.O. LINDSAY:**

No.

**MR. LAUBE:**

Ten.

**LEG. EDDINGTON:**

Yes.

**MR. LAUBE:**

Sorry, Legislator Eddington. That's 11.

**P.O. LINDSAY:**

Okay. *I.R. 1036 - Amending the 2011 Operating Budget and transferring funds to Lifeline Mediation Center (Romaine).*

**LEG. BROWNING:**

Ed, it's yours.

**LEG. ROMAINE:**

Motion.

**P.O. LINDSAY:**

Motion to approve.

**LEG. BROWNING:**

Second.

**P.O. LINDSAY:**

Do I have a second? Second by Legislator Browning.

**D.P.O. VILORIA-FISHER:**

Question.

**LEG. MONTANO:**

Question.

**P.O. LINDSAY:**

Question from Legislator Montano.

**LEG. MONTANO:**

Is this omnibus money?

**LEG. ROMAINE:**

Yes.

**MS. VIZZINI:**

Yes, it is.

**P.O. LINDSAY:**

Okay. We have a motion and a second. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Seventeen.

**P.O. LINDSAY:**

*1037 - Amending the 2011 Operating Budget for the First Congregational Church of Bay Shore.* Do I have a motion?

**LEG. BARRAGA:**

Motion.

**P.O. LINDSAY:**

Motion by Legislator Barraga.

**LEG. KENNEDY:**

Second.

**P.O. LINDSAY:**

Second by Legislator Kennedy. Same question, Legislator Barraga?

**LEG. BARRAGA:**

Omnibus money.

**P.O. LINDSAY:**

Yeah, okay.

**MS. VIZZINI:**

Yes.

**P.O. LINDSAY:**

All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Seventeen.

**P.O. LINDSAY:**

***1098 - Amending the 2011 Operating Budget and transferring funds from the John J. Foley Skilled Nursing Facility to the Legislature (Browning).***

**LEG. BROWNING:**

Bill, I'll make a motion to table. And I guess when the Court comes back and tells us whether our vote was legal or not, I'll make that motion to table until that comes back.

**P.O. LINDSAY:**

I'll second the motion to table. All in favor? Opposed? Abstentions?

**LEG. ROMAINE:**

Please mark me as a recusal.

**MR. LAUBE:**

Sixteen.

**P.O. LINDSAY:**

***I.R. 1111***, do we have the bond on that?

**MR. NOLAN:**

We do.

**P.O. LINDSAY:**

Okay. ***Amending the 2011 Operating Budget and appropriating funds in connection with bonding for General Liability Case (Co. Exec).*** Who wants to make the motion on this one? No, don't make me do the responsible thing, come on.

**LEG. ROMAINE:**

Don't be responsible.

**LEG. COOPER:**

Oh, motion.

**P.O. LINDSAY:**

Motion by Legislator Cooper. Do I have a second?

**D.P.O. VILORIA-FISHER:**

I'll second it.

**P.O. LINDSAY:**

Second by Legislator Viloría-Fisher.

**LEG. KENNEDY:**

Motion to table.

**LEG. NOWICK:**

Second.

**LEG. MONTANO:**

On the motion.

**P.O. LINDSAY:**

Motion to table by Legislator Romaine, seconded by Legislator Nowick. On the motion.  
Legislator --

**LEG. ROMAINE:**

No, it was Kennedy.

**P.O. LINDSAY:**

Oh, Kennedy, okay. Legislator Montano.

**LEG. MONTANO:**

Yeah, just a couple of questions. This came up in the Ways and Means Committee, but I don't think it came up this year; am I correct on that? When did this come before Ways and Means?

**P.O. LINDSAY:**

Would you like to ask the County Attorney's Office --

**LEG. MONTANO:**

Yes.

**P.O. LINDSAY:**

-- to answer that?

**LEG. MONTANO:**

Yes.

**P.O. LINDSAY:**

Please. Please, Gail.

**LEG. MONTANO:**

I saw her up there and I just --

**MS. LOLIS**

Thank you, Mr. Chairman. Gail Lolis, Deputy County Attorney. Ways and Means in 2009 approved the County's offer of three million dollars, which is the full limits of its self-insured retention. The insurance company, our excess carrier then took over the defense. They had the right from that point to decide whatever they wanted to settle for. In 2010, they decided to offer an additional three million for a full settlement of six million dollars. This is just funding our contributions.

**LEG. MONTANO:**

Right. So what we did was we tendered our policy in 2009, is that what you said?

**MS. LOLIS:**

We tendered our self-insured retention --

**LEG. MONTANO:**

Okay.

**MS. LOLIS:**

-- and the defense to the insurance company, which had the complete right to take over the defense once we tendered the three million.

**LEG. MONTANO:**

All right. And could you tell me what kind of case this was? I don't need the specifics, but was it an automobile accident?

**MS. LOLIS:**

It was an automobile accident, a one-car automobile accident.

**LEG. MONTANO:**

All right. And do you know when the accident occurred?

**MS. LOLIS**

2004.

**LEG. MONTANO:**

2004. All right. Thank you.

**P.O. LINDSAY:**

Anyone else on the question? Legislator Romaine.

**LEG. ROMAINE:**

Have we installed guardrails at that point along the road, along the County Road?

**MS. LOLIS:**

I do not know.

**LEG. ROMAINE:**

Was that the contention why the litigant was somewhat successful?

**MR. LOMORIELLO:**

There were -- again, was a settlement. There were allegations concerning guardrails. There was disputed expert --

**MR. NOLAN:**

Gail.

**MS. LOLIS:**

-- testimony. And, Mr. Chairman, other than --

**MR. NOLAN:**

Ms. Lolis. Ms. Lolis, at this stage of the case, the less said about this, you know, the better, until the case is actually settled.

**LEG. ROMAINE:**

Okay.

**MS. LOLIS**

That's what I was going to ask, if we can go into Executive Session if we want to discuss this any further.

**P.O. LINDSAY:**

Anybody else?

**P.O. LINDSAY:**

Okay, okay. I'll just comment. I don't see where we have any choice but to approve this. I mean, even if we disagreed with the settlement, we should have objected to it when he approved it initially. And even if the settlement was to come down, we're on the hook for the first three million dollars. Even if it was reduced 20%, 30%, that's the insurance company's business, because we have the stopgap policies. Isn't that what they call it, Ms. Lolis?

**MS. LOLIS**

It's a self-insured retention, is the name of it.

**P.O. LINDSAY:**

Okay. So, you know, you can do whatever you want, but if we don't approve this settlement, I'm sure will go back to court and in the end you might wind up spending more money than you want to spend. Yes, Legislator Montano.

*(\*The following testimony was taken by  
Alison Mahoney - Court Reporter\*)*

**LEG. MONTANO:**

I agree with you in terms of the settlement; you don't want to second guess the County Attorney when a policy is tendered. But this is my continuing point to the County Attorney's Office and to the budget process, in that most -- you know, at the beginning of the year, most insurance companies go through a process of evaluating their cases, they know which cases are scheduled for trial or likely to settle, and they get a general idea of what their exposure is for that particular year. And then they set aside reserved funds; it doesn't mean that they're going to use it or it doesn't mean that they're going to set aside enough. We continue to avoid that issue in our budget process, and as a result we continue to bond, bond, bond settlements, which I think is the inappropriate way to do it.

We're passing the buck on to, you know, people that are coming behind us instead of -- I know we have a tight situation, but I really have difficulty when we don't even make an attempt to put some reserves away, knowing that we're going to have settlements. We knew in 2009 that we were going to have to make this payment and we simply ignored it, so that now we have to go and borrow more money to pay a settlement which we could have reserved several years ago. I'm going to vote no not on the settlement, but on the bond.

**P.O. LINDSAY:**

Legislator Montano, I couldn't agree with you more, but the deficiency you point out should be addressed in the budget process.

**LEG. MONTANO:**

Yes, it should; I agree.

**P.O. LINDSAY:**

It should be a contingency fund; we didn't do that.

**LEG. MONTANO:**

We haven't done it in for eight years.

**P.O. LINDSAY:**

And we're going to have to eventually pay this. I don't -- well, I don't want to get into the particulars of the case, but the recommendation was to settle, and the only thing I can do is listen to our attorneys on that. Legislator Romaine.

**LEG. ROMAINE:**

If I may, Presiding Officer, a quick question for our Budget Review Office about the recommended budget of our County Executive. How much, if any, was included in a contingency budget for legal settlements of this nature?

**MS. VIZZINI:**

Five hundred thousand dollars for general liability settlements.

**LEG. ROMAINE:**

And generally what have -- and I'm going to ask you purely for a ballpark number. Generally, what have the settlements that we have approved historically over the last few years run?

**MS. VIZZINI:**

Well, they have probably exceeded over two million, in 2009 actual there was roughly 2.9 million in the aggregate for settlements.

**LEG. ROMAINE:**

So 500,000 would be insufficient.

**MS. VIZZINI:**

On an operating basis, yes.

**LEG. ROMAINE:**

And leaving this Legislature and this County no other option but to bond. This one settlement is greater than what we paid out in 2000 -- than we paid out last year, this one settlement alone. So, in essence, without even a contingency account, this is even a larger bonding that we'll have to do. I think that's instructive. I would certainly say, as a member of this body that is going to be here at least for the 2012 Operating Budget, my recommendation would be to the Executive Branch to increase the amount in the contingency account so we are not kicking the can down the road with higher and higher debt levels.

I believe the Smithtown News came out with a report like three weeks ago that, in essence, said between 2004 and 2010 the debt of this County has more than doubled. That's a chilling statistic when you consider -- and they only looked at what we went into debt for, not the debt pipeline which is even greater. That's a huge concern. It's a concern that, to his credit, my colleague Legislator Barraga has reminded us repeatedly about and it's something that at this point we're going to have to pay far more careful attention to. Thank you again, Mr. Presiding Officer.

**P.O. LINDSAY:**

Legislator Kennedy?

**LEG. KENNEDY:**

Mr. Chair, I offer my motion to table for a variety of reasons. I was not on the Ways & Means Committee in 2009 when the presentation was made to that committee regarding settling. I think there's some underlying questions that I would have with it as far as how the mechanics actually occurred.

More importantly, as Legislator Romaine just pointed out, we're currently at 1.3 billion, \$1.3 billion in debt that we are presented with. Now, whether this was something that was known, contemplated or proffered last fall, it was not before us in the Working Committee at all. This is March. How many more IED's are we going to face for the balance of the year? I think unless we get a candid and frank briefing as to the balance of the potential exposure, we're going to be presented with these land mines on a regular basis.

I'm going to vote for a tabling on the resolution and I will vote no for the bond, because I think we have to go ahead and reconcile with these types of funding issues, particularly in light of our almost recent activities.

**P.O. LINDSAY:**

And again, I hear the argument, it should be done when we put the budget together. We should put together a cash fund.

**LEG. ROMAINE:**

Pass pay-as-you-go.

**P.O. LINDSAY:**

At this stage, as much as I'm not comfortable with it, it's the wrong time to do this. Legislator Cilmi.

**LEG. CILMI:**

Thanks, Mr. Chairman. I just have a couple of questions. I mean, if this is sort of an ongoing issue, and clearly the Legislature goes through a painstaking process to review and amend the County Executive's operating budget, has the Legislature ever explored the idea of putting some money into or putting more money into the fund to deal with this problem? That's the first question, really, and it's really just a question.

**P.O. LINDSAY:**

That's the point, we didn't. We didn't put more money in the contingency fund.

**LEG. CILMI:**

And I'm not --

**P.O. LINDSAY:**

We didn't.

**LEG. CILMI:**

Okay. The second question is do we have -- do we have a line of communication with the County Attorney's Office so that we know what cases are potentially coming to settlement like this?

**P.O. LINDSAY:**

That would be a role of the Ways & Means Committee.

**D.P.O. VILORIA-FISHER:**

That's the Ways & Means Committee.

**LEG. NOWICK:**

As they come.

**LEG. HORSLEY:**

It's a good point.

**P.O. LINDSAY:**

Legislator --

**LEG. CILMI:**

My question was answered. Thanks.

**P.O. LINDSAY:**

Okay. Legislator D'Amaro.

**LEG. D'AMARO:**

Well, a couple of thoughts. I'm not enamored with the amount of the settlement, but it was reviewed on the Ways & Means Committee of which I was a member at the time and the Chair at the time, and if I recall, we felt that taking the settlement was in the best interest of the County because of the liability issues.

But I have a question with respect to -- just a procedural question for our Counsel. George, if we approve the settlement but not the bond, what is the effect of doing so and does the lawsuit continue and do we -- you know, do we continue our exposure in the litigation?

**MR. NOLAN:**

Well, if we don't approve the bond, there's nothing -- we're not appropriating anything, so we're not approving the \$3 million to pay the settlement. You've got to do both to pay the settlement.

**LEG. D'AMARO:**

Well, from the plaintiff's point of view, or the Court's point of view, if we approve the legislation settling the case, are we then compelled to come up with the funding, whether we choose to do it by bond or cash? You know, what is the legally binding effect of approving one and not the other?

**MR. NOLAN:**

Both the underlying resolution and the Bond Resolution really don't approve the settlement. The Ways & Means Committee approved the settlement. We're just coming up with the money, and if we don't do both, we're not coming up with the money. Now, how that's going to effect the County's position, I defer to Ms. Lolis to explain that.

**LEG. D'AMARO:**

All right, I appreciate that. And that's what I'd like to know, if we are now -- we have a formal vote of the Ways & Means Committee approving the settlement, so I would assume from the Court's perspective or the plaintiff's perspective, we've agreed. So would we then be in a position -- even if we don't approve bonding, we still have to come up with the funding. Are we legally bound?

**MS. LOLIS:**

We're getting actually into an area where I'm going to ask for an executive session. There may be other liabilities if we don't.

**LEG. D'AMARO:**

And I -- Mr. Presiding Officer, I don't really want to go on the record with anything further, because I do have concerns. I agree with everything that's been said, and I know you do, with respect to, you know, providing cash and, you know, we have very tight budgets and all of that. But, you know, if we need to be in executive session to talk about our continued exposure, then maybe that's what we should do. It's up to the group.

**P.O. LINDSAY:**

Let me just continue the comments and then I'll see what everybody's opinion is. Legislator Montano, go ahead.

**LEG. MONTANO:**

Yeah, Legislator D'Amaro brings up some good points, and I don't feel that we need to go into executive session. The settlement was made, I don't have a problem with the settlement, and we're not debating that. The issue that concerns me is our lack of action in terms of not providing funds within the budget for these type situations, particularly when we know or we should know that they're going to be coming before us.

As I said, I'm personally opposed to bonding, but I understand that we really do need to pass. We have no option but to approve this bond at this point in time. Yes, we passed -- you know, we did the settlement, we approved the settlement. If we don't pass the bond, that plaintiff is going to get their money one way or the other, and it will be more painful down the road. My vote -- and if I have to change my vote to pass the bond, I will do it even though I'm philosophically opposed to bonding these types of settlements, particularly when we don't plan in the budget.

And all I'm asking is that, you know, making the pitch that we need to really consider these kinds of issues. And the Presiding Officer is correct, it wasn't done, so let's not cry over what we didn't do. We should do it, we should be more responsible in the budget with these type issues, but we do have to pay this bond. I don't think we need to go in executive session. I don't even think we need to discuss this any further.

**P.O. LINDSAY:**

Legislator Browning.

**LEG. BROWNING:**

Yeah, just Gail, if you could answer, we have how much in our Tax Stabilization Reserve?

**MS. VIZZINI:**

Sixteen million.

**LEG. BROWNING:**

And is there anything that could prevent us from -- because, you know, you're saying it's about \$3

million every year is the average on these liabilities, that obviously to bond it, you know, the debt service on it, the effect on taxpayers. What could we do to take \$3 million or even maybe \$5 million out of our Tax Stabilization for liability; can we do that?

**P.O. LINDSAY:**

I think Counsel's more capable of answering that, if you don't mind.

**MR. NOLAN:**

Well, first of all, you can only get at that Tax Stabilization Fund in limited circumstances, I don't know if this would fit. But more poorly, to get the money the County Executive has to propose it, which is obviously a big obstacle. But that's how we could get at the money; it's going to be tough.

**LEG. BROWNING:**

So but he has the ability to take out the money from the Tax Stabilization Reserve Fund rather than bond it, which in the end is probably financially the better way to go; am I right?

**MR. NOLAN:**

Legislator Browning, I'm not sure if this situation fits under the State Statute as one of the circumstances, I'd have to go look at it again to see if we could, in fact, theoretically do that.

**LEG. BROWNING:**

Okay. Thank you.

**P.O. LINDSAY:**

Legislator Viloría-Fisher.

**D.P.O. VILORIA-FISHER:**

Just very quickly. Although Legislator Montano, who I can attest to the fact that he has been saying for eight years that we have to plan for this, but again, mea culpa to all of us.

**LEG. MONTANO:**

To all of us, yes.

**D.P.O. VILORIA-FISHER:**

Because I sat on the Ways & Means Committee and I was at the executive session where we approved the settlement. We knew how much it was going to cost, and some of us who were there in that executive session also worked in the Working Group, in the Working Committee and we should have put it into the budget in contingency. Should-a/would-a/could-a, but the point is that we have to pay for this. We've agreed to it, the settlement offer was made, accepted, we agreed to it, we have to pay it, and we don't have the cash to do it so we have to vote yes on this.

**LEG. MONTANO:**

It should have been in the proposal.

**P.O. LINDSAY:**

Legislator --

**D.P.O. VILORIA-FISHER:**

And if it wasn't, then we had an opportunity when we amended that budget to put it in. So we have to accept that it's our responsibility. We knew that it was coming, we should have put it in, and we need to vote on this now.

**LEG. MONTANO:**

Right.

**P.O. LINDSAY:**

Legislator Stern.

**LEG. STERN:**

Yeah, thank you, Mr. Chairman. I agree with the sentiments of all of my colleagues; of course, you're absolutely right. But Legislator Viloría-Fisher asks the -- points out the question.

And Mr. Chairman, if I may, just a simple, straight-forward question for BRO. Gail, if this resolution is not approved and we do have this \$3 million responsibility, what happens?

**MS. VIZZINI:**

Well, there's a settlement, so we have to find \$3 million from someplace else. So, you know, I don't know that the County Executive would come forward with transferring of \$3 million from someplace else which would then create a hole in that other spot.

**LEG. STERN:**

Thank you.

**P.O. LINDSAY:**

That was the point that I was going to make, is if we don't bond the money, we just agonized over \$77,000 for Cornell Cooperative, where were we going to take that from? Where are -- what are you going to defund to pay this \$3 million? That's the issue; whether we like it or we don't like it, that's the issue.

**D.P.O. VILORIA-FISHER:**

Okay, let's vote.

**P.O. LINDSAY:**

Let's -- what do we have, Tim; a motion to table and a motion to approve?

**MR. LAUBE:**

That is correct.

**P.O. LINDSAY:**

Okay, tabling goes first. Roll call.

*(\*Roll Called by Mr. Laube - Clerk\*)*

**LEG. KENNEDY:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. ROMAINE:**

Yes.

**LEG. SCHNEIDERMAN:**

No to table.

**LEG. BROWNING:**

No.

**LEG. MURATORE:**

Yes.

**LEG. EDDINGTON:**

Pass.

**LEG. MONTANO:**

Tabling, no.

**LEG. CILMI:**

Yes to table.

**LEG. BARRAGA:**

Yes.

**LEG. HORSLEY:**

No.

**LEG. GREGORY:**

No to table.

**LEG. STERN:**

No.

**LEG. D'AMARO:**

No.

**LEG. COOPER:**

No.

**D.P.O. VILORIA-FISHER:**

No.

**P.O. LINDSAY:**

No.

**LEG. EDDINGTON:**

Yes.

**MR. LAUBE:**

Seven.

**P.O. LINDSAY:**

Okay, the tabling fails. Motion to approve.

*(\*Roll Called by Mr. Laube - Clerk\*)*

**LEG. COOPER:**

Yes.

**D.P.O. VILORIA-FISHER:**

Yes.

**LEG. ROMAINE:**

No.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. BROWNING:**

Yes.

**LEG. MURATORE:**

No.

**LEG. EDDINGTON:**

Pass.

**LEG. MONTANO:**

Pass.

**LEG. CILMI:**

No.

**LEG. BARRAGA:**

No.

**LEG. KENNEDY:**

No.

**LEG. NOWICK:**

No.

**LEG. HORSLEY:**

Yes.

**LEG. GREGORY:**

Yes.

**LEG. STERN:**

Yes.

**LEG. D'AMARO:**

Yes.

**P.O. LINDSAY:**

Yes.

**LEG. EDDINGTON:**

Yes.

**LEG. MONTANO:**

Yes.

**MR. LAUBE:**

Eleven.

**D.P.O. VILORIA-FISHER:**

It fails.

**P.O. LINDSAY:**

Okay. On the accompanying Bond Resolution, ***1111A (Bond Resolution of the County of Suffolk, New York, authorizing the issuance of \$3,000,000 bonds to finance the payment of a settlement in a General Liability Case)***, same motion, same second. Roll call.

*(\*Roll Called by Mr. Laube - Clerk\*)*

**LEG. COOPER:**

I'm sorry, what is this?

**P.O. LINDSAY:**

To approve the bond.

**LEG. COOPER:**

Yes.

**LEG. MONTANO:**

We just failed the other --

**D.P.O. VILORIA-FISHER:**

No, it passed.

**P.O. LINDSAY:**

Just to put everybody on, you know, it passed with eleven votes, you need twelve to approve the bond.

**LEG. D'AMARO:**

So this is the --

**P.O. LINDSAY:**

To avoid the bond.

**LEG. D'AMARO:**

To avoid the tax increase, right.

*(\*Roll Call Continued by Mr. Laube - Clerk\*)*

**D.P.O. VILORIA-FISHER:**

Yes.

**LEG. ROMAINE:**

No.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. BROWNING:**

Yes.

**LEG. MURATORE:**

No.

**LEG. EDDINGTON:**

Pass.

**LEG. MONTANO:**

Yes.

**LEG. CILMI:**

No.

**LEG. BARRAGA:**

No.

**LEG. KENNEDY:**

No.

**LEG. NOWICK:**

No.

**LEG. HORSLEY:**

Yes.

**LEG. GREGORY:**

Yes.

**LEG. STERN:**

Yes.

**LEG. D'AMARO:**

Yes.

**P.O. LINDSAY:**

Yes.

**LEG. EDDINGTON:**

No.

**MR. LAUBE:**

Ten.

**P.O. LINDSAY:**

How many?

**MR. LAUBE:**

Ten.

**P.O. LINDSAY:**

Ten. The bond failed and -- I don't know what you do now, guys. You punt? Good luck to you's.

Okay. We've got ten minutes before Executive Session.

***IR 1005-11 - Amending Resolution No. 965-2009, Establishing a Local Home Energy Efficiency Task Force (Viloria-Fisher).***

**D.P.O. VILORIA-FISHER:**

Motion to approve.

**P.O. LINDSAY:**

Motion to approve by Legislator --

**LEG. D'AMARO:**

Second.

**P.O. LINDSAY:**

-- Viloria-Fisher, second by Legislator D'Amaro. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Seventeen.

**P.O. LINDSAY:**

***1076-11 - Appropriating funds in connection with the renovation of Kreiling Hall - Ammerman Campus (CP 2114) (County Executive).***

**LEG. HORSLEY:**

Motion.

**P.O. LINDSAY:**

Motion by Legislator Horsley. Do I have a second?

**LEG. NOWICK:**

Second.

**P.O. LINDSAY:**

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

**LEG. BARRAGA:**

In the negative.

**MR. LAUBE:**

Sixteen (Opposed: Legislator Barraga).

**P.O. LINDSAY:**

On the accompanying Bond, ***1076A (Bond Resolution of the County of Suffolk, New York, authorizing the issuance of \$150,000 bonds to finance a part of the cost of planning for the renovation of Kreiling Hall - Ammerman Campus (CP 2114.110), same motion, same***

second.

Roll call.

***(\*Roll Called by Mr. Laube - Clerk\*)***

**LEG. HORSLEY:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. ROMAINE:**

Yes.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. BROWNING:**

Yes.

**LEG. MURATORE:**

Yes.

**LEG. EDDINGTON:**

Yes.

**LEG. MONTANO:**

Yeah.

**LEG. CILMI:**

Yes.

**LEG. BARRAGA:**

No.

**LEG. KENNEDY:**

Yes.

**LEG. GREGORY:**

Yes.

**LEG. STERN:**

Yes.

**LEG. D'AMARO:**

Yes.

**LEG. COOPER:**

Yes.

**D.P.O. VILORIA-FISHER:**

Yes.

**P.O. LINDSAY:**

Yes.

**LEG. EDDINGTON:**

Yes.

**MR. LAUBE:**

Sixteen (Opposed: Legislator Barraga).

**P.O. LINDSAY:**

Okay. I'm being told 1077, 1078 and 1079, we do not have the Bonds as yet, so I'm just going to pass over them.

**MR. NOLAN:**

I don't think we're getting them today.

**P.O. LINDSAY:**

You don't think -- we'll give them till the end of the day to see if we get them; if not, we'll have to address them at our next meeting.

Okay, we're up to page eight.

*2200-10 - Authorizing the acquisition of land under the New Suffolk County Drinking Water Protection Program (effective December 1, 2007) - open space component - for the Fergus Shaw III and Arthur Shaw property - Forge River Watershed - Town of Brookhaven (SCTM Nos. 0200-675.00-04.00-019.000, 0200-675.00-04.00-032.000, 0200-675.00-04.00-033.000, 0200-675.00-04.00-035.001 and 0200-675.00-04.00-035.002) (County Executive).*

**LEG. ROMAINE:**

Motion.

**P.O. LINDSAY:**

Motion by Legislator --

**LEG. BROWNING:**

Second.

**P.O. LINDSAY:**

-- Romaine. And who seconded it?

**LEG. BROWNING:**

Second.

**P.O. LINDSAY:**

Second by Legislator Browning.

**LEG. COOPER:**

Motion to table.

**P.O. LINDSAY:**

Motion to table by Legislator Cooper. Is this the property with the low rating?

**LEG. COOPER:**

The rating of eight.

**P.O. LINDSAY:**

Yeah. I'll second the motion. On the motion?

**LEG. KENNEDY:**

Mr. Chair, yeah, I've got a quick question, I guess, for --

**P.O. LINDSAY:**

Legislator Kennedy.

**LEG. KENNEDY:**

For Counsel. Is this a number of contiguous parcels? What happened in --

**D.P.O. VILORIA-FISHER:**

No, it's one large parcel.

**LEG. KENNEDY:**

So why the multiple tax map numbers, then? Just individual parcels that are all aggravated but it's one?

**LEG. NOWICK:**

They could be next to one another.

**LEG. KENNEDY:**

Is it proximate on to the river itself?

**D.P.O. VILORIA-FISHER:**

No.

**LEG. KENNEDY:**

Is it within the watershed?

**D.P.O. VILORIA-FISHER:**

It's in the watershed, but it's not approximate to the river. I forget how far it is; is it twelve hundred feet? Yeah, it's not within the -- but it's not right where the river is, but it's within the broader watershed area.

**LEG. KENNEDY:**

What is the zoning on this property, does anybody know?

**LEG. ROMAINE:**

It's approved for a subdivision.

**D.P.O. VILORIA-FISHER:**

I believe it's A-1.

**LEG. BROWNING:**

Yes.

**LEG. KENNEDY:**

It's been approved for a subdivision, Legislator Romaine?

**LEG. ROMAINE:**

Yes.

**D.P.O. VILORIA-FISHER:**

Yes.

**LEG. KENNEDY:**

So we would be looking at a number of residences with septic systems that would inevitably drain into the river.

**LEG. ROMAINE:**

Yes. At the -- if I can answer your question. At the committee, not only did Maryann Johnson, who is the President of the Affiliated Brookhaven Civic Organization appear, the Peconic Baykeeper appeared. John Turner, who is this former Environmental Director for Brookhaven Town, who walked the property appeared, Save the Forge River appeared and a number of other individuals appeared in support of the acquisition of this property. It is a key parcel.

What we failed to realize is that all the smaller parcels, the quarter of an acre, eighth of an acre that were acquired as part of the Forge River Watershed, if rated individually, would have rated very poorly. The rating is in question. This is part of the Forge River Watershed. And everyone from that area, including my neighbor immediately to the west, Legislator Browning, is in support of this acquisition as part of Save the Forge River Watershed. This is a willing seller. If we don't acquire, there will be cesspools and septic tanks, the very thing that has caused the Forge River to become so imperiled and the Great South Bay and Moriches Bay.

So, you know, this is something that the committee listened to. There were skeptics on this committee, and in the end this passed out of committee unanimously. And it passed out of the committee unanimously not for any of the feeble voice I could raise for this, but for all the testimony by the experts as to the value of this property and preserving this property for the watershed. So all I would say to you, if you believe that the Forge River Watershed should be preserved, if you believe that there is a chance that the Forge River may regenerate itself, if you believe that it is important to preserve our bays and its tributaries, cast a vote in favor of this.

**LEG. EDDINGTON:**

I believe, I believe.

**LEG. KENNEDY:**

Thank you, Legislator Romaine. And Mr. Chair, again, I apologize not having been at EPA. So with the Chair's indulgence, can I ask the Chairwoman, then, why is it that this parcel received the lower rating if, in fact, it's within a watershed and proximate to a distressed natural river that feeds the Great South Bay?

**LEG. ROMAINE:**

It's in the first district.

**D.P.O. VILORIA-FISHER:**

Actually, it's in the watershed, but it's not a wetlands; okay, that's the difference. Much of Suffolk County is in watershed areas.

And there have been many, many acquisitions within the Forge River Watershed, most of them in the wetlands area which is much more approximate to the river itself.

And so as I go through the rating, there are ratings for the fresh water entitled wetlands and buffer lands, okay, so it's not entitled wetlands. It's not within -- it is within the watershed, but it's not as proximate, it's not within 300 feet of the actual wetlands. I'm just -- I'm not arguing for it, I'm telling you how the ranking system worked.

Mr. Turner appeared and spoke to succession plant life that was growing there; that was not listed

here. It was listed as -- you know, as a nursery. And when I walked it with Laretta Fischer from Planning, what I saw were not indigenous plants but rather -- but I walked in a very rainy day, and I didn't see any flooding occurring on the property. It's not an attractive piece of property either. However, Mr. Turner indicated that he did see wildlife; I did not see wildlife, and he indicated that there were, you know, successive plants that were -- succession plants that were growing, which I did not see.

So I guess some of it becomes an art rather than very specific objective. I mean, Planning did concede at the meeting that they do their best, that in the end we do -- you know, we make a policy judgment, they based it on the objective criteria that has been given to them in the -- you know, through the ranking system. The Forge River protection group, the task force, has been much more aggressive in the protection of the Forge River, although we've been very aggressive; as you know, we've bought quite a bit of property in the wetlands. And so Planning said in prioritizing how we're saving the Forge River, we want to look at what is more proximate to the river itself, and there are still a number of pieces of property that have not been acquired there yet. And we are getting closer and closer to the final terminating point regarding that Quarter Percent money that we're getting, we're nearing the point where the extension is being reached. So it would be more judicious.

**LEG. KENNEDY:**

Well, I -- and thank you for that explanation, I appreciate it.

The only other question I'd ask is if our Planning Department had the benefit of the results of the Brookhaven Town Planning's Forge River Study when they actually rated this parcel, or was it prior to when those recommendations came out? It's unfair to keep the body waiting. I'm going to ask my colleagues from the east if maybe we could consider a possible tabling for one cycle, if for no other reason to just get the benefit of that additional information. But I defer to them as being the Legislators that, you know, are most familiar with the property, I am not.

**P.O. LINDSAY:**

Legislator Browning.

**LEG. BROWNING:**

Yeah, I think Ed pretty much said it all. However, I have to reiterate, we've had many, many years of poor planning in my district and that's why we have the Forge River the way it is today; too many cesspools.

**LEG. ROMAINE:**

Exactly right.

**LEG. BROWNING:**

And I think that putting 28 more homes on the Forge River Watershed is just adding to the problem. Maryann Johnson brought a photograph of a piece of property directly across the street from that property, and you saw it, Vivian, it was flooded. When the water comes in, when the tides are coming in and the water gets high, it's flooded. So you're going to put cesspools next to that, so when those cesspools are washing out, you've got all that nitrogen going back into the Forge River.

I've had the Forge River -- Save the Forge River have been here, they're fully supportive of this. I can't reverse what was done in the past, but we have to stop over-development and creating more and more problems. And the only way -- unlike my colleagues from Babylon, we're not fortunate enough to have a sewer district, otherwise it wouldn't be so much of an issue, but we don't. And I think the way things are going right now, we're not going to save the river if we keep developing on it.

**LEG. KENNEDY:**

Okay.

**P.O. LINDSAY:**

Legislator D'Amaro.

**LEG. D'AMARO:**

Thank you. Just very quickly. I agree with Legislator Browning. I voted for this come in committee, and yes, it doesn't have -- it does have a low rating. However, there are some limited times when we do look beyond the four corners of the rating form and look at some more maybe even subjective criteria, which Legislator Browning just delineated for you, and I agree. And I think even Director Isles, when we had that dialogue in the committee, was on board with the concept of looking beyond the four corners of the rating form.

So I'm going to continue to support this. We're putting tremendous resources into the Forge River area. This is in the Watershed. And although it does not get points for that on the rating form itself, I think this is a good instance where we have to look beyond that. So I'm going to support this.

**P.O. LINDSAY:**

And I'll just have the last word because we have to go into Executive Session. But we establish a rating system. I'm not an environmentalist by any stretch of the imagination, so all I depend is the systems that we put in place and their evaluation. This got eight points out of a possible hundred; 24 is our benchmark for considering anything.

You know, if you guys -- I'm surprised that the County Executive is going forward with this resolution when it's contrary to the systems that are in place that many of his staff people have great input into. But if you want to go forward with this, you're opening a door that is going to be difficult to close. If we don't follow our rating systems, then anything that comes up with a future low rating system is going to be fair game. And certainly, if it's something in my district, I'm going to fight like hell for it; that's what we get paid for, to fight for our own districts. And I respect Legislator Romaine, I respect Legislator Browning for their efforts in this, but I think we have to follow some kind of criteria, whether we like it or we don't like it. And I cannot support this.

I would strongly recommend, follow Legislator Kennedy's recommendation, that it be tabled. We go back to the board with the environmental people, was this misevaluated? Why was it misevaluated? Can it get more points? If you bring it up to anywheres near the threshold, I'll be happy to support it. I'm not against preserving the Forge River or trying to clean it up. God, we've had a million votes here of parcels that we've preserved in that area. Probably -- we've preserved in the last two years probably more parcels around the Forge River than anyplace else in Suffolk County. So, you know, that's my position. Roll call. Tabling is first.

*(\*Roll Called by Mr. Laube - Clerk\*)*

**LEG. COOPER:**

Yes to table.

**P.O. LINDSAY:**

Yes.

**LEG. ROMAINE:**

No.

**LEG. SCHNEIDERMAN:**

No to table.

**LEG. BROWNING:**

No.

**LEG. MURATORE:**

No.

**LEG. EDDINGTON:**

Pass.

**LEG. MONTANO:**

Yes.

**LEG. CILMI:**

No.

**LEG. BARRAGA:**

No.

**LEG. KENNEDY:**

No.

**LEG. NOWICK:**

Yes.

**LEG. HORSLEY:**

No.

**LEG. GREGORY:**

Abstain.

**LEG. STERN:**

Yes to table.

**LEG. D'AMARO:**

No.

**D.P.O. VILORIA-FISHER:**

Yes.

**LEG. EDDINGTON:**

No.

**MR. LAUBE:**

Six.

**P.O. LINDSAY:**

Tabling fails. Motion to approve.

*(\*Roll Called by Mr. Laube - Clerk\*)*

**LEG. ROMAINE:**

Yes.

**LEG. BROWNING:**

Yes.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. MURATORE:**

Yes.

**LEG. EDDINGTON:**

Pass.

**LEG. MONTANO:**

No.

**LEG. CILMI:**

Yes.

**LEG. BARRAGA:**

Yes.

**LEG. KENNEDY:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. HORSLEY:**

Yes.

**LEG. GREGORY:**

Abstain.

**LEG. STERN:**

No.

**LEG. D'AMARO:**

Yes.

**LEG. COOPER:**

No.

**D.P.O. VILORIA-FISHER:**

No.

**P.O. LINDSAY:**

No.

**MR. LAUBE:**

Ten.

**P.O. LINDSAY:**

Okay, it was approved. With that, I am --

*(\*Roll Call Continued by Mr. Laube - Clerk\*)*

**LEG. EDDINGTON:**

Yes.

**MR. LAUBE:**

Eleven.

**P.O. LINDSAY:**

Okay. With that, I am going to ask the auditorium to be emptied. I'm going to ask that the microphones be turned off and I'm going to make a motion to go into Executive Session.

**LEG. CILMI:**

Second.

**P.O. LINDSAY:**

Seconded by Legislator Cilmi. It's for the purpose of discussing the situation with OTB. And I am going to ask that the County Attorney's Office stay in the room, that the attorneys for OTB stay in the room and their representatives, and that's about it. I don't need Budget Review, so you guys can go to lunch. Do I have a second on the motion?

**LEG. CILMI:**

Yes, I did.

**P.O. LINDSAY:**

Yes, we've got a second. All in favor? Opposed? Abstentions?  
Could you call the vote, Tim?

**MR. LAUBE:**

Seventeen.

**P.O. LINDSAY:**

Okay. Okay, we're in Executive Session. If everybody could clear the auditorium.

*(\*Executive Session: 12:05 - 12:57 P.M. \*)*

**P.O. LINDSAY:**

Okay, we're back on the record. And I need a motion to close the Executive Session and --

**LEG. BARRAGA:**

Motion.

**P.O. LINDSAY:**

-- to recess for lunch.

**LEG. ROMAINE:**

Okay, second.

**P.O. LINDSAY:**

Okay. We can do that in one motion. We have a second by Legislator Romaine. All in favor? Opposed? Abstentions? We are recessed until lunch. We're in recess. Alison, you can call the vote.

**MS. MAHONEY:**

Seventeen.

*(\*The meeting was recessed at 12:58 P.M. \*)*

*(\*THE FOLLOWING WAS TAKEN AND TRANSCRIBED BY  
LUCIA BRAATEN - COURT REPORTER\*)*

*(\*THE MEETING WAS CALLED BACK TO ORDER AT 2:30 P.M. \*)*

**P.O. LINDSAY:**

Okay. Could I have all Legislators to the horseshoe, please? Mr. Clerk, could you call the roll, please?

*(Roll Called By Mr. Laube, Clerk)*

**LEG. ROMAINE:**

(Not Present).

**LEG. SCHNEIDERMAN:**

Here.

**LEG. BROWNING:**

Here.

**LEG. MURATORE:**

(Not Present).

**LEG. EDDINGTON:**

Here.

**LEG. MONTANO:**

(Present).

**LEG. CILMI:**

Here.

**LEG. BARRAGA:**

Here.

**LEG. KENNEDY:**

Here.

**LEG. NOWICK:**

Yes.

**LEG. HORSLEY:**

(Not Present).

**LEG. GREGORY:**  
Here.

**LEG. STERN:**  
Here.

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

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

**D.P.O. VILORIA-FISHER:**  
Present.

**MR. LAUBE:**  
Lindsay? I see him.

**D.P.O. VILORIA-FISHER:**  
He's here.

**LEG. BROWNING:**  
He's here.

**MR. LAUBE:**  
Twelve.

**LEG. SCHNEIDERMAN:**  
You have a quorum.

**P.O. LINDSAY:**  
Okay. Mr. Clerk, do we have any cards? I have no cards yet.

**MR. LAUBE:**  
I haven't received any yet.

**P.O. LINDSAY:**  
All right. The first hearing is *1952 - A Local Law to protect animals in Suffolk County from abuse (Cooper)*. We'll have to wait until I get the cards to see if there's anybody that wants to speak on this subject. Okay. We don't have any cards for 1952. Is there anyone in the audience that would like to speak on this subject? Seeing none, Legislator Cooper, what is your -- where is Legislator Cooper? 1952, about animal abuse?

**LEG. COOPER:**  
Oh, motion to recess, please.

**P.O. LINDSAY:**  
We have a motion to recess, I'll second that. All in favor? Opposed? Abstentions?

**MR. LAUBE:**  
Sixteen.

**P.O. LINDSAY:**

Okay. Next up is *2045 - A Charter Law to limit campaign donations by members of the Ethics Commission (Cooper)*. And I have no cards on this subject. Is there anyone in the audience that would like to speak on this subject? Seeing none, Legislator Cooper?

**LEG. COOPER:**

Motion to recess.

**P.O. LINDSAY:**

Motion to recess, I'll second --

**LEG. MONTANO:**

Second.

**P.O. LINDSAY:**

Or second by Legislator Montano. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Seventeen.

**P.O. LINDSAY:**

Okay. *I.R. 2107 - A Charter Law strengthening the budget adoption process (Co. Exec.)*. I have no cards on this subject. Is there anyone in the audience that would like to speak on this subject? Seeing none, I'll make a motion to recess. Do I have a second?

**LEG. EDDINGTON:**

Second.

**P.O. LINDSAY:**

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

**MR. LAUBE:**

Sixteen. (Not Present: Leg. Kennedy)

**P.O. LINDSAY:**

And then we get to *2210 - A Local Law to ban the sale of energy drinks to minors in Suffolk County (Nowick)*. And we do have a few cards. First up, it looks like -- forgive me. Lisa Katz, maybe. Katz, is that right? I'm sorry if I miss -- Katic? Katic? Okay.

**MS. KATIC:**

You're not alone there. I got to tell you, it's Katic. Thank you. Thank you for the opportunity to speak before you this afternoon. My name is Lisa Katic. I'm a registered dietician and a nutrition consultant working in the Washington D.C. area. I work in the policy arena in D.C., and I've been in the nutrition profession for over 15 years as a -- can you hear? I'm sorry. Okay.

**MR. LAUBE:**

You have to speak in the microphone.

**MS. KATIC:**

Okay. Is that better? Where I have several years experience working in the food policy arena, interfacing with Federal agencies, Legislative bodies, both in the United States and abroad. I'm also

a member of several health professional organizations, including the American Dietetic Association, amongst others.

Since we're talking about energy drinks here today, I want to first establish, I think an ingredient that comes up often when we're talking about energy drinks and that's caffeine, which is one of the most thoroughly studied ingredients in the food supply. The Food and Drug Administration is responsible for the oversight of caffeine in foods and in beverages, and they are classified as generally recognized as safe, which is a common category where things that have been in the food supply for a really long time fall into this because they've been consumed for a long time. And again, we have a good history on their ingestion and use and consumption. More than 140 countries around the world have also has deemed caffeine as safe.

Most health experts agree that moderation and common sense are truly the key factors to keep in mind when we're talking about caffeine-containing foods and beverages. And people often ask what is moderation and what we tend to refer to or mean by moderation is about two to three hundred milligrams of caffeine per day, which amounts to about three cups of coffee or five to six soft drinks, depending on the brands and the serving sizes. The American Medical Association has stated that moderate coffee or tea drinkers probably do not have concern for their health, provided other lifestyle factors are moderate as well.

So I just want you to know that many reputable scientific bodies and regulatory bodies have looked at caffeine for several years and, again, continue to deem the ingredients safe. And I think it's critical to keep in mind when we talk about caffeine, we want to talk about where it's found in the food supply. You know, most people are really getting their caffeine intake from coffee or coffee beverages. And I have a chart in my testimony, I won't go through all of it, but it shows that if you look at twelve ounces of brewed coffee from any coffee house like Starbucks or McDonald's, or some, you know, major chain, you're getting about 100 milligrams of caffeine in a 12-ounce serving, compared to energy drinks in a 12-ounce serving average between 80 to 100, and 160 milligrams in the same amount of servings. So, again, I just want to keep in perspective that mainstream brands of energy drinks are similar to what people are getting in a coffee house coffee.

When caffeine is ingested, I think it's important to also talk about it's fact that it's metabolized similarly to any other food or food ingredient. It passes through the body in a relatively short time period. Research shows that children and young adults are no more sensitive to caffeine and do not metabolize it differently than adults. Most health professionals would agree that when dealing with caffeine-containing products like energy drinks or coffee drinks, the best approach is to educate and communicate the facts to consumers.

Caffeine amounts for many energy drinks can be found right on the product label or by visiting the manufacturer's website. So I think we need to encourage consumers to read labels, like we would with any other food that they contain or beverages that they consume, and to get the facts on foods and beverages, like I said, like they consume every day.

We want to empower consumers and give them information they need to make the right choices. I think it would be more useful to educate young adults about the caffeine content in their favorite products as opposed to simply banning the product from the marketplace. We know in past history when, you know, we've tried to ban other products from the marketplace, they really just don't work and don't change behavior. I think it should be noted that sometimes bans like this can even cause a negative consequence of making energy drinks seem more appealing, especially to young populations.

Lastly, data from the National Health and Nutrition Examination Survey, which is NHANES, it's a very well-known data that is referred to all the time when we look at food and beverage consumption, it

shows that energy drink consumption by children under 18, which is, I believe, what you're targeting in your proposed legislation, is extremely low. Furthermore, caffeine intake by the same demographic is well below the two to three hundred milligrams per day that I mentioned earlier as being considered a moderate amount. So I think being aware of this data, it can be seen that an attempt to ban these products through legislation is unwarranted and unproductive. And I'm finishing with I think we have information on how much caffeine children and young adults are consuming. We also have consumption data on energy drinks. I think it's important that we think of the outcome that we're trying to achieve before setting policy.

If we're trying to keep our kids healthy, we know bans don't teach healthy lifestyles. Bans do not help parents or young adults learn to put caffeine amounts into perspective.

**P.O. LINDSAY:**

Okay. Ms. Katic, if you -- Legislator Nowick has a question for you.

**LEG. NOWICK:**

Hi. Thank you for coming. And where did you say you were from again?

**MS. KATIC:**

I live in the Washington D.C. area.

**LEG. NOWICK:**

And you represent?

**MS. KATIC:**

Oh, I'm here representing the American Beverage Association.

**LEG. NOWICK:**

Okay. I just wanted to say one thing. And I do agree with you, caffeine is -- that's fine, but I don't know that you didn't get an opportunity to read some of the cans on energy drinks. Just so you know, the caffeine is the -- one of the problems, but I don't know if you got a chance to read that many of the drinks include taurine, and ginseng, and guarana, and ginkgo. And I just wanted to set the record straight on that, just so my colleagues know that. But, given the amount of time we spent on this at the last Public Hearing, I'm not -- I just wanted to bring that up to you. Okay?

**MS. KATIC:**

Yeah. No, I'm well aware of that. I focused on caffeine, I think, because it's the ingredient that is most contained in the beverages. The other stuff is somewhat minimal. And again, I think anything we have to remember in a beverage in the marketplace is safe and it is regulated by FDA.

**LEG. NOWICK:**

Right. And a lot of this stuff might be minimal. The problem is that we don't know, because a lot of the cans don't have the percentage. But thank you very much anyway for coming.

**MS. KATIC:**

Okay. Thank you.

**P.O. LINDSAY:**

Richard Adamson.

**MR. ADAMSON:**

Good afternoon. Thank you for the opportunity to speak today. I'm Dr. Richard Adamson. I'm President of TPN Associates. TPN Associates designs experiments, analyzes results of testing,

reviews the medical and scientific literature, and writes summaries for our clients in the areas of toxicology, pharmacology and nutrition. The clients may either be private or public entities. I was a scientist at the National Institutes of Health in Bethesda, Maryland for over 30 years, first as a laboratory scientist, and for the last 14 years, as a scientific director and a director of a division that was responsible for over 800 employees. During my Federal career, I also was a senior policy analyst in the Office of Science and Technology Policy, 1979 to 1980; that's during President Carter's administration. Following Federal retirement, I was Vice President for Scientific and Technical Affairs at the American Beverage Association for ten years, and I am speaking on their behalf today.

When I was a laboratory scientist at the NIH, I worked on many compounds including caffeine and published the results in peer review journals. I have stayed abreast of the scientific literature on caffeine, the medical literature, and I often speak to both State and Federal Legislatures, as well as for public entities and private, on the safety of caffeine.

The common ingredient in energy drinks is caffeine. I'm here today to discuss the safety of caffeine, and address any comments you may have on the addictiveness of caffeine present in energy drinks, or I should say the lack thereof. The best studies of the medical literature support the view that caffeine is not an addictive substance. And as a prominent psychiatrist and drug abuse physician in Washington D.C. has stated in a review article on caffeine and addiction, and I quote, *Caffeine neither meets the common sense nor the scientific definition of an addictive substance*, unquote. Caffeine, as Lisa Katic has said, is a natural substance and mild stimulant found in coffee beans, tea leaves, kola nuts, kola beverages, kola beans, and a dozen other plants. It has been part of the profile, the flavor profile of beverages for many years.

In addition, the U.S. Food and Drug Administration has designated caffeine and kola drinks as, and I quote, *generally regarded as safe*, unquote. In amounts that are found in coffee and some energy drinks, it has a pleasant stimulating or alerting effect. In accordance with FDA regulations, all beverages, with the exception of coffee when you go into a coffee house, lists caffeine on the product label, and although it is not a requirement of the FDA, many list the caffeine content on their product, including on most energy drinks.

Soft drinks contain basically thirty to four -- thirty to four milligrams per ounce; iced tea, one to six milligrams per ounce; drip coffee, 13 to 24 milligrams per ounce, and energy drinks, 7 1/2 to 20 milligrams per ounce. Of course, the amount of caffeine in coffee varies due to the bean type, the harvesting conditions, the amount of beans used, the consumer brewing time and the method. Although there are more than 200 brands of energy drinks on the market with differing flavors, different tastes, various amino acids, various vitamins and other ingredients, the one constant ingredient is caffeine. The alertness and enhanced mental performance that energy drinks provide is due to caffeine.

Companies that have produced energy drinks and are members of the American Beverage Association, which is the mainstream energy drink providers, provide caffeine content through the corporate 1-800 number, through their websites, and most of them do also on their product. You can pick up a can of an energy drink and see. The amounts of caffeine in energy drinks are generally equal to or less than the amount found in coffee on a per-ounce basis.

In closing, I would like to say that it is caffeine, not the B vitamins and amino acids, that are sometimes added to them that's the common element that gives energy drinks their pick-me-up quality. It is safe, and has been declared so by Federal agencies. And the best studies in the medical literature support the view that caffeine is not an addictive substance. Thank you for your time.

**P.O. LINDSAY:**

Mr. Adamson, Legislator Eddington has a question for you.

**LEG. EDDINGTON:**

Yeah. You started and ended with a statement that caffeine isn't addictive, but it does affect the homeostasis of the body. It's a stimulant; am I right?

**MR. ADAMSON:**

That is correct, sir.

**LEG. EDDINGTON:**

So, then are you saying that it's not physically addicting, but it could be psychologically? Because just stand by the 7-Eleven in my area and you'll see people that are having a need or extreme desire for that cup of coffee. So how do you explain that?

**MR. ADAMSON:**

It's not physically addicting, it's not psychologically addicting, it's a habit. It does not -- people do not drink more and more and more. There is not tolerance to it. And if there is gradual withdrawal, there is no problem. People do not rob stores to get money to buy a cup of coffee or an energy drink.

**LEG. EDDINGTON:**

So you're saying there's no -- if a drug does not have a corresponding aberrant behavior, then it can't be classified as addicting?

**MR. ADAMSON:**

With regards to the addictive center, which is in the nucleus ambiguus, if you put in cocaine -- this has been done. If you put in cocaine and you put in heroin, you put in methamphetamine, it lights up the nucleus -- the nucleus accumbens, which is called the addicting center. Caffeine does not light up the nucleus of the ambiguus. What it does is stimulates the caudate nucleus, which is locomotion, and it stimulates two other centers which give alertness and which mediate mood. It does not stimulate the addictive center, which is the nucleus accumbens.

**LEG. EDDINGTON:**

Okay. Thank you.

**P.O. LINDSAY:**

Thank you very much.

**D.P.O. VILORIA-FISHER:**

Dolfina DiMaria.

**P.O. LINDSAY:**

Dolfina DiMaria.

**MS. DI MARIA:**

Good afternoon, Ladies and Gentlemen. I am -- I live and work in Suffolk County. I have 20 years experience as a pharmacist. I'm here to represent myself as a retail pharmacist working for a local chain, but I have many drug interactions with a lot of people about adverse drug effects. I'm here as a consultant pharmacist where I also perform drug effects, side effects, identify potentially dangerous medications. I've worked for the Poison Control Center, which is an emergency triage line, that we get calls from the hospitals, we get calls from the home, from work, anywhere from a phone. I'm also a mother of three children. I have two teenagers and a six-year-old and I'm coming from a standpoint of all of those.

Like most adults, caffeine is a large part of my life. Eighty percent of people drink one to two cups of coffee a day. The FDA's dose threshold level is about 10 to 20 milligrams. It starts to get heavy about 400 milligrams. About 600 milligrams you see side effects. At that dose that most Americans are drinking, we're not going to be seeing all the side effects of the coffee.

There is a double standard that exists between caffeine in coffee drinks, in OTC products, and in prescriptions and in energy drinks. Caffeine is socially accepted. There are coffee shops and restaurants at every corner of Manhattan, but are there ever -- there's never going to be energy drink shops that it's not going to be socially accepted. But then in the coffee shops, are we going to be carding for the amount of caffeine in the amount of coffee? If you go from an ounce-by-ounce basis, the coffees contain more caffeine than do the energy drinks. Are there going to be signs up with warnings with -- associated with the risk affecting caffeine and affecting the ingredients.

As a local pharmacist at a local retail pharmacy, I see many OTC and prescription drugs. We have Vivarin and NoDoz out there, which is 200 milligrams of caffeine in a tablet. And the little small print you can take up to three a day, which is 600 milligrams. It has a short half-life, so you can take it every three hours. The kids aren't reading that. There -- that is available. Anybody can walk in at any point and get a box of 12, 24, they're all over my shelves. We have soda, we have Mountain Dew, which has a high amount of caffeine in it.

What I'm advocating is education and everything in moderation. I have experience with the Poison Control Center. According to the recent data I found, the most recent I found was 2007. The National Poison Control Center reported 4,183 exposures to caffeine. They had one case of one death. This is probably due -- caffeine causes a lot of gastric irritation, you get spontaneous emesis. We have a natural syrup of ipecac baked into us.

In the previous years, from 1991 to 1996, there were 5,639 to six hundred -- 6,264 exposures with three deaths. We actually went down in exposures and went down in deaths even though the amount of energy drinks and the amount of these products are -- I know they're overwhelming on the market, I know you can go into any store. When a patient comes into the Poison Control Center, the emergency room doctor, someone's going to call us. We're going to treat the patient. There are caffeine levels out there that can be taken, but the end result is still going to be treating the patient. When the patient will come in having a seizure, if the mother or father is with them, they're not going to blame that they took caffeine tablets. It's usually more socially acceptable to say that they drank more of the energy drinks than to admit them doing illicit substances.

What I must stress is we can't disregard the old saying everything in moderation. We all agree that heavy caffeine use can cause problems, restlessness, anxiety. In overdose, it can cause seizures, it can cause a lot of metabolic processes. That is not what I'm advocating. I'm advocating indicating education. As a parent, we have to be concerned about all the health risks of my children. There's a DARE Program that went on in the school. I have my older one that had taken the DARE Program. They didn't speak about caffeine. Maybe we should get that involved in the school system. I have spoken to my kids of this, I've spoken to them about energy drinks; education in moderation. There's chocolate that contains -- baking chocolate contains high amounts of caffeine. Caffeine is out there. Everything is out there that the children can get at.

We're looking through a telescope. We have to look more on a broad Spectrum. We have to look at all the products. We have Esgic out there, which is a prescription drug, it's 100 milligrams tablets. Starbucks is approximately 20 milligrams an ounce. What I recommending is we stay within the recommended daily dose of the FDA. We become aware of what the regular doses is and we educate and we moderate the children who are out there. And we don't have a nanny watching over them. We take responsibility of our own children and our own

actions. Thank you.

**P.O. LINDSAY:**

Dolfina, we have a question from Legislator D'Amato.

**LEG. D'AMARO:**

Good afternoon.

**MS. DI MARIA:**

Hi.

**LEG. D'AMARO:**

Hi. You know, you said you were a pharmacist?

**MS. DI MARIA:**

Yes.

**LEG. D'AMARO:**

Okay, great. And welcome to the Legislature. Thanks for coming down today. I wanted to ask you about -- you gave us a lot of information about caffeine, and I don't disagree with anything you said, that caffeine is out there, it's available in a lot of different substances, but I have two questions for you. One, it's not -- for me, it's not so much the caffeine, but it's how the drink is marketed. I mean, if a kid's in high school, 16, 17 years old, they're going out for a track meet that afternoon, they're not thinking let me have a cup of coffee, they're thinking let me have a, quote, energy drink. Now, as a pharmacist, I think you would agree, or you tell me if I'm wrong, that it's not really the kind of energy that you're looking for that's sustainable, that would allow you to enhance your performance over the long-term, let's say, as an athlete. But for me, the way these drinks are being marketed, is they're telling kids that if you drink this, it will give you the energy, as opposed to perhaps eating right, getting enough sleep, and things like that. That's my first question to you is do you have any -- as a pharmacist, do you feel that the marketing of these drinks is appropriate in that fashion.

**MS. DI MARIA:**

I'm not here to speak about marketing, I'm here to speak about the side effects. I don't know how the marketing goes with that. I can tell you that from my district, with my children, it is not an issue. There, it is -- it is not in my schools. I take my kids everywhere. My children are involved in a lot of sports activities. No one in the high school does it. It is actually frowned upon. They do introduce it in schools. I can tell you that my -- I had a story from my son, his social studies teacher walked in the first two months of school with a Red Bull. Do you know the children printed things off the internet, gave it to him, and said, "This is bad for you, how could you think about drinking this?" This is coming from a bunch of 15-year-old children. I'm so proud of him. And they all ganged -- I mean, not ganged up on the teacher, but to say to -- coming from children, to say to a teacher, "You're our role model and you're coming in with this? We know better than you?" So I don't think that that concept, that, you know, misnomer is -- they're really persuading the kids that much.

From what I could tell you from my personal experience, I'm not a marketer, and, you know, honestly, you could talk to the marketing. I can talk to you from my experience with my children, and they're in a lot of sports, they don't view Red Bull and they don't -- Monster, whatever the drink out there is, you know, Full Throttle, there's a 100 of them out there, they don't view it as, "Ooh, let's do it." Unfortunately, they'd rather go to Starbucks, a little whip cream and stuff. They want that drink, and I wind up getting them, you know, an ice cream, or something like that. They are more towards, "Let's go to Starbucks," those chocolate drinks and stuff with the whip cream on top.

This is my district, I can speak -- I'm here to speak from -- you know, from my personal point of view as a mother and the children I -- they're totality against the drinks, and I think it was so -- I'm so proud of him to say that they wrote a letter to the teacher and showed him news from the internet.

**LEG. D'AMARO:**

Okay. I appreciate that. I just believe, from a marketing standpoint, it's specifically targeting kids that are vulnerable to the concept of, if you drink this, it fixes the problem and you have the energy that you need.

**MS. DI MARIA:**

I think any vulnerable kid you can get to do anything. You need good family support.

**LEG. D'AMARO:**

Well, that's my point.

**MS. DI MARIA:**

You need -- I mean, I'm not saying -- you can get them to jump off the Brooklyn Bridge.

**LEG. D'AMARO:**

Yeah.

**MS. DI MARIA:**

You know, we can't -- you can't stop that. You can't stop people convincing children to do drugs, illegal drugs, you just -- we can't stop them.

**LEG. D'AMARO:**

Okay. The other point I had was, again, as a pharmacist, maybe you can help us with this a little bit, it's not even the caffeine, there are these other additives that are in these drinks.

**MS. DI MARIA:**

Like taurine?

**LEG. D'AMARO:**

Taurine and a few others.

**MS. DI MARIA:**

I have something from the Mayo Clinic that I --

**LEG. D'AMARO:**

Well, let me just -- let me just finish, and then I definitely want to hear what you have to say. I've seen research on both sides telling me it's harmless, or telling me that this stuff is really no good, and giving examples. You know, I want to err on the side of caution when it comes to substances that I don't know enough about. What's your feeling on that?

**MS. DI MARIA:**

My feeling is go to a good website. I can find anything in the entire world on the internet that's bad, that will tell you taurine is bad. You know what, I'll go to my tox textbooks, I'll go to -- this is from the Mayo Clinic, and I wanted to know a little bit about taurine. I didn't know about that. We don't study all that stuff in school. You know, I'm not so familiar with the natural products, I don't work at GNC. This says taurine is an amino acid.

**MR. LAUBE:**

You have to use the microphone.

**MS. DI MARIA:**

I'm sorry. Taurine is an amino acid that supports neurological development and helps regulate the level of water and mineral salts in the blood. Taurine is also thought to have antioxidant properties. Taurine is naturally found in meat and breast meat. Up to 3,000 milligrams a day of a supplemental taurine is considered safe. Anything excess will be excreted by the kidneys. This is from the Mayo Clinic.

You know, I've seen the one milligram, I've seen the amount -- the milligrams in this stuff, it's nowhere near 3,000. And I've gone on a couple of the different ingredients and I've gone to the Mayo website. I just think, you know, the Mayo Clinic is a reputable source.

**LEG. D'AMARO:**

Yeah, I've seen that and I've seen the other side. You know, part of the problem is you don't have --

**MS. DI MARIA:**

So what websites are you looking?

**LEG. D'AMARO:**

-- you don't have long-term studies. We don't know the long-term effects of these substances, which are not regulated. So, you know, it puts us in a very difficult position, because if they turn out to be harmful, I wish there was a way we could find that out now, but without the long-term studies, it's hard to say.

**MS. DI MARIA:**

Unfortunately, I think we'd have to close down every natural food product store out there.

**LEG. D'AMARO:**

Right.

**MS. DI MARIA:**

There are so many natural products, so many herbal products out there --

**LEG. D'AMARO:**

Right.

**MS. DI MARIA:**

-- that don't have long-term testing. There's a lot of them, there really, really, there's a lot --

**LEG. D'AMARO:**

Well, to me, that's not a reason not to look closely at this, though.

**MS. DI MARIA:**

I think the FDA --

**LEG. D'AMARO:**

I mean, we have to start somewhere, you know.

**MS. DI MARIA:**

Well, I do agree we have to start somewhere, but let's look at -- let's look at all the big --

**LEG. D'AMARO:**

And you have to ask yourself why they aren't regulated. You know, is it really just that they were ignored, or maybe there are certain interests that just don't want them regulated.

**MS. DI MARIA:**

I don't think they're totally not regulated.

**LEG. D'AMARO:**

Or tested.

**MS. DI MARIA:**

Or tested. I think, you know, the drug companies probably do have to do some more testing on everything. You know, I think the FDA doesn't consider it a threat. I feel safe to say that the FDA, if they considered anything a threat, and if they considered anything really bad, they would pull it.

**LEG. D'AMARO:**

Let me just tell you, I was in a store recently with my nine-year-old and there was a counter -- a refrigerator there in a pizzeria, and there was water, Snapple, there was all these things, and the first thing he asked for was the energy drink. And I can tell you, as a parent, I felt, you know what, I just don't know what's in that stuff. That's the problem I have with it.

**MS. DI MARIA:**

But I agree --

**LEG. D'AMARO:**

So you have a nine-year-old going for the attractive can that says "energy" on it, and the kid loves baseball, and as a parent, I have -- I have no idea if this stuff is safe or not.

**MS. DI MARIA:**

This is your chance to talk to your child --

**LEG. D'AMARO:**

I agree.

**MS. DI MARIA:**

-- to educate your child and to say, "You know what, this is for adults."

**LEG. D'AMARO:**

Right. But if it's not safe, you don't want it to be accessible, just like cigarettes.

**MS. DI MARIA:**

Right. I wouldn't let my nine-year-old and that store and give him cash --

**LEG. D'AMARO:**

I'm not saying they're as harmful.

**MS. DI MARIA:**

-- and just let him -- you know, let him buy it.

**LEG. D'AMARO:**

Right, right.

**MS. DI MARIA:**

We need to take responsibility as parents --

**LEG. D'AMARO:**

I agree.

**MS. DI MARIA:**

-- to not -- you know, live in the affluenza, saying, "Here, here's 20 bucks, go to the store, go buy pizza and a drink."

**LEG. D'AMARO:**

Right.

**MS. DI MARIA:**

We have to take some responsibility for a child, you know, anybody under the age of 18, that we're going to go into the store with them and teach them how to make responsible choices.

**LEG. D'AMARO:**

I agree. I agree.

**MS. DI MARIA:**

I want to take it upon myself.

**LEG. D'AMARO:**

Right.

**MS. DI MARIA:**

And I feel every parent should be.

**LEG. D'AMARO:**

Well, as a Legislator, I'm in a position to be responsible as a parent and vote on this bill.

**MS. DI MARIA:**

No. I think everybody has a right to vote, exactly, but I think parents should take responsibility. You know, what's the -- you know, the parents can buy it for them.

**LEG. D'AMARO:**

Yeah. Okay. I appreciate that.

**MS. DI MARIA:**

What's to say that they won't -- a parent that wouldn't think it's so bad --

**LEG. D'AMARO:**

Right.

**MS. DI MARIA:**

-- is just going to buy it for the children.

**LEG. D'AMARO:**

Right. Okay. Thank you.

**P.O. LINDSAY:**

Dolfina, Legislator Gregory has a question for you, too. Okay. We thank you for your testimony, by the way. Very -- you're either very passionate or you had an energy drink.

*(\*Laughter\*)*

**MS. DI MARIA:**

Coffee, caffeine.

**LEG. D'AMARO:**

Decaf (Indicating).

**MS. DI MARIA:**

No, no, no, real stuff.

**LEG. GREGORY:**

Thank you, Mr. Chair. Thank you for coming out here today. I know it's -- you know, it's very important to hear what you have to say. I'm a parent as well, so I appreciate your concerns and comments about being a parent and taking away that -- your choice or responsibility to monitor your children. I don't think -- this bill doesn't eliminate your ability as a parent to -- if you make that choice as a parent, to have your children consume energy drinks, it just prohibits them from walking into a store and giving the deli clerk or the store owner say as to what your child can consume. Do you understand the aspect of the bill?

**MS. DI MARIA:**

What I don't understand about this whole bill is -- excuse me for saying it, but it's so limited. Why are you guys so harping on energy drinks? Harp on caffeine. Let's look at the big picture. Harp on this NoDoz that's out there, 200 milligrams. You know, let's harp on -- let's look at the big picture. You know, you want to go further, go further, but harp on caffeine, let's harp on the ingredient, let's harp on Starbucks. They're going to go to the pizzeria? They can order a cup of coffee, you know, and it doesn't have to be caffeinated. If you're that -- if you think that it's caffeine, that this what -- the energy drinks? The major ingredient in the energy drinks is caffeine. I don't know why you're harping on that one thing. I now, because they gear it to the children and everything, but there's access everywhere else to all the other stuff, too. I mean, I -- I was flabbergasted how much was in NoDoz, I haven't looked it up recently, and I was going through the pharmacy looking at it.

**LEG. GREGORY:**

Great. You know, I don't think that we focused on the caffeine levels in the drink. That's been something that's come up repetitively, but I don't think that was necessarily the main concern. But, again, as a parent, I think Legislator D'Amaro pointed it out very well, that the marketing toward children is of very big concern for me. I was just in the store the other day, and actually today, and I gave Legislator Nowick, the sponsor, a can that I saw. I went into a store, I went to get some orange juice and I saw the Red Bulls, I saw the Monsters and the other -- but it was something that I've never seen before, I saw this red can called Cocaine.

**MS. DI MARIA:**

Oh, that was supposed to be taken off the market. That's still out there?

**LEG. GREGORY:**

Yeah. I bought it today, this morning, on my way here, eight o'clock. Now, a few years ago --

**MS. DI MARIA:**

That was banned by the FDA. I'm sorry.

**LEG. GREGORY:**

A few years ago, the FDA did make a ruling that this brand was being falsely marketed, because they were marketing it as an alternative to the actual drug cocaine, so -- which is a little ridiculous, which is a lot ridiculous, not a little ridiculous, but that aside, I think the marketing aspect of it, you know, clearly, you know, they're not promoting the health aspects of energy drinks. And my child or anyone's young child can walk into a store and have the ability to purchase Cocaine. You know, it's -- you know, it's a little bit alarming to me. That's all, Mr. Chair.

**P.O. LINDSAY:**

Thank you, again, Dolfina, for your testimony.

**MS. DI MARIA:**

Thank you.

**P.O. LINDSAY:**

Miriam Guggenheim.

**MS. GUGGENHEIM:**

Hi. Good afternoon. My name is Miriam Guggenheim and I am a partner in the Food and Drug Practice at Covington and Burling in Washington D.C. Our firm has had the leading food and drug practice in the country for over 90 years. It currently includes two former Chief Counsels of the U.S. Food and Drug Administration. I've practiced in the area of food and dietary supplement law for over ten years.

I appreciate the opportunity to speak to you today on behalf of Hansen Beverage Company, maker of the Monster energy drinks, who asked me to speak about the Federal regulatory system governing the labeling and safety of energy drinks.

I recognize there appears to be a popular misconception that dietary supplements are unregulated or are somehow less regulated than conventional foods and beverages and that is not true. In fact, dietary supplements are actually subject to more stringent requirements in a number of respects, some of which I'll touch upon today and some of which have to do with the types of claims that each can make and that seems less relevant, although I'm happy to take questions on that today.

Dietary supplements have been regulated by FDA for over 100 years, starting with the Pure Food and Drugs Act of 1906, under which they were regulated as a category of food. Since the 1994 Dietary Supplement Health and Education Act, they have been subject to additional requirements that are specific to dietary supplements. First and most fundamentally, dietary supplements are required to be safe for their intended uses. Federal law prohibits the sale of dietary supplements that contain any poisonous or deleterious substances which render them injurious to health, and dietary supplements must not present a significant or unreasonable risk of illness or injury under either the conditions of use suggested in their labeling, or, if no conditions are suggested, under ordinary conditions under which they are used. So importantly, the safety turns on the intended use of the product or its ingredients. And what this means is that when dietary supplements are formulated, the manufacturer's obligated to consider not only the safety of each individual ingredient, but whether there are potential interactions among those ingredients, and whether those ingredients combined may have a synergistic effect. They are obligated to examine all of that and determine that each ingredient is safe for that intended use in combination, as well as for its target audience.

Serious adverse events associated with dietary supplements must be reported to FDA. This means that FDA obtains an inventory of serious adverse event reports that it can track to determine whether a dietary supplement or a dietary ingredient poses a safety risk. And through this adverse event reporting system, the agency has identified a number of supplements and dietary ingredients that have posed a risk, and those products have either been removed from the market or

reformulated. That reporting requirement does not apply to conventional foods. There is no serious adverse event reporting requirement for conventional foods and beverages.

FDA has ample authority to take enforcement action when evidence reveals that products are not safe. FDA can seize products, enjoin companies from further production or distribution, order a recall, and they can criminally prosecute individuals in companies that have produced safe products, whether they even knew about that aspect or not, just simply by virtue of their responsible roles in the company.

In the last two to three years in particular, FDA was significantly increased its enforcement activities with respect to dietary supplements and conventional foods more broadly. But I think the one that's most significant for our purposes today is FDA's enforcement actions against caffeinated alcohol beverages in November of last year. Then FDA issued warning letters to four manufacturers of these products, which were then pulled from the market, after their manufacturers could not document to FDA's satisfaction that the caffeine in the products were safe for its intended use, which was in combination with alcohol and in a product intended for consumption by relatively young people.

It's my understanding from sources close to FDA on this issue that the agency did consider the effects of caffeine alone. The agency is well aware of the growing popularity of caffeinated non-alcoholic energy drinks, and if FDA believed that caffeine in these products or other ingredients in these products posed a risk to consumers, including young consumers, the agency clearly and easily could have included those products in its enforcement actions at that time. And the fact that FDA did not do so appears to reflect the agency's determination that the evidence did not warrant such actions against restrictions on caffeinated alcoholic energy drinks.

*(\*Time Clock Sounded\*)*

**D.P.O. VILORIA-FISHER:**

Sorry, I'm trying to clear it.

**MS. GUGGENHEIM:**

Sure. Thank you. I just have about 45 more seconds. In addition to FDA enforcement, I think it's important to recognize the other significant pressures on marketers to ensure that they are producing safe products. Of course there's product liability considerations, particularly in this era of increasing plaintiff class actions against food and dietary supplement manufacturers, but nobody wants to put out a product that is unsafe, nobody wants to tarnish their brand or have that kind of responsibility. So responsible manufacturers assure that their products are compliant with all laws and are safe for their intended uses. For example, Monster energy drinks are carefully formulated by Dr. Tom Davis, who you'll hear from later today. They have half the caffeine of Starbucks coffee, and they have long borne a prominent statement that says consume responsibly, limit four for the eight ounce cans per day, not recommended for children, pregnant women, or people sensitive to caffeine. Neither the scientific evidence nor the overarching regulatory scheme suggests there's a need for the ban that is proposed in the legislation. I would be happy to address any questions about --

**P.O. LINDSAY:**

Ms. Guggenheim, there's a couple of questions for you, but I just want to apologize. Myself and Legislator Viloría-Fisher were laughing during your testimony, and it wasn't at you. We were laughing at the warning label on this energy drink. It says, "Warning, this message is for the people who are too stupid to recognize the obvious. This product does not contain the drug cocaine, duh. This product is not intended to be an alternative to an illicit street drug and anyone who thinks otherwise is an idiot." This is on the label. So that's what we were laughing at and not at you, so I apologize. Okay?

*(\*Laughter\*)*

**MS. GUGGENHEIM:**

Thank you. I appreciate you sharing that with the group.

**P.O. LINDSAY:**

Legislator D'Amaro, and then Nowick and then -- we're going to pass it down. We're going to pass it down. And then Vilorio-Fisher.

**LEG. D'AMARO:**

I would say the stupidity on that can be to the person that produced it, telling young kids out there it's okay to buy Cocaine, but that's a whole other debate. So you're convinced that energy drinks are safe and, you know, nine-year-olds should be drinking it?

**MS. GUGGENHEIM:**

I am not convinced that nine-year-olds should be drinking it.

**LEG. D'AMARO:**

Okay. Well, just one, just have that one a day.

**MS. GUGGENHEIM:**

I would not -- my children don't have coffee, my children don't have -- and I have a nine-year-old, and a seven-year-old and an eleven-year-old and they don't have energy drinks. And as for soda, they only have decaf and only on special occasions.

**LEG. D'AMARO:**

Right. Mine too, yeah. Thank you for supporting that statement with, you know, telling us that the FDA, basically if they thought it was something unsafe, there would be more action being taken. I'm not sure how the FDA operates, but isn't the industry itself doing the testing and doesn't the industry also have to self-report any problems? It's not really -- and, you know, I think that's important to at least make that distinction in this debate, that it's not the FDA that took a positive step to go ahead and test all of this, it's really more about the industry doing their own testing and telling the FDA, "We haven't found anything -- any evidence that it's not safe."

**MS. GUGGENHEIM:**

That is the case for all foods, beverages and dietary supplements in the United States.

**LEG. D'AMARO:**

Right.

**MS. GUGGENHEIM:**

We don't have a positive list system like they do in Europe and other jurisdictions. We do have, and I had in my longer presentation, I can talk you through the regulatory scheme for food additives versus grass substances for conventional foods, and old and new dietary ingredients for dietary supplements. In the United States you don't need FDA approval to put a product on the market, you don't need FDA to review a formula. You only need FDA's review of ingredients in conventional foods under one circumstance and that is when it is not generally recognized as safe.

We have very few food additive approvals these days. Most substances you have an expert panel convene, unless it's a substance that has been in the food supply prior to the 1958 Food Additives Amendment. Those are deemed grass, generally recognized as safe due their history of use in food. For dietary ingredients, that's another area where the dietary supplement regulatory scheme is

potentially more stringent than for food ingredients, because if you have a new, not old, pre-1994 dietary ingredient, that has to be notified to FDA and they have the opportunity -- you have to put before them the evidence that will show FDA that it is reasonably expected to be safe. And if the FDA either disagrees or believes you haven't submitted sufficient evidence to reach that conclusion, they tell, you, "No, we believe this is not safe." Now, if you are a post '94 ingredient that has been in the food supply already, you don't have to make that notification to FDA.

**LEG. D'AMARO:**

Just so I understand that, so the ingredients that I'm -- I'm more concerned -- it's not the caffeine. Again, I think we have easy access to all of that. I'm just concerned about the other ingredients either as stand-alones or in combination, where we just don't have any really long-term evidence if there's a negative effect.

**MS. GUGGENHEIM:**

Well, that's --

**LEG. D'AMARO:**

And the FDA has never conducted those tests?

**MS. GUGGENHEIM:**

But they don't do that for anything.

**LEG. D'AMARO:**

Again, you know, I understand that, but that's not -- that's not the concern that I have when looking at this bill. All right?

**MS. GUGGENHEIM:**

But I guess I'm not understanding the concern about taurine versus anything else that's in the food supply.

**LEG. D'AMARO:**

Well, because, you know, a reason to -- let's say to vote against this bill because they don't do it for anything else to me is not a reason.

**MS. GUGGENHEIM:**

But --

**LEG. D'AMARO:**

Well, I'm here trying to decide --

**MS. GUGGENHEIM:**

Well, I understand that.

**LEG. D'AMARO:**

-- whether or not these additives, okay, should be readily accessible to minors. Okay? Whether they test everything else is really irrelevant to that debate.

**MS. GUGGENHEIM:**

I understand that, but everything is subject to the same safety standards. Whether it's FDA that documents it or the manufacturer documents it, that safety standard must be met for all ingredients. For a lot of these, they're on the market because they've been used particularly in other countries. Maybe they're new to us, but a lot of these have been used in other countries for decades, if not hundreds of years, there's a long history of use. Whether or not there is the type of clinical data

that we would have for a pharmaceutical, that tends not to be the case for any food ingredients, but you've got to meet that safety threshold no matter what, and all food and dietary ingredients are subject to that safety threshold.

**LEG. D'AMARO:**

Okay. Thank you.

**P.O. LINDSAY:**

Legislator Nowick.

**LEG. NOWICK:**

Thank you. Thank you for your testimony. I didn't hear you at the beginning. You're here from Washington D.C.?

**MS. GUGGENHEIM:**

Yes, on behalf of Hansen Beverage Company.

**LEG. NOWICK:**

Who are you representing?

**MS. GUGGENHEIM:**

Hansen Beverage Company, who makes the Monster --

**LEG. NOWICK:**

That's the Monster company?

**MS. GUGGENHEIM:**

Yes.

**LEG. NOWICK:**

So you are -- they called you and asked you to come in?

**MS. GUGGENHEIM:**

Yes, they did.

**LEG. NOWICK:**

Okay. I lost my train of thought. Just so you understand the legislation, it really wasn't all about caffeine, but here's --

**MS. GUGGENHEIM:**

I do, and that's why I wanted to emphasize that you have to be well aware of any interplay of all --

**LEG. NOWICK:**

All right. I just want to finish my question. I've been researching this for a long time and I obviously am not a -- excuse me? Oh. Obviously, I'm not a pharmacologist, but I know that the FDA does not regulate an energy drink, so to speak, because I've been doing this for a while. And I understand the Drug and Food Supplemental Act of 1994 and how the manufacturer must guarantee the safety. But here's the thing: We sit around here as Legislators -- and by the way I'm a mom myself, as many of us are parents. Why, number one, would we want our children to be drinking this? And, yes, if we want to buy it for them, this legislation would not preclude a parent from saying, "Here, sweetie, have this taurine and ginseng and caffeine, go knock your socks off." We could do that. But if the FDA and Drug Supplemental Act was so protective, here's my question, how did they allow Four Loko to be sold to minors? The only reason that's off the market is because

New York State had representatives who took them to task for it, otherwise that would still be sold to minors. How did that Cocaine get on the market for young people? And would -- do we want our children to learn that, yes, you can buy this, you can buy anything you want, and you can buy it and you could change your whole body and how you feel, because, guess what, there are -- what, are we not telling our kids eat the right way, do the right thing, take vitamins? This stuff keeps them awake all night long if they should drink it.

And I don't know -- and I guess I'll get to the question. How do you feel? How do you feel about the report from the Journal of the American Academy of Pediatrics? They do not believe that this is what these adolescents should be buying or drinking. And yes, we can allow, we can allow them to buy stuff, but, you know what, this is what we've always done. We've told people, don't -- you know, wear your seat belts, don't text while driving, don't use your cell phone, don't drink under the age of a certain -- don't smoke. This is what we do. Again, this is what the Journal of the American Academy of Pediatrics did come out with. And if you read the whole thing, they'll tell you about all the other countries that are doing research on this. So how do you feel about their report, are they wrong?

**MS. GUGGENHEIM:**

I think that their conclusions are not exactly -- what they concluded, their recommendations there is that medical professionals should be having this conversation with children, teenagers and their parents. I'm going to leave the toxicology to the scientific experts, but I know that their focus was on consumers who come in with some predisposition or some impairment going in. I did not read in there any recommendation that there be a ban or an age limit. I understood that to be advice to pediatricians as to their counseling.

**LEG. NOWICK:**

I didn't understand this to be a governmental type of a report, but -- you know what, I guess I'm just spinning my wheels. If you're good with your children buying that --

**MS. GUGGENHEIM:**

I don't have my children buying it, but I don't know --

**LEG. NOWICK:**

But do you feel that that education that you talk about, we tell our kids over and over as they grow up, don't drink, don't drink and drive, don't text. Well, I know when I tell my daughters don't text, don't use your cell phone, I'm sure they listen to whatever I say.

*(\*Laughter\*)*

**MS. GUGGENHEIM:**

I have confidence that I can have some influence on my children, but I also don't know that I -- I guess I would say this: You're talking about up to age 18, and I think that most of what that pediatrics report was about was for younger people. And I do believe that there is an overarching Federal regulatory system. I cannot agree with the statement that these are unregulated. I think what you're saying is there's no prior approval, and I agree with that, but I don't want to --

**LEG. NOWICK:**

Well, you know, I don't want to debate the bill with you.

**MS. GUGGENHEIM:**

-- suggest there's no enforcement authority, there's absolute authority for FDA to exercise assurance that unsafe products aren't marketed, whether there's a pre-clearance system --

**P.O. LINDSAY:**

Could I -- Ladies, could I just interrupt, because we're going over the same ground over and over again. I've got a whole list of things here of other people who want to speak. But Legislator Cooper, Ms. Guggenheim, has a question.

**MS. GUGGENHEIM:**

Sure.

**P.O. LINDSAY:**

A question, okay?

**LEG. COOPER:**

Yes. You may not be aware, but back in, I think it was, 2003, I authored a law that prohibited the sale of Ephedra dietary supplement.

**MS. GUGGENHEIM:**

Yes.

**LEG. COOPER:**

And it was a long Legislative debate over -- for six or eight months, but ultimately it passed in Suffolk County, and then it was enacted by three states, then ultimately FDA passed a ban.

**MS. GUGGENHEIM:**

Right.

**LEG. COOPER:**

So I'm completely familiar with DSHEA and what regulatory authorities are allowed to do and can't do. Initially, I was inclined to support this resolution, but then I remembered that the difference between the battle over my Ephedra ban and this is that back in 2003, with Ephedra, there was documented evidence that, according to Consumers Union, 5,000 people across the country died, including two of my constituents, a young mother of two young children that was taking Ephedra to lose weight, who died of a -- I believe it was a brain hemorrhage, and a young man who took it for body building who died of a heart attack. So, with that history of hard documented evidence of adverse effects and deaths related to Ephedra, we felt comfortable in acting. In this case, though, I don't see that hard evidence.

And my concern is, and I was just -- I was talking -- I've got five kids, but I was speaking to my older kids about this, and they pointed to the shelves in our kitchen cabinets and there are weight-gaining supplements there for my 17-year-old, who's six-foot-three, but skinny as a rail, there's body building supplements for my 25-year-old, there's weight loss supplements, none of which are regulated by FDA. And so my son was saying, "Dad if you ban the energy drinks, are you going to ban all these products? You know, where do you stop?" So I guess my question to you is, if we held all food and dietary supplements to this new safety threshold that -- upending everything, and it won't be allowed on the market unless it's proven safe, any idea how many products would have to be removed from the shelves of Suffolk County stores if that went into effect? Are we talking --

**MS. GUGGENHEIM:**

You're saying if we had a prior approval requirement?

**LEG. COOPER:**

Across the board for not just energy drinks, but everything, all foods, all dietary supplements. Because, basically, what Legislator Nowick is asking for is that we have a prior approval law

on -- since this has not been proven safe, we should err on the side of caution and we should remove it from the shelves or have signage --

**MS. GUGGENHEIM:**

It still has to be proven safe, it's just not FDA who approves it. I don't think anything would change, except an administrative law system. If you're talking about moving from a prior approval, the safety standard remains the same, it's just a matter of who's doing it. So, we shift the burden on the government to use its resources to evaluate it, that sounds to me like the system you're describing. We have a system where it's the manufacturer's obligation to use its resources to meet that safety standard, but the safety standard is the same, so I would not expect the marketplace to change at all.

**LEG. COOPER:**

So you're saying that the manufacturers of the energy drinks have met that safety threshold?

**MS. GUGGENHEIM:**

Yes.

**LEG. COOPER:**

But --

**MS. GUGGENHEIM:**

They better have. I know that Hansen has.

**LEG. COOPER:**

But the FDA has not confirmed it on their own, unlike --

**MS. GUGGENHEIM:**

There's not a mechanism by which they do that for foods or dietary supplements.

**LEG. COOPER:**

Right. So, again, so if that's -- and this is -- I'm being a little facetious here, but if we were again to use this as a rationale for removing energy drinks from the market, how many --

**MS. GUGGENHEIM:**

There are no pre-approved foods, so we'd have nothing.

**LEG. COOPER:**

That was basically what I was --

**MS. GUGGENHEIM:**

Okay.

**LEG. COOPER:**

It was a leading question.

**MS. GUGGENHEIM:**

Yeah.

**LEG. COOPER:**

Okay.

**MS. GUGGENHEIM:**

We'd have no foods.

**P.O. LINDSAY:**

Okay. We've got it established. All right? Thank you. Thank you very much. Dr. Jeffrey Goldberger. Thank you, Ms. Guggenheim. You could give it to the Clerk right there.

**DR. GOLDBERGER:**

Thank you. Honored Legislators, good afternoon. My name is Jeff Goldberger. I'm a Cardiac Electrophysiologist, which is a subspecialty of cardiology that deals with heart rhythm disorders. Today I'm speaking in opposition to Resolution No. 2210 and 2156. I will briefly describe the cardiovascular effects of caffeine intake, as used routinely under normal circumstances.

After carefully analyzing the available scientific data, I'm here today to make three key points. First, large scale studies show no adverse cardiovascular outcomes associated with caffeine. Second, the data showed that adolescents derive their caffeine intake from many sources aside from mainstream energy drinks. And the caffeine consumption from energy drinks is often less than with other products. Finally, based on the accumulated scientific information, as evaluated by the European Food Safety Authority, there's no evidence of adverse cardiovascular effects of taurine and glucuronolactone, the other ingredients in mainstream energy drinks.

First, let me take you briefly through some studies that analyze the coronary effects of caffeine consumption. This large scale report of over 120,000 participants demonstrated no increased risk of coronary heart disease with caffeine intake. Moreover, in this report, ingestion of over six cups of coffee per day was actually associated with a lower rate of coronary heart disease. In another large scale report of over 5,000 participants, now age 18 to 30 years old, there was no association between caffeine intake and coronary artery or carotid artery atherosclerosis, and importantly, the study included 20 years of follow-up.

The next slide provides a complex compilation of several studies evaluating the effects of caffeine on arrhythmias ordered by the size of the study. Most of these studies showed no relationship between caffeine intake and arrhythmias. Indeed, I treat patients with serious atrial and ventricular arrhythmias all the time, and even for these very ill patients, I do not routinely recommend refraining from caffeine, as there's no evidence that it precipitates these arrhythmias.

This slide summarizes some of the effects of routine consumption of caffeine. Acute ingestion of caffeine has been associated with mild changes in heart rate and blood pressure. These effects are generally dependent on the caffeine dose, and interestingly, predominantly disappear in habitual users of caffeine. It is important to note that all the described changes are well within the normal physiologic variation that occurs throughout the day and with exertion. And again, large scale studies show no adverse cardiovascular outcomes.

Now let me turn to the issue of where adolescents in particular derive their caffeine intake. In a 2009 report from the Journal of Pediatrics, 100 adolescents from a pediatric primary care office in suburban Philadelphia, age 12 to 18 years, were studied. Eighty-five percent reported drinking caffeine with a mean daily intake of 215 milligrams. Multiple sources of caffeine were documented in the study, including tea, coffee, soft drinks and energy drinks, with most participants reporting consumption from tea, soft drinks and coffee, as opposed to energy drinks.

On this slide, we have a graph of the total caffeine intake per day plotted against a multi-tasking index. For our purposes, we are only interested in the distribution of coffee intake along the vertical axis. We can see the wide distribution of caffeine intake between 100 and 1,000 milligrams that was reported in these adolescents. Importantly again, there were no reports of adverse events related to caffeine intake in this study. We, therefore, need a conceptual framework to understand

the potential for adverse effects from caffeine. Typical use of caffeine products at doses up to 400 milligrams per day has not been reported to have adverse effects in population studies. However, it is likely that as the caffeine dose increases well beyond this range of typical use, adverse effects may begin to appear. Even accounting for the wide range of caffeine doses of energy drinks, for the most part, the doses of these products fall within typical use dosing ranges.

In summary, the data tell us three things. First, that caffeine use does not increase the risk of coronary heart disease or arrhythmias. Second, that adolescents ingest caffeine from a variety of sources, many of which result in higher amounts of caffeine than -- ingested than in mainstream energy drinks. And finally, there's no evidence of adverse cardiovascular effects of taurine and glucuronolactone, the other ingredients in mainstream energy drinks.

I appreciate the opportunity to be here today, and would be happy to answer any questions you might have for me.

**P.O. LINDSAY:**

Dr. Goldberger, Legislator Viloría-Fisher has a question, and then Legislator Horsley --

**LEG. HORSLEY:**

Very quick.

**P.O. LINDSAY:**

-- a question. Go ahead.

**D.P.O. VILORIA-FISHER:**

I just have a quick question, if you could just explain something on the second slide. I believe Ms. Guggenheim said that in -- that the European Food Safety Authority does look at foods and the combinations of their ingredients together, and we in the United States just look at the individual ingredients. And the study that you referred to in number three in your main points, where you say that the European Food Safety Authority looked at scientific information, was it caffeine, taurine and gluco -- I can't say the --

**DR. GOLDBERGER:**

Glucuronolactone.

**D.P.O. VILORIA-FISHER:**

Working in conjunction with one another?

**DR. GOLBERGER:**

I believe they looked at them individually.

**D.P.O. VILORIA-FISHER:**

As individual ingredients. Okay, thank you.

**P.O. LINDSAY:**

Legislator Horsley.

**LEG. HORSLEY:**

Yes, hi. Good afternoon. Doctor, over here. Just a quick question. Your comments about that the -- that an increased dosage of coffee on a daily basis would not affect a hypertensive, do you -- is that -- now, if there's a young person who may be predisposed to hypertensive issues, do you feel that that is -- that caffeine will not affect that person?

**DR. GOLDBERGER:**

Yeah. I think what you tend to see is, in habitual users of caffeine, you don't see much of an effect on blood pressure. So, for people who are habitual users, I don't think it would make all that much of a difference. Now, you might find individuals that might have a particular susceptibility to that, but I guess in larger population studies, you don't see that.

**LEG. HORSLEY:**

So what you're saying, that there could be an individual who was -- who would be in the future a hypertensive person who has hypertension, and that he or she is taking -- is drinking coffee or energy drinks at that age, at a young age, that that may affect them, but they're outside of the study because there's so few of them?

**DR. GOLDBERGER:**

Well, I think the effects of caffeine ingestion are to -- I mean, if you look at acute studies after administration of caffeine, you see a very small increase in blood pressure. I don't think it creates the disease of hypertension. It can acutely increase the blood pressure, but it's not going to create the disease of hypertension.

**LEG. HORSLEY:**

I would understand that, yeah, that makes sense. But what you're saying, though, that it could -- it could activate a hypertensive person to become -- to shoot up as far as their blood pressure?

**DR. GOLDBERGER:**

There have been small increases in blood pressure noted with caffeine.

**LEG. HORSLEY:**

Thank you.

**P.O. LINDSAY:**

Thank you. Legislator Romaine.

**LEG. ROMAINE:**

Yes. Over here, Doctor. At our last Public Hearing, we heard from a local emergency room doctor who described emergency room visits that apparently was associated with energy drink consumption. He gave compelling testimony, I thought. Have you had any experience with emergency room visits by people who have taken energy drinks?

**DR. GOLDBERGER:**

On a personal basis -- again, my medical training goes back starting in 1980.

**LEG. ROMAINE:**

Right.

**DR. GOLDBERGER:**

So it's about 30 years. Obviously, I spent some of that time as a medical student, some as an intern, a resident, with a lot of time in the emergency room, a cardiology fellow, and now as an attending cardiac electrophysiologist, so -- and mostly for the last 20 years I get consulted for heart rhythm disorders. On a personal basis, I've never been consulted for either caffeine overdose or energy drink overdose.

**LEG. ROMAINE:**

Do you know of any in your research or any papers that you've read, or any reports that you might have come across, any effects from energy drinks that would send people to the emergency room,

such as was testified by emergency room doctor, I believe he was from Saint Catherine.

**LEG. NOWICK:**

O'Shaughnessy.

**LEG. ROMAINE:**

Saint John's -- Saint Catherine. All right.

**DR. GOLDBERGER:**

I think in theory you could -- I mean, you could think of things that might be -- might be associated with that that would result in an emergency room visit, palpitations, for example, which would be something that I would get consulted for. But, again, I have personally not had that experience.

**LEG. ROMAINE:**

Okay. One last question, Doctor. I mean, I'm going to follow up on Legislator Fisher's question. What do you think the potential for interaction, the cocktail effect, is with caffeine and other energy drink ingredients? And I ask this question, because, as you indicated, the FDA looks at ingredients, but they don't look at combination of ingredients, which may be a weakness, may be a potential weakness, I don't know, I'm not a doctor, in the way the FDA looks at things. But what do you think of that, in your medical opinion, about that, what is called the cocktail effect?

**DR. GOLDBERGER:**

Sure. Thank you for that question. So I am also not an expert in taurine and glucuronolactone, but I have had the opportunity to review the data from the European Food Safety Authority, and I think the data is actually very convincing, that individually they have no effect. Now, of course, yours is the interaction. I think when we look for interactions between drugs, the first thing that we would look for is biological plausibility, and from the data that I've seen, there is no biological plausibility to raise a level of concern about the interaction.

**LEG. ROMAINE:**

So, at this time, you don't feel that there's a concern about the cocktail effect or any interaction between various ingredients that might find their way into energy drinks?

**DR. GOLDBERGER:**

No.

**LEG. ROMAINE:**

Thank you very much, Doctor.

**P.O. LINDSAY:**

Legislator D'Amaro.

**LEG. D'AMARO:**

I find that a remarkable conclusion from a medical doctor, telling me definitively today that you know as doctor that there is no adverse effect from the mixture of those supplements. I find that remarkable. But what I wanted to ask you -- I appreciate your presentation about the cardiovascular aspect of caffeine, but that's not really the issue in my mind. I just want to ask you one question with respect to energy drinks and what we're talking about here. Do they give you energy?

**DR. GOLDBERGER:**

Okay. Could I just address your first question, because -- your first comment, because I don't think that's really what I said. I said that there was no biological plausibility at the present time. Can

I -- of course, being a medical doctor, we're humbled all the time about medical decisions and medical opinions that we have that years later turn out to be incorrect. So I think we always have to -- we can never have that attitude that you've stated originally.

**LEG. D'AMARO:**

Right.

**DR. GOLDBERGER:**

But we have to make the best decisions today with the information that we have today.

**LEG. D'AMARO:**

Aha. Now that I can agree with.

**DR. GOLBERGER:**

Good.

**LEG. D'AMARO:**

Now that I can agree with, and that's why I'm very concerned about -- I don't want to rehash everything I've said so far, but, you know, there's a marketing aspect to this. There's some unknowns about the ingredients and things like that, so I can agree with that statement. But, you know, again, we're talking about energy drinks. Do they give you energy in that medical sense?

**DR. GOLDBERGER:**

So that's a very good question, and I think it would have to depend on how you define energy. I mean, if I were to design a study to --

**LEG. D'AMARO:**

Well, let's use your definition.

**DR. GOLDBERGER:**

Offhand, I don't have a quick definition for that. And if I were to design a study, obviously, you'd have to think about a way to --

**LEG. D'AMARO:**

Well, let me ask you this: As a doctor, is it healthy to rely on an artificial stimulant to give you some type of energy? Would you advise that in your practice if someone came in to you and said, "You know, I'm feeling kind of lethargic and tired, I feel like I need energy," would you say, "You know what, take a Monster drink"?

**DR. GOLDBERGER:**

That is not my typical recommendation.

**LEG. D'AMARO:**

Okay. All right.

**P.O. LINDSAY:**

Legislator Barraga.

**LEG. BARRAGA:**

Good afternoon. Thank you for being here, Doctor. Let me ask you just a quick question. You are a professor of medicine at Northwestern University. The study that you just related to us, was that paid by Northwestern?

**DR. GOLDBERGER:**

No. The study that I relayed to you was a study from -- I forgot the names of the investigators from Philadelphia. Calamaro, et. al.

**LEG. BARRAGA:**

Do you know where their funding came for their study?

**DR. GOLDBERGER:**

I do not recall.

**LEG. BARRAGA:**

Because my experience has been that in many cases, usually the industry that has a concern for a particular product contracts with the group of local physicians and funds them do a study. And if the study comes out in their favor, there's a great deal of marketability associated with the study. If it isn't in their favor, the study just goes to the side-bar. So we don't know what the funding source was for this particular study that you were quoting?

**DR. GOLDBERGER:**

I don't have it handy with me, no.

**LEG. BARRAGA:**

Thank you.

**P.O. LINDSAY:**

Thank you very much, Doctor. Next up, Kym Laube. Hi, Kym. How are you?

**MS. LAUBE:**

I'm well. How are you?

**P.O. LINDSAY:**

Good.

**MS. LAUBE:**

Good afternoon. I certainly feel like the lone voice here today. I just want it to be clear, I have nothing to gain by this being passed at all. Actually, the only thing I gain is healthier kids in Suffolk County.

My name is Kym Laube and I am the Executive Director of HUGS. I am also the vice president of the Quality Consortium of Suffolk County, which represents the 23 prevention, treatment and recovery programs in our county. Hugs is a not-for-profit agency that specializes in drug and alcohol prevention and education programs. We've been empowering youth and communities to make healthy choices for the last 30 years. I'm here today to support these legislations.

We've certainly heard testimony regarding the monetary impact this legislation will have to the beverage industry and its subsequent retailers. So in the testimony, we heard trade representatives speak of the safety of energy drinks and to the negative financial impact the ban has on the sale of minors. With more than 500 new energy drinks that were released in 2010, and looking at sales for 2011 to be -- to top nine billion dollars, no wonder they're out here, no wonder why they're giving you this information.

HUGS, Inc., QC and others are here today, as we have been at the past few hearings, to advocate for the health, safety and wellness of our young people in Suffolk County. HUGS became first

alarmed with the negative impact of energy drinks when several middle school youth came to our drop-in center after school. On the way from walking from their school, they took disposable income, of which many young people have, they stopped at the local convenience store and they bought a bunch of 5-Hour power shots. When they showed up in front of me, they said things like, "Mrs. Laube, I feel like my heart's going to pound out of my chest." Certainly, we were alarmed as an organization and it on a -- put these things on our radar. When you -- the moment we realized that -- it was at this point -- excuse me -- that we realized something needed to be done. As a result of this incident, we have set clear agency policies restricting the consumption of energy drinks by our students either on our premises or prior to them getting there.

How many of you sitting around this -- in this room have 10 to 14 -year-olds? Can you imagine one of them consuming these products, and would you let them? Could you imagine the pregnant woman sitting there drinking 5-Hour power shots back to back to deal with exhaustion? It will be argued that a grande coffee at Starbucks contains a whopping 330 milligrams of caffeine. One of the differences between those drinks and these drinks are the marketing. Energy drinks are directly marketed towards youth through careful planned advertising campaigns. Have you ever watched a skate boarding or a snow boarding competition, or last month's X-games from Aspen? I can guarantee your average ten-year-old has. These competitions are littered with sponsorship advertising energy drinks. This is calculated advertising aimed towards our youth. How can kids be expected to make appropriate decisions about consuming energy drinks when all they've seen is in their -- are their extreme sports idols representing these products?

Some will argue that it's a parent's responsibility. We certainly heard that here today. I firmly believe that it is a parent's responsibility to parent, but how can a parent control the choice of their child when access is so simple? Kids have disposable income today.

We spent the weekend with 60 teenagers, that was Friday afternoon at 5 o'clock to Sunday afternoon at 3 o'clock, 60 of them on a campsite on Shelter Island. They talked with us and they talked about their peers, and even some of them admitted to drinking multiple energy drinks in a shot to get the sensation of being drunk. They felt that this was legal, it was safe, and there was no ill effects from doing it. Simply put, energy drinks are a health hazard and our children are its target.

It is well-known on the East End of Long Island that there is a high school whose coaches require, require that each team member drink a Red Bull before a game. There's nothing the parents can do to stop it, as they have tried. Passing this resolution will allow parents to have peace of mind regarding the health of their children when it is out of their hands.

We cannot wait for the clarification of the labeling of the caffeine content of these products, we need to take control now. We need to be proactive and preemptive and have local legislations that protects our youth well above the monetary gain.

On behalf of Suffolk County youth, HUGS, the QC would like to thank Legislator Nowick and her colleagues for bringing forth this resolution and taking the lead in creating effective efforts to protect our youth.

**P.O. LINDSAY:**

Ms. Laube, there's a question from Legislator D'Amaro.

**LEG. D'AMARO:**

Very quickly. Parental responsibility today is competing with the mass marketing, okay, and I find that as a parent. And, you know, we have heard about parental responsibility today, but, you know, help me out a little bit here. You know, we can only, as parents, have so much influence. I

think my children's environment, beyond my ability to parent them, has a greater impact than anything I can do. So, I just want to ask you, is -- the marketing of these drinks I think really is putting the bottom line over the health of the children. Is that what you're saying, is that your experience with these drinks?

**MS. LAUBE:**

Sure. I mean, kids today are under tremendous pressure, and we know because your task advisory panels that you guys have set up here have talked about issues and concerns for our youth. The marketing, the target, the easy access is just another drug kids are using to feel high off of.

**LEG. D'AMARO:**

All right. Thank you.

**P.O. LINDSAY:**

Thank you. Tom Davis. The next speaker is Michael Watt after this, if Michael could come to a closer seat to the podium. Mr. Davis, please come forward. You know, these hearings are going on and on and on. Please.

**MR. DAVIS:**

Sorry. Okay. My name is Tom Davis. I'm here, actually, just to represent Hansen's and Monster as a responsible manufacturer, because I formulated those drinks.

To make a long story short, I first have to correct the point that the European Food Safety Administration, EFSA report was done as a cocktail. Those were three components put together in that study. If you look it up on the internet, it's easy to follow, you'll find that data available to you. Its unique aspect was it was the first time it was done as a cocktail. In the United States, if you look at the data sets available to us, there are individual components.

Two aspects I want to talk about today, number one, responsibility of a manufacturer. Hansen's and Monster take that very seriously. We've been in business since 1936. How do we do it? I monitor every single formula. I have final signoff. Here are the labels of every drink that's made by that company. There's the same drinks you find in Trader Joe's, the same drink you find in Whole Foods, and the same drink you find in Costco under different brands, and Costco, it's a juice called Kirkland. We make all those, those are all Hansen products, every single one of them. And the components if each one of those components I follow, I study, I research. A classic example is the problem with 4-methylimidazole and caramel coloring. That's a known carcinogen now. It's not in any Hansen product, never has been, although we use the caramel without it, so we're sure of this.

It was brought up to me last time, "What are some of the components you would not put in an energy drink?" And I noticed one of the Legislators had a little vial of 5-Hour energy drink on his table there. And that's a rather interesting shot and was discussed today, and there are some chemicals in there that I would not put in Monster energy drink. One is called N-Acetyl tyrosine. Tyrosine is an amino acid in the human body, but it's not acetylated to enter the brain. For some reason, they have decided to acetylated form of tyrosine in the drink. And you could ask why. The reason why, so that it enters the human brain. There's not reason for, quite honestly, a shot to have a chemical in it that would affect the human brain.

So there is some concern over components in energy drinks, I agree. I don't disagree with that standpoint. You have to have a responsible manufacturing facility, you have to have a responsible manufacturer, and you have to have someone that understand, the pharmacology, toxicology, chemistry of these compounds out there.

Several years ago, we had a problem with alar in apple juice, if you remember. Alar was a chemical we found to be a carcinogen. It was used to stop fruit from falling off a tree. I had to analyze all of our concentrates coming from all over the world to make sure they were alar-free. Now it's lead, now it's cadmium coming out of China and some of that concentrate. These are all things that you have to be aware of as a manufacturer, as a supplier. They are our responsibility.

Once again, this is my family business. I've been in it since I was born. I started working there when I was ten. I now have training in pharmacology, toxicology, and all aspects of physiology. I apply all that to this company. You want to talk about any component in my drink, I have no trouble coming up with the data and the supporting evidence that it's not toxic. Long-term studies, the only long-term study, quite honestly, that's been done on a cocktail is the EFSA report. Will there be other studies coming out? I'm certain. I'm certain because of your level of interest. It's a good level of interest. But have we studied all the components out there? No, it's impossible, it's not going to happen. Every month we're finding another potential carcinogen in lead, cadmium or zinc, and who knows what it's going to be next? Methylparabens, it's going to be a plasticizer? What is it going to be? It's my job to stay ahead of the curve and follow it and make sure that it doesn't have a toxicology scheme to it and does not present a danger. It's my job to keep the Hansen product safe, the Monster product safe, and that's what I do.

So any questions you have, I have a whole bag full of examples that are going to be rather interesting to you. I have waters in here with ginseng in it. I have products in here that are 100% juice that have ginseng and various herbs in them. There's examples of the whole gamut available to us today.

**P.O. LINDSAY:**

Thank you, Mr. Davis. You've come a long ways again. This is the second time. Thank you for your testimony.

**LEG. CILMI:**

I have a question.

**D.P.O. VILORIA-FISHER:**

There's a question.

**P.O. LINDSAY:**

Isn't Dr. Davis -- quick, very, very quick.

**LEG. CILMI:**

Hello, sir. How are you today?

**MR. DAVIS:**

Very good.

**LEG. CILMI:**

I apologize that I missed some of the testimony earlier. And this was put in front of me here. I don't know if we spoke about this Cocaine drink here.

**D.P.O. VILORIA-FISHER:**

We already talked about it.

**LEG. CILMI:**

Right. But I guess my question for you is, I mean, you seem to be in agreement that there -- some of these companies are acting irresponsibly, both in terms of their ingredients and, obviously, in

terms of what they're -- you know, how they're marketing some of this stuff. If legislation like Legislator Nowick's is not the answer, do you have any suggestions?

**MR. DAVIS:**

Yeah. Quite honestly, it's been presented before me. You educate. I wrote the warning on the energy can in 1994. I was the first human being on earth to put that warning can on, "Do not consume by pregnant women and children," etcetera. I wrote that, I put it on the can. It's education, it's reaching out, it's explaining to people what the drink is for. It's talking about the components like we are today. It's making sure there's nothing in that drink that has any toxicology known in -- in vitro or in viva. That means in cell culture or animals. It's being aware of the biology of these compounds, as well as the toxicology, and then it's educating the child, it's being a parent. I mean, there's a lot of drinks out there. Mountain Dew, for instance, we keep not talking about Mountain Dew and their marketing campaign. We're not touching Mountain Dew, because it's from a major beverage company? No, you can't do that. Do the Dew? There's ginseng in it, there's herbs in it, there's a high caffeine content in it. We don't talk about it. Vitamin water has herbs in it and some caffeine in it.

**P.O. LINDSAY:**

Thanks.

**MR. DAVIS:**

It's education, that's how I see it.

**P.O. LINDSAY:**

Thank you, Mr. Davis. Legislator Viloría-Fisher has a question.

**D.P.O. VILORIA-FISHER:**

Just very quickly. Mr. Davis, to clarify, you actually answered the question that I had asked Dr. Goldberger earlier, which was if the European Food Safety Authority was looking at the compounds in interaction with one another, and you've used the -- and you said that, in fact, they had in their study --

**MR. DAVIS:**

It's a study where they're done all together.

**D.P.O. VILORIA-FISHER:**

Right. Okay. Now, is the FDA then working within a lower standard if we are not -- than the European authorities by virtue of the fact that we are not looking at these ingredients as cocktails? When we're looking at them individually, we're not looking at how the whole food is impacting the human organism.

**MR. DAVIS:**

That's probably the best question I've heard all day, and I'll tell you why. If you look at the legislation in Canada, you look at the legislation in Europe, you look at the EFSA study we just talked about, you're going to find a tremendous amount of adherence to concentration levels and performance and interaction. We're not doing it in this country. Does that make the FDA a bad organization? No. Does it make these countries that have a smaller population and a very large budget to do studies like this and are doing them? Yes, they are being done. We are altering our caffeine levels by country, that is a fact. I know, because I formulate the changes that are made for these countries. So the data is out there and available to us to take. It's there for us to access and apply to our U.S. drinks and we've done that.

**D.P.O. VILORIA-FISHER:**

Thank you.

**P.O. LINDSAY:**

Thank you very much. Michael Watt.

**MR. WATT:**

Good afternoon. I find it a little ironic to be up here discussing energy drinks for teen-agers, because if I had half the energy that my teen-age son and his friend have, we wouldn't even be having this discussion. I think they should be talking about energy drinks for adults. All right. It's been a long afternoon. I thought I'd introduce some levity here, but apparently not.

*(\*Laughter\*)*

**MR. LIPP:**

Good try.

**MR. WATT:**

All right, thanks. I'll work on it. My name is Michael Watt. I'm the Executive Director of the Long Island Gasoline Retailers Association. I'm speaking on behalf of 600-plus members, many of whom do business in Suffolk County, and I've spoken before in opposition to legislation proposal 2210.

And our members are very concerned about this proposed legislation. Many of them want to be here, but they can't, because they're busy running their businesses and they need to be in their stores monitoring the many business activities that take place in them. We have not heard any conclusive empirical evidence today indicating that energy drinks, and energy drinks alone, are harmful to teen-agers, but we're not here -- you know, we keep talking about the possible dangers of energy drinks when at issue is the problems it creates for the convenience store owners, the store operators, the lawyers banning the sale of energy drinks to those under 19. Our concerns stem from the fact that this proposal puts the onus of good parenting and properly educating our kids on an already overburdened convenience store operator. These are not easy economic times we live in, and every threat to business, and that includes fines for selling energy drinks to teen-agers as a threat to business, any threat to business is cause for concern for our members.

But we're also concerned that we're being singled out for policing kids, especially when you consider that there are no -- there are so many other ways that teen-agers can find their energy fix that are not being subjected to this law. This proposal is well intentioned, but it creates too great a burden and sets a dangerous precedent for even more regulations on the part of the convenience store operators. So we would ask that you take that into consideration, that the men and women who operate these convenience stores have a great deal of burden on them, have a great deal of challenges to running the store 24 hours a day, seven days a week, and to put something that really belongs in the schools and in the home on their shoulders we think is patently unfair.

And just as a conclusion, I have a 16-year-old son who's very active in sports in the high school level, in the summer level, and I've seen parents hand their kids Red Bulls and Monster drinks. And, you know, if a kid -- this is not going to solve the problem, if it is a problem, and I don't even agree that necessarily that's a problem. But I really wish you would take into consideration the onus that you're putting on convenience store operators. Thank you very much.

**P.O. LINDSAY:**

Thank you, Michael. I don't have any other cards. I'm almost afraid to ask. Is there anyone else in the audience that would like to speak on this subject? Seeing none, Legislator Nowick?

**LEG. NOWICK:**

I'm about to make you very happy. I'm going to --

**UNKNOWN AUDIENCE MEMBER:**

Can I speak? I only have two minutes.

**P.O. LINDSAY:**

Come forward quickly, please.

**D.P.O. VILORIA-FISHER:**

You have five minutes.

**MS. LENT:**

Good afternoon. My name is Shauna Lent. I didn't see the cards, I apologize. I only have about two minutes. I'm just here to voice my opposition to this proposed ban on the energy drinks. I come today as a resident, taxpayer, most importantly, as a parent. I have a middle school child and a high school child, and I don't condone -- I don't buy them these drinks. My understanding of the proposal is it's a ban to sell under the age of 19, targeting drinks with more than 80 grams of -- 80 milligrams of caffeine per serving. My question here is why the segregation of this industry alone, when like -- I mean, I don't have any fancy scientific degree, I can't answer for scientific studies, I'm just here as a parent, as I said. But the segregation, we have sodas, we have candy bars, we have ice creams out there that have more and more chemicals in it, so I don't -- that's my question here. Coffee house coffees contain more caffeine. My home-brewed coffee, which I don't serve to my children as a parent, because I think it's wrong, my own opinion, has more caffeine than these energy drinks, and I doubt this Legislature would look to age-restrict these items.

So, as a parent, I believe it's my right to inform my children what they should and should not consume and not the government. And being an active member, as my -- in my school district's PTA, we work together to limit the sale of sodas in our school vending machines, which we were successful in doing, and we're capable, as parents, to do so, and we're fully capable of limiting what's ingested, or at least recommend it.

I think it's a fine line when government injects itself into matters of personal choice. And I'm sure there are critical issues that need to be attended to, more studies. But while I applaud this Legislator's desire to protect our families, I believe this particular issue is best left to decide by the parents and not a legislative body. That's all I basically have to say. I told you it would be about two minutes, but --

**P.O. LINDSAY:**

Thank you very much for your testimony.

**MS. LENT:**

You're welcome.

**P.O. LINDSAY:**

Legislator Nowick, back to you.

**LEG. NOWICK:**

Yeah. I'll make a motion to close the public hearing.

**P.O. LINDSAY:**

Okay. I'll second that motion, because mainly I don't want to hear any more testimony.

*(\*Laughter\*)*

All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Cooper).

**P.O. LINDSAY:**

Okay, it stands closed.

*(\*The following was taken & transcribed by  
Alison Mahoney - Court Reporter\*)*

**P.O. LINDSAY:**

*Public Hearing on IR No. 1008-11 - Adopting Local Law No. -2011, A Charter Law to enhance budgeting flexibility and responsiveness (Schneiderman).* I have no cards on this subject. Is there anyone in the audience that would like to speak on this subject?

**LEG. SCHNEIDERMAN:**

Motion to close.

**P.O. LINDSAY:**

Motion to close by Legislator Schneiderman. I'll second that.  
All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Cooper).

**MR. LIPP:**

*Public Hearing on IR No. 1010-11 - Adopting Local Law No. -2011, A Charter Law to reaffirm the County Legislature's policy-making authority (Schneiderman).* I don't have any cards on this subject.

Is there anyone in the audience who would like the speak on this subject? Seeing none, Legislator Schneiderman?

**LEG. SCHNEIDERMAN:**

Motion to close.

**P.O. LINDSAY:**

Motion to close. I'll second it. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Fifteen (Not Present: Legislators Cooper & Kennedy).

**P.O. LINDSAY:**

*Public hearing on IR No. 1042-11 - Adopting Local Law No. -2011, A Local Law to require responsible disposal of expired and unused medications by hospitals, nursing homes, hospice facilities and long-term care facilities (Cooper).* I have one card; Adrienne Esposito.

**MS. ESPOSITO:**

I just love testifying right after the Presiding Officer says, "I don't want to hear anymore public testimony." Perfect.

**P.O. LINDSAY:**

I didn't say that, Adrienne. I didn't say that. And we always will hear from you.

**MS. ESPOSITO:**

Thank you. Thank you. My name is Adrienne Esposito, I'm the Executive Director of Citizens Campaign for the Environment. I actually live here in Suffolk County, not Washington D.C.; I just want that clarified here. We're here supporting and asking you to support 1042.

Very simply put, it's legislation that will require health care facilities, long-term care facilities, hospices, hospitals, to craft once a year a safe disposal plan for unused and unwanted and expired pharmaceutical drugs. You might say why do we need that? I can tell you why. Number one is that 41 million Americans right now are drinking water that has some level of pharmaceutical drugs in them. USGS reports show us that 80% of all streams and tributaries and lakes in the country have some level of pharmaceuticals as well.

You know, it's really hard with all the talking; sorry.

Okay. What does it mean for Suffolk County? Let's just talk about Suffolk. You may or may not know, but recent groundwater tests show that 40% of groundwater samples in Suffolk County show one or more pharmaceutical drugs in that groundwater. This test was done last year by the USGS and Suffolk County; they took 70 samples, 28 showed traces of pharmaceutical. The most common ones were anti-convulsants and also anti-biotics. I would have thought without tax rates it would have been anti-depressants, but it wasn't.

Why is this a problem? It's a problem because what science does know is that fish, mullets and shellfish have distinctive reactions to these types of levels, such as the feminizing of fish, reproductive alterations and also behavior alterations as well. We don't know what it means for humans, we don't, the jury is out. What we do know is that if these prescriptions are not prescribed to you by a doctor, you probably don't want them in your morning cup of coffee.

There are three ways that these pharmaceuticals get into your drinking water. One is residential, the residents dispose of them by flushing; the other is health care facilities dispose of them by flushing; and the third is by a natural biological process after they are used by humans. Well, Suffolk County has a great plan for residential disposal that you have in your Police Precincts; actually, it's the best plan in the State, you might like to know. In your Police Precincts there are drop boxes 24-hours a day, seven days a week. In the first four months of those drop box openings last year, 800 pounds of pharmaceutical drugs were collected and safely disposed of in Suffolk County; a great program.

But we don't know what's happening in the hospitals and the health care facilities. We know some are doing it correctly, we know some are doing it incorrectly. Our office has received several phone calls from nurses and health care workers who tell us it's their job to flush and they want to know, is there another viable option, because they started to realize this might not be the best procedure. Every time those drugs are disposed of in that fashion, they end up directly in our groundwater in Suffolk or in our bays and estuaries, every time. The drugs are designed to not readily break down, that's their biological function.

Simply put, this bill is not meant to be punitive, it is not meant to single any facility out; we know some are doing it correctly, we know some are doing it incorrectly. It's simply a bill to help facilities become more educated and to require them to register once a year with the Suffolk County Health Department about their proper disposal plan. There are options out there and they are not expensive, according to our research, but right now, safe disposal is cheaper than corrective action. Because if we had to really filter for this in our sewage treatment facilities, that would cost money. EPA and DEC both have our guidance documents that can help these facilities, both of them on the

web and they can use that.

So we're asking for your support. I know this is the first public hearing for this piece of legislation. It would be the first of its kind in the State of New York. We're encouraging you to please support it. We're being needlessly exposed and we can be ahead of the curve on this particular issue; there's not many times when we get that opportunity. Thank you very much.

**P.O. LINDSAY:**

Thank you, Adrienne. Appreciate it. I don't have any other cards on this subject. Is there anyone else in the audience that wants to speak on this subject? Seeing none, Legislator Cooper? Where is Legislator Cooper?

**LEG. ROMAINE:**

Motion to close. I'm a cosponsor.

**P.O. LINDSAY:**

Okay. Motion to close by Legislator Romaine. I'll second that. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Thirteen (Not Present: Legislators Montano, Vilorio-Fisher, Nowick & Cooper).

**P.O. LINDSAY:**

Okay. Next up is *Public Hearing on IR No. 1100-11 -Adopting Local Law No. -2011, A Local Law to increase awareness of the harmful effects of tobacco use (Cooper)*. I have one card; Michael Watt, again. We took the vote on close, right?

**MR. LAUBE:**

Yes, thirteen.

**MR. WATT:**

I thought you asked if you took the vote on my clothes. All right, I'm not trying anymore.

**P.O. LINDSAY:**

Michael, why don't you leave the jokes to me, all right?

(\*Laughter\*)

**MR. WATT:**

Good afternoon. My name is Michael Watt and I'm still the Executive Director of the Long Island Gasoline Retailers Association. I am here to speak on Legislative proposal 1100 which would require the posting of graphic images of diseased lungs and the like within the view of purchases, consumers and convenience stores where cigarettes are sold. And boy, nothing proves my point more about precedence being set about more burdens being placed on the convenience store operator than this proposal coming on the back of the previous proposal.

We have several service stations that sell gas, they sell cigarettes, and they have Dunkin Donuts franchises and Subway franchises within their building. The last thing they want the consumer to see are these graphic images; it's not good for business, it's not good for the economy. When you see these commercials on TV, you have the right to switch; you do not have that in a convenience store of a certain size. And it's, again, placing a burden on the convenience store operator, you're making them the poor-choice police when your beef is with the Food and Drug Administration, or whoever else allows these products to be sold.

Our men and women who make up their membership sell products that the public wants and they do not need to be subjecting the public to undesirable images when it's not their fault, they're not -- especially if they're a non-smoker; and the vast majority of the public are non-smokers, they don't need to be subjected to these vile pictures.

And on a technical note, these posters are taking up valuable retail space. Millions of dollars a year are spent each year looking for the best place to put signage in a convenient store. It's a science, people go to -- they have degrees in where to put signs in convenient stores and any kind of store. And to take it up with space on something that's going to be bad for business, not good for business, does not body well for the local economy and for the local store owners in Suffolk County. Thank you very much for hearing me.

**P.O. LINDSAY:**

Thank you, Michael. We appreciate it. I don't have any other cards on this subject. Is there anyone else that wants to speak on this subject? Seeing none, Legislator Cooper is sending a message that he'd like this recessed. I'll second that. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Fourteen (ACTUAL VOTE: Fifteen - Not Present: Legislators Montano & Cooper).

**P.O. LINDSAY:**

Okay. *Public Hearing on IR No. 1102-11 - Adopting Local Law No. -2011, A Local Law in relation to disposition of auction properties (County Executive).* I have no cards on this subject. Is there anyone in the audience that would like to talk on this subject? Seeing none --

**LEG. BROWNING:**

I'd like to make a motion to recess, please.

**P.O. LINDSAY:**

Motion to recess by Legislator Browning. I'll second that. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Fourteen.

**P.O. LINDSAY:**

*Public Hearing on IR No. 1103-11 - Adopting Local Law No. -2011, A Local Law to amend Chapter 152 of the Administrative Local Laws exempting the Health Commissioner and the Chief Medical Examiner from certain salary caps (County Executive).* I have no cards on this subject. Is there anyone in the audience that would like to speak on this subject? Seeing none, I'll make a motion to close. Is there a second?

**LEG. D'AMARO:**

Second.

**P.O. LINDSAY:**

Second by Legislator D'Amaro. All in favor? Opposed? Abstentions?

**LEG. EDDINGTON:**

Opposed.

**MR. NOLAN:**

Bill, 1102 has been withdrawn.

**P.O. LINDSAY:**

I've been just told that 1102, which we just recessed, had been withdrawn. So --

**MR. LAUBE:**

So we're going to mark that as withdrawn.

**P.O. LINDSAY:**

Yeah, please; I can't vote on something that's withdrawn.

**MR. LAUBE:**

Fifteen on the last one (Opposed: Legislator Eddington - Not Present: Legislator Montano).

**P.O. LINDSAY:**

On 1103, okay. 1104 -- wait a minute. Didn't Legislator Eddington vote against that one; you have that?

**MR. LAUBE:**

Yeah, that would be 15, because I'm missing two -- well, I was missing two Legislators. That will make it 16, and Legislator Montano.

**P.O. LINDSAY:**

Okay.

**LEG. ROMAINE:**

We're going to monitor the squirrels?

**P.O. LINDSAY:**

***Public Hearing on IR No. 1104-11 - Adopting Local Law No. -2011, A Local Law to prohibit pet waste and waterfowl feeding on County property (County Executive).*** I have no cards own this subject. Is there anyone in the audience -- maybe Mr. Kopp who would like to get up and --

*(\*Laughter\*)*

**MR. KOPP:**

I respectfully decline.

**P.O. LINDSAY:**

Okay. We have nobody. You know, I'll make a motion to close.

**D.P.O. VILORIA-FISHER:**

I'll second.

**P.O. LINDSAY:**

Second by Legislator Viloría-Fisher. All in favor? Opposed? Abstentions.

**MR. LAUBE:**

Sixteen. Seventeen.

**P.O. LINDSAY:**

**Public Hearing on IR No. 1105-11 - Adopting Local Law No. -2011, A Local Law amend the rules and regulations for the use of Suffolk County Parks (County Executive).** Again, I have no cards on this subject. Is there anyone in the audience that would like to speak on this subject? Seeing none, I'll make a motion to close.

And finally 1114 --

**MR. LAUBE:**

I needed a second.

**D.P.O. VILORIA-FISHER:**

I'll second it.

**P.O. LINDSAY:**

Okay, second by Legislator Viloría-Fisher. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Seventeen.

**P.O. LINDSAY:**

**Public Hearing on IR No. 1114-10 - Adopting Local Law No. -2011, A Local Law to reconstitute and reauthorize Living Wage Advisory Committee (Presiding Officer Lindsay).**

I will make a motion -- well, first of all, is there anyone in the audience who would like to speak on this subject? Seeing none, I'll make a motion to close.

**D.P.O. VILORIA-FISHER:**

Second.

**P.O. LINDSAY:**

Second by Legislator Viloría-Fisher. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen. Seventeen.

**P.O. LINDSAY:**

I'm going to make --

**MR. LAUBE:**

Seventeen.

**P.O. LINDSAY:**

-- a motion to set the date for the following Public Hearings for March 22nd, 2011, at 6:30 P.M. at the Rose Caracappa Auditorium in Hauppauge, New York; IR 1121, a Local Law to strengthen the County's Crack House Law; 1124, a Local Law to change the formula for distribution of funds and fees generated from the seizure and forfeiture of vehicles; 1133, a Charter Law to strengthen the County Legislature's oversight, departments, offices and agencies; 1146, a Local Law to ban the sale of certain synthetic chemicals being marketed as bath salts in Suffolk County; 1147, a Charter Law to protect taxpayers from large spikes in property taxes; 1162, a Local Law to ban the sale and use of cold tar sealers in Suffolk County; 1222, a Local Law to sunset living wage subsidies; and 1228, a Charter Law to establish a 2% discretionary spending cap in Suffolk County. Do I have a second?

**D.P.O. VILORIA-FISHER:**

Second.

**P.O. LINDSAY:**

Second by Legislator Vilorio-Fisher. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen.

**P.O. LINDSAY:**

And we're going back to the agenda and I am going to make a motion --

**LEG. SCHNEIDERMAN:**

Can we go out of order?

**P.O. LINDSAY:**

-- to take --

**LEG. SCHNEIDERMAN:**

Can we do the veto overrides?

**P.O. LINDSAY:**

I've got to do one first. Motion to take **1034** out of order. It's on page nine, it's ***Appropriating funds in connection with construction of a Skate Park in Sayville (CP 7113) (Presiding Officer Lindsay)***. Do I have a second?

**LEG. COOPER:**

Second.

**P.O. LINDSAY:**

Second by Legislator Cooper to take it out of order. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Seventeen.

**P.O. LINDSAY:**

The bill is before us. I'm making a motion to approve.

**LEG. COOPER:**

Second.

**P.O. LINDSAY:**

Second by Legislator Cooper.

**LEG. KENNEDY:**

I'll make a motion to table.

**P.O. LINDSAY:**

Motion by Legislator Kennedy to table.

**LEG. MURATORE:**

Second.

**P.O. LINDSAY:**

Second by Legislator Muratore. I am going to make a very simple statement. This is a local

project that has been in the Capital Budget. I have spent ten years of my life trying to get this place built in my district. Three prior sites were rejected for whatever reason, we finally found a site that is not going to upset any neighbors. It was really started by my predecessor which is the County Executive, and we bought the property after about eight years of negotiations. Come on, guys, hold it down. I never interrupt you when you --

**D.P.O. VILORIA-FISHER:**

Some people don't know where we are.

**P.O. LINDSAY:**

Page nine, page nine, 1034. I'm sorry. I'm sorry. And I want to move forward with this. I have never, never voted against any pet project in someone's district that they fought so hard and long for and went through the regular process. And I -- I'll be very frank with you, I'm a little bit perturbed by the attempt to table this today and to subterfuge this long overdue project. Legislator Browning.

**LEG. BROWNING:**

Yeah, Bill, I'd like to say I'm very happy to support you in this. Because for well over ten years in my district, there was the efforts to put a skate park in my district, and I can't imagine not wanting to support this. First of all, it's getting kids off the street, keeping them busy. And I stood in Mastic, I know Ed was with us, we dedicated the park in honor of Keith Romaine, his son, and the County Executive stood with us and talked about how he supported this skate park in my district. So I am hoping that the County Executive will continue to support the skateboard park in Sayville. And like you said, it was something that he started and I would like to think that he would continue to support it in Sayville in the community that he used to represent when he was a Legislator himself.

So I am a hundred percent behind you on this. I think we need more skate parks. The kids are crying out for it. I know Legislator Romaine, they're looking for one in his district. So we have to make sure that we have activities and things to do for our kids to keep them out of trouble.

**P.O. LINDSAY:**

Anybody else? Legislator -- did you want to talk, Legislator Kennedy?

**LEG. KENNEDY:**

Yes, just briefly. Mr. Chair, on the motion to table. Certainly you have been a supporter of all our particular district initiatives. The reason that I make the motion to table on this at this point is solely for the opportunity to try to obtain some information from our Parks Department since, by and large, our County parks are generally ones that are viewed as regional types of ventures.

Skate parks are in much demand all over the place; as a matter of fact, there's been a cry to put a skate park over in the Ronkonkoma area where the Bavarian Inn is now. My interest is to try to establish whether or not there's a partnering arrangement with the town for management purposes or to just ascertain what the administration association with the park itself would be. Not necessarily an effort to go ahead and block or impede a local initiative, but really similar to some of the other resolutions earlier.

And by the way, I did make a contact with the Parks Department last week and unfortunately haven't had any response yet. So with a quick cycle, that's the essence of the request to table.

**P.O. LINDSAY:**

The unfortunate thing, Legislator Kennedy, if it was a project in your district, I would have called you first instead of the Parks Department. This is the third part of this parcel that we purchased, it took us eight years. We've already approved a dog park on this site, and nobody seemed to object to

that at all. So, whatever. So you have a motion to table.

**LEG. CILMI:**

Are we taking it out of order?

**P.O. LINDSAY:**

We already voted on that, it's before us.

**LEG. CILMI:**

Okay. I just have a question.

**P.O. LINDSAY:**

Go ahead.

**LEG. CILMI:**

Yes, thanks. Just a question for you or whoever can answer. What about operating costs; insurance, liability issues, things like that?

**P.O. LINDSAY:**

The insurance issue has been addressed a long time ago, that anybody that participates at the park has to sign up for a membership in this National Skateboard Association that covers them for insurance, and we'll carry our normal liability insurance. Legislator D'Amaro.

**LEG. D'AMARO:**

Yeah. Mr. Presiding Officer, I would just like to ask you through yourself, the Chair. I feel like we did this a long time ago, so I guess it's been included in the Capital Budget for quite some time.

**P.O. LINDSAY:**

We approved the appropriation for a skateboard park at a different location.

**LEG. D'AMARO:**

Okay.

**P.O. LINDSAY:**

And the location didn't pan out.

**LEG. D'AMARO:**

And wasn't one of the driving factors in the debate at the time that kids were actually skateboarding around on public property, destroying public property, and this was one way to try and get a handle on that, bring them into a park?

**P.O. LINDSAY:**

The village of -- it's not a village, but the Hamlet of Sayville has -- the Police Officer down there, what do you call it, takes away their skateboards if they're skating down Main Street and there's a Local Ordinance in the town about it. There has been -- and the kids respond by, "Where can we go? We have no place to go."

**LEG. D'AMARO:**

Right.

**P.O. LINDSAY:**

It has been a major problem in the downtown business area.

**LEG. D'AMARO:**

And as far as the policy itself, this is an approved project in our Capital Budget.

**P.O. LINDSAY:**

Yes, it is.

**LEG. D'AMARO:**

Okay. Thank you.

**P.O. LINDSAY:**

The second time it was approved; it was approved years ago as well.

**LEG. MONTANO:**

It's simply appropriating the money.

**P.O. LINDSAY:**

Yes.

**D.P.O. VILORIA-FISHER:**

Right.

**P.O. LINDSAY:**

Okay. Roll call.

**D.P.O. VILORIA-FISHER:**

This is on the tabling.

**LEG. BROWNING:**

This is on the table?

**MR. LAUBE:**

On the table.

*(\*Roll Called by Mr. Laube - Clerk\*)*

**LEG. KENNEDY:**

Yes.

**LEG. MURATORE:**

Yes.

**LEG. ROMAINE:**

Yes.

**LEG. SCHNEIDERMAN:**

No to table.

**LEG. BROWNING:**

No.

**LEG. EDDINGTON:**

Pass.

**LEG. MONTANO:**

No.

**LEG. CILMI:**

Yes.

**LEG. BARRAGA:**

Yes.

**LEG. NOWICK:**

No.

**LEG. HORSLEY:**

No.

**LEG. GREGORY:**

No.

**LEG. STERN:**

No.

**LEG. D'AMARO:**

No.

**LEG. COOPER:**

No.

**D.P.O. VILORIA-FISHER:**

Nope.

**P.O. LINDSAY:**

No.

**LEG. EDDINGTON:**

No.

**MR. LAUBE:**

Five.

**P.O. LINDSAY:**

Motion to approve.

*(\*Roll Called by Mr. Laube - Clerk\*)*

**P.O. LINDSAY:**

Yes.

**LEG. COOPER:**

Yes.

**LEG. ROMAINE:**

Yes.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. BROWNING:**

Yes.

**LEG. MURATORE:**

Yes.

**LEG. EDDINGTON:**

Pass.

**LEG. MONTANO:**

Yes.

**LEG. CILMI:**

Yes.

**LEG. BARRAGA:**

Well, since you spent ten years of your life on it, yes.

**LEG. KENNEDY:**

Nary the day, Mr. Chair; yes.

**LEG. NOWICK:**

Yes.

**LEG. HORSLEY:**

Yes.

**LEG. GREGORY:**

Yes.

**LEG. STERN:**

Yes.

**LEG. D'AMARO:**

Yes.

**D.P.O. VILORIA-FISHER:**

Yes.

**LEG. EDDINGTON:**

Yes.

**MR. LAUBE:**

Seventeen.

**P.O. LINDSAY:**

Same motion, same second on the accompanying Bond Resolution, ***1034A (Bond Resolution of the County of Suffolk, New York, authorizing the issuance of of \$250,000 bonds to finance***

*the cost of construction of a skate park in Sayville. (CP 7113.110 and .310).* Roll call.

*(\*Roll Called by Mr. Laube - Clerk\*)*

**P.O. LINDSAY:**

Yes.

**LEG. COOPER:**

Yes.

**LEG. ROMAINE:**

Yes.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. BROWNING:**

Yes.

**LEG. MURATORE:**

Yes. As.

**LEG. EDDINGTON:**

Pass.

**LEG. MONTANO:**

Yes.

**LEG. CILMI:**

Yes.

**LEG. BARRAGA:**

Yes.

**LEG. KENNEDY:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. HORSLEY:**

Yes.

**LEG. GREGORY:**

Yes.

**LEG. STERN:**

Yes.

**LEG. D'AMARO:**

Yes.

**D.P.O. VILORIA-FISHER:**

Yes.

**LEG. EDDINGTON:**

Yes.

**MR. LAUBE:**

Seventeen.

**P.O. LINDSAY:**

I thank my colleagues, but more importantly the kids in my district thank you because you'll never see me on one of those things.

*(\*Laughter\*)*

**LEG. SCHNEIDERMAN:**

Mr. Presiding Officer, can we do the veto override on Resolution No. 27?

**P.O. LINDSAY:**

Are you making a motion?

**LEG. SCHNEIDERMAN:**

Yes, to override the veto on Resolution No. 27.

**P.O. LINDSAY:**

You want to take out of order -- it's in the pile, *Resolution No. 27-2010 - Authorizing The Department of Social Services To Consider And Utilize An Additional Vendor To Provide Emergency Housing Services (Schneiderman)*.

**LEG. SCHNEIDERMAN:**

The motion is to take it out of order.

**D.P.O. VILORIA-FISHER:**

I'll second.

**P.O. LINDSAY:**

Second by Legislator Viloría-Fisher. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Seventeen.

**P.O. LINDSAY:**

Okay, it's before us. Do you want to make a motion?

**LEG. SCHNEIDERMAN:**

I would like to make a motion to override.

**LEG. ROMAINE:**

Second.

**P.O. LINDSAY:**

Second by?

**D.P.O. VILORIA-FISHER:**

Romaine.

**P.O. LINDSAY:**

Legislator Romaine. Any discussion? Roll call.

*(\*Roll Called by Mr. Laube - Clerk\*)*

**LEG. SCHNEIDERMAN:**

Yes to override.

**LEG. ROMAINE:**

Yes.

**LEG. BROWNING:**

Yes.

**LEG. MURATORE:**

Yes.

**LEG. EDDINGTON:**

Pass.

**LEG. MONTANO:**

Yes.

**LEG. CILMI:**

Yes.

**LEG. BARRAGA:**

No.

**LEG. KENNEDY:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. HORSLEY:**

Pass.

**LEG. GREGORY:**

Yes.

**LEG. STERN:**

No.

**LEG. D'AMARO:**

No.

**LEG. COOPER:**

Yes.

**D.P.O. VILORIA-FISHER:**

Yes.

**P.O. LINDSAY:**

Yes.

**LEG. EDDINGTON:**

Yes.

**LEG. HORSLEY:**

Yes.

**MR. LAUBE:**

Fourteen.

**LEG. SCHNEIDERMAN:**

Thank you.

**P.O. LINDSAY:**

All right, Mr. Chair. While we're doing housekeeping, can I go back to a resolution that we had earlier in the day in Budget & Finance;

IR 1111A, the Bond associated with that personal injury settlement?

If I can make a motion to reconsider, please.

**P.O. LINDSAY:**

We have a motion to reconsider. Both have to be on --

**MR. NOLAN:**

This is 1111A.

**P.O. LINDSAY:**

Okay, but to reconsider you have to be on the --

**D.P.O. VILORIA-FISHER:**

The prevailing side.

**MR. NOLAN:**

He was.

**D.P.O. VILORIA-FISHER:**

He was, he voted against it.

**P.O. LINDSAY:**

Okay. I can't second it because I wasn't on the prevailing side.

**LEG. MURATORE:**

Second.

**LEG. ROMAINE:**

I'll second it.

**P.O. LINDSAY:**

Second by Legislator Romaine.

**LEG. MONTANO:**

This is on 1111A.

**MR. NOLAN:**

Yes.

**P.O. LINDSAY:**

All right, and it's to take it out of order.

**LEG. SCHNEIDERMAN:**

No, no.

**P.O. LINDSAY:**

To reconsider, to reconsider. We have a motion and a second to reconsider. All in favor?  
Opposed? Abstentions?

**MR. LAUBE:**

Seventeen.

**P.O. LINDSAY:**

It's back before us. This is the Bond, ***1111A-11 - Bond Resolution of the County of Suffolk, New York, authorizing the issuance of \$3,000,000 bonds to finance the payment of a settlement in a General Liability Case (County executive).***

**LEG. KENNEDY:**

Yes, Mr. Chair, I'm going to make a motion to approve. I had the opportunity to have some fairly detailed and exhaustive discussion regarding the matter, and without getting into any more of the particulars, it's abundantly clear the offer before us is wise and prudent and we should go forward.

**D.P.O. VILORIA-FISHER:**

Second.

**P.O. LINDSAY:**

We have a motion and a second by Legislator Viloría-Fisher.  
Any discussion? Roll call.

***(\*Roll Called by Mr. Laube - Clerk\*)***

**LEG. KENNEDY:**

Yes.

**D.P.O. VILORIA-FISHER:**

Yes.

**LEG. ROMAINE:**

Yes.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. BROWNING:**

Yes.

**LEG. MURATORE:**

Yes.

**LEG. EDDINGTON:**

Pass.

**LEG. MONTANO:**

Yes.

**LEG. CILMI:**

Yes.

**LEG. BARRAGA:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. HORSLEY:**

Yes.

**LEG. GREGORY:**

Yes.

**LEG. STERN:**

Yes.

**LEG. D'AMARO:**

Yes.

**LEG. COOPER:**

Yep.

**P.O. LINDSAY:**

Yes.

**LEG. EDDINGTON:**

Yes.

**MR. LAUBE:**

Seventeen.

**P.O. LINDSAY:**

Okay, so that's approved.

We're on the same page, page seven. And during the lunch break, I received a communique, okay, from the County Executive's Office withdrawing IR 1077, 1078, 1079, 1089, 1090, 1091. So they are withdrawn and --

**LEG. SCHNEIDERMAN:**

Do we know why they were withdrawn?

**P.O. LINDSAY:**

No. They withdrew them and they're all Capital Projects, Bonding Resolutions. I will tell my colleagues that I've instructed my staff to refile them, you know, as Late Starters today.

**LEG. SCHNEIDERMAN:**

Thank you.

**D.P.O. VILORIA-FISHER:**

1090 and 1091 are on page ten.

**LEG. MONTANO:**

(Inaudible).

**D.P.O. VILORIA-FISHER:**

Page ten is 1090 and 1091, back to page eight.

**P.O. LINDSAY:**

Okay, we're done with page seven now because 77 was withdrawn, 78 was withdrawn, 79 was withdrawn, so that completes page seven.

We're back on to page eight, and we did 2200.

We're up to ***2256-10 - Adopting Local Law No. -2011, A Charter Law to eliminate requirement for verbatim minutes (Viloria-Fisher).***

**D.P.O. VILORIA-FISHER:**

Motion to approve.

**P.O. LINDSAY:**

Motion to approve by Legislator Viloria-Fisher.

**LEG. COOPER:**

Second.

**P.O. LINDSAY:**

Seconded by Legislator Cooper. But could we do just any -- anybody want to comment? All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Fourteen (Not Present: Legislators Browning, Barraga & Kennedy).

***1028-11 - Authorizing planning steps for the acquisition of land under the Suffolk County Drinking Water Protection Program, as amended by Local Law No. 24-2007 (Heritage Square Property – Town Of Brookhaven) (Romaine).***

**D.P.O. VILORIA-FISHER:**

Motion to approve. Ed, you want to second that?

**LEG. ROMAINE:**

Yes.

**D.P.O. VILORIA-FISHER:**

It's in your district.

**LEG. ROMAINE:**

Yes, I do, and I believe I'm the sponsor of this resolution.

**D.P.O. VILORIA-FISHER:**

Yes.

**P.O. LINDSAY:**

So would you like to sponsor it other than Legislator Viloría-Fisher?

**LEG. ROMAINE:**

I would appreciate that. Thank you.

**P.O. LINDSAY:**

Okay. We have a motion and a second. Let's do all in favor? Opposed? Abstentions?

**MR. LAUBE:**

Fourteen.

**P.O. LINDSAY:**

I'm opposed. I am opposed.

**MR. LAUBE:**

Thirteen (ACTUAL VOTE: Fourteen - Opposed: Legislators Lindsay & Montano - Not Present: Legislator Browning).

**LEG. GREGORY:**

On 1028? Abstain.

**MR. LAUBE:**

Make that twelve ((ACTUAL VOTE: Fourteen - Opposed: Legislators Lindsay & Montano - Not Present: Legislator Browning)).

**D.P.O. VILORIA-FISHER:**

That's Heritage Property, Wayne. It's in Brookhaven.

**MR. LAUBE:**

Is that it, everybody is good? That's twelve.

**P.O. LINDSAY:**

Okay, *1043-11 - Making a SEQRA determination in connection with the proposed stormwater improvements to Meschutt Beach County Park, Town of Southampton (Presiding Officer Lindsay).*

**LEG. SCHNEIDERMAN:**

Motion.

**P.O. LINDSAY:**

Motion by Legislator Schneiderman. Do I have a second?

**D.P.O. VILORIA-FISHER:**

I'll second it.

**P.O. LINDSAY:**

Seconded by Legislator Viloría-Fisher. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

*1051-11 - Authorizing acquisition of land under the Suffolk County Open Space Preservation Program – for the K. Dunne, M. Dunne and Bartilucci property – Robert Cushman Murphy County Park addition – Pine Barrens Core – Town of Riverhead – (SCTM No. 0600-134.00-01.00-010.000) (County Executive).*

**LEG. ROMAINE:**

Motion.

**LEG. SCHNEIDERMAN:**

Second.

**P.O. LINDSAY:**

We have a motion by Legislator Romaine, a second by Legislator Schneiderman. Any discussion? All in favor? Opposed? Abstentions? I'm opposed.

**LEG. MONTANO:**

Opposed.

**LEG. GREGORY:**

Abstain.

**MR. LAUBE:**

Fourteen (ACTUAL VOTE: Thirteen - Opposed: Legislators Lindsay & Montano - Abstention: Legislator Gregory - Not Present: Legislator Browning).

**LEG. ROMAINE:**

Please list me as a cosponsor.

**P.O. LINDSAY:**

*IR 1052-11 - Authorizing the acquisition of Farmland Development Rights under the New Suffolk County Drinking Water Protection Program (effective December 1, 2007) for the Kalamaras, U. Altop and H. Altop property – Triangle Farm – Town of Riverhead – (SCTM No. 0600-079.00-01.00-005.001 p/o) (County Executive).*

**LEG. ROMAINE:**

Motion.

**LEG. SCHNEIDERMAN:**

Second.

**P.O. LINDSAY:**

Any discussion? All in favor? Opposed? Abstentions? I'm opposed.

**LEG. BARRAGA:**

Opposed.

**LEG. GREGORY:**

Abstain.

**LEG. MONTANO:**

Opposed.

**MR. LAUBE:**

Legislator Montano?

**LEG. MONTANO:**

Opposed. Three opposed, one abstention, right?

**MR. LAUBE:**

Twelve (Opposed: Legislators Lindsay, Barraga & Montano - Abstention: Legislator Gregory - Not Present: Legislator Browning).

**LEG. ROMAINE:**

Please list me as a cosponsor.

**P.O. LINDSAY:**

*1053-11 - Authorizing the acquisition of Farmland Development Rights under the New Suffolk County Drinking Water Protection Program (effective December 1, 2007) for the Roselle Building Company, Inc. Property – Town of Riverhead – (SCTM No. 0600-061.00-02.00-009.000) (County Executive).*

**LEG. ROMAINE:**

Motion.

**P.O. LINDSAY:**

We have a motion by Legislator Romaine.

**LEG. D'AMARO:**

Second.

**P.O. LINDSAY:**

Second by Legislator D'Amaro. All in favor? Opposed? Abstentions?  
I'm opposed.

**LEG. BARRAGA:**

Opposed.

**LEG. GREGORY:**

Abstain.

**LEG. MONTANO:**

Opposed.

**MR. LAUBE:**

Twelve (Opposed: Legislators Lindsay, Barraga & Montano - Abstention: Legislator Gregory - Not Present: Legislator Browning).

**LEG. ROMAINE:**

Please list me as a cosponsor.

**P.O. LINDSAY:**

Is there anything left that we haven't bought out there yet, Ed?

**LEG. ROMAINE:**

We've got tons of property.

(\*Laughter\*)

**P.O. LINDSAY:**

*1054-11 - Authorizing the acquisition of Farmland Development Rights under the New Suffolk County Drinking Water Protection Program (effective December 1, 2007) for the Wickham property - Wickham Fruit Farm – Town of Southold – (SCTM No. 1000-103.00-11.00-022.000).*

**LEG. ROMAINE:**

Motion.

**LEG. SCHNEIDERMAN:**

Second.

**P.O. LINDSAY:**

Any discussion? All in favor? Opposed? I'm opposed. Abstentions?

**LEG. GREGORY:**

Abstain.

**LEG. BARRAGA:**

Opposed.

**LEG. MONTANO:**

Opposed.

**MR. LAUBE:**

That's three opposition?

**MS. MAHONEY:**

And one abstention.

**D.P.O. VILORIA-FISHER:**

DuWayne, did you say abstain?

**LEG. GREGORY:**

Yes, abstain.

**MR. LAUBE:**

Okay. You guys have got to say it so I can hear it.

**P.O. LINDSAY:**

Opposed?

**MR. LAUBE:**

Thank you. Twelve (Opposed: Legislators Lindsay, Barraga & Montano - Abstention: Legislator Gregory - Not Present: Legislator Browning).

**P.O. LINDSAY:**

1055 --

**LEG. ROMAINE:**

Please list me as cosponsor of that resolution, please. Thank you.

**P.O. LINDSAY:**

***1055-11 - Authorizing acquisition of land under the Old Suffolk County Drinking Water Protection Program [C12-5(E)(1)(b)] for the Bergmann property - Pine Barrens Core - Town of Southampton - (SCTM No. 0900-333.00-03.00-007.000) (County Executive).***

**LEG. SCHNEIDERMAN:**

Motion.

**P.O. LINDSAY:**

Motion by Legislator Schneiderman.

**D.P.O. VILORIA-FISHER:**

Second.

**P.O. LINDSAY:**

Second by Legislator Viloría-Fisher. All in favor? Opposed? Abstentions?

**LEG. GREGORY:**

Abstain.

**LEG. BARRAGA:**

Opposed.

**LEG. MONTANO:**

Opposed.

**P.O. LINDSAY:**

I'm for it.

**MR. LAUBE:**

Legislator Montano, that was a no?

**LEG. MONTANO:**

Make me an abstention.

**P.O. LINDSAY:**

IR 10 -- oh, I'm sorry, you didn't call it.

**MR. LAUBE:**

Thirteen (Opposed: Legislator Barraga - Abstention: Legislators Gregory & Montano - Not Present: Legislator Browning).

**P.O. LINDSAY:**

Okay. ***IR 1056-11 - Amending Resolution No. 1129-2007 in connection with the Suffolk County Multifaceted Land Preservation Program and authorizing acquisition under the***

***Suffolk County Multifaceted Land Preservation Program – Parkland purposes – for the Boys & Girls Harbor, Inc. Property – Town of East Hampton – (SCTM Nos. 0300-092.00-01.00-011.001 and 0300-074.00-05.00-030.002) (County Executive).***

**LEG. SCHNEIDERMAN:**

Motion.

**P.O. LINDSAY:**

Motion by Legislator Schneiderman. I'll second it. All in favor? Opposed? Abstentions?

**LEG. BARRAGA:**

Opposed.

**LEG. GREGORY:**

Abstain.

**MR. LAUBE:**

Fourteen (Opposed: Legislator Barraga - Abstention: Legislator Gregory - Not Present: Legislator Browning).

**P.O. LINDSAY:**

***1059-11 - Accepting and appropriating 50% Federal grant funds from the United States Environmental Protection Agency to the Department of Health Services, Division of Environmental Quality for the National Estuary Program (County Executive).***

**D.P.O. VILORIA-FISHER:**

Motion.

**P.O. LINDSAY:**

Motion by Legislator Viloría-Fisher. I'll second it. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

***1063-11 - Amending the Composition Of The Environmental Trust Review Board (Browning), and I'll make that motion.***

**D.P.O. VILORIA-FISHER:**

I'll second it.

**P.O. LINDSAY:**

Second by Legislator Viloría-Fisher. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

***1067-11 - Amending Resolution No. 622-2006 in connection with stormwater system discharge remediation and stream water silt removal and remediation at the Nissequogue Tributary Headwaters North from CR 76, Townline Road, to Miller's Pond, Smithtown (CP 8710) (Kennedy).***

**LEG. KENNEDY:**

I'll make a motion to approve.

**D.P.O. VILORIA-FISHER:**

Second.

**P.O. LINDSAY:**

What is this about, Legislator Kennedy?

**LEG. KENNEDY:**

What this is is this is a modification at the request of the County Attorney's Office, Mr. Chair. The resolution as originally constructed did not adequately distribute funding between planning and implementation money. If you'll take a look at the resolution, you'll see that there is I believe 10%; 25,000 that was allocated to planning, balance to implementation. I'm told by the County Attorney's Office that is the last and only item that is holding up execution of the IMA and distribution of the funds. You'll note this project goes back to 2006, some five years ago.

**P.O. LINDSAY:**

And this is the project to help with the flooding in your district.

**LEG. KENNEDY:**

This is true, Mr. Chair. As a matter of fact, this is the first 250,000 that actually supported that.

**P.O. LINDSAY:**

My point is that this was a major problem in your district and we all got behind it to support this initiative to help out the residents of your district.

**LEG. KENNEDY:**

As a matter of fact, yes, you pointed that out, Mr. Chair, and I appreciate that. I've always appreciated the support of all my colleagues.

**P.O. LINDSAY:**

Yeah, I can tell how you appreciate it.

**LEG. KENNEDY:**

Especially when I voted for that skate park.

**P.O. LINDSAY:**

Yeah.

**LEG. BARRAGA:**

He spent 20 years.

**D.P.O. VILORIA-FISHER:**

No, it only seemed like 20 years to us.

*(\*Laughter\*)*

**P.O. LINDSAY:**

We have a motion and a second. We have a second, right?

**D.P.O. VILORIA-FISHER:**

Yes.

**MR. LAUBE:**

You do.

**P.O. LINDSAY:**

All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

***1082-11 - To appoint member of County Planning Commission.  
(Michael F. Kelly) (County Executive).***

**D.P.O. VILORIA-FISHER:**

He appeared before the committee, Mr. Chair.

**P.O. LINDSAY:**

I'll make a motion.

**D.P.O. VILORIA-FISHER:**

I'll second it.

**P.O. LINDSAY:**

Second by Legislator Viloría-Fisher. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

***1083-11 - To appoint member of County Planning Commission  
(David L. Calone) (County Executive).***

**LEG. HORSLEY:**

Motion.

**D.P.O. VILORIA-FISHER:**

He appeared before the committee, Mr. Chair.

**P.O. LINDSAY:**

Motion by Legislator Horsley.

**LEG. CILMI:**

Second.

**P.O. LINDSAY:**

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

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

**1084-11 - To appoint member of County Planning Commission  
(William E. Schoolman) (County Executive).**

**D.P.O. VILORIA-FISHER:**

He appeared before the committee. I'll make a motion.

**LEG. CILMI:**

Second.

**P.O. LINDSAY:**

Motion by Legislator Viloría-Fisher, seconded by Legislator Cilmi.

**LEG. KENNEDY:**

On the motion, Mr. Chair?

**P.O. LINDSAY:**

On the motion, Legislator Kennedy.

**LEG. KENNEDY:**

Yeah, if I can just ask the committee chair. I believe Mr. Schoolman is one of the principals in the MTA suit?

**D.P.O. VILORIA-FISHER:**

Yes.

**LEG. KENNEDY:**

I'm just curious if that was a topic of discussion at the committee meeting, or did it not --

**D.P.O. VILORIA-FISHER:**

No, actually that was not a topic of discussion. We spoke about his background, we spoke about how he would see his role as a member of the commission, but, no, we did not discuss his --

**LEG. KENNEDY:**

Okay.

**D.P.O. VILORIA-FISHER:**

The part he plays in the lawsuit.

**LEG. KENNEDY:**

Okay. Thank you.

**P.O. LINDSAY:**

We have a motion and a second; am I correct, Tim?

**MR. LAUBE:**

You are correct.

**P.O. LINDSAY:**

All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

*1097-11 - Reappointing member to the Suffolk County Water Authority (Patrick G. Halpin) (Presiding Officer Halpin).*

**D.P.O. VILORIA-FISHER:**

He appeared before the committee.

**LEG. D'AMARO:**

Motion.

**P.O. LINDSAY:**

Motion by Legislator D'Amaro, seconded by Legislator Horsley.  
All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

*2145-10 - Adopting Local Law No. -2011, A Local Law to regulate the sale of tattoo equipment in Suffolk County.*

**LEG. BARRAGA:**

Motion.

**P.O. LINDSAY:**

Motion by Legislator Barraga.

**LEG. KENNEDY:**

Second.

**P.O. LINDSAY:**

Second by Legislator Kennedy. On the question?

**LEG. ROMAINE:**

More so to a point of information. I see that Legislator Muratore is listed as "not present". My understanding is that Legislator Muratore is not a member of this committee, but it's listed on my resolution sheet that he's "not present". Could I get some clarification on this?

**P.O. LINDSAY:**

We'll be happy to check it out and correct the minutes if, in fact, he isn't a part of the --

**MR. LAUBE:**

It's been corrected on-line already.

**P.O. LINDSAY:**

Okay.

**MR. LAUBE:**

There was a misprint in the agenda.

**LEG. ROMAINE:**

Okay. So --

**D.P.O. VILORIA-FISHER:**

His name is on the agenda as well, yeah.

**LEG. ROMAINE:**

Right. So Legislator Muratore is not a member of this committee?

**MS. ORTIZ:**

No.

**LEG. ROMAINE:**

Okay. Thank you.

**LEG. EDDINGTON:**

But everybody wants him.

**LEG. ROMAINE:**

I know, they love Tom. Thank you.

**P.O. LINDSAY:**

Okay. IR 2145, we have a motion and a second. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

*IR 1004-11 - To extend deadline for Teen Pregnancy Task Force (Viloria-Fisher).*

**D.P.O. VILORIA-FISHER:**

Motion.

**P.O. LINDSAY:**

Motion by Legislator Viloria-Fisher. I'll second it.

**D.P.O. VILORIA-FISHER:**

I'm more than nine months.

**P.O. LINDSAY:**

All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

*1075-11, is not one of the ones that has been withdrawn, (Appropriating funds for the purchase of replacement VHF mobile radios for ambulance vehicles and desktop radios for hospitals (CP 4080) (County Executive), I'll make a motion.*

**LEG. CILMI:**

Second.

**P.O. LINDSAY:**

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

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

Same motion, same second on the Bond, ***1075A (Bond Resolution of the County of Suffolk, New York, authorizing the issuance of \$400,600 bonds to finance the cost of the purchase of replacement VHF Mobile Radios for ambulance vehicles and desktop radios for hospitals (CP 4080.510).*** Roll call.

*(\*Roll Called by Mr. Laube - Clerk\*)*

**P.O. LINDSAY:**

Yes.

**LEG. CILMI:**

Yes.

**LEG. ROMAINE:**

Yes.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. BROWNING:**

(Not present).

**LEG. MURATORE:**

Yes.

**LEG. EDDINGTON:**

Pass.

**LEG. MONTANO:**

Yes.

**LEG. BARRAGA:**

Yes.

**LEG. KENNEDY:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. HORSLEY:**

Yes.

**LEG. GREGORY:**

Yes.

**LEG. STERN:**

Yes.

**LEG. D'AMARO:**

Yes.

**LEG. COOPER:**

Yes.

**D.P.O. VILORIA-FISHER:**

Yes.

**LEG. EDDINGTON:**

Yes.

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

Okay, *1118-11 - Directing the Department of Health Services to utilize retired Foley Facility employees on a per diem basis (Presiding Officer Lindsay)*. I'll make a motion.

**D.P.O. VILORIA-FISHER:**

Second.

**P.O. LINDSAY:**

Second by Legislator Viloría-Fisher. Any questions? All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen.

**LEG. ROMAINE:**

Please list me as a recusal.

**MR. LAUBE:**

Fifteen (Recusal: Legislator Romaine - Not Present: Legislator Browning).

**P.O. LINDSAY:**

*IR 1094-11 - Approving the appointment of Kenneth Blomberg to Detective Sergeant in the Suffolk County Police Department (County Executive)*.

**LEG. GREGORY:**

Motion.

**LEG. EDDINGTON:**

Motion.

**P.O. LINDSAY:**

Could I just -- we have a motion by Legislator Eddington. Second by Legislator Gregory. And on the question, why do we need a motion to do this?

**D.P.O. VILORIA-FISHER:**

The nepotism.

**LEG. EDDINGTON:**

Yeah, I believe he has a brother in command.

**P.O. LINDSAY:**

Okay. Okay. So it's a nepotism resolution.

**LEG. EDDINGTON:**

Yes.

**P.O. LINDSAY:**

It didn't say that in the description, okay. We have a motion and a second. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

*1003-11 - To amend the User Fee Schedule for Suffolk County Parks (Viloria-Fisher).*

**D.P.O. VILORIA-FISHER:**

Motion.

**P.O. LINDSAY:**

I'll second it. On the motion?

**LEG. MONTANO:**

This is --

**MR. NOLAN:**

To increase the fees in line with the budget.

**LEG. MONTANO:**

Right, this is to conform with the Operating Budget.

**P.O. LINDSAY:**

On the question?

**LEG. SCHNEIDERMAN:**

It conforms with the budget.

**LEG. EDDINGTON:**

Yeah, is this to raise the fees?

**P.O. LINDSAY:**

Yes.

**LEG. EDDINGTON:**

Okay. Thank you.

**P.O. LINDSAY:**

This is to conform with the budget that we passed.

**LEG. EDDINGTON:**

Okay.

**LEG. HORSLEY:**

This is the sunset.

**MR. NOLAN:**

No.

**P.O. LINDSAY:**

No.

**D.P.O. VILORIA-FISHER:**

It doesn't have a sunset.

**P.O. LINDSAY:**

No. Anybody else on the question? Okay. Any other motions? No.  
Okay, roll call.

*(\*Roll Called by Mr. Laube - Clerk\*)*

**D.P.O. VILORIA-FISHER:**

Yes.

**P.O. LINDSAY:**

Yes.

**LEG. ROMAINE:**

No.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. BROWNING:**

(Not present).

**LEG. MURATORE:**

No.

**LEG. EDDINGTON:**

Pass.

**LEG. MONTANO:**

Yes.

**LEG. CILMI:**

No.

**LEG. BARRAGA:**

No.

**LEG. KENNEDY:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. HORSLEY:**

Yes.

**LEG. GREGORY:**

Yes.

**LEG. STERN:**

Yes.

**LEG. D'AMARO:**

No.

**LEG. COOPER:**

Wayne, did you pass?

**LEG. COOPER:**

Can I just have the count on this?

**MR. LAUBE:**

You have nine.

**LEG. COOPER:**

Yes.

**LEG. EDDINGTON:**

No.

**MR. LAUBE:**

Ten.

**P.O. LINDSAY:**

Okay, it passed.

***IR 1009-11 - Authorizing use of Smith Point County Park property in 2011 by the Mastics-Moriches-Shirley Community Library's Family Literacy Project (Browning).*** I'll make a motion. Do I have a second?

**LEG. COOPER:**

Second.

**P.O. LINDSAY:**

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

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

***1027-11 - To amend the user fee schedule for Suffolk County Parks to implement an unlimited annual 9-hole golf pass for seniors who are veterans (Romaine).***

**LEG. ROMAINE:**

Motion to table. There's some additional changes that have to be made to this resolution.

**P.O. LINDSAY:**

I'll second the motion. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

***1031-11 - Authorizing use of Makamah Preserve in Northport by Northport Running Club (Cooper).***

**LEG. COOPER:**

Motion.

**P.O. LINDSAY:**

Motion by Legislator Cooper. I'll second that. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

Page ten; we did the one on the bottom of page nine.

***1068-11 - Amending the 2011 Capital Budget and Program and appropriating funds in connection with construction for beach erosion and coastline protection – Smith Point Beach and Meschutt Beach County Parks (CP 5380) (County Executive).***

**D.P.O. VILORIA-FISHER:**

Motion.

**LEG. SCHNEIDERMAN:**

Second.

**P.O. LINDSAY:**

Thanks for that motion to bail me out.

***(\*Laughter\*)***

And a second by Legislator Schneiderman. All in favor? Opposed? Abstentions?

**LEG. BARRAGA:**

Opposed.

**D.P.O. VILORIA-FISHER:**

There's a Bond Resolution.

**MR. LAUBE:**

Fifteen (Opposed: Legislator Barraga - Not Present: Legislator Browning).

**P.O. LINDSAY:**

Okay. On the accompanying Bond, ***1068A (Bond Resolution of the County of Suffolk, New York, authorizing the issuance of \$169,763 bonds to finance the cost of construction for***

***beach erosion and coastline protection at Smith Point Beach and Meschutt Beach County Parks***

***(CP 5380.313)***, same motion, same second. Roll call. And maybe --

**LEG. MONTANO:**

What was the amount on this? I can't bring it up on my computer.

**P.O. LINDSAY:**

Mr. Lipp is going to answer you, Legislator Montano.

**MR. LIPP:**

Twenty-one thousand, two hundred and twenty dollars is the serial bond.

**LEG. MONTANO:**

Okay. Twenty-one thousand?

**MR. NOLAN:**

Plus.

**MR. LIPP:**

Correct.

**P.O. LINDSAY:**

Tim, maybe as they -- as you call the roll, maybe if it isn't loud enough on the record, you can just confirm it's a yes or a no, all right?

**MR. LAUBE:**

Will do.

**P.O. LINDSAY:**

Thank you. Roll call.

**MR. LAUBE:**

This is on 1034?

**P.O. LINDSAY:**

1068A. We did 1034 out of order.

**MR. LAUBE:**

The vote on 1068 I had as 15. The motion and the second on 1068?

**D.P.O. VILORIA-FISHER:**

Schneiderman and Viloría-Fisher.

**MR. LAUBE:**

Thank you.

***(\*Roll Called by Mr. Laube - Clerk\*)***

**MR. LAUBE:**

Legislator Schneiderman?

**P.O. LINDSAY:**

Legislator Schneiderman, yes or no on the Bond?

**LEG. SCHNEIDERMAN:**

Yes.

**D.P.O. VILORIA-FISHER:**

Yes.

**LEG. ROMAINE:**

Yes.

**LEG. BROWNING:**

(Not present).

**LEG. MURATORE:**

Yes.

**LEG. EDDINGTON:**

Pass.

**LEG. MONTANO:**

Yes.

**LEG. CILMI:**

Yes.

**LEG. BARRAGA:**

No.

**LEG. KENNEDY:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. HORSLEY:**

Yes.

**LEG. GREGORY:**

Yes.

**LEG. STERN:**

Yes.

**LEG. D'AMARO:**

Yes.

**LEG. COOPER:**

Yep.

**P.O. LINDSAY:**

Yes.

**LEG. EDDINGTON:**

Yes.

**MR. LAUBE:**

Sixteen -- fifteen (Opposed: Legislator Barraga - Not Present: Legislator Browning).

**P.O. LINDSAY:**

*1069-11 - Amending the 2011 Capital Budget and Program and appropriating funds in connection with planning and construction for beach erosion and coastline protection – Shinnecock East County Park (CP 5380) (County Executive).* Legislator Schneiderman, would you care to make a motion on this?

**LEG. SCHNEIDERMAN:**

I'll make a motion; motion to approve.

**P.O. LINDSAY:**

Motion to approve by Legislator Schneiderman on 1069. Do I have a second?

**D.P.O. VILORIA-FISHER:**

I'll second it.

**P.O. LINDSAY:**

Second by Legislator Viloría-Fisher.

**LEG. MONTANO:**

And just the amount, please, if I may?

**MR. LIPP:**

Slightly less than 6,000.

**LEG. MONTANO:**

Six thousand?

**MR. LIPP:**

Slightly less than 6,000, and there's also Federal aid of 35,000 and change.

**P.O. LINDSAY:**

Okay. We have a motion and a second. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

All right. On the roll -- on the accompanying Bond, *1069A, (Bond Resolution of the County of Suffolk, New York, authorizing the issuance of \$47571 bonds to finance the cost of planning and construction for beach erosion and coastline protection at Shinnecock East County Park (CP 5380.111 and .312),* same motion same second. Roll call.

*(\*Roll Called by Mr. Laube - Clerk\*)*

**LEG. SCHNEIDERMAN:**

Yes.

**D.P.O. VILORIA-FISHER:**

Yes.

**LEG. ROMAINE:**

Yes.

**LEG. BROWNING:**

(Not present).

**LEG. MURATORE:**

Yes.

**LEG. EDDINGTON:**

Pass.

**LEG. MONTANO:**

Yes.

**LEG. CILMI:**

Yes.

**LEG. BARRAGA:**

No.

**LEG. KENNEDY:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. HORSLEY:**

Yes.

**LEG. GREGORY:**

Yes.

**LEG. STERN:**

Yes.

**LEG. D'AMARO:**

Yes.

**LEG. COOPER:**

Yes.

**P.O. LINDSAY:**

Yes.

**LEG. EDDINGTON:**

Yes.

**MR. LAUBE:**

Fifteen (Opposed: Legislator Barraga - Not Present: Legislator Browning).

**P.O. LINDSAY:**

***1113-11 - Reauthorizing and reconstituting the Vanderbilt Museum Oversight Committee (Cooper).***

**LEG. COOPER:**

Motion to approve.

**P.O. LINDSAY:**

Motion to approve by Legislator Cooper. I'll second it. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

Okay, ***IR 2244-11 - Adopting Local Law No. -2011, A Local Law to regulate the off-road use of four wheel drive vehicles and motorcycles (Browning).*** I will make a motion to table. Do I have a second on the tabling? Second by Legislator Muratore. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

***1029-11 - Authorizing the Suffolk County Police Department to qualify retired law enforcement officers from other law enforcement agencies under The Firearms Qualification Program (Romaine).***

**LEG. ROMAINE:**

Motion.

**P.O. LINDSAY:**

Motion by Legislator Romaine. Second by Legislator Muratore. Legislator Romaine, maybe you could give us a quick explanation, what this does.

**LEG. ROMAINE:**

Yes. What this does, it allows the Suffolk County Police Department to qualify Suffolk County residents who are retired law enforcement officers from other law enforcement agencies other than Suffolk County. They have to pay a fee for this qualification, I believe it's at least \$50 for that.

**UNKNOWN SPEAKER:**

Thirty-seven.

**LEG. ROMAINE:**

Excuse me? Thirty-seven. Oh, I thought it was 50, to qualify, it gives them an opportunity to qualify locally.

**LEG. MONTANO:**

To do what?

**LEG. ROMAINE:**

To carry firearms as retired fire -- Police or public safety officers. It's pursuant to Federal law.

**P.O. LINDSAY:**

Okay. Any other questions? Thank you for that explanation.  
All in favor? Opposed? Abstentions.

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

1089 has been withdrawn. 1090 has been withdrawn. 1091 has been withdrawn.

We're up to **1092-11 - Authorizing the payment of funds from the Sheriff's Office Prisoners' Commissary Account to the General Fund (County Executive)**, and I have a request from the Sheriff to table --

**LEG. EDDINGTON:**

Second.

**P.O. LINDSAY:**

-- this resolution. Seconded by Legislator Eddington. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

**1107-11 - To extend the date upon which the Task Force on Hate Crimes In Suffolk County submits its written report (Gregory).** Legislator Gregory?

**LEG. GREGORY:**

Motion.

**P.O. LINDSAY:**

Motion to approve.

**D.P.O. VILORIA-FISHER:**

Second.

**P.O. LINDSAY:**

Seconded by Legislator Viloría-Fisher. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

Okay, **2258-11 - Adopting Local Law No. -2011, A Charter Law to provide for fair and equitable distribution of public safety sales and compensating use tax revenues (Schneiderman).**

**LEG. SCHNEIDERMAN:**

Motion to table.

**P.O. LINDSAY:**

Motion to table by Legislator Schneiderman. I'll second that.  
All in favor? Opposed? Abstentions?

1002-11 - A local law to protect the public from injury caused --

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

Oh, I'm sorry. I'm sorry. I'm sorry I called, I went on.

**MR. LAUBE:**

I have people in my ear and I can't hear you guys.

**P.O. LINDSAY:**

Okay.

**MR. LAUBE:**

Sixteen.

**P.O. LINDSAY:**

Okay. *1002-11 - Adopting Local Law No. -2011, A Local Law to protect the public from injury caused by accumulated snow or ice on moving commercial motor vehicles (Cooper).*

**LEG. COOPER:**

Motion to table.

**P.O. LINDSAY:**

Motion to table. I'll second that. All in favor? Opposed? Abstentions?

**LEG. ROMAINE:**

Spring will be here soon.

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

*1013-11 - Authorizing public hearing for renewal of ferry license and fares of Tony's Freight Service, Inc. (Presiding Officer Lindsay),* and I will make that motion.

**LEG. EDDINGTON:**

Second.

**P.O. LINDSAY:**

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

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

*IR 1032-11- Authorizing transfer of surplus County computer systems and hardware to the Huntington Station Enrichment Center/Kidz Café (Cooper).* Legislator Cooper, you want

to make a motion?

**LEG. COOPER:**

Motion to approve.

**P.O. LINDSAY:**

Motion to approve. Second by Legislator D'Amaro. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

***IR 1064-11 - Authorizing transfer of surplus County computer systems and hardware to RSVP (Kennedy).***

**LEG. KENNEDY:**

Motion.

**LEG. MONTANO:**

Second.

**P.O. LINDSAY:**

Motion by Legislator Kennedy, second by Legislator Montano.  
All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

***1065-11 - Authorizing transfer of surplus County computer systems and hardware to Princess Ronkonkoma Productions (Viloria-Fisher).***

**D.P.O. VILORIA-FISHER:**

Motion. Do you want to second it, Tom?

**P.O. LINDSAY:**

Motion by Legislator Viloria-Fisher, second by Legislator Muratore. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

***1066-11 - Requesting the conveyance of a parcel of real property, having a Suffolk County Tax Map Identification Number of District 0100 Section 053.00 Block 01.00 Lot 062.000, for public highway purposes and requesting approval from the Town of Babylon for conveyance of same, pursuant to New York State General Municipal Law §72-h (County Executive).*** Motion by Legislator Gregory. Second by Legislator D'Amaro. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

*1071-11 - Requesting the conveyance of a parcel of real property, having a Suffolk County Tax Map Identification Number of District 0100 Section 053.00 Block 01.00 Lot 062.000, for public highway purposes and requesting approval from the Town of Babylon for conveyance of same, pursuant to New York State General Municipal Law §72-h (County Executive).* Legislator Horsley, would you like to make that motion?

**LEG. HORSLEY:**

I would love to make that motion.

**P.O. LINDSAY:**

Okay. I'll second that.

**LEG. KENNEDY:**

On the motion, Mr. Chair?

**P.O. LINDSAY:**

On the motion, Legislator Kennedy.

**LEG. KENNEDY:**

Is that coming out of the Sewer Stabilization Fund?

**P.O. LINDSAY:**

Ms. Vizzini?

**MS. VIZZINI:**

Yes, it is customary for us to pay for this equipment that's used by all the sewer districts from Assessment Stabilization Reserve.

**LEG. KENNEDY:**

Okay. Thank you.

**P.O. LINDSAY:**

We have a motion and a second. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

*1072-11 - Transferring funds from the Assessment Stabilization Reserve Fund, and appropriating funds in connection with improvements to Suffolk County Sewer District No. 23 – Coventry Manor (CP 8149) (County Executive).*

**LEG. HORSLEY:**

Motion.

**P.O. LINDSAY:**

Motion by Legislator Horsley.

**LEG. STERN:**

Second.

**P.O. LINDSAY:**

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

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

*1080-11 - Authorizing execution of a sewer easement agreement to abandon an existing easement in favor of an alternate easement by the Administrative Head of Suffolk County Sewer District No. 11 – Selden with Samantha Drive Subdivision (BR-1568) (County Executive).*

**D.P.O. VILORIA-FISHER:**

I'll make the motion.

**P.O. LINDSAY:**

Motion by Legislator Viloría-Fisher. Seconded by Legislator Horsley. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

*1081-11 - Authorizing execution of agreement by the Administrative Head of Suffolk County Sewer District No. 3 - Southwest and Westbrook Village (IS-1432.1) (County Executive).*

**LEG. HORSLEY:**

Motion.

**P.O. LINDSAY:**

Motion by Legislator Horsley. I'll second it. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**MS. VIZZINI:**

Mr. Presiding Officer? I just wanted to correct on the record what I said about 1171. It was not coming from Assessment Stabilization Reserve, but rather from the Sewer Fund which is supported by all the districts.

**P.O. LINDSAY:**

Okay. Who asked --

**D.P.O. VILORIA-FISHER:**

1071.

**MS. VIZZINI:**

Kennedy.

**P.O. LINDSAY:**

Legislator Kennedy, did you hear that? There was a clarification of your question.

**MS. VIZZINI:**

On 1071, Legislator Kennedy, that was not the Assessment Stabilization Reserve, that's from Fund 261 which is the Sewer Maintenance Fund, but that is supported by all the districts.

**LEG. KENNEDY:**

Supported by which?

**MS. VIZZINI:**

All the districts.

**P.O. LINDSAY:**

All the Sewer Districts.

**MS. VIZZINI:**

It's a chargeback to the different districts, it's the million dollars.

**P.O. LINDSAY:**

It isn't coming out of the Assessment Stabilization Fund, it comes out of other sewer maintenance funds.

**LEG. KENNEDY:**

Which is something that's actually gone into issues I have with Galleria. So change my vote, then, please, from a yes to a no.

Thank you.

**P.O. LINDSAY:**

We're going to have to reconsider. You're going to have to make a motion to reconsider.

**LEG. KENNEDY:**

Okay. I'll make a motion to reconsider, then, please, IR 1071.

**LEG. ROMAINE:**

Second.

**P.O. LINDSAY:**

We have a motion to reconsider and a second by Legislator Romaine. All in favor? Opposed? Abstentions?

**LEG. KENNEDY:**

Opposed.

**MR. NOLAN:**

We're reconsidering.

**P.O. LINDSAY:**

No, we're reconsidering it.

**LEG. CILMI:**

Okay.

*(\*Laughter\*)*

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**D.P.O. VILORIA-FISHER:**

You made the motion, John.

**LEG. KENNEDY:**

You know, what can I tell you? I'm looking at Legislator Gregory.

**LEG. GREGORY:**

I knock you off your feet, don't I?

**P.O. LINDSAY:**

Okay. **1071** is before us again, *Requesting the conveyance of a parcel of real property, having a Suffolk County Tax Map Identification Number of District 0100 Section 053.00 Block 01.00 Lot 062.000, for public highway purposes and requesting approval from the Town of Babylon for conveyance of same, pursuant to New York State General Municipal Law §72-h (County Executive).* You did call that reconsideration?

**MR. LAUBE:**

I did.

**P.O. LINDSAY:**

Okay. Do we have a motion to approve 1071?

**LEG. D'AMARO:**

Yes.

**P.O. LINDSAY:**

Motion by Legislator D'Amaro. Seconded by Legislator Horsley.  
All in favor? Opposed? Abstentions?

**LEG. KENNEDY:**

Opposed.

**MR. LAUBE:**

Fifteen (Opposed: Legislator Kennedy - Not Present: Legislator Browning).

**P.O. LINDSAY:**

**IR 1095-11 - Authorizing the creation of a utility easement for use by LIPA and National Grid for service to the Compressed Natural Gas (CNG) fueling station at the west end highway facility (Commack Truck Garage) (County Executive).**

**LEG. KENNEDY:**

Motion to approve.

**P.O. LINDSAY:**

Motion by Legislator Kennedy to approve.

**LEG. SCHNEIDERMAN:**

Second.

**P.O. LINDSAY:**

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

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

***1108-11 - Authorizing transfer of surplus County computer systems and hardware to the South Shore Community Organization (Cilmi).*** Legislator Cilmi?

**LEG. CILMI:**

Motion.

**P.O. LINDSAY:**

Motion by Legislator Cilmi. I'll second that. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

***1109-11 - Authorizing transfer of surplus County computer systems and hardware to the Guardian Angels For Children (Muratore).***

**LEG. MURATORE:**

Motion.

**P.O. LINDSAY:**

Motion by Legislator Muratore. Seconded by Legislator Eddington.

**LEG. MONTANO:**

Question.

**P.O. LINDSAY:**

On the question, Legislator Montano.

**LEG. MONTANO:**

Yeah, who are the Guardian Angels for Children; are they related to the Guardian Angels?

**LEG. MURATORE:**

No, no, no.

**LEG. MONTANO:**

Okay.

**P.O. LINDSAY:**

They're little guys, but they wear berets, too.

*(\*Laughter\*)*

**LEG. MONTANO:**

But they're not from --

**LEG. MURATORE:**

No, they're not the Guardian Angels.

**LEG. MONTANO:**

Yeah, not Curtis.

**P.O. LINDSAY:**

Okay. We have a motion and a second. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

It's approved.

***1058-11 - Requesting legislative approval of contract award for a sole bidder to operate a central kitchen to provide meals for nutrition programs for the elderly (County Executive).***

**LEG. STERN:**

Motion.

**P.O. LINDSAY:**

Motion by Legislator Stern. Seconded by Legislator D'Amaro.  
All in favor? Opposed?

**D.P.O. VILORIA-FISHER:**

On the motion.

**P.O. LINDSAY:**

On the motion, Legislator Viloría-Fisher.

**D.P.O. VILORIA-FISHER:**

It's not directly related to this piece of legislation but something I recently discovered, that the County provides subsidies for people to -- for people over the age of 60 without a needs test to eat at certain restaurants in Suffolk County. So, for example, there was a constituent who called my office and he said, "Well, I got my subsidy when I went to eat at Zahns, but they wouldn't give my wife the discount"; I guess she was under 60, he wanted both of them to get this. I asked this, I questioned Holly Rhodes about this and she said it's a Federal Program to provide meals for people over 60. So you and I could go -- I know, we're --

**P.O. LINDSAY:**

I was going to say, he could have taken me with him.

**D.P.O. VILORIA-FISHER:**

The two of us could have gone.

**LEG. NOWICK:**

(Inaudible).

**D.P.O. VILORIA-FISHER:**

So the point is, it seems to me, this is a Federal Program, so they set the -- they set the parameters of the program.

**LEG. HORSLEY:**

Is it a discount?

**D.P.O. VILORIA-FISHER:**

It's a discounted meal at Zahn's if you are over 60. I don't know which other restaurants.

**LEG. HORSLEY:**

Sixty and over?

**D.P.O. VILORIA-FISHER:**

Sixty and over.

**P.O. LINDSAY:**

Okay.

**LEG. MONTANO:**

Where is Zahn's?

**D.P.O. VILORIA-FISHER:**

It's Ben's. I'm sorry, I thought Holly said that it was called Zahn's. Okay, it's Ben's.

**P.O. LINDSAY:**

Okay.

**D.P.O. VILORIA-FISHER:**

The point being, I thought I should make everybody aware of this. I'd rather see the money being used for programs that seniors go to to be provided meals rather than being given a voucher or a discount at a restaurant. I just wanted to make everybody aware of that.

**P.O. LINDSAY:**

We have a motion and a second. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

***Procedural Motion No. 1-2011 - Designating Veterans Organizations to receive funding for Memorial Day Observances for 2011.*** Legislator Stern?

**LEG. STERN:**

Motion.

**P.O. LINDSAY:**

I'll be happy to second that. I'm glad that you remembered; usually we remember this in a meeting in May and we have to rush it through.

So we have a motion and a second. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

***2236-11 - Declaring as surplus and authorizing sale and/or lease of real property in***

**Yaphank pursuant to County Law Section 215 (Presiding Officer Lindsay).** I'm going to table this for one more cycle, it's a modifying the bill slightly.

**LEG. MONTANO:**

Second.

**P.O. LINDSAY:**

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

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

**1038-11 - Authorizing certain technical corrections to the 2011 Adopted Operating Budget for the West Islip Symphony Orchestra, Inc. (Barraga).** Legislator Barraga, you want to make that motion?

**LEG. BARRAGA:**

Yes.

**P.O. LINDSAY:**

Motion by Legislator Barraga. All in favor? Opposed? I'll second it. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

Okay. We're on to page 12 and we're moving right along.

**1039** we cannot act on because we do not have a bond for it.

**1040**, we can --

**MR. NOLAN:**

You can table 1039.

**P.O. LINDSAY:**

Okay, I'll make a motion to table **1039-11**, because of the lack of a Bond (**Amending the 2011 Capital Budget and Program and appropriating funds in connection with the Upgrading Court Minutes Application (CP 1681)**).

**D.P.O. VILORIA-FISHER:**

Second.

**P.O. LINDSAY:**

Seconded by Legislator Viloría-Kennedy (sic). All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning). That was Viloría-Fisher on the second?

**D.P.O. VILORIA-FISHER:**

Yes.

**MR. LAUBE:**

Okay, thank you.

**P.O. LINDSAY:**

***IR 1040-11 - Amending the 2011 Capital Budget and Program and appropriating funds in connection with the Digital Image Storage Repository (CP 1809) (Presiding Officer Lindsay).*** I'm going to make a motion to table for the same reason, that we do not -- we haven't gotten a Bond yet from the Bonding Counsel. Second by Legislator Viloría-Fisher. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

Okay. ***1046-11 - Sale of County-owned real estate pursuant to Local Law No. 13-1976 Matthew R. Poole and Sara K. Poolehis his wife (SCTM No. 0200-559.00-01.00-008.000) (County Executive).*** I'll make a motion.

**LEG. MONTANO:**

Second.

**P.O. LINDSAY:**

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

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

***1047-11 - Sale of County-owned real estate pursuant to Local Law No. 13-1976 Mark Ebsen and Andrea Ebsen, his wife (SCTM No. 0200-969.00-01.00-039.000) (County Executive).*** Same motion, same second all right?

**LEG. MONTANO:**

Yep.

**P.O. LINDSAY:**

Same vote.

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

***1048-11 - Sale of County-owned real estate pursuant to Local Law No. 13-1976 Glenna Margaret Crow (SCTM No. 0800-006.00-02.00-026.002) (County Executive).*** Same motion, same second, same vote.

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

***1049-11 - Sale of County-owned real estate pursuant to Local Law No. 13-1976 Big Blue Six Corp. (SCTM No. 0500-393.00-03.00-081.001). (County Executive).*** Same motion, same second, same vote.

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

***1050-11 - Sale of County-owned real estate pursuant to Local Law No. 13-1976 Guy Schafer and Ann Marie Schafer, his wife (SCTM No. 0500-361.00-01.00-098.000) (County Executive).*** Same motion, same second, same vote.

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

***IR 1106-11 - Amending the 2011 Capital Budget and Program and appropriating funds in connection with improvements to Board Of Elections (Presiding Officer Lindsay).*** I'll make a motion to approve. Second by Legislator Gregory. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

On the accompanying Bond, ***1106A (Bond Resolution of the County of Suffolk, New York, authorizing the issuance of \$500,000 bonds to finance the cost of constructing improvements to the Board of Elections Building (CP 1459.112 and .312),*** same motion, same second. Roll call.

***(\*Roll Called by Mr. Laube - Clerk\*)***

**P.O. LINDSAY:**

Yes.

**LEG. GREGORY:**

Yes.

**LEG. ROMAINE:**

Yes.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. BROWNING:**

(Not present).

**LEG. MURATORE:**

Yes.

**LEG. EDDINGTON:**

Pass.

**LEG. MONTANO:**

Yes.

**LEG. CILMI:**

Yes.

**LEG. BARRAGA:**

Yes.

**LEG. KENNEDY:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. HORSLEY:**

Yes.

**LEG. STERN:**

Yes.

**LEG. D'AMARO:**

Yes.

**LEG. COOPER:**

Yes.

**D.P.O. VILORIA-FISHER:**

Yes.

**LEG. EDDINGTON:**

Yes.

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

*IR 1110-11 - Authorizing the renewal of the lease of premises located at 32 Jackson Ave., Hampton Bays, NY for use by Suffolk County District Attorney's Office (County Executive).*

I'll make a motion.

**LEG. EDDINGTON:**

Second.

**P.O. LINDSAY:**

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

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

Okay, we have in the folder more vetoes. The next one I'll just grab is *Resolution No.*

6 -- 16-2010 - Directing the issuance of a request for proposals to increase services and revenue at the John J. Foley Skilled Nursing Facility (Browning).

**MR. NOLAN:**

Mr. Presiding Officer?

**P.O. LINDSAY:**

Yes.

**MR. NOLAN:**

I spoke with Legislator Browning, she would like not to take action tonight. She still has additional time to act at our next meeting, so she just would like us to pass on this. And if certain circumstances change, she'll move for an override at the next meeting.

**P.O. LINDSAY:**

Okay, that's fine by me. So we don't have to take a vote or anything?

**MR. NOLAN:**

No.

**P.O. LINDSAY:**

Okay. All right, *Resolution No. 36-2011 (Authorizing the County Executive to enter into an agreement with Heritage-Riverhead Retail Developers, LLC and accepting a payment of money in lieu of performance of certain mitigation measures, constructed under Capital Project 5529, Old Country Road, Riverhead, and amending the 2011 Capital Budget and Program and appropriating funds in connection with the reconstruction of CR 58, Old Country Road, Riverhead (CP 5529) (Romaine).*

Do I have a motion?

**LEG. ROMAINE:**

I'd like to ask Counsel, there was an opinion received by Bond Counsel; my question is did the opinion go to the merits of the resolution; did it speak directly to the resolution?

**MR. NOLAN:**

Legislator Romaine, the County Attorney's Office provided us with an opinion from our Bond Counsel, and in stating that we should not approve this resolution, he pointed to General Municipal Law Section 6-L.

**LEG. ROMAINE:**

Right.

**MR. NOLAN:**

And that Statute says that if we have a Capital Project and we receive Federal or State funding to help with the construction of that project, that money should be used -- put in a reserve fund and used to retire debt.

**LEG. ROMAINE:**

Does this situation meet that?

**MR. NOLAN:**

Well, this situation doesn't involve Federal or State funding, it involves mitigation fees. Bond Counsel did opine that in his opinion, through analogy, he believed that the mitigation funds received for this project should also be used to pay down debt. I've passed this information on to

you. I'd only say that he is our Bond Counsel and while the Statute he pointed to was not directly on point with -- he was relying on an analogy, I would just point out he's our Bond Counsel.

**LEG. ROMAINE:**

Thank you, and I appreciate that opinion. The second thing I want to do is I want to thank each and every one of my colleagues for their support on this resolution. I appreciate it deeply.

I am not going to make a motion to override this veto; I do not want to ask that of my colleagues. And at any point, even though the opinion did not directly relate to this resolution, at any point had the Executive or the County Attorney's Office come and discussed this with me, I would have withdrawn this resolution. But I cannot thank you, from the bottom my heart, for your support on this. And had I not been sand bagged, I would have withdrawn this resolution because there's other ways that I can go. And this is no reflection, in my opinion, on the County Attorney's Office; she was kind enough to speak to me about this after the fact, I appreciate that. I have an excellent working relationship with the County Attorney and have deep respect for her. But this is a situation, quite frankly, that should have never happened. Thank you, Mr. Presiding Officer.

**P.O. LINDSAY:**

Okay. That completes that. What else do we have here?

**MR. NOLAN:**

CN's. Everything else is just updated. Oh, and a Home Rule Message.

**P.O. LINDSAY:**

Okay, we have *Home Rule Message, Requesting the State of New York to amend Civil Service Law in relation to resolution of disputes between public employer and Suffolk County Probation Officers*. Legislator Cooper, do you have a wish to move this Home Rule Message? Legislator Cooper?

**LEG. COOPER:**

I'm sorry, I was distracted.

**MR. NOLAN:**

It's the Home Rule Message.

**P.O. LINDSAY:**

Your Home Rule Message; do you want to move it?

**LEG. COOPER:**

Yes, please.

**P.O. LINDSAY:**

So do you want to make a motion?

**LEG. COOPER:**

Motion to approve.

**P.O. LINDSAY:**

Okay. We have a motion to -- Probation Officers, to approve. Do we have a second?

**D.P.O. VILORIA-FISHER:**

Who's the Assembly sponsor?

**P.O. LINDSAY:**

Second by Legislator Eddington. Mr. Kopp, do you want to comment? Please come forward.

**MR. KOPP:**

Thank you. There's no button to hold in Riverhead, I see, huh?

**MR. LAUBE:**

You're on.

**MR. KOPP:**

Okay. *"While I greatly value the important work performed by these public servants, I believe that an expansion of binding arbitration would be unwise generally and unwarranted in the case of this particular bargaining unit. Probation Officers do not have access to binding arbitration anywhere where else in the State, nor do they at the State level. There's no apparent basis to limiting this right to Suffolk County and the inevitable result of enacting this legislation would be to extend binding arbitration to such employees State-wide." in these difficult fiscal times, local governments must be able to restrain their expenditures when necessary. This bill, however, would deprive the County Executive of the ability to limit labor costs whenever a third party arbitrator orders otherwise."*

These aren't my words, these are the words of Governor Patterson last year when he vetoed this measure when it was passed by the State Legislature following similar action down here in Suffolk County.

So I caution everyone to keep in mind the climate throughout the State of New York in terms of the budget difficulties we all face. And having heard what Governor Patterson said in retelling it, I can only imagine what Governor Cuomo might say. Thank you.

**P.O. LINDSAY:**

Legislator Romaine, did you want to --

**LEG. ROMAINE:**

Yes, I have a question for our Deputy County Executive.

**MR. KOPP:**

Yes.

**LEG. ROMAINE:**

Sorry to put you on the spot.

**MR. KOPP:**

That's okay.

**LEG. ROMAINE:**

Would this attitude about binding arbitration also apply to Deputy Sheriffs?

*(\*Laughter\*)*

They know why I'm asking this question.

**MR. KOPP:**

But I don't.

*(\*Laughter\*)*

**LEG. ROMAINE:**

I am asking this question because the County Executive, as a member of the State Assembly voted for binding arbitration for the Deputy Sheriffs. So he's asking -- he voted for, stood up and said, "I'm in favor of binding arbitration for the Deputy Sheriffs," but now he's coming here to say, "Give it to them, but don't give it to the Probation Officers." And I wanted to understand it --

**MR. KOPP:**

I think if you look at the timing --

**LEG. ROMAINE:**

Right.

**MR. KOPP:**

This is 2011.

**LEG. ROMAINE:**

Right.

**MR. KOPP:**

And the fiscal climate we're all in right now.

**LEG. ROMAINE:**

Uh-huh.

**MR. KOPP:**

That things change.

**LEG. MONTANO:**

(Inaudible).

**LEG. ROMAINE:**

Thank you.

**P.O. LINDSAY:**

Okay. Legislator Eddington and then Barraga.

**LEG. EDDINGTON:**

And I agree, some things do change:

**LEG. BARRAGA:**

Legislator -- I'm sorry. Did you say Eddington?

**P.O. LINDSAY:**

You're next. Go ahead, Legislator Eddington has the floor.

**LEG. EDDINGTON:**

Some things do change. However, when you mention Probation, they're grossly under staffed and underpaid, and they're the most highly educated group in public safety. So I think just because the

times are bad doesn't mean you've got to continue to abuse one group. And I commend Legislator Cooper for trying to bring these professionals up to a professional level.

**P.O. LINDSAY:**

Okay. Legislator Barraga.

**LEG. BARRAGA:**

To Mr. Romaine, I remember the debate in the state Assembly with reference to binding arbitration. The bill passed 149-1, and I was in the tank on that one, but the one vote against binding arbitration was Steve Levy.

**LEG. ROMAINE:**

Not for the Deputy Sheriffs and I'll tell you why. Because I happen to know that he voted for that bill as a candidate against him for County Executive, the Deputy Sheriffs were the one union that endorsed him as a result of that vote.

**LEG. BARRAGA:**

But just remember, that's the vote that everybody remembers him taking statewide. So, I mean, as far as this particular resolution before us, I don't really have a problem supporting it. Let it go up there and let Flanagan and {Abotti} figure out what to do. And, you know, we know what happened to Patterson, don't we?

**P.O. LINDSAY:**

I still can't get over the fact, Tom, that you voted for it, that there was only one opposition vote.

*(\*Laughter\*)*

**LEG. BARRAGA:**

There was a time where, believe it or not, I had a pretty good relationship with these police unions.

*(\*Laughter\*)*

**P.O. LINDSAY:**

Okay. We have -- yes, Legislator D'Amaro.

**LEG. D'AMARO:**

I just want to ask Mr. Kopp. You know, we do hear a lot of talk and debate about rising salaries, rising costs, and we don't have to rehash, you know, how difficult the economic times are and we're all struggling with our budgets. And one of the things that is consistently pointed to when we talk about rising salaries is binding arbitration, and you're asking us today to consider not approving this. But do you have any information with respect to the history of binding arbitration for the Probation Officers? You know, how has it -- what impact has it had on salaries?

**D.P.O. VILORIA-FISHER:**

They don't have it.

**MR. KOPP:**

They don't have binding.

**LEG. D'AMARO:**

They've never had it in the past?

**D.P.O. VILORIA-FISHER:**

I don't think so.

**P.O. LINDSAY:**  
No.

**LEG. D'AMARO:**  
Oh, this is the first time? I thought we voted it one other time. I apologize.

**P.O. LINDSAY:**  
We voted for it last year and it was vetoed by the --

**LEG. D'AMARO:**  
Oh, okay.

**P.O. LINDSAY:**  
-- Governor and it was never overturned.

**LEG. D'AMARO:**  
Right.

**P.O. LINDSAY:**  
But to my knowledge, I don't think Probation has ever had it Statewide anywheres in the State; I could be wrong, but that's my understanding.

**LEG. D'AMARO:**  
So just a point of information, then. The bill that was vetoed by the Governor would have allowed it Statewide.

**P.O. LINDSAY:**  
It passed the Legislature to allow -- is that --

**MR. KOPP:**  
It was Suffolk County only.

**P.O. LINDSAY:**  
Oh, it was Suffolk County only. All right, I'm mistaken then; then I'm sorry I misspoke.

**LEG. D'AMARO:**  
Okay. Yeah, so did I. Thank you.

**P.O. LINDSAY:**  
Okay. We have a motion and a second, and there's no other motions on the floor. Roll call.

*(\*Roll Called by Mr. Laube - Clerk\*)*

**LEG. COOPER:**  
Yes.

**LEG. EDDINGTON:**  
Yes.

**LEG. ROMAINE:**

Yes.

**LEG. SCHNEIDERMAN:**

Yes.

**LEG. BROWNING:**

(Not present).

**LEG. MURATORE:**

Yes.

**LEG. MONTANO:**

Yes.

**LEG. CILMI:**

Yes.

**LEG. BARRAGA:**

Yes.

**LEG. KENNEDY:**

Yes.

**LEG. NOWICK:**

Yes.

**LEG. HORSLEY:**

Yes.

**LEG. GREGORY:**

Yes.

**LEG. STERN:**

Yes.

**LEG. D'AMARO:**

Yes.

**D.P.O. VILORIA-FISHER:**

Yes.

**P.O. LINDSAY:**

Yes.

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

Okay, red folder, CN's:

***Resolution 1148-11 - Declaring as surplus and authorizing sale and/or lease of real property in Yaphank pursuant to County Law Section 215 (County Executive).*** Do I have a motion?

**LEG. CILMI:**

Motion.

**P.O. LINDSAY:**

Motion by Legislator Cilmi.

**LEG. SCHNEIDERMAN:**

Second.

**P.O. LINDSAY:**

Seconded by Legislator Schneiderman. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

***Resolution 1240-11 - Authorizing certain technical corrections to Adopted Resolution No. 44-2011 (County Executive).*** Do I have a motion?

**LEG. SCHNEIDERMAN:**

Motion.

**D.P.O. VILORIA-FISHER:**

How much are they giving us?

**P.O. LINDSAY:**

It looks like a million dollars.

**MR. NOLAN:**

It's a correction.

**P.O. LINDSAY:**

It's a correction. The original amount was for a million dollars, a million two, but this is some kind of technical correction. So we have a motion. Who made the motion? Legislator Schneiderman.

**LEG. EDDINGTON:**

Second.

**P.O. LINDSAY:**

Seconded by Legislator Eddington. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

Twelve -- do we have a 41? No.

***1242-11 - Requesting legislative approval of a contract award for operation and management of the restaurant, bar, and catering concession at Indian Island Country Club in Riverhead (County Executive).*** And who is the vendor?

**D.P.O. VILORIA-FISHER:**

(Inaudible).

**MR. NOLAN:**

Third Rock Management Corps.

**P.O. LINDSAY:**

Third Rock Management Corps.

**LEG. ROMAINE:**

Motion.

**P.O. LINDSAY:**

Motion by Legislator Romaine.

**LEG. SCHNEIDERMAN:**

Second.

**P.O. LINDSAY:**

Second by Legislator Schneiderman.

**D.P.O. VILORIA-FISHER:**

George, is that a new vendor, or is that the one who's been doing it?

**MR. NOLAN:**

The old concessionaire apparently left and this is -- this is the result of an RFP --

**D.P.O. VILORIA-FISHER:**

Okay.

**MR. NOLAN:**

-- to which one -- there was one respondent. That's why it was before us.

**D.P.O. VILORIA-FISHER:**

There was one respondent, okay.

**P.O. LINDSAY:**

Legislator Romaine?

**LEG. ROMAINE:**

Yes, the last concessionaire left in October, the restaurant at the golf course has been shut since October, and usually they do catering facilities or stuff like that in the winter. But now with the golf season, I've been trying to push the Parks Department to get a concessionaire in there, because that's going to drive golf revenues.

**P.O. LINDSAY:**

Yeah, not good for business.

**LEG. ROMAINE:**

Terrible for business.

**P.O. LINDSAY:**

Yeah. Okay, we have a motion and a second to approve. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

Okay. We're going to go to Late Starters. I'll make a motion to waive the rules and lay on the table the following Late Starters: IR 1233 goes to Ways & Means; 1235 to Economic Development & Energy; 1236 to Ways & Means; 1237 to Health & Human Services; 1238, Public Works & Transportation; 1239 to Budget & Finance; 1241 to EPA; 1243 to Ways & Means and set a public hearing for March 22nd, 6:30 PM in Hauppauge; 1244 to Public Safety; 1245 to Ways & Means; 1246 to Ways & Means and we set the public hearing for March 22nd, 6:30 in Hauppauge; 1247 to Budget & Finance and set the public hearing for March 22nd, 6:30 in Hauppauge; 1248 to Economic Development; 1249 to Economic Development; 1250 to Economic Development; 1251 to Public Safety; 1252 to Public Safety; 1253 to Public Safety, and that's all we have. I made the motion. Do I have a second?

**LEG. D'AMARO:**

Second.

**P.O. LINDSAY:**

Second by Legislator D'Amaro. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

I'll accept a motion to adjourn.

**D.P.O. VILORIA-FISHER:**

You got it. God bless.

**P.O. LINDSAY:**

Motion by Legislator Barraga. Second by Legislator Vilorio-Fisher. All in favor? Opposed? Abstentions?

**MR. LAUBE:**

Sixteen (Not Present: Legislator Browning).

**P.O. LINDSAY:**

We stand adjourned.

*(\*The meeting was adjourned at 5:33 P.M. \*)*

*{ } - Denotes Spelled Phonetically*