

SUFFOLK COUNTY LEGISLATURE

GENERAL MEETING

SEVENTH DAY

APRIL 26 , 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 FOLLOWING WAS TAKEN AND TRANSCRIBED BY
LUCIA BRAATEN-COURT REPORTER*)*

*(*THE MEETING WAS CALLED TO ORDER AT 9:32 A.M. *)*

P.O. LINDSAY:

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

MR. LAUBE:

Will do.

(Roll Called by Mr. Laube, Clerk)

LEG. ROMAINE:

Present.

LEG. SCHNEIDERMAN:

Here.

LEG. BROWNING:

(Not Present)

LEG. MURATORE:

Here.

LEG. ANKER:

Here.

LEG. EDDINGTON:

Here.

LEG. MONTANO:

(Not Present)

LEG. CILMI:

(Not Present)

LEG. BARRAGA:

Here.

LEG. KENNEDY:

Yes.

LEG. NOWICK:

Here.

LEG. HORSLEY:

Here.

LEG. GREGORY:
(Present)

LEG. STERN:
Here.

LEG. D'AMARO:
Here.

LEG. COOPER:
(Not Present)

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

LEG. HORSLEY:
Gregory's here.

P.O. LINDSAY:
Here.

MR. LAUBE:
Thirteen. (Not Present at Roll Call: Legs. Browning, Montano, Cilmi, Cooper and D.P.O. Viloría-Fisher).

P.O. LINDSAY:
Thank you. Could everyone rise for a salute to the flag, led by Legislator Eddington?

*(*Salutation*)*

If everyone would remain standing, I'll ask Legislator Eddington to introduce our visiting Clergy.

LEG. EDDINGTON:
Thank you, Mr. Presiding Officer. It's my distinct honor and pleasure to introduce Pastor Steven Willoughby. He served as an Assistant Pastor, and now Senior Pastor of the First Baptist Church of Patchogue for the past 24 years. Pastor Willoughby grew up in Columbia, South America, where his parents served as missionaries for 25 years. He attended the Citadel Bible College where he met his wife, Suzanne. They are the proud parents of two teens, Ashley and Benjamin.

The Eddingtons and the Willoughbys have a history and that's why I'm so happy to introduce the Pastor. I first got to know Reverend Willoughby when I was working at Barton Elementary School in Patchogue. That's where his family went to school and I got to know his wife and children. And his wife does music therapy in the neighborhood and the kids loved to go see her. His daughter, Ashley, served as an intern for my wife when she was the Assemblywoman of the area.

Pastor Willoughby is to be commended for his efforts in the Patchogue community, because he's brought the word of God to people in a bilingual way. This is -- I've gotten to know a lot of different Reverends in my community and I'm very proud and honored to have him be here, probably one of the last times I will be bringing a man of God to this -- or woman -- to this assembly. He really is a good, good man, and I don't think I can say much more. Reverend.

PASTOR WILLOUGHBY:
Well, you took all the things that I was going to talk about as far as how I knew the Eddingtons. But

I just want to say, if -- my son was in Barton Elementary and he was in second grade when Jack really was a help to him, and after next year he'll be going into the Air Force, and I just want to thank Jack. He came into my son's life at an important time in his schooling. And it's great to be here this morning. Would you bow your heads in prayer, please?

Our Father, we come before you. We recognize that we are those who even this morning, because there is a God in Heaven, we have breath in our bodies and we are able to be here. I just pray for these men and women who sit around this table. I pray, Lord, that you would enable them -- I pray that you would enable them as they consider the things of our days. We pray, Lord, that we look in our days for those who not only are politicians, but those who would be statesmen and stateswomen. I pray for their families. Many times public servants have to serve lots of the public, and lots of different places, and sometimes the ability to carry on any kind of family life becomes a difficult challenge. And I pray, Lord, that you would protect the marriages and the families of the people that sit around this table, that their pagers, and their cell phones, and their iPods, or whatever other thing, that there would be times that they are silent and that they can take sometime apart.

We know, Lord, that the heart of the King is in the hand of the Lord, and that you are able to work in and above any of the decisions that we would make. But we also know, Lord, that there are many voices that seek to govern and to sway the decisions of the people that sit around this table. Sometimes they can be helpful voices, and sometimes they can be angry voices. Sometimes they can even be voices of betrayal. And so, Lord, I ask that as these, that sit around this table, make decisions, that most of all they would listen to the voice of conscience and that they would also listen to the voice of God.

We live in times when there are difficult challenges. There are decisions that people say need to be made. There are economic decisions, there are political decisions, and everybody clamors for them to be made. But then the very ones who make the decision that needs to be made are the ones who are then taken to task. We pray that the elections would be put to the side when it comes to the fact that there are some important decisions, that no matter what the outcome, they have to be made.

We look to you. We know that we have, at least for us and for our church, we've just celebrated the fact that there is nothing that can not be overcome, even death itself, because of the death and resurrection of Jesus Christ. We know that nothing in this life cannot be overcome. And it has been given to these to be the voice of the people, but also, Lord, to speak into the heart and to the ear of the people. And so may they choose their words and may you give them wisdom. In the name of Jesus we pray. Amen.

P.O. LINDSAY:

Thank you very much, Reverend. If everyone would remain standing for a moment of silence. In the past month we've had former Suffolk County Police Chief John P. Biscardi died recently at the age of 86. John was instrumental in merging western Suffolk's independent municipal police forces into the County-wide Suffolk County Police Department.

And I was just notified that last night Jon Cooper's mother, Florence, passed away. Florence was 92 years old. And Jon is going to be with us a little later this morning. He's taking care of some family business.

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

*(*Moment of Silence*)*

P.O. LINDSAY:

Welcome, everybody, to Riverhead. It's been a little while since we've been here. Since we were here last, we had flood. I'm glad to see that the room was put back together again very nicely. For the last four months the body has been one short, as Legislator Losquadro has moved to the State Assembly. And we had a special election last month and we have our brand new Legislator, Sarah Anker. Now I'm going to ask our Clerk, Judy Pascale -- is Judy in the audience?

D.P.O. VILORIA-FISHER:

Yes, she is.

P.O. LINDSAY:

To come forward and to officially swear in Sarah.

*(*Legislator Sarah Anker Was Sworn in by County Clerk, Judy Pascale*)*

*(*Applause*)*

P.O. LINDSAY:

Thank you, Judy. Thank you. I could tell Judy's done this before, including arranging the photo. Thank you, Judy.

*(*Laughter*)*

MS. PASCALE:

The children have to be in the photo, they have to be part of it.

P.O. LINDSAY:

Absolutely. Very historic time. You know, every month I announce people that passed away, and we really don't talk about happy times enough. Last Saturday, we had one of our colleagues get married, DuWayne Gregory. Congratulations DuWayne, and to your new bride, Erica.

*(*Applause*)*

Surprisingly, we don't have any proclamations this morning, but we do have a couple of pieces of special business. Is Sarah Lansdale in -- please, come forward, Sarah. Sarah, as the nominee for the position of Suffolk County's Director of Planning, is present, and will answer any questions from any Legislator that might have any questions of you. Welcome, Sarah. Thank you for being with us this morning. The position of Planning Director is a very important position in our County. And Mr. Isles, who had it for a number of years, we miss him, and I'm sure that you'll do a wonderful job in filling those shoes. Legislator Viloria-Fisher has some comments.

D.P.O. VILORIA-FISHER:

Mr. Chair, I just wanted to say that Ms. Lansdale came before the Environment, Planning, Agriculture Committee, and we questioned her, we looked at her credentials and found her to be very qualified in terms of her education and background, her experience as Director of Sustainable Long Island. She has been Director there for eight years, Sarah?

MS. LANSDALE:

Ten.

D.P.O. VILORIA-FISHER:

For ten years?

MS. LANSDALE:

For ten.

D.P.O. VILORIA-FISHER:

Ten years. And so, as far as her education and experience is concerned, we unanimously approved her in the EPA Committee. Are there any questions for Ms. Lansdale? Okay. Legislator Gregory?

LEG. GREGORY:

More of a statement. Hi, Sarah. How are you?

MS. LANSDALE:

Good. How are you?

LEG. GREGORY:

I just wanted to -- you certainly have my support. I know of all the great things that you've done at Sustainable and what you have done with Supervisor Bellone in the Town of Babylon, and particularly with Wyandanch Rising -- revitalization, Rising Project. You're an outstanding individual and I look forward to working with you in the future.

MS. LANSDALE:

Thank you so much.

D.P.O. VILORIA-FISHER:

Are there any other questions? Okay. Sarah, what we're going to do is we're going to go into the public portion, and then we -- I expect that we'll take your resolution out of order so we can vote on it.

MS. LANSDALE:

Thank you.

D.P.O. VILORIA-FISHER:

That way you can get right to work across -- you know, across town. I was going to say across the street, but we're not in Hauppauge. Okay. Our first speaker is E. Kahl.

P.O. LINDSAY:

Wait a minute, wait a minute.

D.P.O. VILORIA-FISHER:

No? What do you got now?

P.O. LINDSAY:

I'm sorry. Ms. Kahl, if you could just wait a minute. We have a presentation by Kim Brandeau, the Chief Budget --

MS. KAHL:

I would be a happy to.

P.O. LINDSAY:

Pardon?

MS. KAHL:

I would be happy to.

P.O. LINDSAY:

Thank you. Kim is going to do a presentation on the Red Light Camera System that is finally completely installed. And I won't steal anymore of your thunder.

MS. BRANDEAU:

No, keep going.

*(*Laughter*)*

Good morning. My name is Kim Brandeau. I work for the Suffolk County Executive's Office of Budget and Management, and I am the Red Light Camera Project Manager for Suffolk County. I'm here to do a brief presentation on the program, how the program runs, what we've done so far, and I'm going to be showing you some videos of some red light violations that have taken place in Suffolk County. I'm going to do a quick PowerPoint.

Everyone has a folder that has some information on the program. If you have any questions, please let me know. I have pamphlets in the folder. If you'd like additional pamphlets for your District Offices, let me know, I'll be happy to provide them to you.

Okay. So, overall, Suffolk County's Red Light Program is a safety program. The goals of the program are to change driver behavior at red light intersections through a comprehensive effort involving engineering, education and enforcement. The program was authorized in 2009, and very important that the cameras photograph vehicles from the rear, the drivers are never photographed.

Okay. As a safety measure, red light running is a major cause of crashes, death, and injuries across the country, and a lot of people disobey red light cameras, as you'll see. A recent report from the Insurance Institute of Highway Safety show that red light cameras are actually very successful. Currently, we have 100 red light cameras recording violations at 50 intersections across Suffolk County. All cameras started recording as of April 11th. We started the program with the first two cameras that were live in July of 2010 and have rolled out since then; now we're all complete. To date, we've issued over 110,000 citations for red light violations. Many people have gotten -- I don't know if anyone here has gotten them, but most people I know have had them.

D.P.O. VILORIA-FISHER:

Who do you hang out with?

MS. BRANDEAU:

Well, I hear it on the soccer field a lot. The intersections that we've selected, by Suffolk DPW based on analysis of the crash data. The majority of violations are for vehicles turning left or going straight. People think that it's all right on reds and that's not true. Only 34% of the citations we've issued as of the end of March were for right-on-red violations. Of the hundred cameras that are operating, 38 have no right-on-red approaches. All the other intersections are right on red after stop. You have to stop at a -- come to a full stop.

We have a sign prominently displayed at each red light camera location. This is a picture of what the sign looks like. The signs are not required by any State or Federal laws, but we post them so that drivers have some knowledge that they are being photographed, or that they should be obeying the traffic laws.

Okay. As far -- I wanted to go over how we actually review the citations. There's -- some people

think that the cameras are automatically issuing citations, which is not the case. Each violation is reviewed by a trained County employee, they review the citation and they make sure that a violation's been committed. They look at two different pictures of the vehicle. They also look at the violation on video, a ten-second video, and everything must match up in order for us to issue a violation. So the pictures must be clear, the video must be good, and vehicle must match the DMV information that is returned to us. Everything must match for us to go ahead and issue a violation.

This is a sample violation of one that we just recently issued. If you see on this, I don't know if you could see the red arrow at the ground -- I don't have a pointer. Okay. So this line here is the -- these are the inducted loops that are installed in the road that are triggering the cameras to go off. So when the vehicle hits this first loop at a certain threshold speed, it calculates the fact that it's going to probably go through the red light and it records the violation.

The first picture shows the vehicle behind the stop line with the light red. At the bottom of the picture we have some information about the picture so we know when it was taken, the location of the picture. This one was at CR 93 Lakeland at 27 or Service Road. We know that it was -- here's the date and the time. It was in Lane 2. And at the time that this picture was taken, the time it was was .5 seconds, so the light had already been red for half a second. The amber time at this particular -- the yellow light time at this intersection is 3.9 seconds. The second picture shows the vehicle in the intersection with the light red. Has the similar information on the bottom data bar. Also captures the speed, so the vehicle was traveling at 39 miles an hour here.

The next thing we do is we review the license plate. We have a close-up of the license plate and we have DMV information that shows the license plate. On this sample I've blacked everything out so you can't see the license plate. But this is what the reviewer will see. They will go through, they'll look at the three pictures. If they believe a citation has been committed, they will approve it. They will certify that the violation has been committed and they'll approve the citation to be issued. I'm going to go ahead and show you the violation for that video.

The light is red, the school bus goes through the red light. The technician can watch the video as many times as they need. Usually, once is enough, sometimes -- play it again. Okay. There it comes again. See, the light is yellow, light is red. The vehicle goes through the light. We certify that there is a violation committed. Okay. All right. What happens then is the technician certifies it's a violation, a ticket -- a violation automatically gets sent to the registrant of the vehicle and the fine is \$50. There are no points associated with it, it's just the \$50 fine.

I wanted to talk a little bit about the adjudication of the program, because it's very important. All the adjudication goes through Suffolk County First District Court in Central Islip. So, if someone receives a red light violation, they think that they're innocent, they are -- they can request a court hearing and they will get a trial date. They will be seen by a Judge or a Judicial Hearing Officer and they will have a full trial. We've had only about 1% of every citation we've sent out request a court hearing, and of the people who've attended court, only 1% of them have been founded not guilty. This is an important fact for us. This shows that people get the violations and they watch the video online and they see that the guilty, they're not going to bother to go to court. They understand that they've committed the offense, and then when they get to court, most of them are found guilty. And I've been to a number of court hearings. I'm going to show you some of the videos that we saw in court of people who pled not guilty and were found guilty.

Also, I want to just bring up that there's been some cuts in District Court because of the State budget that have complicated some of our scheduling of court dates going forward, and we're working closely with District Court to try to make sure that we have enough court dates to see everyone who requests a hearing.

And I think the program goals are already starting to be met. We're seeing at some intersections the number of citations going down. We're seeing multiple offender violations going down, people get more than one ticket. After they get two tickets, not a lot of people get more than two tickets. And also, the number of people calling customer service has been decreasing, even though more cameras are operating, so people understand the program.

I'm going to take you through a number of videos now. All right. We had them in order so I could explain them, but technical difficulties. Hold on, please. That was very dangerous. Here we go, we'll start from the beginning. The first one is a school bus. You'll see it's coming up. Here it comes. Here, this is going to be someone going straight through the red light. Another school bus coming up. They're all over. This is straight coming up, but that person had plenty of time to stop, they chose not to. We have an unbelievable amount of school buses. The bus companies are paying.

LEG. MONTANO:

Is that Montauk Bus Company?

MS. BRANDEAU:

That one, yes. This is a fuel truck, this is dangerous. We have an accident coming up here on the left. You'll see it. This is the garbage truck, one you saw earlier. This is so dangerous because you can't see around that box truck, and the light was red for over a second at that point. This next one is somebody who pled innocent, went to court and was found guilty. It's a right-on-red infraction.

LEG. MONTANO:

Pled innocent?

MS. BRANDEAU:

Pled innocent and he was found guilty. This is another trial of someone who -- it's to the right -- argued that he stopped. He said he didn't see the wheel stop moving. This next one is a right on red, and that right on red, he also pled not guilty. And he said he was a law enforcement officer and he knows how to stop, and he had a -- he actually almost had to be removed from the courtroom, but he didn't stop, you could see that. Another fuel truck. And these selections are from all over the intersections that we have. This is County-wide, this is happening everywhere.

Now, on this one, we would have gotten both of those people with different videos, with two separate videos, we would have -- we ticketed both of them. This is another almost accident coming up here. This is a -- someone going straight. This is a good one coming up. This is another person who went to trial. Well, it's an ice cream truck driver and there's a big, you know, children safety thing on the back of his ice cream truck. And he really argued that he was innocent, but he went straight through the light. You'll see him coming up. There he goes. This is a cesspool truck, I believe, coming up.

LEG. HORSLEY:

They're going to Bergen Point.

D.P.O. VILORIA-FISHER:

Going to Bergen Point.

*(*Laughter*)*

MS. BRANDEAU:

This is another person who went to court, pled innocent and was found guilty. In fact, that person had three violations at the same intersection and they had them all on the same day and they were

found guilty of all three. By the third one, they knew what was coming, they said that's all right. This is another straight. The next one coming up is another fuel truck. That's the Service Road, a lot of activity on the Service Road locations. The next video coming up is a -- someone who also pled not guilty and was found guilty.

We just have two more to show you, a couple of accidents. I'm sure he wanted to turn left. I'm not sure what he was doing. Turn right, he's turning right. This one's a little dark, but you can see the light was -- the light was red for over a minute at this point. That was Sunrise Service Road, a very dangerous accident.

So those are the videos. As you can see, the program is -- the program is capturing a lot. We've issued so many citations, we have many more that we're issuing. I think people are learning that they need to stop at red lights. That's the important message to get out is that you need to stop on red. Even if there's no sign that says you have to stop, you're required to stop.

P.O. LINDSAY:

Kim, a few of the Legislators have some questions. I just want to thank you for coming this morning. Like probably many of you going to community meetings, I have been getting questions about the red light cameras, that we changed the timing on the yellow lights, that they're at every intersection. And I try to explain to them, over my objections, we have signage that tells you there's a camera at this intersection. You know, I was always against that. I think that if you -- a red light means stop. If you go through the red light, you should get a ticket, you shouldn't have any extra warning, but I lost that battle. But I don't know what else we could do to make it clearer to people. We don't want to give out a ticket, we want to make our roads safer.

For sometime now, Suffolk County's roads are among the most dangerous in the State of New York, and I think that this program is really going to make a difference. And I thank you for coming this morning. I think it was important that we all saw this video. I know it's online, right?

MS. BRANDEAU:

Yes, yes.

P.O. LINDSAY:

And I know I'm going to show it at a couple of community meetings, because --

MS. BRANDEAU:

If you -- in the packet I gave you, I gave you a point of information sheet, which sort of answers some of the myths that are out there about the red light cameras, that you don't have to stop at red, that we're playing with the yellow light timing to increase the number of citations. The truth is that every single intersection in this program is controlled by New York State DOT. They control the timing, they control the intersections. The installation of every single red light camera had a site plan that was approved by the State DOT, and they checked it and DPW monitors them. So we're not playing with the intersections, we don't control the timing. The red light cameras don't control the timing, they have nothing do with the timing at all. It's a very thorough, complete program. We've done everything we could to try to enforce it fairly to people and enforce it consistently.

P.O. LINDSAY:

Okay. Legislator Eddington has a question or a comment.

LEG. EDDINGTON:

Yeah. And I think it's a great program. And, obviously, you know, I'm going to recommend that the Public Safety Committee send a letter to all the school bus companies and alert them to this and tell -- and I'll give them the website that they can go on. I think it's a fabulous thing.

I notice in my area in Medford that when the light turns green and I start to make a left-hand turn, I often see a bright light on the pole across diagonally and I have to tell you, it distracts me, because I'm looking to turn here and I go -- now, I don't know if that means somebody made a turn on red, but it is distracting, and I don't know if you've had any comments on that.

MS. BRANDEAU:

We haven't had complaints about the strobes. The way that the intersection is set up, the camera's behind the intersection because it's the rear photography, and there's a strobe that's on the corner, the flash that gets the nighttime pictures, and also flashes during the day as well to even out the coloring.

We haven't had any complaints about the strobes being annoying, but if there's a certain location that you're having issue with, let me know and we'll have a technician go out. The vendor who is responsible to -- who's installed the cameras and maintains the cameras has local technicians that live locally, in fact, I think one of them lives in Medford, that service the cameras on a daily basis. We can have them go out, take a look at this strobe and see if the angle can be changed. But, if it's going off like that, it means somebody in another direction.

LEG. EDDINGTON:

So when I see that, somebody has broken the law?

MS. BRANDEAU:

Correct.

LEG. EDDINGTON:

Okay. Thank you.

P.O. LINDSAY:

And Legislator Viloría-Fisher.

D.P.O. VILORIA-FISHER:

Hi, Kim. Thank you for that presentation. It was like watching a horror movie. I have a question about the technicians, the County technicians who are looking at the video. Were they trained initially by the vendor?

MS. BRANDEAU:

Yes. The technicians are employed in the Department of Law, County Attorney's Office. They have initial training through the vendor, ACS, it's part of their requirements, and then they receive additional training from other vendors -- other employees who are skilled in it. So they're all -- they're all thoroughly trained.

D.P.O. VILORIA-FISHER:

It's kind of a train-the-trainer program by the vendor at the beginning?

MS. BRANDEAU:

The vendor trains everyone.

D.P.O. VILORIA-FISHER:

Okay.

MS. BRANDEAU:

And then there's an additional period. You know, you get your initial training, and then once you start redoing citations, you work with somebody to get used to the locations, which ones are right on red, which lanes are being enforced, different things like that.

D.P.O. VILORIA-FISHER:

I remember discussing this when we were speaking to the different vendors about the services that would be involved once we put these in and that was one of them, talking about the training.

MS. BRANDEAU:

In the contract, the vendor was supposed to be -- do all the training early on, but because the program had a slow start, we've been training -- we've been hiring people and training them and training existing employees to do it and they've been extraordinarily cooperative in doing the training.

D.P.O. VILORIA-FISHER:

Sorry, Kim, I didn't hear what you just said about training the police to do it?

MS. BRANDEAU:

No, no, training other employees. So, for example, in the County Attorney's Office, they hire somebody to do another job. We might train them as a red light camera reviewer as well so that we can keep up with the review process.

D.P.O. VILORIA-FISHER:

So all of it is in the County Attorney's Office?

MS. BRANDEAU:

It's -- we have some other reviewers, but it's primarily in the County Attorney's Office. They are part of the -- they report through Dennis Brown, and the adjudication, the prosecution is through the County Attorney's Office in General Litigation under Brian Callahan. So they have attorneys who actually go and they try the cases.

D.P.O. VILORIA-FISHER:

And how many technicians do we have, Kim?

MS. BRANDEAU:

Right now, we have about -- we only have one full-time technician right now. We have about six others that are part-time, doing it on a part-time basis. We are hiring some additional full-timers. They were put in the budget, the positions are released. We're just working on getting the space and getting them hired.

D.P.O. VILORIA-FISHER:

Once they're hired, how long does the training take before they're able to be on the job.

MS. BRANDEAU:

Immediately. We'll do the training as soon as they start, we'll have a day of training, and then they can start working with someone and coming up to speed on how to review the violations.

D.P.O. VILORIA-FISHER:

Oh, so it's just a one-day training.

MS. BRANDEAU:

It's -- that's the first part of it, but then it sort of -- they work with someone to learn how to review everything. They get the basics from the vendor and then they move from there.

D.P.O. VILORIA-FISHER:

Thank you, Kim.

MS. BRANDEAU:

You're welcome.

P.O. LINDSAY:

Legislator Schneiderman.

LEG. SCHNEIDERMAN:

Kim, let me start on that same related topic on the -- how long does it take a technician, not to be trained, but to review an individual infraction.

MS. BRANDEAU:

It will depend on the infraction and the reviewer. It could take a minute, it could take two minutes, it could take thirty seconds, it depends on the circumstances. So, if you have a very nice crisp daytime violation and it's a very clear, straight that's going through, you might watch the video once, it might not take you that long to look at it. If you're looking at a nighttime violation, you might want to watch the video a few times. You want to make sure that it's the right vehicle. You're looking to match the license plate, you're watching the tires to see if they stop moving on the right, so it could take a little bit longer. Some -- our full-time reviewer is very skilled, she moves through very well. If there's ones where the reviewer believes a violation hasn't been committed or they're not sure, they will reject them and then there's a reject process where we review the rejects and confirm whether it's a reject or whether it's --

LEG. SCHNEIDERMAN:

But the average time, it's just a few minutes in general, right?

MS. BRANDEAU:

Yeah, yeah, or less.

LEG. SCHNEIDERMAN:

I couldn't help but notice a lot of heavy vehicles running the lights. So I understand there's more momentum as you get -- you know, these fuel trucks, school buses. You know, I guess the driver is making a decision. Not to excuse it, but sometimes if you slam on the breaks, you're not going to be able to stop in time anyway because you're going 60 miles an hour, or whatever, 55 miles an hour, and you have a -- you know, you could lose control. The time that those lights are yellow, is it universal? Is that something that's constant or -- is each light a different amount of time, because I'm imagining the driver has to make a decision. Let's not assume that all of them just are in a hurry. Some of them are saying, "Well, you know, do I slam on the brakes here and potentially lose control?" So do you have an answer to that?

MS. BRANDEAU:

Yes. Well, that's really a question for DPW, but I can tell you that the yellow light timings are all based on the Federal guidelines for how you -- and each intersection is different, it's based on the width of the intersection, the speed of the road, the curve of the road, the angle of the road, the incline of the road. So you'll have -- a lot of intersections will have like a 3.9 second amber light, but then you also have ones, for example, at Motor Parkway and on Vets, Motor Parkway we have lights there, that intersection has like a five second yellow. Because it's such a big, long intersection to get across, the yellow light is timed to it.

LEG. SCHNEIDERMAN:

Right.

MS. BRANDEAU:

So, if someone has to make the decision, they don't want to slam on the brakes, they want to go through the light and it looks like they did the right thing, sometimes we get those and we don't cite them. If it looks like they were avoiding an accident, we won't cite them. If -- we had a lot that we rejected in winter. The roads were terrible, the roads were icy, there was a lot of snow on the roads, there were lanes that were covered with snow, so you couldn't get in the right lane -- turn lane to make a right turn. On those, we wouldn't cite people because we're trying to be fair about it. But, if there's a case where somebody went through because they said that they thought that it was the safest thing to do and they don't like it, they can go to court, and I did see one person say that. He was behind a box truck and he said he couldn't see the light, and he looked like he was following -- to us, he looked like he was following the box truck too closely so he couldn't see the light change. But the Judge, he was an older man, the Judge gave him the benefit of the doubt and said, "Okay, you don't have to pay for it."

LEG. SCHNEIDERMAN:

It would be interesting to hear from like a traffic engineer. Obviously, as the weight increases, the stopping distance increases. So whether four seconds is enough to stop a fuel truck, you know, who just -- the light just turned yellow, they were doing the speed limit, can they do it, particularly some of those that were down hills. I suppose they can. Four seconds is a long time, but not all vehicles are created equally. And clearly, there's a lot of heavy vehicles running those lights. And I don't know that's a statement that's saying that all those heavy vehicle drivers are just flagrant violators of the law, or maybe we need to look at that momentum issue with those heavier vehicles.

MS. BRANDEAU:

That would be something we could look at with DPW and the State DOT, because, again, we have no say or control over how those lights are timed.

LEG. SCHNEIDERMAN:

Okay.

MS. BRANDEAU:

But we can -- I'll refer that to Commissioner Anderson for you.

P.O. LINDSAY:

Okay. Legislator Browning.

LEG. BROWNING:

Yeah, I'll just follow up with what Jay said, because from what I've learned is the bigger the vehicle, the longer the vehicle, and the heavier the vehicle, it takes more time to stop and more distance to stop. So I was just curious if you'd looked into that, what Jay had said as far as some of those buses, if it's a large school bus full of kids. In fact, I was talking to somebody on Saturday night and she mentioned, you know, driving a vehicle with horses in it, and you don't want to slam on your brakes when you're coming up to a traffic light because the horses are going to get hurt, so --

MS. BRANDEAU:

Did you see some of those videos that you thought maybe we shouldn't have issued? Like some of those buses, do you think that we should have not issued tickets to them?

LEG. BROWNING:

Well, I think it depends on what the speed limit is, because some of those roads, I know the speed limits probably like 45. So, if you have a larger bus full of kids, you need more time to stop and

more distance, so I was just curious about that. But I'll tell you, I was at 112, I was getting off Sunrise Highway at 112, I was on the service road, and the light was red and I was sitting there, and I noticed that there was a camera, a car went through and the picture was taken. Now, I did not see any signs, and I have not yet seen a sign say that it was photo enforced. I don't know where those signs are posted, but I've never seen one.

MS. BRANDEAU:

The signs are all there. And we do get complaints that signs aren't there and we send the technician out and they go and they check it. And just last week DPW verified every sign, and the week before that, the technician who works for the vendor verified every sign that was out there. Sometimes you don't see them, especially if there's an intersection with a lot of signs. We do the best to place them where they're most visible, but the DOT, State DOT also has a say on where the sign goes.

P.O. LINDSAY:

Kate.

MS. BRANDEAU:

There's a few that are on the left, too.

P.O. LINDSAY:

Kate, the signs are there, because I didn't notice them either and then I went over all of them in my district. They're there, believe me.

LEG. BROWNING:

I'm going to look next time, pay attention more. But also, talking about the right on red, because sometimes you'll see a sign that says, "No Turn on Red," and sometimes there isn't. Now, for example, the Service Road and 112, there is no sign that says "No Turn on Red". So if I stop and I didn't make the right on red, because I wasn't sure what was going to happen if I made that right, so while I was sitting there, of course, somebody's honking behind me, but I knew there was a camera. What happens if there is no sign saying -- there is no sign saying "No Turn on Red" and you make a right on red, but you have made a complete stop?

MS. BRANDEAU:

You don't get a ticket, that's it.

LEG. BROWNING:

Doesn't go off.

MS. BRANDEAU:

Right. Traffic Law requires that at a signalized intersection, if the light is red, you come to a stop. And I work with the Police Department on a lot of things with this and they said they defined "stop" as a cessation of movement. So, if you come to that corner, it's not a three-second stop, it's a complete cessation of movement. You come to that corner, you stop, there's no sign, you can turn red -- you can turn right.

LEG. BROWNING:

Okay. Thank you.

P.O. LINDSAY:

Legislator Stern.

LEG. STERN:

Thank you. Kim, thanks for your presentation. I have a question about the process and the timing. Approximately how long is it taking now from a violation to someone getting notice in the mail?

MS. BRANDEAU:

It varies depending on how many citations were issued in a certain time frame. So it could take a week, it could take two weeks, it could take three weeks. Once in a while it will take longer if something is rejected and reviewed and it might take longer. But generally, it's a couple of weeks, because the initial process before our technician gets it is that the vendor looks at it, makes the picture, sends out the DMV information, gets the information back. If DMV is closed, if DMV has holidays, sometimes it delays, then you get a lot at the same time, but usually a couple of weeks you'll get it.

LEG. STERN:

And then, if you know, approximately how long -- if someone's going to plead not guilty, if they're going to challenge it, how long, in general, does it take to go from the time you say that you're going to fight it until the time you get into First District Court, particularly with the cutbacks?

MS. BRANDEAU:

Well, right now, if you were to put in a "not guilty" plea and we have some dates in June we can schedule you in, you'll get a date. If May is full up, you'll get a date in June. Usually, within a month, you'll have a date and the Judge will make a decision right away. Very few people appeal once the Judge makes a decision. It's a \$50 fine. There are no court fees, there are no other fees associated with it, it's just a \$50 fine. Most people, if found guilty, they go right to District Court and they pay at the window.

LEG. STERN:

So, if found guilty, the Judge will make that determination at that same sitting, they don't have to wait --

MS. BRANDEAU:

Yes.

LEG. STERN:

-- for a determination later on?

MS. BRANDEAU:

The Judge will say, "I find you guilty and I give you" -- "Can you pay today?" They'll start with, "Can you pay today? And if you can't pay today, when can you pay it? Okay. You can pay in two weeks? All right. I'm going to give you a pay date of," and then they'll assign a different pay date to them.

LEG. STERN:

Thank you.

P.O. LINDSAY:

Legislator Barraga.

LEG. BARRAGA:

Good morning. In some states there have been problems with right on red. Thirty-four percent of the violations, as she pointed out, are right-on-red violations. And the problems they've had is, you know, where a car stops. Does it make any difference where you stop? Some people think they have to come up to the white line. Or does it make any difference if you come to the white line, or four feet behind it, or eight feet behind it, as long as you stop? And is there a time period that you

must stop, is it two seconds, three seconds, or does it make any difference, as long as you stop?

MS. BRANDEAU:

You're supposed to stop behind the white line stop. And again, the stop is defined as a cessation of movement. So it doesn't have to be a full three seconds, you just have to come to a stop. You're supposed to come to a stop behind the white line, and then if you can't, you don't have good vision, you can't see, then you're supposed to inch up to the intersection to take a look. The way that we've been doing the program is if somebody comes to stop over the white line, we're not ticketing them, they still came to a stop. We're looking to make this a safety program, this is -- they stopped, it was fine.

LEG. BARRAGA:

But normally, if my wheels wind up on the white line, I'm technically in violation.

MS. BRANDEAU:

Technically, you can -- yes, you need to stop --

LEG. BARRAGA:

And get a ticket.

MS. BRANDEAU:

-- fully behind the white line, yes.

LEG. BARRAGA:

But if I stop on the white line, full stop, I could possibly get a ticket.

MS. BRANDEAU:

If you come to a full stop at this point, we're not giving you a ticket, no.

LEG. BARRAGA:

Okay.

MS. BRANDEAU:

Do you want a ticket?

*(*Laughter*)*

LEG. BARRAGA:

No, but I've had constituents who are a bit confused on that issue, because some people, they see the white line and they want to roll right up to it and stop. What you're telling me is that you're not giving a violation now, but they are in violation.

MS. BRANDEAU:

What we're is we're -- what I'm saying --

LEG. BARRAGA:

I was hoping you'd say they would -- you know, there's no -- there's no ticket issued as long as they stop, period.

MS. BRANDEAU:

As long as they stop, that's what we're doing. What we decided to -- how to implement this program is to make it safety oriented and to be fair about it. So, for example, we don't ticket people

in funeral processions. We had a choice, we could do that. The police don't ticket people in funeral processions, we don't. It's just -- it's a way to understand that the program is about saving -- stopping accidents and saving lives. We're not trying to nickel and dime people, that they stopped over the white line instead of, you know, behind the white line by an inch.

LEG. BARRAGA:

All right. Thank you.

P.O. LINDSAY:

Legislator Gregory.

LEG. GREGORY:

Thank you, Mr. Chair. Looking at the videos, I know a lot of people were kind of amazed at what they saw. Is there any way to detect the speed limit? Because a lot of the vehicles looked like they were going, you know, at excessive speeds.

MS. BRANDEAU:

Yes. On the screen that the reviewer looks at, the speed limit at that location is posted, we know what the speed limit is, and the system captures the speed, which is also on the violation picture. But the speed has nothing to do with the actual violation. We can only issue a ticket for a red light based on the way that the State-enabling legislation was adopted. Where it does come into play, I think, is when you get to court and you're saying, "Well, I wasn't going that fast." And you say, "Well, it's a 55 and you're going 65," so --

LEG. GREGORY:

Right, that's exactly my point, is that, you know, some of these people, it looks like they had no intention, obviously, in stopping, and they were not only going the speed limit, but in excess, far in excess of the speed limit. Now, have you looked at -- well, I know you've just started, but even the cameras that you had deployed earlier last summer, have you gotten any statistical data as far as what type of vehicles are more in violation. We saw a lot of heavy vehicles.

MS. BRANDEAU:

At this time, I don't have that ability to do those kind of reports through the vendor system in terms of the type of vehicle. For the vehicle -- the videos I showed you today, as I said, we've issued 110,000 tickets, we had a lot of choices to bring you. And what I wanted to bring you was an array of different intersections, night and day, some accidents, some straight, some rights, sort of a mixture of it. So, at this point, I can't tell you that. I can tell you how many people -- how many vehicles have multiple tickets, I can tell you other things, but I can't give you a breakdown of the weight of the vehicles exceeding, that type of thing.

LEG. GREGORY:

Okay. And last question: You said that there's one full-time person who's in the County Attorney's Office, and you said there are some part-time people from the County Attorney's Office and maybe some other departments. I think before you stated that there were Neighborhood Aides, or something like that, from the County Executive's Office that might have been trained to do it.

MS. BRANDEAU:

Yes, we have some trained.

LEG. GREGORY:

Right. Now what about -- has there been any thought given to light duty Police Officers? I mean, they're trained at, you know, issuing citations. They're obviously on light duty. I think it would be

appropriate for a law enforcement official to be a part of this process.

MS. BRANDEAU:

I haven't heard that, but that's an interesting thought. The staff is all managed by the County Attorney, so it's up to her on how she wants to do that. I work closely with them in monitoring the cues, and working on different things, and making sure they have their needs met in terms of getting the work done, but I'll bring that to her, absolutely.

LEG. GREGORY:

Okay, great. Thank you.

P.O. LINDSAY:

Anybody else? No? Thank you very much, Kim --

MS. BRANDEAU:

Thank you.

P.O. LINDSAY:

-- for the presentation. I think it was important to us. Okay. Back to public portion. Ms. Kahl, if you would come forward again.

MS. KAHL:

Good morning, everyone. And can you hear me all right? Believe me, this is worth waiting for.

I'm here today to be part of the discussion that's being heated up again on immigration within Suffolk County. And as everyone knows here, I've been covering that for four-and-a-half, five years now, trying to litigate, mitigate, and try to come to some sort of agreement within our local areas. However, I've been told repeatedly that it's a Federal problem. I realize that, but we have local issues here, so let's look at it locally.

I recently brought and came across, and I want to share it with you today, a law that was vetted in 2010, and Governor Paterson signed off on it as well, called Secure Communities, and I've been speaking about this for several months. And this is a program, you're getting some copies now, that affords the communities, plus our Code Enforcement, some leverage to do the jobs that they have to do. We have to know who's coming into our communities, we have to be able to inquire whether they're here legally or illegally. And I know many of you do not agree with me, but I'll have to say this much: We know business is included, we know school budgets are included, we know over-housed -- overcrowded housing, but we have been left -- I have been presenting proposals over the last five years through my group to be of some assistance with you. There has been a certain amount of bad demonizing, which I have refused to address, but today I will. We have to let that rest. We have to deal with the law. What law are we going to enforce within Suffolk County that's equally fair to everyone? Because, right now, what we have is no law, because we have certain groups that can come in with their representative people to force an agenda, and we have to sit here and we have to decide which tact we're going to take.

I am concerned about the human beings involved in this dilemma. I do not take it lightly, I take it quite seriously. I want to do this fairly. I would like to sit down with people, with positive ideas to do it effectively. Some will not agree with it, others will. But the individuals involved will have to know there are consequences. There's no more easy pass to citizenship, it must be earned.

And my time is up, and I would like to have this included into the -- I've given you all a copy of it into the records. I know I would like you to consider it, and I'm going to leave you with this other thought. This is a good guideline. People are going to be watching to see will it go or won't it go.

MR. LAUBE:

Microphone.

MS. KAHL:

Will it go or won't it go? People will be judged on what's been submitted to our representatives. We are looking for answers, we're looking for consideration, we're looking for help. Thank you very much.

P.O. LINDSAY:

Thank you, Ms. Kahl. George Gatta.

MR. GATTA:

Good morning. George Gatta, Executive VP, Suffolk County Community College. I'm here this morning with several of my colleagues, including President McKay, and we're here to ask for your support once again for three pieces of the Capital Program that you overwhelmingly approved at your meeting on March 22nd. Those three resolutions have been returned vetoed, and when you consider them later today, we would ask that you again overwhelmingly approve them.

The first is Resolution No. 198. It's \$500,000 for planning, planning dollars for a health and fitness facility at the Eastern Campus. That's a project that's been in the campus Master Plan for more than 30 years. It's a project that this body has again overwhelmingly supported many, many times over the past seven or eight years to maintain it in the Capital Program. That project, along with the next two, have -- we receive full funding from New York State for that project. It totals ultimately about 17 million, but the resolution before you is just for the planning dollars.

The second is 3.5 million for cooling system upgrades college-wide, those are construction dollars. And the last is Resolution 202, which is \$655,000 for -- construction dollars, renovation dollars, for space in Peconic Building here at the Eastern Campus. That space was formerly used as the library. Now that we've finished the library and a number of you were able to join us at the ribbon cutting about a month ago, the space that formerly housed the library, needs to be renovated and put into active -- active use on the campus. With your support in the past, we have been able to secure that State funding, it's been hard fought. And just to put it into perspective, this year, with the State's fiscal problems, we were only one of three community colleges that were funded in this current Operating Budget with capital dollars going forward.

So we thank you for your support in the past for these projects. They're vitally important to our campuses and our 26,000 students. Thank you.

D.P.O. VILORIA-FISHER:

Thank you. Robert Clinco.

MR. CLINCO:

Good morning. My name is Robert Clinco. I am here on -- to show my support for the Diabetes Education Program. I'm saying this is not just like reading Web M.D. or manuals and stuff. The people involved are very important, because I find that since the past couple of years that I've been dealing with Alyssa and her colleagues that my numbers all the way across the board have gotten better, and I've tried to do that for the past 20 years before that. And so I really, really would like you to keep supporting it and pass Resolution 70-2011. Thank you.

D.P.O. VILORIA-FISHER:

Thank you. Nancy Marr.

MS. MARR:

Good morning. My name is Nancy Marr, I live in East Patchogue. I realized, as most people do today, that the budget crisis requires sacrifices from all of us. I've been a member of the South Brookhaven Health Council since 1985, and I'm here this morning because of my concern about proposed cuts to our health center system.

The health centers provide the kind of primary care that is comprehensive and preventive. This is the type of care that reduces medical costs by treating illness before they become crises. It is truly public health by treating all residents, preventing the spread of communicable diseases, and helping people stay healthy enough to work. In our communities, the two health centers in South Brookhaven provided 81,481 patient visits in 2010, with an increase of almost 5,000 patients over the 2009 number.

With no increase in funding, the health centers have continued to expand their services to meet the expectation that each provider will have 4,200 visits each year. They expect that there will be a continuing increase in numbers they will have to serve, and, yet, they're talking about funding. With the 20% cut in funding that some of the health centers will have, that will be 4,200 patient visits that will be made to the hospital emergency room, if at all. If the Coram Health Center is closed, even more patients will need care and will find they have to turn to the emergency room for care, or they will receive no care, again resulting in higher costs with they become sicker. Currently, 46% of the patients in South Brookhaven are self-paid patients, indicating they have no Medicaid, Medicare, Child Health Plus or Suffolk Health Plan coverage.

The recent effort to require all patients to apply for Medicaid may result in some new Medicaid fees, but it will also result in patients unwilling to make the application because they are undocumented or unable to provide the many documents that a Medicaid application requires. Again, we will have more patients who turn to the emergency room or go without care.

The health care system was developed with the sum of hospitals in the County in order to provide responsible primary care for children and adults which one cannot get at an emergency room. Cutting its funding and closing health centers may save money in the short run, but the long-term it will cost us with serious health problems and possible epidemics, overcrowded emergency rooms, and an inadequate public health system. Thank you.

D.P.O. VILORIA-FISHER:

Thank you. Kevin Peterman.

MR. PETERMAN:

Good morning. I'm Kevin Peterman. I'm the Executive Vice President of the Faculty Association at Suffolk Community College, and I'm just here to thank you for your past support, especially with the capital projects. And as Vice President Gatta has mentioned, we have a couple of items that we need to --

D.P.O. VILORIA-FISHER:

Kevin, can you raise the mic?

MR. PETERMAN:

We have a couple of items that need to be overridden today. I know you've -- because of your help, we've actually made major improvements at the College, which were much needed, and I'd just ask you to consider, strongly consider overriding those vetoes.

And if I may, since I have a little bit more time, I'd like to put another hat on and that would be as a Trustee of the Vanderbilt. There is a couple of resolutions that need to be overridden today, I

believe, some major projects, not very expensive projects, but, yet, much needed projects for the Vanderbilt, and I also would encourage you to override. Thank you.

P.O. LINDSAY:

Thank you, Kevin. Nanci Dallaire. Nanci? There you are.

MS. DALLAIRE:

Good morning. Thank you for this opportunity to once again voice my objections to the procedure that has assaulted the residents, their families and the employees at John J. Foley. It's been extremely frustrating to watch as this County pours millions of dollars into that brand new jail, but the decent citizens of John J. Foley are forced from their home. Good, dedicated employees are demoted and were demoralized. We endure the years of uncertainty, witnessing the mixed signals regarding our historic health care center. We are told John J. Foley will be sold, or, God forbid, closed, yet we watch as they renovate and improve the facility. And we question, why would they continue to invest millions of dollars if we are not going to remain County? But this is only one question I have not understood. I still cannot understand how it could strip these citizens of their home and these services which they have depended on for decades, but that's exactly what is happening.

I do not understand certain decisions that are made. This County is willing to borrow what is necessary to pay off and settle County lawsuits, but it will not do what is necessary to protect and serve these citizens. Funding will be found to renovate Suffolk County Community College, but there is no funding to restore this century old health care facility. I understand we must invest and grow, but is it really the time to build brand new sport and health complexes as we sacrifice this rehabilitation center? This County will invest in the growth and improvement of our correctional facilities, but this County facility must plead and prove that it is worthy to receive funding. Priorities need to be adjusted. I am not against the county criminals receiving fair treatment, but not at the unfair treatment of committed County employees. I am all for change and reform, just not at the expense of vulnerable citizens.

The miracles accomplished at John J. Foley cannot go overlooked. This institution was moving in a positive direction when that sale process destroyed this progress. The fault does not lie in this County facility and it should not cost Suffolk County our only skilled nursing facility.

*(*Applause*)*

P.O. LINDSAY:

Thank you. I don't have any other cards. Is there anyone else who would like to speak? Please, come forward.

MS. OGNO:

Hi. My name is Linda Ogno, I work at John J. Foley. First, I'd like to say we should have more red light cameras out there. There are a lot of bad drivers on those roads. And everyone should be five seconds on the yellow light so everybody knows.

Second of all, welcome to our newest Legislator. I wish you a lot of luck here.

And third, I'd like to speak about Foley. I think our mistake, the residents and maybe the employees, we should have maybe donated a little money to Mr. Levy's campaign. We might have had less of a hard time, unlike the jail. I just hope that this go-around we make a few different decisions. We have been fighting this for four years. It's been a long road and let's hope it's not another four years, but if it is, I'm sure you'll see us here. Thank you.

(*Applause*)

P.O. LINDSAY:

Thank you, Linda. Is there anyone else in the audience that would like to address us? Seeing none, I'll accept a motion to close the public portion by Legislator Eddington, seconded by Legislator Muratore. All in favor? Opposed? Abstentions?

MR. LAUBE:

Sixteen. (Not Present: Legs. Kennedy and Cooper)

P.O. LINDSAY:

Okay. I hate to say this, but we have a short agenda. Let's see if we can get through it. Page 4, Consent Calendar. Accept a motion.

LEG. ROMAINE:

Motion.

P.O. LINDSAY:

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

MR. LAUBE:

Seventeen -- 16. (Not Present: Legs. Kennedy and Cooper)

TABLED RESOLUTIONS

P.O. LINDSAY:

Page 8 -- 6, 6, Resolutions Tabled to April 26th: ***1559-10 - Amend the Suffolk County Classification and Salary Plan in connection with new position title in THE Police Department, Range Officer I (Co. Exec.).*** Do I have a motion?

LEG. BROWNING:

Motion.

P.O. LINDSAY:

Motion to what?

LEG. BROWNING:

Oh, sorry, to table.

P.O. LINDSAY:

To table.

LEG. EDDINGTON:

Second.

P.O. LINDSAY:

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

MR. LAUBE:

Sixteen. (Not Present: Legs. Kennedy and Cooper)

P.O. LINDSAY:

2236-10 - Declaring as surplus and authorizing sale and/or lease of real property in Yaphank pursuant to section -- County Law Section 215 (Pres. Officer). I'm going to make a motion to approve.

D.P.O. VILORIA-FISHER:

Second.

P.O. LINDSAY:

Second by Legislator Viloría-Fisher. Any discussion?

LEG. BROWNING:

Motion to table.

P.O. LINDSAY:

Motion to table.

LEG. EDDINGTON:

Second.

P.O. LINDSAY:

Second by Legislator Eddington.

LEG. BROWNING:

On the motion. Can I ask, does that include the Parcel A?

P.O. LINDSAY:

Does not include Part A. Does not include Part A. Does include Part C, that was parkland.

LEG. MONTANO:

Can I get an explanation, please?

P.O. LINDSAY:

Sure. The explanation is very simple. This would essentially kill Legacy Village, and to sell the property to whoever offers us the most money. And I hate to say this, but without this, I don't know how we're going to have enough money to get through the year.

D.P.O. VILORIA-FISHER:

Can I just make another comment, Mr. Chair?

P.O. LINDSAY:

Legislator Viloría-Fisher.

D.P.O. VILORIA-FISHER:

And, of course, anything that would be done on the property once it's sold, the Town would have the ability to make the determinations as to what the future owner does with the Town.

P.O. LINDSAY:

That's correct.

D.P.O. VILORIA-FISHER:

I mean, with the property. And given that the Town has spent a lot of time and money looking at this area, has a full knowledge of what the right way to go is, I think that we can put our faith in the

ability of the Town to determine which way the new owner would go in developing this piece of property, if they develop it at all.

P.O. LINDSAY:

This would get us out of the land development business, which was never our purview. It was always the Town's purview as far as zoning is concerned. And it's to make a decision that we'll sell vacant land, rather than sell facilities that serve our people. Legislator Eddington.

LEG. EDDINGTON:

Yes, thank you. And I do recognize the fiscal problem, and I'm -- but I'm not sure that the local residents support it. And I just have a problem, having spent millions of dollars buying open space, to now turn around and sell some of our own open space, so I just can't agree to it.

P.O. LINDSAY:

This was never environmentally sensitive land, it has no environmental value. This property was acquired years ago for future County expansion that has been determined that we don't need. And the Open Space Program is from a defined fund. We need money to balance the budget. We don't have enough money to hire cops, we don't have enough money to keep our health centers open, we don't have enough money to keep our nursing home going. To me, I don't know, maybe I sound frustrated because it seems like a simple choice, I'd rather sell vacant land than sell a nursing home, sell our nursing licenses, close health centers. That's the way I see it. Lou?

LEG. D'AMARO:

Yes, Mr. Presiding Officer, to you as the sponsor. With the terms of sale, would there be any conditions or restrictions when the County puts it out to auction that a portion of it be used, let's say, for workforce housing, or -- has any thought been given to that, or you just want to --

P.O. LINDSAY:

No.

LEG. D'AMARO:

-- put it out there and see what the marketplace brings?

P.O. LINDSAY:

To get the highest price we can for the property.

LEG. D'AMARO:

Do you know when the next -- if we approve this, what's the next auction coming up, do you know?

P.O. LINDSAY:

The resolution has been modified that it could be sold at auction, or it could be sold as a direct sale in one parcel, it's really up to the Executive Branch. Or it could be leased. You know, I think that's in there as well.

LEG. D'AMARO:

If it's not auctioned, would it involve some kind of RFP process, you know?

P.O. LINDSAY:

I believe so. It's pretty open-ended and it gives the Executive Branch a lot of latitude on how they'll dispose of the property.

LEG. D'AMARO:

Right.

P.O. LINDSAY:

And whatever decision is made, it still has to come back to us to be approved.

LEG. D'AMARO:

Right. Would we be looking for some kind of development proposal, or are we selling just raw land, and the buyer would take the zoning as found and go ahead and do what they please?

P.O. LINDSAY:

Exactly.

LEG. D'AMARO:

So we're not looking for a purchaser, a potential purchaser to tell us what they propose to do with the property?

P.O. LINDSAY:

No.

LEG. D'AMARO:

So it's just a raw land sale?

P.O. LINDSAY:

Yup.

LEG. D'AMARO:

Or lease.

P.O. LINDSAY:

Yep.

LEG. D'AMARO:

Okay. Well, I agree with you on the budget situation and I don't think we really have a choice. I think if -- you know, if this is an asset that we can divest ourselves of during a really tough financial time, I think this might be something that we should seriously consider.

P.O. LINDSAY:

And I'll reveal to my colleagues, there's a bunch of bills being laid on the table today from a number of different Legislators that is proposing to excess other pieces of County assets to get through this year, you know, to get through the year.

LEG. D'AMARO:

Yeah. It's a very difficult time and this seems to be a path of least resistance, at least as far as the level of pain that would be felt in trying to plug some holes in our budget.

P.O. LINDSAY:

Legislator Barraga.

LEG. BARRAGA:

Just refresh my memory. Wasn't there an appropriation between four hundred and forty and fifty thousand dollars to do some sort of an environmental study of the whole Legacy Village, and has that study been completed? Isn't there an open comment period? Is this property part of that overall study or -- and the question is, you know, should we wait for public comment to be made before we actually make a decision?

P.O. LINDSAY:

The EIS has -- that we funded is in its final stages. It's at the comment period, it isn't finalized. We have been -- initially, the proposal would kill that process and just put up the property for sale as a County excess asset. We've been in negotiations with The Executive Branch for about the last week about this. They very much want to finish the EIS, because they said that it would add value to whoever the potential buyer is going to be, and we've agreed to that, so we've taken that out of the resolution. So the EIS will go forward and will be finished. But I think it's important to pass this resolution now, because the lead time before we see any money out of the sale, it's going to take us a while to divest ourselves of it. So what we envision is the EIS being finished, but simultaneously, whether it be an RFP or negotiation for a direct sale or lease to go forward.

LEG. BARRAGA:

Is the Administration now in support of this separation of this proposal?

P.O. LINDSAY:

I believe so.

LEG. BARRAGA:

They are.

P.O. LINDSAY:

I believe so. Anybody else?

LEG. KENNEDY:

Billy.

P.O. LINDSAY:

Legislator Kennedy.

LEG. KENNEDY:

One of the bills that you referred to I had put in for filing today. And A, I just want to confirm with George, the 95 acres on the south part would, in fact, be included in this bill that we have before us now?

MR. NOLAN:

Correct.

LEG. KENNEDY:

So the language is, for all intent and purposes, identical and this would subsume that?

MR. NOLAN:

Right. I think if this passes, that resolution becomes moot.

P.O. LINDSAY:

Okay.

MR. NOLAN:

And the advantage to this is this has gone through the CEQ, so --

LEG. KENNEDY:

And the four parcels that comprise Legacy Village are not something that is naturally occurring now, that was created through the whole process, I guess, that contemplated undertaking Legacy Village.

So the land, for all intent and purposes, is -- my recollection is it's fairly uniformly zoned, and a prospective purchaser could elect to go ahead to make an offer for five acres, or 50 acres, or whatever, dealing with whatever the underlying zoning is.

MR. NOLAN:

Right, and the language of the resolution is such. It gives the Division of Real Estate a lot of flexibility and discretion in terms of how they're going to offer the land for sale, again, to maximize the amount of money coming into the County. I should mention again, though, that there were four pieces to the Legacy Village. The Parcel A is not included in this resolution, that's where the stadium was going to be, and it's the piece, I guess, closest to the Carman's River and that's not part of this resolution.

LEG. KENNEDY:

So it wouldn't overlap in that watershed project that's being done by the Town itself?

MR. NOLAN:

I just know that the Parcel A is not part of this resolution. I believe that's the most environmentally sensitive piece.

P.O. LINDSAY:

The B, C and D are all on the west end of the property.

LEG. KENNEDY:

Right. And a majority of the proximate property is commercial and industrial as well. On the southern part, there's composting activity, it's proximate to the Brookhaven Town municipal landfill. It's basically heavy industrial use, any of it.

P.O. LINDSAY:

From the fireworks factory to the power house.

LEG. KENNEDY:

So we wouldn't be dramatically altering raw land being offered for whomever, but certainly for a business use, it would have a minimal impact for adjoining residences.

P.O. LINDSAY:

This is a real simple resolution. It simply offers this property for sale, and the vote today is to vote on whether to excess this County asset. It has no vision of changing zoning, building, whatever. We don't -- you know --

LEG. KENNEDY:

Right.

P.O. LINDSAY:

It doesn't make that determination at all.

LEG. KENNEDY:

Okay. And to Legislator Barraga's question as well, Mr. Chair, I did here that there's been earnest dialogue that's gone on between yourself and the Executive in order to make it palatable and to be able to be supported by the Administration, so thank you.

P.O. LINDSAY:

Anybody else?

LEG. BROWNING:

Bill, just one last thing. You know, I have stated very clearly that the 95 acres I could not be opposed to because of the location. However, the rest of it if, if this bill had broken up the properties, I would be okay with the 95 acres. But, as the bill stands right now, I cannot vote. You know, the community's very concerned that this is another back doorway to create another Legacy Village, and so that is my concern, so I can't support this at this time.

P.O. LINDSAY:

The community can take their complaints to the Town when whoever buys it determines what they want to build there.

LEG. BROWNING:

That is true.

P.O. LINDSAY:

But, I mean, we're at a crossroads where we have to decide whether we want to close facilities that serve the people or sell vacant land. I can't make it any clearly clearer than that. Legislator Schneiderman.

LEG. SCHNEIDERMAN:

Well, there's no doubt that we are in a very difficult financial situation. And I'm going to support this. It's one of the few opportunities we clearly have to get revenue, but I just want to caution that -- and I like the fact that the resolution offers the sale or lease, because we can look for a lease or even a sale in terms of recurring revenue. To just get a big infusion of cash may get us through the next year, but we really have to think about our future and this recurring hole that we have to fill. And I think, as the Department of Real Estate looks at this, if they could look in terms of recurring revenues so that we can maximize not only that initial cash, but over time to analyze it, that's never been done for this property to see what the ultimate highest and best use, considering the environment and the community, but what is the best long-term financial decision for the County in terms of this property. And I don't want to see us jump and rush into a decision that might give us a chunk of cash quickly, I'd much rather see something that over time will benefit the taxpayers.

P.O. LINDSAY:

That's why the resolution was modified and left very open-ended for The Executive Branch to try and make the best deal they can. Mr. Kopp, do you want to comment first?

D.P.O. VILORIA-FISHER:

Can I --

P.O. LINDSAY:

Go ahead.

D.P.O. VILORIA-FISHER:

I just wanted to answer something before Mr. Kopp came up. Just a couple of things. I just wanted to remind everybody that we who serve on CEQ voted on this already as Type 1, and it was Type 1, not because of environmental impact, but because of the size. Okay? That's what put it in the Type 1 category, and it was a neg. dec. Okay? So in CEQ, it was determined that this was not going -- this was not something that had environmental impact, number one. Number two, as to what you just said, Jay, I agree with you, that it's important to look at the highest and best use, but because the -- most of the work by Cameron Engineering has been completed, and I'd be happy to share this with you if you wanted to take a look at it, they do refer to the impact that -- but they were working on Legacy Village, which would have been, you know, a bigger use, a bigger impact. But a lot of that is outlined in the work that was prepared by Cameron Engineering. We've paid for that and it is

already there available to us, and so we can look at that. It's available and all the studies have been done.

So I firmly support this action.

And, as far as the people in the neighboring area, again, Brookhaven Town will have the final say after it's sold, and any plans come before the Town. You know, the community can go to the Town to determine its best use, and, you know, the work that's being done right now in the Town regarding that area of Brookhaven.

P.O. LINDSAY:

And I just want to point out that when it is sold or leased, or whatever is proposed there, would still have to go back before Environmental Review. This isn't -- just because we're finishing our piece of it doesn't mean that it isn't subject to another review by CEQ. Mr. Kopp, did you want to say something?

MR. KOPP:

I just wanted to add that the bill before you now, the Presiding Officer's bill, provides the maximum flexibility to Suffolk County as we deal with the issues we're dealing with. There have been a number of groups that have expressed interest in all or some of this parcel. You know, there's been much speculation about the Shinnecocks or other people who are interested in developing parcels, and this preserves all the options, whether that be some scaled down version of Legacy Village, or Legacy Village and some other development. It just gives us the most flexibility possible, so I would urge you to support the Presiding Officer's bill.

P.O. LINDSAY:

Thank you. Legislator Horsley.

LEG. HORSLEY:

Sometimes we're our own worst enemies. No, I'm voting to approve.

P.O. LINDSAY:

Okay. We have a motion and a second. And we have a tabling motion.

MR. LAUBE:

We have a tabling motion and a pass.

D.P.O. VILORIA-FISHER:

Is there a second to the tabling?

P.O. LINDSAY:

Yes.

MR. LAUBE:

Yes.

P.O. LINDSAY:

Okay. The tabling goes first. Roll call.

(Roll Called By Mr. Laube, Clerk)

LEG. BROWNING:

Yes.

LEG. EDDINGTON:

Yes.

LEG. COOPER:

This is to table? No.

LEG. D'AMARO:

No.

LEG. STERN:

No.

LEG. GREGORY:

No.

LEG. HORSLEY:

No.

LEG. NOWICK:

No.

LEG. KENNEDY:

No.

LEG. BARRAGA:

No.

LEG. CILMI:

No.

LEG. MONTANO:

No.

LEG. ANKER:

Yes.

LEG. MURATORE:

No.

LEG. SCHNEIDERMAN:

No to table.

LEG. ROMAINE:

Yes.

D.P.O. VILORIA-FISHER:

No.

P.O. LINDSAY:

No.

MR. LAUBE:

Four.

P.O. LINDSAY:

Okay. To approve.

(Roll Called by Mr. Laube, Clerk)

P.O. LINDSAY:

Yes.

D.P.O. VILORIA-FISHER:

Yes.

LEG. COOPER:

Yes.

LEG. D'AMARO:

Yes.

LEG. STERN:

Yes.

LEG. GREGORY:

Yes.

LEG. HORSLEY:

Yes.

LEG. NOWICK:

Yes.

LEG. KENNEDY:

Yes.

LEG. BARRAGA:

Yes.

LEG. CILMI:

Please, list me as a cosponsor. Yes.

LEG. MONTANO:

Yes.

LEG. EDDINGTON:

No.

LEG. ANKER:

No.

LEG. MURATORE:

Yes.

LEG. BROWNING:

No.

LEG. SCHNEIDERMAN:

Yes.

LEG. ROMAINE:

No.

MR. LAUBE:

Fourteen.

P.O. LINDSAY:

2258 - A Charter Law to provide for fair and equitable distribution of public safety sales and compensating use tax (revenues) (Schneiderman).

LEG. SCHNEIDERMAN:

I'm still working on the bill. I'll make a motion to table.

P.O. LINDSAY:

I'll second. All in favor? Opposed? Abstentions?

MR. LAUBE:

Eighteen.

P.O. LINDSAY:

1002 - A Local Law to protect the public from injury caused by accumulated snow or ice on moving commercial motor vehicles (Cooper).

LEG. COOPER:

I believe that has to be tabled for Public Hearing, so I make a motion to table.

D.P.O. VILORIA-FISHER:

Just in time for July.

P.O. LINDSAY:

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

MR. LAUBE:

Eighteen. Could you repeat the second? We didn't get it. Steno didn't get it either.

P.O. LINDSAY:

Legislator D'Amaro.

MR. LAUBE:

Thank you.

P.O. LINDSAY:

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

LEG. BROWNING:

Bill, can I ask BRO a question on this, because I'm reintroducing the RFP and this is the money to transfer for the RFP, so I'd kind of like to get some advice. Should I table this until the RFP goes through?

MR. NOLAN:

I, myself, would suggest we hold this until the other resolution, we see what happens with it.

LEG. BROWNING:

So I'll make a motion to table.

P.O. LINDSAY:

Well, rather than do that, I think maybe why don't we just skip over it, because we have a CN on the other portion of it. No?

LEG. SCHNEIDERMAN:

Skip over it.

P.O. LINDSAY:

Okay.

LEG. BROWNING:

Okay. Thank you, George.

P.O. LINDSAY:

So we'll just skip over 1098. ***1125 - Authorizing the sale, pursuant to Local Law No. 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act M.R.H. Mallard Family Limited Partnership, by Ruella Hossain (SCTM No. 0200-975.90-02.00-043.000) (Co. Exec.).***

LEG. BROWNING:

Motion to table.

P.O. LINDSAY:

Motion to table.

LEG. EDDINGTON:

Second.

P.O. LINDSAY:

Second by Legislator Eddington. Maybe -- could we have an explanation on why we continue to table this?

LEG. ROMAINE:

Yeah.

LEG. BROWNING:

Yeah. This is a piece of property, the property owner has not paid the taxes, and now, at the eleventh hour, has decided to come back and pay the taxes. I think I explained it last time, we've had many problems with him. There is a developer who was trying to buy that property and he's not been cooperative. So, at this time, I do not want to move this property for him, he's not been very cooperative with the developer.

LEG. MONTANO:

Question.

P.O. LINDSAY:

Who had the question? Legislator Montano.

LEG. MONTANO:

Yeah. This is a 16. To Counsel, is this not as-of-right?

MR. NOLAN:

We use this language that it -- as-of-right. We almost invariably approve the Local Law 16's. We do have the discretion not to approve them, but the general practice is we do.

LEG. MONTANO:

Okay. I'm going to make a motion to approve.

P.O. LINDSAY:

Was there a second to approve?

LEG. NOWICK:

Second.

P.O. LINDSAY:

Second by Legislator Nowick. Any other discussion? First, motion to table goes first. Legislator Romaine, you want to talk about this?

LEG. ROMAINE:

Very briefly. Local Law 16, again, George, that is a law where, under the Suffolk County Tax Act, you have you have a certain period of time to pay your taxes. If you don't pay them after three years, correct me if I'm wrong, the County takes -- can take your property and then you have an additional six months in which to redeem. That's when the Local Law 16 kicks in; is that correct?

MR. NOLAN:

Local Law 16's are six months from when the County takes a tax deed, you have a chance to pay your taxes.

LEG. ROMAINE:

Right.

MR. NOLAN:

And those are the ones we call as-of-right, if you do it within six months. And, as I mentioned, the Legislature has discretion, we don't have to approve them, we don't have to return the property and allow the redemption, we --

LEG. ROMAINE:

What is your legal liability if we establish other criteria for rejecting Local Law 16's? Is there a criteria for rejecting a Local Law 16?

MR. NOLAN:

No, there is no not.

LEG. ROMAINE:

So would this establish a criteria?

MR. NOLAN:

No.

LEG. ROMAINE:

Thank you.

LEG. MONTANO:

Would it establish a precedent?

MR. NOLAN:

I don't know that we've ever not approved a Local Law 16.

LEG. MONTANO:

That's my point.

MR. NOLAN:

I believe a few years ago there was a couple there was some discussion of that we should not do, but, ultimately --

LEG. MONTANO:

Ultimately.

MR. NOLAN:

-- the Department of Law came in and recommended that we --

LEG. MONTANO:

We approve it.

MR. NOLAN:

It would be problematic to treat them differently then everybody else.

LEG. MONTANO:

Right.

LEG. NOWICK:

Mr. Chairman.

P.O. LINDSAY:

I've got a list. Legislator Cilmi.

LEG. CILMI:

Yes. Thanks, Mr. Chairman, just a question. Correct me if I'm wrong here, but if we do not approve this bill, the property taxes will remain unpaid, and the County will continue to be liable to paying all of the other property taxes that are due and payable to other taxing jurisdictions, correct? Whereas, if we do approve this bill, we put the property back on the tax rolls, we get the back-taxes paid, and we, hopefully, continue a revenue stream in so much as we get the -- we continue to receive the property taxes on the property; am I correct in that?

MR. NOLAN:

That is correct, you get the back-taxes, the penalties, the interest, and, hopefully, the people start paying their taxes on time, yeah.

LEG. MONTANO:

Thank you.

P.O. LINDSAY:

Legislator Eddington.

LEG. EDDINGTON:

Yes. You know, this is an area of North Bellport that Kate and I share. And, as you know, with the ShotSpotter and a lot of redevelopment, we've been working very hard to develop a downtown area. This gentleman has been like nonresponsive, and he has not been helpful, and now he showed interest at the last minute when we have a whole plan, and that we were going to have to literally build around him, because he wouldn't be cooperative. And I just, for one, don't want to make it easy for someone who doesn't care about the community, is only looking for a buck. And what we'd like him to do is to be willing to meet with the developer and to come to some amicable agreement. So that's why I'm holding out, because I want to show people that it's not all about money, there is a commitment to the community.

P.O. LINDSAY:

Legislator Nowick.

LEG. NOWICK:

Okay. I'm sorry. Maybe I just don't understand. George, tell me, is it that they're doing something wrong, why we would vote against this, or is it that they're doing the right things, as Legislators, it's our duty to do our -- to get the back-taxes and sell it? Have they done something wrong or is it just -- and I'm sorry to ask this, but is it just that they're not cooperative? Why would we not do it, is what I want to know. Legally, why would we not do it? Do we have anything to stand on here?

MR. NOLAN:

Well, we always approve them, so this is kind of a almost -- but we're not legally obligated, you are not legally obligated to vote for this resolution if you don't want to, and we don't have to approve these resolutions that come before us. However, Local Law 16's, we call -- we always refer to them as a- matter-of-right, because we treat them that way, that if a person comes in and is willing to pay their taxes and the interest and penalties, they come to us within six months, we approve those resolutions. Several Legislators are discussing some problem with this particular person, I'm not privy to that, I'm not aware of it, so I can't really speak to that.

LEG. NOWICK:

All right. I just wanted to see if it was more -- if it was an issue, a legal issue, if they were doing something wrong, or it was more of a personal issue. Okay. Thank you.

MR. NOLAN:

There's no legal problem with returning the property to them.

P.O. LINDSAY:

Legislator D'Amaro.

LEG. D'AMARO:

Yeah. Just to follow up on that, the Local Law 16 procedure really provides a level of certainty, I think, to taxpayers, that from -- I think, George, you mentioned from the date the deed is taken by the County, there's a six-month redemption period, what we call "as a matter of right", but you're indicating there's some discretion. I just don't think that this procedure should be used as a tool to pass judgment on whether someone is being a good neighbor or a slumlord. I mean, there are

other mechanisms in place to do that, other jurisdictions that can do that. There's complaint processes, there's ordinance departments within the towns, there's a lot that can be done. I just want think that we should be passing that judgment within the context of these Local Law 16's. I think this is more of a taxpayer or redemption rule, it has nothing really to do with enforcement, and I think there are other ways to do that. So I'm going to support the table -- no, the approval motion.

P.O. LINDSAY:

Legislator Viloría-Fisher.

D.P.O. VILORIA-FISHER:

Thank you, Mr. Chair. George, I recall, and I'm not second-guessing your response, but I recall that one other time when we did delay a vote on a similar case, I thought that we had been advised that there might be some exposure as a result of that, because there was an understood as-of-right, and that we had no legal reason to prevent the person, the owner from redeeming his property. That's just my recollection. I haven't looked at the minutes from that discussion, but I do remember it was a lengthy discussion, and at the end of the day, we decided to pass it, because we were concerned about that.

MR. NOLAN:

Well, in that particular case, you were dealing with a very litigious person, and the County was already involved in litigation with that person. And that was the advice from the County Attorney's Office, was to let it go, not to treat -- because, frankly, you would have been treating that person differently than hundreds of other people who have come --

D.P.O. VILORIA-FISHER:

Is that what we're doing here?

MR. NOLAN:

It's unusual. I've been here five, five-and-a-half years and we've never rejected one of these.

D.P.O. VILORIA-FISHER:

And although I respect my colleagues and trying to protect a neighborhood that they see as a neighborhood that has been abused by some owners of property, I don't really see how preventing this from going forward would help the project that's underway, because if the developer is trying to develop a property and renew it, how does it help them to have the County owning a piece of property right smack in the middle of their development? So I'm going to vote to approve this. I just don't see that it's a remedy to table it.

P.O. LINDSAY:

Legislator Kennedy.

LEG. KENNEDY:

Thank you, Mr. Chair. And like the rest of us sitting here, I think we're -- I'm sitting here going through my mind trying to go through the Suffolk County Tax Act again. And in my time when I was out here in the Clerk's Office, I recall often that we would be called on to facilitate the title search that's associated with the redemption process and making sure -- it's a very ministerial and procedural matter. And my recollection is that the as-of-right time period was then subsequently extended and that was the piece that was our local act. The six month outright redemption period is what's derived from the Suffolk County Tax Act, correct?

MR. NOLAN:

No. It's actually derived from a Local Law, originally Local Law 16 of 1976. It's been amended

through the years. Now it's codified in the Administrative Code at 842-3.

LEG. KENNEDY:

Where is this particular piece of property in the process right now? When was the tax deed taken?

MR. NOLAN:

I don't know when it was taken, but the application to redeem was -- had to have been made within six months of us taking the tax deed. Otherwise, it would not come in as a Local Law 16.

LEG. KENNEDY:

And the property owner's fulfilled all of those ministerial items, he's furnished the title search, he's tendered the fee, he's done all those other items? Who are we looking --

LEG. BROWNING:

Pam Greene is here.

LEG. KENNEDY:

Who is here?

LEG. BROWNING:

Pam Greene is here.

P.O. LINDSAY:

Okay. Through the Chair, could we ask the Director of the Division of Real Estate?

P.O. LINDSAY:

Would always like to hear from Ms. Greene.

P.O. LINDSAY:

Absolutely.

MS. GREENE:

Thank you, Mr. Chairman. It's always a pleasure to be heard. Legislator Romaine gave an excellent presentation and summation of Local Law 16. In this instance, the property owner, the prior property owner did make an application within six months. Your second "whereas" clause states that he has paid all back-taxes. Upon passage of this resolution, the Division would then be able to provide the deed back into his name.

LEG. KENNEDY:

Is there -- if there's underlying -- let's say that we have acknowledged that the property is being used in some untoward way, and I don't know what's going on here, but let's just say we had crack house violations, or we had, I don't know, business being operated out of a residence, or any of the other things that sometimes categorically raise issues associated with property. Does that give us any latitude in the redemption process, or does your office perform regardless of what's occurring with the subject property?

MS. GREENE:

This property is commercial, it is not being used, it is boarded up. And in those instances, I don't know that any town infraction would impede the Division's ability to return the property, according to Local Law 16.

LEG. KENNEDY:

Okay.

P.O. LINDSAY:

Don't think of anything else if you're done.

LEG. KENNEDY:

No, that's it. I'll yield.

*(*Laughter*)*

P.O. LINDSAY:

Legislator Montano.

LEG. MONTANO:

Two quick points. Pam, you said that they pay back-taxes, but they also pay penalties and substantial interest, do they not?

MS. GREENE:

Yes. Again, the second "whereas" clause states that they are paying fifty -- they have paid already with the Division \$56,610 for taxes, penalties, interest, recording fees, and any other charges due the County of Suffolk.

LEG. MONTANO:

Okay. And the other issue I wanted to point out is with respect to Legislator Viloría-Fisher's comments. I believe the time that we did consider renegeing on passing a Local Law 16, there were -- that was a situation where there were allegations of criminal charges related to land purchased, but we ultimately, I believe, passed that, did we not?

MR. NOLAN:

We did.

LEG. MONTANO:

And that's a totally different situation than here. There are no allegations whatsoever or any kind of criminality.

MS. GREENE:

Not that we've been informed by the Town of Brookhaven.

LEG. MONTANO:

Thank you.

P.O. LINDSAY:

Okay.

LEG. BROWNING:

Just one last thing. You know, the property has been sitting empty for years, even from before I was in office. It's been sitting empty, boarded up, graffitied. This hinders a good project that's been planned for the community. All I'm asking is if we could table it for one more cycle, so that some negotiation can go on between the planning -- the developer and this property owner, because he has done nothing but been a problem. You know, he's a doctor, and I always think about, you know, doctors taking oaths, first do no harm, and this man has done nothing but harm in this community by having this piece of property sitting there, abandoned, pretty much abandoned, graffitied, and an eyesore. And again, I'm asking just for one more tabling and, hopefully, we can have some agreement between the developer and Mr. Hossain.

P.O. LINDSAY:
Legislator Eddington.

LEG. EDDINGTON:

Yeah. You know, I hear legally this, and legally that, and I think that's very important. But I think we also have a moral obligation, at least the Legislators in the area. And when you hear the two of us saying there's more going on and asking for this to be tabled, there's got to be a reason, unless you think we're just rabble-rousers, which could be the case.

LEG. BROWNING:
Really?

LEG. EDDINGTON:

But this is an area that had sat, and the gentlemen had made an outlandish request of the developer, I mean, just crazy. And what we were going to do is give it to the Town of Brookhaven for economic development, because it's right smack in the middle. It reminds me of the Plaza Theater dealing -- that I've been dealing with in East Patchogue. And so, if this is a right of -- as-of-right, then I don't even know why you're asking me to vote it. But if you're asking me to vote on it and I'm a member here, I'm going to give you my best perspective. I want it to be sold, but I want to send the message, and this is the way I can send the message, that you have to negotiate in good faith and you can't hold a community ransom, and so this is the only way I can do it. We've tried to communicate, both Kate and I. The Town of Brookhaven has been involved in it. And I want to sell it, but I want to do the right thing, and this is how I am going to send a message. And if it's only my vote, then it will be my vote saying we're not going to allow people to try to hold us hostage for development.

P.O. LINDSAY:
What did I say about a short meeting? Legislator Gregory.

*(*Laughter*)*

LEG. GREGORY:

Thank you, Mr. Chair. I don't know the particulars of this land deal or actually the development, and I respect the respective Legislators in that area, that you want to get something done that's positive for the community, but I want to advise all of us that there could be a potential situation. Again, I don't know the particulars. If we are being seen as holding up a person's property that's in the middle of a negotiation, I don't know what those negotiations are, the developer could be offering -- low-balling the price on that, the landowner is refusing that -- to agree to that. So we could be putting ourselves in a position that we're aiding the developer to purchase a property that's not of market value. I'm not saying that's the situation, but I'm saying that if we get involved in this process, delay it for those types of reasons, that could, you know, put us in a potentially liable situation, and I don't know -- again, I don't know if that's the situation, but I certainly could see -- I don't see us -- that we should be in a position to aiding a developer and getting his development done. And that's all I have to say.

D.P.O. VILORIA-FISHER:
Tom. Legislator Barraga.

P.O. LINDSAY:
Yeah, Legislator Barraga.

LEG. BARRAGA:

Yeah. I just want to make it clear and ask a question to both Legislators, because, certainly, I have a lot of respect for both of you in terms of being Legislators and you people are representing this particular parcel. As I understood your comments, Kate, you just want one more session, tabled for one more session, and the next time we do meet, you'd be ready to make a decision and allow a vote, no further tabling?

LEG. BROWNING:

I would hope so. And like I said, it's a matter of --

LEG. BARRAGA:

No, no.

LEG. BROWNING:

-- trying to get this man --

LEG. BARRAGA:

You just -- not hope so. I mean, you're asking for a tabling for one session. So, during that period of time, you do what you have to do. But the next time we meet --

LEG. BROWNING:

Okay.

LEG. BARRAGA:

-- you will cast a vote yes or no?

LEG. BROWNING:

I will pass a vote yes or no.

LEG. BARRAGA:

Mr. Eddington, are you on board for that, too?

LEG. EDDINGTON:

I would definitely agree. If we had a couple of weeks to try to get everybody together, yes. And I will definitely vote yes or no next time.

LEG. BARRAGA:

Thank you.

P.O. LINDSAY:

Very good, Tom, very good. Legislator D'Amaro.

*(*Laughter*)*

LEG. D'AMARO:

Same train of thought. I am considering Legislator Browning's request for one more cycle to table this. I am not as concerned as my colleague, Legislator Gregory, with delaying the vote for two weeks to prompt the negotiations or bring the parties together. I said I would support the approval because I didn't want to use this as a tool to determine guilt or innocence, but, certainly, if there are ongoing negotiations and the Legislators, my colleagues, are telling me that this slight, short cycle delay would help those negotiations, I think I'd be willing to table for that short cycle as well.

P.O. LINDSAY:

Okay. In the interest of cooperation, Legislator Montano is withdrawing his approval.

LEG. MONTANO:

I will withdraw my motion under the condition that this is a one-time tabling. We've already tabled this sufficient times. And I'd like -- if you can do anything, more power to you, and if you can't, let's get this done in the right way. Thank you.

P.O. LINDSAY:

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

LEG. BROWNING:

Thank you.

MR. LAUBE:

Eighteen.

LEG. BROWNING:

Thank you.

P.O. LINDSAY:

Eleven -- oh, wait a minute. Before I do that, I'm sorry. If you go to the next page, first reso, under Environment, Ms. Lansdale is waiting in the audience. And I'm sorry that I didn't pick it up sooner, so maybe we could vote on that.

P.O. LINDSAY:

We have a motion --

D.P.O. VILORIA-FISHER:

Motion to take 1278.

P.O. LINDSAY:

Motion to take 1278 out of order.

LEG. CILMI:

Second.

P.O. LINDSAY:

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

MR. LAUBE:

Eighteen.

P.O. LINDSAY:

1278 is before us.

D.P.O. VILORIA-FISHER:

Motion to approve.

P.O. LINDSAY:

Motion to approve by Legislator Viloría-Fisher, seconded by --

LEG. CILMI:

Second.

LEG. SCHNEIDERMAN:

Second.

LEG. D'AMARO:

Second.

D.P.O. VILORIA-FISHER:

By Legislator Cilmi.

P.O. LINDSAY:

Okay. Legislator Cilmi had it first. Any discussion? All in favor? Opposed? Abstentions?

MR. LAUBE:

Eighteen.

P.O. LINDSAY:

Eighteen, okay. Congratulations, Ms. Lansdale. Good luck to you.

*(*Applause*)*

P.O. LINDSAY:

Back to Page 6. ***1182 - Appropriating funds in connection with the purchase of Public Works Highway Maintenance Equipment (CP 5047) (Co. Exec.).***

LEG. KENNEDY:

I'm going to make a motion to table, Mr. Chairman, on this. If you recall at the last meeting, I asked for a tabling. I questioned the amount. There's been a revision on the resolution that's reduced it some 400,000 already. I'm awaiting some additional information from Public Works Commissioner Anderson about the balance of the heavy equipment that was identified on this resolution and what our current inventory is.

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

P.O. LINDSAY:

I will go along with the tabling with this proviso. I'd like Commissioner Anderson at our next meeting to go over which equipment, why it's needed and so forth.

LEG. KENNEDY:

I'll carry that message to him. I've been in dialogue with his office going back and forth for the last two weeks now.

P.O. LINDSAY:

Okay.

LEG. KENNEDY:

And as you saw, the revision did actually drop from the initial down about four or five hundred thousand.

P.O. LINDSAY:

Okay.

LEG. KENNEDY:

And, you know, again, it's just a matter of let's make the case that we really need what they're asking for.

P.O. LINDSAY:

Okay, that's fine. We have a motion and a second to table. All in favor? Opposed? Abstentions?

MR. LAUBE:

Eighteen.

P.O. LINDSAY:

1182A is moot because we didn't -- we tabled 1182.

To the agenda, page seven, **Budget & Finance:**

1117-11 - Amending the 2011 Operating Budget and transferring funds to Fund 102 for Public Safety Answering Points (PSAP) (Kennedy).

LEG. KENNEDY:

I'll make a motion to approve on this, Mr. Chair.

LEG. ROMAINE:

Second.

P.O. LINDSAY:

Second by Legislator Romaine.

LEG. MONTANO:

Question.

P.O. LINDSAY:

On the issue?

LEG. MONTANO:

Yes, is this Omnibus money?

P.O. LINDSAY:

Legislator Montano.

MR. NOLAN:

No.

LEG. MONTANO:

No? Would you give me an explanation, then, Counsel?

MR. NOLAN:

I'll let Budget Review do that.

LEG. MONTANO:

Budget Review, Gail?

MR. LIPP:

This moves money around within the General Fund and the Police District, Supplies and Equipment, in order to pay for this.

The funding for the PSAPs in the adopted budget --

LEG. MONTANO:

Oh, okay.

MR. LIPP:

-- was not fully funded at the appropriate 20% level; this brings it back most of the way but not the entire way.

LEG. MONTANO:

Okay, thank you.

P.O. LINDSAY:

Okay. My question is when we move the money out of the Police budget, can we create a problem over there?

MR. LIPP:

Somewhat.

*(*Laughter*)*

You know, it's not something that the Police Department would embrace. One way to look at it is -- there are two ways to look at it. Number one, it wasn't properly funded in the budget; number two, as an alternative, in theory at least, next year's 2012 budget would have to make the adjustment because the law says they're supposed to get 20%. So in theory, the actual revenue from the cell phones may be understated or overstated in a budget and at the end of the year we would better know that, and the adjustment could be made either way. But there is a problem with the law now because it wasn't properly funded.

P.O. LINDSAY:

Okay. Legislator Kennedy, did you want to say something else?

LEG. KENNEDY:

BRO pretty much summed it up. But understand, Mr. Chair, that this is a fulfillment of the resolution that Legislator Horsley and I worked on last summer which actually allowed for the surcharge on the cell phones with that specific language that authorized proper funding for our ten town-based PSAPs. They are continuing to struggle to perform the 911 function; they handle some 20% of all 911 calls throughout Suffolk County. And I imagine it might have been just a simple oversight or omission when the 2011 Operating was constructed and took the majority of the cell phone revenue and booked it directly to the PD.

I also know BRO worked with the Police Department in order to make sure that what was removed from their lines was not from personnel or from any other direct hands-on, but was in supply and equipment areas. Now, were they happy? Absolutely not. But nevertheless, I think it's cognisant of reality and we are approaching the half-year mark here where it's time to go ahead and provide the funding so that the PSAPs can continue to do their job.

P.O. LINDSAY:

Any other questions? Okay, we have a motion to approve and a second. All in favor? Opposed? Abstentions?

MR. LAUBE:

Eighteen.

P.O. LINDSAY:
IR 1290-11 - Establishing a Suffolk County Public Nuisance Website (Browning).

LEG. BROWNING:
Motion to approve.

LEG. MURATORE:
Second.

P.O. LINDSAY:
Motion to approve. Seconded by Legislator Muratore.

LEG. SCHNEIDERMAN:
On the motion.

P.O. LINDSAY:
Legislator Schneiderman, you had a question?

LEG. SCHNEIDERMAN:
Well, on the motion, because we discharged this without recommendation because there were some changes that needed to be made to the bill. I just wanted to know maybe from Counsel, have those changes been made?

MR. NOLAN:
The bill was amended to reflect the request of the County Attorney's Office.

LEG. SCHNEIDERMAN:
Right, that was one piece. And then there was also a question of delisting, how do you get off. Was that also put in, a mechanism for --

MR. NOLAN:
It was.

LEG. SCHNEIDERMAN:
Okay. Thank you.

P.O. LINDSAY:
Legislator Cilmi.

LEG. CILMI:
Yeah, thank you. Just two things. One, if you could just describe for me, George, what the changes were?

MR. NOLAN:
Well, the County Attorney had requested that before a person's name and property was posted, that there's a five-day period where an owner has a chance to cure problems, to resolve the problems so that the person's name would not be posted until that period, so that change was made to the resolution.

And then a couple of Legislators asked how is somebody going to be removed from the website, and so language was added, a couple of RESOLVED clauses saying that a posting will be removed from the website prior to the commencement of a legal proceeding by the County if the property owner

submits proof satisfactory to the County Attorney that the public nuisance has been abated.

And an additional RESOLVED clause that a posting will be removed after legal proceeding has been initiated by the County. If the property owner and the County Attorney reach a settlement of the proceeding which provides for the removal of the posting or the proceeding is resolved in favor of the property owner, at which case the posting will be removed.

Those changes were provided to the County Attorney's Office.
As far as I understand, they're okay with those changes.

LEG. CILMI:

Through the Chair, to the sponsor, a couple of questions.
Who is responsible for developing this website?

LEG. BROWNING:

We will work with our IT to do that, and the Clerk's Office.

LEG. CILMI:

Working with IT and the Clerk's Office.

LEG. BROWNING:

The Clerk's Office gets the notices. Well, actually the County Attorney's Office also, but the Clerk's Office gets notices.

LEG. CILMI:

Did you give any thought at all to the potential impact that posting the addresses of these residences might have on neighboring, you know, property values and such? I mean, it sort of brings light to, you know, to anybody who might be investing in the community or whatever that there are these issues that may be, you know, being addressed from a legal point of view and may not be indicative of the general complexion of the neighborhood, but that this would then serve to effect those property values of houses that might be for sale.

LEG. BROWNING:

I understand what you're saying. However, you know, when we started working on this, I did reach out to local civic groups and that to see how they felt about it and they're actually very supportive of it. They think it's time to show who these people are. And generally they're not from the community where they're creating the mayhem, so they feel it's a good idea to have it posted and show where these people are actually coming from.

LEG. CILMI:

Could I ask what it actually accomplishes? I mean, what's the point of putting these addresses on this website; how does it help?

LEG. BROWNING:

I think it will maybe create a little bit of embarrassment where it might make them come into compliance and do the right thing.

LEG. CILMI:

Well, what about the -- I mean, that's really what the Public Nuisance Law does; it threatens them with seizure of their property if they don't mitigate whatever nuisance is occurring at the property, right?

So I would imagine also that there are instances where a property owner may for some reason have difficulty evicting a tenant that may be a problem tenant, they may be prevented from evicting a tenant that's a problem tenant for some legal reason, and to besmirch a property owner's name in those instances, again, seems to me --

LEG. BROWNING:

This notice -- okay, this is not posted on a first-time notice, this is the last and final notice is when this is done. And at that point in time, the County Attorney's Office will be in court with that person, so basically they've had ample opportunity.

And I think also, many of these people who own properties and are taking advantage of communities. And basically, you know, I'm not opposed to some of the owner rental properties and having the investments, but take care of your investment. And maybe this will push them to make sure that they do the right thing so they will never see their name on this.

LEG. CILMI:

Well, even more the case, if it's on the second instance that their address gets posted on this website, I mean, they're on the verge of having their property seized to begin with.

LEG. BROWNING:

No, they're not necessarily on the verge of having their property seized on that last notice.

LEG. CILMI:

Why not?

LEG. BROWNING:

It could be just a fine.

LEG. CILMI:

Just a fine? I thought our Public Nuisance Law dealt with that and said on the second notice, within a certain period of time -- in fact, you have a proposed bill in to lengthen that period of time.

LEG. BROWNING:

No, the law doesn't necessarily -- the law does not necessarily mean that on the final notice you're going to have seizure of your property; am I correct, Gail. Generally it results in fines.

MS. LOLIS:

It's not a seizure of the property, it's an injunction -- generally what's asked for is an injunction on the use of the property, and that's what the Court has awarded in the two instances where we've gone to judgment. But the lawsuit's not necessarily started within that five day period. You know, there could be other things happening. We notify the owner of the property, the owner of the property assures us or provides us proof that they're seeking to go to court to evict the tenants. We don't wait for the judgment. If they show us that they've commenced proceedings against the tenant, we're not commencing the action against them.

LEG. CILMI:

And yet if this law were to pass, the posting of the address on the owner on the website would happen automatically without any sort of subjective decision making on the part of, you know, your office or otherwise.

MS. LOLIS:

Well, they would -- according to this bill, they would -- their names, the name and the address of

the owner as well as the location of the property will be posted after that five-day grace period.

Now, should the owner contact us after that, because it's -- the onus is on the owner to contact us after they receive that final notice and the five-day period elapses. If the owner contacts us and provides us proof that they are seeking to abate the nuisance and we are satisfied with that and they request that their name be removed, then that would be the trigger to have their name removed from the posting, from the website.

LEG. CILMI:

Okay. I'll listen to the remainder of the debate, but at this point it seems to me like this would create more problems for communities and folks than it actually solves. So at this point I'll be voting no. Thanks.

P.O. LINDSAY:

Gail, while you're at the mic, will this be helpful to the Law Department, this legislation, do you think? Don't know.

MS. LOLIS:

I don't -- it doesn't affect us.

P.O. LINDSAY:

Okay.

MS. LOLIS:

It's another notification on our part, but other than that, it doesn't --

P.O. LINDSAY:

But wouldn't it help to shorten the legal process that you get into with this situations?

MS. LOLIS:

If the owner is concerned about being on the website versus having litigation against them seeking to enjoin their use of their own property, then yeah, it could assist them then.

P.O. LINDSAY:

Okay. Legislator Montano.

LEG. MONTANO:

Gail, on this -- we had this conversation the other day. Just for the record, you have had two cases that have gone to injunction; is that correct?

MS. LOLIS:

That is correct.

LEG. MONTANO:

And how long a period of time are we talking about with respect to those two injunctions?

MS. LOLIS:

One year.

LEG. MONTANO:

Okay. And before that, you know, over the period of this law, which is called the Crack House Law, but I have concerns about that, but really is a Public Nuisance Law -- how long a period of time have you been enforcing this? Not you personally, I mean the County Attorney's Office.

MS. LOLIS:

However long it's been on the books.

LEG. MONTANO:

And how many times has it gone to court, do you know?

MS. LOLIS:

We've had the -- we've only had the two cases that we needed to bring to court. We've sent notices and the --

LEG. MONTANO:

So over the period of time --

MS. LOLIS:

-- owners have cooperated.

LEG. MONTANO:

-- it's been two cases in the last two years, I mean the last year, but that covers the whole period of time; am I correct?

MS. LOLIS:

Yes.

LEG. MONTANO:

All right. Now, when you talk about -- the way it works, as I understand, if there is a violation where the house is somehow used as an instrumentality of the crime, then the person gets the first notice.

MS. LOLIS:

If there's an arrest on the property --

LEG. MONTANO:

There's an arrest, okay.

MS. LOLIS:

-- for one of the prohibited acts, the person receives the first notice.

LEG. MONTANO:

And then if there's a second arrest, then they get another notice and five days after that you're eligible to go into court; is that correct?

MS. LOLIS:

That is correct.

LEG. MONTANO:

Okay. Now, on this notice, after -- on the second notice, how do you notify the owner? Is it by regular mail? Is it by Certified Mail? Is it by personal delivery? Is it done pursuant to the CPLR? What is the process that you utilize to notice the owner?

MS. LOLIS:

The law specifies exactly how it has to be done.

LEG. MONTANO:

Explain it to me.

MS. LOLIS:

I would have to reference it, but I believe it's -- we send the notice Registered Mail to the property owner. The law says the -- there's a presumption that the address of the property owner that's recorded in the County Clerk's Office is presumptive proof, but we take it a step further. We do an internal title search through the Division of Real Estate to confirm the property owner's address, we send the registered notice to that premises. We also put a posting on the house and we -- I believe we also leave a notice at the subject premises.

LEG. MONTANO:

The subject premise? When you say you put a notice on the house, are you talking about the subject premises or are you talking about the house where the owner allegedly lives?

MS. LOLIS:

The premises. I have to double check the law, but whatever the law requires that we do. If they require that we, quote, nail and mail at the property owner's house in addition to sending it Registered Mail, then we do that.

LEG. MONTANO:

All right. But you don't know that right now because you haven't referenced the law; am I correct? And I'm not trying to put you on the spot.

MS. LOLIS:

No, I just have to double check it, though.

LEG. MONTANO:

All right, we can get back to that.

Now, with respect to the third RESOLVED clause, once the -- under this proposed bill, once the owner's name and address is posted, there's -- the third RESOLVED clause deals with the removal of the posting where you either reach a settlement of the proceedings or, and it says, "Or said proceeding has been resolved in favor of the property owner."
What does that mean?

MS. LOLIS:

That the Court denied our petition.

LEG. MONTANO:

So, in essence -- well, I guess what I'm getting at is if you put his name on the website without judicial process and then he's in court and the issue is resolved in his favor, haven't we already done the damage? I mean, it seems to me an injudicious process --

MS. LOLIS:

That's a policy issue at this point. It's not a legal issue.

LEG. MONTANO:

Well, does he have any remedies at that point? If he's now posted and he goes on a website that everybody can read and then he's absolved of -- the proceeding has been resolved in his favor, it seems to me that that would be a little unjust, because it would imply to me that he didn't do

anything wrong or he didn't know what was going on or he didn't receive the notice or whatever, but yet he's been posted on a website. Do you understand? Do you follow my point?

MS. LOLIS:

No, I understand. The owner has ample opportunity -- and we're not advocating for or against this law.

LEG. MONTANO:

I understand that.

MS. LOLIS:

I mean, that's obviously your decision. But the property owner at any time after that five days, when they receive final notice, can work with our office to abate the public nuisance and to get his name off -- or her name off the website.

LEG. MONTANO:

Right. But what you said earlier, I'm not so sure that within the five days you're talking about actual notice. What if the landlord is away for ten days, he's on vacation or she's on vacation, and something has been sent by Registered Mail; you're not telling me that it's five days from the -- when you send Registered Mail, you normally get back a receipt of Registered Mail which indicates that it has been received, and you're not telling me that. You're telling me that you send it and five days later, boom, he's on or she's on the website.

MS. LOLIS:

No, we get return receipt. We get an acknowledgement that they received it.

LEG. MONTANO:

All right, so it's only after they personally receive it?

MS. LOLIS:

Yes.

LEG. MONTANO:

All right, because that's not what you said earlier. I just want to be clear that that's --

MS. LOLIS:

I told you the general -- I could read from the law the exact process that we follow.

LEG. MONTANO:

No, I just want to be clear. You have to have actual proof that it has been received by the owner; am I correct in that?

MS. LOLIS:

If the -- if the green -- again, I'd have to just double check the law.

LEG. MONTANO:

There's a difference between Registered and Certified Mail.

MS. LOLIS:

The law provides whether notice is good or not good. I would have to double check the exact language, but I believe we receive proof that notice has been received by the owner.

LEG. MONTANO:

All right. Does this law provide for you to receive notice or does it just say five days after you send out the notice? I'm not -- show me where -- I have the bill in front of me, but I don't see it exactly.

MS. LOLIS:

The website -- the website is five days after the second notice is provided.

LEG. MONTANO:

Where you have proof that it's been received.

MS. LOLIS:

That's not contained in this bill that's before you.

LEG. MONTANO:

Well, if you don't have proof that it's received within the five days or the sixth day or the seventh day, does the person go on the website, under this bill?

MS. LOLIS:

Under this bill, I believe they go on the website once that second notice is sent.

LEG. MONTANO:

Doesn't that appear to be also something that needs to be clarified? Because do we really want to put someone on a website five days if we don't have proof that the person has received the notice within the five days? Gail, I mean --

MS. LOLIS:

That's not our call, that's your call.

LEG. MONTANO:

But what you're telling me is that the way the bill is written, the person doesn't have to receive notice within five days to be put on this list now; am I accurate in that? The way the law is written.

MS. LOLIS:

At the time -- the way this law is written, we will send a final notice. Five days after that final notice is sent, the person's name gets posted to the website.

LEG. MONTANO:

Irrespective of whether or not the person received it.

MS. LOLIS:

Correct.

LEG. MONTANO:

I have some other issues with this bill, but I cannot support it in its present form. Thank you.

P.O. LINDSAY:

Legislator D'Amaro.

LEG. D'AMARO:

Thank you. I also have some concerns. It seems to me this is Suffolk's version of a wall of shame. And I understand the sponsor's goal, but it seems to me, as some of my colleagues are pointing out, that this is kind of like guilt before innocence, and I think we have to tread very carefully here.

So my first question to Gail, if you don't mind, is I hear the dialogue about the five days. There's no -- Legislator Montano makes a good point about whether that notice is actually received, but let's assume that it is. If that notice is received, the five day period runs on a second or final notice for prohibited conduct. The person's name automatically -- name, address and location of property automatically goes up on the website. Does anyone have any discretion to not post after that five-day period?

MS. LOLIS:

Not as I read that bill.

LEG. D'AMARO:

Because it just seems to me that there should be, at a minimum, some discretion built in there, because there are always circumstance. One might be whether or not the notice was actually received. Another, in my mind, is that let's say through protracted litigation, prolonged judicial proceeding, someone is trying to remedy the nuisance at the property. Even though it's a second notice, maybe the first and second violation occurred within a year; you know, in a judicial world, that's not a long, long time. And I just think that posting someone's name home address and property location automatically, without any discretion at all, where there may be circumstances that warrant giving that more consideration is a flaw in the bill.

Another concern I have is that often your most egregious property owners are probably holding that property in a corporate name. So while some individuals may be up there, you may be posting just a corporate name and address, which I don't think is effective or even goes to the goal of what the sponsor is trying to accomplish.

It seems to me that this should -- the posting of someone's name, address and property address should be more of like a post-judgment penalty, okay? You've had your day in court, you've been found guilty of whatever offense you're charged with, and as part of that penalty now we're going to let the community know about it. But to do it before your day in court and to do it without any discretion for extenuating circumstances and to do it where you're probably going to be posting corporate names I just don't think is effective and I don't think it's appropriate as far as the legal aspects of this go.

P.O. LINDSAY:

Legislator Browning.

LEG. BROWNING:

Yeah. I think we're forgetting the fact that this is not the first notice that we're posting, this is after the second notice. Many times when a first notice comes -- I don't know how many of you around this horseshoe have received those notices from the Clerk's Office to you, the crack house notices; I've received quite a few of them. The first notice goes out -- by the time you receive that first notice in your office, you can say probably six months has gone by since the initial incident. So by the time that that second notice goes around, you're sometimes close to a year. So there has been plenty work done by the County to approach that property owner to take care of their property. So this is not something that happened over a matter of weeks, this is something that could have happened over a year. And don't forget, if they're getting a second notice, it's clearly -- they have not chosen to do the right thing because they are receiving a second notice.

Also, Gail, if -- when you send out the notice, and you're not sure if you send it return receipt --

MS. LOLIS:

I have -- actually, I could clarify that.

LEG. BROWNING:

Okay. So if you send it return receipt and say you don't get a return receipt, are you going to be sending it to the Clerk's Office or do you send it once you know that they've been notified?

MS. LOLIS:

Well, just to clarify in response to Legislator Montano's question and to answer your question. The law requires that we send the notice, both the first notice and the second or what's known as the final notice, by Registered Mail/Return Receipt. If the card does not come back that it's signed for, then we go to the next step which is to affix the notice to the owner -- who we understand is the owner's premises. We affix the notice to the subject premises where the arrest occurred and then we will also mail to both of those locations.

LEG. BROWNING:

Okay, so it's very clear. I mean, generally these types of notices, there's numerous violations, arrests, criminal activity when the County Attorney's Office is sending out the notices.

I think we've had enough discussion. I think what this is going to do is give -- these landlords are eventually going to realize you've got to take care of your property. If you want to have -- if you want to be a landlord, be a good landlord, take care of your property and your name won't be on the wall; it's that simple.

P.O. LINDSAY:

Legislator Gregory.

LEG. GREGORY:

Thank you, Mr. Chair. I certainly agree with the sponsor's intentions. I think we have similar issues with regard to, I won't say crack house but I'll say Public Nuisance Laws. I actually was involved in boarding up one when I worked with the Town of Babylon some years ago.

I think -- and this is to the sponsor. I think a recurring issue that I'm hearing, Kate, is the five-day notice. Would you be open to say extending that to 30 or 60 days so there's ample time that the second notice is received by the landlord and that some type of legal action is initiated?

LEG. BROWNING:

I would have been open to it if it was -- but this is on that second notice, which means they've already violated the law a first time around, this is the second time that they're being notified that there's violations and I think the five-day notice is ample. And now the County Attorney is taking them to court, so now it's public information when it's in the court; am I correct? So it's not like you're not -- Gail, I'll let you answer. After five days, you're now in court and it is public information.

MS. LOLIS:

If we commence the proceedings --

LEG. BROWNING:

Right.

MS. LOLIS:

-- on that sixth day. As a practical matter, it's not likely that legal proceedings are commencing on the sixth day.

LEG. BROWNING:

And if they have notified -- you know, even after that five days they've notified the County that, you know, they're going to clean up the problem and remedy what the issue is, their name isn't going to be listed.

LEG. GREGORY:

To play devil's advocate, I know that there are a lot of, particularly in the Wyandanch community because I've been personally involved with them, a lot of absentee landlords. Say a landlord is in Florida, rents out -- you know, they have a local property manager or whatever the case may be. They have an incident, whether it's selling drugs or some type of paraphernalia is found, there's a notice, first notice, and it's up to even three years later a second incident could happen. But a landlord, let's say, or a property owner that is out of state gets a notice, you know, it's going to take a person to -- you know, they have to hire a lawyer, initiate the process, and all of that is going to be done within five days; that may be a little cumbersome.

LEG. BROWNING:

I don't think so. I think that they've already been notified the first time around. The second time around, they should do the right thing. And why should your community and my communities and some of us who share the same communities have to be burdened with these problems? They've had ample opportunity with the first notice to take care of the problem. I think, you know, we just can't be soft on them anymore.

LEG. GREGORY:

Okay. Thank you.

P.O. LINDSAY:

Can we move on this? You know, we're -- Legislator Nowick.

LEG. NOWICK:

You know what? Why don't we just move on it.

P.O. LINDSAY:

Thank you. Thank you. Legislator Stern.

LEG. STERN:

Go ahead.

P.O. LINDSAY:

No? Thank you. Legislator Montano.

LEG. MONTANO:

I'm just going to vote no; I'll pass.

P.O. LINDSAY:

Okay. Legislator D'Amaro.

LEG. D'AMARO:

I did have one more very quick question. Gail, the notice that goes out the first time, it's based on an arrest, it requires an arrest?

MS. LOLIS:

Yes.

LEG. D'AMARO:

All right. So when the second notice goes out, it means there's a second arrest at the property.

MS. LOLIS:

Within three years.

LEG. D'AMARO:

Within three years. But within those three years, it may have been that the first arrest occurred, let's say it's a landlord evicted the tenant, there's a new tenant that comes in, the landlord believes, "I've remedied the situation," but yet there's another arrest at the property and the second notice now goes out.

MS. LOLIS:

Correct.

LEG. D'AMARO:

So it may be a second notice for the property, but it's a first notice for the new occupants of the home; theoretically that could happen.

MS. LOLIS:

Correct.

LEG. D'AMARO:

I just -- you know, again, the significance of a second notice is that it's implying that this continuing ongoing conduct and the landlord has done nothing about it. But yet, in fact, I think you'll find that with that second notice, I think the landlord maybe on the first notice took action and the second notice just went because it happens to be the same property, but it's entirely new players that are involved in the violations. And once again, you know, your home address and your name is being posted on a website, when maybe, in fact, you are cooperating.

So again, without the discretion built into the bill where you can consider things like that, I can't support this at this time.

P.O. LINDSAY:

We've got to go back. Legislator Stern, did you want to say something; no?

LEG. STERN:

Well, if you're coming back to me, Mr. Presiding Officer. Thank you.

*(*Laughter*)*

LEG. MONTANO:

Then I'll say something. You can't resist, Steve.

LEG. STERN:

You know, I understand exactly what the sponsor is attempting to do. Look, it's another tool in the box, and ultimately you don't know which tool it's going to take to get a desired result. And so I certainly applaud her efforts.

I think Legislator Cilmi hits it right, though, when he suggests that perhaps there is a potential opposite effect here in the community, particularly when you say that the owner and the address of the owner could not necessarily be an individual but an LLC, some type of corporate entity. So

you're not really getting to the exact problem that you're looking to get to; in fact, there could potentially be a negative result for a community. Again, I'm supportive in theory and I think the sponsor is attempting to do a good thing and creating yet another tool in the box. But ultimately, I think Legislator Montano makes the compelling case here, that without the procedure tight, without the procedural safeguards in place, I think it raises more issues than it solves.

P.O. LINDSAY:

Legislator Montano.

LEG. MONTANO:

I was going to ask Gail the question, but, you know, I can't help but comment. Gail, you don't have to answer. The point is the procedure that you outlined on the five-day notice in reality takes more than five days. So the person is posted on the website without notice; am I correct in that?

MS. LOLIS:

The person is getting posted on the website five days after the second notice is sent.

LEG. MONTANO:

Is sent, okay. But we still don't have -- you know, I don't want to beat a dead horse, but the problem is that there's no guarantee that there's notice here, is what I'm saying. And the process that's outlined in sending the Registered Certified Mail, and then if you don't get a response doing the nail and mail and posting. Posting the notice on the tenant's property I think does no good for the landlord. And if you post it on the landlord's property, I mean, it may be -- even on the legal proceedings, it would be at least 30 days before they would have to answer; here they're just put on a website five days later. I just don't see how we could do that.

MS. LOLIS:

Well, if I may just correct one statement, looking at the bill. The bill says they're posted within five days of receiving such notice.

LEG. MONTANO:

Right, but -- you know what? I'm not going to debate it. I'm still going to say I'm not going to beat a dead horse, I'm just going to vote no.

P.O. LINDSAY:

Okay. I think that horse died.

*(*Laughter*)*

What motions do we have? Because I forget.

D.P.O. VILORIA-FISHER:

It's too long ago.

MR. LAUBE:

Just one, a motion to approve.

P.O. LINDSAY:

A motion to approve.

MR. LAUBE:

With a second.

P.O. LINDSAY:

Okay.

LEG. CILMI:

Motion to table.

P.O. LINDSAY:

Motion to table by Legislator Cilmi. Seconded by Legislator Nowick. Okay, tabling goes first. Roll call.

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

LEG. CILMI:

Yes.

LEG. NOWICK:

Yes.

LEG. COOPER:

(Not present).

LEG. D'AMARO:

Yes.

LEG. STERN:

Yes.

LEG. GREGORY:

No.

LEG. HORSLEY:

Yes.

LEG. KENNEDY:

Yes.

LEG. BARRAGA:

Yes.

LEG. MONTANO:

Yes.

LEG. EDDINGTON:

No.

LEG. ANKER:

No.

LEG. MURATORE:

No.

LEG. BROWNING:

No.

LEG. SCHNEIDERMAN:

No.

LEG. ROMAINE:

No.

D.P.O. VILORIA-FISHER:

Nope.

P.O. LINDSAY:

It doesn't make any difference; no.

MR. LAUBE:

Eight.

P.O. LINDSAY:

Okay, the tabling fails. Motion to approve.

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

LEG. BROWNING:

Yes.

LEG. MURATORE:

Yes.

LEG. COOPER:

(Not present).

LEG. D'AMARO:

No.

LEG. STERN:

No.

LEG. GREGORY:

Yes.

LEG. HORSLEY:

No.

LEG. NOWICK:

No.

LEG. KENNEDY:

No.

LEG. BARRAGA:

Yes.

LEG. CILMI:

No.

LEG. MONTANO:

No.

LEG. EDDINGTON:

Yes.

LEG. ANKER:

Yes.

LEG. SCHNEIDERMAN:

I'm going to make a motion to table.

LEG. MONTANO:

You can't do that.

D.P.O. VILORIA-FISHER:

You can't do that.

P.O. LINDSAY:

We just voted on the motion to table.

LEG. ROMAINE:

You can't do that, we're in the middle of a vote.

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

LEG. SCHNEIDERMAN:

Yes.

LEG. ROMAINE:

Yes.

D.P.O. VILORIA-FISHER:

Yes.

P.O. LINDSAY:

Yes.

MR. LAUBE:

Ten.

LEG. BROWNING:

Ten?

P.O. LINDSAY:

1268-11 - 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 DPW Highway Maintenance Garage at Westhampton Airport (Gabreski Airport) (County Executive). I'll

make a motion.

LEG. HORSLEY:
Second.

P.O. LINDSAY:
Second by Legislator Horsley. All in favor? Opposed? Abstentions?

MR. LAUBE:
Seventeen (Not Present: Legislator Cooper).

P.O. LINDSAY:
1294-11 - To appoint James J. Cassara as a member of the Suffolk County Citizens Advisory Board for the Arts (Presiding Officer Lindsay).
I'll make a motion to approve. Do I have a second?

LEG. CILMI:
Second.

P.O. LINDSAY:
Second by Legislator Cilmi. All in favor? Opposed? Abstentions?

MR. LAUBE:
Seventeen (Not Present: Legislator Cooper).

P.O. LINDSAY:
1299-11 - Authorizing the execution of an environmental easement and other documents with respect to the Voluntary Cleanup Agreement for Francis S. Gabreski Airport, Airport Development District (County Executive).

LEG. SCHNEIDERMAN:
Motion.

P.O. LINDSAY:
Motion by Legislator Schneiderman, second by Legislator Horsley.
All in favor? Opposed? Abstentions?

MR. LAUBE:
Seventeen (Not Present: Legislator Cooper).

P.O. LINDSAY:
1278 we did already.

1296-11 - To appoint member of County Planning Commission (Carl Gabrielsen) (County Executive).

LEG. ROMAINE:
Motion.

D.P.O. VILORIA-FISHER:
Motion. He appeared.

P.O. LINDSAY:

Motion by Legislator Romaine, second by Legislator Viloría-Fisher.

D.P.O. VILORIA-FISHER:

He appeared at committee.

P.O. LINDSAY:

All in favor? Opposed? Abstentions?

MR. LAUBE:

Seventeen (Not Present: Legislator Cooper).

LEG. ROMAINE:

Would the Clerk please list me as a cosponsor?

MR. LAUBE:

Will do.

P.O. LINDSAY:

IR 1306-11 - Amending Resolution No. 712-2010, amending the Adopted 2010 Operating Budget to transfer funds from Water Quality Protection (Fund 477) and amending the 2010 Capital Budget and Program and appropriating funds in connection with storm water system discharge remediation and stream water silt removal and remediation at the Nissequoque Tributary Headwaters North from CR 76, Townline Road, to Miller's Pond, Smithtown (CP 8710) (Kennedy).

LEG. KENNEDY:

I'm going to make a motion to approve, Mr. Chair, and thank you for reading that.

(*Laughter*)

D.P.O. VILORIA-FISHER:

You can tell it's from your district.

LEG. KENNEDY:

No new money, just the attorneys are looking for some comparable language between our IMA and authorization for the Town of Smithtown.

P.O. LINDSAY:

Okay.

D.P.O. VILORIA-FISHER:

The second is Nowick.

LEG. NOWICK:

Second.

P.O. LINDSAY:

Seconded by Legislator Nowick. Any comments? All in favor? Opposed? Abstentions?

MR. LAUBE:

Seventeen (Not Present: Legislator Cooper).

P.O. LINDSAY:
Congratulations.

1265-11 - Establishing a commission to address State Aid reductions and preserve health services in Suffolk County (Cooper). Legislator Cooper?

LEG. COOPER:
I'll make a motion to approve, please.

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

P.O. LINDSAY:
Motion by Legislator Cooper, seconded by Legislator Viloría-Fisher.
If I might ask the sponsor, what does this exactly do?

LEG. COOPER:
This would create an eleven-member commission that would study and ultimately come up with recommendations on cost saving measures, hopefully totaling \$20 million, to allow Suffolk County to preserve delivery of vital health services. This initially was a resolution put forth by the County Executive, but I had some concerns over the makeup of the commission. I wanted more balance between the Legislature -- Legislative branch and the County Executive branch, so I added two additional positions. Otherwise, it's identical to the County Exec's bill.

P.O. LINDSAY:
The only question I have is timing. Do we have enough time to create a commission to plug this gaping hole?

LEG. COOPER:
I believe the resolution calls for -- and George, maybe you can correct me on this. I think that they're supposed to come up with recommendations, is it by July?

MR. NOLAN:
June 15th, 2011.

P.O. LINDSAY:
Okay. Thank you. Legislator Cilmi.

LEG. CILMI:
Thanks, Mr. Chairman. Is there any reason why we couldn't have our very capable Chairwoman of Health sort of deal with this in our Health Committee?

LEG. BROWNING:
Well, I guess we could. I don't know. I think --

LEG. CILMI:
We have a Health Committee to deal with health.

LEG. BROWNING:
Yeah, but I still think that, you know, Legislator Cooper's bill is very well intended. I know that, you know, I was supporting the County Executive's only for the fact that there was a couple of positions

that Legislator Cooper felt were necessary. We probably could address it, but I don't think it's a bad idea to bring to the table a committee of people who can work on this, and we certainly need to reach out to the public also.

LEG. COOPER:

Legislator Cilmi, if I may. The purpose of both the County Executive's proposal and my modified proposal is to draw upon the expertise of as many departments as possible, including not just the Department of Health Services and the Medical Examiner but the respective Budget Offices and to do it in an as expeditious fashion as possible. So we're going to certainly receive input from the Chair of the Health Committee, but I think that the commission probably is a better way to go, particularly if we want to get recommendations as quick as possible.

LEG. CILMI:

Through the Chair, if I may? Why couldn't we accomplish the same thing with Kate's leadership in the Health Committee? I'm not sure -- they could certainly have special meetings if they wanted to, they could bring as many, you know, members of the public or members of various other County departments and State departments, etcetera, to the room to discuss the issues, and certainly any budgetary assistance they would need, BRO is absolutely capable of providing. I just don't see the need to create yet another in our very many, you know, very large list of commissions and panels, etcetera, to do something that I think we're perfectly capable of doing here in the Legislature.

P.O. LINDSAY:

If I might.

LEG. COOPER:

Please.

P.O. LINDSAY:

I think if we did it in the Health Committee we would exclude the Executive Branch, and I think it's vital that the Executive Branch have input into how we're going to reduce services to the public.

LEG. CILMI:

Why would it exclude the Executive Branch?

P.O. LINDSAY:

Because the Health Committee is a Legislative body in total.

LEG. CILMI:

But certainly the Health Committee would welcome the input from the Executive Branch, I would think.

P.O. LINDSAY:

But input and decision making is two different things. What this would do is come back with a set of recommendations from this joint commission on how to shrink the size of our health delivery system.

LEG. CILMI:

Well, I mean, you said it yourself, the commission wouldn't be doing the decision making, I would assume it would be -- you know, the decision making would happen in the budgetary process. So --

P.O. LINDSAY:

I'm not going --

LEG. CILMI:

It's just my -- you know, I'll leave it at that.

P.O. LINDSAY:

I'm not going to answer for the sponsor, but we can't wait for the budget. We have to fill the \$20 million hole before the next budget cycle.

LEG. COOPER:

And Legislator Cilmi, my hope and the County Exec's hope, I believe, was that by him having basically an equal number of representatives on the committee, unlike it being a Legislative process inviting his input, I think that there's a greater likelihood that we'll have equal partners. And as Legislator Lindsay said, we really need both branches of government working together proactively as quickly as possible because we have some -- as you're well aware, this is a very, very large and serious budget gap that we're facing.

So anyway, I believe -- I mean, I guess you can make that argument with any other commission that we set up, that we no longer need to set up commissions and I don't believe that that's the case. There's no cost involved with this and this would be a way of our getting, hopefully, some concrete recommendations in a very short period of time, basically in 60 days.

P.O. LINDSAY:

Legislator Nowick.

LEG. NOWICK:

Yeah, I'm reading the legislation. I understand what you're saying about bringing it to the Health Committee, but the Health Committee, first of all, takes on a lot of different issues during the meeting. And if you read this legislation, there's the Chairperson of Budget & Finance, Deputy County Executive for Financial Affairs, Budget Director; each time I hear that, to me that means the money people.

And yeah, we have a lot of commissions. But I have to tell you, Legislator Horsley and I formed a commission about opiate and heroin, and I want to tell you something, that these people come up with great ideas because that's their task. The commission has one task. The Health Committee, as good as it is, has many other tasks and I don't think can put as much into it in such a short period of time.

And again, if you read the legislation, a lot of -- this is a lot of our money minds here, so maybe we'll get an answer in a few months. I'm going to support the legislation.

P.O. LINDSAY:

Legislator Montano and then D'Amaro.

LEG. MONTANO:

Gail, quick question. When does the budget get submitted again, the Operating Budget? When is the recommended budget submitted to us?

MS. VIZZINI:

Right after our Rating Agency presentation, the County Executive's Office will begin working during the summer on the Operating Budget. They present it to us the third week in September.

LEG. MONTANO:

Okay.

P.O. LINDSAY:

But what I'd like to point out is the changes that the State made with Article 6 --

LEG. MONTANO:

Apply now.

P.O. LINDSAY:

We start losing money in '11.

LEG. MONTANO:

Right.

P.O. LINDSAY:

So it can't wait for the next cycle. We have to cut back somewhere in this year.

LEG. MONTANO:

Right. And there's an end date on this resolution, that you're going to have your report by the 15th of June.

P.O. LINDSAY:

Yes.

LEG. MONTANO:

It's not one of these committees where we're going to come back and keep extending the date, extending the date.

P.O. LINDSAY:

No. And as far as -- correct me if I'm wrong, but I think the claw back stuff starts July 1st; is that right, Gail?

MS. VIZZINI:

Well, the -- I think what you're talking about is the potential shortfall in State aid, which it has been somewhat modified, but the claw back is through 2008 and 2009.

P.O. LINDSAY:

Okay, but --

LEG. MONTANO:

But when do they take the money?

MS. VIZZINI:

It will hit the 2011 budget and of course the 2012 budget.

P.O. LINDSAY:

Okay. But is July 1st a certain benchmark? No.

MS. VIZZINI:

I'm not sure what you're referring to.

P.O. LINDSAY:

Okay.

LEG. MONTANO:

Let me ask this, then. What is the status of the -- my understanding was that there was litigation pending on the claw back; am I accurate in that?

MS. VIZZINI:

I believe that the County Executive would be the more appropriate people.

LEG. MONTANO:

Well, Gail's here. Bill, is it all right? Do you know the status of the -- I thought we had filed a lawsuit on that.

MS. LOLIS:

We did file a lawsuit.

LEG. MONTANO:

What's the status of it?

MS. LOLIS:

I would have to call the office to find out exactly where we are.

LEG. MONTANO:

But we don't have any temporary relief or any injunctive relief at this point?

MS. LOLIS:

No, no.

LEG. MONTANO:

It's just been filed and they've answered?

MS. LOLIS:

It's been filed.

LEG. MONTANO:

Okay. All right, thank you.

LEG. NOWICK:

Let's vote.

LEG. MONTANO:

Let's vote.

P.O. LINDSAY:

Legislator Kennedy.

LEG. KENNEDY:

That was my question, Mr. Chair, about the litigation, and we don't have anything at this point that advises us where it's at, so.

P.O. LINDSAY:

Okay.

LEG. KENNEDY:

Let's vote.

LEG. D'AMARO:

Bill?

P.O. LINDSAY:

Okay. Legislator D'Amaro.

LEG. D'AMARO:

Yeah, just very quickly. Just to Legislator Cilmi, I think there's a difference between the committee and the commission. The commission, if you're a member of the commission, you're charged with a responsibility, you come up with solutions, as opposed to showing up at a committee meeting, offering some advice and leaving. So I favor the committee.

My concern is about 2011, this year. Legislator Cooper mentions that June 15th will be the report date; I hope that there's no delay in that because it's urgent that we get this done, even for the budget cycle going into 2012. But I believe that July 1 is a benchmark, because I think that's when the Executive proposes to defund some of the health centers, and for me that's a very important date.

And I just want to stress that even though we may have this commission working diligently and coming up with solutions, I think this is more about 2011. There's going to have to be also -- we're going to have to take some time to address what's happening in 2011 in this budget with these health centers, and I have some legislation that's coming up in the next cycle that's going to do just that.

So I'm going to support the commission, I think that's good for going forward to get some suggestions. Hopefully we can use that when we formulate the 2012 Operating Budget. But for this year, I think it's a different beast and I think we have to deal with that rather quickly.

P.O. LINDSAY:

Okay. We have a motion and a second to approve; am I correct?

MR. LAUBE:

You are correct.

P.O. LINDSAY:

All right. Let's see if we -- all in favor? Opposed? Abstentions?

LEG. BARRAGA:

Opposed.

MR. LAUBE:

Seventeen (Opposed: Legislator Barraga).

D.P.O. VILORIA-FISHER:

Can I make that motion, Mr. Chair?

P.O. LINDSAY:

Go ahead.

D.P.O. VILORIA-FISHER:

Mr. Chair, I'd like to make a motion to take some of the vetoes out of order so that the people from the college can -- or don't have to come back.

P.O. LINDSAY:

We have 15 minutes and I will try to get through as many of them as we can, how is that. I'll second that motion to take the vetoes out of order. All in favor? Opposed? Abstentions?

MR. LAUBE:

Eighteen.

P.O. LINDSAY:

Okay, the vetoes are before us, as many as we can get done.

The first one on the pile is *Resolution 70-2011 - Amending the 2011 Operating Budget to support Cornell Cooperative Extension's Diabetes Prevention Program and Integrated Pest Management Program (Romaine)*.

LEG. ROMAINE:

I make a motion to override that veto.

LEG. KENNEDY:

Second.

P.O. LINDSAY:

Motion by Legislator Romaine, seconded by Legislator Kennedy to override. Is there any discussion?

LEG. MONTANO:

Yeah, on the motion.

P.O. LINDSAY:

On the motion, Legislator Montano.

LEG. MONTANO:

Right. I won't delay it, but we had debated this bill extensively. This is not Omnibus money, this is additional money for the district. And while it's a worthy cause, I did indicate that if this bill were to pass, there are other programs throughout Suffolk County that were cut in the budget process. And I have been asked by Adelante and other organizations who have received cuts to introduce resolutions to restore their money. I had told them that I would not do so unless this bill passed because I didn't think it was fair. We all got appropriations in the budget process, this was a long, drawn-out process and this alters the budget and disrupts the funding that we had passed in the budget. So if it passes, fine. But if it does pass, I'm going to be introducing resolutions, particularly one today I'll lay on the table, to refund, I think it's \$39,000? \$37,000 for Adelante.

I don't think it's fair that we go through a budget process, we all get hit in our districts, it's a tough time out here right now. Programs, worthy programs just as worthy as this one, were defunded and then we come back to the table and start messing with the operating budget again and pulling out money for particular items in particular districts. So with that, I'm going to continue to vote as I did previously and I just want to put that statement on the record.

P.O. LINDSAY:

Anybody else? Okay, roll call. Motion to override and a second; we have that already.

D.P.O. VILORIA-FISHER:

Yes.

MR. LAUBE:
That is correct.

P.O. LINDSAY:
Go ahead.

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

LEG. ROMAINE:
Yes.

LEG. KENNEDY:
Yes.

LEG. COOPER:
No.

LEG. D'AMARO:
No to override.

LEG. STERN:
No.

LEG. GREGORY:
Yes.

LEG. HORSLEY:
Yes.

LEG. NOWICK:
Yes.

LEG. BARRAGA:
No.

LEG. CILMI:
Yes.

LEG. MONTANO:
No.

LEG. EDDINGTON:
Yes.

LEG. ANKER:
Yes.

LEG. MURATORE:
Yes.

LEG. BROWNING:
Yes.

LEG. SCHNEIDERMAN:

Yes.

D.P.O. VILORIA-FISHER:

Yes.

P.O. LINDSAY:

No.

MR. LAUBE:

Twelve.

LEG. MONTANO:

You can file the resolution, Gail.

MS. VIZZINI:

If I can find an appropriate offset.

LEG. MONTANO:

I'm sure you will. I have confidence in you.

MS. VIZZINI:

We'll talk about that during the lunch break.

P.O. LINDSAY:

Okay, *Resolution 198 of 2011- Appropriating funds in connection with the Health and Sports Facility - Eastern Campus (CP 2120) (Presiding Officer Lindsay)*. I'll make a --

LEG. SCHNEIDERMAN:

Motion to override.

P.O. LINDSAY:

Motion to override by Legislator Schneiderman.

LEG. ROMAINE:

Second.

P.O. LINDSAY:

Second by Legislator Romaine. Any discussion?

LEG. D'AMARO:

I'm sorry, Mr. Presiding Officer. What veto override? I apologize.

P.O. LINDSAY:

It's resolution 198-2011, the funds in connection with the Health and Sports Facility, it's a half million dollars for planning. This is a project that enjoys State funding, half the value of it. We have a motion and a second. Roll call.

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

LEG. SCHNEIDERMAN:

Yes.

LEG. ROMAINE:

Yes.

LEG. COOPER:

Yes.

LEG. D'AMARO:

Yes.

LEG. STERN:

Yes.

LEG. GREGORY:

Yes.

LEG. HORSLEY:

Yes.

LEG. NOWICK:

Yes.

LEG. KENNEDY:

Yes.

LEG. BARRAGA:

No.

LEG. CILMI:

Yes.

LEG. MONTANO:

Yes.

LEG. EDDINGTON:

Yes.

LEG. ANKER:

Yes.

LEG. MURATORE:

Yes.

LEG. BROWNING:

Yes.

D.P.O. VILORIA-FISHER:

Yes.

P.O. LINDSAY:

Yes.

MR. LAUBE:

Seventeen (Opposed: Legislator Barraga).

P.O. LINDSAY:

Okay, the next one is misnumbered; it's listed as 198 of 2011, it should be ***199-2011 - Bond Resolution of the County of Suffolk, New York, authorizing the issuance of \$500,000 bonds to finance a part of the cost of the planning for the Health and Sports Facility at Suffolk County Community College – Eastern Campus (CP 2120.110).***

MR. NOLAN:

Same project, different Bond.

P.O. LINDSAY:

It's the same project but it's the accompanying Bond.

MR. NOLAN:

So you need a motion to override.

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. Roll call.

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

P.O. LINDSAY:

Yes.

D.P.O. VILORIA-FISHER:

Yes.

LEG. COOPER:

Yes.

LEG. D'AMARO:

Yes.

LEG. STERN:

Yes.

LEG. GREGORY:

Yes.

LEG. HORSLEY:

Yes.

LEG. NOWICK:

Yes.

LEG. KENNEDY:

Yes.

LEG. BARRAGA:

No.

LEG. CILMI:

Yes.

LEG. MONTANO:

Yes.

LEG. EDDINGTON:

Yes.

LEG. ANKER:

Yes.

LEG. MURATORE:

Yes.

LEG. BROWNING:

Yes.

LEG. SCHNEIDERMAN:

Yes.

LEG. ROMAINE:

Yes.

MR. LAUBE:

Seventeen (Opposed: Legislator Barraga).

P.O. LINDSAY:

Okay, the next one is *200 of 2011-11 - Appropriating funds in connection with the installation of cooling systems (CP 2138)*.

D.P.O. VILORIA-FISHER:

Muratore wants to make the motion.

P.O. LINDSAY:

Motion by Legislator Muratore; to override, right?

LEG. MURATORE:

(Nodded head yes).

LEG. BROWNING:

Second.

P.O. LINDSAY:

Second by Legislator Browning.

D.P.O. VILORIA-FISHER:

No, that was Anker, wasn't it? Was it Browning? It was Anker.

P.O. LINDSAY:

I didn't see her hand, I saw Browning's.

D.P.O. VILORIA-FISHER:

Oh, I'm sorry. Okay.

P.O. LINDSAY:

Okay, roll call.

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

LEG. MURATORE:

Yes.

LEG. BROWNING:

Yes.

LEG. COOPER:

Yes.

LEG. D'AMARO:

Yes.

LEG. STERN:

Yes.

LEG. GREGORY:

Yes.

LEG. HORSLEY:

Yes.

LEG. NOWICK:

Yes.

LEG. KENNEDY:

Yes.

LEG. BARRAGA:

No.

LEG. CILMI:

Yes.

LEG. MONTANO:

Yes.

LEG. EDDINGTON:

Yes.

LEG. ANKER:

Yes.

LEG. SCHNEIDERMAN:

Yes.

LEG. ROMAINE:

Yes.

D.P.O. VILORIA-FISHER:

Yes.

P.O. LINDSAY:

Yes.

MR. LAUBE:

Seventeen (Opposed: Legislator Barraga).

P.O. LINDSAY:

Next is resolution -- it should be *201 of 2011 (Bond Resolution of the County of Suffolk, New York, authorizing the issuance of \$3,500,000 bonds to finance a part of the cost of the installation of cooling systems at Suffolk County Community College—College wide (CP 2138.310)*. This is the Bond, is that right?

MR. NOLAN:

Correct.

D.P.O. VILORIA-FISHER:

Same motion, same second.

P.O. LINDSAY:

Same motion, same second okay with you folks?

LEG. BROWNING:

Sure.

P.O. LINDSAY:

Roll call.

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

LEG. MURATORE:

Yes.

LEG. BROWNING:

Yes.

LEG. COOPER:

Yes.

LEG. D'AMARO:

Yes.

LEG. STERN:

Yes.

LEG. GREGORY:

Yes.

LEG. HORSLEY:

Yes.

LEG. NOWICK:

Yes.

LEG. KENNEDY:

Yes.

LEG. BARRAGA:

No.

LEG. CILMI:

Yes.

LEG. MONTANO:

Yes.

LEG. EDDINGTON:

Yes.

LEG. ANKER:

Yes.

LEG. SCHNEIDERMAN:

Yes.

LEG. ROMAINE:

Yes.

D.P.O. VILORIA-FISHER:

Yes.

P.O. LINDSAY:

Yes.

MR. LAUBE:

Seventeen (Opposed: Legislator Barraga).

P.O. LINDSAY:

Okay, *Resolution 202-11 - Appropriating funds in connection with the partial renovation of the Peconic building (CP 2181)* (Presiding Officer Lindsay).

LEG. SCHNEIDERMAN:

Motion.

P.O. LINDSAY:

Motion by Legislator Schneiderman, second by Legislator Muratore.
To override; am I correct?

LEG. MURATORE:

(Nodded head yes).

P.O. LINDSAY:

Okay, roll call.

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

LEG. SCHNEIDERMAN:

Yes.

LEG. MURATORE:

Yes.

LEG. COOPER:

Yes.

LEG. D'AMARO:

Yes.

LEG. STERN:

Yes.

LEG. GREGORY:

Yes.

LEG. HORSLEY:

Yes.

LEG. NOWICK:

Yes.

LEG. KENNEDY:

Yes.

LEG. BARRAGA:

No.

LEG. CILMI:

Yes.

LEG. MONTANO:

Yes.

LEG. EDDINGTON:

Yes.

LEG. ANKER:

Yes.

LEG. BROWNING:

Yes.

LEG. ROMAINE:

Yes.

D.P.O. VILORIA-FISHER:

Yes.

P.O. LINDSAY:

Yes.

MR. LAUBE:

Seventeen (Opposed: Legislator Barraga).

P.O. LINDSAY:

And the next one is 203-11, it's No. **202**, it's mistaken, *Bond Resolution of the County of Suffolk, New York, authorizing the issuance of \$655,000 bonds to finance a part of the cost of the partial renovation of the Peconic Building at Suffolk County Community College (CP 2181.310 and .510)*, this is the Bond. Same motion, same second. Roll call.

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

LEG. SCHNEIDERMAN:

Yes.

LEG. MURATORE:

Yes.

LEG. COOPER:

Yes.

LEG. D'AMARO:

Yes.

LEG. STERN:

Yes.

LEG. GREGORY:

Yes.

LEG. HORSLEY:

Yes.

LEG. NOWICK:

Yes.

LEG. KENNEDY:

Yes.

LEG. BARRAGA:

No.

LEG. CILMI:

Yes.

LEG. MONTANO:

Yes.

LEG. EDDINGTON:

Yes.

LEG. ANKER:

Yes.

LEG. BROWNING:

Yes.

LEG. ROMAINE:

Yes.

D.P.O. VILORIA-FISHER:

Yes.

P.O. LINDSAY:

Yes.

MR. LAUBE:

Seventeen (Opposed: Legislator Barraga).

P.O. LINDSAY:

Next one is *Resolution 218-2011 - Appropriating funds in connection with waterproofing, roof and drainage at the Suffolk County Vanderbilt Museum (CP 7439) (Cooper).*

MS. VIZZINI:

Mr. Presiding Officer?

P.O. LINDSAY:

Yes?

MS. VIZZINI:

These are returned "unsigned" which is different than vetoed.

D.P.O. VILORIA-FISHER:

Oh, it's a pocket veto?

MS. VIZZINI:

It's a pocket approval.

P.O. LINDSAY:

Approval.

D.P.O. VILORIA-FISHER:

Approval rather.

P.O. LINDSAY:

Okay, so it wasn't vetoed.

D.P.O. VILORIA-FISHER:

Mine says "vetoed".

LEG. MONTANO:

It says "vetoed" on it.

LEG. KENNEDY:

Yeah, these say "vetoed".

D.P.O. VILORIA-FISHER:

It's stamped "vetoed".

MS. VIZZINI:

The cover letter says "unsigned", so make up your mind.

D.P.O. VILORIA-FISHER:

Oh, it does say "unsigned", you're right.

LEG. D'AMARO:

Well, it can't hurt to vote.

D.P.O. VILORIA-FISHER:

It does say "unsigned".

P.O. LINDSAY:

Okay, what do you want to do?

LEG. ROMAINE:

Override it anyway.

*(*Laughter*)*

LEG. D'AMARO:

I don't think the cover letter is binding, though. If it says "vetoed", I don't think the cover letter would be binding. If you veto the bill, it's probably -- George, I'll defer to you.

LEG. MONTANO:

He didn't sign it.

P.O. LINDSAY:

How about if we skip over it and get clarification over the lunch break, all right?

LEG. MONTANO:

Yeah, that's fine with me.

LEG. NOWICK:

Are they all that way?

P.O. LINDSAY:

And that would apply, too, to the Bond on that project as well, so we'll skip over that.

D.P.O. VILORIA-FISHER:

The next one is vetoed.

LEG. MONTANO:

What does it say on the unsigned, Gail?

MS. VIZZINI:

The first sentence of the two cover letters for the Vanderbilt, "I am returning herein," yada yada, "unsigned".

P.O. LINDSAY:

Okay, but the next one, 277-2011, appropriating funds in connection with the rewiring of historic buildings at Suffolk County Vanderbilt Museum clearly says it's vetoed in its entirety.

D.P.O. VILORIA-FISHER:

Right.

P.O. LINDSAY:

So we have --

D.P.O. VILORIA-FISHER:

Jon, are you making a motion?

LEG. COOPER:

Motion to override, please.

P.O. LINDSAY:

Okay.

LEG. MONTANO:

Which one are we doing now?

D.P.O. VILORIA-FISHER:

277.

P.O. LINDSAY:

277-2011 - Appropriating funds in connection with rewiring of Historic Buildings at Suffolk County Vanderbilt Museum (CP 7445) (Cooper).

D.P.O. VILORIA-FISHER:

Second.

P.O. LINDSAY:

We have a motion to override by Legislator Cooper and seconded by Legislator Viloría-Fisher. It's for \$50,000 to replace some faulty wiring.

D.P.O. VILORIA-FISHER:

And it's a safety issue.

LEG. MONTANO:

Okay, I got it.

P.O. LINDSAY:

All right?

LEG. MONTANO:

These we're holding.

P.O. LINDSAY:

So we have a motion and a second. Roll call.

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

LEG. COOPER:

Yes to override.

D.P.O. VILORIA-FISHER:

Yes.

LEG. D'AMARO:

Yes.

LEG. STERN:

Yes.

LEG. GREGORY:

Yes.

LEG. HORSLEY:

Yes.

LEG. NOWICK:

Yes.

LEG. KENNEDY:

Yes.

LEG. BARRAGA:

No.

LEG. CILMI:

Yes.

LEG. MONTANO:

No.

LEG. EDDINGTON:

No.

LEG. ANKER:

Yes.

LEG. MURATORE:

Yes.

LEG. BROWNING:

Yes.

LEG. SCHNEIDERMAN:

Yes.

LEG. ROMAINE:

Yes.

P.O. LINDSAY:

Yes.

MR. LAUBE:

Fifteen (Opposed: Legislators Barraga, Montano & Eddington).

LEG. D'AMARO:

Bill? Just on that unsigned letter, if you read the rest of the letter, it's clear that it's a veto.

P.O. LINDSAY:

Okay.

LEG. D'AMARO:

If you want to just do it. I think it's pretty clear.

P.O. LINDSAY:

Okay. Let me just finish the Bond on 277, and if it's the wish we'll go back to it, okay? It's resolution marked 277 of '11, it should be ***278-11 - Bond Resolution of the County of Suffolk, New York, authorizing the issuance of \$50,000 bonds to finance the cost of rewiring of historic buildings at the Suffolk County Vanderbilt Museum (CP 7445.313)***. Same motion, same second. Roll call.

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

LEG. COOPER:

Yes to override.

D.P.O. VILORIA-FISHER:

Yes.

LEG. D'AMARO:

Yes.

LEG. STERN:

Yes.

LEG. GREGORY:

Yes.

LEG. HORSLEY:

Yes.

LEG. NOWICK:

Yes.

LEG. KENNEDY:

Yes.

LEG. BARRAGA:

No.

LEG. CILMI:

Yes.

LEG. MONTANO:

No.

LEG. EDDINGTON:

No.

LEG. ANKER:

Yes.

LEG. MURATORE:

Yes.

LEG. BROWNING:

Yes.

LEG. SCHNEIDERMAN:

Yes.

LEG. ROMAINE:

Yes.

P.O. LINDSAY:

Yes.

MR. LAUBE:

Fifteen (Opposed: Legislators Barraga, Montano & Eddington).

P.O. LINDSAY:

Okay. And Legislator D'Amaro, we just had a brief discussion with representatives of the Executive and it was meant to be vetoed, so we'll go back to 218 of 2011.

Resolution 218-2011 - Appropriating funds in connection with waterproofing, roof and drainage at the Suffolk County Vanderbilt Museum (CP 7439) (Cooper). Do I have a motion?

LEG. NOWICK:

Motion.

P.O. LINDSAY:

Motion by Legislator Nowick to override. Second by Legislator Stern. Roll call.

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

LEG. NOWICK:

Yes.

LEG. STERN:

Yes.

LEG. COOPER:

Yes.

LEG. D'AMARO:

Yes.

LEG. GREGORY:

Yes.

LEG. HORSLEY:

Yes.

LEG. KENNEDY:

Yes.

LEG. BARRAGA:

No.

LEG. CILMI:

Yes.

LEG. MONTANO:

No.

LEG. EDDINGTON:

No.

LEG. ANKER:

Yes.

LEG. MURATORE:

Yes.

LEG. BROWNING:

Yes.

LEG. SCHNEIDERMAN:

Yes.

LEG. ROMAINE:

Yes.

D.P.O. VILORIA-FISHER:

Yes.

P.O. LINDSAY:

Yes.

MR. LAUBE:

Fifteen (Opposed: Legislators Barraga, Montano & Eddington).

P.O. LINDSAY:

Okay.

MR. NOLAN:

And 219, there's a Bond on that one.

D.P.O. VILORIA-FISHER:

There's one more?

P.O. LINDSAY:

Didn't I do the Bond?

MR. LAUBE:

No, you have one left.

D.P.O. VILORIA-FISHER:

Oh, the Bond, 219, right.

MR. NOLAN:

219; you're going to do it now.

P.O. LINDSAY:

Oh, okay. The resolution that's marked 218, it should be ***219-11 - Bond Resolution of the County of Suffolk, New York, authorizing the issuance of \$100,000 bonds to finance the cost of waterproofing, roof and drainage improvements at the Suffolk County Vanderbilt Museum***

(CP 7439.312). The accompanying Bond on that same drainage.

Same motion, same

second; how's that? Roll call.

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

LEG. NOWICK:

Yes.

LEG. STERN:

Yes.

LEG. COOPER:

Yes.

LEG. D'AMARO:

Yes.

LEG. GREGORY:

Yes.

LEG. HORSLEY:

Yes.

LEG. KENNEDY:

Yes.

LEG. BARRAGA:

No.

LEG. CILMI:

Yes.

LEG. MONTANO:

No.

LEG. EDDINGTON:

No.

LEG. ANKER:

Yes.

LEG. MURATORE:

Yes.

LEG. BROWNING:

Yes.

LEG. SCHNEIDERMAN:

Yes.

LEG. ROMAINE:

Yes.

D.P.O. VILORIA-FISHER:

Yes.

P.O. LINDSAY:

Yes.

MR. LAUBE:

Fifteen (Opposed: Legislators Barraga, Montano & Eddington).

P.O. LINDSAY:

Okay. We stand adjourned until 2:30. Recessed till 2:30, excuse me.

*(*The meeting was recessed at 12:31 P.M. & resumed at 2:39 P.M. *)*

MR. LAUBE:

Roll call?

P.O. LINDSAY:
Roll call, please.

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

LEG. ROMAINE:
Present.

LEG. SCHNEIDERMAN:
Here.

LEG. BROWNING:
Here.

LEG. MURATORE:
Here.

LEG. ANKER:
Here.

LEG. EDDINGTON:
Here.

LEG. MONTANO:
Here.

LEG. CILMI:
Here.

LEG. BARRAGA:
Here.

LEG. KENNEDY:
Yes.

LEG. NOWICK:
Here.

LEG. HORSLEY:
Here.

LEG. GREGORY:
Here.

LEG. STERN:
Here.

LEG. D'AMARO:
Here.

LEG. COOPER:

Here.

D.P.O. VILORIA-FISHER:

Here.

P.O. LINDSAY:

Here.

MR. LAUBE:

Eighteen.

P.O. LINDSAY:

Okay, we have public hearings. First of all, I apologize for being a few minutes late.

The first *Public Hearing is on the 2012-2014 Capital Budget*. It doesn't appear that I have any cards. Is there anyone in the audience that would like to speak to us about the Capital Budget? Seeing none, we have to keep that open for further comments, so.

LEG. ROMAINE:

Motion to recess.

P.O. LINDSAY:

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

MR. LAUBE:

Eighteen.

P.O. LINDSAY:

Public Hearing on IR 2045-10 - Adopting Local Law No. -2010, A Charter Law to limit campaign donations by members of the Ethics Commission (Cooper). I don't have any cards on that subject. Is there anyone in the audience that would like to speak to us on that subject? Seeing none, Legislator Cooper?

LEG. COOPER:

Motion to recess, please.

P.O. LINDSAY:

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

MR. LAUBE:

Eighteen.

P.O. LINDSAY:

Public Hearing on IR 2107-10 - Adopting Local Law No. -2010, A Charter Law strengthening the budget adoption process (County Executive). I don't have anybody in the audience -- I have no cards. Anyone in the audience who would like to speak on that? Seeing none --

LEG. ROMAINE:

Motion to recess.

P.O. LINDSAY:

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

MR. LAUBE:

Eighteen.

P.O. LINDSAY:

Public Hearing on IR 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 close.

P.O. LINDSAY:

I have no cards on the subject. Anyone want to speak on it?

Seeing none, we have a motion to --

LEG. COOPER:

To close, please.

P.O. LINDSAY:

To close. Seconded by Legislator Vilorio-Fisher. All in favor? Opposed? Abstentions?

MR. LAUBE:

Eighteen.

P.O. LINDSAY:

It stands closed.

Public Hearing on IR 1124-11 - Adopting Local Law No. -2011, A Local Law to change the formula for distribution of funds and fees generated from the seizure and forfeiture of vehicles (Schneiderman). I have no cards on this subject. Anyone in the audience want to speak to us on that subject? Seeing none, Legislator Schneiderman?

LEG. SCHNEIDERMAN:

I'm going to recess.

P.O. LINDSAY:

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

MR. LAUBE:

Eighteen.

P.O. LINDSAY:

Public Hearing on IR 1162 - A Local Law to ban the sale and use of coal tar sealers in Suffolk County (Presiding Officer), and I have a number of cards. First up is Anne LeHoray. Ms. LeHoray, I hope I pronounced your name correctly.

MS. LEHORAY:

Close enough.

P.O. LINDSAY:

You have five minutes.

MS. LEHORAY:

Thank you. I have some handouts that are being distributed right now. Given that it's only five minutes, I thought that I would limit myself to just asking whether there is, in fact, a problem to be addressed in Suffolk County.

My name is Ann LeHoray. I have a PhD. in Geochemistry and I also -- sponsored, by the way, by the U.S. Geological Survey, and I also am the Executive Director of the Pavement Coatings Treatment Council which is a trade association representing manufacturers of pavement sealers of both of the types that have been discussed is my understanding. I don't have a great understanding of what you all have been doing, but both the tar-based and the asphalt-based sealers.

So I would like to urge the Legislature to ask four questions. First, is there a PAH problem in Suffolk County water bodies? Second, are government resources adequate to address actual problems that have been identified in Suffolk County water bodies? What about the future? Are PAH's actually likely to become priorities, as determined by environmental bodies, public health bodies in the future? And fourth, are the refined tar-based sealers the source of PAH's that you might have in the water bodies?

And my conclusion, which you'll see from the data that is presented in the handout, is that the only impact of a ban in Suffolk County would be to harm small businesses, dozens of them in this County -- I just heard the number of 40, there's probably more -- lose jobs and reduce tax revenues.

So let's look at the first question; is there a PAH problem? The U.S. Clean Water Act requires states and localities to identify what are called impaired water bodies and to identify what the source of that impairment is. The impairment means the water bodies that are too polluted or otherwise degraded to meet the water quality standards set within those communities themselves. Suffolk County is -- almost all of Suffolk County is in a unit called the Southern Long Island Watershed, all the water bodies that are in there. So in the most recent EPA report, which you have copies of in your handouts, there were 85 listed impaired water bodies in the Southern Long Island Watershed; 77 of those have not yet had any documents submitted about how these impairments are going to be addressed.

The number of those impairments that are due to PAH's, Polycyclic Aromatic Hydrocarbons, which is, I understand, the issue that is being -- thought to be addressed with this proposed ban, is zero. So that suggests that, in fact, there is no problem in Suffolk County to be addressed, or in Southern Long Island overall.

So then the second question is are the government resources actually sufficient to address the problems that have been identified in Suffolk County water bodies? If we go back to that same EPA report, to the 2010 report, they approve nationwide over 1,200 of these what are called TMDL documents, which is the proposals put forward by all the different communities in the nation to address the causes of impairment. The total number in 2010 for New York State was five, the total of those five for New York State that came from Long Island, Suffolk County or otherwise, was zero. So that means that it appears as though there are still 77 of these impaired water bodies to be addressed, none of which have anything to do with the Polycyclic Aromatic Hydrocarbons from which I conclude that the government resources that you have seem to be inadequate to address the problems that, in fact, have been identified in Long Island.

Well, what about the future? You know, EPA and other government bodies are always looking to see whether there's problems that have yet to be addressed. So are PAH's likely to become a priority? In your package you have a list of three prioritization exercises that have been undertaken on the basis of both public health and environmental impacts by USEPA at the national level, by the State

of Minnesota in a law in 2010 and by something called the Binational Toxics Program, which is a Great Lakes Program jointly run by the U.S. and Canada. You'll notice that in none of those three lists is there a single PAH listed, so it's not likely to become a priority.

Further, the fourth question, what does the science say? We understand that you have heard from the USGS folks in a private fact-finding session. PCTC would like to have an opportunity to bring in scientists who have also been looking at this problem who may, in fact, have more information that you would find of interest on the issue of whether tar-based sealants are, in fact, the cause of PAH's.

So, with that said, I'll be glad to take any questions and just would again conclude that the only impact of a ban would be to harm small businesses, lose jobs and reduce tax revenues to Suffolk County.

So thank you very much for your time.

P.O. LINDSAY:

The one question I have for you is when would you propose to bring in your scientists?

MS. LEHORAY:

We could do that at your convenience, assuming that we can get --

P.O. LINDSAY:

No, no. You know, I'll -- if you'll have them at our next meeting, I'll recess this hearing until then.

MS. LEHORAY:

Well, I can see what their schedules are.

P.O. LINDSAY:

Okay.

MS. LEHORAY:

Okay? So should I get in touch with your office?

P.O. LINDSAY:

Well --

LEG. HORSLEY:

Bill?

P.O. LINDSAY:

Our next meeting is May 10th.

MS. LEHORAY:

I'd have to look at the schedules, that's -- you know, I can't speak for other people's schedules.

P.O. LINDSAY:

Okay. If I have some assurance that they'll be here, I'll recess the hearing.

MS. LEHORAY:

Well, I will do my very best to try to have them here, but I can't guarantee --

P.O. LINDSAY:

Okay.

MS. LEHORAY:

-- because I don't have command of their schedules.

P.O. LINDSAY:

Legislator Horsley.

LEG. HORSLEY:

Yes, hi. Good afternoon, Doctor. I do have a question, because I have been working with the issue of manufactured gas plants --

MS. LEHORAY:

Yes, sir.

LEG. HORSLEY:

-- in Suffolk County, Nassau County, for the last several years. Which, as you probably know being a geologist, that the byproduct of a manufactured gas plant is coal tar.

MS. LEHORAY:

Right.

LEG. HORSLEY:

Which includes all the cancer producing elements that we all like to talk about, arsenic and benzene and the whole gamut of these chemicals that are in our waterways. So when you're telling me that we don't have a PAH problem on Long Island and in our waterways, that's not true, and I would refute that. Because there are these manufactured gas plants that are somewhere around, I believe, 14 in Suffolk and we're going -- County, between the two counties like 69; that may include Queens, I don't remember the exact numbers. But there are major pollutant problems on Long Island because the PAH's, the coal burning thing.

Now, the relationship between one type of coal tar and your type of coal tar which involves sealants, are they the same? They sound to me like they're the same chemicals. They sound like -- and they are proven carcinogens. I question your facts.

MS. LEHORAY:

Okay. Well, first of all, thank you for the question. Manufactured gas plants are the byproduct, remediation sites from when, in fact, people in the former days manufactured gas for municipal lighting.

LEG. HORSLEY:

Right.

MS. LEHORAY:

And that is extraordinarily different than the refined tar --

LEG. HORSLEY:

Sounds like the same chemicals, though.

MS. LEHORAY:

Well, PAH's, Polycyclic Aromatic Hydrocarbons, are in every organic chemical, they're in petroleum products, they're in coal products. When you barbecue in the backyard, when you smoke a cigarette, that's a direct PAH delivery device. When you smoke a marijuana cigarette it's the same thing. When you have a wood-burning stove, they all produce PAH's; the PAH's are present in all of

them.

So what I was talking about here for the PAH problem, I agree that the MGP sites have PAH problems, that's their essential problem. But these are the impaired waterways defined and identified under the Clean Water Act. So this is not my data that you're looking at in that package, that comes from the EPA report. The most recent one for nationwide is 2008. The most recent one for what was approved in a given year was for Fiscal Year 2010. So although we're talking about the same chemicals -- and just one other fact that I'd like to correct with you is that in the United States, there are no PAH's which are known human carcinogens. There are several, but not all, that are identified and classified as possible or probable human carcinogens, but none of them are known human carcinogens.

LEG. HORSLEY:

Benzene?

MS. LEHORAY:

Benzene is not a PHA.

LEG. HORSLEY:

That's right, it's not a PAH. All right, but the coal tar itself would have those chemicals that are carcinogenic, whether or not they're PAH's or not. But they do get into the waterways and they do get into the drinking waters if there was a pathway to our aquifer.

MS. LEHORAY:

Possibly. But according to the -- you know, I didn't prepare these what are called the Section 303-D Reports, those are prepared by the local communities and submitted by each individual state to the National EPA who keeps them all under account. And so that is based on the information that Suffolk County, Nassau County, New York City that they all collect and presumably send to Albany.

LEG. HORSLEY:

Okay. Well, I'm just going to make the statement as clear as possible, that the remnants of coal tar are carcinogenic. And if this is the same materials, which it appears to be the same chemical breakdowns, that this could be a very dangerous pollutant for our waterways, and I just wanted to bring that up. And it seems to me that there are -- what you're telling me sounds different from what I've been dealing with for the last two years.

MS. LEHORAY:

Well, you know, by the way, if you use dandruff shampoo or if you have eczema or psoriasis, you use coal-tar soap; all of those treatments that you put directly on your skin are approved for use by the FDA. They also -- their essential ingredient is PAH's, as is in used motor oil, there's lots and lots of --

LEG. HORSLEY:

Nothing like a good arsenic on your skin, huh, to make you feel good?

MS. LEHORAY:

Well, arsenic, we're not talking about arsenic.

LEG. HORSLEY:

I know, but that's one of the -- that's part of the chemical compounds that are in coal-tar.

MS. LEHORAY:

No, arsenic is not in -- it's not in the sealer type of coal-tar, I don't know if it's in the MGP's or not.

LEG. HORSLEY:

I can't argue the other way.

MS. LEHORAY:

Okay.

LEG. HORSLEY:

Okay. Thank you.

MS. LEHORAY:

So thank you for your attention. Any other --

P.O. LINDSAY:

No, wait a minute, there's a number of questions. Legislator Barraga.

LEG. BARRAGA:

Yeah, I just want to follow up on Legislator Horsley's comments to make sure that there's no misunderstanding. That even though your documentation indicates no PAH problem has been identified in Suffolk County, PAH does exist in those MGP facilities. I mean, we've got 24 of those facilities in Nassau and Suffolk County, I've got probably the largest one on the Island, if not the State, in my district. And you know, you're dealing with known carcinogens, then questionable carcinogens. I mean, you've got B-Tex, for example, benzene, toluene, azobenzene, xylene, and you've got PAH. And it's very difficult to convince homeowners who live above a plume like that, in this case four plumes, that those are not carcinogenic. I guess the bottom line is to make sure we understand that we do have a PAH problem here on Long Island, mainly I know in the MGP facilities. Thank you.

MS. LEHORAY:

And I appreciate that clarification. Thank you.

P.O. LINDSAY:

Legislator Montano.

LEG. MONTANO:

I just had a quick question. In the WHEREAS clause, it says that these products have -- are not being sold by Lowe's and Home Depot nationwide. Were you aware of that, or is that accurate?

MS. LEHORAY:

I do not believe that that's accurate. However, I do not have information directly from Lowe's and Home Depot. I can only give you anecdotal information that myself or people that I know in different parts of the country, when they go into home improvement stores, often find that it is available.

LEG. MONTANO:

Okay.

MS. LEHORAY:

So it may be that in local communities it's not available; I'm just not sure.

LEG. MONTANO:

Well, that was my second question, because if it's not available -- let's assume that it's not available here locally at Home Depots and Lowe's, you mentioned earlier that businesses would be affected. So where is this product purchased, then? Who are the businesses that you're referring to, or what are the businesses that you're referring to?

MS. LEHORAY:

Well, we have at least one manufacturer located here in Suffolk County who is a member of the PCTC. We also have several other manufacturers who are located in --

LEG. MONTANO:

So he manufactures it and sends it to local stores for resale.

MS. LEHORAY:

And then there are the --

LEG. MONTANO:

Or for sale.

MS. LEHORAY:

-- applicators. Like, you know, you see pavement crews out, you know, doing pavement, and I understand that there's more than 40 of those in Suffolk County.

LEG. MONTANO:

Well, I guess my point is that if, in fact, it's been banned, if that statement is accurate, couldn't these -- aside from the manufacturer, I know that obviously he would be impacted if he doesn't have a market to sell his product. But if his product is dangerous, and I'm not concerned about that, but with respect to those other entities that you mentioned, wouldn't they simply be able, or are they able to simply use another product that doesn't contain the same kind of dangers that we're talking about in this product, assuming that the dangers are accurately portrayed.

MS. LEHORAY:

The alternative product that everybody has talked about is the asphalt-based as opposed to the tar-based sealers, and the asphalt-based sealer is a petroleum-based product. Petroleum products, including the asphalt-based sealers, also contain these Polycyclic Aromatic Hydrocarbons, in addition to a variety of other chemicals. They contain a lesser quantity, but they nevertheless do contain them; if that answers your question.

LEG. MONTANO:

I'm not sure it does. Are you saying that because they contain less quantity they're safer?

MS. LEHORAY:

No, I'm not saying that at all. I'm saying that that's what some folks who have been proponents of the ban are saying, but that's not what we would say.

LEG. MONTANO:

Okay. All right, thank you very much.

MS. LEHORAY:

Okay. Thank you.

P.O. LINDSAY:

Legislator Anker.

LEG. ANKER:

Hi.

MS. LEHORAY:

Hi.

LEG. ANKER:

Thank you for coming here and speaking. My big concern is the fact that they are -- they're a carcinogen. There's been -- there's no doubt in my mind that these chemicals cause cancer. We have one of the highest cancer rates, particularly breast cancer rates, in New York State, in the country. If we as a body of Legislators can do something that's attainable and manageable to reduce our exposure to carcinogens, I think we should go forward to do that.

Now, again, the Legislator had a comment, do you have an alternative, and I do believe there are alternatives out there. And how would that compare business-wise? In other words, if a company could use an alternative product instead of these products that contain high PAH's, would that be manageable?

MS. LEHORAY:

There's a lot to answer there. First of all, just as a personal thing, not a PCTC thing, I wonder why it is then you don't ban people from going to beaches. Because beaches are covered with crystal and silica, also known as quartz sand which, in fact, is a known human carcinogen, as opposed to the PAH's, which none of them are known human carcinogens. So just to clarify that point.

The -- as far as what the alternatives are, those are what I was speaking to Representative Montano about, about the asphalt-based sealers are the proposed alternative, and they also contain PAH's. So as I said, I don't know if that answers your question. I know it doesn't answer it completely because there's a lot of components in your question there.

LEG. ANKER:

Right. But again, my thought on this is, you know, we as Legislators, we don't want to make legislation that's not attainable, that we want to create productive legislation. And a huge concern of mine is our health and particularly our children's health. We were given a very intense presentation by the U.S. Geological Survey and part of the Federal Government, part of the U.S. Department of Labor, and they have documented research that shows and that proves that PAH's are detrimental to our health. And also, the environmental exposure to mammals, particularly fish and, you know, other forms of life, sea life, and it's a real concern. They mention, you know, the canary and the coal mine, what we're seeing with the deformed fish that are exposed to PAH's. And you would think if the Federal Government is doing some intense research and they're printing it and producing it and we're now, you know, reading it, that they have a high level concern with this.

And again, that's my thought as far as, you know, you're saying, well, this isn't such a big deal, the PAH's are not a concern because they're everywhere else. But if we as Legislators have the opportunity to reduce that risk, then I think, you know, again, that's part of our job is to create a healthier and safer environment.

MS. LEHORAY:

Well, I appreciate those comments. I would just point out that the -- that is one of reasons why I requested the opportunity for scientists to come in and talk about this issue. Because this is not the opinion of the United States government, it is the opinion of two scientists who have been working in a cooperative program with the City of Austin, Texas, who are employees of the United States government.

The opinion of the United States government is more reflective in the priority documents, which I included in the package, the prioritization documents. It is specifically EPA's job to look at chemicals and to prioritize them. That's not part of the -- of the task of the USGS. I think I understand what it is that you've heard and we would just like the opportunity to fill in some of the blanks that were -- may not have been addressed in that presentation.

P.O. LINDSAY:

Okay.

LEG. ANKER:

Let me ask you just one more question, though. Do you or do you not agree that PAH's are carcinogens?

MS. LEHORAY:

PAH's, there are seven of the hundreds of PAH's in existence that are classified by the National Toxicology Program as reasonably anticipated to be carcinogens. The other possible two classifications are known human carcinogens and just not listed at all. So that's why I am saying that there are no PAH's that in the United States are classified as known human carcinogens.

LEG. ANKER:

Thank you.

P.O. LINDSAY:

Okay. Legislator Viloría-Fisher.

D.P.O. VILORIA-FISHER:

It seems to me that if there's a choice that we should err on the side of prevention and public safety. In this particular piece of literature I have that was put out by the USGS, it does indicate that the amount of benzopyrene that's in sealers that are -- that contain the PAH's are orders of magnitude higher than those that do not use the coal-tar sealing; it seems to me that's a no-brainer.

I also have another comment. When I listened to your presentation, you presented the Section 303-D schedule and the different waterways as if because there's an absence of a mention of PAH, you present that as if it were proof that there is no problem in these waterways regarding PAH. And your reference to TMDL's, the total maximum daily loads, my familiarity with those, and I'm not a scientist, is usually in reference to nitrogen load. And that's what -- you know, when we look at the DEC/TMDL's with reference to our sewage outflow pipes, etcetera, it's for TMDL nitrogen loads, there is no mention of what the TMDL is referring to in these charts. And so it just seems disingenuous to treat this as if it were some kind of proof positive that there's no problem in these waterways regarding PAH's.

MS. LEHORAY:

Well, the analyses are done by the local communities. And I believe that there is a slide after the long table which is the list of the 84 impaired water bodies for which there's Section 303-D's, there's a list of what are the causes of impairments. So in addition to nitrogen, there's fecal coliform matter, there's -- I don't remember because I don't have -- I did not -- in my talking thing, I did not include that table.

D.P.O. VILORIA-FISHER:

But lack of their mention doesn't mean that they're non-existent.

MS. LEHORAY:

So --

D.P.O. VILORIA-FISHER:

It wasn't something that was being analyzed in this particular chart. It doesn't mean that it doesn't exist and it doesn't mean that it's not a problem. And certainly, when it's introducing these chemicals that can have impact on human health, then we have to begin doing an analysis of where they are in our surface and groundwater. We depend on our ground water here in Suffolk County to feed our sole source aquifer, and so we have to be very, very careful as to what we're introducing.

MS. LEHORAY:

Well, that's not reflected in the -- the groundwater is not reflected in the clean -- in this impaired waters, which is surface waters.

I would just say that of all of the compounds, chemical compounds in existence, perhaps some of the least soluble in water are the Polycyclic Aromatic Hydrocarbons. So you can look at tens of thousands of analyses that have been done all over the nation of groundwater or surface water and you'll find very few actual hits in the water. What you will find is perhaps in the sediment, and that's where the sediment in the surface water is what is being specifically looked at in these 303-D's, is my understanding.

D.P.O. VILORIA-FISHER:

That dust will find its way into the storm water system, into the storm drains and into our system.

MS. LEHORAY:

If the controls on your storm water runoff, you know, as I'm sure you're much more better aware than I am, is that there are controls on storm water runoff and catchment basins that catch that runoff. And if those are inadequate or they fail, then all sorts of materials, including metals and the like.

D.P.O. VILORIA-FISHER:

That's true, and that's precisely why we want to prevent --

MS. LEHORAY:

That's right.

D.P.O. VILORIA-FISHER:

-- the introduction of these chemicals.

MS. LEHORAY:

So you asked -- you know, there's been a lot of questions about the alternatives here. And I can say that in Austin, Texas and in other communities like Washington D.C. where, in fact, the communities have put the ban in place, the business totally stops. Because there's a reason for the different -- these are not equivalent in performance. So the reason that people do seal their parking lots is to extend the life of their parking lots. I've talked with one developer who has said that he's still working with the original asphalt pavement from 30 years ago that was laid down because he has actively engaged in a preventive maintenance program which includes sealing the lots, and that's why people do that, it's a big expense.

On some of the other business comments, there may be some other speakers who can speak to that better than I can about specific local impact.

D.P.O. VILORIA-FISHER:

Thank you.

P.O. LINDSAY:

Okay. Thank you, Ann. Mark Morris.

MR. MORRIS:

Hello. My name is Mark Morris. Thank you for the opportunity to speak. Well, Ann started off by talking about the different products; the refined tar sealer product and the other product which is asphalt-based. The primary differences are that the asphalt-based product typically lasts one to three years, whereas the refined tar-based product is -- will last three to five years, and those are typical. There's a lot of --

P.O. LINDSAY:

Mr. Morris, can you either raise the mic or -- we're having some difficulty hearing you. Okay?

MR. MORRIS:

Is this better?

P.O. LINDSAY:

Yes.

MR. MORRIS:

Okay, thanks. The refined tar sealer will last three to five years, asphalt is typically one to three, and those typicals are used because there's a lot of factors, traffic, weather conditions, a lot of environmental exposures.

For that reason -- and if you -- there's actually a picture of two test plots that are approximately three years apart. The one in the center is the refined tar-based lot, just to give you a visual example. It's for that argument that I would argue that people who are advocates for the ban would argue that there is a good substitute, and I would argue that there is not a good substitute; the products will only typically last 40 to 50% as long. So what will that mean to the -- to the people in Suffolk County, or in the region for that matter. There's a couple of different scenarios that could play out. There could be job losses, because if you ban one particular product, you're basically forcing any area manufacturers over to one product. There's going to be an over supply of that one particular product and, needless to say, that will not last very long.

I also did an analysis of regional jobs in the area, just between sealers and manufacturers, and this is just in the Long Island region. We're looking at about 360 jobs that are possibly on the line. To what extent? You know, there's a lot of market factors that play into this.

I also have a couple of examples about what are possible outcomes from a refined tar sealer ban. The County would, in fact, be creating a monopoly of that particular asphalt sealer, since you're removing the other choice and also giving the consumer one less choice to make. You're also relying heavily on -- since you're relying on asphalt, you're relying on foreign oil, which the U.S. is a net importer of currently.

I know in the County's economic analysis they said there was no cost to manufacturers or to the applicators, which is simply not true. The products are not compatible. You're talking about capital cost expenditures, new tanks, new pumps, new lines, tank cleanings, disposals, all of which are not cheap. And I think that's basically all I had to say.

P.O. LINDSAY:

Does anybody have any questions of Mr. Morris? Thank you very much. Kevin McAllister.

MR. MC ALLISTER:

Good afternoon. My name is Kevin McAllister, Peconic Baykeeper.

I'm here to speak in support of the ban. And I want to clarify, I guess, a few points, and there were some very good questions from the Legislature.

With respect to the 303-D list, or the impaired waters list, Legislator Viloría-Fisher is correct, we're just not looking for PAH's. I'm quite familiar with data sets, whether it's coming from institutional academic institutions, non-profits, I've generated water quality data, you know, other municipalities such as Suffolk County, which has a tremendous water quality monitoring program. We're just not looking for PAH's and that's the reality of it.

There's no arguing the toxicity and the biethnic environment. And you had asked a question relative to I would say threat to aquatic life, and the prior speaker is correct. I mean, the issue is not whether or not PAH's are released into the water qualum -- water column, excuse me, but rather the impacts in sediments. Aquatic invertebrates are at high risk. Obviously relative to our freshwater ponds and tidal streams, there's significant life in the bottom that we have to be concerned about.

Another key point is conveyance. There's no question relative to storm water runoff when you consider the probably tens of thousands of acres of impervious surfaces. Obviously, as these products are used, between the dust and the breakdown, they will be conveyed. We're literally looking at thousands of discharge pipes into our receiving waters, both in the Peconics, Long Island Sound as well as south shore bays. Although there's an effort to address storm water runoff relative to the Clean Water Act, Phase II, you know, there's still going to be a daunting challenge. So the fact is, again, drawing rain events, there are significant discharges, and you're absolutely correct. And again, for your benefit, if you didn't hear me, I would argue that we're just -- we're not finding PAH's because we don't have the capacity and the dollars to test for them.

What I see from limited testing is becoming more prevalent. I understand, actually, the DEC is now starting to require this pertaining to dredging projects where there's actually core samples that are required to be analyzed, and I presume for this particular compound. So the key here is preventive.

Again, we know -- we recognize the toxicity. There is no question that there is conveyance. Let's take this product off of the market in our area, as many other regions in this country are doing. I understand Washington State just approved a statewide ban that is awaiting the Governor's signature. So again, relative to I think low hanging fruit, this is certainly one of them, and I implore the Legislature to do the right thing and support this ban. Thank you.

D.P.O. VILORIA-FISHER:

Thanks, Kevin.

P.O. LINDSAY:

Does anybody have any questions for Mr. McAllister? Legislator Anker.

LEG. ANKER:

I have a question relating to the sea life. And, you know, because Long Island is surrounded with water, we have water in our rivers and lakes, how -- how would this affect the sea life if we were to continue? In other words, you said we've never really tested for this type of a chemical. But again, from the research and the information that we were given, it shows substantial degradation of sea life, of the vegetation, you know, with this chemical. What is your observation in seeing how, you know, PAH's and even some of the other chemicals, you know, react in our environment? In other words, what's the worst case scenario?

MR. McALLISTER:

Again, this is persistent. The real risk is in the sediments to the benthos, so the bottom life, and there's a myriad of life from -- you know, most of us obviously know our shellfish stocks, but then we're looking at significant worm communities that, again, are a part of the whole food chain. So ultimately they are at risk if the levels, again, are high enough to again cause, you know, potential threats to, you know, survival, propagation, etcetera.

Relative to my own experience, I really can't answer the question to say with certainty that, you know, I know PAH's are having a deleterious impact. But again, I'd argue that we just -- we don't have the answers yet, but it's important, knowing the toxicity of this material, to keep it out of our waterways. And again, belaboring this point, but there's no question about conveyance.

P.O. LINDSAY:
Legislator Stern.

LEG. STERN:
Thank you, Mr. Chairman. Mr. McAllister, I'm looking at -- this is, I guess, the letter that was submitted to this Legislature, your signatory on it, in support of the legislation.

MR. MC ALLISTER:
Yes.

LEG. STERN:
My question to you is are you familiar with the list, the EPA's National Waste Mineralization Program, 31 priority chemicals list?

MR. McALLISTER:
I'm not.

LEG. STERN:
You're not, okay. Is there anybody else who's with you today that might be familiar with it?

MR. McALLISTER:
No.

LEG. STERN:
Okay. Do you know whether or not this is one of the chemicals that's listed on the list of the 31?

MR. MC ALLISTER:
I will presume it is. PAH is certainly recognized, again, as a toxin in the aquatic environment. And I won't speak to public health because certainly that's not my expertise, but, I mean, across the board -- again, this compound is identified as one that we have to keep out of, again, our aquatic resources.

LEG. STERN:
I mean, I'm looking through the list of elements here, I'm going through that now. But here, I mean, when you suggest that this is an element that is included within the 31 priority chemicals in your letter, I'm assuming that all of the signatories here are familiar with the list, enough so that you're making the statement in your letter that it is listed as part of the 31.

I guess my point here, Mr. Chairman, is that we heard from Dr. LeHoray and -- who made the comment in her materials that this was not a substance that was contained in either the EPA's list or the Great Lakes by National Toxic Strategy List or the Minnesota Priority Chemicals List. But as I look here, it's only a list of 16 elements or 16 line items here, but you're suggesting that if we

looked at a list of the full 31, that this element would have been included in the full 31 as put out by the EPA.

MR. MC ALLISTER:

Polycyclic Aromatic Hydrocarbons obviously are a concern. So I'm reiterating that point, as a family it's a compound of concern. That, again, across the board the effort is to ensure that this doesn't enter receiving water bodies.

LEG. STERN:

Thank you.

MR. MC ALLISTER:

Thank you.

P.O. LINDSAY:

Anyone else for Mr. McAllister? Thank you, Mr. McAllister.

MR. MC ALLISTER:

Thank you.

P.O. LINDSAY:

Jennifer Hartnagel.

MS. HARTNAGEL:

Good afternoon. My name is Jennifer Hartnagel and I'm here representing the Group for the East End, and I would like to express our full support for the measure.

I would like to comment on Legislator Stern's comment to Kevin.

I do believe that PAH's are on that list of the 31 chemicals.

LEG. STERN:

Okay.

MS. HARTNAGEL:

And that further reiterates our purpose for being here, because we believe that banning the use and the sale of this product will help to ensure the reduction of these toxic, hazardous substances in our environment. And importantly, there are alternatives available. Municipalities all over the country, as we've heard today, have already taken steps to discontinue the use. All over the world, actually, this product is being banned.

So I'm asking the Suffolk County Legislature to pass IR 1162 to help protect public health and the environment and to keep Suffolk County at the forefront of environmental protection. And I do have copies of that sign-on letter if anybody does not have one.

P.O. LINDSAY:

Thank you, Ms. Hartnagel. Does anybody have any questions? No.

Thank you very much. Edward Parthe.

MR. PARTHE:

Good afternoon. My name is Edward Parthe, I'm here today at the request of the Long Island Marine Contractors Association. We're concerned that the way the legislation is written, that the creosote that's used in bulkheads could also be banned as being similar or identical to the creosote you're talking about for asphalt sealing.

We have two concerns. First of all, the findings in the legislation seem to be all anecdotal. I

checked the Clerk for the Legislature and asked for the documentation and there was no documentation to back up all these findings. The other part of the legislation that we're concerned with is in Section 3, Prohibitions, 3-A(2) includes "applied to other surfaces". Now, for an installed creosote bulkhead, sometimes they go back and the top exposed lumber is cracking because of exposure to the moisture and sun and someone will put a sealer on there to extend the lifespan of the bulkhead. We wouldn't want this type of preventive maintenance to become illegal.

And we'd like to point out the dangers of relying upon anecdotal information. Back in the 1980's, after the Tidal Wetlands Act went into effect, the staff in the Regulatory Section of DEC put pressure on dock builders not to use creosote as a preservative, even though it was perfectly legal. So in order to get their permits, they switched over to that green chemical called CCA. Prior to that, a creosote-treated bulkhead would last 20, 30, maybe 50 years, where the use of this CCA preservative, bulkheads start failing as short as two years, and within ten years most of them are failing because of the reliance upon anecdotal information with no scientific background as to allegations or danger of creosote in a marine environment. Waterfront property owners in Suffolk County alone, Suffolk loss is between 50 to \$100 million.

Now, just in case somebody mentions it, since then, in the last few years New York State did ban the use of creosote in bulkheads, but it was not for environmental reasons. It seemed that the New York City dock builders were objecting that they're getting their hands dirty, so it was rejected for cleanliness purposes, which is ridiculous.

Now, I did hand out to the Legislative Clerk scientific findings prepared by DEC. The DEC has a document called "Assessment of the Risks to Aquatic Life and the Use of Pressure-Treated Wood in Water". Now, it's a 48-page document, so I just gave you two pages and typed on the first page is the web address in case anyone wants to read the whole 48 pages. The key statement in here, though, in the Executive Summary, which you're getting a copy of, "However, wood treated with pentachlorophenol, two additional findings are the risk assessment or their creosote which seem to be identical to your cold tar sealer." And CCA treated wood does not present a hazard to marine organisms when used in salt water, and utility poles and wetlands are unlikely to cause adverse ecological impacts, particularly after the poles have been in place longer than one to three months.

Now, I read, I saw on the County website, we just heard anecdotal testimony of this great danger of these PAH's to marine organisms, and the DEC scientists say it's not true. Now, I think we really have to distinguish between what the scientists say and all this conventional wisdom which could cause great economic damage to people who are banned from using safe chemicals. Now, we just found out, now we know CCA is not a substitute for creosote and it's costing people a lot of money. It has one-third to one-fifth of the lifespan of the creosote-treated bulkheads, so we really were very specifically -- creosote and the sealing of creosote bulkhead should be exempted because there is no alternative. Now, people are using the plastic sheathing, because it's structurally weaker, unsatisfactory, low impact resistance and it's made from oil.

*(*Timer Sounded*)*

So I request you take into consideration what we have to say.

P.O. LINDSAY:

Well, let me just make a couple of comments. I've already agreed with the first speaker that we will keep this hearing open for the other side of the scientific debate on this issue. So that will be the anecdotal information.

I take exception to the anecdotal story you said about the dock builders, that something was banned

in New York State because they got their hands dirty? I know a lot of dock builders that get their hands dirty every day. So I find that anecdotal story very, very hard to believe. And, you know, we'll see where it goes from here.

As far as -- we'll clarify whether this covers the marine industry at all. To my knowledge it doesn't, so I don't even know why you're here, but we'll clarify that in the bill.

***(*The Following Was Taken and Transcribed by
Lucia Braaten-Court Stenographer*)***

MR. PARTHE:

Well, as far as the dock builders go, if you check the bill jacket, which is on the website, the only people who requested the ban on creosote with dock building said it's too dirty to work with.

P.O. LINDSAY:

Well, I would be shocked if it was so they could keep their hands clean, because they're pretty hard-working guys that get their hands dirty every minute of every day.

MR. PARTHE:

It's either that, or they'd have three times as many bulkheads to put in, you take your choice.

P.O. LINDSAY:

Well, I'll tell you what, maybe we'll bring the dock builders here to debate that with you.

MR. PARTHE:

Well, I'll do the printout of the bill jacket and you'll see --

P.O. LINDSAY:

That's wonderful. You take your bill jacket and introduce it to them. Thank you very much. Anthony O'Connor.

P.O. LINDSAY:

Go ahead, Mr. O'Connor.

MR. O'CONNOR:

How are you doing? Thank you, Ladies and Gentlemen. I'm not a scientist. I own a small blacktop sealcoat company in Nassau and Suffolk County. I roughly have about 6,000 present customers.

I'd like to start by saying I live on the water in Lindenhurst. I am all for things that are going to pollute our waters (sic). With that said, I don't know all the chemicals, the PAHs, but what I do know is already I'm getting phone calls from my customers that are reading articles in Newsday, and the articles that I've been reading are very one-sided as far as in support of this ban. What does this mean? How is it going to affect pricing? Is it even worth doing?

A lot of my older customers, as of 25 years and older, there was no coal tar sealer back then, it was an oil-based product. They were unhappy. Why was the oil-based product then converted to a coal-based product? This is part of the topic that nobody seems to be asking, what was the reason for banning what you want to bring back now 25 years ago? Also, what will this do to the pricing?

And I hear a lot of people saying that how the things are going to affect waterways, this, that. The one thing I can say is about the sealcoat that's used now, it actually seals the driveway. Nobody's bringing up the fact that you want an asphalt product now on an asphalt product. So what that

means is it's going to soak into it, where the coal tar does not. So now all the oils from cars, antifreezes, transmission fluids, gear oils, are going to soak through the driveway into the ground, into the drinking system, which with the product that we are using now, it's physically sealing it, and if a car drips, a homeowner can go out there and put Dryz All down and clean the mess up in lieu of it going into our ground, and drinking water, and bays.

And it also seems to me the fact that -- I don't know if it's a County level or a town level, there needs to be more treatment of what's going from our runoff into our bays and sounds, lakes, where the village of Freeport everything goes through a sewer treatment plant before it goes into the bay. Why isn't that being enacted everywhere? That to me seems like common sense. And the start of every pollutant, whether it's coal tar sealers, anything, because the one research I did do is all the parking lots, all the driveways that are asphalt and all the asphalt parking lots on Long Island equal less than 1% of all the asphalt roadways, all those storm drains and cars leaking every day. So to impact -- to make a change like this to impact all the people that want to protect their driveways with the best possible product out there and kill, virtually kill an entire industry as far as monetary-wise, and put workers like myself out of business, I'm asking you, please, do all the research before we make a PC decision to keep the public happy. That's pretty much all I have to say.

P.O. LINDSAY:

Just a couple of comments. This isn't about keeping the public happy, it's trying to keep the public safe. I think that's what the main premise is, it isn't about keeping them happy. But, Mr. O'Connor, if this was to go into effect, wouldn't your business simply switch to an asphalt-based coater, sealcoat?

MR. O'CONNOR:

The way my business is run, our driveways are very inexpensive to sealcoat.

P.O. LINDSAY:

So it would be more expensive if you --

MR. O'CONNOR:

I've got people literally --

P.O. LINDSAY:

-- switch to an asphalt --

MR. O'CONNOR:

-- I raise them two dollars and they complain.

P.O. LINDSAY:

Huh?

MR. O'CONNOR:

I raised my customers two dollars here, two dollars there, and they -- and a lot of them complain. It's just a trying economy.

P.O. LINDSAY:

But my point is that if it did pass, you would switch to an asphalt and you'd have to raise your prices.

MR. O'CONNOR:

Exactly, I'd have no choice.

P.O. LINDSAY:

Okay. Anybody have any other questions?

D.P.O. VILORIA-FISHER:

Barraga and Kennedy.

P.O. LINDSAY:

Oh, I'm sorry. Legislator Barraga.

LEG. BARRAGA:

I'd just like to follow up on Mr. Lindsay's comment. I mean, certainly, we're dealing with this issue from a safety perspective, but, yet, I'm looking at a report that we just got on our desk that the only impact of a ban on refined tar-based sealer in Suffolk County would be to hurt small businesses, resulting in lost jobs and tax revenue. And you're in the business, and you're indicating that, I guess, you and others may well go out of business if something like this were to be placed into law.

MR. O'CONNOR:

Yes. I'm extremely concerned, especially in a trying economy.

LEG. BARRAGA:

Because it's very important to most of us here. I mean, we want to come down on the side of safety, but, frankly, we're not in the business of putting people out of business either.

MR. O'CONNOR:

I would hope not.

LEG. BARRAGA:

And if you went to an alternative, it still won't be viable?

MR. O'CONNOR:

Well, the problem lies -- the alternative product is an inferior product. So again, if you have a blacktop driveway and you're my customer, and I'd say -- and you asked me the question, "Well, last year you did it with the coal tar and now this year we're using the asphalt tar, what's the difference?" I'm not going to lie to you, you can just Google the answer. So I'm going to say, "Well, it's going to seal it. Unfortunately, anything that drips on cars, this, that, it's still going to soak in." The problem, that when gasolines, anti-freeze and oil soak into an asphalt driveway, it softens it back up and pops the pieces, wrecking your two-year-old driveway, where the sealer that we're using now physically seals it and stops things from coming in, giving you the opportunity to -- "Well, gee, I got a little oil puddle here. Let me throw Cat Dry on it or Dryz All and clean it up."

LEG. BARRAGA:

One final question. In Suffolk County, because you're in the business, how many people are in your business? How many firms do what you do?

MR. O'CONNOR:

Hundreds, hundreds. I pass a truck --

LEG. BARRAGA:

And how many -- any idea of the total approximate number of employees in those industries?

MR. O'CONNOR:

I'd say well over 1,000, I'd say well over. And you have to understand, we also make our money

from Easter to about Thanksgiving and that's it.

LEG. BARRAGA:

And that's it.

MR. O'CONNOR:

And we, you know, try and do whatever we can do in the winter to survive.

LEG. BARRAGA:

Okay, Mr. O'Connor. Thank you.

MR. O'CONNOR:

Thank you.

P.O. LINDSAY:

Legislator Kennedy.

LEG. KENNEDY:

Thank you, Mr. Chair. Similar to Legislator Barraga, that was basically going to be what I'd ask. And I don't want to have you, you know reveal, a pricing mechanism. I mean, basic entrepreneurship is you put out there and you market a plan. I don't know how you do it, if you do it by the square foot, or whatever. But, you know, if it's a hundred bucks or 50 bucks to do a, you know, 70-foot single-lane driveway, what are we talking about as far as -- are you going to double that price? I mean, is it -- what would it do?

MR. O'CONNOR:

Honestly, I can't answer that, because I don't know what the price is going to be with this oil-based product. The problem is -- what I tell people is look at the barrel of oil. If this is going to go from a coal product to an asphalt oil-based product, where something is in lieu with the market and going up and down, I have customers for 17, 18 years that have literally started at \$65 and 18 years later they're \$80.

LEG. KENNEDY:

Okay.

MR. O'CONNOR:

You know, so it's a -- and a retired --

LEG. KENNEDY:

But it's keeping the investment of a driveway in place. I mean, unfortunately, I know a little bit about replacing driveways. A twenty-five hundred dollar driveway, if you use your application, you'll get maybe 15 to 20 years out of it.

MR. O'CONNOR:

Exactly.

LEG. KENNEDY:

If you don't take care of it, you're in trouble in seven or eight years. Can you even get what this oil-based alternative is right now? How do you procure your product, where do you get it from?

MR. O'CONNOR:

Well, I don't know where to get it, one, but there was a question earlier, somebody stating about

Home Depots and Lowe's. Now, any of you can leave here today, go to your nearest Lowe's, Home Depot, Aces, you can buy coal tar at any one of these places. At the end of the season, my manufacturer runs out, because they manufacture Upstate, New York. Okay? And so I scramble to get tar and I go to these places to get the last couple of skids of tar that I need for the season. So all these places are selling it.

LEG. KENNEDY:

Okay. All right. Thank you. Thank you, Mr. Chairman.

P.O. LINDSAY:

Legislator Anker.

LEG. ANKER:

Again, you mentioned that, you know, you'd have to raise your price, whatever, to do the sealants. But if this law was enacted, everybody would have to do that, so you still would be in competition with the other businesses as far as -- and, fortunately, you know, if, and that's a big if, you had to do that. Now, there are other -- I'm looking right now, the State of Washington has banned coal tar pavement sealants, as well as other places in our world. I don't know if you guys remember, was it Australia? There was a couple of European countries, they banned this. And again, there's reasons why they banned this. But we're here to, again, listen to what you have to say so we can make the right decisions. But again, you know, your concern is you're going to lose your business.

My question to you is, you know, there's probably a way that you can keep your business, because you will be in the same boat as everybody else that will be in your line -- in your field. But again, that's not what we're trying to do, to take away your jobs, we're just trying to make our County a safer place.

MR. O'CONNOR:

I understand that, but, unfortunately, what you're saying, because I have to go up and everybody has to go up, does not mean I'm going to keep my business, it means just the opposite. It means I and most other people will be out of business. I did a driveway this morning before I came here. I'll give you a "for instance". It was a pretty long driveway, \$300 driveway. The customer already approached me on the phone asking about what was going on with this. When I got here today, he goes, "Looks like this will be the last year I seal my driveway if this goes through."

LEG. ANKER:

But, you know what, that's their decision, that's not yours. And, honestly, as a mother of three, and if you had a product that was safer, I would choose a product that's safer. So it could be, actually, a positive thing for your business.

MR. O'CONNOR:

Again, I'm not a scientist, I don't know what Dr. LeHoray knows. What I do know is I live on the water, I fish, I eat the fish I catch. I don't want my waters polluted either. What I'm asking out of your panel here is to thoroughly, please, thoroughly research both sides. And again, 25 years ago there wasn't coal tar. Why was it switched from the product then to this? And now you're trying to go back to that style product. That doesn't sound -- that throws a red flag with me and a lot of people, that's one. Two, this is greatly going to affect, you know, an economic aspect. Three, again, I really feel that this is a very small percentage of any chemicals.

And I understand why people want to save waterways, and this and that, and young children, absolutely. The problem lies that, again, less than 1% of all the driveways added up equal to any of the roadways on Long Island. So how much of an impact are we doing compared to everything that

is just uncontrollable out there? You know, it seems like the towns and the counties, just like the Village of Freeport, need to make an effort to redo the sewer treatment plants and put, you know, better leaching field systems in to stop these from going into our waterways, not hurt the little guy. We pay a lot in taxes for this.

LEG. ANKER:

Right. From what I understand, I believe the Town of Brookhaven does not use this type of -- I believe they use the asphalt. I'm looking into that. But again, absolutely, we should all be looking for the best alternative. And again, we appreciate your input, and if you could give us some suggestions, I'm sure everybody here would be very open to that. Thank you.

P.O. LINDSAY:

Legislator Romaine.

LEG. ROMAINE:

I just have a quick suggestion. Possibly our Budget Review Office, or whoever you might designate, Presiding Officer, might look into the ten towns and the thirty-one villages in Suffolk County and the County itself and determine whether their Department of Public Works or Highway Departments currently use this type of sealant on their roadways, because I think you made a very telling point about the driveways versus the roadways. I know there's several thousands of miles in the Town of Brookhaven alone, which Legislator Anker referred to. I'd like to know -- obviously, will this bill affect public roadways as well?

P.O. LINDSAY:

We'll do that. I'll look into it further, but I'm told the County, as well as the Town of Islip and Brookhaven, do not use this product, but we'll look into it further.

LEG. ROMAINE:

Thank you so much.

P.O. LINDSAY:

Thank you.

LEG. HORSLEY:

Real quick.

P.O. LINDSAY:

Oh, wait.

LEG. HORSLEY:

One quick question on --

P.O. LINDSAY:

Legislator Horsley.

LEG. HORSLEY:

Yeah, just one quick question on the -- when the Highway Departments are doing crack sealant, the sealer for the cracks, I would assume that would be -- is that coal tar based or is that asphalt based?

MR. O'CONNOR:

There are two different types. One is a coal tar based, and the other one I'm not sure. I believe there are other people in the audience that can answer that question better. But one I know is a

coal-based sealer. And again, you can go into Home Depot, Lowe's and buy a liquid type of coal sealer.

LEG. HORSLEY:

Right. So we should find out what the towns are using as those crack sealants. Now, is there -- I know that they have a micro-sealing and stuff like that of roads. Is that the same deal? Is that possible using either or?

MR. O'CONNOR:

I am not 100% sure on that, to be honest.

LEG. HORSLEY:

Okay. It sounds like we've got to do our homework, too.

MR. O'CONNOR:

Okay.

LEG. HORSLEY:

Thanks a lot.

P.O. LINDSAY:

Thank you very much, Mr. O'Connor.

MR. O'CONNOR:

Thank you, everybody.

P.O. LINDSAY:

Is there anyone else in the audience that would like to speak on this subject? Please come forward and identify yourself.

MR. WALSH:

Thank you for letting me speak. My name is Bill Walsh and I am the sales manager for Velve Top products. We are a family-owned Suffolk County company, in business since 1968. We manufacture and distribute pavement maintenance products, one of which is refined coal tar based sealer. We are a charter member of the Paving Coating Technology Council.

I would like to make a couple of key points regarding this proposed ban. First of all, if the USGS science that is being used to support a ban on coal tar sealer were correct, we would have already stopped producing it. Our families live in Suffolk County. We know that the USGS science is incorrect.

Second, a point was made that Lowe's and Home Depot have stopped selling coal tar based sealer. I spoke to the people who supply all of the Home Depots in the United States and asked them if they still make coal tar sealer. He said they do so, because that is what their contractors want, not because it's less expensive, but because it works much better.

Third, the ban in Austin, Texas has been in effect since January 1st, 2006. The PAH levels have been monitored since the ban took effect and there has been no change.

We have worked very hard to be a responsible local business and we ask you to please hear our science before voting on this bill. Thank you.

P.O. LINDSAY:

Thank you very much. Does anybody have any questions for this gentleman? Thank you very much. Is there anyone else in the audience that would like to address us on this subject? Seeing none, I'll make a motion to recess this Public Hearing.

D.P.O. VILORIA-FISHER:

Second.

P.O. LINDSAY:

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

MR. LAUBE:

Seventeen.

P.O. LINDSAY:

It stands recessed. Next Public Hearing is 1224 - Approving rates for Roncalli Freight Company, Inc. (Presiding Officer). And we have a few cards. Anthony Bernardis. Am I pronouncing that right, Anthony?

MR. BERNARDIS:

Yes, sir.

P.O. LINDSAY:

Thank you.

MR. BERNARDIS:

I want to apologize, I've never done this before up front.

P.O. LINDSAY:

Don't apologize, Anthony, just relax.

MR. BERNARDIS:

I'm a Sayville resident, by the way.

P.O. LINDSAY:

Just do me a favor, speak up a little bit.

MR. BERNARDIS:

Okay. I'm here regarding the proposed tariff rate change for what is now Roncalli Freight and Middle Earth Holding. They were previously known as Coastal Freight and RSS Consultants. I don't think any change would be in the best interest of the County or the Town of Islip, seeing as these companies have unresolved issues.

D.P.O. VILORIA-FISHER:

Excuse me, sir, I'm sorry.

MR. BERNARDIS:

Yes.

D.P.O. VILORIA-FISHER:

The stenographer's having a lot of trouble hearing you. Can you get as close as you can to the mic, please?

MR. BERNARDIS:

Okay. I apologize. Their unresolved issues include a stop work order for illegally filling Town wetlands. I'll have a copy of that. Those Town wetlands are stormwater runoff for the Sayville area. They have unresolved issues in the zoning. There's three zones on their property, Business I, Industrial III, and Residential AAA Water Management, which have been filled illegally. They have questionable uses of parking in the freight yard, then using River Road to offload freight and obstructing traffic, because the freight yard is on the opposite side of the street than the dock. It doesn't make any sense.

The Suffolk Legislators and Suffolk County left these issues to the Town of Islip Zoning Board; I have a copy of that. The Town of Islip proposed covenants and restrictions are left in limbo by RSS Assets, and purchased by Middle Earth Holding and Roncalli. They still have a responsibility to the community.

I'm asking that you do not give Roncalli any rate change in any manner, and you may even consider revocation until they straighten out their legal problems. I am being affected, my neighborhood's being affected. Given the location of the yard and to the dock, it's a mistake that they were given anything at all as far as a license to transport freight.

I have 18 pages here that I'd like to leave for the record, if I may. And, please, look into what they're doing, if you would.

P.O. LINDSAY:

Thank you, Mr. Bernardis, for your testimony, and we'll certainly look into those issues. Is there -- anyone have any questions for Mr. Bernardis? Seeing none, the next speaker is Eric -- sorry, Eric, I'm having trouble making out your name. Von Kuersteiner.

MR. VON KUERSTEINER:

Von Kuersteiner.

P.O. LINDSAY:

Von Kuersteiner. I'm sorry for mispronouncing your name.

MR. VON KUERSTEINER:

Good afternoon. My name is Eric Von Kuersteiner. I am one of the Principals and Chief Operating Officer of Roncalli Freight Company.

Yesterday I was advised that the Budget Review Office had completed the report on our petition to alter rates and had determined in their report to recommend that the Suffolk County Legislature approve our requested rate increases. I was also advised yesterday that there would be a hearing on your petition today. Although I fully support the conclusions in the Budget Review Office's report recommending our rate increase, I would like the opportunity to discuss the Budget Review Office's report with the Fire Island Pines Property Owner's Association, and, therefore, am requesting you hold this meeting open until your next meeting in two weeks time.

I also want to add that although I have not had the chance to read in detail the Budget Review Office report recommending a rate increase, I, obviously, support their conclusions. I want to mention that they conducted a very detailed and thorough analysis of our operation, including a very detailed analysis of our audited financial statements and our financial projections. In addition, the Budget Review had visited our offices to assess our working environment, staff and financial controls. I recommend that you review the Budget Review Office's detailed report and that you support the recommendation of the Budget Review Office to approve our requested rate increases. That's all I have.

P.O. LINDSAY:

Well, Eric, first of all, we'll certainly take into consideration and we'll recess this hearing for two weeks. Do you have any comments as far as Mr. Bernardis' comments that these aren't great neighbors?

MR. VON KUERSTEINER:

As a matter of fact, I am quite familiar with some of the items that he brought up, as they were brought up before our closing. There's a long history with the property, it's been in existence for quite a long time. There was a Zoning Board of Appeals hearing some time ago, and I can bring all the documentation with me with regards to that, but that was cleared up.

As far as the wetlands issue, it's not a wetlands, there was no filling. The DEC personally came out last spring and met with me and we showed them everything. What we were doing was cleaning up the yard because there had been over about 25 years worth of garbage that had been left on the property, so we cleaned all that up. And again, I'm happy to bring pictures and anything else next time when I come out, but there was -- there's no -- there's no designated wetlands there, and there's been no filling of the property either.

P.O. LINDSAY:

Did you guys just acquire this property?

MR. VON KUERSTEINER:

Yes, last -- I think around April 1st of last year.

P.O. LINDSAY:

Okay.

MR. VON KUERSTEINER:

At that time, the freight company was not licensed, but had been operating for, I guess, about 20 years. And so we wanted to bring it into compliance with all the local, State, Federal regulations.

P.O. LINDSAY:

It's good that you're in compliance and we appreciate it. We do not like it when somebody isn't in compliance.

MR. VON KUERSTEINER:

Can I just add one other thing --

P.O. LINDSAY:

Go ahead.

MR. VON KUERSTEINER:

-- about the stop-work order? I actually did meet with the Planning -- the Head of Planning of the Town of Islip and he had no problem with what we were doing once he understood what the issues were.

P.O. LINDSAY:

Just understand, and this is for Mr. Bernardis as well, is there's a distinction between jurisdiction here. Your land-based operation is subject to Town zoning. What we deal with here is a license to operate on the bay. So most of the issues that he talked about are related to the Town or the DEC. What -- I think we would feel much more comfortable approving everything if maybe you guys were to meet with the neighbors and see what their complaints are and see if we can get them resolved.

MR. VON KUERSTEINER:

I'm happy to meet with them. No one's ever come to approach me. I've read a couple of articles in papers, but I'm there almost every day.

P.O. LINDSAY:

Okay. Well, Mr. Bernardis is right in the back. Why don't you tap him on the shoulder and see --

MR. VON KUERSTEINER:

I'm happy to --

P.O. LINDSAY:

Bring some of your neighbors down there and let's talk out what the problem is.

MR. VON KUERSTEINER:

All right.

P.O. LINDSAY:

Okay. Thank you very much.

MR. VON KUERSTEINER:

Thank you very much.

P.O. LINDSAY:

All right. I don't have any other cards on this subject. Is there anyone else in the audience that would like to speak on this subject? I'm going to make a motion to recess. Do I have a second?

LEG. BARRAGA:

Second.

P.O. LINDSAY:

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

MR. LAUBE:

Eighteen.

P.O. LINDSAY:

Okay. ***1228 - A Charter Law to establish a 2% discretionary spending cap in Suffolk County (Cooper)***. I don't have any cards on this subject. Is there anyone in the audience who 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 that. All in favor? Opposed? Abstentions?

MR. LAUBE:

Eighteen.

P.O. LINDSAY:

1247 - A Charter Law limiting annual growth of the County Operating Budget and tax levy to no more than 2% (Co. Exec.). Same thing, I don't have any 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.

LEG. COOPER:

I'll second.

P.O. LINDSAY:

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

MR. LAUBE:

Eighteen.

P.O. LINDSAY:

1256 - A Local Law expanding legal representation of County employees (Lindsay). I don't have any cards on this subject. Is there anyone in the audience who would like to speak on this subject? Seeing none, I'm going to make a motion to recess. I've just recently received a communication from the District Attorney about some questions about the bill that I think we have to clear up first before I go forward, so I'll make a motion to recess.

LEG. STERN:

Second.

P.O. LINDSAY:

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

MR. LAUBE:

Eighteen.

P.O. LINDSAY:

J.R. 1266 - A Local Law to register prepaid cell phones purchased in Suffolk County (Browning). And we have quite a few cards. Steven Blidner. Blidner? Am I pronouncing it, correctly?

MR. BLIDNER:

Yes, you are.

P.O. LINDSAY:

Thank you.

MR. BLIDNER:

Good afternoon. My name is Steve Blidner and I have with me Alex Lerner. We represent TTI Scanning Solutions, which is a technology company based in Manhattan.

P.O. LINDSAY:

Mr. Blidner, if you could just take one step closer to the mic.

MR. BLIDNER:

Good enough?

P.O. LINDSAY:

Yeah, that's much better.

MR. BLIDNER:

Thank you. We have been following your proposed legislation and understand one of your major concerns lies with the ability of the retailers to easily, quickly and accurately record the required forms of identification. There is a proven solution that is being sold both nationally and internationally which will address your problem. It's very simple. This is a small camera scanner where the driver's license or the credit card, if that's the second form of identification, is put in here and the button is pressed. The scanner gets plugged into a CPU via a USB cable, which also supplies the power. The retailer scans the documents into a database, which is provided by either ourselves or whichever company you go to. Each document scans within ten seconds or less. It will allow the retailer to pull up the person's information by either name or address, and the picture of the person will also be captured. If a credit card is presented as one of the forms of identification, then a credit card swipe will need to be part of the solution, since scanning credit cards is not PCI compliant. Information can also be retrieved by credit card number and a person's name.

It's also good for retailers because it helps prevent against charge -- backs. And we can actually take this a step further. There are different scanners and softwares out there which have the ability to verify and authenticate driver's license and passports, and, if necessary, check the information against watch lists, or even send it out to the Suffolk Police Department. We are -- in fact, we're currently discussing these options with the Criminal Records Division of the NYPD. Again, it's a very simple solution. And that's about it. I don't know if there are any questions.

P.O. LINDSAY:

That's wonderful, Mr. Blidner. See, we're accused of stifling business, we're creating business here. You know, that's wonderful. Thank you. Wait, Legislator Cooper has a question.

LEG. COOPER:

I just had a question as to the cost of the technology to the store?

MR. BLIDNER:

I'm sorry?

LEG. COOPER:

Cost of the technology.

MR. BLIDNER:

Oh. The cost is a one-time fee of \$1,000 to purchase a scanner, which comes with the database, and there's a yearly fee of \$395 for the support.

LEG. COOPER:

Thank you.

MR. BLIDNER:

You're welcome. Thank you.

P.O. LINDSAY:

Thank you. Amol Sinha.

MR. SINHA:

Good afternoon. My name is Amol Sinha. I'm the Director of the Suffolk County Chapter of the New York Civil Liberties Union. Thank you for the opportunity to submit testimony regarding I.R. 1256. This legislation would require consumers to present two forms of identification when purchasing pre-paid cell phones. The bill would establish a Police database in which the personal information of those individuals would be stored. The bill would also require retailers to enter the personal

information of pre-paid cell phone purchasers into the Police Department's database, or maintain their own paper records. A retailer's failure to comply is a misdemeanor, punishable by a fine of up to \$1,000 and/or up to one year in jail.

The purported purpose of this bill is to provide law enforcement with information believed to be essential to combatting crime and terrorism. The New York Civil Liberties Union opposes this legislation, because it fails to strike an appropriate balance between effective law enforcement and the preservation of the constitutional rights of the people of Suffolk County.

I.R. 1266 is an extraordinary proposal, which, if passed, could have a substantial impact on many people's lives. Under this proposal, those who purchase pre-paid cell phones will be presumed guilty, or at least suspect, as their personal information would be stored in a law enforcement data base, or maintained by pre-paid cell phone vendors. Most people who use pre-paid cell phones are law-abiding people who purchase these phones for various innocent non-criminal reasons. For low income residents of Suffolk County, budget considerations lead them to purchase these phones. Victims of domestic violence purchase pre-paid -- buy wireless services for the anonymity it provides. Parents purchase pre-paid cell phones for teenagers to limit their children's phone usage. Persons with poor credit can buy these phones without a credit check. Immigrants, tourists, and other temporary visitors to Suffolk County purchase these phones so they do not have to be bound by a long-term contract.

Under I.R. 1266, the government would abolish privacy interests for those who choose to purchase pre-paid cell phones. In order for the government to do away with privacy rights for a certain class of people, here pre-paid cell phone purchasers, it must have a very strong justification that outweighs the privacy interest. Many people use pre-paid cell phones specifically for the privacy and anonymity they allow. This legislation would threaten the important privacy rights of victims of domestic violence, for example, who seek means of communications other than their family plans or their home phones. Under this proposal, domestic violence victims who use pre-paid cell phones will be at an increased risk of harm, as they no longer would be able to keep their personal information, including their phone number, private or from the knowledge of their batterer. Similarly, pre-paid cell phones are an attractive option for individuals seeking confidential health or legal services, particularly if he or she cannot provide a full contract phone. The need to maintain confidentiality in many cases, Reproductive Health Services for many women, for example, make pre-paid cell phones an attractive option.

Under this proposal, the much needed confidentiality would be put at risk if the purchaser's personal information falls into the wrong hands. Under this legislation, law enforcement would also be able to obtain consumer's personal information without a warrant of setting well established Fourth Amendment principles. When law enforcement requires information from contractual and post-paid cell phone plans, they're able to access it only after obtaining a warrant from a neutral magistrate confirming probable cause that a crime was or will be committed. By not requiring a warrant, I.R. 1266 leaves too much discretion in the hands of law enforcement.

Under the proposed legislation, any time law enforcement officers want to go on a fishing expedition, they would be able to do so without having to show probable cause or reasonable suspicion that an individual is involved in unlawful activity.

The information the law enforcement has access to under this legislation is available from the cellular service provider if a warrant is presented. Allowing law enforcement to obtain this information directly from the retailer, rather than pursuing a warrant, is an unjust intrusion of privacy and upsets established Fourth Amendment principles.

The bill also facilitates the wrongful or negligent use of sensitive personal information provided by

the purchaser of pre-paid cell phones. There's no protection laid out in the legislation against retailers' misuse of consumers' personal information, nor is there a protection from negligent handling of such information. As a result, this legislation exposes purchasers to the possibility of identity theft and other forms of inappropriate use of their personal information, either by retailers themselves or by third parties who acquire --

P.O. LINDSAY:

Do you have much longer, Mr. Sinha?

MR. SINHA:

I'm sorry?

P.O. LINDSAY:

Do you have much more?

MR. SINHA:

Just a little bit more, not too much.

P.O. LINDSAY:

All right. See if we you could wrap it up. We started the clock late, so you're --

MR. SINHA:

Okay.

P.O. LINDSAY:

-- really well over five minutes.

MR. SINHA:

I.R. 1266 proposes an ineffective way to protect against crime and terrorism, instead of utilizing well-developed standards, such as reasonable suspicion and probable cause that facilitate effective law enforce. The proposal creates a new scheme that will be burdensome for retailers and law enforcement alike, and there's no evidence that this new scheme would actually help law enforcement.

Rather than actually combatting crime and terror, I.R. 1266 has the consequences of invading privacy, while burdening retailers and having a chilling effect on pre-paid cell phone purchasers, many of whom have already been marginalized by society because of their socio-economic status, life-style or history with domestic violence. To that end, the NYCLU urges this Legislature to reconsider I.R. 1266 and put an end to fear-based laws that infringe upon the privacy and the constitutional rights of Suffolk County residents.

P.O. LINDSAY:

Okay. Mr. Sinha, theres a couple of questions for you. Legislator Browning is first.

LEG. BROWNING:

Yes. Thank you. I would like to ask you, are you reading that this is a ban on pre-paid cell phones?

MR. SINHA:

No, no, no. I understand.

LEG. BROWNING:

Okay. And confidentiality, just curious, do you have a pre-paid cell phone or do you have a contract

phone?

MR. SINHA:

I have a contract phone.

LEG. BROWNING:

Okay. Is there confidentiality with your contract phone? You have to give your information, right?

MR. SINHA:

Well, the information is available to police by a warrant.

LEG. BROWNING:

No. But when you purchased your phone, you had to give your personal information, correct?

MR. SINHA:

Right.

LEG. BROWNING:

Okay. And, you know, I'd like you to think about -- you talk about this is not a solution to combat crime or terrorism. Do you have the solution?

MR. SINHA:

Well, you know, my job as a lawyer is not to tell people what they can do, but, rather, what they cannot do. Unfortunately, I do not have the effective solution for you, but I do know that this is, respectfully, not the most effective way to do so.

LEG. BROWNING:

Okay. Well, I just would like to remind you, 9/11/2001, the hijackers had pre-paid cell phones; Times Square bomber, pre-paid cell phone; Craig's List murderer, pre-paid cell phone. I could go on. I appreciate you coming in and talking. Thank you.

P.O. LINDSAY:

Legislator Cilmi.

LEG. CILMI:

Yeah, hi. Just a quick question relative to what you mentioned about Fourth Amendment and probable cause. Are there any other situations or circumstances that you're aware of in Suffolk County, or in any other New York State municipality, that would -- that would provide for such a liberal view of the probable cause of the Fourth Amendment in terms of how police can just go in and just on the question ask for this sort of information?

MR. SINHA:

Not that I'm aware of, no.

LEG. CILMI:

To the sponsor, any -- do you know of any?

LEG. BROWNING:

Well, I'm not an expert on that, but we do have some Police Officers who will be speaking shortly. You can --

LEG. CILMI:

Okay.

LEG. BROWNING:

-- maybe ask them that question.

LEG. CILMI:

Thanks. Thank you.

P.O. LINDSAY:

Legislator Eddington.

LEG. EDDINGTON:

Yeah. Thank you for validating some of my beliefs about attorneys. But what I would like to see is maybe you try the other side, you know. If you're saying that this isn't a good approach, why stop there? Why not get your organization to be proactive and say, "Okay, you know what, we see a hole in this, maybe this, and this, and this." Because I don't think you -- you know, it's very easy to shoot arrows at things. You know, you've come a couple of times to knock down stuff. I never see you leave with a solution. So, you know, why don't you take your degree and your intelligence and use both sides -- try the right side of your brain, too, because it might help us a little.

MR. SINHA:

Thank you. Thank you for the comment. I'm not going to respond to that.

P.O. LINDSAY:

That's good. That's a good thing you don't do that. Anybody else? Thank you very much for your comments.

MR. SINHA:

Thank you.

P.O. LINDSAY:

Dr. Jeffrey Reynolds.

MR. REYNOLDS:

Good afternoon. My name is Jeff Reynolds. I'm the Executive Director of the Long Island Council on Alcoholism and Drug Dependence. We provide addiction services to young people and families here in Suffolk in two offices, Riverhead and Ronkonkoma. And I've come to you now over the course of the past couple of years to discuss the current heroin and opiate crisis that's facing our young people. I think as a county and, in fact, as an island, and probably as a state, we've continually looked for solutions to that problem, and I think where we've landed now is there is no one big solution. But there are bits and pieces that we can do to lessen the problem, and I think over the course of the past couple of years we've done that. The downside is we haven't done it fast enough. And so on Long Island we lost 370 young people to overdoses last year, so we're not doing it fast enough.

When I look at this proposal, it's a piece of the puzzle, and here's why it's a piece of the puzzle. We all know by now in very, very clear terms that young people who use heroin have a need to use more and more of it as time goes by. And the notion of the dealer driving an Escalade and having three or four of them across Long Island is gone. The average dealer is now a kid in a cul-de-sac who has a \$100 a day heroin habit, who in many cases becomes the go-to drive who drives his parent's BMW into Brooklyn, picks up drugs from Bushwick and brings them back. That job comes with a pre-paid cell phone, it's one of the great perks of the job. The same applies for prescription drugs.

I met with a guy a few weeks ago who ran a major ring in Commack and Smithtown. Police Department's aware of it. And every three or four days he gets together with a group of guys, they got pre-paid cell phones and they got a whole pile of fake MRIs, and their job was to go out and see as many doctors as they could and get as many OxyContin and Vicodin scripts as they could.

Whenever I do parent workshops, I tell parents, "You should be looking at your kid's cell phones." The Police Department, as you've heard, some like it some don't. The ability to track those calls is absolutely critical. When we talk about pre-paid cell phones, the ability to do that is gone. So, for the police, where an arrest might drive somebody through my doors and save their lives, or the parent who I say, "Pull the call detail and let's find out if they're really selling out of the house," that opportunity is gone, it's a lost opportunity to intervene. We don't have enough of those opportunities, we need more of them.

You know, I've heard the issues around retailers and I'm sensitive to that. I live on Long Island, too. We heard some of the same arguments around DXM and that if pharmacists have to collect I.D., it's going to -- the sky's going to fall. Well, you know what, the sky didn't fall. And as a result of that law, we have a lot of young people who are alive, first and foremost, but who have found their way into recovery. This is not a big deal in the scheme of things, but as we try to battle an epidemic, one that I think is unprecedented here on Long Island, we need every tool we can get our hands on and I think this is an important one. So I hope you'll support it. I appreciate the opportunity to be here today, and I welcome any comments or question you might have.

P.O. LINDSAY:

Thank you, Doctor. Legislator Cilmi has a question for you.

LEG. CILMI:

Jeff, how are you?

DR. REYNOLDS:

Good, Tom. How are you doing?

LEG. CILMI:

I'm doing great, thanks. You know how much I respect what you do, and you know how much I understand the issue of alcohol and drug abuse, and certainly cell phones in general play a part in that problem.

DR. REYNOLDS:

Yeah.

LEG. CILMI:

And my question is in no -- is in no way meant to be sarcastic.

DR. REYNOLDS:

Okay.

LEG. CILMI:

But would you agree that alcohol abuse is a more significant problem than what's caused by these pre-paid cell phones?

DR. REYNOLDS:

Yes.

LEG. CILMI:

Would you recommend liquor stores, delis, anywhere that you might purchase a six-pack or a bottle of Scotch, that in addition to proofing those customers, that we also maintain records of all those customers to go back and look at them when there's been a problem or an allegation of a problem, etcetera?

DR. REYNOLDS:

Here's the difference. Alcohol is legal. For most folks, alcohol is not a problem. We're talking about something that's being used as part of an illegal trade in this case, not across the board. But in this --

LEG. CILMI:

But some pre-paid cell phones are being used --

DR. REYNOLDS:

Yes.

LEG. CILMI:

-- to foster illegal things.

DR. REYNOLDS:

Yes.

LEG. CILMI:

And clearly, some alcohol is being used in --

DR. REYNOLDS:

Irresponsible ways --

LEG. CILMI:

Irresponsibly.

DR. REYNOLDS:

-- which lead to illegal acts.

LEG. CILMI:

Yes.

DR. REYNOLDS:

The connection, though, I think is a lot clearer. The impact on the retailer would certainly be different. But I think when you look at pre-paid cell phones, and I get that there are people who want them, need them, use them for lofty worthwhile goals, there's a whole set of people that don't. And I think in anything, you kind of weigh out what's the potential good versus the potential inconvenience. And here I feel like I've seen so many instances where these things are used in a less than positive way. For me, it's a no contest.

LEG. CILMI:

Well, I mean, you can make the argument that while pre-paid cell phones provide convenience to some people, alcohol certainly doesn't provide any convenience to anybody. I mean, it's --

DR. REYNOLDS:

All right. Some would argue -- I'm in the business of arguing against that, but some would argue that it does.

LEG. CILMI:

Well --

DR. REYNOLDS:

But it's a legal substance, it's legal to consume alcohol.

LEG. CILMI:

But cell phones are legal as well, that's my -- you know, I don't want to belabor this particular point, but I think you understand where I'm coming from.

DR. REYNOLDS:

I do, but -- and you and I have had a bunch of frank conversations about you kind of weigh out what's the imposition on a community versus what's the potential benefit, when I see a product that's used, at least when I see it in a less than positive way. This is not a ban, this is simply a means to gather some information so that the police and parents have some ability to do some recourse and to give their kids some help. But thanks for the question, Tom, I always appreciate it.

P.O. LINDSAY:

Thank you very much, Doctor, for coming.

DR. REYNOLDS:

Thank you, my pleasure.

P.O. LINDSAY:

Ruth Reynolds. Hi, Ruth.

MS. REYNOLDS:

I'm Ruth Reynolds, Director of Advocacy with VIBS Family Violence and Rape Crisis Center. And I want to thank you for the opportunity to speak to you today about VIBS concerns regarding this bill and victims of domestic violence. While we're not taking a stand for or against this bill, we do feel it is important for the Legislators to hear our concerns about how portions of this bill may affect victims of domestic violence.

Pre-paid cellular phones are a critical tool used in safety planning by victims of domestic violence. Many victims who leave their abusers plan their departure for long periods of time before they actually are able to break away safely. Domestic violence offenders use a variety of tactics to control their partner. Many abusers use phone records to monitor who their partners have been talking to, which can include family and domestic violence hotlines. A pre-paid cell phone can provide the victim with the privacy and confidentiality needed in making escape plans, as well as doing other things outside of the control of the offender.

Domestic violence offenders often economically abuse their partners, making it impossible for a victim to afford or have the credit rating for a land line or a conventional cell phone, whether they are in or out of the relationship. A pre-paid cell phone may be the victims only option.

Victims of domestic violence are in most danger after leaving an abusive relationship. Many offenders go to great length to locate and stalk their ex-partner. Pre-paid cell phones provide victims with access to a phone without compromising their safety by having to provide their new address. Also, under this bill, those victims who flee to a domestic violence shelter will be unable to purchase a pre-paid cell phone because they have no address they can give to the retailer. Many victims of domestic violence may not have the identification required by this bill to purchase a pre-paid cell phone. Many abusers control their partners by holding or destroying their I.D., and

victims who flee abruptly may not be able to gather their important papers before they leave.

While it is true that some offenders of domestic violence stalk their partners with the use of a pre-paid cell phone, they are much more likely than victims to have the resources to be able to purchase a pre-paid cell phone in another jurisdiction if this bill were to pass. This legislation requires retailers to collect and retain identifying information from each customer who buys a pre-paid cell phone. These retailers may elect to maintain these records on premises, either in paper or in electronic form, for no less than three years. Domestic violence victims fear that this will provide another avenue for their offenders to locate, stalk and harm them. Thank you.

P.O. LINDSAY:

Does anybody have any questions for Ms. Reynolds? Yes, Legislator Anker.

LEG. ANKER:

I have a question regarding, you know, helping domestic violence victims. You have an organization. You're from an organization?

MS. REYNOLDS:

Yes, I'm from VIBS.

LEG. ANKER:

Okay. Would it be possible to have this legislation, but also have a part of the legislation that allows those victims ready access of pre-paid phones?

MS. REYNOLDS:

Yes, that would be extremely helpful. The legislation we've seen so far doesn't indicate that. We did have a meeting and a discussion with Legislator Browning yesterday who indicated that that may be a possibility.

LEG. ANKER:

Okay. Thank you.

MS. REYNOLDS:

Thank you.

D.P.O. VILORIA-FISHER:

Jack wants to say something.

P.O. LINDSAY:

Legislator Eddington.

LEG. EDDINGTON:

Yeah. So let me get -- if for -- let's say, for example -- I'm a supporter of VIBS, so let's say I gave you a \$10,000 grant to purchase these phones and then you could give it to the victims and keep the records. That -- would that be a solution to this problem?

MS. REYNOLDS:

That would be extremely helpful, yes, we would really appreciate that a lot.

LEG. EDDINGTON:

Okay. So then we have a possible solution to this problem pretty quick, because --

P.O. LINDSAY:

You'll give the \$10,000 for it.

LEG. EDDINGTON:

Yeah, but, I mean, I give, I think, 5,000 every year. I'll direct it towards the -- I mean, you're giving me a resource to help you, while at the same time be able to pass a law that can do what Dr. Reynolds said, so I think that's a home run. Oh, the time's up.

MS. REYNOLDS:

Well, we thank you very much for your suggestion.

P.O. LINDSAY:

Somebody else?

D.P.O. VILORIA-FISHER:

Yes.

P.O. LINDSAY:

Legislator Viloría-Fisher.

D.P.O. VILORIA-FISHER:

I have been collecting phones in my office for VIBS for years for victims, and I see the supermarkets collect them. Aren't those phones used for precisely this purpose?

MS. REYNOLDS:

We do give them out. However, in order for the person to use them, they have to, you know, register them and get them turned on and pay -- you know, pay a regular --

D.P.O. VILORIA-FISHER:

Oh, I didn't know that.

MS. REYNOLDS:

Yes, yeah. And the other thing --

D.P.O. VILORIA-FISHER:

So what's the advantage? Jack, this is going toward -- Jack Eddington?

LEG. EDDINGTON:

Yes.

D.P.O. VILORIA-FISHER:

This is going toward what you suggested, because we've been collecting phones in my office for years, and supermarkets have. And I thought that domestic violence support organizations gave these to victims of domestic violence and that they were registered by the organization. Can you explain then how that works?

MS. REYNOLDS:

No. The -- we don't register them. We give them phones -- mostly they're used as 911 phones for the victims, so they don't have to register them, but all they can call is 911, is call the police. They don't have a regular -- you know, they can't call our hotline or any family or friends for support. Another thing we do with those phones is we do sell them back to the phone company for income for the organization, because we get more than we can give out to survivors. It is extremely helpful, they are extremely helpful to receive.

D.P.O. VILORIA-FISHER:

Thank you.

P.O. LINDSAY:

Thank you very much.

MS. REYNOLDS:

Thank you.

P.O. LINDSAY:

Donna Kukura. Donna, did I pronounce your last name?

MS. KUKURA:

Yes, you did. Thank you.

P.O. LINDSAY:

Thank you.

MS. KUKURA:

Good afternoon. My name is Donna Kukura. I'm a Crime Victims Advocate on a volunteer basis. I'm also the survivor of a homicide victim, my brother, Brian Boothe, was murdered in 2002. Through that tragedy in my life I've come in contact with a number of individuals who have suffered trauma and tragedy. And today, although my brother's murder was not related to a pre-paid cell phone, I can tell you that my experience is that very often this is the tool that is necessary to solve unsolved crimes. Very often it's the drug trafficker who has these pre-paid cell phones, and when the gang slaying takes place, it's that one little link in the crime chain that the police do not have.

I am also the United States Department of Justice volunteer for victims and the owner of Afterglow Bereavement company. I would like to say that this Local Law would help those who have suffered a murder of their loved one to get the crime solved, definitely in a more timely manner, and for some people it is the total missing link. The pre-paid cell phone hinders the investigation of unsolved crimes. Registration in stores of the owner can solve as a tool, and the owner is the person that purchases the phone. So, therefore, somebody's being held accountable for this phone.

When it comes to domestic violence victims -- I also work per diem as a Mental Health Counselor at Brookhaven Hospital. I would like to say that these phones -- we're registering who purchased the phone. There's nothing to stop me from helping my friend by going in and registering that phone and being accountable for that phone when the police come knocking on my door and say, "Yes, I did register that phone, I registered it for my friend, she's a domestic violence victim. I have my receipt, here it is. You want to track that phone, be my guest." There's nothing to stop these agencies from stepping up to the plate and registering the phones and knowing who they gave that phone to. So, really, there needs to be some solutions in here.

When it comes to heroin, I can't tell you the number of kids that are brought into our emergency rooms dead with these pre-paid phones in their pockets. We don't even know who these kids are. And we can't track them through their phone, because guess what, that isn't one of those phones that's registered.

Most folks that have these phones are not legal. They're using them for a purpose because it's involved in something that has some illegality. And I beg to differ with the man from Civil Liberties. It is not because people cannot afford them. There are very cheap, inexpensive contract plans that can be done, and you don't need a whole ton of information in order to do it, you can pay as you go.

I know I, myself, have bought Virgin Mobile, little ones for my children that include texting and everything else, and you can track what's going on and it's a good way to keep in touch with them. That's not illegal activity. However, I did give my information to the company when I bought those phones, and I do have a contract that I renew each month with my credit card on file with the company. So, should something happen with that Virgin Mobile phone, we're going to be able to find them.

I also would like to speak to the fact that I hope the Legislature will support this law, and that if there is an issue with keeping the information on file in the stores, that maybe we can use one of these scanners to put it directly into a confidential data base. In other words, police that have no interest, just like in a hospital when I have no interest in your particular medical condition, I should not be accessing your records; that if it's in a confidential database, you don't need to worry about the wife of a Police Officer being in jeopardy because he's going to look in that file. Unless he has the business to be there in that data base, it needs to be confidential and it needs to be protected information, very closely protected, because there's also crime victims who are harassed after a crime.

People that testify at trials who are intimidated by folks on pre-paid cell phones to not testify in that murder, such as in a lot of the gang slayings. We have people who are supposed to be testifying back out because they've been terrorized, not by a regular phone, but a pre-paid phone.

Once again, I'd like to stress that I think it's very important that that database confidentiality be maintained. And I don't necessarily agree with keeping it on site. I think that, you know, as a Legislator, you need to discuss that and decide how that's going to happen. But I do think it is something that would help Suffolk County Police. And as a citizen and a taxpayer in Suffolk County, I do want to help save money for our police force and time for them. I don't like lots of hours spent searching for criminals when it could be cut down with this one little extra tool.

P.O. LINDSAY:

Thank you, Ms. Kukura.

MS. KUKURA:

I thank you.

P.O. LINDSAY:

Legislator Cilmi has a question for you.

LEG. CILMI:

Thank you, Mr. Chairman. Thank you for coming. First of all, just let me express my sorrow for your loss of your brother.

MS. KUKURA:

Thank you.

LEG. CILMI:

I have a simple question, I guess. Do you honestly think that the criminals are going to -- don't you think they'll find another way to get their hands on a cell phone; that they're not going to walk into these stores and freely give of their license and information and --

MS. KUKURA:

You're right.

LEG. CILMI:

-- register, so they're going to find some other way to get their -- I mean, they find a way to get guns and knives and, you know, all manner of other things.

MS. KUKURA:

And how do we track those guns? We go back to who purchased that gun, the same thing with these phones. They're going to find a way around, there's always a way around everything.

LEG. CILMI:

Right.

MS. KUKURA:

However, we're going to be able to go back and say, "Who bought it," just like we do with the guns that fall into the wrong hands, we go back and we see who bought it. And at least you have a place to begin looking. That's all we're asking for. This is not a panacea by any means, it's a tool in a small arsenal of a war against terrorism and crime here in Suffolk, that's all, just a simple tool.

LEG. CILMI:

Okay. Thanks.

P.O. LINDSAY:

Thank you very much. Oh, I'm sorry. Legislator Gregory.

LEG. GREGORY:

Thank you, Mr. Chair. Thank you for coming here today. I'm in favor of this bill, but I do have some question, and I -- and you seem like a reasonable woman, so I just wanted to get your feedback. Are you -- obviously, I guess, you're in favor of having a retailer have your records or maintain your, you know, personal identifying information for three years, or whatever the requirement is. And that's okay with you, that if you, say, walk into a 7-Eleven to purchase a pre-paid phone, that some 17-year-old, 16-year-old, 20-year-old, whoever it is, behind a counter has complete access to personal information about you for the next three years and can do anything they want with it?

MS. KUKURA:

I use credit cards every day. Everyone has my personal information. They could do whatever they want.

LEG. GREGORY:

Not everyone --

MS. KUKURA:

I mean, whenever I go into the store, my credit card information is there. When I fill out a credit application, my personal information -- if you go on the internet, lots of your personal information's already there. If you have a reason to be concerned about identity theft, there are ways to prevent that, you have someone else buy that phone for you. This is registering the owner, not the user. This resolution clearly says the purchaser. That doesn't mean the person that's using the phone is registering it, it says the purchaser, so I, as a parent, may purchase it for my child. If he gets involved in criminal activity, I'm going to be held accountable for the fact that I purchased this phone and maybe they gave it to a friend who's selling drugs with it. The police are going to have a tool, that's all, it's just who purchased it.

LEG. GREGORY:

No, I understand that. The concern that I have is that the legislation speaks to a requirement to

maintain, but it doesn't have -- and a penalty, and it doesn't have a requirement or a penalty to safeguard. So I could have the record for three years, but someone can take that information and use it, and if something happens, say I keep using a 7-Eleven.

MS. KUKURA:

Right.

LEG. GREGORY:

-- there's no requirement for the 7-Eleven to report that your -- I'm a former vet. A few years ago, we had the million files or whatever --

MS. KUKURA:

Oh, yes, I remember that.

LEG. GREGORY:

We got the notice. There's no similar mechanism in place to say, "We had an employee who went through our records, used the records inappropriately, and we have your records on file and we're just notifying you." That's somewhat of a concern for me.

MS. KUKURA:

I think that's an important point, and maybe that could just be added in as the solution, that you add into to indeed ensure confidentiality of those records by the provider of services, as far as whoever it is that's going to be selling these phones needs to secure the data, and that there be some penalty for allowing it to be compromised, just as there is if you allow all your credit card numbers to get loose out there --

LEG. GREGORY:

Right, right.

MS. KUKURA:

-- and you're a retailer.

LEG. GREGORY:

Okay. All right. Thank you.

P.O. LINDSAY:

Thank you. Gerry Keegan.

MR. KEEGAN:

Members of the Legislature, Gerry Keegan with CTI, the Wireless Association, in opposition to I.R. 1266.

Approximately 80% of all pre-paid wireless devices are sold through third party retailers, traditional retailers, whether they be mom-and-pop stores or large department stores, without any wireless provider activity. Although consumers have the options to purchase a pre-paid wireless device, some of these options entail interaction with another person while others do not. Accordingly, there is no one-size-fits-all solution to capturing purchaser information, and that is why we have concerns with this legislation.

Pre-paid customers account for 20% of wireless consumers nationally, approximately 63 million in the U.S. nationally, 3.9 million here in New York State alone. The average pre-paid cell phone user is older than a post paid subscriber, and has lower household income than a post paid subscriber. Because of hard economic times and a slow economic recovery, more and more U.S. customers,

consumers are choosing pre-paid to receive their wireless service. Consumers who chose pre-paid may be on fixed incomes, like senior citizens who select pre-paid because they are limited wireless users. Pre-paid consumers may also be low income consumers. They purchase the product because it allows them to purchase what they can immediately afford.

I want to emphasize that the intent of pre-paid wireless is to provide service to consumers who do not want fixed terms contracts, who may want to simply manage their usage, or who have limited incomes and can't afford a monthly service contract. Pre-paid customers and providers are -- with the devices are compliant with Federal laws like the Communications Assistance For Law Enforcement Act. Whatever the reason for choosing pre-paid products, they offer wireless consumers an alternative to fixed-term contracts in a highly competitive marketplace.

The wireless industry is committed to working with law enforcement. We do it every day, whether it's through subpoena requests for call record details, or whether it's through a request for a wire tap. We work with law enforcement day in and day out. And it's important to note that pre-paid phones are exactly the same as post paid phones in that call records and wiretaps can be provided in the same manner.

Identity theft is the number one complaint, according to the FTC. All wireless consumers, just like consumers of other goods and services, have privacy concerns and this bill will just amplify those concerns. By requiring pre-paid wireless consumers to provide personal information, including government-issued identification and related numbers, pay stubs, voter registration cards, and motor vehicle registration information, to retail clerks and requiring retailers to maintain such information in some manner, the proposed ordinance provides yet another avenue identity thefts. To evade the proposed law, Suffolk County criminals who currently misuse pre-paid services for illicit purposes can travel to Nassau County, New York City, or bordering states to purchase pre-paid devices, or they can purchase the devices over the internet. This proposal, therefore, will not deter unlawful activity.

If this ordinance is passed, the real people that will be denied access to telecommunication services in the County are law abiding consumers. As the Georgia Legislature found when it studied the exact issue, quote, "Placing extra burdens on resellers of pre-paid phones only within the State of Georgia would do little to prevent their use in organized crime, but would have adverse affects on retailers."

In closing, more Americans are using their wireless devices each day in emergencies or to assist law enforcement. That is why we need to ensure that we don't hamper consumer access to wireless services. Thank you for the opportunity to appear, and be willing to answer any questions that you may have.

P.O. LINDSAY:

Okay. Mr. Keegan, we have a couple of questions for you. Legislator Browning's first and then Barraga.

LEG. BROWNING:

Thank you, Mr. Keegan. You talk about the Georgia -- in 2007 recommending the Federal legislation. There was one thing I think you left out, that they also required that -- asked that the industry take steps to address the problem. I think that was what, 2007, about four years ago? What has the industry done?

MR. KEEGAN:

I know that individual carriers and providers have limited the number of cell phones that one purchaser can make within a certain timeline, so that there aren't these bulk purchases by those

who may suspiciously be using the phone. Another aspect that the industry is looking at is filing lawsuits against those who may export, mass export the devices, and then re-import them for criminal activity. So those are the steps that we have taken in order to hinder the illicit use of our devices.

LEG. BROWNING:

But it has not helped as far as law enforcement being able to track the individual purchase, correct?

MR. KEEGAN:

You would have to ask law enforcement that, I don't know.

LEG. BROWNING:

Okay. But it is not registering the phone. You talked about the information about the -- you know, the people who buy pre-paid cell phones are mostly low income, senior citizens. How do you -- how did you get that information, since there is no track on pre-paid cell phones?

MR. KEEGAN:

It's a firm called Big Research CIA. It's from October 2010. There's a link provided to it in the written testimony for you to access it. And when I talk about low income, I'm comparing that versus the post paid subscriber. So I think the post paid subscriber on average has a household income of 69,000, where the pre-paid subscriber has a household income within the range of 42,000. And I think it's important to note that also 62%, according to this research, of pre-paid subscribers are over the age of 45. I don't know too many drug dealers who are over the age of 45.

LEG. BROWNING:

Really? I can -- I can argue that one. And I think we have some law enforcement here I think could definitely argue that with you. You talked about -- and, clearly, I agree, the Federal Government should be doing this. However, I think that your industry has certainly not been very cooperative to move this forward in the various states where they've been trying to do it. And I'd like to see more cooperation maybe when Senator Schumer introduces it next year to help him to make this a law in -- throughout the United States.

You talked about being able to travel. Don't worry, I'm working on that, because I'm talking to Nassau County Legislators to make it a law in Nassau. And you also talk about over the internet. How would somebody purchase it over the internet, a credit card?

MR. KEEGAN:

No, not, necessarily. You can go on Craig's List, e-Bay and purchase the devices without using -- with using their currency, the e-Bay currency or the Craig's List currency.

LEG. BROWNING:

Okay.

MR. KEEGAN:

It's not necessarily over the wireless provider website.

LEG. BROWNING:

But if they're buying it over the internet with a company like yours, they would probably use a credit card, correct?

MR. KEEGAN:

With a wireless provider --

LEG. BROWNING:

Right.

MR. KEEGAN:

-- a pre-paid reseller, yes.

LEG. BROWNING:

Okay. Thank you.

P.O. LINDSAY:

Legislator Barraga.

LEG. BARRAGA:

Mr. Keegan, you're the Director of State Legislative Affairs. Is that state -- nationwide, each state?

MR. KEEGAN:

Correct.

LEG. BARRAGA:

Okay. Some of the correspondence that I've received had made reference to lower income groups, as you have, buying these pre-paid phones. I guess the question I have as sort of a follow-up to Legislator Browning, is there any way to define ethnically who is buying these phones, Caucasian, African-American, Latinos?

MR. KEEGAN:

There is within the study that I just provided you in the written testimony a breakdown of ethnicity. The issue is they don't break out non-Hispanic white and Hispanics. So they group it all together under one category that's under white consumer. And I think if you saw that breakdown, there may be some, you know, further deviation where you can say "X" number of people use this device and are of this ethnicity.

LEG. BARRAGA:

Because I did receive a piece of correspondence from an Hispanic group who had some problems with this particular bill. And as I read it, among other things, I can see from the, quote, immigration perspective, where one group or the other might be more prone to purchase these wireless phones. Does that come up in your documentation at all? Do you sense that or --

MR. KEEGAN:

We have. We thought, when we look at our research, that it does indicate that there's significant uptick in the use of the devices by the Latino community. Again, I was hoping that I could pinpoint to one specific number, but within the research that I just referenced, it doesn't break out that community, but we have heard those similar things. I think in all -- an important aspect in it, we've seen pre-paid go from 7% of the population, the wireless consumer population, to now 20%. And there is probably an upward growth rate of between five and 10% annually. And I think a significant attribution to that is the tough economic times.

LEG. BARRAGA:

The pre-paid, as opposed to the contract, does the pre-paid person pay the taxes on a pre-paid just like a contract person pays?

MR. KEEGAN:

Yes.

LEG. BARRAGA:

Same thing?

MR. KEEGAN:

Yes. There is an issue with a 911 fee within the State of New York. For example, the pre-paid is exempt, because there is difficulty in the actual collection, because many times there isn't a relationship with the retailer or the provider for the consumer to actually pay that amount. But generally, overall, the taxes are the same.

LEG. BARRAGA:

All right. Thank you.

P.O. LINDSAY:

Legislator Kennedy.

LEG. KENNEDY:

I'm going to ask -- you made reference to a couple of websites in your testimony. I want to take a look at it. I'm interested in the demographics, as well as my colleagues have spoken to you about.

I had occasion to buy a pre-paid over the weekend at a large retailer. I was amazed about the ability to walk in, did it relatively easy. Followed through, had it activated, and my child was able to go ahead and use the phone quickly thereafter.

I think when we're confronted with some of the things that we've heard that these phones can facilitate, that there's going to have to be some kind of balance for us to go ahead and put some parameters around it. I didn't have to show anything. Now, you know we facilitate free commerce and things along those lines, but in many other areas in life, when it comes to commodities, there are certain things that we have to do in order to complete the transaction. When I purchased alcohol products before I had white hair, I had to show an I.D. In other areas, I had to do something to demonstrate eligibility or capability to get the product.

So I want to read the demographic information, but I do think there may be some level of information sharing or gathering. I'm not convinced that we may have to hold these records for three years, but I do think the alternative is just very, very dangerous. And it seems that these products can facilitate a number of different activities that can cause great harm and mayhem, so -- but thank you for being before us to speak to us.

P.O. LINDSAY:

Legislator Gregory.

LEG. GREGORY:

Thank you for coming today. I do see the value of this legislation. And I'm concerned that the industry had an opportunity to take some corrective action, and from what I've heard in your response, I don't think it's done enough, so I think this bill certainly goes in the right direction. My comment or question is more directed towards -- you had mentioned earlier in your comments about these phones more for low income people, and that the higher income people usually have monthly or contract phones. Now, stating that, you know, they're obviously low income, but that doesn't mean that they don't have any income. So, you know, they buy the phone. In order even to use the phone, you have to purchase minutes, which is not inexpensive, and you have to do that on a regular basis in order to have -- to be able to use these phones. So there is a consistent, I guess, use of income or the monies to keep these phones going, or the use of it. Now, I'm sure there's some type of alternative that the industry can do to incorporate those lower income cell phone users into your billing, or whatever the term would be. Have you looked at that?

MR. KEEGAN:

And then correct me if I'm not getting the question correctly. The thing with pre-paid cell phones is that administrative costs are low. That's how carriers, providers, retailers can sell the pre-paid devices and the pre-paid product. If administrative costs were to increase, you're either going to jack up the price or you're going to remove yourself from the market. The pre-paid products are very competitive to their post-paid brother. I don't know if I could have said that five or six years ago, but when you look at the cost per minute in this country for wireless service, it's declined. The bill right now, an average monthly bill is at its lowest point since 2000. So I think when you look at the competitiveness in the marketplace, the wireless marketplace is responding to consumer demand and is responding to what consumers can afford. When you look at the increase in the use of phone services from wireless, or data services from wireless, including texting and web browsing, it's increased dramatically while the price has declined. So, I think when you're talking about pricing issues, I think the marketplace and the industry is responding to consumers.

LEG. GREGORY:

But you're saying for pre-paid phones it's not worth it financially. The return on -- the return is not as great for the pre-paid phones because the administrative costs are low.

MR. KEEGAN:

The return is great because the administrative costs are low.

LEG. GREGORY:

Right.

MR. KEEGAN:

Most of the pre-paid products that you would traditionally identify as pre-paid, they're basically resellers of air time on carrier networks. So you may have one or two pre-paid providers that operate, you know, in the County, exclusively pre-paid, and they basically lease time from the wireless carrier, the carriers that you know, the "Big Four", for example, and then resell that time to the consumer. So they have figured out a way to, you know, make their business work and operate. The margins, if they were to increase, I don't know how they would respond to that within the marketplace here. That would be something that they would have to determine individually, but I definitely think it's a concern of the individual provider.

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

LEG. GREGORY:

So you're saying that you're not able as much to build in a profit, as you do in a contract phone with air time, as you are with paid phone air time because you resell it.

MR. KEEGAN:

Yes.

LEG. GREGORY:

Okay. All right.

P.O. LINDSAY:

Thank you. Thank you. Okay, Alex Lerner?

MR. LERNER:

I was here just for technical questions on the lease.

P.O. LINDSAY:

Okay, thank you. Jeffrey Behrens.

MR. BEHRENS:

Good afternoon. My name is Jeffrey Behrens. I'm here representing the Suffolk County Crime Victim Center, a division of Parents for Megan's Law. Our Executive Director, Laura Ahearn, apologizes for not being able to stand here today due to a scheduling conflict.

The Crime Victim Center provides comprehensive support services to victims of violent crime, including but not limited to survivors of homicide, assault, robbery, sex crimes, gang violence, stalking, kidnapping, human trafficking and terrorism. The agency has served over 7,000 victims of violent crime and property crime in Suffolk County. Our agency collaborates closely with Suffolk County Police Department in our joint mission to ensure that all victims of violent crime are provided support services they desperately need and are entitled to under the law.

The Crime Victim Center supports IR 1266, to adopt a Local Law to register prepaid cell phones purchased in Suffolk County. Prepaid cell phones can facilitate criminal and terrorist activities and their inability to be traced to an owner or user implicates -- impedes the ability of law enforcement to investigate and combat crime. The Crime Victims Center -- excuse me. The Crime Victim Center supports this legislation knowing full well that the laws on the State and national levels are required in order to achieve the desired full effect of regulating the prepaid cell phones, but each journey must start with a step and this may be that step.

The agency has two caveats to it and we would ask that the Legislator (sic) consider the following amendments; inspection of records maintained on premises. We were discussing earlier about the fear of domestic violence information getting out, this kind of hits on that a little bit. Such records could be made available to law enforcement only; this change would protect the anonymity of the individuals who are desirous of protecting our identity for non-criminal purposes such as domestic violence and stalking victims.

Our second caveat considering following to enhance law enforcement efforts. Retailers who elect to maintain their records on-premise should be required to notify law enforcement in writing on a form to be created and provided by law enforcement on the sale of multiple phones during a 24-hour period to the same person. This information will be important in a potentially -- identifying a person engaged in criminal enterprise that would inhibit one person with an ID from buying multiple phones for other persons and handing them out or selling them in a black market for extra profit. This is known as a straw purchase, and the ATF currently prohibits this for firearms. Additionally, if a person was forced to go to multiple locations purchasing one phone at each location in an attempt to circumvent this reporting, the chances are that he would buy one -- at least a few of these phones from establishments that are reporting purchases on-line and the activity then could be picked up by law enforcement. Thank you for this opportunity of supporting this information and legislative initiative.

I would like to get to one thing. I am a retired -- I'd like to step away from my role in here. I am a retired law enforcement officer of 20 years NYPD, I know some questions came up requiring -- are there anything similar, is there any similar registration. And even out here in Suffolk County. I mean, a couple of weeks ago I went to cash in some gold, the gold prices are up. I had to show my ID. I went to one of these buy and sell shops, I had a photo ID, just to exchange that, and that goes back to when the pawn shops in the city were getting all the stolen property. And let me tell you, time and time again we were able to solve cases, homicide cases, burglary cases. Because I would send my detectives out and they would check the local dealers and they would come up with the stolen property, and on their sheets we'd have the criminal -- the information. So this is very

similar when we ask has this been done before.

As far as violating other things, I mean, we register our cars. There are things that need to be registered. I can't think of today too many things that we -- too many ways to communicate with another individual that we don't identify ourselves, even the Internet. You send a nasty letter to somebody on the Internet, it has your IP address, they gotcha. You speak to someone on the phone, caller ID, any kind of telephonic harassment on the phone gets traced back to you. This is one of the one loopholes that really hinders law enforcement from following up investigations, and I believe it would be a huge thing. I would love to see it go further than Suffolk, but each thing has to take a step.

P.O. LINDSAY:

Thank you very much, Mr. Behrens.

MR. BEHRENS:

Thank you.

P.O. LINDSAY:

Jack Rugen? Am I pronouncing it correctly?

MR. RUGEN:

My name is Jack Rugen, I'm a board member of the United Franchise Owners of Long Island representing eighty-five 7-Eleven franchises, operating ninety-seven 7-Eleven stores in Suffolk County. We sell prepaid phones in the box. Our main customer is the local, law abiding teen-ager or parents of those teen-agers; that is our main customer base.

IR 1266 will impose additional costs and liabilities upon our membership by mandating the collection and storage of personal identification and information. This collection and storage will require extra time, physical space and security, all borne by the merchant. All of these will increase our cost of doing business. These costs will increase the cost of prepaid cell phones to the consumer; in this case, a very sensitive demographic. Most customers who purchase prepared phones in the box are low income persons with none or bad credit. The unintended result of IR 1266 will be to discourage sales and decrease the badly needed revenues to the County. No one wants terrorists or criminals to use these phones to conduct acts of terrorism or criminal activity in the nation or in Suffolk County. But imposing these rules and regulations will not stop them; they will find a way to do their dirty deeds. There must be an alternative. I ask the Legislature to explore those alternatives to combat terrorism and crime. Thank you.

P.O. LINDSAY:

Thank you very much, Mr. Rugen. Philip Castaldo.

MR. CASTALDO:

Good afternoon. My name is Phil Castaldo. I'm here with Jack Rugen. I'm also a 7-Eleven franchisee. I think you heard both sides of the fence here today. My biggest problem here is the end doesn't justify the means. To track these purchases at store level, the Police Department to act on this is ludicrous. I ID kids that come in my store that do things, I tell the Police Officer what the plate number is, what the kids look like. They go try to track the plate number down, "Oh, I don't know. He was a hitchhiker, I picked him up. I never saw the guy before," end of story. If someone comes in my store and buys a cell phone, they buy two. The guy that gives me the ID gives it to the other guy and he gives him his phone. So now you don't know where that phone goes. They just give them out. "Oh, yeah, I lost it."

This bill is not going to condemn this kind of crime that you're looking at. If a person is smart

enough to buy and sell illegal drugs, they're smart enough to buy a cell phone. You tracking this is like tracking crow bars from a hardware store; it's ludicrous. I'm sorry. I mean, you know, I don't want to sound condescending, but maybe we should have found out who bought the glove, the LA Police Department, in the trial a few years ago. Maybe we'd find out who the murderer was, find out who bought that glove.

LEG. ROMAINE:

If it doesn't fit, you must acquit.

MR. COSTALDO:

But really, I don't want to sound condescending. I know you guys are trying to do due diligence up here and to pass a bill is good for everybody. But the DARE Program started 22 years ago, 50% of the kids who were in school tried drugs 22 years ago; 22 years later the DARE Program, it's down to 48%. We picked up 2% in 22 years. I mean, come on.

And this bill here, all it does is put the onus on a poor business person to stand there in line, take this information and, as I said, the end doesn't justify the means. You're not going to -- this information, once it leaves the building, to try to track that phone, where it went to. This lady bought a phone for somebody, "Oh, yeah, I did. I bought it six months ago. Oh, I lost it," or, "I gave it to a friend of mine." That trail is ended, it's gone. It's not a tattoo.

So please, let's use our resources for something better, or maybe convert this bill another way, but tracking a cell phone to me is ludicrous. Thank you.

P.O. LINDSAY:

Thank you. Noel DiGerolamo.

MR. DIGEROLAMO:

Thank you very much. I appreciate the opportunity to speak here before the Legislature regarding this bill. It wasn't my intention initially to come up and speak regarding this. However, after listening to some of the dialogue, I felt the need to given that I represent law enforcement in this County.

You know, this bill should be recognized more as a public safety bill and it should not be twisted into, you know, some sort of an attack on corporate profits as defined about the 20% cell phones that are sold in this nation to prepaid bills; that's not what this is about. This is about protecting people and their rights and providing them with services that are available to them in this County.

From a law enforcement perspective, we need to recognize that when you're doing an investigation and there is a prepaid cell phone, as was described earlier, that hinders the investigation greatly. And it doesn't give law enforcement an opportunity to follow through on even where that phone came from, the origination of it, other than knowing that it was purchased at a 7-Eleven or some other store. And by no means am I speaking directly about any corporation, but it doesn't give us any leads as to who purchased it or what it was used for. And if someone wants to pass it off to their friend, as described before, well guess what, you're going to answer to that, because once we have your name we're knocking on your door, we're speaking to you. And I could tell you from personal experiences of 20 years, most people when we knock on the door, you know, they get a little nervous and they tend to own up to what they did and why they did it. You know, regardless of what it is that they do, whether they're drug dealers or not, or whether they're just giving it to a friend or it's a gang issue or whatever it may be.

This should also be viewed as a benefit to those of lower income and those who, for whatever

reason, cannot afford to enter into a long-term cell phone contract. Once you're registered and you dial 911, well, we know who you are, we can come and provide you with those services immediately. You know? It's just like dialing from your cell phone; you get those benefits because you had to register it, because we know who you are. Well, these people are no different. Just because they don't have the ability to enter into a long-term contract doesn't mean they should be denied those benefits and the ability for the Police to respond to their needs.

You know, someone spoke of domestic violence victims and possibly it being tracked and they know who they are and watching their phone calls. Well, quite the contrary. You know, if someone in my family was a victim of domestic violence and for whatever reason they could not afford a cell phone contract, by all means, I want it registered. I want to know that when they dial 911 and that abuser, or whoever it may be -- it doesn't even have to be domestic violence, it could be any attack -- that individual takes that phone and damages it or destroys it. Well, I'd like to know that once that 911 is dialed we know who it is, we know where it's coming from, we know where we can start tracking it down. And even if it doesn't give an exact GPS location at the moment, which God willing will be something in the future in order to help people. I think we're looking at this, a lot of people are looking at this from the wrong angle, and we need to recognize it as a benefit, not as an obstruction of someone's rights.

You know, it was mentioned earlier, we register cars, we register handguns, we register everything else, we register our houses. We know who we are and where we are. You know, why shouldn't we register our cell phone? If everybody sitting around this horseshoe right now has a cell phone; well, we know who you are when you dial 911. That's for a reason, it's to help you, it's not to hurt you in any way.

I just -- you know, some of the things that are being said today really are off-mark and it's shocking. It's surprising that the Civil Liberties Union would be opposed to such a thing. How can you be opposed to something that only enhances the benefits that the people receive? They want to say it's a violation of your rights and your privacy? Nonsense. It's an enhancement of the benefits you're going to get. We're going to provide you with services that as of right now you do not receive.

And the argument of going to Nassau County or Westchester or Connecticut or wherever else you want to go, I don't buy that for one minute. You show me one law abiding citizen who lives in Montauk that's going to drive to Nassau County because they just don't feel they should have it registered and they want their privacy. Give me a break.

What are we talking about here? We're not talking about legitimate citizens who are out there, you know, trying to get a cell phone for legitimate purposes but doesn't want anybody else to know; that's not what we're speaking about right here. That individual -- no different than when we ban Ephedra or anything else, or sales tax for that matter. Let me drive to Nassau County to save an eighth of a percent on my sales tax or whatever other place I may be going; nonsense. That's not reality of life, that's not what we deal with. It's a cell phone, it's being registered for the purpose of providing a service, and it shouldn't be mistaken for anything but that. Thank you.

P.O. LINDSAY:

Noel, Legislator Cilmi has a question for you.

LEG. CILMI:

Hey, Noel. Just a quick question for you. I'm reiterating the question I asked somebody else earlier. In your experience as a law enforcement official in Suffolk County, are there any other situations whereby a Police Officer or somebody else in law enforcement can go in to an establishment and, simply by asking, retrieve records of this sort from, you know, a store or

business or -- what's that?

D.P.O. VILORIA-FISHER:

We were saying pawn shops; we're trying to think of places.

LEG. CILMI:

Okay. Or maybe -- you know, that's my question really, or in all instances, does it require a warrant or probable cause?

MR. DIGEROLAMO:

I think I know the direction you're going, and the answer would be it depends on how it's paid for and it would depend on if there's any record of who came in and purchased it. If I purchased a prepaid phone at any location and I paid for it with cash, and maybe it -- maybe the establishment has video, maybe they don't; maybe there's a receipt, maybe there isn't. How do we know when they purchased it or when they didn't purchase it?

LEG. CILMI:

I think you may have misunderstood my question. As a law enforcement officer, one of our Police Officers could -- is there any other circumstance where they could walk into a store and get information about something that was purchased at that store, and I use a purchase as an example, it could be some other -- something else that I can't think of. But without a warrant, without having a Judge issue some sort of a probable cause.

MR. DIGEROLAMO:

No, there would be no way for hypothetically something that was mentioned earlier -- and I think understand now where you're going with that -- about accessing data bases and a police officer with an ex-spouse or whatever it may be, nothing could be further from the truth. There is not one database available to a Police Officer in Suffolk County, not one. Whereas if I make a check or a verification on anything, it is recorded what I'm checking, what I'm looking for, who I'm looking for, the time I did it, when I did it and the purpose for which I did I have to enter into everything I do. If I left right now and ran your license plate, the Police Department knows that I ran your license plate and I will be called to task, should you make the inquiry as to why, I would be called to task as to why I ran your license plate, for what reason, on this time, this date, what purpose, and I have to answer to that. It's all recorded, there's absolutely no way for me to access information without the authority of the department.

P.O. LINDSAY:

Legislator Cilmi, we have laws that pawn shops have to keep records and they can be -- they have to be turned over without a warrant.

LEG. CILMI:

Okay, that answers my question.

P.O. LINDSAY:

And junk dealers the same thing, they keep records. We went through those junk yard wars a couple of years ago and we knew more about that than --

LEG. CILMI:

Have they ever been challenged? Have those laws ever been challenged?

P.O. LINDSAY:

I don't think so. I don't think so.

MR. DIGEROLAMO:

I could tell you internally within the department, again, there is no way for me to access information without the --

P.O. LINDSAY:

No, he isn't --

LEG. CILMI:

Well, this law would allow you to do that, though. This law would allow you to walk into a 7-Eleven and say, "Show me your records of who purchased such and such a cell phone at such and such a time," without a warrant.

MR. DIGEROLAMO:

Well, you have to understand, there are two different things we're dealing with right now of when you want to deal with a law and you want to deal with the regulations of a Police Department and how we function. The law allows me to do a lot of things. Like I just said, the law allows me to run your plate, the law allows me to arrest people, the law allows me to do a whole multitude of things that I cannot do, you know, in my capacity as a Police Officer without the authorization of my department and without their verification that what I did was legitimate at the time I did it. So there are checks and balances in place that would prevent any type of abuse of what you're speaking of.

LEG. CILMI:

Okay. Thank you.

P.O. LINDSAY:

Legislator Anker.

LEG. ANKER:

I just want to thank you for coming here and speaking. It's very important. I think it's the most important thing that we can -- the information that we can get is from the Police Officers, because this is why this legislation is being introduced. And the pros and cons, that's why we're here, to balance and to figure out which way you want to go.

The pros basically seem to be this provides a tool, a vital tool to find out who is hiding something. And again, that's what you're here for, you're trying to figure out where that evidence is, where you're going. And without this tool, you know, it's sort of like -- you know, it's primitive. Without this, we have all this technology, but now you're not even given anything to find direction. So I'm hoping that this legislation will pass to provide you that direction.

Now, I'm also feeling the vibes from AT&T and some of the cell people, cell service people here, and I know your concern is as far as losing profit. But now profit, of course, you know, you've got to have safety and profit, of course, is important to businesses. But we also have a conscience and we need to understand that it's important for our protection of our citizens.

So I want to thank you again for coming. And it is important. You weren't expecting to speak today, you said, right.

MR. DIGEROLAMO:

No, I wasn't. I just started jotting stuff down as people were speaking, so I apologize if I wasn't as articulate.

LEG. ANKER:

No, no, that's fine. But that's why we need you and we need people like you to come here and present your case, because we have people, lobbyists and people that have interest in profit. We're here to protect our people and, you know, we're all taking a risk of what we're doing, you know, creating this legislation. But again, you've got to wonder, why don't we want, you know, the information from people? We're here to protect. Well, what are they hiding, you know? And that should also be considered when we decide on this vote. So thank you.

MR. DIGEROLAMO:

Thank you very much.

P.O. LINDSAY:

Thank you. Legislator Eddington.

LEG. EDDINGTON:

Yes, I just wanted to thank you for your comments. And that as we've talked before, you know, we know that you're under staffed and that's why we're going to continue to do things like this and ShotSpotter to help you do your job a lot better. And it's nice to know that you appreciate what we are trying to do. So thank you for your comments.

MR. DIGEROLAMO:

Thank you.

P.O. LINDSAY:

Okay. Thanks, Noel.

MR. DIGEROLAMO:

All right, thank you.

P.O. LINDSAY:

Deputy Inspector McCarth?

LEG. BROWNING:

McCarthy.

P.O. LINDSAY:

McCarthy; oh, I'm sorry, you left off the Y. And with you, Deputy Inspector, is Detective Sergeant John --

DETECTIVE SERGEANT BUSWEILER:

John Busweiler.

P.O. LINDSAY:

Okay, great, fellas. Go ahead.

DEPUTY INSPECTOR McCARTHY:

Can you hear us?

P.O. LINDSAY:

Yeah.

DEPUTY INSPECTOR McCARTHY:

Can I just get a couple of his other five? We'll just roll in, I'll be over by six, I promise you.

*(*Laughter*)*

My name is Deputy Inspector Gerard McCarthy from Suffolk County Police. I'm the Commanding Officer of the Major Crimes Bureau. With me today is Detective Sergeant John Busweiler, Commanding Officer of the Electronic Investigations Section.

First, before we start, I would just like to thank a couple of people. One, the Commissioner, the Chief of Department and my own Chief Detective for allowing me to speak candidly without giving me any sort of direction on how to address this issue. In that regard, you'll get my own experiences from dealing with these topics. I'd also like to thank Gary Quinn from the County IT who has worked with us on this, as well as the County Executive for allowing him to work on this project.

Let me just give you a little more background on our experiences. Currently, as the Major Crimes Bureau, I'm in charge of several sections, including Motor Vehicle Theft, Special Victims which deals with victims of sex crimes, Arson, and notably related to this legislation, Homicide and Narcotics. Prior to that I was in charge of the Special Services Bureau. The several sections there and directly related to these discussions was Identity Theft, Computer Crimes and Fugitive Missing Persons.

John Busweiler here, in addition to being the Commanding Officer of the Electronic Investigation Section, has done a tremendous amount of experience in General Service Squad, Career Criminal Investigation Squad, Motor Vehicle Theft, and more importantly ten years as a Narcotics Supervisor. We touch and deal with cell phones every day.

I want to give you just a quick demonstration, because then I'll address some of the issues raised by both the CTIA as well as the industry representatives. I have to tell you, they're intertwined; CTIA as well as AT&T. Amy Kramer who had written the letter, she was at several of these meetings. These board of directors and their officers of CTIA are, in fact, the same people, so just keep that in mind when we discuss these various things.

But basically, if I go and buy a cell phone today, a prepaid cell phone right here in my hand and I use it for just one purpose, one purpose tonight, that I am going to call a woman who happens to be advertising a cell phone back page. And I can tell you, one of those women is dead and you are not finding me. That's what this legislation is about. But it's beyond just that, it's on-line predators, it's dealing with kids that are on-line and then go to meet me; it could be a boy, it could be a girl because I'm going to seduce them either way, whichever is my persuasion, and they are going to drop off the grid. And right now someone will call us and tell us that that person is a missing person.

So right away when these events occur we do several things. Actually, Russ McCormick has to be here as a member of the SDA, but he's also in the Fugitive Missing Person Section. Well, what we do in these typical situations is we have to gather the people that are around and say, "Well, what happened?" So we gather the Fugitive Missing Person Detective. We have to gather John Busweiler because he handles all the cell phone data, does all our phone spreads. We have to analyze through Computer Crimes who comes in and starts looking at where this person was visiting on their websites; that's what's at stake.

Currently we're in an international spotlight on the Gilgo Beach homicides. This is an opportunity now, this legislation comes up in the midst of that spotlight. What are we going to do? The truth is there are costs imposed to the bill, but there's costs in not advancing this bill. The costs of not advancing the bill are failed investigations. We spend a ton of money on narcotic cases in which it drops off at a certain point because this cell phone is a prepaid cell phone that we can no longer track, and if we acquired through subpoenas, it takes a while to go and get that thing. That's a

lengthy investigation, we're lengthening our course of our investigation which means we can't do as many investigations; that's the cost that everybody is paying. Well, who's paying? I'll tell you who's paying. The prepaid market, law abiding citizens, they're paying for that. The post-paid, people like me who are on plans, I'm paying for that, as well as the victims themselves. Everybody is paying.

The question then, how do we allocate the resources? Well, we did try to work on this bill. I got assigned to actually look at the cost. So when I was looking at the cost, my purpose of working on the bill was work with Legislator Browning, who I thank for inviting me here today. But my thing was to look at the cost to the Police Department. So how to balance the costs with not advancing the legislation versus us taking all the records. We worked on this with John Busweiler because he has an expertise in this field, the electronics investigation and Detectives were working with this legislation.

Let me tell you, we had tried different things. The Police Department didn't want to initially take these records, so the thought was we'll just make it an electronic database, that's how Gary Quinn from the County got involved. We got Gary Quinn involved to make it easier; I didn't realize these gentlemen had technology available that could just scan it in, but we never even really wanted to necessarily touch the record, and that's how it came about. But the industry raised the objections, "Well, you're going to start making us do scan stuff, we'd rather keep it." Some of the store owners decided, "We'd rather keep the record," so we didn't want to impose that cost on them. We said, "Okay, if you want to keep that record, we'll treat it just like we treat jewelry and secondhand exchanges," that has been discussed, the gentleman from Parents for Megan's Law. And that's exactly right, because when I go to turn in my watch today, if I want to sell it, somebody is keeping a record and it's leaving an electronic footprint. And they have two choices, they're holding the record for three years in their store on me, or they're putting it on an electronic database. And that's how Noel made the thing if it's on an electronic database, we access that; yes, we do. The American from Civil Liberty's Union is actually wrong, and no, we don't need a warrant. And there's a difference between a subpoena and a warrant, so don't let the ACLU mislead you on this.

That being said, if you have any questions, I think the one person who's done a lot with the wiretaps or anything could answer that. My own advocacy is my own, I can't speak for everybody in the Police Department. I think our line representatives adequately took their position. But it's not if, it's when. Today a child is going to go missing, a child is going to go tomorrow, another woman is going to get grabbed, we have to start to think about it. You have the opportunity to be first, you have the opportunity to force that national legislation which I believe everybody here thinks is needed. Thank you.

P.O. LINDSAY:

I just have one question for you, Deputy Inspector, and the same thing for you, Sergeant, and it's rhetorical. You guys both feel that this would be a good tool in helping with your investigations?

DETECTIVE SERGEANT BUSWEILER:

Absolutely.

DEPUTY INSPECTOR McCARTHY:

Yeah, no doubt. It has to help.

P.O. LINDSAY:

Okay. That's all I need. Legislator Viloría-Fisher.

D.P.O. VILORIA-FISHER:

Thank you for going through that for us. I have a question about something you said, I'm not sure if

I heard right or not. I don't have the bill in front of me. Did you say that it could either be a record that's kept in the establishment or sent to an electronic data base? Is that what you said, there are those two options?

DEPUTY INSPECTOR McCARTHY:

Yes, it was actually -- the two options were modeled after the precious metals one that we do.

D.P.O. VILORIA-FISHER:

Right. Okay.

DEPUTY INSPECTOR McCARTHY:

So it's the same thing, when the store owners raised objections about not being able to comply with the electronic thing, we gave them the option to hold on to it for three years or whatever, just like the precious metals.

D.P.O. VILORIA-FISHER:

So in -- because there had been a question earlier about the accountability and the safeguard regarding people's privacy and documentation being kept at the stores. So let's say you're in a -- everybody has been using 7-Eleven, so let's say I go into 7-Eleven to buy a prepaid phone, that my information can be scanned in and sent to a database, a County database.

DEPUTY INSPECTOR McCARTHY:

That was the intent of allowing that, that they can enter it in, this gentleman is saying it's easier with a device. I don't care how it got there, as long as it went in. And like I said, it didn't even have to come to the Police Department for all I cared, I just wanted to be able to eventually go get a subpoena if I needed it so I can acquire it. If I went back to the providers? That was fine with me because I can get a subpoena. So I wasn't concerned if the providers got it; the providers kept saying they didn't want to handle it, they couldn't get it, and now this is in its place.

D.P.O. VILORIA-FISHER:

But my question is more toward the privacy of the purchaser, that that information about the purchaser doesn't have to be kept at the point of sale.

DEPUTY INSPECTOR McCARTHY:

No, they can put it in electronically and get rid of it.

D.P.O. VILORIA-FISHER:

Okay. Thank you.

P.O. LINDSAY:

Okay. Legislator Browning.

LEG. BROWNING:

Yes, I won't be too long. First of all, I want to say thank you to both of you, because we've been working on this, I think this month it's almost a year, and we've spent a lot of time. We've met with AT&T and Verizon I think at least three or four times; you know, basically they're never going to want this bill. I think we are -- basically we want to make some traction here and see it become a Federal law, it needs to be.

But I do want to question as far as other countries that have this law in effect; are there other countries that are currently working on it or that it is a law?

DEPUTY INSPECTOR McCARTHY:

I think it came up from Skip Heaney who is working on that, that Mexico had done that, he was

doing some researches of other countries in Europe.

DETECTIVE SERGEANT BUSWEILER:

Germany.

DEPUTY INSPECTOR McCARTHY:

Germany. So there are definitely countries that already have this in place.

LEG. BROWNING:

Okay, so it's nothing new. You know, I have nothing more to say, I think you guys have said everything. And, you know, let's go back to 9/11 and, you know, the Times Square bomber. In fact, John, you might want to mention, there was an incident in my district with a person making 911 calls with a prepaid cell phone, correct?

DETECTIVE SERGEANT BUSWEILER:

Yes. It relates to what's been said prior to us coming up here and what's been passed around on the "CEDA" letter where basically the claim is being made that law enforcement has the same investigative tools available to them with prepaid phones as they do to post-paid phones, and they reference subpoenas and wire taps, and that's not exactly true. When we subpoena information about a post-paid phone, the most important information we're going to get from that is the subscriber's information, the name of the person who holds the instrument. When I subpoena information on a prepaid phone, excuse me, all I'm going to get is the toll records; calls in/calls out. I'm not going to be able to find out who is using the phone, who owns the phone, who bought the phone simply because those records are not kept, or validated if it was, in fact, taken up in the front.

The second thing that they spoke about was a wiretap. They would have you believe that a wiretap is available to us to help solve the problems with prepaid phones; nothing could be further from the truth for a couple of different reasons. And I know some of you guys are lawyers, I don't want to beat this over your head, but a wiretap is probably the most extreme invasion of a person's privacy that you can probably get. That being said, it's extremely, extremely difficult to get a wiretap order. First off, the only people who can apply for a wiretap is the sitting District Attorney of each County and the New York State Attorney General. That's done for a purpose; that's to show how important it is that these things are not given out and misused for willy-nilly purposes.

The second thing that the New York State Legislature did to emphasize the importance of a wiretap in terms of privacy is you can only get a wiretap for certain designated crimes. That person has to be -- you have to be investigating certain designated crimes. Now, the hold that we have is that there are some crimes that are committed with these prepaid phones that -- and they talk about two sections of the stalking law, one section of the aggravated harassment law and -- excuse me. There's a couple of other sections of the law that we are precluded by law from getting a wiretap order, we're just not allowed to do it because it was not one of the designated offenses. So we don't have the same tools for every singular situation.

The other problem we have is with an investigation. Inspector McCarthy spoke about a missing person investigation. Well, when we first catch a missing person's case, there is no crime to speak of, but we need to get some information up-front. One of the things we look at, who was the last person that called that person, who was the last person that person called. And if it comes back to a prepaid phone, we're pretty much at investigative dead-end in terms of tying that phone to a name, to a person. Can we get the toll records? Yeah, but the toll records won't bring us anywhere in most instances.

So in your particular instance, that was the other section of the law that I sort of had a senior

moment on, falsely reporting an incident. There was a series of phony calls to 911 in Legislator Browning's district; and when I say a series, I'm talking about hundreds, a couple of hundred calls to 911. We did not know what to do about this because the number that was coming back to 911 came back to a dropped phone. Investigatively we're kind of at a dead-end. But getting back to the original -- you know, could we do a wiretap? No, we could not do a wiretap on that phone because false reporting in that degree is not one of the designated offenses that would even allow us to apply for a wiretap. And for all you guys that have been involved in wiretap investigations, you know logistically, okay, the time and the effort that goes into setting one up and it's just not a very effective tool to deal with something on a short-term basis. I don't know if that answered your question.

P.O. LINDSAY:

Thank you. Wait, Legislator Kennedy, did you still have the last question of the night?

*(*Laughter*)*

LEG. KENNEDY:

I'll make it quick, Mr. Chair. Sergeant, listen, among all the many other things you do, I know I see you at the Domestic Violence Rememberance Day and I know that you've done a number of the panic buttons and other types of things for DV victims. We heard from our representative from VIBS and some of the other agencies. What, if anything, can you tell us about that element that's a concern or how would we harmonize the two different needs, I guess, or look at it?

DETECTIVE SERGEANT BUSWEILER:

Well, I think that somebody on the Legislature already brought up a possible solution right away is to provide these phones to the NGO's, the service -- the advocacy groups and they could then in turn issue them to the people who need them.

But getting back to what I was just saying, sir, you know, the sword, the knife cuts both ways. If we don't have a tool to investigate aggravated harassment where this ex-husband is calling the wife on a prepaid phone, you know, so it cuts both ways. It would be a benefit and there are logistical ways to ensure the confidentiality. I think one of the problems we're having here is that some people are confusing privacy with complete anonymity. One of those is all right, the other one is not, and certainly the later one is not in our best interest.

P.O. LINDSAY:

Thank you very much, fellas, for your testimony. We really appreciate you guys coming in and adding your expertise.

DETECTIVE SERGEANT BUSWEILER:

Thank you.

DEPUTY INSPECTOR McCARTHY:

Thank you.

P.O. LINDSAY:

Is there anyone else in the audience that would like to speak on this subject? Please come forward and identify yourself.

MS. SIMON:

Hi. I'm sorry I didn't submit a card, I was running a little late. My name is Shauna Simon, I work

for Brighter Tomorrows, it's a domestic violence organization in Suffolk County. I'm here today to provide a perspective on the potential impact this bill could have on domestic violence victims safety and the unintended hurdles that this bill would create for victims trying to escape from their abusers.

Victims of domestic violence face many challenges when they are trying to leave an abusive relationship. Now, I have one client in particular who recently came in to our shelter and we worked for many months to get her out of this abusive relationship, and the only means of communication for this woman was a prepaid cellular device. She was here 15 years, she's an illegal immigrant, and she would not be able to provide the documentation necessary to get a prepaid cellular phone if this bill was to pass. Her husband never filed the appropriate paperwork for immigration status, and unfortunately we're seeing a severe increase in the victims that are of this nature.

Statistics show that one-in-four women will be subject to some form of abuse during their lifetime. That means 25% of the population in Suffolk County are going to be subject to some form of intimate partner abuse or violence. Abusers use many means to maintain power and control over their victims, including checking a victim's phone records, computer history and keeping them economically depressed. Prepaid cellular phones offer victims a safe, anonymous, inexpensive way to communicate, both when they are in a relationship and after they have left the relationship. They can be a lifeline for victims of domestic violence, so much so that victims advocates across the country refer victims to obtain prepaid cell phones as a part of their safety plan.

A prepaid cellular phone is something that victims can obtain and keep concealed from their abuser so they can make the cell phone calls necessary to find safety and support. As is what happened with my current client who, like I said, this was her only means of communication to us. This bill would require anyone purchasing a prepaid cellular device to provide the retailer with two forms of identification and their address. This information would then be entered into a database kept by either the retailer or the Suffolk County Police Department, thus creating new hurdles for the victim. Victims who have left a relationship in a hurry often times do not have two forms of identification. Abusers control their partners through holding or destroying their identification and victims who flee abruptly may not have had the time or the ability to gather their identification. Additionally, every time a victim has to provide their address, the victim's safety is compromised.

Furthermore, if a victim is staying in a shelter or in a confidential location, they will not be able to provide an address to the retailer. Victims of domestic violence face many difficulties when they are trying to leave an abusive relationship, and I think that we're just going to increase them by passing this bill.

P.O. LINDSAY:

Thank you. Is there anyone else that would like to say something? Seeing none, Legislator Browning?

LEG. BROWNING:

Okay, you're not going to like what I'm going say. But I do want to say Gary Quinn is here from IT and thank you to him. You know, he didn't come up and speak -- not because you didn't come up and speak, but just that --

P.O. LINDSAY:

I thank him for that.

LEG. BROWNING:

-- his assistance throughout the process has been phenomenal, and Skip Heaney, who is not here.

P.O. LINDSAY:

I thank him, too.

LEG. BROWNING:

However, there were some issues that were addressed. And so with that, I believe we'd have to keep the public hearing open.

P.O. LINDSAY:

Okay. So you're making a motion to recess.

LEG. BROWNING:

I will make a motion to recess with every intent to close next time.

P.O. LINDSAY:

I'll second that motion. All in favor? Opposed? Abstentions?

MR. LAUBE:

Seventeen (Not Present: Legislator Anker).

P.O. LINDSAY:

Okay, 1266 stands recessed.

Public Hearing on IR No. 1277-11 - Adopting Local Law No. -2011, A Local Law to protect animals in Suffolk County from abuse (Cooper).

I have no cards on this subject. Is there anyone in the audience that would like to address us on this subject? Seeing none, Legislator Cooper?

LEG. COOPER:

Motion to close.

P.O. LINDSAY:

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

MR. LAUBE:

Seventeen (Not Present: Legislator Anker).

P.O. LINDSAY:

Public Hearing on IR No. 1289-11 - Adopting Local Law No. -2011, A Charter Law to ensure transparency in the County budget process (Cilmi). I have no cards on this subject.

Is there anyone in the audience that would like to speak to us on this subject? Seeing none, Legislator Cilmi, what is your pleasure?

LEG. CILMI:

Motion to recess.

P.O. LINDSAY:

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

MR. LAUBE:

Seventeen (Not Present: Legislator Anker).

P.O. LINDSAY:

That concludes our public hearings for today.

I want to set the date for the following Public Hearings. I'll make a motion to set a date for the following Public Hearings: 2012 through 2014 Capital Budget & Program; IR 1313, IR 1314, IR 1315, IR 1371 and IR 1372. The date is May 10th, 2011, 2:30 PM at the Rose Caracappa Auditorium in Hauppauge, New York. Do I have a second to that motion? Second by Legislator Stern. All in favor? Opposed? Abstentions?

MR. LAUBE:

Seventeen (Not Present: Legislator Anker).

P.O. LINDSAY:

And we are through with the Public Hearings.

Before we get back to the agenda, I believe Mr. Eric Kopp has something he wants to say to us.

MR. KOPP:

I'll be very quick. Earlier this morning I spoke before you on Resolution 2236-10 and I made a mistake, so I'm going to correct the record. I misunderstood some of the provisions of that bill in terms of its impact on Legacy Village, and as a direct result I misrepresented the County Executive's position when I urged you to pass that measure. I regret the error and any inconvenience it might have caused you. Thanks.

LEG. ROMAINE:

What is your opinion? What is the Executive's opinion?

MR. KOPP:

On that resolution?

LEG. ROMAINE:

Yes.

MR. KOPP:

That it should be defeated; the opposite of passes.

LEG. ROMAINE:

Oh, you wanted it defeated.

LEG. SCHNEIDERMAN:

Only a subtle difference.

LEG. BARRAGA:

What do you do on the vote, then?

P.O. LINDSAY:

What do you do on the vote? We took the vote. Unless somebody wants to make a motion to reconsider.

LEG. BARRAGA:

I would like to make a motion to reconsider the vote.

P.O. LINDSAY:

Okay. Motion to reconsider.

D.P.O. VILORIA-FISHER:

The County Executive is opposed to the sale of the surplus property.

LEG. MONTANO:

So?

LEG. EDDINGTON:

Oh. You mean we agree?

P.O. LINDSAY:

So there's a motion to reconsider. Is there a second to the reconsideration?

LEG. KENNEDY:

To reconsider what?

MR. NOLAN:

2236.

D.P.O. VILORIA-FISHER:

The sale of the surplus property.

LEG. ROMAINE:

Who made the motion?

P.O. LINDSAY:

The only thing that I could say, in all honesty, I mean, we've been dealing with the Executive Branch for over a week on this issue. As late as last night I had a conversation with a Chief Deputy that they wanted some changes made in the bill and I asked him to communicate those changes with our Counsel, and I think we accommodated a number of the changes that they wanted. It's a little surprising to me that now the opinion changes.

MR. NOLAN:

It's under *Tabled Resolutions*.

P.O. LINDSAY:

Legislator Barraga, what would you like?

LEG. BARRAGA:

Yeah. The decision I made on that particular vote was predicated on the position of the Executive.

MS. MAHONEY:

Your microphone is not on.

LEG. BARRAGA:

In part, the decision I made on that particular piece of legislation was predicated on the comments made by the representative from the County Executive, and obviously he's indicated he made a mistake.

I would like to reconsider the vote so we can take it again. The outcome is not going to be any different except it's going to be one negative vote.

D.P.O. VILORIA-FISHER:

Right.

LEG. ROMAINE:

One more. I'll second the reconsideration out of courtesy for my colleague so that the record can reflect everyone's correct vote on this matter.

P.O. LINDSAY:

Okay. So we have a motion and a second.

MR. LAUBE:

Who was the motion?

P.O. LINDSAY:

The motion is by Legislator Barraga --

MR. LAUBE:

Thank you.

P.O. LINDSAY:

-- to reconsider, and seconded by Legislator Romaine. Do you have the vote slip from that vote?

MR. LAUBE:

Yes.

P.O. LINDSAY:

What was the count?

LEG. ROMAINE:

Fourteen-four.

MR. NOLAN:

A twelve-voter.

LEG. MONTANO:

But it needs 12 votes to pass.

MR. LAUBE:

Fourteen-four.

LEG. KENNEDY:

Mr. Chair, on this reconsideration?

P.O. LINDSAY:

Okay. Yes, Legislator Kennedy.

LEG. KENNEDY:

Can I ask Mr. Kopp again -- I'm sorry, I didn't hear all of what he said -- is it just simply that the Executive's Office is opposed to the declaration, or is there some element of the bill in particular, Eric, that --

MR. KOPP:

Actually, the Executive's Office was opposed and I actually misunderstood the conversation I had with the County Executive before I came to this microphone this morning.

LEG. KENNEDY:

Okay.

MR. KOPP:

And I, once again, regret that.

LEG. KENNEDY:

Well, no, I'm glad you shared that with us. But nevertheless, I guess, you know, it's --

P.O. LINDSAY:

And again, I'll just point out --

LEG. KENNEDY:

It's pointless to go forward.

P.O. LINDSAY:

-- that I'm sorry, I was misled -- not by you but by other people in the administration -- that we were trying to work out a bill that both sides could embrace and I thought we did that.

LEG. HORSLEY:

I thought we did, too.

P.O. LINDSAY:

Legislator Cooper.

LEG. COOPER:

I'm sorry, I'm not going to let Mr. Kopp off quite that easy. Because, Eric, you gave about a two minute speech earlier.

MR. KOPP:

Yes.

LEG. COOPER:

Eloquent, giving all the reasons why the County Executive supported the bill and it was the best thing since sliced bread.

MR. KOPP:

Right.

LEG. COOPER:

And now you're taking --

MR. KOPP:

I literally --

LEG. COOPER:

So we need some explanation as to --

MR. KOPP:

I'll tell you the truth again, you can put me under oath, I literally misunderstood something he said to me on his cell phone three minutes before I walked in here.

P.O. LINDSAY:

Okay.

LEG. EDDINGTON:

A prepaid cell phone?

*(*Laughter*)*

MR. KOPP:

No. No, my own, by the way, personal cell phone; not the County's cell phone, my cell phone.

P.O. LINDSAY:

A post-paid one.

LEG. ROMAINE:

A prepaid.

MR. KOPP:

Legislator Cooper, that's the truth.

D.P.O. VILORIA-FISHER:

Okay.

P.O. LINDSAY:

Okay. Eric, you did what you had to do. We have a motion to reconsider and a second. All in favor? Opposed? I'm opposed.

MR. LAUBE:

Just leave your hands up for a second just so I can get a count.

P.O. LINDSAY:

Reconsider. I am opposed to reconsidering.

MR. LAUBE:

So just one in opposition?

LEG. COOPER:

No, I'm opposed.

MR. LAUBE:

Sixteen (Opposed: Legislators Lindsay & Cooper).

P.O. LINDSAY:

Okay, the bill is before us again.

2236-10 - Declaring as surplus and authorizing sale and/or lease of real property in Yaphank pursuant to County Law Section 215 (Presiding Officer Lindsay).

D.P.O. VILORIA-FISHER:

Motion to approve.

P.O. LINDSAY:

We need motions. I'll make a motion to approve.

D.P.O. VILORIA-FISHER:

Second.

CHAIRMAN EDDINGTON:

Seconded by Legislator Viloría-Fisher. Is there any other motions?

No. Roll call.

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

P.O. LINDSAY:

Yes.

D.P.O. VILORIA-FISHER:

Yes.

LEG. COOPER:

Yes.

LEG. D'AMARO:

Yes.

LEG. STERN:

Yes.

LEG. GREGORY:

Yes.

LEG. HORSLEY:

Yes.

LEG. NOWICK:

Yes.

LEG. KENNEDY:

Yes.

LEG. BARRAGA:

No.

LEG. CILMI:

Yes.

LEG. MONTANO:

Yes.

LEG. EDDINGTON:

No.

LEG. ANKER:

No.

LEG. MURATORE:

Yes.

LEG. BROWNING:

No.

LEG. SCHNEIDERMAN:

Yes.

LEG. ROMAINE:

No.

MR. LAUBE:

Thirteen (Opposed: Legislators Romaine, Browning, Anker, Eddington & Barraga).

LEG. ROMAINE:

Thirteen; we're getting closer. I'm working with Steve now.

*(*Laughter*)*

P.O. LINDSAY:

We seem to be going backwards a little bit here. If you go back to the tabled page, and I'll get you the page number.

MR. NOLAN:

Six.

P.O. LINDSAY:

It's page six.

MR. NOLAN:

1098.

LEG. BROWNING:

1098, right?

1098-11 - Amending the 2011 Operating Budget and transferring funds from the John J. Foley Skilled Nursing Facility to the Legislature (Browning).

P.O. LINDSAY:

Yes, yes. We skipped over it and Legislator Browning wants to make a motion to?

LEG. BROWNING:

Yeah, I guess I'll make a motion to table at this time.

P.O. LINDSAY:

Motion to table. I'll second that. All in favor? Opposed? Abstentions?

MR. LAUBE:

Eighteen.

P.O. LINDSAY:

All right, we're back on page seven and we're going to move real quick this time.

D.P.O. VILORIA-FISHER:

Yes.

LEG. EDDINGTON:

Let's do it.

Health & Human Services (Continued):

P.O. LINDSAY:

IR 1274-11 - Requesting legislative approval of a contract award for Oral Surgery Services for the Department of Health Services, Division of Patient Care Services (County Executive).

LEG. BROWNING:

Motion.

LEG. COOPER:

Motion to approve.

D.P.O. VILORIA-FISHER:

Second.

LEG. EDDINGTON:

Second.

P.O. LINDSAY:

Okay, who made the motion?

D.P.O. VILORIA-FISHER:

The Chair.

LEG. EDDINGTON:

Motion, Legislator Browning. Seconded by Legislator Viloria-Fisher. All in favor? Opposed? Abstentions?

MR. LAUBE:

Eighteen.

Parks & Recreation:

P.O. LINDSAY:

IR 1208-11 - Appoint member to the Suffolk County Board of Trustees of Parks, Recreation, and Conservation (Kathleen Gooding) (Romaine).

LEG. ROMAINE:

Motion.

P.O. LINDSAY:

Motion by Legislator Romaine. Seconded by Legislator Nowick.
All in favor? Opposed? Abstentions?

MR. LAUBE:

Eighteen.

P.O. LINDSAY:

1257-11 - Authorizing use of Southaven County Park for the Kara's Hope 5K Run/Walk (Browning).

LEG. BROWNING:

Motion.

P.O. LINDSAY:

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

MR. LAUBE:

Eighteen.

P.O. LINDSAY:

1276-11 - Authorizing the transfer of ownership of the GOTO Star Projector to the Suffolk County Vanderbilt Museum and Planetarium Board of Trustees for its sale or disposal with proceeds to be used for Vanderbilt Museum and Planetarium Operations (Presiding Officer Lindsay).

LEG. COOPER:

Motion to approve.

P.O. LINDSAY:

Motion by Legislator Cooper.

D.P.O. VILORIA-FISHER:

Second.

P.O. LINDSAY:

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

MR. LAUBE:

Eighteen.

P.O. LINDSAY:

Anybody want to buy that?

D.P.O. VILORIA-FISHER:

Who knows?

P.O. LINDSAY:

1283-11 - Authorizing use of Blydenburgh County Park by the Cystic Fibrosis Foundation for its Great Strides Walkathon (County Executive).

LEG. KENNEDY:

Motion.

P.O. LINDSAY:

Motion by Legislator Kennedy. Second by Legislator Gregory.
All in favor? Opposed? Abstentions?

MR. LAUBE:

Eighteen.

P.O. LINDSAY:

1293-11 - Appoint member to the Suffolk County Board of Trustees of Parks, Recreation, and Conservation (Michael Domino) (Romaine).

LEG. ROMAINE:

Motion.

P.O. LINDSAY:

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

MR. LAUBE:

Eighteen.

Public Safety:

P.O. LINDSAY:

1121-11 - Adopting Local Law No. -2011, A Local Law to strengthen the County's Crack House Law (Browning).

LEG. BROWNING:

Motion to approve.

LEG. EDDINGTON:

Second.

P.O. LINDSAY:

Motion by Legislator Browning. Second by Legislator Eddington.
On the question; what does it do?

LEG. BROWNING:

Okay. I thought we were just going to get through this.

MR. NOLAN:

No way. These are actually a couple of technical changes to the Crack House Law. I believe they were originally requested by the Department of Law --

LEG. BROWNING:

Right.

MR. NOLAN:

-- Legislator Browning introduced it. But basically, it gives the Police Department 90 days instead of 30 days to notify the Department of Law of any prohibited contact to the residents. It states any

civil action may be brought by the County Attorney within three years of a conviction of a prohibited conduct, and it caps the penalty at \$2,500 per arrest rather than a thousand dollar penalty each day that prohibited conduct exists. I did speak to the County Attorney's Office, they request these changes. If they wanted to speak more to it, Gail Lolis is here.

P.O. LINDSAY:

Okay. Gail, if nobody has any questions, do you want to say anything?

MS. LOLIS:

No.

P.O. LINDSAY:

No; there you go, Gail.

*(*Laughter*)*

LEG. MONTANO:

Question.

P.O. LINDSAY:

Oh, wait a minute. Legislator Montano wants to ask a question.

LEG. MONTANO:

Hopefully it will be one question, Gail.

LEG. BROWNING:

The twenty-five hundred?

LEG. MONTANO:

No. No, it was actually something that came up in the debate earlier on the other bill. And it was a point Legislator D'Amaro had made which I found interesting, and that was the situation where he said that since the incident pertains to the residence, there could be a situation where one tenant creates a violation, the landlord then corrects it by evicting the tenant or forcing the tenant to move and then within three years there's another arrest made by a subsequent tenant. Does this law speak to that? In other words, your -- if I recalled your answer earlier, it was that the way that law was written, it would make no difference because the landlord would then be in violation; is it the same situation here?

MS. LOLIS:

Yeah, this is the law that that answer was based upon. That's under the --

LEG. MONTANO:

Well, that's what I'm asking. In other words, if -- let me simplify the question. If it's a second tenant, if it's a second violation not involving the same tenant, do you still take the landlord to court?

MS. LOLIS:

Yes. The law does not speak to who is residing in the house, it speaks to the property.

LEG. MONTANO:

Okay.

MS. LOLIS:

That may be something we take into consideration if the landlord contacts us and says, "Listen, it's a different tenant, I'll move to evict this tenant," then that's something we will take, obviously, into consideration.

LEG. MONTANO:

Well, okay.

P.O. LINDSAY:

Okay. So we have a motion and a second to approve. All in favor? Opposed?

LEG. MONTANO:

Opposed.

P.O. LINDSAY:

Abstentions?

MR. LAUBE:

Can I get a show of hands? Just one? Seventeen.

MS. ORTIZ:

Horsley, too.

MR. LAUBE:

Oh, sorry. Sixteen (Opposed: Legislators Horsley & Montano).

P.O. LINDSAY:

1146-11 - Adopting Local Law No. -2011, A Local Law to ban the sale of synthetic cocaine being marketed as "Bath Salts" in Suffolk County (Cooper).

LEG. COOPER:

Motion to approve.

P.O. LINDSAY:

Motion by Legislator Cooper.

LEG. NOWICK:

Second.

P.O. LINDSAY:

Second by Legislator Nowick. I was probably the only guy taking a bath in that stuff.

LEG. COOPER:

Bad idea.

*(*Laughter*)*

D.P.O. VILORIA-FISHER:

But how did you feel afterwards?

P.O. LINDSAY:

We have a motion and a second, and I'm getting giddy.

*(*Laughter*)*

Is there any question about the bill? All in favor? Opposed? Abstentions?

MR. LAUBE:

Eighteen.

P.O. LINDSAY:

1288-11 - Appropriating funds in connection with the Computer Aided Dispatch (CAD) and integration with Existing Fire Rescue CAD System (CP 3240) (County Executive). Do I have a motion? Motion by Legislator Eddington. Second by Legislator Gregory. Any questions? All in favor? Opposed? Abstentions?

LEG. BARRAGA:

Opposed.

MR. LAUBE:

Seventeen (Opposed: Legislator Barraga).

P.O. LINDSAY:

On the accompanying Bond, *1288A (Bond Resolution of the County of Suffolk, New York, authorizing the issuance of \$1,018,920 bonds to finance the cost of replacement of the computer aided dispatch (CAD) system and integration with the existing fire rescue CAD system.*

(CP 3240.111 and .511), same motion, same second. Roll call.

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

LEG. EDDINGTON:

Yes.

LEG. GREGORY:

Yes.

LEG. COOPER:

Yes.

LEG. D'AMARO:

Yes.

LEG. STERN:

Yes.

LEG. HORSLEY:

Yes.

LEG. NOWICK:

Yes.

LEG. KENNEDY:

Yes.

LEG. BARRAGA:

No.

LEG. CILMI:

Yes.

LEG. MONTANO:

Yes.

LEG. ANKER:

Yes.

LEG. MURATORE:

Yes.

LEG. BROWNING:

Yes.

LEG. SCHNEIDERMAN:

Yes.

LEG. ROMAINE:

Yes.

D.P.O. VILORIA-FISHER:

Yes.

P.O. LINDSAY:

Yes.

MR. LAUBE:

Seventeen (Opposed: Legislator Barraga).

Public Works & Transportation:

P.O. LINDSAY:

2205-11 - 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 placing this payment into a debt reserve account to pay down the debt service on Capital Project 5529 (County Executive). Do I have a motion?

LEG. GREGORY:

Motion.

P.O. LINDSAY:

Motion by Legislator Gregory. Do I have a second?

LEG. SCHNEIDERMAN:

I'll second it.

P.O. LINDSAY:

Second by Legislator Schneiderman. Any discussion? Legislator Romaine; I figured.

LEG. ROMAINE:

Yeah, I have some questions for whoever is here that can answer them regarding the administration's issue on this. Is there anyone here?

*(*Laughter*)*

MR. KOPP:

Legislator.

LEG. ROMAINE:

Deputy County Executive. The first question, the resolution says, "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 for certain mitigation measures."

So you would be accepting this money?

MR. KOPP:

As I recollect from our previous discussion on this, and I haven't looked at this in a couple of weeks --

LEG. ROMAINE:

Yeah,

MR. KOPP:

-- is that we had the Bond Counsel opinion on this.

LEG. ROMAINE:

Which was shaky at best, but nevertheless.

MR. KOPP:

But nevertheless, we all --

LEG. ROMAINE:

Right. That's -- I got that.

MR. KOPP:

Right.

LEG. ROMAINE:

But the question is you would be accepting this money.

MR. KOPP:

We would be using this money to pay down the debt then.

LEG. ROMAINE:

You would be accepting this money. The reason I'm asking the question, let me get right to the heart of the matter. In fact, you've already accepted this money. Have you already accepted this money; is it in an account that the County is currently holding?

P.O. LINDSAY:

It's in the drawer, it isn't in the account yet.

*(*Laughter*)*

MR. KOPP:

See, I'll defer to the Presiding Officer, he seems to have the answer.

*(*Laughter*)*

P.O. LINDSAY:

Very good, very good.

LEG. NOWICK:

Ed, is that a rhetorical question?

LEG. MONTANO:

Yeah.

MR. KOPP:

Legislator, I'm actually not certain, but I do have some recollection that at one of these previous sessions that we had some discussion that the money had been accepted, but it had not been used to pay down the debt.

LEG. ROMAINE:

No, it hadn't, but this would give the indication that the money hasn't been accepted yet when, in fact, you've had this money for how long?

MR. KOPP:

I don't know the answer to that one, Legislator Romaine.

LEG. ROMAINE:

Okay.

LEG. MONTANO:

Why don't you tell us, Ed?

LEG. ROMAINE:

Approximately eight months that you've had this money, eight to nine months that you've had this money.

MR. KOPP:

That kind of predates my arrival.

LEG. ROMAINE:

Right. That you entered into an agreement and accepted the money without the approval of this Legislature, that you've held this money for nine months without the approval of this Legislature.

LEG. BROWNING:

Not him personally.

LEG. ROMAINE:

Not you personally, I'm talking about the Executive Branch, without the authorization of the Legislature. That to me -- and I know it's late and I'll end it here, but it's problematic. Because what they're doing is coming after the fact, after the fact and saying, "You know, give us permission to do something we've already done because you guys really can't, in any event." I'm going to make a motion to table this for one cycle.

P.O. LINDSAY:

Okay.

LEG. ROMAINE:

Motion to table for one cycle, one cycle only.

P.O. LINDSAY:

Do we have --

LEG. BROWNING:

I'll second it.

LEG. EDDINGTON:

I'll second it.

P.O. LINDSAY:

All right, we have two seconds to that.

LEG. SCHNEIDERMAN:

On the motion.

LEG. MONTANO:

Just a quick question.

P.O. LINDSAY:

On the motion, Legislator Schneiderman.

LEG. SCHNEIDERMAN:

You know, this has been held up for quite some time. This is an impact fee, I forget whether it's Lowes or Wal-Mart or one of the Route 58 businesses. Legislator Romaine and I supported it, tried to get the money used to actually expand the project a little bit, or at least to meet the original plan, we've been told that there's money available to do that. This money is going in to pay off -- to pay down the debt service. It seems to make sense, the question is not -- although Legislator Romaine is raising the question of just getting the money, that fee has already been negotiated, I guess agreed upon by all parties, the question is whether it's going to be used to pay the debt. And I think it ought to be used to reduce the debt, so I'm not going to support the tabling. There's going to be other opportunities coming with several other large developments on that corridor where we can try to maybe use it to, you know, pay directly rather than pay down debt, but we can look at those opportunities when they arrive. I think this should move forward, frankly.

P.O. LINDSAY:

So are you making a motion to approve?

LEG. SCHNEIDERMAN:

There already is a motion to approve. I'm just saying I'm not going to support the tabling.

P.O. LINDSAY:

Okay.

LEG. ROMAINE:

I don't want to hold up my colleagues. Forget the motion to table. I will say this; don't take money that you need our authorization to take before you get our authorization, number one.

And number two, in terms of mitigation fees, I'm going to raise serious questions about how

mitigation fees are calculated. This particular entity has such a small road frontage, it's a flag lot on 58, for them to get charged in this particular case, they already paid a sum of money and then on top of it \$1.9 million. How that was calculated, I'd like to know. I'd like to see your Public Works look more into how we hit people up. Because I've got to tell you, if that's what we're charging, when you have a very small road frontage, and the whole project I think came in because we didn't do the whole project, we only stopped about three-quarters of the way. The whole project was under \$10 million and we're charging this guy almost 20% of the whole project and he maybe has 1% of the road frontage. You've got to raise a lot of questions about how we get those mitigation fees, and maybe that's a discouragement to business.

LEG. SCHNEIDERMAN:

Yeah.

LEG. ROMAINE:

And you've got to raise questions about how the Executive Branch accepts money that they're really not entitled to accept on behalf of Suffolk County until we give our approval. But this money has been sitting somewhere, probably gaining interest, hopefully, for the last nine, maybe ten months or more. These are questions I raise because I think they're pertinent.

And I'll end it there, it's a long meeting. But believe me, I know there's two more projects coming down, get ready, because I have a whole list of additional questions. Thank you very much.

P.O. LINDSAY:

Thank you, Legislator Romaine. And thank you, Mr. Kopp, for your intense answer to the question.

*(*Laughter*)*

MR. KOPP:

Anybody want to go back to 2236?

P.O. LINDSAY:

No, no, no, no.

*(*Laughter*)*

Okay. We have a motion to approve and a second. And no tabling; Thank you, Legislator Romaine. All in favor? Opposed? Abstentions?

MR. LAUBE:

Eighteen.

Ways & Means:

P.O. LINDSAY:

1259-11 - Sale of County-owned real estate pursuant to Section 72-h of the General Municipal Law - Town of Brookhaven (SCTM No. 0200-980.50-05.00-017.000) (County Executive).

Brookhaven, somebody give me, from Brookhaven, a motion.

LEG. EDDINGTON:

(Raised hand).

P.O. LINDSAY:

Motion by Legislator Eddington.

LEG. MONTANO:

Second.

P.O. LINDSAY:

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

MR. LAUBE:

Eighteen.

P.O. LINDSAY:

1260-11 - Sale of County-owned real estate pursuant to Local Law No. 13-1976 Daniel V. O'Leary and Marilyn O'Leary, his wife (SCTM No. 0900-044.00-01.00-058.000) (County Executive).

D.P.O. VILORIA-FISHER:

Southampton.

P.O. LINDSAY:

Anybody want to -- motion by Legislator Schneiderman; that was a motion?

LEG. SCHNEIDERMAN:

Yes, sir.

P.O. LINDSAY:

Yes, okay.

LEG. MONTANO:

I'll second it.

P.O. LINDSAY:

Seconded by Legislator Montano. All in favor? Opposed? Abstentions?

MR. LAUBE:

Eighteen.

P.O. LINDSAY:

1262-11 - Sale of County-owned real estate pursuant to Section 72-h of the General Municipal Law - Town of Brookhaven (SCTM Nos. 0200-975.00-04.00-027.000 and 027.003) (County Executive).

LEG. MURATORE:

Motion.

LEG. ANKER:

Second.

P.O. LINDSAY:

Motion by legislator Muratore, second by Legislator Anker.

All in favor? Opposed? Abstentions?

MR. LAUBE:
Eighteen.

P.O. LINDSAY:
The agenda is done.

(**"Yay" said in unison**)

P.O. LINDSAY:
Okay, go to the manilla folder.

Procedural Motions:

Procedural Motion No. 12-2011, does everybody have 12 in front of you, ***Authorizing public hearing for approval of Ferry License For Davis Park Ferry Co. (Presiding Officer Lindsay)***.

LEG. EDDINGTON:
Motion.

P.O. LINDSAY:
Motion by Legislator Eddington. I'll second it. All in favor? Opposed? Abstentions?

MR. LAUBE:
Eighteen.

P.O. LINDSAY:
Procedural Resolution No. 13-2011 - Approving partial settlement of AWP Litigation (Presiding Officer Lindsay). I'll make a motion. Do I have second?

LEG. KENNEDY:
Second.

LEG. NOWICK:
Second.

P.O. LINDSAY:
Second by Legislator Kennedy. All in favor? Opposed? Abstentions?

LEG. MONTANO:
Well, I just wanted an explanation on this.

MR. LAUBE:
Who said opposed?

P.O. LINDSAY:
Oh, you want an explanation, go ahead.

LEG. MONTANO:
Yeah, which one was this?

P.O. LINDSAY:

It's Procedural Motion No. 13.

LEG. MONTANO:

No, I know that. I mean just --

MR. NOLAN:

It's the pharmaceutical pricing litigation that's been going on for many, many years, and this is another partial settlement that we keep settling.

P.O. LINDSAY:

We get little --

LEG. MONTANO:

(Inaudible).

MR. NOLAN:

No, we did not.

P.O. LINDSAY:

These have been dribbling in for a while now, a few bucks here, a few bucks there.

LEG. MONTANO:

Oh, okay. No, I just don't remember taking it up in executive session; but we didn't, so that's why I don't remember it.

P.O. LINDSAY:

Okay. Procedural Motion No. 14, a resolution authorizing funding --

MR. LAUBE:

We didn't take a vote on 13 yet.

P.O. LINDSAY:

Oh, I'm sorry.

MR. LAUBE:

Because I heard an opposed so I didn't call anything.

P.O. LINDSAY:

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

MR. LAUBE:

Eighteen.

P.O. LINDSAY:

Procedural Motion No. 14-2011 - Authorizing funding for Community Support Initiatives (Phase II) (Presiding Officer Lindsay).

D.P.O. VILORIA-FISHER:

Motion.

P.O. LINDSAY:

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

Abstentions?

MR. LAUBE:
Eighteen.

P.O. LINDSAY:
Home Rule Message No. 2.-2011 - Requesting the State of New York to amend the Vehicle and Traffic Law to increase the number of intersections at which traffic-control signal photo violation-monitoring devices may be installed (Senate Bill S.4197/Assembly Bill A.6751) (Presiding Officer Lindsay).

LEG. NOWICK:
Motion.

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

P.O. LINDSAY:
Motion by Legislator Nowick. Second by Legislator Viloría-Fisher.
All in favor? Opposed? Abstentions?

MR. LAUBE:
Eighteen.

P.O. LINDSAY:
Procedural -- *Home Rule Message No. 3-2011 - Requesting the New York State Legislature to amend Chapter 311 of the Laws of 1920, Constituting the Suffolk County Tax Act, in relation to the sale of Delinquent Tax Liens on Brownfields Property (Assembly Bill A. A5554 and Senate Bill S. 4229) (Presiding Officer Lindsay).* I'll make a motion.

LEG. CILMI:
Second.

P.O. LINDSAY:
Second by Legislator Cilmi.

LEG. MONTANO:
Wait. Could I have an explanation on this?

P.O. LINDSAY:
Sure.

MR. NOLAN:
This is actually a Home Rule Message we did last year and I believe the year before. What it would do, it would allow the County to sell its tax liens that it's taken for less than the face value of the lien, so we can try to move some of these.

P.O. LINDSAY:
These are all Brownfields.

MR. NOLAN:
Brownfield properties, just for Brownfield properties, to people who will remediate pollution on those properties. So if the tax lien is for, you know, \$50,000, we'd be able to give it to somebody for less than the amount of the tax lien, just for Brownfield properties.

LEG. CILMI:

Tim, you have me as a cosponsor on this, yes?

MR. LAUBE:

I can check. I don't have that in front of me, but I will put it on.

P.O. LINDSAY:

Okay. We'll take the vote again; we have a motion and a second. All in favor? Opposed? Abstentions?

LEG. MONTANO:

Put me as an opposed.

MR. LAUBE:

Seventeen (Opposed: Legislator Montano).

LEG. HORSLEY:

Tim, cosponsor.

P.O. LINDSAY:

Okay, *Home Rule Message No. 4-2011 - Requesting the State of New York to amend the Tax Law to extend the additional one-percent sales and compensating use tax rate (Senate Bill S.4196/Assembly Bill S.6752) (Presiding Officer Lindsay)*. This is something we do annually.

D.P.O. VILORIA-FISHER:

Motion.

MR. NOLAN:

Every two years.

P.O. LINDSAY:

Every two years, excuse me. Motion by Legislator Viloría-Fisher. Second by Legislator Muratore. Does somebody have a question?

LEG. MONTANO:

Yeah, just one. When does this expire, this tax?

P.O. LINDSAY:

It should expire in June.

MR. NOLAN:

No, November.

P.O. LINDSAY:

November?

LEG. MONTANO:

November; okay, I see it here. Thank you.

P.O. LINDSAY:

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

MR. LAUBE:

Eighteen.

P.O. LINDSAY:

All right, I think that's it for the manilla folder.

We go to the red folder. Okay, under CN's, we have Resolution **1344-11 - Authorizing the Legal Aid Society to participate in the New York State Health Insurance Program (Kennedy)**.

LEG. KENNEDY:

I'm going to make a motion to approve, Mr. Chair.

LEG. MONTANO:

Second.

P.O. LINDSAY:

Motion by Legislator Kennedy, seconded by Legislator Montano.
All in favor? Opposed? Abstentions?

MR. LAUBE:

Eighteen.

P.O. LINDSAY:

IR 1360-11 - Authorizing use of property at Gabreski Airport by the United States Army (County Executive).

LEG. SCHNEIDERMAN:

Motion.

P.O. LINDSAY:

Motion by Legislator Schneiderman.

LEG. BROWNING:

Second.

P.O. LINDSAY:

Seconded by Legislator Browning. All in favor? Opposed? Abstentions?

MR. LAUBE:

Eighteen.

LEG. SCHNEIDERMAN:

Tim, cosponsor.

LEG. BROWNING:

Yeah, cosponsor.

P.O. LINDSAY:

IR 1369-11 - Amending the 2011 Operating Budget and authorizing the operation of the John J. Foley Skilled Nursing Facility (Browning). This is funding for the next three months; am

I correct?

LEG. BROWNING:
(Nodded head yes).

P.O. LINDSAY:
Do I have a motion?

LEG. BROWNING:
Motion.

P.O. LINDSAY:
Motion by Legislator Browning.

LEG. KENNEDY:
Second.

P.O. LINDSAY:
Second by Legislator Kennedy. All in favor? Opposed? Abstentions?

LEG. ROMAINE:
Please note my recusal.

MR. LAUBE:
Seventeen (Recused: Legislator Romaine).

P.O. LINDSAY:
IR 1382-11 - Authorizing certain technical correction to Adopted Resolution No.117-2011 (County Executive).

LEG. KENNEDY:
Motion.

P.O. LINDSAY:
Motion by Legislator Kennedy.

LEG. GREGORY:
Second.

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

MR. LAUBE:
Eighteen.

P.O. LINDSAY:
IR 1398-11 - Requesting legislative approval of a contract award assignment for the operation and management of the restaurant, bar and catering concession at Indian Island Country Club in Riverhead (County Executive).

D.P.O. VILORIA-FISHER:
George, we don't see the contract itself?

LEG. ROMAINE:

Motion.

P.O. LINDSAY:

Motion by Legislator Romaine.

LEG. BROWNING:

Second.

MR. NOLAN:

It's not attached.

P.O. LINDSAY:

Do we have a second?

D.P.O. VILORIA-FISHER:

I have a question.

LEG. BROWNING:

Second.

P.O. LINDSAY:

Question by Legislator Viloría-Fisher.

D.P.O. VILORIA-FISHER:

I'm just asking Counsel if we get to see a copy of the contract, just to see the terms, what kind of revenue the County would be getting from this concessionaire?

P.O. LINDSAY:

Do you want to table it?

D.P.O. VILORIA-FISHER:

I --

MR. NOLAN:

I'm just reading through the resolution and it states that an earlier resolution we passed this year authorized Parks to enter into an agreement with the Third Rock Management Corps for the operation and management of the restaurant, bar and catering at Indian Island.

Since then the Department of Parks received a written request from Third Rock Management to assign its rights awarded under the RFP to a new corporation. So that I believe --

D.P.O. VILORIA-FISHER:

It's just a change in the corporation name, is that what you're saying?

MR. NOLAN:

That we were basically allowing an assignment is what we're doing.

We've already authorized the concession --

D.P.O. VILORIA-FISHER:

I see.

MR. NOLAN:

-- and this is just letting them --

P.O. LINDSAY:

Do you want to add to that, Gail?

MS. LOLIS:

Well, just to clarify. It's the same principals, it's just a different corporate name.

P.O. LINDSAY:

Okay.

D.P.O. VILORIA-FISHER:

Thank you, Gail. All right.

P.O. LINDSAY:

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

MR. LAUBE:

Eighteen.

P.O. LINDSAY:

1399-11 - Amending Resolution No. 280-2011 to include the Towns of Brookhaven, East Hampton and additional school districts in the Intermunicipal Agreement for natural gas procurement (County Executive).

LEG. SCHNEIDERMAN:

Motion.

P.O. LINDSAY:

Motion by Legislator Schneiderman.

LEG. BROWNING:

Second.

P.O. LINDSAY:

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

MR. LAUBE:

Eighteen.

P.O. LINDSAY:

Okay. Late Starters, yellow file. 1397 is assigned to Ways & Means.

MR. NOLAN:

Make a motion and waive the rules.

P.O. LINDSAY:

I'll make a motion to waive the rules --

D.P.O. VILORIA-FISHER:

Second.

P.O. LINDSAY:

-- and lay on the table the following resolutions, and seconded by Legislator Viloría-Fisher:

1397 to Ways & Means; 1400 to Budget & Finance; 1401 to Budget & Finance; 1402 to Public Safety; 1403 to EPA; 1404 to Economic, Development, Education & Energy; 1405 to EPA; 1406 to Budget & Finance and set a public hearing for 5/10, 2:30 PM, Hauppauge; 1407 to Parks; 1408 to Public Works; 1409 to Health & Human Services; 1410 to Economic Development, Education & Energy; 1411 to Economic Development, Education & Energy; 1412 to Budget & Finance, and that's it.

Okay. So we have a motion and a second for those assignments.

All in favor? Opposed? Abstentions?

MR. LAUBE:

Eighteen.

P.O. LINDSAY:

Okay. And if we have no other business, unless everybody wants to stay here, I'll accept a motion to adjourn.

LEG. EDDINGTON:

Motion.

P.O. LINDSAY:

Motion to adjourn by Legislator Eddington, seconded by Legislator Muratore. All in favor? Opposed? Abstentions?

MR. LAUBE:

Eighteen.

P.O. LINDSAY:

We stand adjourned.

*(*The meeting was adjourned at 6:07 P.M. *)*

{ } - Denotes Spelled Phonetically