

BF 12/8/2015

**BUDGET AND FINANCE COMMITTEE**  
**OF THE**  
**SUFFOLK COUNTY LEGISLATURE**  
**MINUTES**

A meeting of the Budget and Finance Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, 725 Veterans Memorial Highway, Smithtown, New York, on December 8, 2015.

**Members Present:**

Legislator Lou D'Amaro - Chairman  
Legislator Monica Martinez - Vice-Chair  
Legislator Tom Cilmi  
Legislator Steven Stern  
Legislator Robert Trotta

**Also In Attendance:**

George Nolan - Counsel to the Legislature  
Jason Richberg – Clerk of the Legislature  
Justin Littell - Aide to Legislator D'Amaro  
Debbie Harris – Aide to Legislator Stern  
Greg Moran - Aide to Legislator Trotta  
Robert Lipp - Director, Budget Review Office  
Gail Lolis – County Attorney's Office  
Rick Brand - Newsday  
All Other Interested Parties

**Minutes Taken and Transcribed By:**

Gabrielle Severs - Court Stenographer

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(\*The meeting was called to order at 10:07 a.m.)

**CHAIRMAN D'AMARO:**

Good morning, Ladies and Gentlemen. Welcome to the Budget and Finance committee of the Suffolk County Legislature. Please rise and join the committee in the Pledge of Allegiance led by Legislator Tom Cilmi this morning.

(Salutation)

Turning to the agenda, once again, welcome. Section two is correspondence. The committee has not received any correspondence, for the record. We'll go next to public comments. We've received two cards this morning, and I'll call the first. Ellen and Bob, who wants to come up first?

**MR. BONTEMPI:**

Can we come together?

**CHAIRMAN D'AMARO:**

Sure. Why don't you come up together? That's fine. Ellen O'Brien and Bob Bontempi from the Huntington Chamber of Commerce.

**MR. BONTEMPI:**

We didn't have a chance to fill a card out for Vita Scaturro with the Chamber; is that okay?

**CHAIRMAN D'AMARO:**

Okay. If you could just put yourself on the record, that's fine.

**MR. BONTEMPI:**

Again, Legislator D'Amaro, Members of the Committee, we are from the Huntington Chamber of Commerce, and we're here today to try bring clarity around a resolution that's pending before you today, 2009, a grant for the fall festival at Huntington administered through the Huntington Chamber of Commerce. First of all, thank you for the past six years. You've been very supportive of us, and we do appreciate that. The Long Island fall festival is more than just a Huntington play. It's more of a region play. We get folks coming from Rhode Island, Connecticut, New Jersey, and they come to that four-day event and spend a lot of money in our community, which creates a lot of outflow. We're in our 22nd year now.

I think the challenge has been is when we work to reconcile the grant that you folks were very generous in giving us, we've been getting better at getting to the 20 percent admin number, and we think we're doing even better in getting in that direction. We have a copy. When the grant is administered to us, it's for the four-day event, which draws a few hundred thousand people. If you look at the P and L for the event -- we run a separate P and L, separate from the other events of the chamber -- we're actually exceeding being compliant with that regard. 2014, we came in about 16 percent on the admin, and 2015 about 17 percent; am I correct, Vita?

**MS. SCATURRO:**

Yes.

**MR. BONTEMPI:**

In the aggregate, we're at about 27 percent with the total organization, so we're asking if you can consider that separate P and L as keeping us compliant moving forward, and we can certainly take any questions around that.

**CHAIRMAN D'AMARO:**

All right. Bob, thank you for that. So we're talking about a grant that you received from Suffolk County that goes towards just the Huntington festival; is that correct?

**MR. BONTEMPI:**

Just that four-day event.

**CHAIRMAN D'AMARO:**

So when the funding is applied for and finally comes in and you do a budget for just this event -- you mentioned that you do a budget separate and apart from any other chamber events or the chamber itself -- the funding that comes in from the county, then, goes right on to that P and L, that specific accounting portion just for the Huntington festival?

**MR. BONTEMPI:**

That's accurate.

**CHAIRMAN D'AMARO:**

What's the total budget for that festival?

**MR. BONTEMPI:**

So top line, the budget is over \$350,000.

**CHAIRMAN D'AMARO:**

Other 350 and you're saying that, looking at the festival, you are below the 20 percent threshold where your administrative costs are actually lower than 20 percent of the entire budget, so a good portion of the funding for the festival is going towards the festival itself and not the administration portion as we define it; is that correct?

**MR. BONTEMPI:**

That's accurate.

**CHAIRMAN D'AMARO:**

Okay. We also look at the chamber itself. If you plug it in, at that level, you do exceed the 20 percent threshold, not by a lot, but I think, what'd you say, 26 or 27 percent?

**MR. BONTEMPI:**

27 percent. We're doing a better job at trying to pull that number back down.

**CHAIRMAN D'AMARO:**

Okay. So you're working towards going forward, because when we apply this grant and this test at this time, that's a snapshot in time. But moving forward into 2016, I think the chamber is more aware of this threshold at this point. You're working towards meeting that threshold; is that correct?

**MR. BONTEMPI:**

We are. We're actually going to have one less headcount, too, moving forward. We just had Linda, one of our staffers, retire last year, so that's certainly going to help somewhat.

**CHAIRMAN D'AMARO:**

So that's going to bring down your administrative costs even more going into the new year.

**MR. BONTEMPI:**

We work closely with you our accounting firm, Cerini and Associates, to continue to pull that number

back down.

**CHAIRMAN D'AMARO:**

How many people visit the festival? Which I've been to every year. It's incredible.

**MR. BONTEMPI:**

Can we shut the mike off for insurance purposes?

**CHAIRMAN D'AMARO:**

Yeah.

(Laughter)

**MR. BONTEMPI:**

We're looking at upwards of -- it's difficult to get a snapshot, and we've tried in the past. If we have four full days of sun, you could be close to 300,000 people.

**CHAIRMAN D'AMARO:**

Yeah. I'd say it's a lot.

**MR. BONTEMPI:**

It really has become a region play versus a Huntington play.

**CHAIRMAN D'AMARO:**

It's a great thing. It is. All right. So there's a bill pending this morning that would permit this grant to go through on the premise that the festival itself is in full compliance. We know that that cultural funding is reaching the proper purpose and not being administered in a way that a large portion of it's going to administrative expenses. Does anyone have any questions? Legislator Stern.

**LEG. STERN:**

Thank you, Mr. Chairman.

**CHAIRMAN D'AMARO:**

You know, why don't we do this, if you don't mind: Let's put the bill before the committee while they are up here just to make it easier. Let me offer a motion to take a resolution out of order.

**LEG. STERN:**

Second.

**CHAIRMAN D'AMARO:**

It's resolution **2009-2015, Approving 2015 Funding for a contract agency (Huntington Chamber of Commerce) (Spencer)**. I'll offer that motion to take out of order and place before the committee. Second by Legislator Stern. All in favor? Opposed? Abstentions. That bill is now pending before the committee. Legislator Stern, go ahead.

**LEG. STERN:**

Do we need to make a motion to approve, Mr. Chairman?

**CHAIRMAN D'AMARO:**

I'll offer a motion to approve.

**LEG. STERN:**

I'll second.

**CHAIRMAN D'AMARO:**

Second by Legislator Stern. Please go ahead. Thank you.

**LEG. STERN:**

Thank you. Bob, have you or anyone else had the opportunity to speak with the comptroller's office about the numbers, about the percentages, and what you're looking to do going forward?

**MS. SCATURRO:**

I spoke to him last year and, you know, the correspondence when we were applying for the grant and we were -- we went over the formula and what's required, what's necessary. So after that conversation, then we had a meeting with our accountants, Cerini, and we went over budget numbers to make sure we're in compliance, so that's why at this time we're able to commit to the right way to reduce and to be in compliance with the grants request. When I also spoke with our accountant, we realized the grant is just for the fall festival. So, like, the P and L, we could get actually an audit P and L financial statement just for that event when we submit.

**CHAIRMAN STERN:**

Okay. Because the members of this committee know that having that conversation with the comptroller's office is something that we really insist on, so it's good the hear that that has been complied with.

**MS. SCATURRO:**

We were notified by mail, so, therefore, I called them, so I've had several conversations.

**LEG. STERN:**

Thank you.

**CHAIRMAN D'AMARO:**

Legislator Cilmi, please go ahead.

**LEG. CILMI:**

Thank you. So although you spoke to the comptroller's office, it doesn't sound like there's any disagreement in terms of the characterization of your expenses and your revenues and such on any of your documents. It sounds to me like you're asking us to view the picture in terms of this particular festival exclusive of the operations of the rest of the organizations, right, the programs of the rest of the organization?

**MS. SCATURRO:**

Correct.

**LEG. CILMI:**

Just from my own perspective, I'm not sure if we're at the point where we're debating a bill here, but the concern I have, just to share with you all, in recognizing it's obviously a great program, and beyond that program, I know the chamber does great work. But we have other organizations in the county that receive funding such as this that are constrained by, you know, the same rule that's putting you in this position right now, and we have other organizations that have lost funding and have gone through very arduous negotiations within their own agencies and with the comptroller's office because of the way the county, based on the county law, views this formula. So I'm not sure -- and I know we have the ability to do that here in the legislature, to overlook, to override, but without coming up with some sort of a uniform policy going forward -- I mean, you're asking us to

sort of look back at this point -- without coming up with a uniform policy going forward, I'm not sure how we say to all those other agencies, You know, it counts for you guys, but it doesn't count for the Huntington Chamber.

**MR. BONTEMPI:**

Are there other examples, sir, where there are standalone grants -- where grants would be issued for a standalone -- not like this versus, like, a Family Service League which would use it maybe for programs throughout the year?

**LEG. CILMI:**

I'm sure there are; off the top of my head, I can't think of any, but if there's money that's specifically dedicated to those types of events, it, I guess, would have to fall outside the realm of this particular program; otherwise, it wouldn't meet with the criteria set forth here. Now if you're agency set up -- if the chamber set up a separate organization, if you will, to manage this festival, then going forward, I guess, that agency could submit the application to the county -- and this is all supposition on my part. You'd have to talk to all the lawyers in the group. I'm not a lawyer. But it seems to me like then you would at least be in legal compliance with the spirit of the law.

**MR. BONTEMPI:**

Absolutely, and we actually had a a discussion with our accountants at about exactly that because we want to do transparent, and we want to do what is appropriate, certainly.

**LEG. CILMI:**

And I'm not sure whether or not -- I can't remember whether or not the legislature has in recent past approved any resolutions such as this where the ratio is noncompliant. We're usually fairly strict about that, unfortunately for you. But nevertheless, I just wanted to give you a window into my thinking.

**MR. BONTEMPI:**

No, it's good.

**LEG. CILMI:**

And thanks for the really good work that you do.

**CHAIRMAN D'AMARO:**

Thank you, Legislator Cilmi. I agree with you. There is some other funding that we provide for standalone events. There's not many, but there are some others, I think further east. I'm not sure if it's another festival or film festival or something like that that we do provide that type of funding for. And we have made exceptions in the past for organizations that have gotten close to the threshold but not been able to, just for that period of time, been able to get it to where it needs to be at or below 20 percent, but usually they were working with the comptroller and working with their accountants and heading in the right direction, if you will.

We haven't disapproved many of these bills because usually the organizations are very good at working with their accountants and the their comptroller's office. When we have on occasion chosen not to grant the exception, my memory is that the organizations were far in excess of the 20 percent, not at 25 or 26 or 27 but, you know, 39 percent or higher; that's my memory on that. And I think you're right, I think we should start to explore that, for example, if a cultural grant is going to a specific purpose and we want to make sure that that grant is used for that purpose as opposed to administrative costs, I think we could start to think about viewing it in that way for these different organizations when we give out funding for a larger event such as this.

The suggestion that the chamber perhaps look at a separate type of entity just to run the festival is

a good one, but I don't want to prohibit the funding from going based on form over substance at this juncture. I think you're right. I think festivals or large film festivals or fairs, whatever's being run might better off having some kind of subsidiary that's going to administer this particular event. That's something you'd have to decide whether or not that's cost effective to do and makes sense, but certainly for funding purposes I think it would, and I think it would also really show that most, if not all, of that funding is really going for its intended purpose.

So I appreciate that suggestion as well but I would really don't want to -- just because they didn't form an LLC last year as opposed to this year, they did come in with a good-faith effort, produced a profit and loss statement that shows had this festival had a separate legal entity running it, it certainly would have met the threshold. Given that and the fact that it's not excessively over the threshold, I would be willing to support that, so I hope you consider that.

**LEG. CILMI:**

Yeah, I think the instances where we have overridden the policy, if you will, as we're being asked to do today, I think we've been -- we've had agencies come to us and say, you know, We didn't really understand how to characterize certainly expenses, or there was some disagreement between the comptroller's office and the agency as to where an expense should fall in the spreadsheet. This case is a little bit different, though, in that it seems like everybody's in agreement of it's just that the numbers don't work out. How much, in terms of real dollars, how much over are we here?

**MS. SCATURRO:**

The problem is this: Because we have so many events and other events are successful and then when we allocate the expenses, the administrative expenses versus our income, it contributes to the bottom line to increase that rate, so that is the reason why we need to keep it separate. So when we submit the request, we're able to produce the cancelled checks, what the money was used for, so what's happening here is because our other events are also very successful, it's increasing the numbers. So we want to be a successful organization, and in a way we're getting penalized because we are successful on the other events, so it's like a contradicting statement.

**LEG. CILMI:**

And that happens all the time.

**MS. SCATURRO:**

Yes. And your suggestion about forming another entity, we discussed it with the accountant, there's no problem doing that; but we don't want to go that road if it's something could go done be addressed because of the nature of the way the grant is structured.

**LEG. CILMI:**

Right, but my question, though, is in order -- this is a measure of -- what exactly is the 20 percent a measure of, Counsel?

**MS. SCATURRO:**

It's the income from each event and the expenses of each events and then it's segregated by administrative expenses versus the other expenses.

**LEG. CILMI:**

So it's the proportion of your administration expense to your total revenue from events or fundraisers.

**MS. SCATURRO:**

Absolutely, and we have sat with the accountant to make sure that time spent by the staff on each event is allocated properly, and we are in compliance from the accounting side, so we are following

the rules on how to report expenses, how to report income, so the thing is that we are generating more income.

**LEG. CILMI:**

I understand. So what's your total expected income?

**MS. SCATURRO:**

For which one?

**LEG. CILMI:**

The way the county views it is as a whole, right, on the aggregate, so what's your total income as an agency for this year, expected to be?

**MS. SCATURRO:**

The net?

**LEG. CILMI:**

Well, it's your total -- they look at your gross income versus your expenses, right?

**MS. SCATURRO:**

Oh, you want the total financial statement. I have the numbers, for sure.

**LEG. CILMI:**

Yeah. What's your total revenue?

**MS. SCATURRO:**

We're looking at about \$900,000 to our income.

**LEG. CILMI:**

Okay. And that's not just from this event, right, that's all programs?

**MS. SCATURRO:**

I have a complete financial statement of the organization plus I have a break down of the P and L of the event. When you start looking at each event individually --

**LEG. CILMI:**

It's a whole different --

**MS. SCATURRO:**

It's a whole different picture.

**LEG. CILMI:**

I understand.

**MS. SCATURRO:**

So what happens is, let's say for example --

**LEG. CILMI:**

Before you go off into that, I just want to get to the heart of my question here. So your total revenue is roughly \$900,000 and your total expense is currently -- your administrative expenses, rather, are what exactly, as they're characterized in the statements that you provided to the comptroller?

**MS. SCATURRO:**

\$130,000, and then what happens is some of the fundraising expenses, the way they're allocated in, they don't qualify under the grants program. That's what the issue is here.

**MR. NOLAN:**

It's less than 20 percent.

**CHAIRMAN D'AMARO:**

The 20 percent is calculated based on looking at the form 990. Those are the numbers that I think you want --

**MS. SCATURRO:**

Yeah, and the financial statement that we submit.

**LEG. CILMI:**

Okay. So I'm a little confused; I apologize. So if your total administrative -- and I didn't do that math. Somebody else did the math. What is whatever number that you just said -- what is it?

**MS. SCATURRO:**

I'll give you an example.

**LEG. CILMI:**

No, no. I just -- I'm sorry. Don't give me an example. What was the total administrative expenses? And it comes to less than 15 percent?

**CHAIRMAN D'AMARO:**

It's about 15.

**LEG. CILMI:**

Right. But you're saying that some of the expenses are not -- that wouldn't sense. It would make it even less, then. Are there expenses that the comptroller is considering to be expenses that you're saying are -- well, are there expenses that they're saying are administrative expenses that you're not characterizing as administrative expenses; is that what's happening here?

**MS. SCATURRO:**

Yes, the fundraising.

**LEG. CILMI:**

And how much is that equal to?

**MS. SCATURRO:**

Well, we had finally the expense of \$240,000, which the county doesn't take into consideration.

**LEG. CILMI:**

Okay.

**MS. SCATURRO:**

You take the program services, the managing in general, so when you take those two numbers, we're never going to be able to come at below 20 percent.

**LEG. CILMI:**

So your fundraising expense, you said, are over \$240,000?

**MS. SCATURRO:**

Correct, for 2014.

**LEG. CILMI:**

If we consider those to be administrative expenses, let say that we do, is that in addition to the other administrative expenses that you described earlier?

**MS. SCATURRO:**

Yes. So if we take everything into consideration, then we will be in compliance.

**LEG. CILMI:**

So when you add that \$240,000 to your hundred-and-whatever thousand dollars you said was your administrative expenses, you come up to the 27 percent number?

**MS. SCATURRO:**

Correct.

**LEG. CILMI:**

Okay. I know I'm asking some complex questions here.

**MS. SCATURRO:**

It's okay.

**LEG. CILMI:**

What's the amount of money, then, that you would have to drop from what the comptroller viewed as your administrative expenses in order that you come into compliance? Budget Review, can you help me with this calculation, please?

**CHAIRMAN D'AMARO:**

Legislator Cilmi, so what you're saying, in dollars, how much do you need to put more towards program, less towards administrative in order to get to 20 percent?

**LEG. CILMI:**

Right. Did you hear my question, Robert?

**MR. LIPP:**

I heard the question, but I'm not sure what numbers you want to calculate.

**LEG. CILMI:**

Okay. SO let's reiterate the numbers, if we could, for our Budget Review Office.

**MR. LIPP:**

I will note that we did speak to the comptroller's office, and based on their analysis, they're still over the 20 percent.

**MS. SCATURRO:**

Correct.

**LEG. CILMI:**

Right; we understand that. So if you could just take these notes down quickly, Budget Review. So you said your total revenue was 900 and -- what was it?

**MR. BONTEMPI:**

She's going to get you the exact number.

**MS. SCATURRO:**

\$834,411 is the total revenue. Then you have program services, 340,739, management in general was 136,043, and fundraising was 241,234.

**MR. LIPP:**

You're going to have to go a little slower.

**MS. SCATURRO:**

I'm sorry. I apologize.

**MR. LIPP:**

Okay. Start again.

**MS. SCATURRO:**

Total revenue, 834,411; expense program services 340,739.

**MR. LIPP:**

347 what?

**MS. SCATURRO:**

340,739. Management in general, 136,043.

**LEG. CILMI:**

So the question for you guys is how much would expenses have to decrease in order for the organization to fall within the 20 percent threshold? While they're working on this calculation, could you just give us some context with respect to the \$240,000 cost of fundraising?

**MS. SCATURRO:**

You want an actual breakdown?

**LEG. CILMI:**

No. Well, so you paid \$240,000 to do fundraising; what is that, like a commission or something like that?

**MS. SCATURRO:**

No, no, no. I could give you a breakdown. In the fundraising number, we have salaries, payroll taxes, building maintenance and appreciation, professional fees, insurance, occupancy costs, dues and subscription, rentals, advertising; so that's the total expenses of the organization.

**LEG. CILMI:**

And you're characterizing all of that as fundraising?

**MS. SCATURRO:**

Expenses out for each event. What we do is we proportion for each event, each expenses.

**LEG. CILMI:**

Right. That's what we all do. Okay. Part of the reason that we don't -- that we're not faced with these resolutions all the time is because, obviously, it's complicated. You know, what you're doing in terms of the allocation of your expenses is complicated, and to some extent it differs agency to agency, and we sort of rely on the comptroller's office to work through those details. Let me ask

you when, not that the personnel has changed all that much, but when you worked with the comptroller's office last, was it under Comptroller Sawicki or Comptroller Kennedy?

**MS. SCATURRO:**

I spoke to Mr. Pecorella under Kennedy.

**LEG. CILMI:**

Do you actually have a month and --

**MS. SCATURRO:**

When I actually spoke with him? As soon as we got the notice of the letter that we weren't in compliance, I spoke to him. I mean, I have all the dates.

**LEG. CILMI:**

Okay. Any --

**MR. LIPP:**

No, it really -- the numbers that you're using, for whatever reason, are not consistent with the report that has to be established, so I would need, basically, I would need to either review or, better yet, talk to Joe Pecorella.

**LEG. CILMI:**

Okay. I'm not sure where that leaves us.

**CHAIRMAN D'AMARO:**

What are you driving at?

**LEG. CILMI:**

Well, what I was just driving at was I just wanted to get a sense of how much money in real dollars we're talking about here that they're over, but now if Budget Review, in looking at this, is saying that the numbers don't really jive, and I'm not sure if that's what you're saying. I'm paraphrasing you, but if they don't jive --

**MR. LIPP:**

That's basically the case.

**LEG. CILMI:**

-- I'm a little hesitant, then, to even move forward with any vote here until such time as the numbers do jive.

**MR. LIPP:**

Well, what I would say is I guess it's the 27 percent is what Audit and Control is saying that they're at now --

**CHAIRMAN D'AMARO:**

Let's not cloud too much here. The comptroller and the organization have spoken and have come to the joint conclusion, is that correct, that you're at 27 percent?

**MS. SCATURRO:**

Correct.

**CHAIRMAN D'AMARO:**

What you're representing is that this grant goes to the standalone festival. Based on those figures,

you're below 20 percent, right?

**MS. SCATURRO:**

Correct, for the event.

**CHAIRMAN D'AMARO:**

So, Legislator, to the extent you want to know in real dollars what the 27 percent would represent, I don't know the answer to that, I don't. But your overall budget was about 900, would you say, or 800 and something?

**MS. SCATURRO:**

Correct.

**CHAIRMAN D'AMARO:**

What was it, 820 or 850?

**MS. SCATURRO:**

843.

**CHAIRMAN D'AMARO:**

850, let's say. So every one percent of 850,000 would be \$8,500, right?

**MS. SCATURRO:**

Yes.

**CHAIRMAN D'AMARO:**

So to go down seven percent is about \$56,000 or \$60,000. So I would think just in round numbers, that would be the number you're looking for.

**LEG. CILMI:**

Okay. Thanks.

**MS. SCATURRO:**

I mean, if the comptroller is asking for additional explanation on numbers, we have no problem submitting it because I work with the accountant all the time, so if there is any clarification needed, we could always submit those numbers.

**CHAIRMAN D'AMARO:**

Legislator Stern. Legislator Cilmi, you good for now?

**LEG. CILMI:**

I am. Thank you.

**LEG. STERN:**

I don't know if I have any more questions for the organization. I appreciate them being here and providing the information and the documentation. Here, let me just agree with you: I think for these purposes for today, everybody agrees on the number that is being put before us, and that is this 27 percent number. The question for all of us here today is whether we believe, based on all of the facts and circumstances and relying on the procedure that we have available to us, do we recognize the fact that the funding is for a very specific purpose, and based on the information of the documentation and certainly the track record and the organization and the success, not just locally but regionally of the event, do we utilize the process that we have available to us to recognize that this is a grant that goes for its intended purpose which is for this fall festival?

So I think the case before us today is based on that number, that again for today's purposes, I believe that the organization and the comptroller's office agrees on, that is the question before us, so I mean I don't know if there are other questions for the organization, but I would certainly consider the question.

**CHAIRMAN D'AMARO:**

I agree with you, those are the issues here today. It's not common where we have a larger organization comes in with a standalone event, so that to me is -- I just want to make it clear on the record that I am going to support this. That's only a factor, though, in my mind. I think that if moving forward it's one thing to justify exceeding the threshold based on the fact that there's separate P and L, but I think moving forward, either you need to segregate that out as a separate entity or you need to get the entire organization to the threshold because, as Legislator Cilmi says, that's what everyone does.

However, the other factors that I'll base my support on is not only that it's a standalone and it meets the threshold as a standalone but also that you're moving in the right direction, and we have granted exceptions to other organizations that in that snapshot shot of time had some difficulty, but we're aware of the issue now and are trying to resolve it. Whether you're going to do it one way or the other, I'll leave up to, but I have faith and confidence that you're going to do that going into 2016, so for that reason, I will support this. I want to make it clear that I'm not supporting it just based on the standalone because I think we can't just then have every organization come in with all these different events and say, Well, if you just look at that event, we're fine, because then the exception eats up the rule, okay?

But as a factor in this particular case, knowing that you're moving in the right direction and knowing that you're not 50 and 60 percent high, you're at 27, you're bring that lower, you said one person was leaving the organization next year, I'm confident that you'll come close if not beat that threshold next year. All right. Anyone else?

There is a motion pending to approve. It has received a second. I'll call the vote. All in favor? Opposed? Abstentions? Two opposed. Three in favor. Resolution passes. **Approved (VOTE: 3-2-0-0, Opposed: Cilmi, Trotta)** This will be considered by the whole legislature next Tuesday. Thank you.

To the clerk, are there any other cards this morning?

**MR. RICHBERG:**

No other cards.

**CHAIRMAN D'AMARO:**

Thank you. Is there anyone else present who would like to address the committee this morning? For the record, there is no response. There are no presentations or tabled resolutions this morning, so we'll go to item six on the agenda, which is introductory resolutions, and I'll call the first.

**1992-2015, Authorizing the County Comptroller and County Treasurer to close certain capital projects and transfer funds (County Executive).** There are 164 capital projects being closed out, and the total pipeline debt would be reduced by \$31.2 million, and I believe there's a full listing of the projects that are included in the bill. I'll offer a motion to approve. Second by Legislator Cilmi. On the motion, anyone? Okay. I'll call the vote. All in favor? Opposed? Abstentions? Motion carries. Resolution is **approved. (VOTE: 5-0-0-0)**

**Resolution 1999 of 2015, Amending the 2015 Adopted Operating Budget to accept and appropriate 100% additional State Aid from the New York State Office of Mental Health to SUNY Sayville Project for a Cost Of Living Adjustment (COLA)(County Executive).** This is \$1,917 in additional state aid, which is being accepted. I'll offer a motion to approve and place on the consent calendar. Second by Legislator Stern. All in favor? Opposed? Abstentions? Motion carries. **Approved/consent calendar (VOTE: 5-0-0-0).**

**Resolution 2000 of 2015, Authorizing the County Comptroller and the County Treasurer to transfer funds to cover unanticipated expenses in the 2015 Adopted Discretionary Budget(County Executive).** Dr. Lipp, maybe a brief explanation for the committee's benefit.

**MR. LIPP:**

Sure. So there is a total of 1.4 million, a little bit more than 1.4 million, of expenditure increases related to the general fund that are discretionary and an additional 1.6 million of discretionary expenses in the county road fund, and what they're doing basically is they're increasing expenses there and reducing it in other line items that have surpluses in them.

**CHAIRMAN D'AMARO:**

So it's an adjustment within the budget itself?

**MR. LIPP:**

Correct.

**CHAIRMAN D'AMARO:**

I'll offer a motion to approve. Second by Legislator Stern. All in favor? Opposed? Abstentions? Motion carries. **Approved (VOTE: 5-0-0-0)**

**Resolution 2001 of 2015, Authorizing the County Comptroller and the County Treasurer to transfer funds to cover unanticipated expenses in the 2015 Adopted Mandated Budget (County Executive).** This is, for Dr. Lipp, 200,000 being transferred?

**MR. LIPP:**

For the mandate one, I believe it's 6.2 million.

**CHAIRMAN D'AMARO:**

Oh, okay. I'm sorry.

**MR. LIPP:**

And the big-ticket items are related to safety net versus family assistance, one going up the other going down.

**CHAIRMAN D'AMARO:**

Okay. And this is within the mandated section within the budget?

**MR. LIPP:**

Correct.

**CHAIRMAN D'AMARO:**

I'll offer a motion to approve. Second by Legislator Martinez. All in favor? Opposed? Abstentions? Motion carries. **Approved ( VOTE: 5-0-0-0)**

**Resolution 2009 of 2015, Approving 2015 Funding for a contract agency (Huntington Chamber of Commerce)(Spencer),** we already did that.

**Resolution 2017 of 2015, Amending the 2015 Operating Budget and appropriating funds in connection with bonding for a order for attorney fees as part of a Class Action Suit (County Executive).** This is for \$427,726 to settle an order for attorneys' fees from a class-action lawsuit. My understanding is that there was no liability found against the county. I'll offer a motion to approve. Second by Legislator Stern. On the motion, Legislator Trotta. Please go ahead.

**LEG. TROTТА:**

What exactly is this?

**MR. LIPP:**

It's a five-year debt schedule to pay for this. If you're asking for specifics about the --

**CHAIRMAN D'AMARO:**

Well, I think we're joined by Deputy County Attorney Gail Lolis. Good morning. Nice to see you. Legislator Trotta has some questions.

**MS. LOLIS:**

Good morning. This was a class-action lawsuit that had been commenced in 2008. It had been settled in 2009. It was a three-year agreement. In 2012, a motion for contempt was made. That was resolved in 2014. They made an application for attorneys' fees covering 2009 until December of 2014. That was approved by the Ways and Means committee in December of 2014. After that approval, the plaintiffs' attorneys then said they were actually looking for additional funds over and above what was approved. We told them they're renegeing on the settlement and negotiations stopped. We then litigated attorney's fees throughout 2015. In August of 2015, they went and accepted the original amount that we had offered that Ways and Means had approved in December of 2014, which now brings us here to fund that settlement.

**LEG. TROTТА:**

Did we win the lawsuit?

**MS. LOLIS:**

The lawsuit was settled. It was a lawsuit commenced challenging the timeliness of DSS processing, of Medicaid applications, food stamp applications, and what's known as, what we refer to, as "combined applications," which would be a Medicaid application and/or a food stamp application in conjunction with the temporary assistance. That was what was originally brought. That was what was resolved in 2009.

**LEG. TROTТА:**

Who brought this against us?

**MS. LOLIS:**

The National Center For Economic Justice, I believe is one plaintiff's law firm, and Empire Justice out of Touro, which is the other law firm. There's two law firms on it. That was resolved and when it was resolved in 2009, it was done -- it was a three-year agreement. They were permitted to do monitoring as we had agreed upon and DSS was to meet milestones. These firms do this all over the country, all through the state, with all different counties.

So DSS, when they moved for contempt, it was before the three years expired. They moved for contempt not on the Medicaid -- they agreed Medicaid was timely -- but they challenged the timeliness of the food stamps processing and the combined application processing.

After that was litigated for a significant amount of time, I think the court allowed additional discovery. By the time that was settled in 2014, an oral argument, they had agreed Medicaid and food stamps are timely, and that came out of the settlement agreement. The only aspect, which is the smallest number of applications are the combined application. That we continue the jurisdiction of the court for an additional year, bringing it through this year.

**LEG. TROTТА:**

Is this a state lawsuit or a federal lawsuit?

**MS. LOLIS:**

Federal.

**LEG. TROTТА:**

So we're not responsible for attorneys' fees if you settle out.

**MS. LOLIS:**

We are responsible for attorneys' fees in this federal lawsuit, yes.

**LEG. TROTТА:**

No, only if you lose the lawsuit. If it goes to trial and you lose, then you're responsible.

**MS. LOLIS:**

We settled the lawsuit. If they commence --

**LEG. TROTТА:**

You settled it with attorneys' fees?

**MS. LOLIS:**

If they commence an action which results in a settlement where they receive anything from bringing the lawsuit and they received a, basically, what amounts to a compliance agreement, they're entitled to fees. There's no question they're entitled to fees, and there was motion for fees pending when these were resolved.

**LEG. TROTТА:**

So this organization takes us to court. They don't get anything other than an agreement that we'll do better, but we have to pay their fees?

**MS. LOLIS:**

Yes.

**LEG. TROTТА:**

Clearly, I'm not a lawyer, but I thought if we lost the lawsuit -- I mean, if you settle out of court, you're not responsible unless you negotiate that.

**MS. LOLIS:**

It was negotiated, but when it settled, they still have a right to make a motion for attorneys' fees, absolutely.

**LEG. TROTТА:**

They have a right to make a motion, but as part of the settlement, the county should say, You get nothing. I mean, how do we settle for \$400,000.

**MS. LOLIS:**

That's the settlement. That's not what they moved for.

**LEG. TROTТА:**

Who negotiated that settlement for -- how much is it?

**MS. LOLIS:**

This is for 427,000 and change. The application is for more than that, and then if you lose on the motion, then you pay the additional fees for these two --

**LEG. TROTТА:**

Yeah, but why did it get to this point where we say we're going to give some law firm \$427,000 and we're going to get our food stamps to people quicker. Who negotiated that?

**MS. LOLIS:**

Our office negotiated that, and if we did not negotiate that, then it would have been before the court and then we were exposed to --

**LEG. TROTТА:**

It's only before the court if you don't negotiate it. If you don't say I'll give you --

**MS. LOLIS:**

It was before the court. This was before the court. There was a motion pending before the court. There was oral argument before the court. The judge had recommended over and over that counsel attempt to come to an agreement.

**LEG. TROTТА:**

So the agreement was for nothing for the people getting food stamps, but the lawyers got \$425,000?

**MS. LOLIS:**

Well, it's not for nothing for the people getting food stamps.

**LEG. TROTТА:**

They got them quicker.

**MS. LOLIS:**

It was under the jurisdiction of the court and the court is monitoring our ability to meet the mandated timeframes.

**LEG. TROTТА:**

And the taxpayers of this county lost \$425,000 to a law firm. What law firm is this?

**MS. LOLIS:**

National Center For Economic Justice, I believe, is the name of it. They're in New York City; and the Empire Justice Center, I believe, is the other one, and they are based in Central Islip.

**LEG. TROTТА:**

This is what they do? They go around the state suing counties and trying to get legal fees?

**MS. LOLIS:**

They go around the state and sue counties on Medicaid on these processing times?

**LEG. TROTТА:**

What was the settlement? Do they get them a week earlier? Do they get their food stamps a month earlier? This just blows me away that we're just going to say, Oh, here's \$425,000 to a law firm, and there was no judgment against the county. What happens if we don't support this?

**MS. LOLIS:**

For what it is worth, the Ways and Means already approved it. This is a matter of funding. If we don't fund it, what happens is we go back to court and now we tell the judge, We reneged on our end of the agreement, and it will now go before the judge and the judge will now consider the attorneys' fees that they are going to seek from December through August of 2015. In trying to get additional attorneys' fees, so this number will go up substantially.

**LEG. TROTТА:**

No wonder we're broke.

**CHAIRMAN D'AMARO:**

Gail, so let me see if I can get a little beyond the Monday-morning quarterbacking here. When you're in litigation, there are risks and there are advantages that each side has. What happens in the Ways and Means committee in executive session is you present -- the county attorney's office presents the risks of going forward or of taking a settlement or not taking a settlement. In evaluating those risks, part of that discussion was probably the county's exposure in the lawsuit and how much the liability could run to the county.

**MS. LOLIS:**

Correct.

**CHAIRMAN D'AMARO:**

Right. So when you come here and you're seeking to fund the attorney's fees portion, was that aspect considered in the overall settlement discussion?

**MS. LOLIS:**

Yes.

**CHAIRMAN D'AMARO:**

Okay. That's what I need to know. What I conclude from that is that this is a good deal for the county and our exposure -- you don't have to respond to this. I wasn't in the Way and Means committee, but our exposure probably far exceeds the amount that we've agreed to settle here for, so with that in mind I'm going to support this. Anyone else? All right. To the clerk, is there a motion pending on this bill?

**MR. RICHBERG:**

You have a motion and a second to approve.

**CHAIRMAN D'AMARO:**

Okay. All in favor? Opposed? Abstentions?

**LEG. TROTТА:**

Opposed.

**CHAIRMAN D'AMARO:**

Motion carries. **Approved (VOTE: 5-0-0-0)**

BF 12/8/2015

**2020 of 2015, Approving County funding for a Contract Agency (Gerald Ryan Outreach) (Gregory).** I believe they just missed a filing deadline but are now in full compliance. I will offer a motion to approve. Second by Legislator Martinez. All in favor? Opposed? Abstentions? Motion carries. **Approved (VOTE: 5-0-0-0).**

No further business before the committee this morning. Thank you, everyone, for your patience and attendance. We are adjourned.

(The meeting was adjourned at 10:54 a.m.)