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WAYS & MEANS COMMITTEE
OF THE
SUFFOLK COUNTY LEGISLATURE
MINUTES

A meeting of the Ways & Means 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 via hybrid/Zoom conference on January 28, 2021.

MEMBERS PRESENT:

Legislator Bridget Fleming - Chairperson
Leg. Susan A. Berland - Vice Chair
Legislator Tom Donnelly
Legislator Leslie Kennedy
Legislator Rudy Sunderman
Legislator William Spencer
Legislator Robert Trotta

ALSO IN ATTENDANCE:

Presiding Officer Robert Calarco - 7th Legislative District
Sarah Simpson - Counsel to the Legislature
Dan DuBois - Chief Deputy Clerk/Suffolk County Legislature
Thomas Corcoran - Budget Review Office
And all other interested parties

MINUTES TAKEN BY:

Gabrielle Severs - Court Stenographer

1 **CHAIRWOMAN BERLAND:**

2 Hi. Good afternoon, everyone. We are here for the Ways and Means
3 Committee for January 28 of 2021. If could please all rise and
4 join Legislator Donnelly in the pledge.

5
6 (Pledge of Allegiance)

7
8 **CHAIRWOMAN BERLAND:**

9 Okay. Thank you, everyone. All right. Pursuant to the governor's
10 regulations, we are holding this Ways and Means Committee remotely
11 over Zoom. Those who are interested in speaking would have had to
12 sign up with the legislature prior to this. They would have had
13 three minutes. I don't believe we have any speakers; do we,
14 Mr. Clerk?

15
16 **MR. DUBOIS:**

17 We do not.

18
19 **CHAIRWOMAN BERLAND:**

20 Okay. All right. So we have no public portion, no correspondence,
21 no appointments, so we're going to move right to tabled
22 resolutions.

23
24 **Resolution 1768, Adopting Local Law No. -2020, A Local Law to**
25 **enact a Campaign Finance Reform Act to limit campaign contributions**
26 **from County contractors and public employee unions. (Trotta)**

27
28 **LEG. TROTТА:**

29 Tabled for public hearing.

30
31 **LEG. SUNDERMAN:**

32 Second.

33
34 **CHAIRWOMAN BERLAND:**

35 That's a motion by Legislator Trotta. Second by Legislator
36 Sunderman. Anyone on the motion? Roll call, please.

37
38 *(Roll called by Dan DuBois, Chief Deputy Clerk)*

39
40 **LEG. TROTТА:**

41 Yes.

42
43 **LEG. SUNDERMAN:**

44 Yes.

45
46 **LEG. FLEMING:**

47 (Excused)

48
49 **CHAIRWOMAN BERLAND:**

50 Yes.

51
52 **D.P.O. HAHN:**

53 Yes.

54
55 **LEG. KENNEDY:**

56 I apologize. I was on a phone call with Legislator Calarco. What

1 number are we discussing?

2

3 **CHAIRWOMAN BERLAND:**

4 1768.

5

6 **LEG. KENNEDY:**

7 Oh, we're at the first one. Okay.

8

9 **D.P.O. HAHN:**

10 Needs to be tabled for public hearing.

11

12 **LEG. KENNEDY:**

13 Yes. Thank you, Kara.

14

15 **D.P.O. HAHN:**

16 Sure.

17

18 **LEG. DONNELLY:**

19 Yes.

20

21 **P.O. CALARCO:**

22 Yes.

23

24 **MR. DUBOIS:**

25 Seven. Tabled for Public Hearing (VOTE: 7-0-0-1, Excused: Fleming)

26

27 Okay. One piece of housekeeping first. Legislator Bridget Fleming
28 has an excused absence from this committee. Let's make sure that's
29 listed.

30

31 **Resolution 1774, Adopting Local Law No. -2020, A Local Law**
32 **extending indemnification to peace officers of the Suffolk County**
33 **Society for the Prevention of Cruelty to Animals. (Sunderman)**

34

35 **LEG. SUNDERMAN:**

36 Motion to table, please. It's a work in progress.

37

38 **D.P.O. HAHN:**

39 Second.

40

41 **CHAIRWOMAN BERLAND:**

42 Motion to table by Legislator Sunderman. Second by Legislator
43 Hahn. Anyone on the motion? Roll call.

44

45 *(Roll called by Dan DuBois, Chief Deputy Clerk).*

46

47 **LEG. SUNDERMAN:**

48 Yes.

49

50 **D.P.O. HAHN:**

51 Yes.

52

53 **LEG. FLEMING:**

54 (Excused)

55

56 **CHAIRWOMAN BERLAND:**

1 Yes.

2

3 **LEG. KENNEDY:**

4 Yes.

5

6 **LEG. TROTTA:**

7 Yes.

8

9 **LEG. DONNELLY:**

10 Yes.

11

12 **P.O. CALARCO:**

13 Yes.

14

15 **MR. DUBOIS:**

16 Seven. Tabled (VOTE: 7-0-0-1, Excused: Fleming)

17

18 **CHAIRWOMAN BERLAND:**

19 Okay. The resolution is tabled.

20

21 **Resolution 1864, Amending Resolution No 577-2020, to modify Suffolk**
22 **County Auction Rules. (Co. Exec.) (Spencer)**

23

24 I'll make a motion to table.

25

26 **D.P.O. HAHN:**

27 Second.

28

29 **CHAIRWOMAN BERLAND:**

30 Seconded by Legislator Hahn. Anyone on the motion? Roll call,
31 please.

32

33 *(Roll called by Dan DuBois, Chief Deputy Clerk)*

34

35 **CHAIRWOMAN BERLAND:**

36 Yes.

37

38 **D.P.O. HAHN:**

39 Yes.

40

41 **LEG. FLEMING:**

42 (Excused)

43

44 **LEG. SUNDERMAN:**

45 Yes.

46

47 **LEG. KENNEDY:**

48 Yes.

49

50 **LEG. TROTTA:**

51 Yes.

52

53 **LEG. DONNELLY:**

54 Yes.

55

56 **P.O. CALARCO:**

1 Yes.

2

3 **MR. DUBOIS:**

4 Seven.

5

6 **CHAIRWOMAN BERLAND:**

7 Resolution is tabled. Tabled (VOTE: 7-0-0-1, Excused: Fleming).

8

9 **Resolution 1913, Authorizing certain technical corrections to**
10 **Adopted Resolution No. 658-2020. (Co. Exec.)** I'll make a motion to
11 approve and place on the consent calendar.

12

13 **D.P.O. HAHN:**

14 Second.

15

16 **CHAIRWOMAN BERLAND:**

17 Seconded by Legislator Hahn. Anyone on the motion? Roll call.

18

19 *(Roll called by Dan DuBois, Chief Deputy Clerk)*

20

21 **CHAIRWOMAN BERLAND:**

22 Yes.

23

24 **D.P.O. HAHN:**

25 Yes.

26

27 **LEG. FLEMING:**

28 (Excused)

29

30 **LEG. SUNDERMAN:**

31 Yes.

32

33 **LEG. KENNEDY:**

34 Yes.

35

36 **LEG. TROTTA:**

37 Yes.

38

39 **LEG. DONNELLY:**

40 Yes.

41

42 **P.O. CALARCO:**

43 Yes.

44

45 **MR. DUBOIS:**

46 Seven. Approved/Consent (VOTE: 7-0-0-1, Excused: Fleming)

47

48 **CHAIRWOMAN BERLAND:**

49 Resolution approved and on the consent colum.

50

51 Now we'll move to our Introductory Resolutions.

52

53 **IR 1992, Authorizing and approving a settlement agreement to an**
54 **action relating to the property known as SCTM No.**

55 **0100-213.00-02.00-028.000. (Co. Exec.)** Do I have a motion? I'll
56 make a motion to approve.

1
2 **LEG. DONNELLY:**
3 Second.
4
5 **CHAIRWOMAN BERLAND:**
6 Seconded by Legislator Donnelly. Anyone on the motion?
7
8 **LEG. TROTТА:**
9 Can we get a explanation of exactly what this is?
10
11 **CHAIRWOMAN BERLAND:**
12 Sure. Counsel?
13
14 **MS. SIMPSON:**
15 I'm assuming that somebody from the county executive's side would
16 have more detail on the specific settlement.
17
18 **MR. THOMPSON:**
19 That's why I'm here.
20
21 **MS. SIMPSON:**
22 Okay. There you go. Wayne Thompson is here.
23
24 **MS. SINCLAIR:**
25 Wayne is here to speak on the terms of the settlement and the
26 history of the case, so I'll let Wayne take over here.
27
28 **MR. THOMPSON:**
29 Thank you. Good, good. Good afternoon. Yeah, this is a piece of
30 property we originally had for auction sale, and when the purchaser
31 tried to get a permit to build, it came up that there was an
32 unrecorded easement of water and sewage --
33
34 **CHAIRWOMAN BERLAND:**
35 I'm sorry. Wayne, you have to move your camera because we have to
36 be able to see your actual mouth moving so we know it's you.
37
38 **MR. THOMPSON:**
39 Oh, okay. Then I'll have to stand taller. Is that better?
40
41 **CHAIRWOMAN BERLAND:**
42 Yes. Yeah, you can move it down a little bit more if you still
43 can.
44
45 **MR. THOMPSON:**
46 It won't bend anymore.
47
48 **CHAIRWOMAN BERLAND:**
49 You're good. Just look up.
50
51 **MR. THOMPSON:**
52 Did you catch what I was saying originally or should I go again?
53
54 **CHAIRWOMAN BERLAND:**
55 Yes, do that. That's perfect. Stay there and please start over.
56 That would be great.

1
2 **MR. THOMPSON:**

3 I'll practice my Zoom etiquette, I guess. The property was up for
4 sale for auction in the past, and when the purchaser tried to go
5 and get a permit to build on, because it's 50 by 100, we found out
6 from -- I guess from either intervention from a neighbor, which is
7 a large commercial property, that they had an unrecorded easement
8 and pipes for water and/or sewage crossing the property kind of in
9 the middle of it, so they brought a lawsuit against us to try to
10 retain that because they had no rights rights as far as a title
11 report would show. They entered into a lawsuit and we settled by
12 taking the same amount of money we sold it for at auction, which is
13 \$33,000 to settle. They'll get the property. We'll be rid of the
14 property and the taxes, liability, and get \$33,000, the amount we
15 sold it for at auction. Our investment on the property is
16 something in the range of \$5,000 so the county makes out.

17
18 **CHAIRWOMAN BERLAND:**

19 Yeah, that was my understanding was that, you know, what we would
20 have sold it for had it been able to be sold at that time is the
21 exact price that we're agreeing to give it to them in this
22 settlement -- as part of the settlement.

23
24 **LEG. TROTТА:**

25 Are we getting the funds back?

26
27 **MR. THOMPSON:**

28 I'm sorry; are we what?

29
30 **LEG. TROTТА:**

31 Are we getting the property back?

32
33 **MR. THOMPSON:**

34 No.

35
36 **CHAIRWOMAN BERLAND:**

37 No.

38
39 **MR. THOMPSON:**

40 The deed is going to be deeded to YNLL, which is the adjacent
41 commercial property whose waterline and sewer lines cross this
42 property, but they never recorded their easement, so we had no
43 knowledge of it.

44
45 **LEG. TROTТА:**

46 Okay. So they are getting the property for free?

47
48 **MR. THOMPSON:**

49 No, \$33,000.

50
51 **CHAIRWOMAN BERLAND:**

52 Rob, if I could English it better for you. So I think when we had
53 this property up for auction, they purchased the property for
54 auction, but it turned out there was an easement on that that they
55 didn't realize. So they didn't buy --

1 **LEG. TROTТА:**

2 How much did we sell it for at auction?

3
4 **CHAIRWOMAN BERLAND:**

5 -- so they didn't buy it -- 33,000, same price. So they didn't buy
6 it, and they started a legal action against us to settle that
7 easement issue so to settle the lawsuit the same -- we're going to
8 sell it to them for the same price that we would have been able to
9 sell it at auction had we not had this issue. So we're getting the
10 exact same money that we would've wanted before, we're settling a
11 lawsuit, and the value we had in was 5,000. We're getting 33,000
12 for it. So we're selling it to them for the same price, so it's
13 the same thing. We're just settling a lawsuit to sell it as
14 opposed to selling it at auction because there were legal issues
15 that had to be dealt with. So we're getting 33, and we've only put
16 five in.

17
18 **LEG. TROTТА:**

19 We're getting 33,000, we're not giving them 33,000.

20
21 **CHAIRWOMAN BERLAND:**

22 We are not. We are getting it.

23
24 **MR. THOMPSON:**

25 No.

26
27 **LEG. TROTТА:**

28 Never mind.

29
30 **CHAIRWOMAN BERLAND:**

31 That's what I thought. Okay. Any other questions? Legislator
32 Kennedy.

33
34 **LEG. KENNEDY:**

35 Okay. So after we just figured out what this says, I called over
36 to the Town of Babylon and, according to Babylon, a 50 by 80 lot is
37 un-buildable no matter what it's rated in the Town of Babylon, but
38 if you were to annex it and merge it with the other piece of
39 property, they'd be able to build a palace over there, so my
40 question is give them the 33 -- I mean, allow them to pay us the 33
41 and that's fine, but are we writing in the deed that it cannot be
42 developed or no?

43
44 **MR. THOMPSON:**

45 No, we're not putting any restrictions on the sale. Originally, it
46 was sold with the restriction of local law that said you had to go
47 and get a building permit and then build affordable housing on it.
48 Now if the town was to say no, that would be the end of the matter.
49 Now as far as adjacent properties goes, there's houses on, let's
50 just say, east and west. There's a major street to the south, and
51 to the north is this large commercial property with their parking
52 lot, so I don't know where they would get more property to build
53 with.

54
55 **LEG. KENNEDY:**

56 No. I'm not saying more. If they took their present property

1 that's next to it and merged or annexed it, then they'd be able to
2 build. And is this -- are you keeping it restricted? You're not,
3 obviously, keeping it restricted.

4
5 **MR. THOMPSON:**

6 No, we let the town do that, but realize that property to the north
7 which is the larger property, which they are coming on, is a
8 commercially-developed property with stores and parking lots, so I
9 don't think they're going to allow them to cut a piece off with a
10 house (indiscernible). And as a side note, the property has been a
11 bit of a pain to us because of kids hanging out there and trash and
12 there's a fence between the commercial property that they hop over
13 and hang out, and we've tried everything from jersey blocks to
14 signs and that so we're kind of, at least our division, is good
15 riddance.

16
17 **LEG. KENNEDY:**

18 Okay. YNLL is not the shopping center?

19
20 **MR. THOMPSON:**

21 Yes.

22
23 **LEG. KENNEDY:**

24 It is the shopping center?

25
26 **MR. THOMPSON:**

27 It is the shopping center company, yes.

28
29 **LEG. KENNEDY:**

30 So they can expand the shopping center --

31
32 **MR. THOMPSON:**

33 If the town lets them merge residential with commercial and cut a
34 piece out, but they would be building, like, even now backwards
35 into their own property to do so.

36
37 **LEG. KENNEDY:**

38 What what do you mean "backwards into their own property"?

39
40 **MR. THOMPSON:**

41 The left and right, let's say, are houses, the development. To the
42 north is the large commercial property, so they would have to build
43 --

44
45 **LEG. KENNEDY:**

46 On a "U."

47
48 **MR. THOMPSON:**

49 -- into their commercial property, and I don't see where the town
50 would let them -- you know, it's a parking lot and things like that
51 where they would let them because you still have only a 50-foot
52 frontage.

53
54 **LEG. KENNEDY:**

55 I trust your expertise. Thank you.

56

1 **MR. THOMPSON:**
2 Thank you. Have a good day.

3
4 **LEG. KENNEDY:**
5 You too.

6
7 **CHAIRWOMAN BERLAND:**
8 Any other questions? Okay. We have a motion to approve and a
9 second. Roll call.

10
11 *(Roll called by Dan DuBois, Chief Deputy Clerk)*

12
13 **CHAIRWOMAN BERLAND:**
14 Yes.

15
16 **LEG. DONNELLY:**
17 Yes.

18
19 **LEG. FLEMING:**
20 (Excused)

21
22 **LEG. SUNDERMAN:**
23 Yes.

24
25 **D.P.O. HAHN:**
26 Yes.

27
28 **LEG. KENNEDY:**
29 Yes.

30
31 **LEG. TROTTA:**
32 Yes.

33
34 **P.O. CALARCO:**
35 Yes.

36
37 **MR. DUBOIS:**
38 Seven.

39
40 **CHAIRWOMAN BERLAND:**
41 Okay. Motion is approved. **Approved (VOTE: 7-0-0-1, Excused:**
42 **Fleming)**

43
44 **1999, Authorizing the sale, pursuant to Local Law No. 16-1976, of**
45 **real property acquired under Section 46 of the Suffolk County Tax**
46 **Act Kimberly Audet (SCTM No. 0100-182.00-02.00-132.000). (Co.**
47 **Exec.) Do we have a motion? I'll make a motion to approve.**

48
49 **LEG. TROTTA:**
50 Second.

51
52 **CHAIRMAN BERLAND:**
53 Who was that? Legislator Trotta. Anyone on the motion? Roll
54 call.

(Roll called by Dan DuBois, Chief Deputy Clerk)

1
2
3
4 **CHAIRWOMAN BERLAND:**

5 Yes.

6
7 **LEG. TROTТА:**

8 Yes.

9
10 **LEG. FLEMING:**

11 (Excused).

12
13 **LEG. SUNDERMAN:**

14 Yes.

15
16 **LEG. HAHN:**

17 Yes.

18
19 **LEG. KENNEDY:**

20 Yes.

21
22 **LEG. DONNELLY:**

23 Yes.

24
25 **P.O. CALARCO:**

26 Yes.

27
28 **MR. DUBOIS:**

29 Seven.

30
31 **CHAIRWOMAN BERLAND:**

32 1999 is approved. Approved (VOTE: 7-0-0-1, Excused: Fleming)

33
34 Resolution 2002, Adopting Local Law No. -2020, A Local Law amending
35 the Suffolk County Administrative Code to increase transparency for
36 gifts received by the County. (Berland) I'll make a motion. Do I
37 have a second?

38
39 **MS. SIMPSON:**

40 It needs to be tabled for public hearing.

41
42 **CHAIRWOMAN BERLAND:**

43 I'm sorry. I'll make a motion to table for public hearing. Do I
44 have a second? Second by Legislator Sunderman. Anyone on the
45 motion? Roll call.

46
47 (Roll called by Dan DuBois, Chief Deputy Clerk)

48
49 **CHAIRWOMAN BERLAND:**

50 Yes.

51
52 **LEG. SUNDERMAN:**

53 Yes.

54
55 **LEG. FLEMING:**

56 (Excused)

1 **D.P.O. HAHN:**

2 Yes.

3

4 **LEG. KENNEDY:**

5 Yes.

6

7 **LEG. TROTТА:**

8 Yes.

9

10 **LEG. DONNELLY:**

11 Yes.

12

13 **P.O. CALARCO:**

14 Yes.

15

16 **MR. DUBOIS:**

17 Seven.

18

19 **LEG. SUNDERMAN:**

20 Hahn yes.

21

22 **D.P.O. HAHN:**

23 Yes.

24

25 **LEG. KENNEDY:**

26 Yes.

27

28 **LEG. TROTТА:**

29 Yes.

30

31 **LEG. DONNELLY:**

32 Yes.

33

34 **MR. DUBOIS:**

35 Seven. Tabled for Public Hearing (VOTE: 7-0-0-1, Excused: Fleming)

36

37 **CHAIRWOMAN BERLAND:**

38 Resolution 2002 is tabled for public hearing.

39

40 **Resolution 2009, Authorizing certain technical correction to**
41 **Adopted Resolution No. 850-2020 (CP 8164) (Co. Exec.)** I'll make a
42 motion to approve and place on the consent calendar. Do I have a
43 second?

44

45 **P.O. CALARCO:**

46 Second.

47

48 **CHAIRWOMAN BERLAND:**

49 Seconded by Legislator Calarco. Anyone on the motion? Roll call.

50

51 *(Roll called by Dan DuBois, Chief Deputy Clerk)*

52

53 **CHAIRWOMAN BERLAND:**

54 Yes.

55

56 **P.O. CALARCO:**

1 Yes.
2
3 **LEG. FLEMING:**
4 (Excused).
5
6 **LEG. SUNDERMAN:**
7 Yes.
8
9 **D.P.O. HAHN:**
10 Yes.
11
12 **LEG. KENNEDY:**
13 Yes.
14
15 **LEG. TROTTA:**
16 Yes.
17
18 **LEG. DONNELLY:**
19 Yes.
20
21 **MR. DUBOIS:**
22 Seven. Approved/Consent (VOTE: 7-0-0-1, Excused: Fleming).
23
24 **CHAIRWOMAN BERLAND:**
25 Resolution 2020 is approved.
26
27 **Resolution 2021, Authorizing the reconveyance of County-owned real**
28 **estate pursuant to Section 215, New York State County Law to**
29 **Raymond Dickhoff and Life Estate of Michael J. Dickhoff (SCTM No.**
30 **0200-350.00-01.00-003.000). (Anker) Do I have a motion?**
31
32 **LEG. TROTTA:**
33 Motion.
34
35 **CHAIRWOMAN BERLAND:**
36 Motion by Legislator Trotta.
37
38 **P.O. CALARCO:**
39 Did we skip one?
40
41 **MS. SIMPSON:**
42 Yes, we did.
43
44 **CHAIRWOMAN BERLAND:**
45 Second? I'll second it. Anyone on the motion? Roll call.
46
47 *(Roll called by Dan DuBois, Chief Deputy Clerk)*
48
49 **LEG. TROTTA:**
50 Yes.
51
52 **CHAIRWOMAN BERLAND:**
53 Yes.
54
55 **LEG. FLEMING:**
56 (Excused)

1 **LEG. SUNDERMAN:**

2 Yes.

3

4 **D.P.O. HAHN:**

5 Yes.

6

7 **LEG. KENNEDY:**

8 Yes.

9

10 **LEG. DONNELLY:**

11 Yes.

12

13 **P.O. CALARCO:**

14 Yes.

15

16 **MR. DUBOIS:**

17 Seven. **Approved (VOTE: 7-0-0-1, Excused: Fleming)**

18

19 **CHAIRWOMAN BERLAND:**

20 Resolution 2021 is approved.

21

22 **MS. SIMPSON:**

23 Legislator, I think we need to go back and do Resolution IR 2020.
24 We didn't table that for public hearing yet.

25

26 **CHAIRWOMAN BERLAND:**

27 Oh, I'm sorry. I had it pre-marked. I skipped that one. Sorry.

28

29 **Resolution 2020, Adopting Local Law No. -2020, A Local Law to**
30 **establish requirements for advisory bodies conducting meetings**
31 **using videoconferencing. (Berland). Motion to table for public**
32 **hearing. Do I have a second?**

33

34 **D.P.O. HAHN:**

35 Second.

36

37 **CHAIRWOMAN BERLAND:**

38 Second by Legislator Hahn. Anyone on the motion.

39

40 **LEG. SUNDERMAN:**

41 Question.

42

43 **CHAIRWOMAN BERLAND:**

44 Yes.

45

46 **LEG. SUNDERMAN:**

47 So to the sponsor, what are we clarifying on this here for the
48 videoconferencing?

49

50 **CHAIRWOMAN BERLAND:**

51 Well, what we found was that advisory boards didn't have any
52 direction as to what kind of Zoom they should use, so they were,
53 you know, using one of their own personal Zooms, which doesn't
54 comply with the Open Meetings Law because it has to be either a
55 legislative Zoom from us or a Zoom from the county executive's side
56 depending on who is responsible to, you know, help maintain that

1 particular advisory board.

2

3 **LEG. SUNDERMAN:**

4 All right.

5

6 **CHAIRWOMAN BERLAND:**

7 That's all this is. Yes, Legislator Kennedy.

8

9 **LEG. KENNEDY:**

10 It's Suffolk County's advisory boards or any outside advisory
11 board?

12

13 **CHAIRWOMAN BERLAND:**

14 Suffolk County. Our advisory boards not any outside.

15

16 **LEG. KENNEDY:**

17 Okay. So when I get on to talk to Girl Scout troops, that's okay?

18

19 **CHAIRWOMAN BERLAND:**

20 That's okay, yeah. It's just the ones that, you know, either
21 legislative advisory boards or county executive's side advisory
22 boards but not outside groups.

23

24 **LEG. KENNEDY:**

25 Thank you.

26

27 **CHAIRWOMAN BERLAND:**

28 Any other questions? We have a motion to table for public hearing
29 and a second. Roll call.

30

31 *(Roll called by Dan DuBois, Chief Deputy Clerk)*

32

33 **CHAIRWOMAN BERLAND:**

34 Yes.

35

36 **D.P.O. HAHN:**

37 Yes.

38

39 **LEG. FLEMING:**

40 (Excused)

41

42 **LEG. SUNDERMAN:**

43 Yes.

44

45 **LEG. KENNEDY:**

46 Yes.

47

48 **LEG. TROTTA:**

49 Yes.

50

51 **LEG. DONNELLY:**

52 Yes.

53

54 **P.O. CALARCO:**

55 Yes.

56

1 **MR. DUBOIS:**

2 Seven. Tabled/Public Hearing (VOTE: 7-0-0-1, Excused: Fleming).

3
4 **CHAIRWOMAN BERLAND:**

5 Okay. 2020 is tabled for public hearing. Thank you, Counsel. I'm
6 sorry I missed that.

7
8 **Resolution 1005-21, Amending Resolution No. 2-2021, adopting
9 rules of the Legislature of the County of Suffolk. (Pres. Off.)**

10 I'll make a motion to approve. Seconded by Legislator Calarco.
11 Anyone on the motion? Legislator Kennedy.

12
13 **LEG. KENNEDY:**

14 I have a lot of questions. So let's go to Section B of Rule 21:
15 "Members must make a written request to appear via
16 videoconferencing no less than seven business days prior to the
17 meeting which they will be participating remotely in." That sounds
18 fine, but what if one of us gets Covid and has to not attend or
19 pneumonia or anything else down the line? Seven days as a limit,
20 you may get it two days before and still be feeling up to
21 participating. What do we do then?

22
23 **P.O. CALARCO:**

24 So I'll just speak from the perspective, if it's okay to the chair
25 as the sponsor to the resolution.

26
27 **CHAIRWOMAN BERLAND:**

28 Yes, absolutely.

29
30 **P.O. CALARCO:**

31 The thought process behind that is some of these are rules of
32 operation for once we get out of this emergency situation. In that
33 case and in that situation, we'll also be operating under Open
34 Meetings Law, and I'm going to expect that come April, the State of
35 New York, the state legislature will rescind the superpowers they
36 have given to the governor and his ability to waive numerous laws
37 including the Open Meetings Law, which is how we've been operating
38 all this time as we are that allows legislators to participate from
39 home. At that time, we'll have to operate from public places. If
40 somebody has Covid and is required to quarantine, there's not an
41 ability to have them in the public place where the public can join
42 them because they are quarantining. By definition, they cannot be
43 where somebody else of the public can attend. So that particular
44 section that you're referencing, Legislator Kennedy, is something
45 for once we are post-Covid Open Meeting Law application to the
46 program, and I thought it was a reasonable -- to ensure that we had
47 enough time to make any accommodations to ensure that wherever the
48 remote participation is occurring from has the capacity to meet the
49 terms of Open Meetings Law specifically to have the public be able
50 to be there, to have the public be able to participate from that
51 remote location and to do the proper notification to the public and
52 such.

53
54 **LEG. KENNEDY:**

55 I understand what you're saying, Rob. I just -- and I understand
56 why you're doing this, but nowhere in the bill does it say for the

1 duration of the Covid --

2
3 **P.O. CALARCO:**

4 It doesn't but what the bill does have is a provision in there that
5 says any time there is a state of emergency declared by the
6 governor, the president of the United States, or the county
7 executive, not in that order necessarily. It probably starts with
8 the president going downwards, then the presiding officer has the
9 ability to waive portions of this code and such. So to that
10 specific provision you cited, as long as we as we are operating
11 under a state of emergency, that would be one that I would, as
12 currently the presiding officer, waive so that we can continue to
13 operate as we have been.

14
15 **LEG. KENNEDY:**

16 So will we be starting portions of this during --

17
18 **P.O. CALARCO:**

19 We will because there are parts of it that are important that we
20 get in line, so I think there's a provision in there about the
21 requirement that legislators be both seen and heard when they are
22 participating in a meeting, meaning you have to have your camera on
23 if you're talking, and that's most important for our clerk and for
24 our stenographer because they have a hard time following along when
25 they have an actual person on the screen for them to know who is
26 speaking when they're speaking and obviously voting when they're
27 voting, so that is something that will kick in that wouldn't be
28 waived, but there are portions -- you know, even the portion that
29 requires you to be in a public place. As of right now, legislators
30 can participate from anywhere because the Open Meetings Laws are
31 being waived and certainly we would allow them to continue to do
32 that because we want to make sure everybody is able to participate
33 and do so in a safe manner that protects their health and the
34 health of others.

35
36 **LEG. KENNEDY:**

37 Okay. So then we are not doing 1A now?

38
39 **P.O. CALARCO:**

40 I'm not going to say we're not doing it, but we would waive certain
41 portions of this and continue to operate as we have been.

42
43 **LEG. KENNEDY:**

44 Okay. So where does it say that in this bill?

45
46 **P.O. CALARCO:**

47 Counsel, do you want to reference the section that gives the
48 presiding officer the ability to waive sections of the code -- of
49 the --

50
51 **MS. SIMPSON:**

52 It's Paragraph I of Rule 21. It states "In the event of
53 emergency," and your "All portions of the rule may be waived by the
54 presiding officer until such time as the emergency is lifted," and
55 then there's a notification requirement as to which portions are
56 waived so that the body knows what rules they have to apply to each

1 meeting.

2
3 **P.O. CALARCO:**

4 I recognize that over the last year, we kind of have been morphing
5 and changing how we've been operating here and I've been trying to
6 do my best to ensure that everybody can participate, do so safely,
7 and as you've noticed these last couple cycles, we've made sure
8 chairs can chair their meetings without -- which is not what we
9 were doing at the beginning of the crisis even though they were
10 participating remotely, so we are trying to keep adapting and I
11 think we are going to have to continue to adapt to meet the needs
12 of the body.

13
14 **LEG. KENNEDY:**

15 It's just not being put that way in the bill. That's upsetting to
16 me. And I want to still go back; so Covid is covered under the
17 emergency -- the state of the emergency by the governor and the
18 president and the --

19
20 **P.O. CALARCO:**

21 And the county executive. We're operating under, I think, three
22 states of emergencies right now, but we're also operating under a
23 situation where the governor has also waived the provisions of Open
24 Meetings Law and there could be very well we could have a local
25 state of emergency because there's a, like I said, a blizzard or a
26 hurricane and maybe our two legislators get cut off and aren't able
27 to get here for a meeting and we have a state of emergency, I can
28 certainly waive the portion of the law that requires them to give
29 me the seven-day notice to participate from a remote location, but
30 I wouldn't be able to waive the portion of the law that requires
31 them to be in a public location because that would require a change
32 to Open Meetings Law, which is why in the case of an illness or
33 somebody being in a hospital, once Open Meetings Law is back into
34 play, I can't allow -- the legislature is not allowed to have
35 people participating from a private location.

36
37 **LEG. KENNEDY:**

38 That's fine, but I'm saying if I'm diagnosed, or anybody else, with
39 bronchitis, and I'm on my antibiotic for 24 hours so I'm not a
40 spreader and I'm diagnosed two days before and I still want to be
41 able to come into my office. I don't do my meetings from home. I
42 still want to be able to come into my office, and I still want to
43 be able to do it, and if I don't know that I have something seven
44 days before, can you waive that?

45
46 **MS. SIMPSON:**

47 The issue that comes up there, Legislator, is we do have to provide
48 the public with notice that they have the opportunity to attend at
49 your location under Open Meetings Law, so we need to provide that
50 notice I believe -- I will double check it -- I believe it's five
51 days prior to, or we have to publish the location that the member
52 is coming in from remotely, and that's where we run into problems
53 with that type of a scenario.

54
55 **P.O. CALARCO:**

56 I tried to leave this as open and unrestrictive as possible and

1 stay in compliance with state law. I understand that point fully.

2
3 **LEG. KENNEDY:**

4 I just don't like that because of the possibility of somebody --
5 because then everybody will just be coming in sick to the Leg,
6 which is --

7
8 **P.O. CALARCO:**

9 Well, that's also -- in order to prevent everybody from just
10 calling in sick, that's why we kind of laid some rules in terms of
11 how often you can participate, et cetera. Oh, you mean people
12 coming to the building who are ill.

13
14 **LEG. KENNEDY:**

15 Right.

16
17 **P.O. CALARCO:**

18 I mean, listen, up until now we've had no ability for remote
19 participation ever up, so I mean up until now people were probably
20 pushing their limits and coming sometimes when they probably
21 shouldn't've. As much as I appreciate that concern and wish I could
22 accommodate it, I think that we have an obligation to make notice
23 to the public if they are going to be allowed to speak and
24 participate from a remote location because if you're remoting from
25 your office and somebody -- I mean, your office is a little unique
26 because you're only across the street, but say Legislator Krupski
27 is remoting in from his office in Riverhead and we have public
28 hearings and he has a resident from Cutchogue who wants to be able
29 to testify at the public hearing and that resident doesn't want to
30 have to drive all the way to Hauppauge, and we have to make sure
31 that people know that he is participating from his office in
32 Riverhead and that people have the opportunity to participate from
33 that location as well, which would include testifying at a public
34 hearing or testifying in the public portion. So we need to be able
35 to make sure that the public is given their notification in
36 accordance with the state law.

37
38 **D.P.O. HAHN:**

39 Can we -- given Covid's -- I'm sorry. Chairwoman Berland, if I can
40 be added to the list because I definitely have a suggestion for
41 letter to the state. I think --

42
43 **CHAIRWOMAN BERLAND:**

44 Legislator Kennedy, are you done? You're okay if Kara jumps in
45 here?

46
47 **LEG. KENNEDY:**

48 You know what? Let her speak. If something else comes up, I'm
49 just looking again at my notes.

50
51 **CHAIRWOMAN BERLAND:**

52 Okay. Legislator Hahn, jump on in. Go ahead.

53
54 **D.P.O. HAHN:**

55 I just think that maybe we should be advocating for an update to
56 Open Meetings Law; like, you know, so many different jurisdictions

1 have been able to show, you know, what can happen and how, you
2 know, how different the world is now, and I think there should be
3 an active statewide effort to update Open Meetings Law to allow
4 these different types of -- you know, these different types of
5 participation, and some of that may include changes to these very
6 restrictive requirements, you know, what the purposes of them were
7 a long time ago, you know, they may not be necessary anymore given
8 how technology has made this possible. So I think we should maybe
9 right an all-18 letter or a, you know, whoever-wants-to-join-on
10 letter asking for a review and an update of Open Meetings Law given
11 we've learned this year.

12
13 **CHAIRWOMAN BERLAND:**

14 Thank you, Legislator Hahn. I couldn't agree with you more, but
15 unless and until they make those changes, I think we need to --

16
17 **D.P.O. HAHN:**

18 Oh, yes, absolutely.

19
20 **CHAIRWOMAN BERLAND:**

21 -- I think we need to definitely have something on the books to
22 give us a roadmap on which way we have to go, you know, so --
23 especially we don't have anything in the rules that says we need to
24 do votes by roll call when we are not all there; you know, that's
25 part of this too, so there's a lot of housekeeping that has to be
26 done so that we are being consistent on what we do. Legislator
27 Kennedy, did you have another question?

28
29 **LEG. KENNEDY:**

30 Just one more on section -- question for Rob -- for section H.
31 Explain how we do this -- I'm not getting it from the two
32 sentences -- the executive sessions.

33
34 **P.O. CALARCO:**

35 For example, on Monday we had an executive session, and the way we
36 accomplished that through the Zoom was we actually -- we stayed
37 within that Zoom room and we kicked everybody else out, but the
38 Zoom does have an application for breakout sessions where you can
39 have a dedicated separate room, so to speak, that you go into, and
40 you can limit who gets into there, and it's really just a matter of
41 insuring that there's a mechanism for executive sessions that
42 secure and ensures that only those people who are in the room are
43 able to get that -- you know, be a part of that conversation or the
44 people who are entitled to be in that room.

45
46 **LEG. KENNEDY:**

47 Okay. Thank you.

48
49 **CHAIRWOMAN BERLAND:**

50 All right. Any other questions or comments? We have a motion and
51 a second. Roll call.

52
53 *(Roll called by Dan DuBois, Chief Deputy Clerk)*

54
55 **CHAIRWOMAN BERLAND:**

56 Yes.

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P.O. CALARCO:
Yes.

LEG. FLEMING:
(Excused).

D.P.O. HAHN:
Yes.

LEG. KENNEDY:
Yes.

LEG. TROTTA:
Yes.

LEG. DONNELLY:
Yes.

MR. DUBOIS:
Seven. Approved (VOTE: 7-0-0-1, Excused: Fleming).

CHAIRWOMAN BERLAND:
Okay. Resolution 1005 is approved.

With that, we have no further business before this committee.
Anything anybody needs to add? All right; then we are adjourned.
Thank you, everybody. Have a wonderful afternoon.

(The meeting was adjourned at 1:07 p.m.)

DATE

<hr/> <p style="text-align: center;">\$</p> <hr/> <p>\$33,000 [3] - 7:13, 7:14, 7:49 \$5,000 [1] - 7:16</p> <hr/> <p style="text-align: center;">0</p> <hr/> <p>0100-182.00-02.00-132.000 [1] - 10:46 0100-213.00-02.00-028.000 [1] - 5:55 0200-350.00-01.00-003.000 [1] - 13:30</p> <hr/> <p style="text-align: center;">1</p> <hr/> <p>100 [1] - 7:5 1005 [1] - 21:24 1005-21 [1] - 16:8 16-1976 [1] - 10:44 1768 [2] - 2:24, 3:4 1774 [1] - 3:31 1864 [1] - 4:21 1913 [1] - 5:9 1992 [1] - 5:53 1999 [1] - 11:32 1999, Authorizing [1] - 10:44 1:07 [1] - 21:32 1A [1] - 17:37</p> <hr/> <p style="text-align: center;">2</p> <hr/> <p>2-2021 [1] - 16:8 2002 [2] - 11:34, 12:38 2009 [1] - 12:40 2020 [8] - 2:24, 3:31, 11:34, 13:25, 14:23, 14:29, 16:5 2021 [4] - 1:14, 2:3, 13:27, 14:20 21 [2] - 16:14, 17:52 215 [1] - 13:28 24 [1] - 18:39 28 [2] - 1:14, 2:3</p> <hr/> <p style="text-align: center;">3</p> <hr/> <p>33 [3] - 8:15, 8:40 33,000 [4] - 8:5, 8:11, 8:19</p> <hr/> <p style="text-align: center;">4</p> <hr/> <p>46 [1] - 10:45</p>	<hr/> <p style="text-align: center;">5</p> <hr/> <p>5,000 [1] - 8:11 50 [2] - 7:5, 8:36 50-foot [1] - 9:51 577-2020 [1] - 4:21</p> <hr/> <p style="text-align: center;">6</p> <hr/> <p>658-2020 [1] - 5:10</p> <hr/> <p style="text-align: center;">7</p> <hr/> <p>7-0-0-1 [11] - 3:25, 4:16, 5:7, 5:46, 10:41, 11:32, 12:35, 13:22, 14:17, 16:2, 21:21 725 [1] - 1:13 7th [1] - 1:26</p> <hr/> <p style="text-align: center;">8</p> <hr/> <p>80 [1] - 8:36 8164 [1] - 12:41 850-2020 [1] - 12:41</p> <hr/> <p style="text-align: center;">A</p> <hr/> <p>ability [5] - 16:36, 16:41, 17:9, 17:48, 19:18 able [17] - 6:36, 7:20, 8:8, 8:39, 9:1, 16:49, 16:50, 17:32, 18:26, 18:30, 18:41, 18:42, 18:43, 19:28, 19:34, 20:1, 20:43 absence [1] - 3:28 absolutely [2] - 16:28, 20:18 accommodate [1] - 19:22 accommodations [1] - 16:47 accomplished [1] - 20:36 accordance [1] - 19:36 according [1] - 8:36 acquired [1] - 10:45 Act [2] - 2:25, 10:46 action [2] - 5:54, 8:6 active [1] - 20:3 actual [2] - 6:36, 17:25 adapt [1] - 18:11 adapting [1] - 18:10 add [1] - 21:28 added [1] - 19:40 adjacent [2] - 7:40,</p>	<p>8:49 adjourned [2] - 21:28, 21:32 Administrative [1] - 11:35 Adopted [2] - 5:10, 12:41 Adopting [4] - 2:24, 3:31, 11:34, 14:29 adopting [1] - 16:8 advisory [8] - 14:30, 14:51, 15:1, 15:10, 15:14, 15:21 advocating [1] - 19:55 affordable [1] - 8:47 afternoon [3] - 2:2, 6:29, 21:29 ago [1] - 20:7 agree [1] - 20:14 agreeing [1] - 7:21 agreement [1] - 5:53 ahead [1] - 19:52 all-18 [1] - 20:9 Allegiance [1] - 2:6 allow [5] - 8:40, 9:9, 17:31, 18:34, 20:3 allowed [2] - 18:34, 19:23 allows [1] - 16:38 ALSO [1] - 1:25 Amending [2] - 4:21, 16:8 amending [1] - 11:34 amount [2] - 7:12, 7:14 Animals [1] - 3:33 Anker [1] - 13:30 annex [1] - 8:38 annexed [1] - 9:1 antibiotic [1] - 18:39 apologize [1] - 2:56 appear [1] - 16:15 application [2] - 16:45, 20:38 apply [1] - 17:56 appointments [1] - 2:21 appreciate [1] - 19:21 approve [6] - 5:11, 5:56, 10:8, 10:47, 12:42, 16:10 Approved [3] - 10:41, 11:32, 14:17 approved [7] - 5:49, 10:41, 11:32, 13:25, 14:20, 21:21, 21:24 Approved/Consent [2] - 5:46, 13:22</p>	<p>approving [1] - 5:53 April [1] - 16:34 assuming [1] - 6:15 attend [3] - 16:18, 16:43, 18:48 ATTENDANCE [1] - 1:25 Auction [1] - 4:22 auction [9] - 6:30, 7:4, 7:12, 7:15, 7:53, 7:54, 8:2, 8:9, 8:14 Audet [1] - 10:46 Auditorium [1] - 1:12 Authorizing [4] - 5:9, 5:53, 12:40, 13:27</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p>Babylon [3] - 8:36, 8:37 backwards [2] - 9:34, 9:38 beginning [1] - 18:9 behind [1] - 16:31 bend [1] - 6:46 Berland [3] - 1:18, 11:36, 19:39 BERLAND [61] - 2:1, 2:8, 2:19, 2:34, 2:49, 3:3, 3:41, 3:56, 4:18, 4:29, 4:35, 5:6, 5:16, 5:21, 5:48, 6:5, 6:11, 6:34, 6:41, 6:48, 6:54, 7:18, 7:36, 7:51, 8:4, 8:21, 8:30, 10:7, 10:13, 10:40, 10:52, 11:4, 11:31, 11:42, 11:49, 12:37, 12:48, 12:53, 13:24, 13:35, 13:44, 13:52, 14:19, 14:26, 14:37, 14:43, 14:50, 15:6, 15:13, 15:19, 15:27, 15:33, 16:4, 16:27, 19:43, 19:51, 20:13, 20:20, 20:49, 20:55, 21:23 Berland [1] - 14:31 best [1] - 18:6 better [2] - 6:39, 7:52 between [1] - 9:12 bill [4] - 16:56, 17:4, 17:44, 18:15 bit [2] - 6:42, 9:11 blizzard [1] - 18:25 blocks [1] - 9:13 board [2] - 15:1, 15:11 boards [5] - 14:51, 15:10, 15:14, 15:21, 15:22</p>	<p>bodies [1] - 14:30 body [2] - 17:56, 18:12 books [1] - 20:21 breakout [1] - 20:38 Bridget [2] - 1:17, 3:27 bronchitis [1] - 18:39 brought [1] - 7:9 Budget [1] - 1:29 build [7] - 6:31, 7:5, 8:39, 8:47, 8:52, 9:2, 9:42 buildable [1] - 8:37 Building [1] - 1:12 building [3] - 8:47, 9:34, 19:12 business [2] - 16:16, 21:27 buy [3] - 7:55, 8:5 BY [1] - 1:33</p> <hr/> <p style="text-align: center;">C</p> <hr/> <p>ca [1] - 16:43 CALARCO [25] - 3:21, 4:12, 4:56, 5:42, 10:34, 11:25, 12:13, 12:45, 12:56, 13:38, 14:13, 15:54, 16:23, 16:30, 17:3, 17:18, 17:39, 17:46, 18:3, 18:20, 18:55, 19:8, 19:17, 20:34, 21:2 Calarco [4] - 1:26, 2:56, 12:49, 16:10 calendar [2] - 5:11, 12:42 camera [2] - 6:35, 17:22 Campaign [1] - 2:25 campaign [1] - 2:25 cannot [2] - 8:41, 16:42 capacity [1] - 16:48 Caracappa [1] - 1:11 case [3] - 6:26, 16:33, 18:32 catch [1] - 6:52 center [4] - 9:18, 9:24, 9:27, 9:30 certain [3] - 5:9, 12:40, 17:40 certainly [2] - 17:31, 18:28 cetera [1] - 19:11 chair [2] - 16:24, 18:8 Chair [1] - 1:18</p>
---	---	---	---	---

DATE

CHAIRMAN ^[1] - 10:52	commercial ^[7] - 7:7, 7:41, 8:51, 9:12, 9:33, 9:42, 9:49	18:16	2:4, 6:6	5:7, 5:28, 5:46, 10:20, 10:41, 11:32, 11:56, 12:35, 13:22, 13:56, 14:17, 15:40, 16:2, 21:21
CHAIRWOMAN ^[1] - 4:35	commercially ^[1] - 9:8	Covid's ^[1] - 19:39	DONNELLY ^[13] - 3:18, 4:9, 4:53, 5:39, 6:2, 10:16, 11:22, 12:10, 12:31, 13:18, 14:10, 15:51, 21:17	excused ^[1] - 3:28
Chairperson ^[1] - 1:17	commercially-developed ^[1] - 9:8	CP ^[1] - 12:41	crossing ^[1] - 7:8	Excused ^[3] - 11:11, 13:4, 21:6
chairs ^[1] - 18:8	COMMITTEE ^[1] - 1:2	crisis ^[1] - 18:9	cut ^[3] - 9:9, 9:33, 18:26	Exec ^[5] - 4:22, 5:10, 5:55, 10:47, 12:41
Chairwoman ^[1] - 19:39	committee ^[2] - 3:28, 21:27	crossing ^[1] - 7:8	Cutchogue ^[1] - 19:28	executive ^[5] - 17:7, 18:21, 20:32, 20:35, 20:41
CHAIRWOMAN ^[59] - 2:1, 2:8, 2:19, 2:34, 2:49, 3:3, 3:41, 3:56, 4:18, 4:29, 5:6, 5:16, 5:21, 5:48, 6:5, 6:11, 6:34, 6:41, 6:48, 6:54, 7:18, 7:36, 7:51, 8:4, 8:21, 8:30, 10:7, 10:13, 10:40, 11:4, 11:31, 11:42, 11:49, 12:37, 12:48, 12:53, 13:24, 13:35, 13:44, 13:52, 14:19, 14:26, 14:37, 14:43, 14:50, 15:6, 15:13, 15:19, 15:27, 15:33, 16:4, 16:27, 19:43, 19:51, 20:13, 20:20, 20:49, 20:55, 21:23	Committee ^[3] - 1:10, 2:3, 2:10	cut ^[3] - 9:9, 9:33, 18:26	cycles ^[1] - 18:7	executive's ^[3] - 6:15, 14:55, 15:21
change ^[1] - 18:31	company ^[1] - 9:27	<hr/>	<hr/>	expand ^[1] - 9:30
changes ^[2] - 20:5, 20:15	compliance ^[1] - 19:1	D	<hr/>	expect ^[1] - 16:34
changing ^[1] - 18:5	comply ^[1] - 14:54	D.P.O ^[20] - 2:52, 3:9, 3:15, 3:38, 3:50, 4:26, 4:38, 5:13, 5:24, 10:25, 12:1, 12:22, 13:9, 14:4, 14:34, 15:36, 19:38, 19:54, 20:17, 21:8	DUBOIS ^[13] - 2:16, 3:24, 4:15, 5:3, 5:45, 10:37, 11:28, 12:16, 12:34, 13:21, 14:16, 16:1, 21:20	expertise ^[1] - 9:55
check ^[1] - 18:50	concern ^[1] - 19:21	Dan ^[12] - 1:28, 2:38, 3:45, 4:33, 5:19, 10:11, 11:1, 11:47, 12:51, 13:47, 15:31, 20:53	duration ^[1] - 17:1	explain ^[1] - 20:31
Chief ^[12] - 1:28, 2:38, 3:45, 4:33, 5:19, 10:11, 11:1, 11:47, 12:51, 13:47, 15:31, 20:53	conducting ^[1] - 14:30	dealt ^[1] - 8:15	during ^[1] - 17:16	explanation ^[1] - 6:9
cited ^[1] - 17:10	conference ^[1] - 1:14	declared ^[1] - 17:5	<hr/>	extending ^[1] - 3:32
clarifying ^[1] - 14:47	consent ^[3] - 5:11, 5:49, 12:42	dedicated ^[1] - 20:39	E	<hr/>
Clerk ^[10] - 2:38, 4:33, 5:19, 10:11, 11:1, 11:47, 12:51, 13:47, 15:31, 20:53	consistent ^[1] - 20:26	deeded ^[1] - 7:40	easement ^[5] - 6:32, 7:7, 7:42, 7:54, 8:7	far ^[2] - 7:10, 8:49
clerk ^[2] - 2:14, 17:23	continue ^[4] - 17:12, 17:31, 17:41, 18:11	definitely ^[2] - 19:40, 20:21	east ^[1] - 8:50	fence ^[1] - 9:12
Clerk ^[1] - 3:45	contractors ^[1] - 2:26	definition ^[1] - 16:42	effort ^[1] - 20:3	figured ^[1] - 8:35
Clerk/Suffolk ^[1] - 1:28	contributions ^[1] - 2:25	Deputy ^[12] - 1:28, 2:38, 3:45, 4:33, 5:19, 10:11, 11:1, 11:47, 12:51, 13:47, 15:31, 20:53	either ^[3] - 7:6, 14:54, 15:20	Finance ^[1] - 2:25
Co ^[5] - 4:22, 5:10, 5:55, 10:46, 12:41	conversation ^[1] - 20:43	detail ^[1] - 6:16	emergencies ^[1] - 18:22	fine ^[3] - 8:41, 16:18, 18:38
code ^[2] - 17:9, 17:48	correction ^[1] - 12:40	developed ^[2] - 8:42, 9:8	emergency ^[9] - 16:32, 17:5, 17:11, 17:53, 17:54, 18:17, 18:25, 18:27	first ^[2] - 3:7, 3:27
Code ^[1] - 11:35	corrections ^[1] - 5:9	development ^[1] - 9:41	employee ^[1] - 2:26	five ^[2] - 8:16, 18:50
colum ^[1] - 5:49	correspondence ^[1] - 2:20	diagnosed ^[2] - 18:38, 18:40	enact ^[1] - 2:25	FLEMING ^[11] - 2:46, 3:53, 4:41, 5:27, 10:19, 11:10, 11:55, 13:3, 13:55, 15:39, 21:5
coming ^[5] - 9:7, 18:52, 19:5, 19:12, 19:20	counsel ^[2] - 6:12, 17:47	Dickhoff ^[2] - 13:29	end ^[1] - 8:48	Fleming ^[9] - 1:17, 3:25, 3:27, 4:16, 5:46, 10:42, 11:32, 12:35, 14:17
comments ^[1] - 20:50	Counsel ^[2] - 1:27, 16:5	different ^[4] - 19:56, 20:2, 20:4	English ^[1] - 7:52	following ^[1] - 17:24
	county ^[6] - 6:15, 7:16, 14:55, 15:21, 17:6, 18:21	direction ^[1] - 14:52	ensure ^[3] - 16:46, 16:47, 18:6	free ^[1] - 7:46
	COUNTY ^[1] - 1:6	discussing ^[1] - 3:1	ensures ^[1] - 20:42	frontage ^[1] - 9:52
	County ^[12] - 1:10, 1:28, 2:26, 3:32, 4:22, 10:45, 11:35, 11:36, 13:27, 13:28, 15:14, 16:9	District ^[1] - 1:26	entered ^[1] - 7:11	fully ^[1] - 19:1
	County's ^[1] - 15:10	division ^[1] - 9:14	entitled ^[1] - 20:44	funds ^[1] - 7:25
	County-owned ^[1] - 13:27	done ^[2] - 19:44, 20:26	especially ^[1] - 20:23	<hr/>
	couple ^[1] - 18:7	Donnelly ^[3] - 1:19,	establish ^[1] - 14:30	G
	Court ^[1] - 1:34		estate ^[1] - 13:28	Gabrielle ^[1] - 1:34
	covered ^[1] - 18:16		Estate ^[1] - 13:29	gifts ^[1] - 11:36
	Covid ^[5] - 16:18, 16:40, 16:45, 17:1,		et ^[1] - 19:11	Girl ^[1] - 15:17
			etiquette ^[1] - 7:3	given ^[5] - 16:36, 19:35, 19:39, 20:7, 20:10
			event ^[1] - 17:52	governor ^[4] - 16:36, 17:6, 18:17, 18:23
			exact ^[2] - 7:21, 8:10	governor's ^[1] - 2:9
			exactly ^[1] - 6:9	
			example ^[1] - 20:35	
			Excused ^[19] - 2:47, 3:25, 3:54, 4:16, 4:42,	

DATE

great ^[1] - 6:56	include ^[2] - 19:33, 20:5	known ^[1] - 5:54	legal ^[2] - 8:6, 8:14	mean ^[6] - 8:40, 9:38, 19:11, 19:18, 19:19, 19:25		
groups ^[1] - 15:22	including ^[1] - 16:37	knows ^[1] - 17:56	Legislative ^[2] - 1:11, 1:26	meaning ^[1] - 17:22		
guess ^[2] - 7:3, 7:6	increase ^[1] - 11:35	Krupski ^[1] - 19:26	legislative ^[2] - 14:55, 15:21	MEANS ^[1] - 1:2		
<hr/> H <hr/>	indemnification ^[1] - 3:32	<hr/> L <hr/>	Legislator ^[32] - 1:17, 1:19, 1:20, 1:21, 1:22, 1:23, 2:4, 2:35, 2:56, 3:27, 3:42, 4:30, 5:17, 6:6, 8:31, 10:53, 11:44, 12:49, 13:36, 14:38, 15:7, 16:10, 16:11, 16:44, 18:47, 19:26, 19:44, 19:52, 20:14, 20:26	Means ^[3] - 1:10, 2:2, 2:10		
Hahn ^[21] - 2:52, 3:9, 3:15, 3:38, 3:50, 4:26, 4:38, 5:13, 5:24, 10:25, 11:16, 12:1, 12:22, 13:9, 14:4, 14:34, 15:36, 19:38, 19:54, 20:17, 21:8	indiscernible ^[1] - 9:10	laid ^[1] - 19:10	legislator ^[1] - 14:23	mechanism ^[1] - 20:41		
hang ^[1] - 9:13	insuring ^[1] - 20:41	large ^[3] - 7:7, 8:51, 9:42	legislators ^[4] - 16:38, 17:21, 17:29, 18:26	meet ^[2] - 16:48, 18:11		
hanging ^[1] - 9:11	interested ^[2] - 1:30, 2:11	larger ^[1] - 9:7	legislature ^[3] - 2:12, 16:35, 18:34	meeting ^[6] - 1:10, 16:17, 17:22, 18:1, 18:27, 21:32		
hard ^[1] - 17:24	intervention ^[1] - 7:6	last ^[2] - 18:4, 18:7	LEGISLATURE ^[1] - 1:6	Meeting ^[1] - 16:45		
Hauppauge ^[1] - 19:30	Introductory ^[1] - 5:51	law ^[5] - 8:46, 18:28, 18:30, 19:1, 19:36	Legislature ^[5] - 1:11, 1:12, 1:27, 1:28, 16:9	Meetings ^[11] - 16:34, 16:37, 16:49, 17:30, 18:24, 18:32, 18:33, 18:49, 19:56, 20:3, 20:10		
health ^[2] - 17:33, 17:34	investment ^[1] - 7:15	Law ^[22] - 2:24, 3:31, 10:44, 11:34, 13:28, 14:29, 14:54, 16:34, 16:37, 16:45, 16:49, 18:24, 18:32, 18:33, 18:49, 19:56, 20:3, 20:10	leslie ^[1] - 1:20	meetings ^[3] - 14:30, 18:8, 18:41		
heard ^[1] - 17:21	IR ^[2] - 5:53, 14:23	laws ^[1] - 16:36	less ^[1] - 16:16	member ^[1] - 18:51		
hearing ^[11] - 2:29, 3:10, 11:40, 11:43, 12:38, 14:24, 14:32, 15:28, 16:5, 19:29, 19:34	issue ^[3] - 8:7, 8:9, 18:47	Laws ^[1] - 17:30	letter ^[3] - 19:41, 20:9, 20:10	MEMBERS ^[1] - 1:16		
Hearing ^[3] - 3:25, 12:35, 16:2	issues ^[1] - 8:14	lawsuit ^[5] - 7:9, 7:11, 8:7, 8:11, 8:13	liability ^[1] - 7:14	members ^[1] - 16:15		
hearings ^[1] - 19:28	<hr/> J <hr/>	learned ^[1] - 20:11	Life ^[1] - 13:29	Memorial ^[1] - 1:13		
held ^[1] - 1:11	January ^[2] - 1:14, 2:3	least ^[1] - 9:14	lifted ^[1] - 17:54	merge ^[2] - 8:38, 9:33		
help ^[1] - 14:56	jersey ^[1] - 9:13	leave ^[1] - 18:56	limit ^[3] - 2:25, 16:19, 20:40	merged ^[1] - 9:1		
hi ^[1] - 2:2	join ^[3] - 2:4, 16:41, 20:9	left ^[1] - 9:41	limits ^[1] - 19:20	Metings ^[1] - 14:54		
Highway ^[1] - 1:13	jump ^[1] - 19:52	LEG ^[101] - 2:28, 2:31, 2:40, 2:43, 2:46, 2:55, 3:6, 3:12, 3:18, 3:35, 3:47, 3:53, 4:3, 4:6, 4:9, 4:41, 4:44, 4:47, 4:50, 4:53, 5:27, 5:30, 5:33, 5:36, 5:39, 6:2, 6:8, 7:24, 7:30, 7:45, 8:1, 8:18, 8:27, 8:34, 8:55, 9:17, 9:23, 9:29, 9:37, 9:45, 9:54, 10:4, 10:16, 10:19, 10:22, 10:28, 10:31, 10:49, 11:7, 11:10, 11:13, 11:16, 11:19, 11:22, 11:52, 11:55, 12:4, 12:7, 12:10, 12:19, 12:25, 12:28, 12:31, 13:3, 13:6, 13:12, 13:15, 13:18, 13:32, 13:49, 13:55, 14:1, 14:7, 14:10, 14:40, 14:46, 15:3, 15:9, 15:16, 15:24, 15:39, 15:42, 15:45, 15:48, 15:51, 16:13, 16:54, 17:15, 17:36, 17:43, 18:14, 18:37, 19:3, 19:14, 19:47, 20:29, 20:46, 21:11	jumps ^[1] - 19:44	legislature ^[3] - 2:12, 16:35, 18:34	liability ^[1] - 7:14	Michael ^[1] - 13:29
holding ^[1] - 2:10	jurisdictions ^[1] - 19:56	<hr/> K <hr/>	Life ^[1] - 13:29	middle ^[1] - 7:9		
home ^[2] - 16:39, 18:41	<hr/> K <hr/>	Kara ^[2] - 3:13, 19:44	lifted ^[1] - 17:54	mind ^[1] - 8:28		
hop ^[1] - 9:12	Kara ^[2] - 3:13, 19:44	keep ^[1] - 18:10	limit ^[3] - 2:25, 16:19, 20:40	MINUTES ^[2] - 1:8, 1:33		
hospital ^[1] - 18:33	keep ^[1] - 18:10	keeping ^[2] - 9:2, 9:3	limits ^[1] - 19:20	minutes ^[1] - 2:13		
hours ^[1] - 18:39	keeping ^[2] - 9:2, 9:3	Kennedy ^[7] - 1:20, 8:32, 15:7, 16:11, 16:44, 19:44, 20:27	line ^[2] - 16:19, 17:20	missed ^[1] - 16:6		
house ^[1] - 9:10	Kennedy ^[7] - 1:20, 8:32, 15:7, 16:11, 16:44, 19:44, 20:27	KENNEDY ^[38] - 2:55, 3:6, 3:12, 4:3, 4:47, 5:33, 8:34, 8:55, 9:17, 9:23, 9:29, 9:37, 9:45, 9:54, 10:4, 10:28, 11:19, 12:4, 12:25, 13:12, 14:7, 15:9, 15:16, 15:24, 15:45, 16:13, 16:54, 17:15, 17:36, 17:43, 18:14, 18:37, 19:3, 19:14, 19:47, 20:29, 20:46, 21:11	lines ^[1] - 7:41	modify ^[1] - 4:21		
housekeeping ^[2] - 3:27, 20:25	KENNEDY ^[38] - 2:55, 3:6, 3:12, 4:3, 4:47, 5:33, 8:34, 8:55, 9:17, 9:23, 9:29, 9:37, 9:45, 9:54, 10:4, 10:28, 11:19, 12:4, 12:25, 13:12, 14:7, 15:9, 15:16, 15:24, 15:45, 16:13, 16:54, 17:15, 17:36, 17:43, 18:14, 18:37, 19:3, 19:14, 19:47, 20:29, 20:46, 21:11	Kenny ^[1] - 1:11	list ^[1] - 19:40	Monday ^[1] - 20:35		
houses ^[2] - 8:49, 9:41	Kenny ^[1] - 1:11	kick ^[1] - 17:27	listed ^[1] - 3:29	money ^[2] - 7:12, 8:10		
housing ^[1] - 8:47	kick ^[1] - 17:27	kicked ^[1] - 20:37	listen ^[1] - 19:18	8:10		
hurricane ^[1] - 18:26	kicks ^[1] - 9:11	kids ^[1] - 9:11	local ^[2] - 8:46, 18:24	morphing ^[1] - 18:4		
hybrid/Zoom ^[1] - 1:13	Kimberly ^[1] - 10:46	Kimberly ^[1] - 10:46	Local ^[9] - 2:24, 3:31, 10:44, 11:34, 14:29	most ^[1] - 17:23		
<hr/> I <hr/>	kind ^[5] - 7:8, 9:14, 14:52, 18:4, 19:10	kind ^[5] - 7:8, 9:14, 14:52, 18:4, 19:10	location ^[8] - 16:51, 18:29, 18:31, 18:35, 18:49, 18:51, 19:24, 19:33	Motion ^[2] - 13:33, 13:36		
ill ^[1] - 19:12	knowledge ^[1] - 7:43	knowing ^[1] - 1:18, 19:5	look ^[1] - 6:49	motion ^[30] - 2:35, 2:36, 3:36, 3:42, 3:43, 4:24, 4:30, 5:10, 5:17, 5:55, 5:56, 6:6, 10:8, 10:41, 10:47, 10:53, 11:36, 11:43, 11:45, 12:42, 12:49, 13:30, 13:45, 14:31, 14:38, 15:28, 16:10, 16:11, 20:50		
illness ^[1] - 18:32			looking ^[1] - 19:49	mouth ^[1] - 6:36		
important ^[2] - 17:19, 17:23			<hr/> M <hr/>	move ^[4] - 2:21, 5:51, 6:35, 6:42		
IN ^[1] - 1:25			maintain ^[1] - 14:56	moving ^[1] - 6:36		
			major ^[1] - 8:50	MR ^[32] - 2:16, 3:24,		
			manner ^[1] - 17:33			
			marked ^[1] - 14:27			
			matter ^[3] - 8:37, 8:48, 20:40			

DATE

4:15, 5:3, 5:45, 6:18,
6:28, 6:38, 6:45, 6:51,
7:2, 7:27, 7:33, 7:39,
7:48, 8:24, 8:44, 9:5,
9:20, 9:26, 9:32, 9:40,
9:48, 10:1, 10:37,
11:28, 12:16, 12:34,
13:21, 14:16, 16:1,
21:20
MS [8] - 6:14, 6:21,
6:24, 11:39, 13:41,
14:22, 17:51, 18:46
must [1] - 16:15

N

necessarily [1] -
17:7
necessary [1] - 20:7
need [6] - 14:23,
18:49, 19:34, 20:15,
20:21, 20:23
Needs [1] - 3:10
needs [3] - 11:40,
18:11, 21:28
neighbor [1] - 7:6
never [1] - 7:42
Never [1] - 8:28
New [3] - 1:13,
13:28, 16:35
next [1] - 9:1
north [3] - 8:51, 9:6,
9:42
note [1] - 9:10
notes [1] - 19:49
notice [4] - 18:29,
18:48, 18:50, 19:22
noticed [1] - 18:7
notification [3] -
16:51, 17:55, 19:35
nowhere [1] - 16:56
number [1] - 3:1
numerous [1] -
16:36

O

obligation [1] - 19:22
obviously [2] - 9:3,
17:26
occurring [1] - 16:48
OF [1] - 1:4
office [6] - 18:41,
18:42, 19:25, 19:27,
19:31
Office [1] - 1:29
Officer [1] - 1:26
officer [4] - 17:8,
17:12, 17:48, 17:54
officers [1] - 3:32

often [1] - 19:11
once [3] - 16:32,
16:45, 18:33
one [7] - 3:7, 13:39,
14:27, 14:53, 16:18,
17:11, 20:30
One [1] - 3:27
ones [1] - 15:20
Open [13] - 14:54,
16:33, 16:37, 16:45,
16:49, 17:30, 18:23,
18:32, 18:33, 18:49,
19:56, 20:3, 20:10
open [1] - 18:56
operate [3] - 16:39,
17:13, 17:41
operating [6] -
16:33, 16:37, 17:10,
18:5, 18:21, 18:22
operation [1] - 16:32
opportunity [2] -
18:48, 19:32
opposed [1] - 8:14
order [2] - 17:7, 19:9
originally [3] - 6:30,
6:52, 8:45
outside [3] - 15:10,
15:14, 15:22
own [3] - 9:35, 9:38,
14:53
owned [1] - 13:27

P

p.m [1] - 21:32
P.O [25] - 3:21, 4:12,
4:56, 5:42, 10:34,
11:25, 12:13, 12:45,
12:56, 13:38, 14:13,
15:54, 16:23, 16:30,
17:3, 17:18, 17:39,
17:46, 18:3, 18:20,
18:55, 19:8, 19:17,
20:34, 21:2
pain [1] - 9:11
palace [1] - 8:39
Paragraph [1] -
17:52
parking [3] - 8:51,
9:8, 9:50
part [3] - 7:22, 20:25,
20:43
participate [9] -
16:38, 16:50, 17:30,
17:32, 18:6, 18:29,
19:11, 19:24, 19:32
participating [6] -
16:17, 16:21, 17:22,
18:10, 18:35, 19:31
participation [3] -

16:48, 19:19, 20:5
particular [2] - 15:1,
16:43
parties [1] - 1:30
parts [1] - 17:19
past [1] - 7:4
pay [1] - 8:40
peace [1] - 3:32
people [7] - 18:35,
19:11, 19:19, 19:31,
19:32, 20:42, 20:44
perfect [1] - 6:55
permit [3] - 6:31, 7:5,
8:47
person [1] - 17:25
personal [1] - 14:53
perspective [1] -
16:24
phone [1] - 2:56
piece [5] - 3:27, 6:29,
8:38, 9:9, 9:34
pipes [1] - 7:8
place [4] - 5:11,
12:42, 16:41, 17:29
places [1] - 16:39
play [1] - 18:34
pledge [1] - 2:4
Pledge [1] - 2:6
pneumonia [1] -
16:19
point [1] - 19:1
portion [5] - 2:20,
17:28, 18:28, 18:30,
19:34
portions [6] - 17:9,
17:16, 17:28, 17:41,
17:53, 17:55
possibility [1] - 19:4
possible [2] - 18:56,
20:8
post [1] - 16:45
post-Covid [1] -
16:45
practice [1] - 7:3
pre [1] - 14:27
pre-marked [1] -
14:27
Pres [1] - 16:9
present [1] - 8:56
PRESENT [1] - 1:16
president [3] - 17:6,
17:8, 18:18
Presiding [1] - 1:26
presiding [4] - 17:8,
17:12, 17:48, 17:54
prevent [1] - 19:9
Prevention [1] - 3:33
price [4] - 7:21, 8:5,
8:8, 8:12

private [1] - 18:35
problems [1] - 18:52
process [1] - 16:31
program [1] - 16:46
progress [1] - 3:36
proper [1] - 16:51
properties [1] - 8:49
property [28] - 5:54,
6:30, 7:3, 7:7, 7:8,
7:13, 7:14, 7:15, 7:31,
7:41, 7:42, 7:46, 7:53,
8:39, 8:51, 8:52, 8:56,
9:6, 9:7, 9:8, 9:10,
9:12, 9:35, 9:38, 9:42,
9:49, 10:45
protects [1] - 17:33
provide [2] - 18:47,
18:49
provision [3] - 17:4,
17:10, 17:20
provisions [1] -
18:23
public [27] - 2:20,
2:26, 2:29, 3:10,
11:40, 11:43, 12:38,
14:24, 14:31, 15:28,
16:5, 16:39, 16:41,
16:43, 16:49, 16:50,
16:51, 17:29, 18:31,
18:48, 19:23, 19:27,
19:29, 19:33, 19:34,
19:35
Public [2] - 3:25,
12:35
publish [1] - 18:51
purchased [1] - 7:53
purchaser [2] - 6:30,
7:4
purposes [1] - 20:6
pursuant [3] - 2:9,
10:44, 13:28
pushing [1] - 19:20
put [2] - 8:15, 18:15
putting [1] - 8:45

Q

quarantine [1] -
16:40
quarantining [1] -
16:42
questions [5] - 8:31,
10:8, 15:28, 16:14,
20:50

R

range [1] - 7:16
rated [1] - 8:37
Raymond [1] - 13:29

real [2] - 10:45,
13:27
realize [2] - 7:55, 9:6
really [1] - 20:40
reasonable [1] -
16:46
received [1] - 11:36
recognize [1] - 18:4
reconveyance [1] -
13:27
recorded [1] - 7:42
reference [1] - 17:47
referencing [1] -
16:44
Reform [1] - 2:25
regulations [1] -
2:10
relating [1] - 5:54
remote [5] - 16:48,
16:51, 18:29, 19:18,
19:24
remotely [4] - 2:10,
16:17, 18:10, 18:52
remoting [2] - 19:24,
19:27
report [1] - 7:11
request [1] - 16:15
require [1] - 18:31
required [1] - 16:40
requirement [2] -
17:21, 17:55
requirements [2] -
14:30, 20:6
requires [3] - 17:29,
18:28, 18:30
rescind [1] - 16:35
resident [2] - 19:28,
19:29
residential [1] - 9:33
Resolution [18] -
3:31, 4:21, 5:7, 5:9,
5:10, 5:49, 11:34,
12:38, 12:40, 12:41,
13:25, 13:27, 14:23,
14:29, 16:8, 21:24
resolution [4] - 2:24,
4:19, 14:20, 16:25
Resolutions [1] -
5:51
resolutions [1] -
2:22
responsible [1] -
14:56
restricted [2] - 9:2,
9:3
restriction [1] - 8:46
restrictions [1] -
8:45
restrictive [1] - 20:6
retain [1] - 7:10

DATE

Review [1] - 1:29	Seconded [3] - 5:17, 6:6, 12:49	sold [5] - 7:12, 7:15, 7:20, 8:46	11:13, 11:52, 12:19, 13:6, 14:1, 14:40, 14:46, 15:3, 15:42	TROTТА [22] - 2:28, 2:40, 4:6, 4:50, 5:36, 6:8, 7:24, 7:30, 7:45, 8:1, 8:18, 8:27, 10:31, 10:49, 11:7, 12:7, 12:28, 13:15, 13:32, 13:49, 15:48, 21:14
review [1] - 20:10	section [4] - 16:44, 17:47, 20:30	sometimes [1] - 19:20	Sunderman [5] - 1:21, 2:36, 3:33, 3:42, 11:44	trust [1] - 9:55
rid [1] - 7:13	Section [3] - 10:45, 13:28, 16:14	Sorry [1] - 14:27	superpowers [1] - 16:35	try [1] - 7:9
riddance [1] - 9:15	sections [1] - 17:48	sorry [6] - 6:35, 7:28, 11:43, 14:27, 16:6, 19:39	Susan [1] - 1:18	trying [2] - 18:5, 18:10
rights [2] - 7:10	secure [1] - 20:42	sounds [1] - 16:17		turned [1] - 7:54
rise [1] - 2:3	see [2] - 6:36, 9:49	south [1] - 8:50	T	two [4] - 16:20, 18:26, 18:40, 20:31
Riverhead [2] - 19:27, 19:32	sell [4] - 8:2, 8:8, 8:9, 8:13	speakers [1] - 2:13		type [1] - 18:53
roadmap [1] - 20:22	selling [2] - 8:12, 8:14	speaking [3] - 2:11, 17:26		types [2] - 20:4
rob [1] - 7:52	sentences [1] - 20:32	specific [2] - 6:16, 17:10		
Rob [2] - 16:55, 20:30	separate [1] - 20:39	specifically [1] - 16:49		U
Robert [2] - 1:23, 1:26	session [1] - 20:35	Spencer [2] - 1:22, 4:22	table [7] - 3:36, 3:42, 4:24, 11:43, 14:24, 14:31, 15:28	un-buildable [1] - 8:37
Rogers [1] - 1:12	sessions [3] - 20:32, 20:38, 20:41	sponsor [2] - 14:47, 16:25	tabled [8] - 2:21, 2:29, 3:10, 4:19, 5:7, 11:40, 12:38, 16:5	under [7] - 10:45, 16:33, 17:11, 18:16, 18:21, 18:22, 18:49
roll [6] - 2:36, 3:43, 4:30, 5:17, 10:9, 20:24	settle [3] - 7:13, 8:6, 8:7	spread [1] - 18:40	Tabled [4] - 3:25, 4:16, 5:7, 12:35	unions [1] - 2:26
Roll [17] - 2:38, 3:45, 4:33, 5:19, 10:11, 10:53, 11:1, 11:45, 11:47, 12:49, 12:51, 13:45, 13:47, 15:29, 15:31, 20:51, 20:53	settled [1] - 7:11	stand [1] - 6:39	Tabled/Public [1] - 16:2	unique [1] - 19:25
room [4] - 20:37, 20:39, 20:42, 20:44	settlement [5] - 5:53, 6:16, 6:25, 7:22	start [1] - 6:55	TAKEN [1] - 1:33	United [1] - 17:6
Rose [1] - 1:11	settling [2] - 8:10, 8:13	started [1] - 8:6	taller [1] - 6:39	unless [1] - 20:15
Rudy [1] - 1:21	seven [14] - 3:25, 4:16, 5:4, 5:46, 10:38, 11:29, 12:35, 14:17, 16:2, 16:16, 16:19, 18:29, 18:43, 21:21	starting [1] - 17:16	Tax [1] - 10:45	unrecorded [2] - 6:32, 7:7
rule [1] - 17:53	Seven [2] - 12:17, 13:22	starts [1] - 17:7	taxes [1] - 7:14	unrestrictive [1] - 18:56
Rule [2] - 16:14, 17:52	seven-day [1] - 18:29	state [9] - 16:35, 17:5, 17:11, 18:17, 18:25, 18:27, 19:1, 19:36, 19:41	technical [2] - 5:9, 12:40	up [11] - 2:12, 6:31, 6:49, 7:3, 7:53, 16:20, 18:47, 19:18, 19:19, 19:48
Rules [1] - 4:22	Severs [1] - 1:34	State [2] - 13:28, 16:34	technology [1] - 20:8	update [3] - 19:55, 20:3, 20:10
rules [5] - 16:9, 16:31, 17:56, 19:10, 20:23	sewage [2] - 6:32, 7:8	States [1] - 17:6	terms [3] - 6:25, 16:49, 19:10	upsetting [1] - 18:15
run [1] - 18:52	sewer [1] - 7:41	states [2] - 17:52, 18:22	testify [1] - 19:29	
S	shopping [4] - 9:18, 9:24, 9:27, 9:30	statewide [1] - 20:3	testifying [2] - 19:33, 19:34	V
safe [1] - 17:33	shouldn't've [1] - 19:21	Stay [1] - 6:55	THE [1] - 1:4	value [1] - 8:11
safely [1] - 18:6	show [2] - 7:11, 20:1	stay [1] - 19:1	Thomas [1] - 1:29	Veterans [1] - 1:13
sale [4] - 6:30, 7:4, 8:45, 10:44	side [4] - 6:15, 9:10, 14:55, 15:21	stayed [1] - 20:36	THOMPSON [19] - 6:18, 6:28, 6:38, 6:45, 6:51, 7:2, 7:27, 7:33, 7:39, 7:48, 8:24, 8:44, 9:5, 9:20, 9:26, 9:32, 9:40, 9:48, 10:1	via [2] - 1:13, 16:15
Sarah [1] - 1:27	sign [1] - 2:12	Stenographer [1] - 1:34	Thompson [1] - 6:22	Vice [1] - 1:18
scenario [1] - 18:53	signs [1] - 9:14	stenographer [1] - 17:24	three [2] - 2:13, 18:21	videoconferencing [3] - 14:31, 14:48, 16:16
Scout [1] - 15:17	SIMPSON [7] - 6:14, 6:21, 11:39, 13:41, 14:22, 17:51, 18:46	still [7] - 6:42, 9:51, 16:20, 18:16, 18:40, 18:42	title [1] - 7:10	VOTE [11] - 3:25, 4:16, 5:7, 5:46, 10:41, 11:32, 12:35, 13:22, 14:17, 16:2, 21:21
screen [1] - 17:25	Simpson [1] - 1:27	stores [1] - 9:8	Tom [1] - 1:19	votes [1] - 20:24
SCTM [3] - 5:54, 10:46, 13:29	SINCLAIR [1] - 6:24	street [2] - 8:50, 19:26	took [1] - 8:56	voting [2] - 17:26, 17:27
second [15] - 2:32, 3:39, 3:42, 4:27, 5:14, 6:3, 10:9, 11:37, 11:44, 12:43, 13:45, 14:32, 14:38, 15:29, 20:51	situation [3] - 16:32, 16:33, 18:23	SUFFOLK [1] - 1:6	Town [2] - 8:36, 8:37	
Second [6] - 2:35, 10:50, 11:44, 12:46, 13:45, 14:35	skip [1] - 13:39	Suffolk [8] - 1:10, 3:32, 4:21, 10:45, 11:35, 15:10, 15:14, 16:9	town [4] - 8:48, 9:6, 9:33, 9:49	
seconded [2] - 4:30, 16:10	skipped [1] - 14:27	suggestion [1] - 19:40	transparency [1] - 11:35	
	Smithtown [1] - 1:13	SUNDERMAN [16] - 2:31, 2:43, 3:35, 3:47, 4:44, 5:30, 10:22,	trash [1] - 9:11	
	Society [1] - 3:33		tried [4] - 6:31, 7:4, 9:13, 18:56	
			troops [1] - 15:17	
			Trotta [5] - 1:23, 2:26, 2:35, 10:53, 13:36	
				W
				wave [8] - 16:36,

17:9, 17:12, 17:40,
17:48, 18:28, 18:30,
18:44

waived [5] - 17:28,
17:31, 17:53, 17:56,
18:23

wants [2] - 19:28,
20:9

water [2] - 6:32, 7:8

waterline [1] - 7:41

Wayne [4] - 6:22,
6:25, 6:26, 6:35

WAYS [1] - 1:2

Ways [3] - 1:10, 2:2,
2:10

west [1] - 8:50

**whoever-wants-to-
join-on** [1] - 20:9

William [2] - 1:12,
1:22

wish [1] - 19:21

wonderful [1] - 21:29

world [1] - 20:2

would've [1] - 8:10

writing [1] - 8:41

written [1] - 16:15

Y

year [2] - 18:4, 20:11

YNLL [2] - 7:40, 9:18

York [3] - 1:13,

13:28, 16:35

Z

Zoom [8] - 2:11, 7:3,

14:52, 14:55, 20:36,

20:37, 20:38

Zooms [1] - 14:53