

Introduced by Presiding Officer, on request of the County Executive and Legislators
Schneiderman, Anker

RESOLUTION NO. 853 -2011, AMENDING RESOLUTION NO. 1201-2010 IN CONNECTION WITH THE SUFFOLK COUNTY NEW DRINKING WATER PROTECTION PROGRAM (EFFECTIVE DECEMBER, 2007) - OPEN SPACE COMPONENT - AUTHORIZING THE ACQUISITION FOR THE BEECHWOOD MORICHES BUILDING CORP. PROPERTY - FORGE RIVER WATERSHED ADDITION (TOWN OF BROOKHAVEN)

WHEREAS, Resolution No. 1201-2010 approved the acquisition of such land known as the Beechwood Moriches Building Corp. property; and

WHEREAS, the parties executed a contract of sale dated January 21, 2011 (the "Agreement"), wherein Beechwood Moriches Building Corp. (the "Owner") as owner of the property agreed to convey to the County of Suffolk ("County") and the Town of Brookhaven ("Town") its fee interest in the premises 90.36 ± acres (said acreage includes 18.10 acres of paper streets to be abandoned) located in the Town of Brookhaven, County of Suffolk, and State of New York, the subject premises, the ("Premises"); and

WHEREAS, the acquisition was subject to the Town of Brookhaven ("Town") obtaining a grant of TWO MILLION and 00/100 DOLLARS (\$2,000,000.00) from the Dormitory Authority of the State of New York ("State") said grant money being used to fund a portion of the TOWN'S TEN MILLION and 00/100 DOLLARS (\$10,000,000.00) share of the purchase price; and

WHEREAS, subsequent to the approval of Resolution No. 1129-2007 it was determined that said grant money, although approved by the State, is not yet available to the TOWN, and as a result the TOWN has only EIGHT MILLION and 00/100 DOLLARS (\$8,000,000.00) available for this acquisition; and

WHEREAS, the SELLER, the County and the Town are desirous of completing this transaction even though the grant money from the State is not available; and

WHEREAS, an amendment to the agreement to acquire said property was prepared by the office of the County Attorney, executed by the owner of the subject property, the Town, and the Director of Real Property Acquisition and Management and approved as to legality by the Office of the County Attorney; now, therefore be it

1st RESOLVED, that the County is authorized to proceed to closing with the Owner and Town, at which time the Owner shall issue a deed of conveyance for the property set forth in Exhibits "A," "B," "C," and "D" annexed to Resolution No. 1201-2010, said deed shall set forth the consideration as being EIGHTEEN MILLION and 00/100 DOLLARS (\$18,000,000.00), said amount to be payable in the respective amounts of TEN MILLION and 00/100 DOLLARS (\$10,000,000.00) by the COUNTY and EIGHT MILLION and 00/100 DOLLARS (\$8,000,000.00) by the TOWN. In addition, the deed of conveyance shall indicate that the COUNTY will acquire a fifty-five percent (55%) undivided interest in and to the parcel(s), and the TOWN will acquire the remaining forty-five percent (45%) undivided interest in and to the parcel(s), as tenants-in-common; and be it further

2nd **RESOLVED**, that the 5th Resolved clause of Resolution No. 1201-2010 shall be amended to the extent that the County of Suffolk is authorized, empowered and directed to accept the transfer from the Town of a fifty-five percent (55%) undivided interest, as tenants-in-common, in the property set forth in Exhibits "B" and "C" annexed thereto. Said transfer shall be without consideration pursuant to General Municipal Law §72-h; and be it further

3rd **RESOLVED**, that the 6th Resolved clause of Resolution No. 1201-2010 shall be amended to the extent that the County of Suffolk is authorized, empowered and directed to take such actions as are necessary to transfer to the Town a forty-five percent (45%) undivided interest, as tenants-in-common, in the property set forth in Exhibit "D" annexed thereto. Said transfer shall be without consideration pursuant to General Municipal Law §72-h; and be it further

4th **RESOLVED**, that at such time as the Town receives the TWO MILLION and 00/100 DOLLARS (\$2,000,000.00) in grant money from the State said funds shall be paid over to the Owner as and for the balance of the Town's TEN MILLION and 00/100 DOLLARS (\$10,000,000.00) portion of the acquisition as originally set forth in the Agreement. Upon presentment of proof to the County that the payment has been made by the Town to the Owner, the County is authorized to cooperate with the Owner and Town, in preparing, executing and recording correction deeds in the following manner; and be it further

a). The deed of conveyance from the Owner to the County and Town shall be corrected to the extent that it will set forth the consideration as being TWENTY MILLION and 00/100 DOLLARS (\$20,000,000.00) and shall further indicate that the County acquired a fifty percent (50%) undivided interest in and to the parcel(s), and that the Town acquired the remaining fifty percent (50%) undivided interest in and to the parcel(s), as tenants-in-common; and

b). The County is authorized, empowered and directed to accept a deed from the Town transferring to the County a fifty percent (50%) undivided interest, as tenants-in-common, in the property set forth in Exhibits "B" and "C" annexed to Resolution No. 1201-2010. Said transfer shall be without consideration pursuant to General Municipal Law §72-h; and

c). The County is authorized, empowered and directed to take such actions as are necessary to issue a deed transferring to the Town a fifty percent (50%) undivided interest, as tenants-in-common, in the property set forth in Exhibit "D" annexed to Resolution No. 1201-2010. Said transfer shall be without consideration pursuant to General Municipal Law §72-h; and be it further

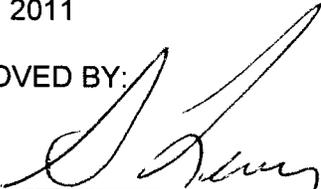
5th **RESOLVED**, that in all other respects the Resolved clauses set forth in Resolution No. 1201-2010 shall remain unchanged and in full force and effect, and the Director of the Division of Real Property Acquisition and Management and/or her designee; the County Planning Department; the County Department of Parks, Recreation and Conservation; the County Department of Public Works; the County Comptroller; and the County Treasurer are hereby authorized, empowered, and directed to take such actions and procedures necessary to implement the directives of Resolution No. 1201-2010 and which are required to acquire such County interest in said lands; and be it further

6th **RESOLVED**, that in accordance with Section 279-5 (C)(4) of the SUFFOLK COUNTY CODE, the Suffolk County Council on Environmental Quality is hereby directed to

prepare and circulate any appropriate notices or determinations in accordance with this resolution.

DATED: November 9, 2011

APPROVED BY:



County Executive of Suffolk County

Date: **NOV 15 2011**

Intro. Res. CN 1962

Res. No. 853

November 9, 2011

Motion:

Romaine, Schneiderman, Browning, Muratore, Anker
Eddington, Montano, Cilmi, Lindsay, Vilorio-Fisher, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

Co-Sponsors:

Romaine, Schneiderman, Browning, Muratore, Anker
Eddington, Montano, Cilmi, Lindsay, Vilorio-Fisher, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

Second:

Romaine, Schneiderman, Browning, Muratore, Anker
Eddington, Montano, Cilmi, Lindsay, Vilorio-Fisher, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

LD	Legislator	Yes	No	Abs	NP	R	
1	Edward P. ROMAINE						
2	Jay H. SCHNEIDERMAN						
3	Kate M. BROWNING						
4	Thomas MURATORE						
6	Sarah S. ANKER						
7	Jack EDDINGTON						
9	Ricardo MONTANO						
10	Thomas CILMI						
11	Thomas F. BARRAGA						
12	John M. KENNEDY, JR.						
13	Lynne C. NOWICK						
14	Wayne R. HORSLEY						
15	DuWayne GREGORY						
16	Steven H. STERN						
17	Lou D'AMARO						
18	Jon COOPER						
5	Vivian VILORIA-FISHER, D.P.O.						
8	William J. LINDSAY, P.O.						
	Totals	18					

MOTION
<input checked="" type="checkbox"/> Approve
Table: _____
Send To Committee _____
Table Subject To Call _____
Lay On The Table _____
Discharge _____
Take Out of Order _____
Reconsider _____
Waive Rule _____
Override Veto _____
Close _____
Recess _____
APPROVED <input checked="" type="checkbox"/> FAILED _____
No Motion _____ No Second _____

RESOLUTION DECLARED
<input checked="" type="checkbox"/> ADOPTED
NOT ADOPTED _____

Tim Laube

Tim Laube, Clerk of the Legislature

Roll Call _____ Voice Vote

SUFFOLK COUNTY
County Legislature
RIVERHEAD, NY



This is to Certify That I, TIM LAUBE, Clerk of the County Legislature of the County of Suffolk, have compared the foregoing copy of resolution with the original resolution now on file in this office, and which was duly adopted by the County Legislature of said County on November 9, 2011 and that the same is a true and correct transcript of said resolution and of the whole thereof.

In Witness Whereof, I have hereunto set my hand and the official seal of the County Legislature of the County of Suffolk.

Tim Laube

Clerk of the Legislature