

Introduced by Presiding Officer, on request of the County Executive

**RESOLUTION NO. 851 -2012, ADOPTING LOCAL LAW NO. 55 -2012, A LOCAL LAW AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE AGREEMENTS FOR THE SALE OF VACANT LAND AT YAPHANK COUNTY CENTER (PHASE II – BUDGET MITIGATION)**

**WHEREAS**, there was duly presented and introduced to this County Legislature at a regular meeting held on June 19, 2012, a proposed local law entitled, “**A LOCAL LAW AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE AGREEMENTS FOR THE SALE OF VACANT LAND AT YAPHANK COUNTY CENTER (PHASE II – BUDGET MITIGATION)**”; and said local law in final form is the same as when presented and introduced; now, therefore be it

**RESOLVED**, that said local law be enacted in final form as follows:

**LOCAL LAW NO. 55 -2012, SUFFOLK COUNTY, NEW YORK**

**A LOCAL LAW AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE AGREEMENTS FOR THE SALE OF VACANT LAND AT YAPHANK COUNTY CENTER (PHASE II – BUDGET MITIGATION)**

**BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF SUFFOLK**, as follows:

**Section 1. Legislative Intent.**

Recognizing the fiscal pressures faced by the County of Suffolk (the “County”) in the current circumstances, this Legislature found and determined that certain land owned by the County is surplus to the needs of the County and by Resolution No. 298-2011 authorized the Director of Real Estate to determine the best manner to sell or lease such surplus land so as to maximize the return to be received by the County from such land.

This Legislature further found that additional land should be added to the land declared surplus by Resolution No. 298-2011.

This Legislature further finds and determines that, through a contractual arrangement with Newmark Knight Frank, real estate brokers, over one hundred potential buyers were contacted, and an on-line process for the solicitation of offers to purchase all or some of such surplus land was established, but that no adequate offers to purchase any of such surplus land were received.

This Legislature also finds that subsequent thereto, an offer was received from Oakland Transportation, LLC (the “Buyer”) to purchase a portion of the surplus property, comprised of three tax lots and a portion of a road shown on the underlying map, for the sum of Twenty Million One Dollars (\$20,000,001), less real estate commissions and certain expenses, resulting in net revenue to the County of approximately Nineteen Million Two Hundred Fifty Thousand Dollars (\$19,250,000). A Letter of Intent dated March 29, 2012 (“LOI”) to such effect was

presented to the County by the Buyer, and signed on behalf of the County by the Director on April 9, 2012. The LOI is attached as Exhibit "1".

This Legislature also finds that the sale of such surplus land to the Buyer will return such surplus land to the tax rolls, providing revenue to the County, the Town of Brookhaven, and the local school district.

Therefore, the purpose of this law is to approve the agreement for the sale and purchase of such portion of the surplus land to the Buyer.

### **Section 2. Approval of LOI.**

The County hereby approves the LOI between the County and the Buyer, executed by the Buyer on March 29, 2012 and by the Director on April 9, 2012.

### **Section 3. Sale of Surplus Land.**

The sale by the County to the Buyer of the County's right, title and interest in and to the land, subject to final survey, without recourse, is hereby authorized in exchange for the delivery, to or upon the order of the County, of (i) the payment of the purchase price as set forth in the proposed Agreement of Sale (the "Contract"), and (ii) upon such other terms and conditions as are set forth in the Contract between the Buyer, and the County.

### **Section 4. Approval of the Contract.**

The form and substance of the Contract, presented to the members of the Legislature at this meeting as Exhibit "2", is hereby approved.

### **Section 5. Execution and Delivery of the Contract.**

The execution and delivery on behalf of and in the name of the County by the County Executive and/or his designee(s) of the Contract presented to the members of the Legislature at this meeting, is hereby authorized and directed, with such ministerial and non-substantive changes therein as the County Executive and/or his designee(s) may approve, and the execution and delivery of such Contract shall be conclusive evidence of his approval of any such changes and of the authorization and direction thereof by this Legislature.

### **Section 6. Further Actions.**

The County Executive and/or his designee(s) are further authorized to execute and deliver, on behalf of the County, such agreements, instruments or authorizations as may be contemplated by, or necessary or advisable to consummate or otherwise give full effect to the Contract and this local law, and which are deemed necessary or desirable to effectuate the transactions contemplated by the Contract and this local law, and to perform all acts and do all things required or contemplated to be performed or done by the Contract or by this local law or by any agreement, instrument or authorization approved, contemplated, necessary or authorized hereby.

### **Section 7. Applicability.**

This law shall apply to all actions and transactions occurring on or after the effective date of this law.

**Section 8. Severability.**

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

**Section 9. SEQRA Determination.**

This Legislature being the State Environmental Quality Review Act (SEQRA) lead agency hereby determines that this law constitutes a Type I action, pursuant to the provisions of Title 6 NYCRR Part 617.4(b)(4) and Chapter 450 of the Suffolk County Code, which will not have significant adverse impacts on the environment for the following reasons:

1. The proposed action, as demonstrated in the Environmental Assessment Form will not exceed any of the criteria in Title 6 NYCRR Part 617.7 setting forth thresholds for determining significant effect on the environment;
2. The proposed action involves the surplus and sale of property and does not authorize, fund or approve any development or change in the type or intensity of the use on the property;
3. Unless preempted by federal law, any future development or change in the use of the subject property will be subject to local land use controls and further review under the State Environmental Quality Review Act before it is undertaken, funded or approved by any agency.

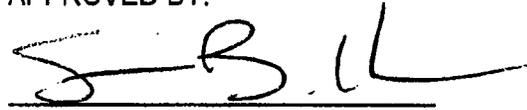
This Legislature hereby directs, in accordance with Section 279.5(c) (4) of the Suffolk County Code, the Suffolk County Council on Environmental Quality to prepare and circulate any appropriate notices or determinations in accordance with this resolution.

**Section 10. Effective Date.**

This Local Law shall not take effect until at least forty-five (45) days after its adoption, nor until approved by the affirmative vote of a majority of the qualified electors of the County of Suffolk voting on a proposition for its approval if within forty-five (45) days after its adoption there is filed with the Clerk of the County Legislature a petition protesting against such Local Law in conformity with the provisions of §24 of the MUNICIPAL HOME RULE LAW, and upon filing in the Office of the Secretary of State.

DATED: September 13, 2012

APPROVED BY:

  
County Executive of Suffolk County 9/24/12

Date:

After a public hearing duly held on September 24, 2012  
Filed with the Secretary of State on October 2, 2012

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 September 13, 2012 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*

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Clerk of the Legislature

**Motion:**

Romaine, Schneiderman, Browning, Muratore, Anker  
Calarco, Montano, Cilmi, Lindsay, Hahn, Barraga,  
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Spencer

**Co-Sponsors:**

Romaine, Schneiderman, Browning, Muratore, Anker  
Calarco, Montano, Cilmi, Lindsay, Hahn, Barraga,  
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Spencer

**Second:**

Romaine, Schneiderman, Browning, Muratore, Anker  
Calarco, Montano, Cilmi, Lindsay, Hahn, Barraga,  
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Spencer

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

**MOTION**

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  FAILED \_\_\_\_\_

No Motion \_\_\_\_\_ No Second \_\_\_\_\_

**RESOLUTION DECLARED**

ADOPTED

NOT ADOPTED

Roll Call  Voice Vote \_\_\_\_\_

*Tim Laube*

Tim Laube, Clerk of the Legislature