

Introduced by Presiding Officer, on request of the County Executive

**RESOLUTION NO. 854 -2012, SALE OF COUNTY-OWNED
REAL ESTATE PURSUANT TO SECTION 72-H OF THE
GENERAL MUNICIPAL LAW - TOWN OF BROOKHAVEN
(SCTM NO. 0200-509.00-05.00-003.000)**

WHEREAS, the COUNTY OF SUFFOLK is the fee owner of the following described parcel that is surplus to the needs of the County of Suffolk; and

ALL, that certain plot, piece or parcel of land, with any buildings and improvements thereon erected, situate, lying and being in the Town of Brookhaven, County of Suffolk, and State of New York, described on the Tax Map of the Suffolk County Real Property Tax Service Agency as District 0200 Section 509.00 Block 05.00 Lot 003.000 and acquired by Tax Deed on August 15, 2007 from Angie M. Carpenter, the County Treasurer of Suffolk County, New York, and recorded on September 4, 2007 in Liber 12520 at Page 725 and described as follows, being and intended to be that parcel of land carried on the tax rolls of the Town of Brookhaven under Suffolk County Tax Map No. District 0200 Section 509.00 Block 05.00 Lot 003.000; and

WHEREAS, Section 72-h of the General Municipal Law permits a sale of real property between municipal corporations, or between a municipal corporation of the State of New York or the United States of America; and

WHEREAS, the Town of Brookhaven has requested that the County of Suffolk convey to the town the parcel described in Exhibit "A" annexed hereto; and

WHEREAS, as provided in Resolution No. 840-2004 and Resolution No. 412-2005, this Legislature has determined that retention of development rights for transfer and use to promote the development of workforce housing is a vital need of Suffolk County residents and an important public purpose of County Government; and

WHEREAS, the Suffolk County Department of Economic Development and Planning has approved the proposed transfer and use of said parcel; now, therefore be it

1st **RESOLVED**, that the Director of Real Estate, or her Deputy, hereby is authorized to execute and acknowledge a Quitclaim deed to transfer the interest of Suffolk County in the above described property and on the terms and conditions as hereinafter described to said Town of Brookhaven for the sum of \$17,523.69; plus the pro rata share of taxes; and be it further

2nd **RESOLVED**, that the County of Suffolk hereby transfers the above described property subject to it being sterilized for Open Space Purposes to protect the aquifer and water supply, which property shall be kept in its natural state in perpetuity, except for property maintenance activities as may be appropriate, to effectuate the declaration of covenants and restrictions, entered into by the Town of Brookhaven, without impairing the essential nature and open character of the premises and subject to the use of the open space area for passive recreational purposes; and be it further

3rd **RESOLVED**, that pursuant to Section C12-2(A)(2)(c), this property is to be permanently sterilized by a deed restriction and must remain as Open Space and Workforce Housing Development Rights shall be severed herewith (5) five credits Workforce Housing Development Rights and placed in the Suffolk County Workforce Housing Transfer of Development Rights Program Registry pursuant to the Workforce Housing Development Rights Program as developed by the Department of Economic Development and Planning, consistent with Resolution No. 412-2005, as amended and approved by the Suffolk County Executive and the Suffolk County Legislature; and be it further

4th **RESOLVED**, that said quitclaim deed tendered by the Director of Real Estate, pursuant to this resolution, shall contain appropriate language that shall permanently sterilize the above-described parcel and sever the development rights for workforce housing purposes in accordance with the County's Workforce Housing Program; and be it further

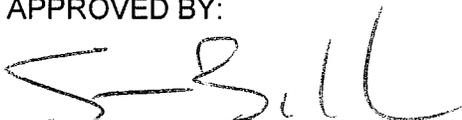
5th **RESOLVED**, that the Town of Brookhaven will be restricted in its use of the subject parcel and will use said parcel solely and exclusively for Open Space purposes; with all right title and interest reverting to the County of Suffolk in the event that the Town of Brookhaven, at any time, uses or attempts to use said subject parcel for other than Open Space purposes or attempts to sell, transfer or otherwise dispose of or does, in fact, sell, transfer or otherwise dispose of said subject parcel without said parcel being used thereafter for Open Space purposes; and be it further

6th **RESOLVED**, that said quitclaim deed issued by the Director of Real Estate, pursuant to this resolution, shall contain a reverter clause declaring that title to the above described property shall revert to the County of Suffolk if: 1) the property is not used for the above-described public governmental purposes within three (3) years after delivery of the deed to the grantee; or 2) the grantee attempts to sell, transfer, or otherwise dispose of the property or does sell, transfer, or otherwise dispose of said subject property without said property being used thereafter for the above described public governmental purposes; or 3) the grantee imposes a back-charge or fee against the County for the actual or projected cleanup cost of the debris on the property in violation of Resolution No. 1028-1991; or 4) the grantee violates Resolution No. 256-1998; and be it further

7th **RESOLVED**, this Legislature, being the State Environmental Quality Review Act (SEQRA) Lead Agency, hereby finds and determines that adoption of this law is not an action within the meaning of the State Environmental Quality Review Act and the regulations adopted thereto. See 6 N.Y.C.R.R. Section 617.2(b) (2). The Legislature further finds and determines that even if the adoption of the local law is an action within the meaning of SEQRA, the adoption of the law is a Type II action constituting a legislative decision in connection with routine or continuing agency administration and management, not including new programs or major reordering of priority. See 6 N.Y.C.R.R. Sections 617.13(d) (15) and (21). As a Type II action, the Legislature has no further responsibilities under SEQRA 6 N.Y.C.R.R. Section 617.5(a) (1)

DATED: **SEP 13 2012**

APPROVED BY:



County Executive of Suffolk County

Date: 9.26.12

ADOPTED
BY THE BROOKHAVEN TOWN BOARD

RESOLUTION NO. 2012-564
MEETING OF June 26, 2012

AUTHORIZATION TO ACQUIRE A VACANT
PARCEL OF SUFFOLK COUNTY OWNED LAND
FOR OPEN SPACE PURSUANT TO SECTION
72-H OF THE GENERAL MUNICIPAL LAW –
COUNTY ROAD 92, MANORVILLE
(SCTM No. 0200-509.00-05.00-003.000)

WHEREAS, Section 72-h of the General Municipal Law of the State of New York permits the sale of real property between municipal governments in the State of New York; and

WHEREAS, there is a vacant parcel of Suffolk County owned land located on County Road 92, Manorville, further identified as SCTM No. 0200-509.00-05.00-003.000 as shown on the attached map; and

WHEREAS, the Town of Brookhaven is interested in acquiring said parcel of real property for open space purposes for a total consideration not to exceed \$17,523.69 plus pro-rata taxes at the time of closing; and

WHEREAS, the Town Board of the Town of Brookhaven is aware that the subject premises shall be conveyed subject to the following restrictive covenants that will run with the land so conveyed: 1) That the Grantee or any subsequent Grantee shall not bill or charge back to the Grantor any cost incurred or projected to be incurred for the cleanup, removal, and disposal of all debris, waste, and/or contamination in or on the subject premises; 2) That the Grantee shall not sell, convey, transfer or otherwise dispose of the subject premises; and

WHEREAS, the Town Board of the Town of Brookhaven is aware that the restrictive covenants described above will run with the land and shall bind the heirs, successors, and assigns of the Town of Brookhaven and in the event of any violation of the restrictive covenants

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stated above, the Deed conveying said parcels shall be void ab initio and title to the realty shall revert to the County of Suffolk; and

WHEREAS, the acquisition of said parcels pursuant to General Municipal Law Section 72-H, as an intergovernmental transfer, is a Type II action pursuant to NYCRR 617.5(c)(19) and, therefore, no further SEQRA review is required,

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Brookhaven hereby authorizes, consents and approves the acquisition of the parcel for open space purposes further identified as SCTM No. 0200-509.00-05.00-003.000 and requests that the Suffolk County Legislature approve the conveyance of same pursuant to General Municipal Law Section 72-H for a consideration not to exceed \$17,523.69 plus pro-rata taxes at the time of closing subject to the restrictive covenants and reverter provisions as stated above.

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

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		17			1	

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