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SUFFOLK COUNTY DEPARTMENT OF PLANNING

COUNCIL ON ENVIRONMENTAL QUALITY

Timber Point Country Club
Great River, New York 11788

December 9, 2009
9:40 a.m.

MEMBERS PRESENT:

R. LAWRENCE SWANSON, Chairman
MICHAEL KAUFMAN, Vice Chairman
HON. JAY H. SCHNEIDERMAN
EVA GROWNEY
RICHARD MACHTAY
THOMAS GULBRANSEN
GLORIA G. RUSSO
MARY ANN SPENCER

ALSO PRESENT:

RICHARD MARTIN, Historic Society
JAMES BAGG, Chief Environmental Analyst

THE CHAIRMAN: I'd like to call the meeting to order. This is the December meeting of the Suffolk County CEQ. I believe we can dispense with reviewing minutes because the September and October minutes have not been posted as of yet. In your packet, there was a schedule for the 2010 CEQ meetings. We need to adopt this, so that we can post it.

MS. SPENCER: So move.

THE CHAIRMAN: Motion to adopt the proposed meeting schedules by Ms. Spencer.

MR. KAUFMAN: Second.

THE CHAIRMAN: Any discussion? All in favor? Aye. Opposed? Schedule is adopted.

Jim, do you want to tell us about correspondence?

MR. BAGG: Basically, we received several letters. Letter from the various civic associations regarding Carmans River and Legacy Village. Letter from Seatuck Environmental Association regarding Legacy Village. Letter from the Coalition to Save Yaphank Lakes regarding Legacy Village. Memo from Regina Saltzer, Esquire to CEQ regarding IR-1922.

In addition, we received another opinion from Regina Saltzer, Esquire regarding the SEQRA issue, which is in everybody's folder. And also we received a memo

from Christine Malafi, the county attorney, regarding a legal opinion concerning the project in the SEQRA review. That is also in everybody's folder as well.

THE CHAIRMAN: Any questions of Jim?

(No response)

THE CHAIRMAN: Just a reminder to the public, that you're certainly encouraged to speak, but will do so on a project by project basis. So if you are here specifically to talk about Legacy Village, that will be towards the end of the program this morning. Rich, do you have --

MS. SPENCER: I'm commenting.

THE CHAIRMAN: Okay.

MS. SPENCER: There is nothing to report this morning.

THE CHAIRMAN: Very good. Nothing for the historic Trust, Historic Trust project reviews. Jim, anything you want to point out with the Type 2 actions?

MR. BAGG: No, nothing of consequence. Everything, either SEQRA has been completed for Type 2 actions. That is also in your folder, the recommendations.

THE CHAIRMAN: Do we have a motion to adopt staff recommendations?

MR. KAUFMAN: Motion.

MS. RUSSO: Second.

THE CHAIRMAN: Any discussion? All in favor? Aye. Opposed? Motion carries. Project review. Proposed aquisition for open space preservation purposes known as Reeves Bay.

MS. FISCHER: Loretta Fischer, Principal Environmental Analyst, Suffolk County Department of Planning.

The first proposed aquisition before you is the Rubinstein property in Reeves Bay. This is a property of approximately one point five acres in size, immediately adjacent to a stream creek that flows into Reeves Bay, and it's part of a compendium of properties that we're looking to acquire within this complex that feeds into Reeves Bay, which then flows into Flanders Bay, which is part of the Peconic Bay complex.

So, this property has some fringe wetland along the shoreline as well as upland woodland. We are looking to not only acquire this property, but also the properties identified on your map that are in the hatched black lines.

I would like to start our aquistions in this area. This will be one of a number of parcels that we

will be bringing before you for acquisition.

THE CHAIRMAN: Any questions?

MR. MACHTAY: Yes. The county doesn't own any other properties here right now?

MS. FISCHER: Not at this point, no, but we do have a number of ones immediately adjacent that will be coming to you shortly.

MR. MACHTAY: There is a quite a bit in hatched lines. Those will be future purchases?

MS. FISCHER: Yes.

MR. MACHTAY: How many acres altogether in that area?

MS. FISCHER: It's about twenty or so acres.

MR. MACHTAY: Looks like a lot more than that, especially on the other side.

MS. FISCHER: Which side are you speaking of?

MR. MACHTAY: Both sides. The side opposite.

MS. FISCHER: Because there is a substantial amount of property that is owned by the Town of Southampton to the west. And we do own properties, actually, to the west and east here, but it's not showing up on this immediate area.

MR. MACHTAY: I'll make a motion unlisted action, Neg Dec.

MR. KAUFMAN: Second that.

THE CHAIRMAN: Any further discussion? All in favor? Aye.

MR. KAUFMAN: Quickly to the members, we don't have microphones except for Larry right now. You may just have to speak up just a little bit so the stenographer can hear you, and also some of the members on this side can hear.

MR. ISLES: Mr. Kaufman, we do have two microphones available and long cords, if you want to share the microphones. We can also increase the volume of the amplifier.

THE CHAIRMAN: Okay. We have a motion, and we voted, yes.

MR. BAGG: Unanimous.

THE CHAIRMAN: Motion carries. Proposed aquisition of open space known as Scout Trail County Park Addition, Spring Meadow Enterprises.

MS. FISCHER: This is a fifty-nine point three five acre parcel in the Hamlet of Wading River, in the Town of Brookhaven, but it's basically very close to the border between the Towns of Brookhaven and Riverhead. This is a large parcel that will add to our holdings in this area. Not only county holdings, but town holdings

as well state of New York holdings that exist to the east -- west and south of the property.

This is kind of one of our last pieces of the puzzle in this area. This property in and of itself was disturbed; there was some manipulation of the property, possibly was farmed at some point in time. It's gone back and reverted into an old field successional woods with some dirt trails that exist. There has been some dumping in the area, but those articles will be disposed of and removed from the property before we acquire it.

We are looking to apply this under our Drinking Water Protection Program for the protection of the groundwater, special groundwater protection area.

THE CHAIRMAN: When you say "dumping," I presume you mean trash and non-hazardous waste?

MS. FISCHER: Construction debris and some tires, articles like that. Nothing that was identified by the Phase 1 consultant as being any kind of hazardous material.

THE CHAIRMAN: Any other questions?

MR. GULBRANSEN: Loretta, are these trails motor cross trails? They seem to be traveled on.

MS. FISCHER: They have been informally used that way. We saw the tracks in there. That is going to

have to be monitored and watched carefully. Our use for the property is for passive recreational use.

MR. KAUFMAN: From personal knowledge, I have seen packs of dirt bikers going over there. A friend of my mine lives nearby and he has seen them. It's been an enforcement problem in the past.

MS. FISCHER: We are aware of that.

MR. KAUFMAN: Motion, Unlisted Negative Declaration.

MR. MACHTAY: Second.

THE CHAIRMAN: All in favor? Opposed? Motion carries.

MS. FISCHER: Thank you.

THE CHAIRMAN: Improvements to County Road 19, Patchogue-Holbrook Road. Please introduce yourself.

MR. NORMANDIN: My name is Steve Normandin from the RBA Group on behalf of the Suffolk County Department of Public Works. This is a roadway improvement project which has started as a highway corridor safety study, which the county had conducted, and out of that study, it has identified safety and traffic concerns on the corridor, which is one point one miles, starting from the North Service Road of the Long

Island Expressway, Exit 61, Patchogue-Holbrook Road, and heads north up to County Road 16, Portion Road.

As you may know, there is a significant S-curve through the corridor, which has become a safety concern. That is how the study had been initiated from the get go. What we are proposing out of the study is traffic calming and safety improvements specifically, as there is a highway rate of speed running through the corridor. There is the Hiawatha Elementary School in dead center of the corridor itself, which is a safety concern for the pedestrians crossing at Richard Place, which is in the center of the project area. Speeds are clocked at in excess of fifty miles per hour through that zone. The two sharp S-curves, as you see on the map which I show over here, are twenty-five to thirty miles per hour curves, which on a number of occasions cars have run off the road and hit guard rails and trees.

The goal of the county is to forge forward with what is a safety and traffic calming, meaning we want to slow down the vehicles and reduce the incidents of accidents and speeding. What we are proposing, it's a two lane roadway with ten foot wide shoulders and a center median, fifty-four feet of roadway, very vast, very conducive to speeding, very expansive in terms of

the pavement area for the two lane roadway.

What we would like to do is on the southern end of the job where we come in from the Expressway, to about halfway through the project area, we are looking to narrow the travel lanes. Actually, the entire lane will be narrowed from a twelve to eleven foot lane to physically narrow the travel lanes, which is one of the effective traffic calming techniques.

In addition to that, we are proposing a raised median in the center, like a traffic island, which would physically and visually reduce the effective pavement width, making it less conducive for drivers to just speed down the roadway. Particularly at the S-curves, which also has a problem with head-on collisions where vehicles start to stray into the center lane as they come around the curve as they take it a little sharper with the high rate of speed.

The median itself will separate the traffic, it will slow them down by forcing them and narrowing the roadway, making it less conducive for speeds and run off the road accidents. In the northern end of the job will be similar. There will be a raised median in front of the school to narrow that section down. And at the school itself, at Richard Place, we will have bulb-outs,

which will bring in the curbs closer towards the center of the roadway, which is really like a choke point which narrows them down through the school zone.

In addition, we have this wide ten foot or so shoulder what we will do with that is make a designated bike lane through the entire length of the project area which will utilize that shoulder, which is a four or six inch stripe now, which looks and feels like the road is wider, and people use it for coming around the sharp curves and using the shoulder. What the bike lane will do, it will be a four foot wide bike lane. There will be a buffer on the southern end of the job, a four foot buffer between the travel lane and bike lane.

Where we come up through the school where it's more residential and on street parking is utilized, we will switch, and the bike lane will be adjacent to or next to the travel lane and will provide on street parking with a seven foot wide parking lane for the northern limits of the job. We are taking this fifty-four foot roadway, incorporating bike lanes with striping, hatching buffers and adding a center median, to narrow the effective width of the travel lane, and improving the overall safety and thereby hopefully reducing speeds and accident occurrences along the corridor.

In addition, we are installing pedestrian countdown timers at the intersection of Richard Place to accommodate pedestrians back and forth crossing County Road 19, in addition to decorative crosswalks at specific locations where there are crossing guards now. That is the project. Eight hundred thousand dollars to construct these improvements. In addition, the county is looking to resurface the roadway at the same time to provide a smoother ride and surface for both the bikes and shoulders, as well as improving skid resistance and infrastructure of the roadway.

MR. KAUFMAN: I like the idea of traffic calming on the road. That is a policy judgment; I'll make it anyway. I think it's important. I have traveled on that road before. Basically, you're narrowing the lanes down. What are the lane widths now?

MR. NORMANDIN: The two through lanes are twelve foot wide, dropping down to eleven, which are still standard for this type of --

MR. KAUFMAN: I was going to say if you drop it down too much, this road does have a tendency towards high speed usage. Narrow lanes, if they're unaccompanied by anything else, can be even more

dangerous. I show you, for example, the BQE versus the Grand Central, where the lanes drop down on the BQE, drop down to like a foot and a half. Without other traffic calming, that will promote accidents. Have you considered that issue?

MR. NORMANDIN: The shoulders will still be there. It will just be stripes. It will be a visual narrowing on the outside lane. The shoulder basically turns into a ten foot wide bike lane. It's basically paint on the outside to make the driver think he's driving on narrower. The median is within the confines of the existing flush taking down.

MR. KAUFMAN: So you're using a visual cue to try and slow things down.

MR. NORMANDIN: Right, and the median we're installing is within the existing confines of the flush median now.

MR. KAUFMAN: No takings or anything like that?

MR. NORMANDIN: Right.

MR. KAUFMAN: You mention inside one place, I believe by a school, that the bike lane might start moving closer to the travel lane.

MR. NORMANDIN: We have two difficult

sections in this area. The southern end of the job, it's nonresidential. It's the LIPA right-of-way runs through there. There are no houses. It's the backs of houses; that is why people are speeding. In the beginning there are no ins and outs, no side streets. It's a straight run through there.

We have a buffer between the travel lane and bike lane. Where we come up to the north there are driveways, people's homes, the school where drop off takes place on the west side of the road.

MR. KAUFMAN: It's unavoidable to start narrower.

MR. NORMANDIN: You have to maintain the on-street parking. In doing so, the bike lane moves from the curb side between the parking lane and travel lane, which is more of a downtown urban way, to put the bike lane.

MR. KAUFMAN: The way you're describing doesn't appear to be a safety issue.

MR. NORMANDIN: The parking is not all day long there. It's during certain hours of the day. The fact that you have a car parked and a bike and car running through there at the same time, it's rare. It is a standard typical section for a bike lane.

MR. KAUFMAN: You don't see any compromise for safety?

MR. NORMANDIN: No.

MR. PICHNEY: Is there busing in the school district?

MR. NORMANDIN: Yes.

MR. PICHNEY: There isn't a real issue of parents, stressed mothers coming through in the morning sort of the clogging the area in front of the school and creating a traffic hazard just by their presence?

MR. NORMANDIN: It does happen. The beauty of the bike lane being on the inside or between, you will have the on-street parking where the drop-off takes place. The mothers with the cars doors opening up, they're into a four foot buffer. Whether they do it illegally, which is what they're doing now, now you have a hatched buffer it's really defined. Right now they just park in a ten foot area.

By defining the parking, you will bring it closer to the curb and make it safer for these conditions.

MR. PICHNEY: I have several questions. To my knowledge, this is the first time in Suffolk County, perhaps Long Island, that these kinds of traffic calming measures have been applied to a road of this type, in

terms of its configuration, its geometrics and present speed limit; is that true?

MR. NORMANDIN: That is not true.

MR. PICHNEY: On Long Island.

MR. NORMANDIN: Town of Brookhaven, Islip, Suffolk County themselves. All we're talking about is a raised median and bike lanes. Bike lanes are becoming the norm. Anywhere we can introduce them is only better.

MR. PICHNEY: I'm concerned that when these type of traffic measures were first introduced, particularly the narrowing of the lanes and bulb-outs, they were applied primarily to residential streets, where the speed limit was much lower to begin with. The City of West Palm Beach led the country in the use of traffic calming. Their bulb-outs and so forth and speed bumps, are used primarily on residential streets, you know. Different methods are applied to roads of generally higher speed than more or less service as connector routes.

So, I'm concerned that with a road where people so used to traveling very fast, particularly with the bulb-outs, that you have crazy teenagers that will play chicken with each other and lead to head-on collisions.

MR. NORMANDIN: One thing I didn't mention, is that the speed limit is forty miles per hour. We're bringing down to thirty-five miles per hour. It is residential and there is a school. The character of the roadway has actually changed from when the roadway was put in. It is used as a drag racing strip.

By having intermittent medians and bulb-outs which are outside of the travel lane at the appropriate distance, lateral clearance from the travel lane to the center median or to the curb, bulb-outs are standard. The lane widths are standard eleven foot lanes that are in the manual that the county has used, and before they have even gone down to ten for traffic calming. On more rural roads, ten foot has been used for traffic calming; we would not do that on this roadway.

Like I said earlier, it's eleven foot stripe it has another one foot to the median and another ten foot out to the curb.

MR. PICHNEY: Do you know if the county has made a commitment to have an added police presence after construction is done, just to make sure that the people understand what is going on and get them used to it?

MR. NORMANDIN: That is the police enforcement. That is an enforcement issue separate from

the Department of Public Works. The Department of Public Works will most likely do an after study, taking similar speed data and accident data and do a before and after study. That is typical of traffic calming areas, to see the effectiveness of it. There are measures, but they have to be implemented properly and you can't pull one off the shelf, think it's automatically going to work. You have to follow-up after and see if the safety has improved.

MR. PICHNEY: It's a little too late after the accidents happened, particularly with fatalities. It's somebody's life that is at risk here. Thank you very much.

THE CHAIRMAN: Can you talk a little bit what you're doing with regard to drainage?

MR. NORMANDIN: Drainage is okay on the roadway. What we are doing with the median happens to block some drainage. It will come around the curve like a banked curb, like the Indy 500. The roadway does bank in one direction.

With these medians, we will be collecting against that curb into the traffic island curb. We will add new basins to pipe it into the existing positive drainage system. There is a recharge basin right along the

project area. It's an easy tie-in to take it from the median to the recharge basin.

MS. RUSSO: I'm looking at the photos and you have an example of what this bulb-out looks like. I see the actual parking lane, the car that is shown in the picture. The pedestrians standing in the picture, it looks like they're so far out projecting into the road surface.

Let's say someone is waiting to make a left-hand turn, and he's waiting for traffic to clear. Someone comes behind them and as you said, a young driver, and they're speeding, and they decide to pass on the right. It looks like they will plow right over the bulb and hitting the people. Would it be possible to put little bollards behind it?

MR. NORMANDIN: Specifically at the bulb-outs you will see there is some proposed signs on the figure. There is usually a sign there. There is a pedestrian with a down arrow that kind of delineates it there. There is a physical sign with a vertical. You could put flexible delineators around them as a measure.

As you look on the map there, you're in the shoulder area, they're at Richard Place; there is a left turn lane, so there wouldn't be this overtaking, meaning

they will go into the shoulder to pass anybody. There is a designated left turn lane along the entire lane.

MS. GROWNEY: I'm going to bring that point up again. Often times schools people are erratic in their behavior. Kids are jumping out of cars, mothers are driving by; there is a lot of activity that is a distraction. A bollard is a very significant impact. People pay attention to them. People don't pay attention to signs, not on purpose, but we don't want to look at them.

Something which obstructs the potential of an actual car passing or car jumping the curb is a valid thing to consider. I would say at least two or three of them right there.

MR. NORMANDIN: That is a good point. We would consider that.

MR. GULBRANSEN: With regard to drainage, we heard from the county, as MS-4 coordinator and other MS-4 parties, the need to cooperate and check back and forth for this project. Did you have occasion to do that? Did you check with other municipalities to see if the drainage measures are compounding or complimentary?

MR. NORMANDIN: The entire corridor drains into the recharge basin, which then all drains in. With

this particular project, with the funding limits, it's a traffic safety project specifically, so it's not infrastructure. Just to resurface the roadway we have to get additional funds from Maintenance to get that roadway resurfaced.

MR. KAUFMAN: Question for you on the bollards. What would be the cost factor if we were to ask for bollards placed at each location?

MR. NORMANDIN: Two hundred dollars. It depends on the type. There is a flexible bollard that the county uses at splitter islands, at round abouts or raised force turn islands. Specifically Nichol's Road there are a couple of force turnouts that were just installed at the community college. They're yellow delineates.

MR. KAUFMAN: If the bollards are going to contribute to safety and they're not an incredibly large cost factor compared to eight hundred dollars on it, it's entirely doable this if council recommends that there be a little jump in the cost, even in these hard economic times, to put in a couple of bollards?

MR. NORMANDIN: There are bollards and delineators. The delineator post is what I'm talking about. If someone hits it, it's not going to be an

actual fixed object. What I'm trying to propose, a physical delineator, when someone hits it, it can go down and not bring a fixed object closer to our traffic.

MR. KAUFMAN: Like what they have in some of the tunnels going into New York City?

MR. NORMANDIN: Toll plazas and things like that.

MR. MACHTAY: What will be the median?

MR. NORMANDIN: Stamped concrete.

MR. MACHTAY: It will be paved, no landscaping?

MR. NORMANDIN: Exactly.

MR. MACHTAY: Will it have a guard rail?

MR. NORMANDIN: It will not have a guard rail, no. It is ten foot wide mountable curb, stamped concrete. No maintenance. We don't want to install any trees. Aesthetically, it's nice, but from a safety standpoint it's not, and maintenance standpoint it's not.

MR. MACHTAY: Will it have turnouts at the intersection?

MR. NORMANDIN: Yes, we actually stop them before the intersections and left turn lanes.

MS. GROWNEY: How much are the solid bollards versus the flexible ones?

MR. NORMANDIN: A thousand dollars per. I'm not sure that the DPW would like a fixed; it's like putting a telephone pole two feet off the roadway.

THE CHAIRMAN: Any other comments? Motion?

MS. RUSSO: I make a motion. Type II Neg Dec and also include the flexible reflective type -- I'm sorry, unlisted Neg Dec and the flexible markers.

MR. KAUFMAN: I'll second that motion.

THE CHAIRMAN: We have a motion and second. Any other discussion? All in favor? Motion carries. Thank you.

Motion to adopt local law declaring as surplus and authorizing the execution of a contract for the sale of two hundred fifty-five acres in Yaphank, Legacy Village Real Estate Corporation, for mixed use development, Town of Brookhaven.

Mr. Isles, thank you very much for coming for this issue.

MR. ISLES: Thank you very much, Mr. Chairman, and members of the Council on Environmental Quality. My name is Tom Isles. I'm the Director of Planning for Suffolk County. I'm here today

on the matter that was called by the Chair. As far as the logistics of this facility, certainly if any of the member of the public cannot hear me, or any member of the council, holler or stand up and I'll do my best to speak louder or speak closer to the microphone.

Thank you for the opportunity to appear today. What I would like to do is provide to you a description of the matter before you, which here again, as described in the call of the meeting, is to consider the issue of SEQRA compliance relative to Introductory Resolution 1922-2009, which is defined as a local law to consider approving a local law declaring surplus certain properties, and authorizing the county to enter into a contract of sale.

Let me begin by noting the geography. The subject property is located in the Town of Brookhaven, Hamlet of Yaphank. We do have an aerial photograph provided for your viewing. We have handouts of a similar map as well. Property is about twelve miles from Hauppauge, about twelve miles from Riverhead. It's the midpoint from the two other county centers. It is located along the south side of Long Island Expressway at the intersection with County Road 21, which is Yaphank Avenue.

The map before you does indicate the property boundaries, which are approximately nine hundred acres of land, and the areas in question that are subject to the resolution before the legislature are outlined with the pink or fuchsia color indicated on map. Obviously, I will talk about that a little bit later on.

Let me also point out to give you a sense of the scale of the aerial before you. If we are going from the railroad tracks, which is the main line of the Long Island Railroad extends through the county property, there is a train station adjacent to the county property. If we go from the railroad tracks down to Horseblock Road, that scale is one point four miles to give you a sense of the size of the property and relative distances to other property facilities and features and so forth.

Let me also point out this map does include a broader perspective. It includes the surrounding area, including the Carmans River area. County ownership is identified in blue, federal ownership in greenish color and town ownership and so forth.

The county's aquisition of property in this area began 1870. I have the deed. When the county acquired the property to construct a county farm, county alms

house that would provide a facility for indigent residents of Suffolk County in time of need, the county farm was developed at that point. There is a building on the property that is on the National Register of Historic Places. That is not a facility proposed to be included in the resolution today. The county farm is in a protected status by virtue of a resolution by the county legislature in 2003. Over the years, more recently in the 1960's and 1970's, the county expanded their holdings considerably.

As I indicated, the current acreage is about nine hundred acres. I looked back in terms of trying to understand why the county did what it did in the '60's; and '70's. As we do know, the county center at this location is developed at this time as part of those properties extensively with the county facilities, including police headquarters, Department of Public Works, Board of Elections, skilled nursing facility, county correctional facility, Probation, Fire Rescue, Emergency Services and so forth. We actually completed an inventory of the facilities, which is in the package included with the EAF submitted to this body.

One of the things I do note when the county was doing these acquisitions back in the '60's and '70's,

the county's estimated population was substantially higher than what it is today and what it's expect to be in the future. In 1962, the county's population was estimated to be, at build out, three point four million people. Right now, our population is about one and a half million. We estimate, in County Planning, we probably have a seventeen to twenty percent build out factor. We could end up with maybe one point eight million residents.

We also note too, that this part of the county at the time, back in the '60's with the population expansion, the zoning was much higher density zoning. The Pine Barrens wasn't understood as the significance of that as a groundwater and habitat feature. A lot has changed in terms of zoning and land protection. That population, is not going to be here for the extent anticipated. This is only my read back; whether it's accurate or not, I don't know. Certainly, in terms of anticipated population for need for facilities, we are at approximately half of the population anticipated.

I will point out when the county acquired the subject properties, they were acquired for general municipal purposes for the development of county facilities. They were never on an open space list that

I have able to observe. The county has been doing open space planning since a 1964 study identifying own space acquisitions and priorities during that time. And there have been others over the years. That is not to say the question, should this be preserved, is an invalid question at this time.

In terms of looking back on why was it purchased, it was purchased for the development of county facilities. Was it ever on an open space list? Not that we have able to determine going up to this point in time. Let me point out two other factors in the history of the subject properties. Of the nine hundred acres, those total about two hundred fifty-five acres as expressed in the resolution.

There were two legislative actions I would like to bring to your attention. One was the county legislature did authorize the county executive to approve a fifty acre land sale along Horseblock Road back in the late '90's. That was a tax lien property sold at auction at that time.

Secondly, the county did consider the development of two golf courses, a driving range, other recreational facilities, clubhouse and parking back in 1998. The legislature at that time considered the SEQRA action.

CEQ was involved at that time. That involved three hundred eighty-four acres, of which two hundred eighty-four acres was supposed to be cleared. The legislature did conclude the SEQRA process with the finding of no environmental significance with the mitigating measures and findings adopted by the legislature. Let me point out that the legislature did not go any further. The county did not obviously proceed with that proposal just in terms of giving you backgrounds on prior actions.

Let me turn to the surplus determination part of the resolution before you. This was initiated by an executive order from the county executive back in 2005. What he asked at that point of the County Planning Department, working with the Department of Public Works and other departments, was inventory all county facilities located in this area. We completed that assignment, extensively using the services of Public Works. We identified a hundred fifteen buildings and structures -- there are a couple of radio towers -- totaling over a million square feet of existing county buildings.

We were asked to review capital projects, identify vacant land, instructed or directed to hold at least

three public hearings. And we produced a report at that time that summarized the findings in terms of laying out how much land was dedicated to the county farm, how much was used by county municipal facilities, how much was in a special category. There is a cemetery on the property that was excluded. There is a recreation area behind police headquarters that was excluded.

The executive order then specified of the identified vacant land, one-third should be set aside for future county uses and two thirds for possible other uses and possible disposition of the property. So we did that, and the numbers are approximately four hundred thirty-seven, four hundred forty acres of vacant land identified requiring a hundred forty-five acres to be retained by the county for future county uses and approximately two hundred ninety-two acres potentially available for surplus designation. That is what happened in terms of getting to that point.

Obviously, this is a matter before the legislature in terms of that surplus determination and their consideration of that, which we certainly fully respect their review of that and we're the main lead. The legislature convened a committee to assist in looking at the goals for a possible RFP on the property to provide

guidance and help coordinate public outreach. There were three public hearings held in 2005. They were attended by about two thousand people.

Let me point out many of the people were motor sports enthusiasts. There was a strong interest at that time in perhaps doing a NASCAR like facility. Residents of the community were also present. I don't want to mislead and say two thousand people from the community were there. It was a broad constituency there, many of which were motor sports enthusiasts. There was a significant effort to engage public comment at that time.

From that, a Request for Expression of Interest was issued. Even though we were given the option to do an RFP, Request for Proposals, or RFVI, the decision was made to do a Request for Expression of Interest to see what is out there in a nonbinding manner. That resulted in a submission of eleven proposals, eleven ideas that came forward.

There was then a second legislative committee created, and the purpose of that committee was to look at the RFVI submissions to evaluate the submissions and bring forward recommendations that can go into an RFP. The submissions included horse racing track, gambling in

terms of video lottery terminals as well as the motor sports proposal. There was a submission of residential, there was a submission of commercial. There was quite a gamut of proposals.

The committee held an open house at Longwood High School June of 2006 in the gymnasium and provided an opportunity for everyone to go through and see what the proposals entailed and provided an opportunity for everyone to provide comments individually to a steno. The committee completed its work in September 2006 and issued a report, which is also part of the package before you today. The committee made thirty-four primary recommendations; here again, a response to the RFVI submission requesting or asking the county to consider putting these considerations into the RFP.

A lot dealt with issues of land use; no, this is really not the site for a motor sports track. They dealt with proximity of residential. Several proposals included residential down by Horseblock Road that is a more industrial area, and the zoning is industrial in the Town of Brookhaven. Therefore, the committee suggested that the residential be moved to the north end of the property.

There are thirty-four recommendations. All the

recommendations were factored into the RFP. We provided a report to the legislature in September this year in terms of our review in identifying each of the recommendations and what happened to that as far as the RFP. The committee helped shape the concept of what should go out there. Let me point out, it was not the job of the committee to endorse the project, it was to provide the guidance. We are not suggesting that they gave a green stamp of approval. It was a process. It was not conclusion.

An RFP was issued January 2007, that included a description of obviously, the intention of the county as expressed through the county executive at that time. It included the description of the four areas. We will probably have some extensive discussion to those today. There are four areas on the property. Area A is on the northeast corner of the property. Then there are areas B, C and D on the west side of the property. In each of those areas, in the RFP there was a section dealing with land use concepts, and it provided a general description of what the county was soliciting -- was seeking in terms of ideas as far as the RFP.

From this process, which was issued January 2007, the RFP's were received on April 30, 2007. Then began a

very lengthy process for the review of the RFP proposals. Two proposals were received by the county. That process was indeed extensive, detailed, and in the midst of the process, September 2008, there was a radical change in the financial climate of the world, a recession; certainly there was a lot of due diligence and review, multiple review of financial information.

From that very exhaustive process, a selected developer was identified July 2009. That became a milestone in terms of up until now it's been an ambiguous thing as to who is proposing what, what is going to happen here. We now have a developer who has been identified through the process, and that is part of the consideration in the resolution as being considered by the resolution as to whether or not the county should move forward with the contract with this developer. Certainly that is a key point.

Let me now talk more specifically about the action and the matter specifically before CEQ. As indicated, the resolution speaks as follows: It's the approval of a local law declaring surplus and authorizing the county to enter into a contract of sale for Legacy Village Real Estate group L.L.C. for mixed use development. An Environmental Assessment Form has been completed, Parts

1, 2 and 3 of the form, and supplied that part to the commission to the county legislature.

The area is divided into four areas, A, B, C and D. To talk about the current conditions, what I'm doing at this point is providing a very brief overview of the content of the EAF. Obviously, you have received that and certainly we will certainly understand that you will be reviewing that very closely. I'm not intending to say everything, but I just want to provide an overview.

In terms of current conditions of the property, most of the property is currently undeveloped. Most of the property is currently wooded. In terms of the eighty-eight percent of the site is B, C and D on the west side, which is the brunt of the land is pinewood land. There is a small portion of it which is pitch pine and new colonization of new vegetation type. For areas B, C and D, they're significantly wooded at this point. There are some fire roads cut through that. Essentially, that is the condition of area of that property.

Area A is the area by the Expressway and Yaphank Avenue that is partially developed. Contains a county Department of Public Works highway yard and includes

buildings used in conjunction with the highway yard, including garages, storage buildings and also two salt storage domes, parking, outside storage of materials that are used by the highway division of the Department of Public Works, those related facilities.

There is also a parking lot for the Board of Elections with about ninety parking places, servicing the Board of Elections building, which is not part of the surplus, but the parking is there. A small, what is called a doctor's cottage which is a small residential structure that is within the area subject to the matter before you that has been used for various county office use over the years. It's a modest structure of less than two thousand square feet. There is also a storage building next to that.

The area -- fourteen acres is cleared for buildings. Area A is about thirty-four acres. Just get a relative sense of the sizes involved with that. Area B, which is behind police headquarters and recreation fields used by the Mastic Youth Sports League, part of a hundred twenty-two acres. That is part of resolution.

Area C is not included in the resolution, and is about twenty-nine to thirty acres proposed for recreational development. Proposed to be retained

ownership of Suffolk County. However, the developer if this moves forward, would be required to complete the improvements, but it's not part of the land to be proposed to be transferred or declared surplus.

The last area is Area D, to the south end of the property. That area is proposed for industrial research and development type uses. That totals approximately ninety-five acres. Obviously, all the acreages are subject to the survey to confirm.

Let me point out too, that the current zoning of the four areas that we're talking about, based on Town of Brookhaven zoning, which has zoning authority, is predominantly L-1 zoning, which incorporates approximately a hundred eighty-seven acres of the area we're talking about on the west side of the property. A portion of Area B, which is closer to the soccer fields is A-1 residential, and all of area A is A-1 residential.

The EAF provides information, in terms of a number of other factors which I will highlight. As indicated, the property is in the vicinity of the Carmans River corridor. We have indicated the setback distances. Area A, we estimate a setback distance of seven hundred fifty feet. Area B, we estimate a distance of six

thousand six hundred fifty feet. Area C and D, we estimate a distance of nine thousand eight thousand eighty feet.

We also describe soils found in the property based on U.S. soils records. Topography is generally flat to moderately sloping with slopes of zero to ten percent. Groundwater is a consideration. Depth to groundwater is estimated to be greater than sixteen feet for most of the subject property. It's in the watershed of the Carmans River. Certainly Area A is and probably the remaining areas, but for groundwater purposes, it is to be considered in the watershed.

The property is not in the Pine Barrens. Pine Barrens exists to the north of the Expressway and within Southaven County Park, but the subject properties before you are not. They're not within special groundwater protection area or critical environmental area or flood plain. This is not to diminish the significance of the Carmans River where the county actively preserved land and understands the importance of the Carmans River.

As far as SEQRA, it's our opinion that the action before the legislature is a Type I. It's a sale of property that would exceed one hundred acres, just on one threshold of SEQRA. There are other thresholds as

well.

We do believe in this case, a Negative Declaration warrants consideration, and we would like to explain the reasons for that. This matter is a multi-phase process. We are dealing with an action before the legislature right now to declare the property surplus and authorize a contract. It is, however, subject to a process with the Town of Brookhaven, as the Town of Brookhaven is the authority with land use and land development control authority.

Other agencies potentially involved down the road, Department of Health, Public Works, New York State DEC, and New York State DOT and perhaps other agencies. In terms of the lead authority, we believe that it would rest most appropriately with the Town of Brookhaven in terms of SEQRA review.

The contract subordinates itself to review for all zoning, all subdivisions, site plan variances are all subject to whatever agencies have those authorities. I'll point out that the county and developing county facilities is not subject to local zoning. When the county considers development at this location, such as a skilled nursing facility, the county is the final declaration. Obviously, in this case, we believe that

the town has zoning authority and here again, the contract subordinates itself to that.

Another point too, is that when the actual plans are prepared and submitted to the town, it will be necessary and appropriate to conduct a comprehensive and environmental review of all impacts. One of the things you will note in the contract, which is part of the package before you, is that the contract anticipates the possibility of changes. I think that is probably an understatement. It talks about the idea of a pre-application meeting process with the Town of Brookhaven about the land use and decision making authority with the town. It talks about in the event they say no, there is an option to come back and make changes and somehow address that, obviously with appropriate approvals and so forth.

Even before the pre-application process there is a clause in the contract about the developer going out and talking to the community and doing research if that results in changes, not to mention once there is a formal application made to the Town of Brookhaven, here again, the contract provides comment and direction that changes happen in that process. So the town actions are independent of the county actions.

We have a situation, then, where we believe that falls under the authority of the Town of Brookhaven, as far as the primary actions that will result in the physical authorization of the site to determine the outcome of the physical aspects of the site, but the prior action in terms of consideration by the county for the prior buildings in terms of IR-1922 also need to be done.

Therefore, we think that the case exists and SEQRA provides for, in appropriate circumstances, permissible segmentation. We know it's not an easy thing to accept, and that is why we wanted to provide as much information to you as possible. But we think it's a case where it's clearly demonstrated that this would be the most appropriate way of handling this, that this would be no less protective of the environment, described further in Part 3 that is before you.

I would like to make a couple of examples in terms of we look at some other complex projects that have gone on in Long Island. I have been involved with a couple directly, others indirectly. Thinking back to several parcels that the State of New York sold, one being the Central Islip Psychiatric Center where the states sold off several hundreds of acres of land back in the early

'80's, and the level of environmental review at that point, going back to 1982 and '83 was rather minimal, if at all. I won't speak directly to what they did; I was Commissioner of Islip at that time.

In '86 or '87, we received an application for development based on that sale of property from New York State to New York Institute of Technology. It was in contract to sell to a developer. We then required a Master Plan for the property. We then required a Generic Environmental Impact Statement, and that is when the full environmental review happened. It encompassed eight hundred acres.

Similarly, I'm looking at Pilgrim State Hospital, where the state actually did a plan for surplus properties in 1995 and '96. As Planning Commissioner of Islip, I sat on the committee. We completed a plan that talked about the development of three million square feet of facilities, and detailed what those facilities would be, residential, sports entertainment center and so forth. The state then proceeded to sell the property. It actually took three times to sell it. They did sell it to an entity principally owned by Jerry Wolkoff, Heartland, and the Town of Islip is now conducting an environmental review.

It's not a situation where the state completed SEQRA from the information that I have, and closed the SEQRA process and the town is now adopting findings or the town is now doing a supplemental. The town is doing a Draft and Final Impact Statement process. I believe that the town is correct, or the state is correct in this circumstance of Central Islip and Pilgrim. Here again, the local agency controls what happens to that property.

Other examples would be LIDC. Once again, the state sold land, went to the Town of Huntington. Huntington was then the lead agency and conducted the environmental review. A fourth example would be Gabreski Airport in Westhampton Beach, which is a county owned facility. There has been a long debate for years as to who should be lead agency. The two agencies were locking horns for years. When the current county executive came into office, he looked at it and said why isn't something happening; it's been talked about for years. Let's build an industrial park here.

County executive sat down with the supervisor of the town and said you want to be lead agency, then be lead agency here. That's how it got resolved. The county said yes, we will defer to the town for Master

Plan, for lead agency status, and the town had intentions for building an industrial park here. It wasn't some unknown or vague plan out in Mars or something. In that case and others, the town, who controlled the land use, conducted that and completed SEQRA. The legislature subsequently adopted a finding statement and granted lead authorization and so forth.

I would like to make another point. I believe the county can do a more than adequate handling of the SEQRA review, if that were the case, and Final Environmental Impact Statement. I'll make note of two cases. One is Epcal, where the town of Riverhead owns the land, is selling land and is lead agency on the environmental review. I don't take this point, but some people say why should the town be the lead agency if they're doing the review. I'm sure the town will do a more than adequate review, but a question was raised. I don't know, but I understand the point.

Similarly, with Caithness, which is not too far from here, LIPA was the lead agency in the environmental review. I have no reason to believe they didn't do a thorough job. I'm sure they did, but the argument can be made, should they be doing when they're benefiting; they're in contract to purchase the power.

The point is a significant point. We defer to your judgement. We have highest respect for the board. We think there is a valid path to be taken that we think provides for the best method of analysis. In this case, we are respectful of other opinions that may exist.

Let me close by saying we have here today for additional information. We know that you're getting a lot of information today. We are here to assist in that effort as much as we can. We have here with us a representative from the County Attorney, Robert Braun, Chief Deputy County Executive, Chris Kent, who I believe is here with us today. Carrie Meek-Gallagher, Commissioner for Environmental Energy and Ben Wright, Chief Engineer for the Suffolk County Department of Public Works in charge of wastewater and sewers, and Jim Bagg, certainly a name known to you.

MR. KAUFMAN: Never heard of him.

MR. ISLES: Jim Bagg was involved in the preparation of the environmental assessment. We stand prepared to address whatever questions you have to the extent that we can.

THE CHAIRMAN: Tom, what I think I will do is give our stenographer a five minute break. Then I have a number of questions and issues that I would like to go

over with you, if you don't mind.

(The hearing was recessed at 10:50 a.m. and resumed at 11:00 a.m.)

THE CHAIRMAN: Tom, this project, I think has many merits. As you know, we're here today really to discuss the hot bottom of environmental issues. I don't think any of us will be talking about the overall merits of the project because certainly there is a lot of things that we know that the county wants to do and this project addresses. Those are very important, but we have to focus on the environmental aspect.

MR. ISLES: Understood.

THE CHAIRMAN: I would like to go through, just to provide a little structure. A number of things have come up with regard to our review of the project. I will introduce them and probably others on the board will speak to them as we go through them.

My first question for you is on Page 14 of the RFP dated January 2007. It says the county will prepare A Generic Environmental Statement, GEIS, end quote. You say in that paragraph that it's because of the scope of the project. I am wondering why you are backing away from that now.

MR. ISLES: There is a subsequent addendum

the RFP that presented a question to changing that and having the developer conduct or complete SEQRA, with the Town of Brookhaven. The feeling on that was that it would be a better way of handling it as we got further into this. Here again, going back to some of the comments I said before, the town's role, controlling the development of the property, also based upon similar experiences with other larger projects, as I mentioned as well.

THE CHAIRMAN: I guess, as you already know, my concerns stem from the fact that the county has specified what the development of the two hundred fifty-five acres is going to be. It then says that even though this is what the county wants, Town of Brookhaven is free to do what they need to do with zoning. Nevertheless, I don't think there is any question, but sort of the top down guidance is this will be shoehorned in; in fact, it will be shoehorned into the -- if the developer doesn't get pretty much what he wants, he can back away from it.

It seems to me, in this issue of segmentation, that because the county has specified what, in fact, the project is to be, at least in very broad terms, that it can't be segmented. That issue really bothers me. I

know you have addressed it.

MR. ISLES: Right.

THE CHAIRMAN: I think that is where I'm hung up and apparently other members of the board that are concerned as well.

MR. ISLES: Although I do understand the concern, I do understand the points. We believe that the intent on specifying or describing some of the concepts, determining the RFP's land use concepts, was that the county, I don't believe when it wanted to look at any possible use under the sun, such as a drag strip or race track or gambling, the county wanted to somewhat narrow down the possibilities, provide guidance to the responders in the RFP in terms of this is generally what we have in mind and we would like to hear back from you, but making this very clear that this is particularly subject to the lead agency and legislative bodies and bodies that control land use.

There are a number of paths along the way whereby there are opportunities for project modification to address community concerns, environmental concerns, and indeed there is a failure option that the contract can be terminated. The whole proposal collapses. Here again, for the reasons addressed in the documents we

have provided to you, we believe this is a case where we believe perhaps segmentation does make sense, here again, by the fact there are two primary authorities, the county legislature and Town of Brookhaven.

Certainly I'll defer to some of my colleagues if there is additional information they want to provide either now or later on, but that is our feeling on it.

THE CHAIRMAN: Any other board members have questions on segmentation?

MR. GULBRANSEN: Following Chairman Swanson's comment about the RFP, on Page 14 the paragraph following that statement, to do a DEIS, the next comment talks about wastewater disposal and jurisdiction of the Suffolk County Department of Wastewater Services, county sewer treatment and county authority, and on Page 43, the conditions associated with the sale, which in fact continue, if you turn to contract terms, subject to. There are words that essentially reiterate Part Number 3, which says here that all uses connect to the sewage treatment plan and that the plant be expanded as needed.

Is there a new thinking or different thinking about what level of government is responsible for the wastewater disposal and determination for "as needed?"

Is that something that you feel is appropriate to subordinate to a subsequent, SEQRA by a different level of government.

MR. ISLES: Yes, the reason for that answer, this all hinges on the Town of Brookhaven. It doesn't get to Brookhaven if the county doesn't move it forward. The question of impacts, alternatives, will be dependent on the Town of Brookhaven, what the exercise of their zoning authority chooses to do. If they go with the proposal as put forward, there is impact to wastewater treatment and trash and so on. If they feel another alternative is the preferred alternative, that changes all the other aspects, the mitigation impact and so forth.

I believe it's correct, if the matter of being subordinate to the Town of Brookhaven, the home use, with not wanting to go around the permitting, obviously, the zoning process is one which by law requires public notice, public participation, public hearings as well SEQRA. All of that would happen at that time. Here again, the iterative process in terns of gathering information, being able to then hopefully make the best decisions --

MR. GULBRANSEN: If I can follow up with a

comment. As I understand the planning forum, mitigation of wastewater, yes, the town will have that consideration to make. The facility that I believe is being indicated as available to be hooked up is issued a state permit, and in that watershed, unfortunately, there isn't yet a Master Plan with regard to the groundwater. Other watersheds, many levels of government have agreed to allocations, how much load of nitrogen can come from this part of the watershed. Once those loads have been allocated, then within the watershed there is plenty of chance to trade. If you want to do more, I'll do less.

This watershed hadn't gotten, to my knowledge, this Master Plan set yet. It feels like we're missing a chance to do it right on a watershed scale if we drop it down to the site level to say what does it take to handle the load coming from that one site.

In fact, what is needed really, it turns into a functional analysis, there are people that are going to come. They're going to eat. It's their nutrition that turns into nutrients that turns into waste. That is going to happen. That waste is a new load into the area.

Treatment can actually remove it and it can be

released from the system as gas or exited as solid, or it can just be treated a little bit and sent along its way down the nitrogen cascade to the water body. The as needed treatment, some of us feel, is better done on a watershed scale, not a site scale, through a zoning decision on the town level.

MR. ISLES: Couple of responses. Number one, both CEC as well as County Health Department as well as Department of Public Works would be involved agencies if the Town of Brookhaven were the lead agency. They would be involved agencies. They would be expected to participate in the SEQRA process. In fact, there is language to that in part of the documents that we provided to you.

Secondly, as part of this process, as information is brought forward in terms of what is the impact in terms of wastewater, how much are we talking about in terms of volumes in there is then the opportunity to measure to assess, and to look at alternatives and mitigation measures, such as is the conventional treatment method tertiary level treatment that that plant currently provides. Is that adequate. If it's not adequate, to what extent is it not adequate.

What impacts would there be further east. Carmans

River are there alternatives, that perhaps has no development. Is there an alternative such as a relocation of the groundwater discharge plant to a location where it's not impacting the Carmans River watershed. I don't know.

Is there also an alternative for a higher level of treatment that would remove or reduce further the parts per million. That is something typically part of the process. Certainly, if there is comment and suggestions that CEQ wants to pass along on this that has been as needed material is not satisfactory, we would certainly be open to that.

As far as the watershed, there is no diminishment of that issue. The county going back to the 2008 study, groundwater is the first sole source aquifer in the United States declared in Suffolk County. That is a paramount issue. That is one of the natural resources that we are blessed with. Our groundwater supply is critical to us; we all know that. Certainly understanding, too, its impact to coastal water bodies and streams and so forth, there have been extensive -- certainly the 208 study and special groundwater protection plan that have sought to protect the resources, we are cognizant, and Suffolk County is

participating in an effort to look at the watershed in a macro sense.

I believe that my understanding is that a zoning process with Brookhaven would be a lengthy process, and certainly, as information becomes available that informs, I would expect that that would be put into the process.

THE CHAIRMAN: Just to follow up, I want to follow up on this a little bit. As I understand it, you're asking for about one thousand seventy-two housing units.

MR. ISLES: What the RFP provided for was the suggested amount of a thousand units. Residential units, with the RFP responses, we received two responses, they provided two alternatives, one with approximately a thousand units and one with two thousand units. We felt that was too much.

To more directly answer your question, Mr. Chair, the project, in terms of the proposal that was put forth in the RFP, provides for seventy one bedroom units in Area A, one thousand units in Area B. Two hundred fifteen of those units would have an accessory apartment, a thousand -- two hundred fifteen accessory apartments co-joined with a townhouse on owner occupied

units, and seventy apartments.

THE CHAIRMAN: As I mentioned to you yesterday, my concern is that I, as the professional, I feel that the county is built out in terms of its ability to handle, have the environment handle sewage. If I go to try not to have new plants, to consolidate new plants, if this were to move forward and Brookhaven would approve it, it would be tied into the county plant and the county plant would be expanded accordingly. We don't know for certain, because we are not there, but that is what we believe would happen.

We believe it's a highly important issue and would be part of the review process if it were to move forward.

MR. KAUFMAN: Your response to testimony really shows a regional imperative exists, not just the Town of Brookhaven controlling things, if there is going to be a regional impact upon the watershed. While I have great respect for the Town of Brookhaven, it concerns me, if you will, that the county in this particular area, with all of the county facilities, county parks, et cetera, being in this area, it worries me that essentially there is a passing on of the responsibilities. That is just a comment.

If you want to have a negative declaration on this if you want the segmentation argument to stick, we have to be very protective of the environment. How can we been no less protective of the environment, as SEQRA requires, if the documents, the contract and RFP that we are asked to bless as having no negative impact, that they are loaded with imperatives? It's a road map in there, goes from fifteen to fifty-seven million dollars. The contract that we're asked to say has no possible impact has a road map. How can we say it's no less protective?

If you want us to ignore the contract's intent, even with the possible EIS at the town's level, how can the contract be protected when the contract itself has the road map? Admittedly, it has variations in it as to how much development can occur. How can the document that you want us to review and say it's protected when within the document itself there are these factors?

MR. ISLES: Number one, we're not denying it's in the document. From day one, when the county executive spoke on this, he spoke of his vision. The county was concerned about the idea of selling it with the idea of having no idea of what was going to happen here, and wanted to provide at least some direction.

Your judgment is your judgment. If you feel this is a case where it should be Pos Dec'd, I certainly respect that. I understand that. We believe that given the town involvement, this is not a case where the county is going to decide to build a county works building. There is a chicken and egg situation here. The fact that the contract talks about consideration of the range of fifteen million to fifty-seven million, this gives you an idea of how open-ended this is.

I respect your point. Whatever the board decides, it decides. We do feel this is a circumstance where segmentation can be done in an appropriate matter.

MR. KAUFMAN: Just let me finish. To really get to it Neg Dec though, you have to really show and make a specific showing that is what SEQRA requires, and your own documentation requires that it is somehow no less protective, and that is where I get hung up in that we are dealing with a contract. We talked about this yesterday with the attorneys, and it's an open-ended issue. As you were just saying, it's a chicken and egg situation, but it is what it is right now. We are sitting here judging a county action, not a Town of Brookhaven action. I understand that you want to pass it onto the town.

MR. ISLES: I'm not arguing with you at that point. It's your decision, based on the action before you.

MR. GULBRANSEN: I'll try to get back to the segmentation issue. Segmentation, at least in my experience, is dealt with in making sure that full cumulative impacts are looked at, so you're not segmenting sections of the project that might not meet the threshold of cumulative impacts. Should this make a case where we should further segment in a strange way.

We are seeing the county component, which is basically to transfer the land, is being done in one action. The Brookhaven piece is another. This, to me, should be two actions as well. You're asking us, not you per se, but the county executive is asking us to declare it surplus, which to me is based on a determination that the county population is less than at the time that the land was set aside; that we have adequate space for the facilities. That has its own set of considerations to look at in declaring something surplus.

Then you are asking us, in one jump, or the county executive is, to also authorize the contract of sale to the development for purposes that currently aren't zoned

on the property for more intensive use than it's currently zoned. That, to me, is a separate action. If it were declared surplus, that land would sit there. Land being held for municipal purposes for land that the county decided is not needed for municipal purposes. Selling the land on an open market to an individual would currently have to be developed according to local zoning. That would have to go through the town planning process, I imagine a very careful environmental analysis.

This contract is a little different because it contemplates, or really requires the development beyond what is locally zoned for higher density. To me, that complicates this quite a bit in terms of its SEQRA. It would be almost impossible for me to say this is not going to have an environmental impact. May not have strong environmental impacts when we are authorizing -- seem to be approving an action for development beyond what it's ever been contemplated.

This hadn't been through the legislature. This is entirely the county executive. We haven't had a chance to review.

After you declare something surplus, you look at the highest and best uses compatible with the community

and make a decision based on that. We seem to be circumventing that and jumping right to a sale, and that makes it difficult in terms of analysis.

MR. ISLES: In terms of not having any, I think you said something to the effect this proposal may have more intensity or more development than what is currently allowed. The county is exempt from zoning. I don't know what the county is going to do in the future with the property. It was purchased for the purpose of county purposes. In terms of local zoning, approximately a hundred seventy-one acres is zoned L Industrial. Is that more or less? I don't know. The FAR is about three five for industrial. The max would be two point eight million feet of industrial there. Is that more or less? I don't know.

As far as the question of the two step process hearing, that is not for me to comment on. I think the issue from it county executive perspective I'm not going to speak for him -- he has a representative here today -- to go to the legislature. I think he felt to have it associated with what do you have in mind, who would buy it. That is my understanding.

MR. SCHNEIDERMAN: Declaring it surplus, I could see that being a Type II action on the SEQRA.

MR. ISLES: Yes.

MR. SCHNEIDERMAN: We know authorizing a sale, it's automatically a Type I. You have clearly two different elements; one is Type 2 and one is Type I, and they are being combined.

MR. ISLES: I understand the point. I was adding information in terms of my understanding of why it's presented that way. I'm not disagreeing that it can't be presented a different way.

MR. SCHNEIDERMAN: It would make our job simpler if it were divided into two different actions.

MR. ISLES: Understood.

MR. PICHNEY: Is there a representative from Brookhaven Town that could speak on behalf of the town?

MR. ISLES: Not to my knowledge. They were given notice of this meeting.

MR. PICHNEY: Has the Town of Brookhaven publicly come out and said that they are willing to participate in this process? You mentioned Gabreski Airport where the town was fighting with the county regarding who would take the lead. I simply don't see that here. Brookhaven has been absent from this process. I don't expect you to comment on that. Just to address that.

Secondly, it's unclear to me whether the subject property is within the watershed. We received letters from various civic groups and environmental groups that assumed up front that it was in the watershed. Only one letter, I believe from a consortium of civic groups and environmental groups, said that hadn't been determined yet. In your documentation, your studies, you said it was outside of the watershed, and in your comments a few minutes ago, you kind of glossed that over.

Can it been made clear what is in the watershed and what is not in the watershed?

MR. ISLES: I apologize. There is a topographic watershed for water runoff and watershed in terms of groundwater shed. There has been information from the Suffolk County of Health Services.

MR. MACHTAY: The watershed from the Carmans River. This property is not principally -- not completely within the watershed. Groundwater surface watershed is in the watershed. We are not arguing that we provided distances to the actual Carmans River for your information as well.

MR. PICHNEY: The aspect of the regional issues have been brought up in terms of the Carmans River watershed. The subject parcels are bounded on

three sides by county roads. They most certainly would need to be improved as a result of this. In the economic climate, we don't know whether there is money available to do that. Certainly with the federal funds used with the TIP process, if this were approved today, it would take ten years before the roads could be improved.

MR. ISLES: The RFP did indicate that the developer would be responsible for improvements as a result of development. Project necessary improvements would include traffic improvement. The contract also speaks to that they are required to assess those impacts, whatever they may be, and conduct mitigation of that.

MR. PICHNEY: We may be talking millions of dollars of improvements, perhaps more than the developer pays for the property.

MR. ISLES: In which case, I guess they wouldn't go forward with the development. That is something the EIS would address.

MR. PICHNEY: Worker housing. We talked about where that could go county-wide, and even the jobs issue in this economic climate, both for construction workers and afterwards and in terms of the light

industrial uses. Certainly jobs are a regional issue as well. It seems that it would require examining the entire corridor in terms of all these various impacts; to a lesser extent, in terms of kind of moving things around, if it would be possible, to your knowledge, to develop the out parcel in terms of being the one closest to the river.

Having worked in that area for fifteen years, that is certainly the nicest strand of trees around, certainly a different character from the rest of the properties. To preserve that would provide a nice buffer off the Expressway and to the people living in the village area.

Secondly, placing a stadium there would have a tremendous traffic impact on the Expressway, and I believe a stadium would be above the tree line and visible from the Historic District. If a stadium could be relocated to Parcel D where it could spread out the traffic a little better and closer to, in terms of the other uses there, the composting facility, former Grucci property, it would have less impact, would be less visible and less impact on residential properties.

MR. ISLES: In terms of is it possible to remove Area A, my understanding of the contract, there

are numerous points where there is flexibility designed into it. My understanding is once this starts, the process, in terms of land use aspects of it, things of that nature could be discussed. Whether that would happen, I don't know, but I believe the contract allows for that.

MR. PICHNEY: In terms of properties that did not belong to the county, thinking specifically of the existing farmland that is at the intersection of Gerard and Yaphank Avenue, I believe that is a hundred fifty acres. Is that proposed for senior housing?

MR. ISLES: Not to my knowledge. This is a farm located on the east side of Yaphank Avenue. I thought it was fifty acres. I could be incorrect. It was recommended by the legislature. We don't have an interested seller. Last time I was aware of it, I'm not aware of any applications to the Town of Brookhaven for development. I could be mistaken.

MR. PICHNEY: I think you would agree it's private property. That purchase of the development rights would go a long way to maintaining some of the rural character there, even if some of the development were to go through.

MR. ISLES: That was in the RFP, the

examination of ways of preserving the farm through transfer rights. That would be something considered at the town level. It is out there. Whether it's going to happen, I don't know, but it is something that the RFP review committee brought forward to us, and it was included in the RFP.

MR. MACHTAY: First I'd like to say Tom, you did an excellent job of presenting; your answers are very concise and very good.

MR. ISLES: Thank you.

MR. MACHTAY: Just because New York State chooses to ignore the state law, and school districts chose to ignore state law and various towns and villages chose to do that, doesn't mean that Suffolk County in this particular instance should do that. I'm not suggesting that, you know, anybody is trying to finagle anything, it's just fact, are you right, New York State just ignores the laws of the land. You and I have discussed that.

MR. ISLES: As former director, yes.

MR. MACHTAY: One planning director to another planning director, yes. It always falls on the shoulders of the town. The town usually being that agency that has the most interest in what is going to

happen with the property.

The county has a number of things going on here. As Mike Kaufman tried to point out, you put out an RFP. You put out a plan that you would like to see executed for the property. Whether the town will approve it or not is another thing. Many of the things that this gentlemen sitting next to me was talking about would be addressed in an impact statement. If you think about the location of things, eliminating a piece of property, all the alternatives would be addressed in an impact statement.

Any impact statement, if the county gave it a positive declaration, I think the resolution would have to explain to the town, if they don't quite understand, that they only get one bite of the apple with SEQRA; that is to say, they will not have the opportunity to do another SEQRA review if the county does it.

THE FLOOR: That's not true.

MR. MACHTAY: They would have to make their concerns known to the applicant. When he prepares the Draft Environmental Impact Statement for the county, it would have to also address the town's issue. SEQRA is convoluted enough, but that is something that has been debated in the courts and decided.

Also, the town doesn't have an application in front of it to be an involved agency or to be a co-lead agency. There have been instances of both. I know, as director of planning for the Town of Huntington, we were designated by the commissioner in Albany, commissioner of the State DEC to be lead agency on something that we had no application for, and had freshwater wetlands needed permits from the state, needed permits from the DOT. Yet we were going to be lead agency.

I said, what do we review? We have nothing here. How do we do that? Well, in this particular case, there is something. That is the RFP. And it sort of lays out what the county, if everything was a perfect world, what the county would like to see there. Affordable housing, protecting groundwater, traffic, roads, and so on and so forth.

There are other issues, though, and those other issues go back to the social, economic, and concerns of the county, and they are county regional issues. Jobs; is this the right place for those jobs? Is this the right place for the industry? You know, there are parks in the neighborhood. Can the parks take a greater population? Will they get trampled down and misused? If you put in a thousand homes, how many children will

there be. That number, we can juggle that number around all you want and come up with different numbers. Sometimes it makes sense and sometimes it doesn't.

So I think that there are far more issues than will it pollute groundwater, will it hurt the river, and things like that. When he talks about a stadium being too visible from the Expressway, being visible from the Historic District, okay, maybe there is another place on the property where a stadium can be put. I don't know; that is what you do an impact statement for, to decide all these things and see where it can go, and if it can't fit, it's eliminated and something else goes.

So I think to rush to judgment and say, it's okay to segment it and it's okay to do a Neg Dec on the county's part and let's flip it over to the town, it kind of is not taking responsibility for what we ought to be taking. I say we, in a very broad sense because we as the CEQ, we all live here in Suffolk County and we are all concerned about what happens. And the people that work for you, live here, that are on the legislature, live here. And we want to see the right thing done.

So now, that I have grandstanded a little bit, I just want to make those points.

MR. SCHNEIDERMAN: Picking up on that discussion, sounds like there is a possibility that this could be done as a two stage process with two separate EIS's. That may sound very complicated, but the first EIS on a Positive Declaration about declaring it surplus and selling it to whoever the private sector would be, such an EIS, clearly the scope would be very different, very similar to the kinds of considerations that were just discussed. Since it would be the county's action, the county would obviously have to do that EIS.

If it got past that stage, and yes, it was declared surplus, permitted to be sold to the private sector, then it seems like the Town of Brookhaven would have to do, based on the scale of development, a separate EIS done by the developer in this case, paid for by the developer on the actual development of the property. It sounds like there may be two things happening here, even of which rises to the threshold of requiring an Environmental Impact Statement, but requiring two separate entities.

MR. MACHTAY: That is exactly opposite of what SEQRA is meant for. It's to make it all happen in a shorter period of time in a condensed way so that you are not doing multiple impact statements all over the

place. Brookhaven is not going to get a second bite of the apple if the county does an impact statement and Brookhaven does not participate.

MR. SCHNEIDERMAN: There are two things going on here. From a SEQRA perspective, this is kind of murky.

MR. MACHTAY: It's a nightmare. By the same token, you have to assess the alternatives in SEQRA; that is what it's for. For the county to do the impact statement, I'll tell you what the impact statement will say. The impact statement will say exactly what we're saying right now, declaring it surplus and selling the property is no impact because the county is not developing it, so we will flip it to the town to do the impact statement.

Doing that has an inherent reasoning that something is going to happen, something is going to get developed on land that right now is not developable except by the county in some vague way. And it should be one impact statement. It's a project.

MS. GROWNEY: Tom, thank you for your descriptions. To me, this whole thing hinges on the regional impact and environment. That being said, let me say I applaud the intent of the project in terms of

what it's trying to address regionally. The workforce housing is really paramount. I don't know if this location is the primary spot for it. The technology park is real critical to Long Island on many levels; that I applaud tremendously.

Bringing that interest point up makes me move on to something else. If you're going to include some sort of technology park on the property, every aspect of the development should be very safely consulted so it includes every aspect of energy technology available. If there is an issue with the wastewater management program, it be reutilized in an energy conscious way.

Every aspect of the ballpark, for example. There is a lot of light pollution, noise pollution with ballparks. If something of that scale and type is going to be considered, then is there a very definite clear look that has to be made towards mitigating those issues. I'm not going to say you should or should not have it, I'm saying this is a big thing.

There is another major factor to that; that is the maintenance aspect of all these things, not just how it's going to be designed going forward. You have to think about the maintenance factors, the traffic factors.

The other key issue, I think, has to do again with environmental issues, the site plume that is here. There is no mention about that. There are factors that are well known amongst people, in many municipalities are aware of it, that needs to be addressed in terms of its size, its direction, how much, how far down, where is it in relation to the water aquifer, et cetera, et cetera.

Those are key environmental issues that we are dealing were in terms of the big picture. I understand the separation is going on here. These are factors that are very paramount that need to be addressed.

MR. ISLES: This is proposed as zero energy development.

MS. GROWNEY: When you talk about the wastewater management, there was nothing really discussed about it.

THE CHAIRMAN: Just to follow up on that, I think one of the concerns that I have was you used things like zero energy and green buildings as a sort of a selling point. But the fact remains that once this is turned over to private hands, what is to guarantee that the green buildings are going to remain green? The real problem with green buildings is in the maintenance

of them as green buildings; that is typically ignored. We also have to be concerned about the energy facility as well, who is going to be responsible for that.

MR. ISLES: It's in the impact that if this were to move forward, this facility would have to be developed. There has been discussion of methane recovery. I'm not sure if that is going to go or not. Solar voltaic systems and so forth; that would have to be part of the development of the property, as well as lead standards for the commercial buildings.

THE CHAIRMAN: That's one reason why the private package sewage treatment plants don't work. They usually devolve because of poor maintenance, getting people that don't know how to run them, operating them for the government entity that set it up is relieved of duties and responsibilities.

MR. ISLES: That is why a lot initial decisions are important. It's not as if there is no discussion of energy consumption at all, not as if there is no discussion of wastewater treatment. There is specific language that they must incorporate these features. After the fact, it becomes an issue in terms of monitoring. We kind of get back to the chicken and egg again because we don't know what the project is

going to be, if at all, and what that should be.

I understand your point and I'm making note of your points.

MR. KAUFMAN: I would like to speak to a point Mr. Machtay brought up a moment ago about SEQRA and how we might handle things. I recognize that the Town of Brookhaven really controls the build-out out here and that the town will have the most impact of density and land use. I'm aware of that. I'm also aware of the possible county obligations or regional impacts, if you will, that have been discussed around the table. These issues have been brought up around the table.

The difficulty is in melding these two concepts together. We're handed a difficult situation here. As Jay pointed out, we have several actions going on here, each one which theoretically could be Neg Dec if they were separated. They could be Pos Dec. The point is, if we go Pos Dec, if we say that the county should do an EIS, the EIS to some degree on a county level would have to be limited in certain ways.

I pointed out to some of the CEQ members as I talked to them over the last few weeks, Suffolk County can only go so far. There is a lot of meat for the

county to dig into the regional impact. The watershed analysis, there are impacts that only the town can analyze if they're properly split up, and the county action, it can only go so far. It's almost as if the town does a generic and the county does supplemental issues.

We don't step on the town's jurisdiction, which I'm very cognizant of, but it gets the county issues out there without necessarily having them lost in the clutter of a different level of review. It gets the county issues examined, but it does not foreclose the town. That is just one road map that could be done. I hesitate to say we have to do two SEQRA's. The case law really frowns on that. We did a vector control, we did a generic analysis for the county and anything else that came up site specific, there was going to be a site specific supplemental.

There are ways out there, of doing it out there. I wanted to point that out to you and see what you thought.

MR. MACHTAY: I'm not an attorney. Right off the bat, let's get that straight. Section 617.7, this is something many people don't consider when they're trying to figure out whether something should be a Neg

Dec or Pos Dec, lays out the criterian for or criteria for issuing a positive declaration. There are twelve different issues. Any one of them crossing any one of the thresholds does require an impact statement.

Substantial change in the use or intensity of use of land, including agricultural, open space or recreational or capacity to support existing uses. The exchanging or attracting a large number of people to a place or places for more than a few days, which certainly, your plan RFP does. The creation of a material demand for other actions that would result in one or more of the above consequences. Changes in two or more elements of the environmental, no one of which has a significant impact, but both together may.

Triggering any one of these would require an impact statement. I think you trigger at least three, if not four of them.

MR. ISLES: But, we believe, however, SEQRA Part 617 in the DEC handbook does talk about the issue of segmentation. All the issues you mentioned, if this were to go forward, if the town were to approve something, there would be physical alteration to the site. People would be going to the site. There would be impacts to water and so forth.

We think segmentation, if you were considering and working with the town on the full review, not to repeat what we said before --

THE CHAIRMAN: Tom, I thank you for your patience. I think we want to move onto the public portion of the meeting, and is Legislator Vivian Viloria-Fisher here?

LEG. VILORIA-FISHER: Thank you, Mr. Chair. If you recall, I called to ask if this could be on the agenda first because I'm on the Ways and Means Committee and I chose to be here rather than at that because I think this is so critically important.

Listening to your questions I think it's important that I be here. I have to tell you this resolution was approved out of the Ways and Means Committee this morning. I believe that that underscores some of the issues that you have raised here, which is the complexity of this particular action. It is in two committees. It's in the Ways and Means Committee and Environment Committee.

The question I have, in fact many of the questions I have had have been asked and were asked already. But, Tom Mr. Isles, when you were speaking about the permissible segmentation, I asked Mr. Kent about this

several times. I know that is a notion that really sticks in most people's craw. When you look at segmentation and you look at the issue that we, the legislature, is asked to vote on something which although in itself doesn't have a specific plan, it contemplates a very complex impact on this property. So the contemplation of that is part of what we are looking at, I believe.

When you mentioned permissive segmentation or permissible segmentation, I thought that when you said you had examples of these, that were you going to give us examples of segmentation, but you gave us examples of surplusing. Are there examples of permissible segmentation that we have seen in Suffolk County of land that has been deemed surplus and then developed?

MR. ISLES: Can't answer that question without doing some research on it the examples that I cited there was another agency, where there was consideration of a matter, as in the sales of the state facilities they proceeded to sell land and the localities then conducted the SEQRA Review.

LEG. VILORIA-FISHER: That wasn't segmentation.

MR. ISLES: May have been; I don't know for a

fact in terms of what happened in 1983. My observations then in terms of the cases I was involved in, 1996, when the local facility task force was done with it. Pilgrims; I checked with two of my colleagues. We were never notified. There was no coordinated review. The state sold the land.

In terms of process, I'll tell this from my own personal professional experience, being the lead person reviewing Central Islip Industrial Development, to me, it worked very well. I'm not saying this is identically similar here. It would have been ridiculous for the town not to be doing the SEQRA reviews.

That was the only purpose in illustration. Whether those are comparable to the facts here is a judgment to be made, and I respect that judgment.

LEG. VILORIA-FISHER: My primary concern is the notion of kicking the can down the road. My responsibility as a legislator is to make a judgment on what is before me. Although Mr. Kent hadn't spoken, we have had this conversation.

I'm still confused about something. With the segmentation, we have the industrial piece and the residential and arena piece, and are separated in their proposals. In the contract, we have -- the contract

addresses our closing of the sale of the industrial parcel. And I believe that you represented at the legislature and at other conversations, that once this goes to the Town of Brookhaven, and the likelihood is that the industrial or the commercial piece of this would be getting its permits and approvals first because there are no zone changes needed, we can go ahead and close, and that developer can move forward before the rest of the project.

Can you just explain that to me again because I'm very confused on SEQRA with regard to the two different projects, what kind of flexibility the county would have in its commitment to it developer. Where would the title be on the properties? It's just so complex that I really want all of that to be clarified again.

The people that sit on CEQ probably have a better grasp on some of it and probably can ask better questions on it. I'm not a lawyer, so I don't know the answers to my questions before I ask them, and I'm really confused and have questions about this because I don't know what our contractual obligations would be and how title would be carried and where we would be left if all of this is tied up for years and years in the Town of Brookhaven with the permits and zoning issues, and

probably legal challenges.

If you could address some of these issues. I know that the purview of CEQ is to look at the environmental impact, but I believe this is tied to the types of issues that you address, inasmuch as the process that we will have to undergo once, if we did kick the can down the road and pushed onto Brookhaven Town. I think this is pertinent to the kind of issue that you address. Thank you.

MR. KENT: First of all, I will respond to Legislator Viloria-Fisher's question. This property, which is identified as Area 12, is currently zoned industrial. The uses proposed and contemplated under the contract are permitted under the current zoning. This is an industrial piece already in use. There is a plan for this parcel here currently pending before the Town of Brookhaven for industrial use. This is an industrially utilized piece.

The proposed uses on this site all meet current zoning. I have spoken to the legislature before, individual legislators. We could convey title to this piece sometime in the future, and it won't be developed until the entire piece completes the SEQRA process through the town. But transfer of ownership could go

forward to sell this piece. That is how I differentiated the two. I didn't talk about development, I talked about transfer of ownership.

The contract, if you read it carefully, provides for -- requires, not provides for, requires transfer of ownership of this piece for the contract vendee to take ownership in August 2011, and to pay us the value in the contract, twelve million dollars for this piece of property. That is the answer to her question. It does not allow them to go forward with the development. Their development application will still be pending with town, but since there is an existing zoned industrial parcel with existing boundaries, we believe that piece could be transferred without allowing them to go forward with the development until the SEQRA process is complete.

MR. KAUFMAN: They would been incurring carrying costs if they did that.

MR. KENT: Of course. They have agreed to it. It's also beneficial to them. They believe once they take ownership of the ninety-five acre parcel, they have the ability to finance other portions, other aspects of the job because not only will they be carrying costs, the costs associated with continuing the

application before the town may require financing. They believe, in their judgment as developers, that there is a benefit for them to take title of the piece from the county for the value that we already put in there. It could allow for them to not only have an ongoing application, but also an interest in property that is zoned for the uses that they're proposing on the site.

MR. KAUFMAN: I understand that, but that is not before us today, that bifurcation.

MR. KENT: It's not a bifurcation, it's a proposal to take title. It is before you because it's in the contract. I don't know the exact section. It's in one of the forty-four pages of the contract.

MR. KAUFMAN: I'll take your word for it.

MR. KENT: There are some other issues. I don't know if you want me to take them up now.

MR. KAUFMAN: Please.

MR. KENT: Because I was taking notes, I can respond to them individually. First of all, I can generally speak, the whole concept behind there was to meet certain regional issues that could be identified, not only by elected officials and by housing officials, industry officials. We are looking at our young people, people that need to take on the next career path, the

next generation of professionals are leaving Long Island. This has been identified in a series of economic reports, industry reports, housing reports, from parents who say their children go away to college or go away to the service and don't come back because there are better places to go that cost less and provide better opportunities for jobs.

In 2005, it was identified as a government that we have to give these young people an opportunity to remain here, come back here. We only do that by developing emerging technology, developing as an industry, development of alternative energy coupled with those career path type employment opportunities. We need housing opportunities that meets the needs of this population.

In addition to that, we need some type of activities. Many young people said in surveys that they want to live someplace where there is also activities, some type of destination center. That is why downtowns are becoming more popular for active recreation.

We came up with this proposal back in 2005 as a concept, as government, we should design something on land that we might have -- we own that could be declared surplus to meet those needs, those critical needs that

have been identified in a series of reports, and many elected officials have run on that platform for the last two elections. You hear it endlessly said, some of those officials.

Nobody here present, by the way, are arguing against this when they have been arguing that we need to develop this kind of critical use, yet when we put up this type of proposal, it meets opposition. The contract is a limiting document. It's not an approval. The proposals that Tom spoke about, the responses that we got, one proposal was twenty-three hundred residential units. We said no, that is too many.

We are limiting it to a thousand, subject to what the town will approve. We are not saying build a thousand units. We understand that there is local home rule from the town that controls zoning and land use. It will be their decision to make, how many housing units can be placed upon that much.

As far as wastewater, it's very clear in the contract, although the RFP might have talked about a package plan, the contract requires them to improve wastewater infrastructure to the extent required by the approvals granted by the town. If they're granted the

eight hundred units, they will have to approve the existing sewage treatment plant to service eight hundred units. If they're granted a thousand, a thousand whatever the wastewater flow would be a day. That is what they have to improve, the wastewater infrastructure to that extent.

MR. GULBRANSEN: The flow is part of what the plant deals with. The stuff in the flow and the removal is part of what is needed. I don't know if the town is the body that sets those limits.

MR. KENT: I know what you're saying. The sewage treatment plant itself will have to be improved to handle the amount of removal of the nutrients, nitrogen that has to be removed prior to discharge. We understand. Then, of course, will be subject to a SPDES application to the DEC that allows an increased amount of treatment at the sewage treatment plant. Now it's two hundred fifty gallons a day that is approved.

THE CHAIRMAN: Two hundred fifty thousand.

MR. KENT: Two hundred fifty thousand gallons a day is the current permit; is that correct?

THE FLOOR: Yes.

MS. GROWNEY: How is that utilized in the capacity? It's not just how you're dealing with the

treatment of it, it's how you take what that treatment presents to you and reuse it for energy purposes.

MR. KENT: You're saying possibly take the waste and create energy?

MS. GROWNEY: Absolutely. The energy technology part is so paramount, that every aspect of what the development does needs to show that it's taking the usual end result and transforming into an --

MR. KENT: I'm not that familiar with the technology, but I'm sure there will be some sort of minimum requirement of the amount of waste matter that you're handling. I don't know if the amount of four or five hundred thousand gallons a day -- maybe Ben would know better. I don't know what the minimum thresholds are for the amount of flow required to make it economically feasible to develop a wastewater to energy proposal. Someone said they're not a lawyer. I'm a lawyer, not an engineer.

MS. GROWNEY: When would the --

THE CHAIRMAN: Let Mr. Kent continue.

MR. KENT: Mr. Machtay had a question.

MR. MACHTAY: Your goals are laudable. I, for one, have two sons that are starting their careers, both professionals, and I would love them to be able to

stay right here on Long Island, preferably near where I live. Talking about a Positive Declaration and county doing an impact statement is not opposing the project.

THE FLOOR: Thank you.

MR. MACHTAY: The way you broached it, it was as if we opposed the project because we asked the questions. It's not opposing the project, it's wanting to ferret out what needs to be ferreted out. If it's going to move ahead, move ahead environmentally sound and regionally sound and all the good things that we want to happen. So, I guess you touched a nerve with me when we talked about that we might be opposing it. I'm not opposing it.

MR. KENT: Not at all. I was speaking of other elected officials who have spoken both of the need to develop it and against the project. You are not who I was referring to at all. I'm familiar with the process. My roots come out of town government. I was a town attorney, so I understand the need to do a review.

I was clarifying because somebody said this would shoehorn the approval onto the town, that this would be a thousand units. We placed a limit in the RFP, the RFP and contract.

THE CHAIRMAN: Can you summarize so we can get to the public?

MR. KENT: I had other issues that I wanted to go into. I can go into them at the end. I want to hear the other issues.

THE CHAIRMAN: Let's take a short break before we go to the public portion.

(The hearing was recessed at 12:15 p.m. and resumed at 12:20 p.m.)

THE CHAIRMAN: Our first speaker is Tom Williams.

MR. WILLIAMS: My name is Tom Williams. I live on Beaver Dam Road in Brookhaven. I want to speak about the Carmans River. Today is an excellent day to think about groundwater and watersheds and runoff and rivers.

The Carmans River is a beautiful sacred river. I've lived along it and kayaked and sailed and canoed on it. I ask you to take it into consideration, and I know from your questions that you have already done that. We request that you not approve this going forward at this point until a full Environmental Impact Statement is made on the proposed surplus.

We would also like to see the Carmans River

Groundwater Watershed Preservation Plan, which we proposed to the Pine Barrens Commission and Town of Brookhaven, to go forward and be completed. As Mr. Gulbransen said, the idea of having a full watershed impact statement we think is important here. I forwarded a copy of that proposal to you through Jim.

We are concerned about nitrogen levels. We understand that there have been at least fifty violations of the Clean Water Act SPDES permit by the existing sewage treatment plant in this area between 2004 and 2008. The standard of drinking water is ten parts per million. The ecological standard is lower; it's two parts per million. Both Beaver Dam Creek to the west and Forge River to the east are impacted and environmentally critical, and we don't want to see that happen to the Carmans River.

Cashen Associates reported that the water quality is generally good, but it deteriorates over time. Proposed development within the watershed through applications for a change of zone land applications, preliminary subdivision and road improvements is over four thousand nine hundred acres, so regionally in this river there is a tremendous number of applications to change things, to do things differently and to increase

development. We're concerned about that.

We do not feel an additional degradation to this land is helpful, so I would ask you to think of this beautiful river, think of this fall when we went out there, we saw robins feasting on the pepperidge trees, and we would like to make sure that that river continues to be a beautiful and protected river.

I'm also concerned about if this transfer occurs, we feel the Town of Brookhaven will lose many options to figure out what to do with this property. If this transfer occurs to a developer, the idea of preserving the two hundred fifty acres is off the table, and we feel that should be a definite consideration before any such transfer occurs. It is important.

The county has spent millions of dollars along the river. The federal government owns Wertheim Wildlife Preserve, which is twenty-one hundred acres. The county owns Cathedral Park, Southaven Park, Robinson's Duck Farm and Prosser Pines Park. A total of four thousand seven hundred twenty-two acres have been purchased at a cost of thirty-three million dollars by the county and federal governments in this watershed. We hope that you will not pass on this matter.

THE CHAIRMAN: Marty Van Lith.

MR. VAN LITH: I'm a member of the Brookhaven Village Association and board member of the Open Space Council. I would like to give you a little background, as I see it, for this river, going back twelve thousand years. It is the only river on Long Island that is actually created as tunnel valley. This is Professor Gulbransen's research from Stony Brook University. This river is twelve miles long. It is very unique and one of the greatest rivers on Long Island and most productive in terms of freshwater feed to the estuary.

The history of the river. The first settlement in Setauket three hundred fifty years ago. It was quickly realized that was the best that nature had to offer and quickly created what is today's Old Town Road to connect with the salt marshes and Carmans River valley region along the bay. From there, as the colonial period evolved, and in the post-revolution, the area was known for its wildlife and for its greatest natural resources in the New York area, and only the richest men in the nation would own it, most prominent men in the nation. Among them presidents, would belong to clubs along the Carmans River.

One such person realized the importance of this, and in 1947 donated seventeen hundred acres to the

people of America. Suffolk County realized the importance of the river and acquired twelve hundred acres from Mr. Kenny Hart in 1960's. This became the first Suffolk County park, Southaven Park.

In 1970, students working in Bellport High School biology class came about to study the river for their project, and in turn they submitted an application to New York State to become the first scenic recreational river in New York State. This prompted a whole new awareness about the river.

We have aged and grown wiser. We have seen the relationship in the web of life. We have seen the whole food chain beginning in these wetlands and marshes and in this river, which is very pure. Yet of the four great rivers that we have here in Suffolk County, this is the least protected of all rivers. Since then, we have spent two hundred million dollars plus acquiring land along the river, and the county has shelled out the lion's share of the money. This has continued. The land that is being surplused is exactly the kind of marshland that is being acquired. If this is truly surplus land, make this part of the Southaven Park. Thank you.

MR. NARDONE: Enrico Nardone, Director of the

Seatuck Environmental Association, a not-for-profit organization dedicated to promoting the conservation of Long Island wildlife. I'm also an environmental attorney, although I'm not sure if I should be admitting that today, and I'm a former member of the council. I resigned from CEQ more than two years ago and I am returning to testify. My concern is prompted by the health of the Carmans River, one of the shining stars of Long Island's tributaries, and a true gem in Suffolk County's crown.

As detailed in the November 2009 letter to the county legislature, Carmans River is one of the largest, healthiest and most well protected tributaries on Long Island. It supports a viable population of native brook trout and harbors the South Shore's only major alewife run. It is an exceptional river with a unique chemistry and valuable attributes. Small changes in water quality or other features could disrupt the viability of many of the species that are currently thriving in the river. In this regard, we are concerned about the potential for the Legacy Village project to adversely impact the river.

Suffolk County has been an integral and important partner in the efforts to restore and protect the

Carmans River. The county deserves a great deal of credit for its pursuit of open space acquisitions within the river corridor and its support of conservation projects, especially the installation of a fish ladder at Southaven county park. Every effort should be made to ensure that these substantial gains are not undermined by threats to upstream habitat or water quality.

I'm here to urge the council to take a broad view of its role in considering the proposed Legacy Village land sale. You cannot view the proposed sale of the surplus land as a simple benign real estate transfer, you cannot view the proposed sale in a vacuum, but rather must consider the full implications of the action, especially where the intention to develop the property has been made so explicit.

In deciding how to proceed, the council must also consider the extent to which the sale will let the horse out of the barn, so to speak. If the sale will essentially preclude options available to the Town of Brookhaven and all but ensure that some development of the property takes place, then the council must consider such effects when assessing the action's potential environmental impact.

While it may be technically true that approval of the proposed action will not authorize development of the property or commit another agency to act, it is not clear that the ability to protect the environment will remain unchanged. To the contrary, the sale of the property and the transfer of environmental review responsibilities to the Town of Brookhaven will likely eliminate the most protective option that is currently on the table, which is preservation of the property.

The county's sale of the property for mixed use development may give Legacy Village Real Estate Group reasonable and legally significant investment backed expectations of developing the property. While the town may hypothetically still retain the authority to prohibit the development of the site, doing so at that point would be extremely difficult and could subject it to potential risk. The council must take these legal considerations into account in analyzing the proposed action.

In closing, while we appreciate the county's economic development and affordable housing goals, we urge that all actions within the Carmans River Watershed proceed as cautiously as possible. If I may, I'd like to invite the council to hold one of its meetings at our

school.

THE CHAIRMAN: The next speaker is Ellen Williams.

MS. WILLIAMS: Ellen Williams. I'm a resident of Brookhaven Hamlet. I raised all my children less than a half a mile from the river. I'm not a public speaker. I also sit currently on the Historic Trust Committee, which is a subcommittee of this body. But I'm here today just in the capacity of a resident of Brookhaven.

I would like to ask you that you recommend that an Environmental Impact Statement be done by the county before the county decides to vote on whether to declare that land surplus or whether to sell the land. I'm not a lawyer. I'm not a professional enviromentalist, but I'm speaking from my heart.

I would like to make a couple of points. I think we are running more quickly every single day. There is not such thing as surplus land. Second, I think as we try to teach our children, there are consequences to all human actions and of our actions and decisions. This imperils not just local streams and rivers, but the entire planet. I would like to say let's learn from the past.

I believe you all know in your hearts one thousand units of housing, shopping and sports arena will have an impact. I respectfully suggest that the legacy they're speaking of for our children and grandchildren will be another ruined river and another blow to the planet.

Thank you for letting me speak.

THE CHAIRMAN: Richard Amper.

MR. AMPER: I have not been before the CEQ before. I have been impressed with the kinds of questions that you're asking, the thoroughness that you're asking them. It is appreciated by the community.

We have several things that you have raised. I would like to summarize. Type 1 requires a Pos Dec, and what the criteria are. You touched on them. The action, specifically the action of the surplus land sale to approve the contract specifically covered there, is not mentioned at all in the eight part text under SEQRA for segmentation. I think that applies here to be the same.

We have a different situation with Brookhaven. There is the surplus and contract later we will get to, but we're going to preclude the option of Brookhaven to do its zoning role if we include certain things that, for example, Tom William said if we approve the contract

and the land is sold, no action alternative, preservation alternative of the property is not an option available any more because we don't have the resources to do it; the county owns the land now.

It's buying land responsibly in this corridor. We have had people do a watershed study in this area. A lot of these impacts are occurring right here with the county's action. In due course we will deal with the authority. No one wants to usurp the authority of the town. The key, I think, is important whether you think that the way we keep a thousand people on the Island is done by asking them to go -- these people like yours to go out and live next to the county farm. I don't know what it costs in the Longwood School District. There are complicated issues in front of you.

I have a slightly different perspective. The project approval is complicated; your decision is not. I say that because the sheer volume of impacts that it may have -- remember, that is the requirement under SEQRA. What you have done historically is not get involved on policy stuff, but focus on what the law says.

In this case, there are so many potential adverse impacts that may be had by surplusing the property,

signing the contract, doing the zoning, all these things or so many of them that would have an adverse environmental impact that Pos Dec is required.

EIS should be prepared and segmentation has to be avoided. To do that, you have to start the process that says, look before you leap. Thank you very much for what you have done, but I think you have the framework under SEQRA to say whether we like the project or we don't, we have an obligation to up hold it and make it work as it's supposed to, and I hope that is what you will do. Thank you very much.

(Applause)

MR. MACHTAY: Just one point. I have been involved in a number of lawsuits concerning SEQRA. I was the Director of Planning for the Town of Huntington. The no action alternative would be to sell the property and develop it at the existing zoning, no action. Declaring it open space and/or parkland so that it can't be developed would take a resolution and would be a SEQRA'able action.

MR. AMPER: It would be available.

MR. MACHTAY: Understand what no action means. It's a little tricky when you boil it down to the bottom line, seeing it dedicated as open space.

MR. AMPER: Then use any of a dozen or two dozen other things that will not be available in the SEQRA process by the time it gets to the town, if it has already been foreclosed by the action that the county didn't take at this juncture. That was the only example that I'm trying to make. If you don't like that one, there are twenty more behind it.

THE CHAIRMAN: Peter Quinn.

MR. QUINN: Good morning, members of the commission. I'm Peter Quinn, long time energy and environment education transportation critic and activist. I'd like to say that some things have been addressed, but several have not. I wanted to point out clearly that the county has the responsibility for liquid waste and the town has the responsibility for solid waste, for the edification of anyone who doesn't know that.

But my concern is that not enough has been presented, or -- my question is to the representatives who are dealing with the issue about the aquifer, and the impact that any project of this size would have on the aquifer. We already know from the Suffolk County Water Authority that there are pollutants galore, and many of them get tested maybe twice a year. Some don't

get tested at all. Account for me why we have cesium 137, lead 210, strontium in our water supply, most of which is found in Brookhaven Town? That is something not addressed, even though breast cancer and autism -- people are concerned about what is causing their problems; that is not being addressed.

I can understand jurisdictional disputes where the town wants the responsibility for land use. But the county has the responsibility for the sewer plants, and you know they can go ahead and say they're going to build clarifiers at the plants to increase their capacity. Question is, what is their maximum capacity level? And if you are approaching that level, then you have to expand or otherwise not build. So I appreciate that.

But I'm concerned about the level of pollution that occurs in our aquifer. I read the reports by the Suffolk County Water Authority. I met with Steve Jones and others to discuss those issues. I have gone to the legislature and been critical of what has taken place. I don't think the Health Department has done an adequate job and they need to address those concerns. I thank you very much.

THE CHAIRMAN: Thank you. Mary Ann

Johnson.

MS. JOHNSON: Good morning. This is my first time before the CEQ. Like Mr. Amper, I am enormously impressed of the depth of understanding and questions that you have asked about what you have been presented with. I have two maps that I would like to give you. One shows depth to groundwater and elevation, Carmans River and in the corridor. There is absolutely no question that this project lies in the middle of the Carmans River corridor. That we are working aggressively, as president of the Affiliated Brookhaven Civic Organizations, which represent some forty civic groups in Brookhaven, as part of the coalition advocating for a full environmental impact.

We ask only that you do what the law requires. The law requires that when you have a Type I action, and the threshold that there may be at least one negative environmental impact, you do a full Environmental Impact Statement. That is what the law requires. There is no provision in the law to punt to Brookhaven Town.

As far as the Suffolk County Sewer Authority, I would like to remind you that they approved a package plant at the headwaters of the Forge River without regard, without regard to the status of that imperiled

river. They did not care. A groundwater discharge sewer plant for a senior project that would release pharmaceuticals into the river, probably the only pollutant we don't find in the Forge, so I'm not really confident in the other agencies doing that.

The county certainly is not precluded from making the Town of Brookhaven an interested party to any SEQRA Review, but to leave the Town of Brookhaven with a plan that frankly, I get confused here, this is presented as a concept, but as I reminded the legislature, the contract picks out the vendor for the artificial turf on the playing fields.

That seems to be a little bit specific to be a concept. In one breath you're told it's a concept, don't worry about it, let the Town of Brookhaven deal with it. In the other breath, you're told don't pay any attention to the man behind the curtain; that is not your job. Your job is to follow the law and the law requires an environmental assessment on this project.

It's presented let's surplus the land and sell it to the developer for their specific purpose. That is the choice you're being asked to make, and that is the choice that we are asking you to clearly take the hard look that the law requires. The law requires the hard

look, and if you don't do it, we can assure you that we will. Thank you.

THE CHAIRMAN: Regina Seltzer.

MS. SELTZER: Good afternoon. My name is Regina Seltzer. I'm an attorney. I will limit myself, I have submitted to you a Memorandum of Law and I know you have all read it, so I'm not going to repeat everything. I'm just going to express one thing. That is, that even though it is complicated, even though it is confusing, it's a situation that has occurred before. It happened in Orange County.

We had an almost analogous case to what you're being asked to do right now. In Orange County, the county legislature, at the insistance of the county executive, passed a resolution that surplused one hundred acres of land, and then had it used for a development. One of the legislators filed a challenge to it and it went all the way up to the Court of Appeals. The Court of Appeals said that there was no question that this required a SEQRA, that this required an impact statement and the words they used was as early as possible in the formulation.

Therefore, there is no question, because this is law. The Court of Appeals is as high as you go in the

State of New York. It says quite clearly, after reading, the facts are almost exactly alike. It makes it quite clear. That the law requires the county legislature to review this before they pass the resolution. They cannot do it after they pass the resolution. They cannot pass it along to the Town of Brookhaven. It is simple, it's straightforward, it doesn't require a lot of thinking on your part. It just requires you and the county legislature to follow the law, and I hope you do. Thank you so much.

THE CHAIRMAN: George Costa.

MR. COSTA: May I approach the table? It's just to show you one of the things that we're all here -- one of the things we're fighting over concerning the Carmans River. I've been here on Long Island. Those of who you may not know, Trout Unlimited is a national organization of about a hundred fifty thousand members concerned mainly with the preservation of natural fish throughout the country. I have about two hundred seventy-five members in the chapter that we have. The state has a little bit more than four thousand members. Throughout the United States, about three hundred fifty thousand members.

I'm not as technical as many of the people that

talked today. I'm going to speak from the heart about what this river has really all been. I'm here again to relay to you as to what to what a jewel of the artery this river is, and how much of a lifeblood this river is from its start to where it empties out in Bellport Bay. This river sustains many things. It sustains the health of this river, and unfortunately with some of the actions that may be taken today or in the future, it will become an inhospitable river.

What I have placed in front of you, I have an accurate model of one of the jewels of the Carmans River, a brook trout. I talked to the legislature a couple of weeks ago. In 1884, Daniel Webster was supposed to have caught a brook trout in the Carmans River, if you can picture a trout bigger than this one. Brook trout are native to Long Island, native to the entire eastern seaboard, basically from Virginia all the way to Maine. They're still common and a good size up in the Canadian waters. They have been here on the island since the Ice Age, it's the only native trout that we have here in the eastern seaboard.

Many of you may not know that it's considered -- this is a freshwater fish. If you like saltwater fishing, there are saltwater fish. Brook trout require

pure and cold water and may be referred to as the canary in the coal mine. That means if there is something wrong in the water, one of the first things to disappear will be the brook trout. It's been reduced to about a fraction, maybe twenty-five percent or less of its native waters that it used to be here on the eastern seaboard.

A few months ago I went with the DEC to Beaver Dam Creek to ascertain whether there were any brook trout still there. We only found brook trout in roughly a hundred yards of it. If you go to the other sections you will find they can't inhabit it either because of temperature or because of pollutants in there. The Carmans River has the largest population left here on Long Island throughout recorded history. The once seemingly endless natural resources of the newly discovered lands have disappeared to a mere fraction of what the existence was at one time.

I would like to say there is more to the river than just a fish. There is more to the river than -- just take the time to go out there and observe and see what is in there.

(Applause)

THE CHAIRMAN: Tom Talbot.

THE FLOOR: Tom had to leave early.

THE CHAIRMAN: I hope I can pronounce this right. Chad Trusnovec.

MR. TRUSNOVEC: Chad T-R-U-S-N-O-V-E-C. I'm a lifelong resident of Yaphank. My family has lived in the same spot in the historic Main Street on the Carmans River for over two centuries.

Throughout the years here on Long Island, we have read and heard about some incidents of pollution, underground plume from Brookhaven landfill, Forge River terribly contaminated. Shellfish in the bay has declined. Time and time again, we come to realize that our past progress in property and industry in regards to the environment have come back to haunt us.

Years ago we didn't have the information and technology we have today. Some of the problems were unforeseen and unintended. Some was blatant disregard, let the next generation handle it. Today there is no excuse for either. To allow any project, especially one of this magnitude this close to a river, to go forward without an environmental study would amount to the blatant disregard that we were guilty of decades ago. A homeowner on Carmans River.

Just the chemicals that are put on the lawns will

affect the groundwater. The water table is very high in the area. It will be affected. I know; I live there. You are one of the gate keepers of the environment. Future generations will be looking back on the decisions made today. I implore you to see that this project gets the full environmental study it desperately needs so that our children and their children won't be faced with the problems that we have today.

That's the end of my statement. If I have any time.

THE CHAIRMAN: You have a minute.

MR. TRUSNOVEC: I am new to the process. Listening to the comments, I'm seeing that the scope of it actually goes a bit further, and I'm glad to here. That for example, one of the comments is about the height of the stadium and can it been seen. Obviously, it is a huge impact on the area. For those of you who don't know about Yaphank, it's a small town.

A thousand homes; it's actually thirteen hundred, if you add the two hundred fifteen accessory apartments and the other whatever; I don't remember what they were are. That is twenty-six hundred people right in the middle of Yaphank. That doesn't even talk about kids. That is twenty-six hundred people. That will destroy

the town, any rural characteristic that we have. It will destroy it. If I wanted to live in Queens, I would move to Queens. It is a terrible idea. I hope it doesn't see the light of day.

I'm opposed to the project for numerous reasons. I'm trying to stay focused on the environment because I think it will have such a devastating impact on the environment.

THE CHAIRMAN: Michael Hamilton.

MR. HAMILTON: I'm a resident of Yaphank. I came here today, I wasn't going to speak, but listening to everybody go on and on -- my thoughts are twofold. One extreme, I'm a resident of Yaphank. I don't want to see what is going on. Chad talked about the amount of people and how it's going to affect our quality of life. The other is regionally. I'm talking about businesses.

Unfortunately today, it's foggy, you can't look out on the bay. In the '70's you probably had two, three, four hundred people making a living out of the bay. At the same time, building built up and came east. As building came east, more and more smog pollution, density. Look at the Connetquot River, the bulkheading.

Patchogue River, Carmans River, Forge River, all

polluted. All the nutrients. You talked about nitrogen levels, all these things impact all the rivers. You had brown tide. It came along, it blocked out the sunlight to the eel grass. Blue points went up to Connecticut because you can't grow a clam here. Newsday last year spoke about how the bay is coming back. I wear many hats. One of my hats is I go out on the bay and clam. You can't make what you used to make, families can't survive.

Ironically, one of the businesses pushing for the development is the construction trades. Construction trades, back in the '70's when interest rates were sixteen percent, what did they do? They turned to the bay for the living. They can't do that now, so they're driving for more and more development. I understand that they need to work too.

When taxpayers decided to tax themselves to buy open space, make this open space. You talk about open spaces for families to walk. You have to Patchogue and Northport. Then you put in the outlet stores that drew people away from these places. One lady said you need to revitalize and rebuild. By revitalizing and rebuilding the downtown areas, you will have exactly what Mr. Levy is looking for. You recall we have those

communities, but we have gone away from those communities.

My son graduated college last year from Oneonta. He took a teaching job in Utica. He bought a house. It's costing less than a thousand dollars a month. I said, will you come back here. He said you have congestion. There is quality of life issues here. By putting more density more building, you're putting more congestion and impacting your quality of life. I could go on and on.

THE CHAIRMAN: Don Schubert.

MR. SCHUBERT: Good afternoon. My name is Don Schubert, part of the civic association and part of the Overton Preserve. I'm usually all over the place when I speak because I'm not that organized. Obviously, the questions that you people have brought up have showed that all the questions here are all over the place. It's an absurdity that you're even here, but I appreciate the questions that you asked.

If you went to the mall down the road and asked somebody to read a paragraph in SEQRA, that they would been saying it's a Type I action and you should be doing an environmental impact. There is no sense to it. I think that split personality in the fragile area that

it's in. It is a split personality. I mean, we have a beautiful Carmans River and the area and Pine Barrens and parts of the core area and compatible area around it and recharge area, that has been forgotten.

Around it we have the other side of the coin, landfill, power plant, Grucci, the transfer stations are there. You don't know what they're transferring at all. Private transfer stations come into that area. I live in Medford, the center of the garbage. That is all in the contribution areas to this place.

I think it's a very fragile line that you're crossing. I think the idea is to save that land out there for public purpose. The public purpose in 1960, we didn't realize the population. Did we realize the number of cars, that there would be more cars than people? People talked about a green area, that there is about eight hundred, at least, acres of industrial-commercial land just to the west that we in Medford like to see that in a green area. Then open up another area that we would have all the transfer stations.

We have an apartment complex that has about twelve hundred units. That is about twenty-five percent un unoccupied. There is many different things. The

segmentation of it is absurd. The whole area needs to be looked at. It was supposed to, three or four years ago, to redefine Zone 1, Zone 2, Zone 3. We had an ashfill site. It was denied because it was in Zone 3. Caithness power plant is in that same spot. You know those lines were politically drawn as well as environmentally drawn.

I think you have a lot of to do. I think there are twenty thousand gallons of ammonia at the sewage plant. I think the first line on the SEQRA would tell you to deny it.

One other point about the educational. As a teacher, I brought many classes to Yaphank. Yaphank is a naturally looking rural area. We don't need nine hundred or a thousand plasticville houses to contribute to the rural affair. Why shouldn't the Island not have that same atmosphere and environment?

THE CHAIRMAN: Kevin McAllister.

MR. McALLISTER: I'm the Peconic Baykeeper. I would like to focus my comments on the wastewater stream. I think it was acknowledged today that the project in its entirety is within the Carmans River watershed. What is quite nebulous to a lot of people is the groundwater flows. It's very slow moving. It will

take years, as the crow flies, maybe years away from entering the streams, but inevitably it will.

With reference to sanitary waste, Mr. Swanson, you pointed out at least a rough calculation of two hundred seventy thousand gallons a day, but that has to be obviously defined. There is a gross disconnect from protecting surface waters relative to the New York State and Suffolk County Sanitary Code of ten parts per million. It is substantially lower than that.

One of your colleagues, Chris Goldberg, in some of his work on Forge River as well as Peconic River, has substantiated. Relative to, I guess the big picture in protecting the integrity of the river is the watershed and large water contributing area. Mr. Gulbransen, you were asking a question about the load allocation relative to New York State. We refer to it as total maximum daily load. It would be bacterial or nitrogen, depending on the pollutant.

In terms of what they try to define is a pie chart. Ultimately, what they try to ensure is that said pollutant can be effectively assimilated into the river. As watershed management proceeds, I think we have to define what the load allocations are and what the river can, in fact, assimilate.

I'll resonate some points from prior speakers. I was impressed by the lines of questioning from the committee. I think you really get it. I think we have a long way to go in the process. I encourage you to issue that Positive Declaration. Let's try and bring Brookhaven Town into the process early.

Ultimately, I guess I'll translate that. Often times when I'm addressing development issues where a permitting agency punches the ticket, and in fact that applicant goes to New York State, it makes it very difficulty for denial. In a way, approval on the county here would be a de facto permit saying okay, now deal with Brookhaven Town.

You put them in a tenuous position. I think with that in mind, this coordinating with Brookhaven Town with what their specific interests are is important. I'm sure you will do the right thing.

THE CHAIRMAN: Anybody else in the audience, yes? State your name.

MR. McCONNELL: Good Afternoon. John Mc C-O-N-N-E-L-L. I live in Yaphank, South Yaphank Civic. My wife and I moved to Yaphank about eight years ago for its rural character. We had the farm, all kinds of open space. With the county owned land we figured no

development, right? Now we're having this mega city being developed here, drastically changed forever. It will never be the same.

What some of us mentioned before, twenty-seven hundred people more. There is only less than five thousand people in Yaphank, by the way. It's over five thousand if you count the jail. We don't need this here.

I want to touch on real quick because my wife said I have to get out of here. Peter Quinn was up here talking about the water. Suffolk County Water only tests forty percent of its wells. It doesn't test all the wells. We believe -- a friend of mine does a lot of research on this. There is a serious problem with a lot of the wells; they're contaminated. They put charcoal filters on them.

Who overseas the water? You think you're getting Suffolk County water is debatable. They blend with the power plant using all kinds of water. They build this year, all the impact on the groundwater, you have to seriously give this a hard look, an honest look. Thank you.

THE CHAIRMAN: Last call.

MR. KENT: Can I clear up a couple of

issues?

THE CHAIRMAN: Yes.

MR. KENT: Just a couple of issues. I don't know if it's even worthwhile. I want to go through a couple of things that was said by a couple of speakers. The 1983 case that went to the Court of Appeals that references the transfer of land done by a county where no SEQRA was done. No SEQRA determination was made. We are not proposing that here. We are proposing to complete SEQRA. That is what the case says; it was referred back for SEQRA. I wanted to cover that.

As far as transferring the property and whether it could go back to the county and be preserved, other than the industrial property, ninety-five acres is located between two industrially developed sites. The balance of the property will not be transferred unless the town approves the change of zone.

The PDD, there will be no transfer of the ownership of the property without approval. There will be no need to try to get the land back because we will not have transferred it without approvals.

Industrial piece, we have an option. There is an option to even recover the industrial parcel by just giving them back the money they paid. There are options

available. We know that will be fully studied.

There is no getting around the need for a study; it's just at what point is it studied. There is a memorandum that was produced and distributed to all of you. The only action before you is the declaration of surplus and right to go forward with the contract. The development itself, the proposal to do the full development will be fully studied and we will be an involved agency, so thank you.

THE CHAIRMAN: I want to thank all of our speakers today. It's extremely important, as citizens, that you get out and let us know what your thoughts are. We all appreciate hearing from you as well.

Let me just review what the action is. As Mr. Kent said, the only thing we're doing is looking at the proposed adoption of a local law declaring as surplus and authorizing the execution of a contract for the sale of two hundred fifty-five acres in Yaphank to Legacy Village Real Estate Group, and that is the only thing that we really are needing to do. Open the discussion. Move forward. Go ahead, Mr. Kaufman.

MR. KAUFMAN: One of the things that I think needs to be brought out right now is that we need to go through what we normally go through, which is the proper

SEQRA analysis. We try to identify the impacts that have been described to us that we may know exist or that we want to bring up and match it against the SEQRA criteria. That is what Rich has been talking about, the standards of decision for this board to make.

Generally under Type I, if it's over a hundred acre sale, it carries a presumption of a significant impact. That is for us to decide. Under Type 1 of the criteria, if an action is taken that might have significant impacts on the environment, the critical standard is placement.

SEQRA also says we're supposed to consider whether an action may cause consequences, and we can look at reasonably related long and short-term impacts, including subsequent actions likely to be taken. That is one of the other decision standards that I think is important.

We have to also frankly look at the segmentation issue, and if we do allow segmentation to occur as part of our recommendation, we have to make a demonstration that the review is no less protective of the environment.

We also have to look at some of the other issues that had been raised here today, everything from the

regional on down. Groundwater was raised, et cetera. That is our standard of decision. That is what should guide us in how we look at everything.

It's my opinion, I'll defer to the Chair on this, that we should start talking amongst ourselves out in the open, because this is a public hearing, as to what we think the impacts are, and start comparing them to the SEQRA standards so we can arrive at some sort of a conclusion. Does that sound good?

MR. GULBRANSEN: I have a question about process. Have we made an implicit decision about the lead agency status? I haven't heard enough discussion about a scenario where there could be a co-lead. SEQRA is silent, but there are cases where it has been accomplished.

A lot of discussion seemed to refer to coordination and smart growth study that the county looks forward to coordination. Did we get past that?

MR. KAUFMAN: We haven't been at that point.

MR. GULBRANSEN: What point should we, as a group, address that?

MR. KAUFMAN: Right now we're considering the county action. That is all we are officially looking at, how we design -- if we go a Pos Dec, which is a big

if, that is one of the charges we have to do today, is figure out exactly what the Pos Dec consists of, how far it can go and the technical detail you're talking about. I'll defer to Rich on the other aspects.

MR. MACHTAY: Coming from town government, town planning, first question I really have, does anybody really know whether Brookhaven has a comprehensive plan that includes this area, comprehensive plan for development?

THE FLOOR: No.

MR. KAUFMAN: I was involved with hamlet studies a while back in the Town of Brookhaven, and I do not recall that this was a subject of a specific hamlet study in this particular area.

MR. MACHTAY: Without a comprehensive plan, anything is possible. Comprehensive plan adopted pursuant to SEQRA gives you some leverage to know what the town wants to see there. We have no idea where the town stands on any of this.

I did give a case to one of the county attorneys yesterday, of co-leadership. That is the project down in Brooklyn where they want to move the Mets, where the railroad tracks are.

THE FLOOR: Atlantic yards.

MR. MACHTAY: They did co-lead agencies in there. That is possible also.

MR. KAUFMAN: That is not before us.

MR. MACHTAY: Without having Brookhaven at the table. I think the real issues here, I think there are criterian triggers that makes the county take a hard look at what they're doing, and the way you take a hard look is with an impact statement. I don't know what anybody else on this committee thinks or would like. I think that is where you have to start, is with some kind of recommendation to the legislature that an impact statement has to be done.

(Applause)

MR. KAUFMAN: Do you think the triggers are there?

MR. MACHTAY: I think the triggers are there. I guess the thing that stops me from going all the way is that an EAF Part 2 and EAF Part 3 were prepared and they both state that there will be no impacts from the sale of this property. We would have to review those statements in those documents and see where they run contrary to the criteria in SEQRA from issuing a Pos Dec.

MR. KAUFMAN: Looking at findings in the

back.

MR. MACHTAY: It says it will not have an impact. Some of those you have to go through them one at a time and change them, and say yes, they will have an impact because you are going to move people, you are going to use more energy, you are going to have many more people attracted to the area than are otherwise attracted; so on and so forth.

If you want to change those with the general statement that this tabled as part of your resolution, that is one thing. Otherwise, you have to go through them one by one.

MR. KAUFMAN: Are you saying do it here today now?

MR. MACHTAY: There are fifteen at the end. And some of them may or may not be so. The fact of the matter is, if only one of them is wrong.

MR. KAUFMAN: Then we Pos Dec it.

MR. MACHTAY: Then a Pos Dec is required.

THE CHAIRMAN: Let's review them.

MR. KAUFMAN: The back of the first one is that the action before the legislature consists solely of the declaration of surplus and contract for sale of two hundred fifty-five acres. Accordingly, no solid

waste will be generated as part of the action. Will not adversely impact solid waste management practices.

THE CHAIRMAN: If the project goes forward there, just from the housing development alone, that means on the order of twenty thousand pounds per day.

MR. KAUFMAN: You're looking at this as a reasonably related long term impact, that subsequent impact that is contemplated as part of what we're seeing.

THE CHAIRMAN: Yes. I would further say that with regard to the Town of Brookhaven, who is responsible for managing the waste, if they have no means of actually managing the waste within the town, that they have to ship it off site other to places to get rid of it, so there is air pollution raised as part of the solid waste.

Does anyone else have any comments on the board as to solid waste issues? This is Page 26, the first finding.

MR. KAUFMAN: I have received advice that we should go through the form, since I never argue with Jim Bagg. It's still the EAF. It starts around --

THE FLOOR: Mr. Bagg prepared this EAF. Point of order. I think you have to excluded yourself from this discussion.

THE CHAIRMAN: He's not a voting member.

MR. MACHTAY: If you move down to Number 12 from --

MR. KAUFMAN: Describe the wildlife on the site, Page 7.

MR. MACHTAY: Page 27.

MR. KAUFMAN: We're doing the Part 2.

MR. BAGG: That starts on Page 11.

MR. KAUFMAN: Part, 2 Page 11. Impact on land. Right now it says that there will be no impact upon the land, and the categories as you see them over here. Basically there will be a physical change to the project site. Again, the criteria basically is there something reasonably related, is this criteria reasonably related to what we are being asked to judge today? Is there going to be an impact on the land? Is there going to be construction on the land?

THE CHAIRMAN: Yes.

MR. SCHNEIDERMAN: Subsequently yes, not by this action alone.

MR. KAUFMAN: SEQRA says, as one of the criteria, two of them under Type I, if an action taken may have a significant impact, that is the first trigger. The second one is an action may cause

consequences and there exists reasonably related long term impacts, including subsequent actions likely to be taken. That is straight out of SEQRA. That is the criteria, as far as I see it.

MR. SCHNEIDERMAN: Declaring it surplus and selling it will lead to the private development.

MR. KAUFMAN: And signing the contract. I think that is reasonably related to what is going on.

MR. BAGG: What are you checking off on the box?

MR. KAUFMAN: Larry thinks it's a yes.

MR. BAGG: What gets triggered here?

MR. KAUFMAN: Construction that will continue for more than a year or involve more than one phase. Possible excavation, parking area.

MR. GULBRANSEN: Can project be mitigated by project change?

MR. KAUFMAN: On this one I tend to doubt it. It's an impact on the land. If you build something, there will be an impact. Other categories may provide for mitigation, in my opinion. I believe potential, then we have to look at the categories, small, moderate potential, large. I believe they exist.

MR. SCHNEIDERMAN: Arena alone would be

certainly. Housing is certainly. More than a thousand car parking lot, you lose impervious surfaces. Seems to me that would be a potential large impact on the environment.

MR. KAUFMAN: I think for ease of analysis, rather than trying to classify it and saying under these categories of 1, 2 or 3, if we find there is going to be impact and we think it should be yes instead of no, leave it at that now, for economy.

MR. GULBRANSEN: Within the section, Impact on Land, of those criteria, we are asked to examine the third one regarding construction of paved areas for a thousand or more vehicles. We think that will have an impact. We are not deciding whether it's small or potentially large. We are saying something about that criteria that is active.

MS. GROWNEY: We're just identifying where there is impact.

MR. GULBRANSEN: That is the only one in the land category.

MS. GROWNEY: No.

MR. SCHNEIDERMAN: It would make it a yes.

MR. BAGG: Point of order. States here that if threshold impact equals or exceeds any example

provided, which is a thousand vehicles, you have to check Column 2.

MR. SCHNEIDERMAN: It would have to be potentially large impact.

MR. KAUFMAN: Construction that will continue for more than a year, most likely will involve more than one phase or stage, possible excavation.

THE FLOOR: Excuse me?

MR. KAUFMAN: This is our discussion.

MR. MACHTAY: If I could, Page 15, introduction of proposed land uses, projects or project components obviously different or in contrast to current surrounding land use patterns or existing man-made additions to the landscape. Two, the permanent foreclosure of future recreational opportunities.

MR. KAUFMAN: What page?

MR. MACHTAY: Page 16, Page 17.

MS. GROWNEY: Go slower. You're jumping around.

MR. MACHTAY: I'm eliminating the ones that don't apply.

THE CHAIRMAN: Michael is taking us through the impact on land. Let's do it one at a time.

MR. KAUFMAN: We acknowledge, I think, around

the table, for purposes of discussion and identification, there will be and impact upon the land. Looking at Number 2, any affect to any unique or unusual land forms found on the site itself, cliffs, dunes, et cetera.

I have been part of the EIS team that looked at the golf course proposal for those lands that are formerly involved with the golf course. We did not find any features like that. There is nothing unique or highly unusual on B, C or D. A, I don't really see that much.

Three, will proposed action affect any water body designated as developable area. Does not contain a developable water body. We will not have dredging, no electrical wires. No construction in the freshwater or tidal wetland, but it's possible that there will be other impacts on Carmans, which I think is the way a lot of people have been telling us in terms of groundwater impacts. I think the map said twenty-five years for migration.

MR. BAGG: Is Number 3 a yes or we don't know yet?

MR. KAUFMAN: Don't know yet.

MR. GULBRANSEN: Suffolk County Department Website shows a map that shows the watershed estuary

reserve. This land is part of that delineation. It has issues that pertain to the impacts that this active development could occur.

MR. KAUFMAN: Three, that is impact on water. Any other comments on this one? Let's try 4, will proposed action affect any non-protected existing or new body of water.

MR. SCHNEIDERMAN: Any ponds on this property?

MR. BAGG: No.

MR. KAUFMAN: I don't think this one applies. Number 5, will proposed action affect surface or groundwater quality. We are hearing a lot of information on this one. Is there is a general yes on this one? It will require SPDES.

MR. SCHNEIDERMAN: It will require a discharge permit, for sure.

MR. MACHTAY: I think you can say it may.

THE CHAIRMAN: Sewage treatment plant.

MR. KAUFMAN: And there is a commercial component to this.

THE CHAIRMAN: It does require permits.

MR. MACHTAY: The operative word is "may" rises to an impact statement.

MR. KAUFMAN: Proposed action requires source of water. I don't think that applies. Water supply from wells greater than forty-five minute pumping capacity, probably going to be true. Does anyone know if there are any wells in the Suffolk County Water Authority?

THE FLOOR: There is a huge well to the west by Caithness.

MR. ISLES: West and south a little bit.

MR. KAUFMAN: I think that will require more than forty-five thousand gallons for the project. Page 13, still on impact. Contamination of public water supply.

THE CHAIRMAN: Yes. Construction or operation causing any contamination of a public water supply system.

MR. MACHTAY: What is the potential for contamination?

MR. KAUFMAN: Actually, if there are no wells in the area.

MR. SCHNEIDERMAN: If the well is downstream.

MS. GROWNEY: We don't know, I guess.

MR. KAUFMAN: Let's not touch that one.

Potential adverse impact on groundwater.

MS. GROWNEY: Yes.

MR. KAUFMAN: Liquid effluent will be conveyed off site of the facility, which presently does not exist.

MS. GROWNEY: We don't know.

MR. KAUFMAN: Facility will use greater than excess of twenty thousand gallons a day. That is a yes. Will it cause situation of discharge into an existing body of water.

MS. SPENCER: It may.

MR. KAUFMAN: There are no streams directly running into the Carmans over there, except for Section A. I don't necessarily see heavy siltation coming.

MS. GROWNEY: Was any of this filled?

MR. KAUFMAN: I don't think so. Source of storage of petroleum products.

MR. PICHNEY: It is relevant that the county already stores fuel for the police station that is there.

MR. KAUFMAN: I don't know that we can answer that one. Has a potential. Proposed action will allow residential uses in areas without water and/or sewage services. Contract provides for STP.

THE CHAIRMAN: That is a no.

MR. KAUFMAN: Proposed action locates commercial land and/or industrial uses and/or storage facility.

THE CHAIRMAN: Yes.

MR. KAUFMAN: Any other impacts on water?

THE CHAIRMAN: That's enough.

MR. MACHTAY: You're saying yes, but like Michael, which column is the "yes" going?

THE CHAIRMAN: Two.

MR.KAUFMAN: Will the proposed action alter drainage flow, runoff.

THE CHAIRMAN: Yes, put a street in, it does that.

MR. KAUFMAN: Even if it's mitigated with sewers?

THE CHAIRMAN: Absolutely.

MR. SCHNEIDERMAN: Assuming we're reviewing the project itself, that is the subsequent action of approving this action.

MR. KAUFMAN: Going through, assuming that we are looking at some development activity which is in here, impede water flows. I'm still in 6. We have a general yes in there. Flood water flows, substantial

erosion. I don't think it will do much erosion. Compatible with existing drain patterns. It's not in a designated flood way. This stuff is all in the list of other impacts. Every one okay so far?

MS. GROWNEY: Yes.

MR. KAUFMAN: 7, impact on the air.

MR. BAGG: You said yes on Number 6; what triggered?

THE CHAIRMAN: Impede flood water flow.

MR. KAUFMAN: Impact on the air. Reduce one thousand or more vehicle trips in an hour.

MS. GROWNEY: Yes, it will have an impact.

MR. KAUFMAN: The potential is there.

MR. SCHNEIDERMAN: Certainly the stadium will do that.

MR. KAUFMAN: Result in the incineration of more than a ton of refuse in an hour. I think that is a no.

MS. GROWNEY: We don't know the answer.

MR. KAUFMAN: Emission rate of all contaminants. We don't know the answer to that. Increasing amount of land committed to industrial use. It's Zoned L-I right now for the majority to have. If the county proposal goes forward, it might be a

reduction. I think that is a no.

Proposed action will allow an increase in the density of industrial development in existing industrial areas. I think that this is a yes in there. We are talking about L-I zoned and probable green zone and industrial use.

MS. GROWNEY: Plants and animals.

MR. KAUFMAN: The proposed action threatened any endangered species. County workers.

MS. GROWNEY: Yes, it's possible.

MR. PICHNEY: The brook trout.

MR. MACHTAY: The only way you will know that is doing some kind of biological study, and we don't have that. All you have to do is find lady slippers or something like that; immediately it's on the list.

THE FLOOR: There is a shrub pine community there.

MR. KAUFMAN: That is not endangered in any way. Removal of any portion of a critical wildlife habitat. Don't know. I can tell you throughout EIS with the golf course, that we did not identify that for the western portions. I can't tell you about Zone A.

MR. BAGG: None of the habitats that you read

in the study and what you read in there in S-3 and S-4 is not considered critical habitat, pursuant to state DEC.

MR. KAUFMAN: Application of pesticides or herbicides more than twice a year.

THE CHAIRMAN: Yes.

MR. KAUFMAN: 9, Will proposed action substantially affect non threatened or endangered species?

MS. SPENCER: Yes, the trout.

MR. MACHTAY: Also migratory birds.

MR. KAUFMAN: Removal of the forest over a hundred years.

MR. PICHNEY: Possibly. Section A, there are some substantial trees in there.

MR. KAUFMAN: With the EIS for the golf course, that area had been cut over several times through the years. It's not a climax community at this point in time. It's basically regrowth. Some is pine, some pine pitch, some mixed oak and pine. I'm not sure it's necessarily mature.

THE FLOOR: It's pretty well overgrown with hundred year old trees.

MR. KAUFMAN: Impact on agricultural land

resources. That is pretty much a no, from what I'm seeing. Going onto eleven, impact on aesthetic resources or community character.

THE CHAIRMAN: Yes.

MS. GROWNEY: Yes, big time.

MR. KAUFMAN: Introduction of proposed land uses, projects or project components in sharp contrast to current surrounding land use. Yes. Potential.

THE CHAIRMAN: Yes.

MR. KAUFMAN: Introduction of proposed land uses for projects or project components, aesthetic resources. Dan?

MR. PICHNEY: Yes.

MS. GROWNEY: Yes.

MR. KAUFMAN: Introduction of project components that will result in the elimination or significant screening of scenic views known to be important to the area.

MS. GROWNEY: Yes.

THE CHAIRMAN: What is the scenic view?

MR. KAUFMAN: The LIE.

THE CHAIRMAN: I'd say no.

MS. GROWNEY: The forest.

MR. KAUFMAN: I don't know that I can go on

that one. We have a disagreement. I sort of am not worried about that.

Impact on historic and archeological. On the golf course nothing is identified.

MS. SPENCER: There is a graveyard and I think you should ask Richard whether or not it was in this area.

MR. KAUFMAN: Mr. Martin?

MR. MARTIN: If I can comment on the map, and Tom referred to this in his explanation of the outline. Top right above A, you see it's cut out, the cemetery. It's right near the entrance ramp to the Expressway. It's not within this.

MS. GROWNEY: It's out of the site.

MR. KAUFMAN: Okay. It's cut out.

MR. MARTIN: Next to it, but --

MS. SPENCER: Sits surrounded by this. Yes.

MR. KENT: On two sides.

MS. SPENCER: Because that cemetery is completely surrounded, and the proposed development is contiguous to the cemetery, there is a potential impact.

MR. KAUFMAN: I think that goes to the next category, impact on historic.

MS. SPENCER: That is where I am.

MR. KAUFMAN: Twelve.

MS. GROWNEY: She covered it.

MR. KAUFMAN: Possible impact. That is all that is required. Sensitive for archeological sites. The golf course did not have anything archeologic on it.

THE FLOOR: What golf course?

MS. SPENCER: Same parcel as previous application, years ago.

MR. KAUFMAN: The graveyard for the alms house, I guess is under the other impacts on this particular category, Category 13, impact on open space and recreation.

MS. GROWNEY: Yes.

THE CHAIRMAN: What?

MS. GROWNEY: Future recreational opportunities.

MR. KAUFMAN: Major reduction of open spaces important to the community.

MS. GROWNEY: Yes.

MR. KAUFMAN: Anything on that one? Impact on CEA. That is not in a CEA; that much I know. Category 15, impact on transportation. Will there be an

effect to the existing transportation system?

MS. GROWNEY: Yes.

MR. KAUFMAN: Pattern, movement. Severe traffic problems.

MS. MACHTAY: Alteration of present pattern of movement of people. You will be attracting more people to the area.

MR. KAUFMAN: We have impacts, impact on energy. Will it effect the community's sources of fuel or energy supply to the extent there is a four megawatt plant proposed? Yes, there will be an impact. Hopefully a good one.

Will there be a five percent or more increase in percent of energy used? Even if it's compensated for by the energy plant.

MR. BAGG: I don't think it's five percent.

MR. KAUFMAN: Is that the category?

THE CHAIRMAN: We don't have any knowledge of that.

MR. KAUFMAN: No knowledge of what the build out is. That is answered in the EIS. It requires the creation of extension of an energy transmission or supply system. Yes, it will require.

17, objectionable odors, noises, vibration,

electrical disturbances as a result of the proposed action.

THE CHAIRMAN: Yes, arena lights, notices.

MR. KAUFMAN: They talk about odors will occur.

MR. GULBRANSEN: Is it exceeding the ambient local notices level?

MS. GROWNEY: Of course it will.

MR. KAUFMAN: We have impact there. Impact on public health and hazards, safety or public health and safety. It will impact health and safety. Risk of explosion or release of hazardous substances in the event of an accident.

MR. ISLES: Are we are still on the impact on public health, release of hazardous substances?

THE CHAIRMAN: Pesticides on lawns.

MS. GROWNEY: Yes, definitely chemicals.

MR. KAUFMAN: Result in the burial of hazardous wastes toxic poisonous. Hopefully, non.

MR. MACHTAY: Can we just stop and back up for a minute. These questions are very specific and they're very pointed. They're saying "will it," not is it possible. The sale of the property only makes it possible. It doesn't mean that it will.

MR. SCHNEIDERMAN: It will cause a risk.

MR. MACHTAY: I think we're trying to do something here that we're looking at it and reading into it, different than what it says. Read the language.

MR. KAUFMAN: If you look at Page 11, responsibility of lead agency. The reviewer should be guided by the question are these reasonable. You look at potentially large does not necessarily mean significant. You have to evaluate and look at the stuff wherever possible, and threshold of magnitudes, the language of saying well, in my opinion it says. These examples have been offered as guidelines, does not constitute an exhaustive list of impacts.

MS. GROWNEY: More than likely.

MR. KAUFMAN: More than likely -- we know there is something going on. Involvement with a permanent facility, right now, no farming going on, it's L-I. Replace or eliminate existing facility or structures or areas of historic importance to the community.

MS. GROWNEY: Areas, environmental areas, the whole wooded.

MR. BAGG: It says "historic importance."

MR. SCHNEIDERMAN: Of historic importance.

MR. BAGG: It has to be historic importance. This is no.

MR. KAUFMAN: Area will result in influx of population with special needs. That is what this is oriented for.

MS. SPENCER: No.

MR. KAUFMAN: We have some disagreement. We will go on that one. Important precedent will be set an important precedent for future projects.

MS. GROWNEY: Yes, absolutely.

THE CHAIRMAN: Yes.

MR. KAUFMAN: Relocate fifteen or more employees and more than one business.

MS. GROWNEY: More than likely.

MR. MACHTAY: Back to it maybe issue.

MR. KAUFMAN: Is there public controversy related to potential impact. We have a yes already.

MR. BAGG: You have to determine what it is.

MR. KAUFMAN: We have generalized.

MS. SPENCER: I would like to amend the public input from small to large. Do you see that under public input, 20; Part 3. That is under small to moderate. I think it's potentially large. I think it's all been demonstrably large.

THE CHAIRMAN: What is demonstrable, twenty people speaking?

MS. SPENCER: Plus letters.

MS. GROWNEY: This is just the beginning.

MR. MACHTAY: Then start on Page 26, from one to fifteen. Segmentation, talks about basically, I think it best qualified or best described a sort of a finding statement, if I'm not mistaken.

MR. MACHTAY: It's Part 3 of the EAF.

MR. KAUFMAN: We're in Part 3. I think that was the best way to categorize it. Proposed declaration of surplus of sale of two hundred fifty-five acres; accordingly, no solid waste will be generated. Will not adversely impact environment. I believe we --

MR. GULBRANSEN: Point of order. Is it our intention as a body to revise and edit the content of this Part 3?

MR. KAUFMAN: I wasn't exactly anticipating going through this. I think this is the way to crystalize what our concerns have been.

MR. GULBRANSEN: I'm uncomfortable zooming in on certain sentences which make the record look like we are skipping over other portions. My suggestion is if we are looking for a trigger to reach a determination,

we can search for a trigger, but I don't think it's a productive exercise to try and wordsmith.

MR. KAUFMAN: If you want to swing that way, then we do the standard type analysis and see what we have under SEQRA.

THE CHAIRMAN: Determine whether a proposed Type 1 is elicited. The impacts may be reasonably expected to result from the proposed action and here are the criteria.

MR. KAUFMAN: Reading from SEQRA, we have gone through the criteria. They're talking about impairment of quality of character, changes in quantity and use of energy. Going through some of these --

MR. BAGG: You have to read them.

MR. SCHNEIDERMAN: I don't think we can be expected to rewrite the EAF today. It's not our document. It's prepared for us by Planning.

MR. KAUFMAN: Should it be rewritten? Maybe that would create a table situation. Have we received enough information here today to say that there are significant adverse impacts that may exist and go through SEQRA and say Pos Dec.

MR. SCHNEIDERMAN: How can you Pos Dec it on an EAF? That was consistent with that Pos Dec. If

you're going to Pos Dec it, I'm not a lawyer either, but I would feel more comfortable if that Pos Dec was made pursuant to an EAF that identified those things. We are identifying them as a group, but the document itself has never been changed.

MR. KAUFMAN: CEQ generally through the years has looked at EAF's, gone one of two ways. We have either directed the staff to change the EAF. That institutes a table right now, but because we have to change it, we are not going to rewrite it today. Occasionally, we have simply said that we don't agree with the EAF, pointed toward a Neg Dec. We have said Pos Dec in that situation.

THE CHAIRMAN: We have done where we said that there is pos dec and EAF is incorrect, and it should be corrected, we can go right forward, whatever the sense the forward is. I think we can say we have identified problems, staff has to correct it, and let them do it.

MR. KAUFMAN: That goes table then?

THE CHAIRMAN: I think he can Pos Dec it and instruct the staff to correct the EAF.

MS. GROWNEY: As a comfort level for myself I do like the fact that we're going through it and

identifying it because we are seeing there is a lot more really honing in now that we see needs to be evaluated rather than one or two things. I find that helpful.

THE CHAIRMAN: We have done this in a very broad sense. A lot of this stuff needs a lot more thought than what we are going to be able to do here today. We're quickly going to go through the criteria for significance.

Substantial adverse change in existing air quality, ground or surface water quality or traffic or noise levels, substantial increase in solid waste production, a substantial increase in potential for erosion, flooding, leaching or drainage problems, yes or no. Yes.

Two. Removal or destruction of large quantities of vegetation or fauna. Substantial interference with the movement of any resident or migratory fish or wildlife species. Impacts on significant habitat area. Substantial impacts on threatened or endangered species of animal or plant, or the habitat of such a species, or other significant adverse impacts to natural resources. Yes or no.

MR. MACHTAY: Maybe.

THE CHAIRMAN: Three. Impairment of

environmental characteristics of a critical environmental area as designated, pursuant to subdivision 617.14(g) of this part. No.

Four. The creation of a material conflict with a community's current plans or goals as officially approved or adopted.

MR. KAUFMAN: Unknown.

MR. MACHTAY: Unknown. We don't know if there is a comprehensive plan; we only know what the zoning is.

THE CHAIRMAN: Impairment of character or quality of important historical, archeological or aesthetic resources or of existing community or neighborhood character. Yes.

MR. MACHTAY: Community character.

THE CHAIRMAN: Six. Major change in the use of either the quantity or type of energy.

MR. KAUFMAN: Yes.

THE CHAIRMAN: Seven. Creation of a hazard to human health.

MS. GROWNEY: Potentially.

THE CHAIRMAN: Maybe groundwater.

MS. GROWNEY: Exactly.

THE CHAIRMAN: Eight. Substantial change in

the use or intensity of use of land, including agricultural, open space, recreational resources or in its capacity to support existing uses.

MS. GROWNEY: Yes.

THE CHAIRMAN: Nine. Encouraging or attracting of large number of people to a place or places for more than a few days, compared to the number of people who were coming to such a place absent the action. Yes.

Ten. Creation of material demand for other actions that would result in one of the above consequences.

MS. GROWNEY: Yes, everything we just went through.

THE CHAIRMAN: We agreed, yes.

Eleven. Changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment.

MS. GROWNEY: Yes.

THE CHAIRMAN: Or twelve. Two or more related actions undertaken, funded or approved by an agency, none of which has or would have a significant impact on the environment, but when considered cumulatively, would meet one or more of the criteria in

this subdivision.

THE CHAIRMAN: Yes.

MR. GULBRANSEN: No. The way I heard you read it, taken singularly would not, but cumulatively it would. I'm not going to say that those things would singularly have an impact. I think you were reversing the English.

THE CHAIRMAN: Are we going to say no?

MR. GULBRANSEN: Maybe I heard the reading --

THE CHAIRMAN: Two or more related actions undertaken, funded or approved by an agency, none of which has or would have a significant impact on the environment, but when considered cumulatively, would meet one or more of the criteria in this subdivision.

It seems to me it's a combination of Suffolk County and Brookhaven triggers this.

MR. KAUFMAN: I actually agree with Tom on that one. I don't think it's applicable.

MR. MACHTAY: I think no.

MR. KAUFMAN: This section is talking about two or more, which individually does not identify anything.

MS. GROWNEY: The actual sale itself in and of itself does not. With everything else it does.

MR. KAUFMAN: To the extent that we have been looking at everything as reasonably related, looking at the actual action, a surplus sale plus a contract, vying with the RFP, looking at paperwork, those things may.

THE CHAIRMAN: Plus changing of zone.

MR. KAUFMAN: Those things might actually hit this particular criteria where they would not apply to the physical impact that we have described above. They might just fit the criteria of related actions, none of which ordinarily would have a significant impact on the environment.

For example, surplus as a designation would not, but when you consider them together with the sale and contract would meet the other criteria over here. I think that actually is a yes when you look at it that way.

MR. MACHTAY: Would it make you happy, yes?

MR. KAUFMAN: This isn't bargaining, Rich.

THE CHAIRMAN: It seems to me that we determined that all sorts of triggers are set in this. So I would propose that we should have a motion.

MR. MACHTAY: I'll make a motion.

THE CHAIRMAN: What is your motion?

MR. MACHTAY: My motion is this is a Type I

action. And my motion is that it is a Positive Declaration. And that the EAF Part 3 should be amended by the Planning staff to then be consistent with the amendments that we just made to the EAF Part 2.

THE CHAIRMAN: Do we have a second?

MS. GROWNEY: I'll second it.

MR. MACHTAY: The other addendum on there is that the Town of Brookhaven should, by resolution, be informed that they are very much a part of this review and they have to be coordinated properly, and pursuant to SEQRA, and that they be made a part of this whole thing.

MS. GROWNEY: Second it.

THE CHAIRMAN: It has to be noted it's a Pos Dec, as the criteria that we have gone through have been exceeded.

MR. PICHNEY: In addition to the comments made about the Town of Brookhaven, could there be words to the effect that there be -- that we receive a vote of the sense of the town council regarding their participation?

MR. BAGG: You can't do that. You Pos Dec this thing and that will proceed accordingly.

MS. GROWNEY: The invitation is there; that's

enough.

THE CHAIRMAN: We have a motion on the floor, we have a second. Any further discussion?

MR. GULBRANSEN: I think I need to understand more clearly what the second amendment does with regard to the Town of Brookhaven involvement in the Pos Dec, too. Now does that deem them as an involved agency, co-lead agency?

MR. MACHTAY: It would make them an involved agency by coordinating it. If they want to be co-lead agency, they would have to negotiate that with the county.

MR. GULBRANSEN: Is that part of your amendment, that we are open to that?

MR. MACHTAY: If you want to make it part of the amendment, sure. Our recommendation about co-lead agency would be salubrious.

THE CHAIRMAN: It's a recommendation now as opposed to an absolute part of the motion.

MS. GROWNEY: I still second it.

THE CHAIRMAN: The amendment is a recommendation. Any other discussion? I'm going to call the vote. All in favor? Aye? Opposed? Abstentions? Motion carries.

(Applause)

MR. MACHTAY: I'd like to make another motion. The other motion is I wish everybody happy holidays. I'll see you all in the new year. That is a motion to adjourn.

(Time noted: 2:15 p.m.)

CERTIFICATION

STATE OF NEW YORK)
) ss:
COUNTY OF SUFFOLK)

I, JUDI GALLOP, a Stenotype Reporter and Notary Public for the State of New York, do hereby certify:

THAT this is a true and accurate transcription of the Suffolk County Council on Environmental Quality Board meeting held on December 9, 2009.

I further certify that I am not related, either by blood or marriage, to any of the parties in this action; and

I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 2nd day of January, 2010.

Judi Gallop

JUDI GALLOP