ORIGINAL

----------X

DEPARTMENT OF PLANNING

COUNCIL ON ENVIRONMENTAL QUALITY

----------X

January 19, 2011

9:30 a.m.

William Rogers Legislative Building

725 Veterans Memorial Highway

Hauppauge, New York 11788

SUFFOLK COUNTY DEPT.
2011 FEB 15 PM 12: 12

B E F O R E:

R. Lawrence Swanson, Chairperson

Michael Kaufman, Vice Chairperson

Reported by,

Melissa Powell

****

FIVE STAR REPORTING, INC.

90 JOHN STREET, SUITE 411

NEW YORK, NEW YORK 10038

631.224.5054

APPEARANCES

James Bagg, Council Member

Gloria R. Russo, Council Member

Mary Ann Spencer, Council Member

Thomas Gulbransen, Council Member

Eva Growney, Council Member

Richard Machtay, Council Member

Vivian Viloria-Fisher, Legislator, Council Member

Thomas A. Isles, Director S.C. Department of Planning

Michael Mulé, S.C. Department of Planning

Richard Martin, Director, S.C. Department of Historic Services

Thomas Young, S.C. Assistant Attorney

Michael Pitcher, Legislative Aide for Presiding Officer

Kara Hahn, Director, S.C. Department of Communications

Joy Squires, CAC Town of Huntington

ALSO PRESENT

George Nolan, Legislative Counsel

William Lindsay, S.C. Legislature, Presiding Officer

Christopher Kent, S.C. Chief Deputy County Executive

Eric Bergey, P.E. Civil Engineer, S.C. Dept. of Public Works

(Time Noted: 9:30 a.m.)

CHAIRMANS SWANSON: I would like to call the first meeting of 2011 to order. I have a couple of announcements I'd like to make.

First of all, congratulations to Michael Kaufmann. Michael was the Environmental Person of the Year in the Village of St. James -- quite an honor. I also would like to say congratulations to Legislator Vivian Viloria-Fisher who was the Politician of the Year in the Three Village area. Congratulations to the both of you.

Also, I would like to say, with regret, but I know there is some reward in this, but Tom Isles has told me that he is going to retire. Tom has been a tremendous help to all of us here at CEQ, and very helpful with a number of very difficult projects over the last decade. The most recent thing he did that was so wonderful was providing us with a real smooth transition between Jim Bagg's retirement and Michael Mule

replacing him.

Tom, we all wish you the very best and thank you for everything you have done to help us.

MR. ISLES: You're very welcome.

CHAIRMAN SWANSON: Let's move on and review the Minutes.

We have Minutes from October, November, and December. There were some comments submitted to Christine in your packets. Please take a look at those. There were comments from Maryann and from Rich Machtay.

I have a comment that I think is appropriate and that is from the December Minutes. On Page 16, Dominick Ninivaggi is speaking on Line 11. The text says, "We can get to a total elimination of pesticides." I believe that it should actually say, "We can't get to a total elimination of pesticides."

With that, if anybody has any additional comments, we will start with the October Minutes.

MR. MACHTAY: The comments that I made on the October and November Minutes, I will move those two sets of minutes to accept them. I was not here for December, therefore, I will have to abstain from December.

MR. SWANSON: We have a motion for accepting the October and November Minutes.

Do we have a second?

MR. KAUFMAN: I will second.

CHAIRMAN SWANSON: We have a second by Michael Kaufman.

Any further discussions?

(WHEREUPON, there was no response from the Council.)

CHAIRMAN SWANSON: All in favor?

(WHEREUPON, the Council voted.)

CHAIRMAN SWANSON: Opposed?

(WHEREUPON, there was no response.)

CHAIRMAN SWANSON: Motion carries.

MR. BAGG: I am abstaining from October. I was not here.

CHAIRMAN SWANSON: Mr. Bagg has abstained from the October Minutes.

Do we have a motion for December?

MR. BAGG: I will second.

CHAIRMAN SWANSON: Maryann moved that they be accepted and Jim Bagg seconded them.

Any further discussions?

(WHEREUPON, there was no response.)

CHAIRMAN SWANSON: All in favor?

(WHEREUPON, the Council voted.)

CHAIRMAN SWANSON: Motion carries.

We have one abstention; right?

MR. MACHTAY: Yes.

CHAIRMAN SWANSON: Rich Machtay has abstained.

Mike, did you want to talk about the potential changes in the way we take the Minutes?

MR. MULE: Well, starting at the December meeting, we started to do a meeting summary in addition to the verbatim minutes. I know Legislator Fisher submitted a bill that was laid on the table in December to eliminate the verbatim minutes requirement, and we're still waiting on the vote on that.

CHAIRMAN SWANSON: Thank you.

Any other correspondence?

MR. MULE: Yes. We received the preliminary Draft Generic Environmental Impact Statement for the Yaphank Development project.

At our last meeting, I believe, or possibly our November meeting, we set up a subcommittee of the Council to review the preliminary draft. It was agreed on that Michael, Larry, Eva, Vivian, and Gloria were on the subcommittee. If you're still interested in being on the subcommittee, Christine has disks with the files for it. We were thinking we will give you guys some time to review the documents and come up with comments and then meet sometime between now and February's meeting to discuss the comments with the consultant to make any adjustments that you feel are necessary and present the finalized draft at the February CEQ meeting and hopefully come to a decision.

CHAIRMAN SWANSON: Rich?

MR. MACHTAY: Am I right or am I wrong? In the packet there is a resolution from Mr. Lindsay's Office that disavows any interest at all in the Legacy Village?

MR. MULE: Correct. It is on the agenda for today's meeting.

MR. MACHTAY: It looks to do something else?

MR. MULE: Correct.

MR. MACHTAY: If that is adopted by the Legislature, then --

MR. MULE: Then it dies.

MR. MACHTAY: Then Legacy dies?

MR. MULE: Correct.

MR. MACHTAY: When will that be taken up by the Legislature?

MR. MULE: Once the CEQ hears it, then it goes to the EPA, and then in the next coming weeks and months, it will move through the process. It all depends on how smoothly it goes through the Legislative process.

MR. MACHTAY: Thank you.

CHAIRMAN SWANSON: Any other

comments on this particular issue?

Tom?

MR. GULBRANSEN: I am not on the committee, but is it possible that those same documents will provide feedback to the committee?

CHAIRMAN SWANSON: Absolutely. I look forward to reading the thousands of pages or whatever it is.

MR. KAUFMAN: 2500 pages.

CHAIRMAN SWANSON: So, this is a reminder that this is a public meeting. If there is anybody here in the audience that chooses to speak on a particular issue, we would be glad to hear it. Ordinarily, we wait until the topics are bought up as laid out on the agenda.

(WHEREUPON, there was no response from the Public to speak on any such issue.)

CHAIRMAN SWANSON: Moving on to Historic Trust/Director's Report.

Before you begin, I want to thank you for the meeting that we had in December at the Sagtikos Manor. I

think, based on conversations I had with a few people, everybody thoroughly enjoyed it and got a real education from having the opportunity to visit it.

MR. MARTIN: Glad you had a good time, and I hope we get to visit other historic sites.

CHAIRMAN SWANSON: Well, now that you brought it up, maybe it's time to start to thinking about what we might do, say in April or May, if the opportunity arises.

MR. MARTIN: I will discuss it with Maryann and come up with something.

LEGISLATOR FISHER: I'd also like to congratulate you, Rich, because I was so impressed by the international Christmas that I called a friend of mine, who is a teacher, and mentioned it to her and she couldn't get a ticket. It was sold out.

MR. MARTIN: It was very successful, and I was trying to prompt them to add another weekend, but they had trouble getting volunteers.

Just to give a brief report on the housing situation within the Suffolk County Parks Department. We did have a meeting with the committee that supervises the rent and about the situation we have with the two houses in Huntington by not being able to rent them. However, we took a serious look at these two houses and their conditions.

They're both very early 1900 Century homes dating back to 1820. They have heating problems and insulation problems. We tried to adjust the rent to acknowledge that fact and the high cost of heating and maintaining those two houses. The committee did agree to adjust the rent downward, and these will soon be posted and sent out to all County employees to see if we can get someone interested in renting them. Since that meeting, we have not had anyone come forward to rent them.

We did get two new tenants; one at Black Duck Lodge which is out at

Flanders which is very important because it is an isolated building within the County Parks and to not have somebody there is a real problem. We just did an exterior restoration, so we really want to keep that occupied.

At the Scully Estate, there has been some extreme vandalism. After the County purchased it, the Town had moved out and we did get someone to move in immediately; so that building is secured with a tenant.

To report on the contract with our historic group. The contract for the Long Island Chapter of U.S. Lighthouse Society at Cedar Point Lighthouse has been completed. The County Parks Department has transferred the organization and their lawyers are reviewing the contacts. They're actively raising funds for that project. They're looking to replace the roof as their first project hopefully this year in the Fall.

MS. GROWNEY: Rich, I just want to

thank you for all your efforts at Black Duck Lodge and the Cedar Point Lighthouse. You brought the attention to both those two projects to the East End and it kind of livened things. I would like to thank you for your commitment and for your efforts.

MR. MARTIN: Thank you.

Also, I would just want to add an update to my report today.

The situation with the restoration at the Coindre Hall boathouse. We just had a construction meeting on the site there yesterday. That project did start this Fall. We have found a severe situation with the steel framing element on both the tower and support system of the two large chimneys to the building. They're now recommending reconstruction of the tower and reconstruction of the chimneys which are elaborate decorative features to the building. I have requested that the Department of Public Works to please put a concept plan going forward that we can bring to the

Historic Trust at next months meeting. We're not planning to do any demolition as part of the job. We're just going to restore the building as it was, but with these extreme framing problems, they're recommending partial demolition of the tower and the chimney.

I just wanted to bring that to your attention. We will be reviewing that at next months meeting.

CHAIRMAN SWANSON: Michael?

MR. KAUFMAN: Rich, just as a guesstimate, what are you thinking the cost factor might be increased by for that particular boathouse?

MR. MARTIN: We're under Phase 1, of a three or four phase project. We are going to have redo it in a sense -- under the work of a contractor who is -- who will be able to do the work. He will be coming up with new cost estimates and will be removing some elements from the project in order to do this work. This is a priority to get these items stabilized.

MR. KAUFMAN: The other question I have was the Stimson House, which I am familiar with, but has there been any effort given to updating that facility in terms of insulation and possibly a small rebuild of it? I know there are plaster walls in there, and I know the window structures are very, very historic. Given the fact that it is an energy home and it is almost impossible to heat, keeping it in the program sometimes worries me because no matter what happens, you're going to have someone in there, even at a reduced rent, but they're still going to be freezing inside there because in many ways, it is an unreasonable house. Is there anyway to reconstruct that without destroying the historical integrity of the building?

MR. MARTIN: We can't reconstruct the building, but there are other avenues as part of having completed them. One, the committee did -- we discussed with the committee and

recommended to the maintenance division that a new furnace -- a new heating efficient furnace be placed in the building which the Department has not done yet, but they're planning to do. Also, some insulation could be placed in the attic, as well as storm windows being added to the building. So, all the things that can be done, the Parks Department hasn't done yet, but as for the reconstruction aspect, I would recommend that.

MR. KAUFMAN: In terms of the windows, I believe they're single paned right now, if I am not mistaken; can those be swapped out with storm windows like you're saying or double paned?

MR. MARTIN: No. You would not remove the historic windows, but you can definitely add storm windows to the exterior. Since it is not a museum building, what we can do economically, is place aluminum windows that would look okay instead of the museum quality wood frame storm windows like we do at

other locations.

MS. GROWNEY: May I just suggest that you might want to explore a plastic version of storm windows because with aluminum, there may be an energy issue with that. Just something to keep in mind.

MR. MARTIN: We will take a look at that.

CHAIRMAN SWANSON: Any other questions for Rich?

(WHEREUPON, there was no response from the Council.)

CHAIRMAN SWANSON: Rich, thank you very much.

Moving on to Type One Actions. There's a technical correction to Proposed Acquisition Open Space Preservation known as the Three Mile Harbor County Park Addition of the Boys and Girls Harbor Property in the Town of East Hampton.

Mike, do you want to explain the issue?

MR. MULE: Yes. It was a

mistakenly classified as an Unlisted Negative Declaration where it should have been a Type One because it was involved with physical alterations of greater two and-a-half acres adjacent to the County parkland. We just need a motion to reclassify it as a Type One.

MS. GROWNEY: I will make the motion.

CHAIRMAN SWANSON: Eva made the motion to make the correction.

Second?

MR. MACHTAY: I will second.

CHAIRMAN SWANSON: We have a second from Rich Machtay.

Any other questions?

(WHEREUPON, there was no response from the Council.)

CHAIRMAN SWANSON: All in favor?

(WHEREUPON, the Council voted.)

CHAIRMAN SWANSON: Motion carries.

Next is the Proposed Approval of a Resolution declaring as surplus approximately 221 acres of land in Yaphank and authorizing the auction sale

of the property by the Director of Real Property Acquisition and Management in the Town of Brookhaven.

Is there somebody here to speak to that?

Please identify yourself for the Stenographer.

MR. NOLAN: I am George Nolan, Counsel for the Suffolk County Legislature.

I prepared this resolution at the request of the presiding officer. The presiding officer is in the building. If you have any questions for him about the resolution, he can come in.

Basically, the resolution does what the title suggests which is it declares 221 acres surplus which the Legislature has to do and then authorizes our division of real property acquisition of management to auction the sale of that property.

Also, in the body of the resolution, it does state that the Legacy Village project that's proposed

by the County Executive is rejected.

CHAIRMAN SWANSON: Thank you.

Rich, this is a question that you raised previously. Do you have any questions for Mr. Nolan?

MR. MACHTAY: I think the resolution is prepared very well. There is no mention of zoning in it. It was prepared very well and congratulations on that. There's no mention of zoning in it, and there is no mention of development in it. As a Type One Action, you have to coordinate it -- it is required to be coordinate with other agencies that have approval in the process. In this particular resolution, the way it's written, no other agencies have approval down the line or now, and I think that you did a good job.

MR. NOLAN: Thank you.

CHAIRMAN SWANSON: Any other questions for Mr. Nolan?

Tom?

MR. GULBRANSEN: Mr. Nolan, I have a question about the sixth resolved

paragraph in the resolution. Just so I understand the scope of what we are being asked to do, do I understand that the resolution calls for the allowance of a subdivision to maximize the return to the County? So, might there be way to stop that subdivision by also allowing for the County to take care of the planning and stewardship responsibilities in the area?

MR. NOLAN: I am not sure I understand the question.

MR. GULBRANSEN: I am not sure I understand how to propose the question.

(WHEREUPON, there was laughter.)

MR. GULBRANSEN: As it's read here, it authorizes the subdivision of surplus property to maximize the County return and that subdivision might result in many component uses. Sometimes subdividing causes each little piece to be reviewed on its own, and we miss the opportunity to do a collective plan. Is there anyway to accommodate that or to provide some kind of stewardship

opportunity in contrast to allow it to be divided up into little parcels that would run in their own respective direction?

MR. NOLAN: I am not sure I know the answer to that question. I do know the reason that the resolved clause was put in the resolution is because the presiding officer is very interested in maximizing the return to the County. The idea was to give the division of real estate some flexibility to determine what was the best way to do that in terms of selling it in one, selling it all together, or selling it in pieces. That was the idea behind all of that.

CHAIRMAN SWANSON: Michael?

MR. MULE: I also believe it was because the parcel themselves don't exist as separate lots. It's now part of the larger County contract to be subdivided out.

CHAIRMAN SWANSON: Rich?

MR. MACHTAY: My next question is,

do you have to go to the Town for that subdivision, or can you the County parcel it out and file deeds?

MR. NOLAN: I honestly don't know the answer to that question. I would assume you would have to go to the --

MR. MACHTAY: As soon as you involve the Town in the process, they have to be coordinated with. When you have a Type One Action, you have to coordinate it and give it a negative declaration and they have to live by that negative declaration further down the line. Do you know what I mean?

MR. NOLAN: Yes.

MR. MACHTAY: You really don't want that to happen. You have to go through the entire process for development to do an impact statement.

MR NOLAN: This is not my area of expertise. I do understand what you're saying. I think the intention always was that there would be an environmental review down the road. The County is just looking to --

MR. MACHTAY: But if the environmental review goes away, and if you coordinate it with the Town, and they give it a negative declaration -- the County gives it a negative declaration, then the Town has to live by that negative declaration. They can't come back and say we don't like that negative declaration, therefore, we're going to give it a positive declaration. That is in the SEQRA regulations.

Mr. Bagg, do you care to comment on that?

MR. BAGG: Yes. I think that people are thinking of subdivisions as per a residential subdivision or industrial which is being proposed to the current Legacy Village site. I think, in this instance, the County will be talking about a minor subdivision into these two or three parcels possibly based on the underlining zoning in order to maximize the yield.

MR. MACHTAY: I don't want to

mention zoning in the resolution because that would get you tangled up in ways you don't want to be.

MR. BAGG: Right, but that's what they're saying that possibly real estate would look into that to find out what would be the optimum price the County could receive for the property. I think that everybody knows that once the property is sold and whoever purchases it and wants to ultimately develop it, they have to go the Town for that.

MR. MACHTAY: We don't want to put the Town in a position where they have to live by the County giving it a negative declaration.

MR. BAGG: It would only depend upon -- you know, the property as a parcel and the sale of the property. They wouldn't have to live on approving any type of subsequent subdivision later on. It wouldn't apply at that point. The Town could place a positive declaration on the subdivision down the line.

CHAIRMAN SWANSON: Michael?

MR. KAUFMAN: I think we're missing a couple of points here.

One, the village itself as it's drafted, is only making a declaration that this County land for County purposes is being declared surplus. That's the primary purpose. The negative declaration that you're talking about, Rich, really only applies to, in my opinion, declaring the surplus. A declaration of surplus by any municipality refers only to that municipality and that negative declaration would be limited only to that municipality. I don't think it involves the Town of Brookhaven at this point. The sale, possibly later, subject to zoning and things like that would involve the coordinated review that you're talking about and the reviews that I think Tom was also talking about. Right now, we're only dealing with the title over the declaration of surplus. There's other

language in here about subdivisions and auctions. I think that's really focusing still upon the declaration of surplus and, again, that's only for County purposes. So that's the first part of where I think we're going on this one.

The second part is "subdivision" may be the inappropriate word of art at this point in time. It's really partition more than anything else -- land that is presently owned by the County. The County is trying to organize it into lots. As far as I understand under municipal law, when a -- if you will, a superior municipality begins to do certain types of land use, it can divide its land one of two ways. You can go through the formal subdivision process with the township that is involved, and I think that's what the County right now is doing with the Legacy Village plan and the subdivision and the EIS. There is another way of doing it where it

internally reorganizes the property that it owns and that's really more of a partition not a subdivision. A partition often is done by specifying the meets and bounds within the municipality ownership, if you will. As such, that's where I see the struggle again. Again, the word "subdivide" worries me a little bit, whereas the word "partition" would be better.

MR. MACHTAY: That's why I asked the question, can the County just split the property on its own? I didn't use the word "subdivision." I did not use the word "partition." Do they create the lots or a lot by just simply filling a deed with the County Clerk?

MR. KAUFMAN: That's previous information that we didn't receive in the past and that's the way the Legislature --

MR. MACHTAY: That's the way it could happen and not involve the Town.

MR. KAUFMAN: Correct. The actual sale, if it goes out eventually, also

would not necessarily involve the Town because that's just a sale of the land. I think where SEQRA kicks in, in terms of review, they have the option -- SEQRA would kick in at that time with Brookhaven. Right now, I don't see a coordinating review as being an issue when you're just dealing with title and just dealing with partition even if there is a possible technical issue with the way the language is being put forth.

CHAIRMAN SWANSON: Tom?

MR. GULBRANSEN: Mr. Nolan, in the second resolved paragraph, it calls for the County Department and office and agencies and officials not to take any action to advance the Legislature or any variation thereof. Is it conceivable that Legacy Village has residential or industrial -- I am not sure what the variation of thereof is but the CEQ was concerned that the County and the waste water treatment facility be ready and available to the upgraded or adjusted to accommodate these actions that we're

going to have with the watershed. Does that second paragraph resolve preclude treatment plans for being upgrade or something like a variation of the Legacy Village?

MR. NOLAN: I don't think it was the intent to stop that type of activity. It's to -- I believe earlier in the process Legislator Kennedy had a resolution where he wanted to propose the sale of a piece of the Legacy Village property, but he did not address Legacy Village in terms of saying that the County Legislature does not support it. There was a concern raised by Legislator Kennedy by this body that you're running into a SEQRA issue in terms of segmentation. We wanted to address Legacy Village directly in this particular resolution to state the development proposed as part of the County Executive's Legacy Village proposal is rejected the Legislature. I don't believe that would stop other type of planning -- waste water plan and

those types of things from going forward. It's just development as proposed in the resolution by the County Executive.

MR. GULBRANSEN: Then that would be my reaction to the word "any variation thereof." It seems pretty inclusive and if you're going to be that broad in asking that agency not to accommodate that, that sounds like it would be causing them not to mitigate for something that might not be necessary in the future.

MR. NOLAN: We certainly can look at that language and clarify it.

CHAIRMAN SWANSON: Legislator Viloria-Fisher?

LEGISLATOR FISHER: Tom, when we discussed this -- I know I have had many discussions with Bill about this bill. He wanted to try to move as quickly as we can because of the financial issue that the County is facing. We have valuable properties sitting there that we would like to see sold. In order to,

I guess, extricate ourselves from having to go through the whole process that has begum by this Legacy Village proposal, we wanted to dismiss that completely and reject that by the Legislature so that we wouldn't have to wait for the EIS process to be completed and work within that because we wanted to just reject Legacy Village so that we can go ahead with the surplus the property so we can get some revenue from the sale of the property. I think that's why there is very broad language because they were rejecting it in its entirety and separate ourselves from it. We did have that problem when Legislator Kennedy had one parcel that actually winded up not being a parcel. We had also looked at investment apportion of this and it was a partition rather than a subdivision. It wasn't really a legal subdivision, but that piece of Legacy Village that was zoned industrial was that we were looking at the entire boundaries and it wasn't involved in the residential

portion of the program and that could not be done because of the review; so we just wiped the slate clean and surplus the property without any encumbrances.

MR. KAUFMAN: This would be directed to Mr. Mule.

I've walked the property several times over the last decade. I also participated in the EIS and that looked at more than just the northern portion of the property. Mike, you have seen the draft of the EIS and apparently have read it several times -- at least at this point in time, but do you see any environmental constraints within this particular project that would prevent surplus?

MR. MULE: Not in the areas that we discussed for this project. Area A of Legacy Village seems to be the most environmental sensitive of all of these.

MR. KAUFMAN: The rankings that were presented in the EAF, those do not seem to propose any problems or anything?

MR. MULE: No.

CHAIRMAN SWANSON: Any other comments?

(WHEREUPON, there was no response from the Council.)

CHAIRMAN SWANSON: Legislature Viloria-Fisher, would you tell us what the timing is of this going forward?

LEGISLATOR FISHER: George, if I am not mistaken, it will be at committee next week; am I right?

MR. NOLAN: The bill has been laid on the table. It could be voted out on by the committee next week and be eligible for vote by the Legislature by February 1st.

LEGISLATOR FISHER: That's Tuesday.

CHAIRMAN SWANSON: Mr. Isles?

MR. ISLES: I just wanted to make the point that Chief County Executive Christopher Kent wanted to be here today. I believe he on his way, and I wanted to make you aware of that. I think he wanted to express some points about the fact that the County has

embarked the EIS process and have completed those document as a draft of 2500 pages. I also wanted to make the point that the Legislature has approved the scope that included looking at alternatives including open space. So I don't want to speak for him today, but I believe he would like the opportunity to speak to you, and I understand that the meeting has to advance, but I wanted to let you know he is interested in addressing you today.

CHAIRMAN SWANSON: Thank you.

LEGISLATOR FISHER: I have a question as to what Mr. Isles just said.

When we look at the scope and the alternatives, would this particular resolution preclude us from preserving any of the properties? This only give us the ability to declare it surplus. I don't believe it would preclude us from preserving it?

MR. ISLES: I can't really directly speak to that. It seems there would have to be subsequent action to the

actual sale -- I assume. I would defer to Counsel on that one. I just wanted to make the point, and I think Mr. Kent wanted to make the point that what CEQ had requested in the scope was that if there is possibly transfer to private public ownership that a number of alternatives be examined. One, being the development under existing zoning and one being retained in the County municipal -- County Building Department. Third, being for open space. I just wanted to make you aware of that. I don't want to speak for him and answer your questions. I believe it would require a second action approving the transfer as it happens with the County auction. These specific transactions come back to the Legislature, but that is just my personal understanding.

LEGISLATOR FISHER: Maybe I am not understanding the response completely.

What I am saying is that, if we pass this resolution, we have to able to sell off the property?

MR. ISLES: Right.

LEGISLATOR FISHER: But we are not required to sell off all the property and then each sale will come before the Legislature; so, in fact, those pieces of property that we don't sell, can still be County property and at some point we could submit a resolution into the parkland to declare it as park, in other words, preserved land. So, the recommendation as an alternative, and declaring it surplus are not mutually tied? We can still pass this and preserve some of the land; correct?

MR. ISLES: It is not my intention to take a point contrary to that. It is just to make the point --

LEGISLATOR FISHER: I am not trying to debate you. I am just trying to clarify.

MR. ISLES: It was an important issue with the Legacy Village proposal that was made at the CEQ meeting in December of 2009. I would say it was a positive declaration and that, that

action then move it to a potential private sector and should be retained under public ownership and that option is considered. So, ultimately, the scope did not include that. You're right with respect to the action. Whether this is -- here again, I am not speaking for Mr. Kent but whether this can advance to the point where we further potentially foreclose that option and maybe we do and maybe we don't. Here again, the fact that Legislature adopted the scope that included that alternative, but in this case, the authorization to declare surplus of the sale of 220 acres without having that option evaluated as part of this process is more than option to make known to you.

CHAIRMAN SWANSON: Officer Lindsay?

MR. LINDSAY: I was just sitting here listening to all the conversations, and I felt compelled to come to the microphone to explain why I offered this resolution.

When Legacy Village was originally announced, I guess, it was probably five years ago now, I was a supporter of it because I thought that there was an absolute need for affordable housing in our County. The market conditions, I don't have to tell anybody, has changed dramatically in the last five years. We're in a whole different world. As of December 9th, there was 4200 homes in Suffolk County for less than $200,000. There was another more than 6,000 homes for less than $300,000. The builders concept of Legacy Village, at least the housing portion, was that it would be affordable around the number of $300,000. But now, because of the backlog of inventory, I don't think the primary purpose of Legacy Village is needed anymore.

I did not introduce this resolution to preserve this property. I introduced this resolution to sell the property because we need the money. I don't know how else to put. The County is in

desperate fiscal shape. There is a strong debate going around the horseshoe now on whether we should sell our nursing home -- sell the building and I don't really want to sell any County assets, but I am afraid we're going to have to. If I have to sell something, I would rather sell vacant land then sell a facility that serves the public. That's my position. I don't know whether that would be the Legislative position, and what I am trying to do is move this resolution to the full body so that they have a choice and that's why I supported the original EIS for Legacy Village because I don't want to fight for that. I want that to come forward, and I want a conscious choice made by the Legislature on which way they want to go.

The other factor here and this is something that's been weighing on me a lot lately is that I don't like the finances of the Legacy Village deal. It's very convoluted. We sell this

industrial parcel for $12,000,000 and it is about 95 acres. I am not sure if we're getting full value on that piece. If you look at all the other components of the housing, the park, the solar field, the arena and the give backs, back and forth, we don't get much more revenue from it. So, in total, the deal was like 255 County acres and we would only get about $12,000,000 to $15,000,000 for it. We cannot afford in this horrible, horrible economy to make that kind of deal.

I don't know whether in the open market what it would bring today. I am not suggesting that it should all be sold at once. All I am saying is we do not belong in the land development business. I think that's an issue for our towns to decide what should we develop and where. But if we're going to excess the property, I want to excess it for as much value as we can get for it.

CHAIRMAN SWANSON: Thank you very

much.

Michael?

MR. KAUFMAN: Other bills that have passed in the County in the past regarding the sale of surplus land and partition of those lands or subdivision or however you want to call, if you remember, how are they titled? Were they partitioned? Were they subdivisions? Was there a legal difference that you saw that came across?

MR. BAGG: Well, I think that in one instance that, that might apply here would be when the Council reviewed the sale of the nursing home facility. That included not only the sale of the facility of this kind, but the partition of the site and the overall County holdings and the Council recommended a negative declaration on that.

MR. KAUFMAN: That's where that partition issue came up that I was talking about a couple of minutes ago where the County is at the superior form

of government and ignoring the Monroe -- City of Rochester -- Rochester Monroe decision and ignoring that aspect of it that a Superior form of government can subdivide or partition out as individual lots. They can create them by a certain processes and they need to go to the town for subdivision or go do it themselves. So, in one situation, with the nursing home, we recommended a partition and that's why it was presented to us and the word subdivision just gives me -- I don't think it is necessarily fable to the bill given the fact that it's a meets and bound in there. I am just sort of raising the issue because it just presented curiously for the Council's clarification. When you have a meets and bounds description presented by a land transfer in certain ways, it's like a deed of authorization. In certain ways it is more of partition. It is not exactly a subdivision. So by citing the language of a partition, I think it will

probably would overwhelm a processes of a subdivision. Again, I am just bringing that up. I personally think it probably should just stay as a partition and not worry about.

CHAIRMAN SWANSON: Mr. Kent, I understand you want to make a comment?

MR. KENT: Christopher Kent, Chief Deputy Executive, Suffolk County.

In reviewing the proposed resolution as an action under SEQRA, it is clearly a Type One Action as a proposal to declare a surplus selling and transferring 100 or more acres of land by a government agency. As such, under SEQRA, it carries with it a presumption that it is likely to have a significant adverse impact on the environment and may require an EIS.

I know this Council could consider granting a negative declaration, but should give every consideration to the following facts:

This Council already recommended to the Suffolk County Legislature adopted a

scope of issues for DGEIS on proposed declaration of surplus and transfer for development of this same County owned land at Yaphank. This 221 acres described is apportioned of the land being studied under the DGEIS that has been underway for over ten months and the DGEIS has been delivered to the Council today for your consideration.

The proposal before you today contemplates a declaration of surplus and the sale and transfer of land for private development on the same property being studied under the DGEIS and that's been given to you today.

A generic study prepared at great time and expense that contains all the relevant information for making a determination on the disposition of the same property that is the subject of this resolution.

The completion of the DGEIS process will protect the County's decision making, whatever decision the County makes. The GEIS will lead to findings

and determinations and the establishment of thresholds that will become the foundation and framework for all future action on this site.

Short circuiting the GEIS process will expose the County unnecessarily to potential litigation that will only delay the County's ability to sell and transfer the property in the future and will prolong the time it takes to realize any revenue from the sale.

The sole purpose of the proposed resolution is to generate revenue as it is stated right in the resolution. Right now, there are multiple studies going on. In addition to the GEIS, there's a Carman's River water study being done by the Town of Brookhaven, and there is a consideration to up zone much of this very land that is the subject of this resolution. That up zoning will not effect the County owned land as long as it is County owned. Once it's sold to a private developer, the property could be zoned -- could be

up zoned. The resolution contemplates selling it under current zoning. It contemplates an auction of a property without any conditions purposes, or proposed uses in the parcels that don't even exist.

We have the map here. (Indicating.) You can't see it from where you are. It proposes to sell by its meets and bounds description properties that are multiple zone. On this map here, the purple property is zoned purple. The golden rod or yellow is zoned residential. The 221 acres described by meets and bounds cross over zoning districts and the Town is considering including some of these lands in their Carman's River watershed identification which will require an up zone.

Again, like I said, it will not effect County owned land while it's County owned, but once it becomes privately owned, the property could up zoned under the current contemplation of the Town which is an up zoned property.

There has to be an application to the Town to create these lots whether it is by modification an application to modify tax lots or submission of meets and bounds description to the Town. I think the only way the County should proceed in its best interest and the best way to protect the environment with the multiple studies that are going on would be to complete the GEIS process regardless of what the Legislature ultimately decides. It will be their findings and their determinations and the establishment of thresholds and guidelines will be put in place as to the conditions for the development of this site. Doing it sooner than the completion of the GEIS process will only open the County to litigation, and I don't think it will be in the best interest of protecting the environment.

CHAIRMAN SWANSON: Thank you, Mr. Kent.

Any comments?

MR. KAUFMAN: Yes, this would be

directed to Rich and to Jim.

Is there a presumption in SEQRA that properties over 100 acres which become Type One action, is there a higher presumption or need for an EIS spelled out in SEQRA?

MR. MACHTAY: It's just under Type One action because it tell us that the Type One Action presumption is that it may be a significant impact on the environment, and it requires an impact statement. "May" is the operative word.

MR. BAGG: It is more than likely possible having a significant impact on the environment; however, I think if you go throughout the State and take all of the Type One Actions, probably 85 to 95 percent of them get a negative declaration. It's not clear. It's ambiguous in the law.

MR. KAUFMAN: Second part of the question is, I had distributed a memo to the members a while back saying that we consider only individual bills and only that bill. Not necessarily the water

impact even if it does conflict with other bills and policies of the Legislature or the Executive. We are faced, essentially, with a plea, if you will, from Mr. Kent to stick with an EIS that's currently underway. At the same time, it is an individual bill and that's really what we're supposed to look at. If there are no errors in that bill, it's obviously a Type One but if there's no errors in the bill and nothing is foreclosed, then I can't see how we can necessarily say no to it and that's the dilemma that we're facing right now.

CHAIRMAN SWANSON: Tom?

MR. GULBRANSEN: My question is about whether this action does, in fact, bind or unbind the County from considering a finding of DGEIS. It has had action and alternatives actions that are being considered which might actually be executed after this transaction; so I don't understand right now how our current matters will or will

not be influenced by the future DGEIS plan.

MR. KENT: Under the resolution itself, the third resolve clause -- excuse me, the second resolve clause, I apologize. It does state that if this is adopted, it is resolved that no county department, office, agency, or official take any action to advance the Legacy Village project or any variation thereof.

The problem we might have with that language in the resolution, is that we would have to stop the DGEIS process. The DGEIS process would be discontinued because the DGEIS is undertaken in furtherance of advancing the Legacy Village Project. So, I think, it would be stopping the DGEIS process that's already in a draft form which has been budgeted for over $400,000 of expenditure and is ten months into completion. That would be my interpretation. I would offer that for your consideration.

MR. GULBRANSEN: I can understand that, that would cause a short circuiting that you referred to earlier about the DGEIS.

My question is maybe in the inverse of that. If, in fact, the DGEIS were continuing to be public and embedded, would it's findings necessarily be accessible to anything that happened in the subsequent sale or auctions or uses of partitioning these pieces of the property?

CHAIRMAN SWANSON: Would it not be information in the public domain or maybe the findings of that be totally complete? Yes, a lot of the information will be available for review and consideration under any decisions that made either by Executive Branch or the Legislative Branch.

MS. RUSSO: I will direct this to Rich Machtay, Jim Bagg, and Michael Mule.

I would like to have clarification on this entire process for what of

declaring land as surplus especially because it is over 100 acres as a Type One. If we go ahead and look at just as that alone, and look at it as, "Okay, we declare land surplus face value," then we have to say, it's a negative declaration because we are just declaring surplus. We're not doing anything with it. So are we going to look at this that way? Look at it, at space value? How can we otherwise look at it because if we finally sell it, then I think it would have to have a coordinated review from the Town of Brookhaven because, ultimately, they have the power and control to zone it. I think it is a very sticky issue. I think initially when it first went out, it went out improperly and it should have gone out differently. I think that, that's what's putting us in such a bind. I also feel that we really have to look at this at face value -- what it is that we're doing than just declaring the land surplus and based on that

alone, if we decide it is a positive negative declaration. Ultimately, we want to protect the environment so I need clarification over here with the language so I can rap my head around this issue.

CHAIRMAN SWANSON: The question was addressed to Rich, Mike, and Jim?

MR. BAGG: Well, I think, basically the way it is drafted it is simply declaring the land surplus for possible sale which then we would transfer title. Whether or not the property ever gets developed, we don't know. I mean, I assume someone is going to spend the money in order to potentially develop it in the future, but knowing what the Town is going to do with respect to these parcel in terms of zoning -- I mean Mr. Kent did mention that they wanted to up zone the property which means decrease the density possibly on the property, but that's really up to the Town. The town has jurisdiction over zoning so this current action and the way it

stands, it is simply a declaration of surplus and ultimately a sale which is transfer of title. It has know development associated with it whatsoever.

CHAIRMAN SWANSON: Legislator Fisher?

LEGISLATOR FISHER: Did you --

MS. RUSSO: No.

LEGISLATOR FISHER: Thank, Mr. Chairman.

Yes, the more we talk, the more confusing it gets because looking at the issue of the short circuiting of the DGEIS, I think Tom brought that up and possibly Mr. Kent did, as well, but Mr. Chairman, you said -- Larry, you said that the information that has been gathered and adopted is public domain and we can have that before us as a guideline. However, getting back to Mr. Kent, assertion that we would be opening up exposure because of the DGEIS is not being completed and presented and that there might be a potential for

litigation on whatever we do with the project.

Although there is information that's in the public domain at this point, I guess, I will go to Mr. Mule and ask, are we exposing ourselves to litigation by the surplus action if the DGEIS hasn't been completed and presented as a complete project? Is this sufficient that we have the information already available to Council? I know you're not an attorney and I would forward this to Counsel if you --

MR. MULE: I would have to forward that to Counsel.

MR. YOUNG: I think the correct answer simply is you have a document that's being prepared to give us this information. We're short circuiting that. Whether or not it can open us to liability is always a question, but it is certainly a read flag that I think could be seized upon just for that reason.

LEGISLATOR FISHER: Does Rich have a different answer?

MR. MACHTAY: I was just going to say that the document is on something very different then what we're proposing in the resolution now. The document is on a full development of the property in several different ways.

LEGISLATOR FISHER: That was my assumption of the resolution.

MR. MACHTAY: They're declaring it surplus and possibly auctioning it off. It is two different things. Now the other question that somebody --

LEGISLATOR FISHER: Rich, just to interrupt you for a second. That was my position in support of this particular resolution -- Presiding Officer's resolution. Mr. Kent just brought up the issue of it being -- you know, exposing us to litigation if we short circuit at this point by supporting Presiding Officer's resolution. What you're saying is you're seeing this as -- I see it as two separate actions to

declare this surplus in rejection of the Legacy Village Project is a very separate distinct action.

MR. MACHTAY: As long as there is lawyers, there's always going to be lawsuits. Somebody will figure out something and these gentlemen are lawyers -- Mr. Nolan and --

LEGISLATOR FISHER: I think my lawyer wanted to answer my questions.

MR. MACHTAY: Mr. Young can give you the best advice. They have to give advice to the Legislature regardless of what we do today.

MR. NOLAN: Your comments were going to be my comments which is the environmental impact statement making the connection with a huge development project and proposal. We're doing a SEQRA review on a resolution to surplus property and make it eligible for an auction sale which is completely different. If the SEQRA review is done properly on this particular resolution and what it seeks to do, then I am not

afraid of any legal exposure.

LEGISLATOR FISHER: My second question, Michael, is that -- and I am not going to go on about this but this is not a legal question.

We have a DGEIS that's being prepared and concurrently the Town of Brookhaven Watershed Project. Any decision that we make with regard to the sale of property or potential buyer would be subject to very different tracks and then they may have some points of --

MR. MULE: Yes.

LEGISLATOR FISHER: (Continuing) -- agreement or not, so we don't really know what is going on out there.

MR. MULE: What I can tell you is that the consultant preparing the impact statement incorporated various local reports and studies going on to the greatest extent. This was in the process of the Brookhaven Town -- when they were in the process of the preparation of the DGEIS, and I know as

more information becomes available, it could be included in the document possibly during the public comment period. At sometime the report will be finalized and adopted and that would be incorporated in the final impact statement and then brought into the final -- so as this information becomes available, it can be incorporated. Plus, when a developer finally gets to the development process, they would have to go through the Town at that point and be subject to a report study.

CHAIRMAN SWANSON: Legislator Fisher?

LEGISLATOR FISHER: With all of that being said, and with all due respect to Mr. Kent's comments, I feel very, very comfortable in moving forward with the resolution -- Presiding Officer's resolution and the comments of Council George Nolan. They were very clear in drafting the resolution that we separate that action from the Legacy action. With these difficult economic

times, we want to be able to bring revenue to the County. It was a very, very difficult budget to work on. I hope that we can move forward with the sale of that declaring surplus.

CHAIRMAN SWANSON: Would you like to put it into a motion?

LEGISLATOR FISHER: What would the motion be? It would be a -- I will make a motion as a Type One Action Negative Declaration.

CHAIRMAN SWANSON: Do we have a second?

MR. MACHTAY: I would second that, but I would like to say something.

If you recall, the first discussion of Legacy Village, I think it was Mr. Kaufmann both said and I think even Jim said that the proposal had not had an RFP plan. This is what we want to see done. There is a stadium. There are many homes so on and so forth that would probably be under a negative declaration right off the bat and that was the discussion that we talked about.

Now we have a plan that has no proposal with it. It just has surplus and a possible auction.

I would second Ms. Fisher's resolution.

CHAIRMAN SWANSON: Mr. Kaufmann?

MR. KAUFMAN: Just to clear up a couple of points here.

I had written three memos to the group and I don't think anyone remembers any of that.

They have all specified exactly what has been going on and where the plans come in and how it effects SEQRA and things like that. The most recent one that I wrote to the group stated:

"You have to consider each one of the actions as a separate action even if there is a distinction in policy that may come up. We're not the policymakers. That is for the Legislature to vote on. We are advising them on single built that is coming up before us. I checked that out on a number of areas, and that's the way you

consider them. If the Legislature wants to change its policy, they can. That's its job. Our job is to analyze this under SEQRA. In my opinion, this is a separate bill.

Second, I researched surplus declaration. This is the way a surplus declaration is done. You declare surplus. Surplus has some interesting meanings under the law, but it is very, very clear that it is surplus to the County need. This is the way I have seen it in statutory policies and other statutory acts as to how you actually do it inside a bill.

So, we're faced with an individual bill calling it surplus. The gray area that I think everyone's sort of stumbling over is how this integrates with the existing EIS and the gray area is -- I discussed this with Rich in the past at CEQ and, personally, I have not seen anything within this geographical area an EIS ever get ended midstream. When people have tried, in the past, it

has been seen segmentation. That is not the issue before us today. This is not a segmentation issue. Sometimes developers in the past have tried to stop an EIS because they want to do this or that and municipalities generally say no to it. This is terra incognito. It is a gray area. Nonetheless, having researched it, there is prohibition against stopping an EIS if the Legislature wants to go along with it. We're faced today with a bill that says that's what we want to do. You have to accept it on a SEQRA impact. All that is going on right now, as it has been pointed out several times, is we're talking about setting up an auction procedure and declaring it surplus and changing title at a later time. That's when a lot of the battle will occur.

Larry is very correct in saying there is documentation out there. Lawsuits are possible on this one. Does anyone have a statutory lawsuit on this? No. Will people sue on this? As I

think we are all aware, there's a lot of different opinions on this. Some people want to see it developed and others want to see it stopped at all costs. Somebody is going to sue on this. That's not our concern.

However, our concern is the bill before us. What happens with the EIS if the Legislature wants to stop the EIS midstream. That's their prerogative. It could be subject to a lawsuit and a lot of the information out there might be utilized by those people. That's why I asked Mr. Mule a couple of minutes ago if there was anything inside the document because he had seen it, and I have not. It looked like it was precluded development and his answer was he did not see anything specific.

Wrapping this particular issue up, it's a properly drawn bill in terms of surplus. It's a separate action which we have to assess separately. Even though there may be sentiment around this table to continue the EIS, that's

the Legislature's call, not ours. The gray area as to what happens when the EIS is ended, I don't think that is our call. Again, there may be sentiment around this table to continue the EIS.

Vivian's motion to have this a Type One Negative Declaration is, in my opinion, a proper motion. I don't see technical difficulties with the bill the way it is set out. I see more of a partition than anything else. Given what we're looking at and given the constraints of each of these bills, to me, it is a separate bill. I think that's the way we have to look at it. We have to look at the bill individually, and I think that's our charge at this point in time.

CHAIRMAN SWANSON: Tom?

MR. GULBRANSEN: With all due respect, Mr. Kaufmann, we do recall the memo that you wrote, and I am pretty confident we remember what you wrote was beneficial. We appreciate you agreeing with all of as on the only factor to be

considered.

One other concern that I have is I am still not sure how it is going to work out. There is this draft -- the DGEIS that has been put together. It might stop and if it stops, the next wave of consideration with regard to things like watershed and nitrogen and water quality -- I think the next wave of consideration would be to get back to the Town level. There would be a parcel level and there would be a smaller and more localize level and a more individual level. That's the way it needs to be because that's what it is calling for.

What I am concerned about is that we, as a body, know, learned, and heard about -- the memos went out about how there is already a condition in our water which is impaired -- not Carman's river necessarily, but the water that's coming through and those waters are currently receiving too much nutrients and can't handle it. So, my mind thinks

any further development is likely to exacerbate that condition and that makes me feel like the negative declaration isn't so automatic. It probably isn't going to help with the existing and exceeding capacity. I am not quick to want to leave that opportunity to learn from those DEIS findings because there going to more than just the facts of what is out there. There is no mention of how to mitigate and enable development that occurs in a way that allows for development and also to protect it cumulatively. I would like to see that preserved somehow. I can't figure out how to get there from here.

CHAIRMAN SWANSON: Gloria?

MS. RUSSO: Vivian, I would like to direct this to you.

This DGEIS process is pretty far along -- ten months and we have our draft document here. I am assuming the County paid 80 percent of the price or negotiated to do that. How far -- how much have we paid for it so far?

MR. ISLES: I would say we are past the halfway point.

MS. RUSSO: My proposal is that because it is so far along -- that we have paid out so much, we should just continue with the finishing documents for information for future decisions of whatever happens to the parcel of land. I just wanted to throw that out there.

CHAIRMAN SWANSON: Any other comments?

LEGISLATOR FISHER: Tom, I recently sat with Mr. Tulio from Brookhaven Town who is working on the Carman's River Watershed Study. I believe you and he are on the same page with attempting to look more holistically at the language and the impact on the environment. That also seems to be the way that Brookhaven Town is looking at that. I know people think the information that we have been gathering in our environmental impact statement and the scoping of all of the studies we have done and I know that the Town of Brookhaven is looking for facts

and information and recommendations in that study and we will continue to look at that.

I feel very confident that this area, which is one of the most rapidly growing areas in Suffolk County -- eastern Brookhaven Town, the Town is looking very, very careful at all the other impacts on the wetlands.

MR. MACHTAY: I don't know whether Mr. Kent or Mr. Nolan had said the Town was in the process of rezoning this property. If so, maybe a lesser density then it is now, but that makes it less valuable. Consequently, we may not see the money that we're expecting to get out of this if the Town pulls the rug out from everything. So it's not a sure thing no matter what you do. The Town would have to look at one small parcel of development and they would have look at the possible cumulative effects on the entire area if it was so developed.

Once again, it's not a sure thing as to how it would developed or what

would happen and certainly the effect on the groundwater issue. I don't think it is as simple as black and white.

CHAIRMAN SWANSON: Mr. Kaufman ?

MR. KAUFMAN: Couple of months ago, Rich, you brought up one interesting thing under SEQRA which was the fact that you have look at the ultimate impact of what's going to be happening. If this land is declared surplus, and it's put out for auction and for sale to a potential developer and without density occurring, are we looking at potential impacts significant enough to warrant a positive declaration under this? I mean how far do we look forward? I mean the action before us right now officially is a declaration of surplus and this is the way it is classically done but do we look forward beyond that?

MR. MACHTAY: I don't think we can because you don't know what the development process will be. Somebody could buy ten acres and put one house on

it.

MR. KAUFMAN: Basically, you're saying then -- if I am understanding you correctly, that means back to a negative declaration as opposed to putting any necessary conditions that we put on it today?

MR. MACHTAY: Yes, I would say that.

CHAIRMAN SWANSON: Eva?

MS. GROWNEY: The only comment I really want to make has to do with zoning -- reference to zoning -- up zoning.

Up zoning, when they change the zone, it doesn't necessarily mean it's going to be of less value. It depends on content and the characteristic of the plan -- the entire plan and it can be of anything. It could change -- it could mean get rid of the industrial -- all kinds of things.

In terms of planning, we're not every going to know what kind of plan is going to work there or what the

developer wants to do and in some way, it isn't our business. At the moment, the bigger scope is really important, of course, but I think with the local municipality jumping in, it is going to review this very diligently.

CHAIRMAN SWANSON: Thank you.

We have had a pretty **healthy** discussion on this.

We have a motion on the table and a second.

All in favor?

(WHEREUPON, the Council voted.)

CHAIRMAN SWANSON: Opposed?

(WHEREUPON, there was no response.)

CHAIRMAN SWANSON: Motion carries.

Proposes Recommended Type Two Action, Ratification Recommendation Resolution laid on the table.

Do you have any comments?

MR. MULE: It's pretty much a Type Two Action. The one notable deviation was of Legislator Fisher and the IR-2256 regarding the verbatim minutes laid on the table.

LEGISLATOR FISHER: It was laid on the table and it is coming to Committee next week.

CHAIRMAN SWANSON: Thank you.

Do we have a motion to accept staff's recommendations?

LEGISLATOR FISHER: Second.

CHAIRMAN SWANSON: Vivian seconded it.

Any other questions?

(WHEREUPON, there was no response from the Council.)

CHAIRMAN SWANSON: All in favor?

(WHEREUPON, the Council voted.)

CHAIRMAN SWANSON: Motion carries.

Proposes Stormwater and Remediation improvements to Meschutt Beach County Park in the Town of Southampton.

MR. BERGEY: Good morning, Council.

My name Eric Bergey. I am a Senior Civil Engineer With the Department of Environmental Energy. We measure the water quality improvement.

I would like start off by thanking the Council for their attention to this

matter and I will get right into it.

First, we're looking at a topographic map of the area -- project area and highlighted in red. It's just east of the Shinnecock Canal adjacent to the Peconic. There's an area photograph of the existing parking lot. You can see it is kind of divided into two distinct parking lots to the west and to the east. The west being, approximately, 60 feet wide -- sorry -- 120 feet wide by 500 feet long and the east being 60 feet wide with 700 feet long.

Here is a photograph of the existing conditions. As you can see, there are pretty substantial erosion issues occurring. This is on the eastern lot in the southeast corner. We plan to do part of the proposal to address these issues. All along the south edge of which is -- I guess on the left hand side of the photograph as you're looking at it, there's existing land that looks well vegetated. It is

leading a quite substantial amount of sand into the park area that frequently needs to removed. So we plan to regrade that area and regrade that area and stabilize it with geostone which I will touch on that again later.

There's just one access point to the beach which is north of the parking area. This is kind of where the problem exists now. The entire parking lot is graded to the north and that sheet flows stormwater which ends up exiting the parking lot and onto the beech via the beach access. The proposal is essentially to regrade both parking lots to the center and add some DEC approved remediation practices in the center of the west parking lot and apportion some of the land that is currently being used for campground -- I guess a makeshift campground and the Parks Department plans to expand the use of the adjacent area for an official campground.

We took that into account when we designed the parking lot, and here's

just some of the existing and the problems therein. It's approximately 3.7 acres of which is 2.4 acres is asphalt pavement. The goal is to remove quite a bit of this existing pavement and resurface. Erosion is a primary concern here in addition to the water pollution. Here is just a little illustration of what is currently happening and how the sheet flows off the driveway area and the sheet flows to the north into both parking lots and then onto the beach.

Here is what we plan to do. We plan to regrade to the center and collect a few different water treatment practices. In the west lot, we plan on installing what we call a stormwater treatment median. It is somewhat adapted from something that Washington State is using which New York State DEC has also decided to adopt. It consists of a riffraff porter. It is heavy stone that are three, four, or five inched in diameter. Basically, they slow down the

flow of water and prevent erosion and then the water will enter a filtration system, which in this case, it's a native beach soil grass but it is pretty much the only species that you can get to grow efficiently in that kind of soil.

In the center we have what's called an ecology make which consists of -- I have the exact specification, if you're interested but it is made of perlite, dolite, and gypsy with background gravel underneath a two foot layer underneath.

In the east lot since we're a little bit more limited by space. It is only 60 feet wide and to accommodate all the existing parking and not loose any space in the proposes lot. We have asphalt pavement which will be layed underneath by two feet of gravel. We also have a few -- I don't know if you can see in it -- we do have a few leeching catch basins.

Along the southeast edge of the -- I am sorry south eastern parking lot, I

touched on the slope stabilization that we're going to include in the construction and here is an illustration of that.

Essentially, it is an expandable and plastic HDPE cells that you pin down to the soil -- the native soil after regrading it and fill it with more native soil and plants -- native species. Essentially it will rise to a nice stabilization to the slope as opposed to what is happening now which is pretty severe erosion especially when we have severe wind and rainstorm.

So, at this time, I would conclude my presentation and I will open the floor to any questions.

CHAIRMAN SWANSON: Thank you very much for your description of this very ambitious project.

On your last diagram where you talked about the HDPE cells, I am just curious about that. One of the big issues with that is, of course, all the plastic that is out on the beach. Is

there any experience of these cells that you can cite where they have worked and not deteriorated due to -- you know, sun causing them to degrade and break apart?

MR. BERGEY: After completion of the project, they will not be exposed to the elements. It is completely covered by soil and vegetations.

CHAIRMAN SWANSON: We hope.

MR. BERGEY. We hope too. Research has shown that plants once they establish in these cells, the roots are really able to tie everything together and they're designed as such.

CHAIRMAN SWANSON: Have you used them successfully in the County?

MR. BERGEY: We have not. It was sort of a pilot usage of that material.

CHAIRMAN SWANSON: Eva?

MS. GROWNEY: Is there any other material being used for those structures?

MR. BERGEY: For the slope stabilization?

MS. GROWNEY: Yes.

MR. BERGEY: Yes. You can kind of see from the drawing that's pinned down from the HDPE stakes and there is geo-tech fabric underneath them.

MS. GROWNEY: Is there something that you can utilize that is not plastic?

MR. BERGEY: Not plastic?

MS. GROWNEY: Yes, that's my point.

MR. BERGEY: I don't believe so. It is the nature of how they're designed. The need to be flexible.

MS. GROWNEY: Then I want you to give us a brief history and on what kind of erosion is happening there. In particular, is there any ice development? You have a channel very close by, so I am sure there is a fair amount of water activity but has there ever been any kind of intrusion -- any major pipes that has caused the undermining possibilities?

MR. BERGEY: In the dune area?

MS. GROWNEY: Well, on the beach. I mean a couple of years ago, we saw ice

down at Black Duck Lodge. There were other locations on many of these beaches in the bay areas. Sometimes ice would build up and I was just wondering how that might impact this project, if at all? If it does exist. I don't know if it exists. That's why I was asking for a brief history.

MR. BERGEY: I am not aware of anything. I know there has been -- the County was finding -- I am not sure if it was successful or not from FEMA to actually rehabilitate the beach due to some severe erosion during a nor'easter storm back in 2009.

I am not aware of anything on the landward side of the parking lot which is where the dune is. I don't know if I made that clear that this is actually on the landward side of the parking lot and not on the SEQRA.

MS. GROWNEY: Maybe I didn't understand that.

MR. BERGEY: I will jump back to the picture where you can see the

existing dune. On the left I have a picture here of the landward side of the parking area.

MS. GROWNEY: And the parking lot itself hasn't had any undermining of ice?

MR. BERGEY: I don't think so but Nick Gibbons from the Parks Department may have some more information on the history of the parking lots.

CHAIRMAN SWANSON: Gloria?

MS. RUSSO: If you could look at Sheet 3 of 8 of the drawing.

I am trying to understand the actual physical mechanics of this new design. The left corner on the bottom, it doesn't really say what section it is. They all say, " New high groundwater water is 2.8 feet." When you look at the dimensions especially on the left line, it is showing an accumulation of like five feet from the ground verses down to the water table. What really is the groundwater depth from the surface of the parking lot to the groundwater

level?

MR. BERGEY: Well, it does vary because of the surface of the existing parking lot which has a slope to it. The groundwater is considered to be relatively flat and not having a slope.

MS. RUSSO: It is showing the groundwater to be 2.8 feet, approximately, equal to the high tide. When you look the dimensions of the depth of the geo-cell of everything, I am seeing that the water level of the groundwater on the dotted is a foot and a half or two feet and among other things. So my questions is, is this unit really sitting in the groundwater?

MR. BERGEY: Yes. It is approximately six and-a-half feet from the surface of the existing parking lot to groundwater.

MS. RUSSO: So then these drawings are showing where the groundwater runs through is incorrect? If they're dumping and sitting right in the groundwater, are you accomplishing what

you wanted with this whole project?

MR. BERGEY: I disagree with that statement. The existing surface elevation of the parking lot is around nine feet. The existing groundwater elevation is approximately two feet -- 2.8 feet.

MS. RUSSO: That's what it says, 2.8?

MR. BERGEY: So if you do the subtraction, you will end up with about six and-a-half feet.

MS. RUSSO: What I was trying to understand, was that was it really is going to be sitting in the groundwater?

MR. BERGEY: The structure itself will not be sitting in the groundwater and this was approved by DEC. That structure is essentially a backup structure. The water is not going to be directly put into that catch basin. It's going to be shooting flow into the porus asphalt which will begin as infiltration at the surface. In a severe condition, that structure may see

a significant amount of water, but it is not the intent to have that be the primary source of discharge for stormwater.

MS. RUSSO: Thank you.

CHAIRMAN SWANSON: Mike, you wanted to make a comment about the DEC reaction.

MR. MULE: I just wanted to mention that this is listed as a Type Two Action as maintenance or repair and it kind of looks at the same footprints of the existing parking lot. It also falls under as part of the maintenance and the landscaping which is consistent with the DEC permit that was issued.

CHAIRMAN SWANSON: Thank you.

Any other comments?

(WHEREUPON, there was no response from the Council.)

CHAIRMAN SWANSON: Do we have a motion?

MR. BAGG: Motion as a Type Two Action.

MS. GROWNEY: Second.

CHAIRMAN SWANSON: We have a motion and a second.

Any further discussions?

(WHEREUPON, there was no response from the Council.)

CHAIRMAN SWANSON: All in favor?

(WHEREUPON, the Council voted.)

CHAIRMAN SWANSON: Opposed?

(WHEREUPON, there was no response from the Council.)

CHAIRMAN SWANSON: Motion carries.

Moving onto other business. Christine, Michael had put in the agenda the fact that the three of us are having our terms expiring this month. I think Michael Kaufmann has spoken to staff at Legislator Fisher's office and Mike, do you want to tell us what those staff members informed you of?

MR. KAUFMAN: Well, basically, starting about a month ago, I asked Mike Mule who was up -- whose term was up and that information is what you're seeing on there. Proper procedure, as it has been in the past, is to have the

individual members contact their appointing Legislator and talk to them. Also, it was to contact the Chair of the EPA who happens to be at the table right now. I told them to talk to that officer and eventually resolutions are prepared and assuming everything goes forward, then present that to their Legislator. I have talked to several members previously. I just called up Legislator Fisher's office and talked to her and her staff for a moment and informed them of the names that were going to be coming up. I just wanted to let them know that reappointment was coming. That's where we are at, at this point in time.

CHAIRMAN SWANSON: My question, Vivian, is -- I am a little confused, but are we all now supposed to independently go visit our appointing legislator's or is your staff handling it?

LEGISLATOR FISHER: Generally, the Council let's us know when you need to

do a reappointment; for example, Gloria is coming up pretty soon. Her term expires in March. So, the Council will let us know when there are terms that are coming up. Obviously, you're my contingent, so I would be introducing the resolution for your reappointment and Maryann is my contingent. Eva, I don't know who your legislator is.

MS. GROWNEY: Jay Schneiderman.

LEGISLATOR FISHER: As your term comes up, I think it would be a good idea to give him a call and let him know in case there hasn't been that communication between him and the Council. I don't think this warrants a visit to the Legislative office unless you just want to go visit your legislator. Generally, the legislator who sponsors the resolution checks with CEQ and assures that the person is showing up at the meeting and is an active member of the body. That is usually -- we're all a great group of people who give that kind of time. So

we're happy to put in a resolution.

CHAIRMAN SWANSON: Before you came in today, I mentioned that you had been selected as the Political Person of the Year in the Three Village area. I just wanted to once again reiterate a congratulations.

Also, congratulations and condolence on your reappointment to CEQ as our Legislative representative. We're all happy to have you here.

Just, in general, all of you legislator's, we appreciate your service and after what has happened recently, take care of yourselves.

We are going to have election of officers. Let's call for nominations.

Maryann?

MS. SPENCER: I would like nominate Larry Swanson for Chairman and Gloria Russo for Vice Chairman.

CHAIRMAN SWANSON: Do we have a second?

MR. BAGG: I will second.

CHAIRMAN SWANSON: Second from

Mr. Bagg.

Do we have any other nominations?

(WHEREUPON, there was no response.)

CHAIRMAN SWANSON: If not, then I will call for a vote.

All in favor?

(WHEREUPON, the Council voted.)

CHAIRMAN SWANSON: Opposed.

(WHEREUPON, there was no response.)

CHAIRMAN SWANSON: Motion carries.

CAC concerns?

LEGISLATOR FISHER: Sorry. Can I go back to the nominations?

As you all know, I am term limited. This is my last year in the Legislature. I am particularly pleased that Gloria is Vice Chairman because it's unlikely that -- well, not necessarily -- I don't know if the next person from the Legislature would be chairing the Environment Committee and if that person would be a woman. It seems to me that we don't have enough women around this table. It is certainly not 50 percent which is what our population should be,

but it is good to see a women in a leadership position.

CHAIRMAN SWANSON: Thank you.

LEGISLATOR FISHER: I also want to thank Michael Kaufmann for his service and all his hard work.

MR. KAUFMANN: Thank you.

MR. BAGG: Yes, agreed.

LEGISLATOR FISHER: By the way, he was named as Person of Year for the Environment named in the court records.

MR. KAUFMAN: The place has been surplus and sold.

(WHEREUPON, there was laughter.)

CHAIRMAN SWANSON: CAC concerns?

(WHEREUPON, there was no response.)

CHAIRMAN SWANSON: Nothing.

Do we have a motion to adjourn?

MR. MULE: I just wanted to remind the members of Legacy Village subcommittee that you can pick up your EIS disks from Christine.

CHAIRMAN SWANSON: Do we have a motion to adjourn?

MS. GROWNEY: I will make the

motion.

CHAIRMAN SWANSON: Motion by Eva.

MS. RUSSO: Second.

CHAIRMAN SWANSON: All in favor?

(WHEREUPON, the Council voted to adjourn this meeting.)

CHAIRMAN SWANSON: No objections. Motion carries.

(WHEREUPON, this meeting of January 19th, 2011, was adjourned at 11:15 a.m.)

* * *

C E R T I F I C A T I O N

STATE OF NEW YORK)
:ss
COUNTY OF SUFFOLK)

I, MELISSA POWELL, a Shorthand Reporter and Notary Public of the State of New York, do hereby certify:

That the within transcript was prepared by me and is a true and accurate record of this hearing, to the best of my ability.

I further certify that I am not related to any of the parties to this action by blood or by marriage and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 14 day of February 2011.

Melissa Powell

MELISSA POWELL