

ECONOMIC DEVELOPMENT

HIGHER EDUCATION

and

ENERGY COMMITTEE

of the

SUFFOLK COUNTY LEGISLATURE

Minutes

A regular meeting of the Economic Development, Higher Education & Energy Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, Veterans Memorial Highway, Smithtown, New York, on Wednesday, January 31, 2007.

MEMBERS PRESENT:

Legislator Wayne Horsley - Chairman
Legislator Steve Stern - Vice-Chair
Legislator Tom Barraga
Legislator Ed Romaine
Legislator Vivian Vilorio-Fisher

ALSO IN ATTENDANCE:

George Nolan - Counsel to the Legislature
Joe Schroeder - Budget Review Office
Joe Muncey - Budget Review Office
Rich Baker - Deputy Clerk of the Legislature
Ben Zwirn - County Executive's Office
Carolyn Fahey - Economic Development
Charles Stein - Suffolk Community College
George Gatta - Suffolk Community College
James Morgo - Commissioner - Economic Development
Vito Minei - Director of Division of Environmental Quality
Ron Paulsen - Groundwater Investigation Unit
All other interested parties

MINUTES TAKEN BY:

Donna Catalano - Court Stenographer

(*THE MEETING WAS CALLED TO ORDER AT 2:15 P.M.*)

CHAIRMAN HORSLEY:

Good afternoon, everybody. And welcome to the Economic Development, Higher Education and Energy Committee Meeting of January 30th (sic), 2007. We have a short agenda. That doesn't mean it's not an important agenda. And if may, would we please all stand for the Pledge of Allegiance.

SALUTATION

CHAIRMAN HORSLEY:

May we all just stand for a moment of silence in recognition and in appreciation of our men and women who serve over in Iraq as well as Afghanistan.

MOMENT OF SILENCE

CHAIRMAN HORSLEY:

Thank you very much. All right. My first correction of the day is it's January 31st, not January 30th. Duly noted, Mr. Stanton. Okay. All right. What we're going to be doing today is we're going to have a presentation by Vito Minei of our Health Department concerning an issue that has not only brought -- has been brought to the public's attention, brought to the attention of the Legislature, but also a matter of interest involving the acquisition of the KeySpan Corporation by National Grid.

And so I'd thought I'd invite Mr. Minei today to give us an overview of the history of manufactured gas plant as far as in relation to our interest involving the Health Department. And if I may, Vito, may I invite you up. And welcome and thank you very much for taking the time and effort to put this together for us today.

MR. MINEI:

Thank you, Mr. Chairman, Members of the Committee, learned Counsel, essential staff. I'm Vito Minei. I'm Director of Environmental Quality, and I'm joined today by my colleague Ron Paulsen who oversees our Groundwater Investigation Unit for our Office of Water Resources.

As Legislator Horsley mentioned, we're going to give you a little overview of manufactured gas plants, what they are and what the environmental concern is with regard to groundwater and surface water, in particular in the Bay Shore-Brightwaters area, but also in other areas of the County.

I just want to give a little bit of background. What a manufactured gas plant was. If Ron and I were here probably 150 years ago before the Board of Directors, we'd be talking about how power -- how you were heating your house and how the streets were lit and how you were cooking food and how it was delivered from manufactured gas plants. There were thousands of them in the 1800s, especially after the Civil War, producing gas from coal, coke and oil for heating, lighting, etcetera.

Why they are of concern, and you'll see from the presentation that they produce large waste stream, and they disposed of literally billions of gallons of coal tar from at least a 70 year period from 1880 to the 1950s. And coal tar brings up an imagine of that black sticky substance, but it also can be lighter. Some coal tars are as thin vegetable oil, so you'll see why they become an environmental problem for us as well.

There were 5000 of them. There were many dozens just serving New York City, there are a couple of hundred that the State DEC oversees in New York. And I'll just quickly try to give you a view of them. I'm the sorry the slide didn't come out, but hopefully you can visualize. The one we'll be highlighting today is in Bay Shore. There's one that Ron is doing considerable investigation with the

State Health Department DEC out in Sag Harbor, up in the Town of Huntington in Halesite as well as Patchogue and Babylon. I'll be talking a little bit more about those sites later on.

This is just a quick schematic of what a gas generation plant was. Coal or oil would be delivered, and it was distilled on-site through heating with a lack of oxygen. After then the gas was generated from the coal, the coke or the oil, there was another series or processes to purify wood chips, lime, other ways of filtering the gas, and then it was stored in a large container.

The problems for us is the legacy. As you all know, many times with industrial facilities there often is an environmental remains that are problematic to us. With regard to MGPs, it's a series of chemicals that are of concern; metals, most notable cyanide and arsenic, and then a group of chemicals derived from the petroleum called Polycyclical Aromatic Hydrocarbons. We'll be talking in particular about Napthalene.

If you drive down to Bay Shore, depending on the tide, you'll be overcome by the smell of moth balls. That characteristic pungent is from the fumigant Napthalene, but it is derived from the manufactured gas process. Also, is the series Volatile Organic chemicals, that we come here many times discussing the impacts on drinking water here in Suffolk County. Benzene, Toluene, Ethylbenzene and Xylene BTEX, those are the main constituents of gasoline. It is generated from this MGP process. And we try to highlight the chemicals of priority concern, those known or suspected carcinogens.

This little graphic shows you an excavation, and they're running into what is referred to as NAPL, N-A-P-L, non aqueous phase liquid, this coal tar, again, moves sort of separate from groundwater. It readily mix with groundwater, thus the non aqueous. It moves as a separate phase through the ground surface. And here's an excavation that gives you a nice little shot of what this nasty substance looks like.

In the health business, we often talk about the chemicals of concern, dose, rate, exposure and the avenues of exposure. And with regard to some of these chemicals, the VOCs and the PAHs, we can be discussing contaminated soil on-site, groundwater containment and soil vapor, which are the prime concerns as it relates to the Brightwaters site, most notably with regard to the potential for private water supply or irrigation well impacts in and around that area. The good news in Bay Shore are there no public water supply wells directly in line with the plume we'll be discussing, but it can be a problem, obviously when you have groundwater contamination.

Another problem that Ron and his staff are looking into is the infiltration into basements, crawl spaces and the storm drains in and around these MGPs sites. And another, we think, many avenue of exposure is soil vapor in indoor air. I talk about Volatile Organic Chemicals. As the name implies, they can readily vaporize. You can think of benzene, gasoline and how quickly something like that can vaporize. So those Volatile Chemicals can be a concern. Napthalene, that nasty moth ball smelling, is I think one of few PAHs that easily volatilizes as well.

Another concern that we've been investigating for a number of years are the surface water impacts. Groundwater in Suffolk County ultimately discharges to our surface streams and then into the bays. These chemicals of concern either in a dissolved state or in their heavy state that can settle out are a problem with the water column in the streams as well as the sediments can be contaminated.

This, again, is a quick overview of the five main sites in Suffolk County. Much of this presentation will deal with Bay Shore. But you will see the kind of cleanup that's is being conducted at the site. And we believe that's an administrative issue for us to address as well as the technical and public health issues. Sag Harbor, there's a major effort going on out there. Halesite, Patchogue and West Babylon are in preliminary phases of investigation. At this point, we do not discern major concerns with groundwater and surface water contamination. But Halesite, for one, there may be an implication as you see from the graph that comes up later.

I mention there's not only a public health an environmental issue for us, but there are the administrative issues that can really lead to the importance of these cleanups. And you will be hearing more and more as Suffolk County gets into the Brownfields Program and other about voluntary cleanup versus Superfund. Superfund, as name indicates, is a very powerful -- at least it was intended to be -- when it was devised CERCLA. In 1980 the Comprehensive Environmental Response Compensation Liability Act set up a fund, also set up a mechanism to direct EPA and State agencies to oversee cleanup activities, to pay for it up front and then go after principle parties. Voluntary cleanups have a different character of how the work is done, and it gives the responsible party a lot more leeway and ability to direct how the cleanup is done, how notifications are done, and that can be a concern. And we will see it as I give you a little bit of the history on Bay Shore as opposed to something like -- Bay Shore, which is a voluntary and Sag Harbor, which is under the Superfund program.

I was asked also to give you a little taste of what our role in the Health Department has been. I first was out to this site probably in the early 80s. And again, I was overcome by the smell of Napthalene in the air. We didn't really understand the direction and the major plume that was going on from the site. In '98, we also provided a lot of supplemental reports, and we've been addressing the risk to the people in community. And we've also invested considerable time and resources. As I mentioned, Ron oversees our Groundwater Investigative Unit. He and his staff have installed over 50 wells. We've taken a number of samples over that time of groundwater, pore water, the sediment. And Ron and another friend of our, Chris Smith, have invented a device that can measure groundwater as it seeps up in the bottom of the stream. So we've also investigated that.

In 2004, there was soil vapor intrusion issues that were recognized by EPA. And currently, the Health Department, under the guidance of the State Health Department, continues to address risks, mostly at the request of the citizens in the area. Again, this is -- Bay Shore is a voluntary cleanup program, and the State DEC has the lead since 1980. But we have continued our vigilance and our -- we continue react to direction from this Legislative Body and the County Executive.

In 2006, Bay Shore Community Task Force has requested both the Health Department and the DHS to conduct and oversee testing, especially indoor area and also to help expedite the cleanup. More recently, the role as overseeing this voluntary cleanup has migrated from DEC to the State Health Department. This is an overview, and maybe one of you can help us, we were trying to date this. Ronnie found this on the web. And this was the old manufactured gas site in Bay Shore. And I believe that's Fifth Avenue to the right. You can see storage facilities and some of the purification works there. The railroad is to the just lower edge of this or to the south of this. So if you can identify the age of these cars, and I assume there were airplanes, because this is an aerial photograph, so it's of recent vintage, but probably anywhere from 50 -- about 50 years old at least I would suspect.

This is an overview of the problems at the Bay Shore-Brightwaters MGP site. And as with many of these clean ups, you'll start hearing this terminology about operable units. We use the term on Brookhaven Lab and Superfund, and also voluntary clean ups use it to break into various components of investigation, OUs or Operable Units. And you will see the main one in the central portion of this graphic. And it may be clear on your handout. It's one of the graphics behind there. And OU1 is the main source where we just looked at where the facilities were, where they disposed of the coal tar and other waste generated from process, and it's begun -- it's seeped into the groundwater.

And that plume is heading, as often on the South Shore, towards the closest stream. So you see this little angled plume over time -- and keep in mind that groundwater tends to move one to two feet per day in Suffolk County. With this complication of the NAPL, it may be moving at different speeds of contaminations. The BTEX, again, Volatile Organics are a concern. They move very

readily in the groundwater. And this plume is upwards of a mile in length from this source north of the railroad tracks down to Lawrence Creek. That's the surface water there.

The other risks are air intrusion, the contamination of groundwater going underneath the homes, and then the discharge into Lawrence Creek. As I mentioned, Ron and some others have been trying to measure the up-flow into Lawrence Creek. The sediments may be contaminated. In fact, we're concerned with the quality of the sampling that was done in Lawrence Creek that was recently conducted. Again, this graphic is just intended to give you both a two-dimensional and a three-dimensional view of how this NAPL moves in regard to the surface of the ground and the depth it can move. In this case, the NAPL was found to a depth 70 feet, and thus, there was a series of conversations on how much clean up had to be done on this site.

This, again, we're honing in on the source are. OU1, where the facilities were, where the waste was generated, and the clean now proposed it to excavate to about 30 feet on-site. And then if you can see that little blue-lined area just to the south of the railroad, they intend to set up what's referred to as a "funnel and gate," where they are going to try to direct the plume of contamination to a small opening where they can treat the contaminated plume.

One of the approaches that's been used, and again, another area of discussion between and among DEC, KeySpan, who's been leading this voluntary cleanup, us and the Health Department, is some of the in-place attempts or {insitu}, using the Latin, chemical oxidation. We believe that some of those approaches have not been very effective, and we have been trying to press for more successful ways of addressing the plume. Some of this work was supposed to begin in the Spring of 2000. Legislator Barraga, you might have seen the test when they were bringing these huge sheet piles into the area where they were testing. You can tell I wasn't a truck driver using -- trying to maneuver these trucks with these very long sheet piles that they're going to try to create this funnel and gate. This should be begun pretty soon.

As you move a little bit further south and to the east and west, OU2, again, is that contaminated plume. The IRM, or Intermediate Remedial Measure that was tried was injecting oxygen to enhance bio remediation, again, trying to oxidize the chemicals in place. We believe that some of this hasn't been successful. In case, it may be generating more soil vapor, it may be moving the plume quicker. OU3, again, trying these in-place chemical oxidation. And we found that the NAPL is still present on-site. Also, those past trials with this in-place chemical oxidation, again, have appeared to mobilize significant contamination off-site. So instead of remediate it -- and because this NAPL and other chemicals, in this case, are very difficult, they're not using the old traditional pump and treat on the surface. Very difficult to treat this, although we believe in some of these cases, the tried and true pump and treat might be more successful. OU4, is to the east over by {Watchogue} Creek, and that cleanup has been delayed as well.

So again, the current issues for us as it relates to the Bay Shore, number one, our role remains in cooperation and under delegation to the State DEC. We've taking on an air testing program. It was anticipated that this would be done in the more timely fashion by KeySpan, but the citizens have been contacting us directly. As you know, we have a world class laboratory that's able to take the air samples and also analyze it. And the way this is done is going into the basement and actually drilling a hole through the basement. So there's below the slab, sub-slab testing that has to be done, indoor air testing as well as testing ambient air outside. So it's pretty sophisticated, pretty involved work that has to be done.

One of the concerns, if you look at that graphic, I believe the second one I gave you, is not only do we have homes in the area that might be impacted with the soil vapor that might be drifting up into the basements, we have day care facilities, we have a YMCA, a we have a church, we have a synagogue in the area, it's a very ecumenical area. But they all may be impacted by the soil vapor that's going on there.

We have requested that different Intermediate Remedial Measures be taken and tried, because we strongly believe that the ones that have been tested so far may not be doing the job properly, and in many cases, may be making the situation worse with soil vapor generation as well as migrating the groundwater plume even faster. And also, we have asked for more thorough evaluation of the surface water impacts. And I would just invite you to go down towards Lawrence Creek. And I don't think even a casual view and at the right tide you could discern the odors that are in that area.

LEG. BARRAGA:

Can I ask --

CHAIRMAN HORSLEY:

Sure, Tom.

LEG. BARRAGA:

What has been the response to your request in terms of method or methods to do this remedial? Did you make that to DEC, did you make it to KeySpan?

MR. MINEI:

Yes. The most recent -- the discussions have been going on for years. I mean, I believe the voluntary clean agreement was signed between KeySpan and DEC in '98 -- in 1998. So we have been active and have been pushing and probing and discussing the approaches for years.

The most recent correspondence was from me to the engineer for KeySpan in the end of December where we highlighted out priorities again; to get the soil vapor measurements going, getting that funnel and gate, bar the barrier wall installed, and also to get the other testing going. Their response was an interesting one. We haven't seen the KeySpan response, but DEC has indicated that as with many of these, and they've got about 200 in the State that they're trying to manage, that these things take time. They believe there's progress being made. And they also believe that the public health interests are being addressed.

We are concerned on the progress and the methodologies being employed. Those same issues remain for us today.

LEG. BARRAGA:

Yeah. Because I'll be candid with you, my office became aware of this problem about three years ago. And I was a bit surprised at the time, because I hadn't heard anything about this at all, even though it apparently has been going on for many, many years. And maybe a lot of it had to do with a community being concerned about property values, because, you know, it's not a good situation when this plume is where it is and you've got a home on top of it. And I began to meet with the KeySpan people periodically. We must have met five or six different times. And I was under the impression until very recently that process was being made.

But I have had a few meetings in the last several weeks with those people who live in this area, and they are extremely unhappy with the progress. And they're just about blaming everybody, you know, DEC, KeySpan, you name it, except your area. They were very pleased with your performance. And I'm trying to get a real handle, because KeySpan had indicated to me that they've been doing work. I would like to know how much has been spent at this location so far, and what are the projections in terms of future expense and when they can complete project this project. It could take another three, five or ten years.

I mean, there's been lots of talk, but I know there's another meeting coming up next week. And I've already spoke to the KeySpan representative this morning, and I said to him, "When you go to that meeting, you better have some numbers. You better be able to tell these people what you've spent so far and what your true projection is," because there are figures of 40 million, 70 million. The people in the area think it's going to be close to \$200 million. There's not a great deal of trust going on between the residents and just about all of the public agencies and the company itself.

So this is -- this is slowly coming to a real head. And I'm hoping, you know, at least, you know, from your perspective, you take a very objective kind of evaluation here. But I'm not too sure I can say the same thing with reference to DEC. And maybe, you know, I'm not getting the complete story from the company. And what concerns me even more is that this company will eventually be bought out in a couple of months by National Grid. And it's a British-based company, and their history, frankly, in the Upstate area is not that good, it's mixed. And I want to make sure as a Legislator, I think we all do, that any commitments made by KeySpan to clean up this area will be abided by the new company.

But I would just want to get from you some sense of the response. But maybe DEC, if they're the lead agency, maybe they shouldn't be the lead agency. I mean if they've been the lead agency since 1998, it seems like not a great deal has been done in the last seven or eight years. And I'm told, frankly, that when they do make a presentation, the person who represents DEC, no one can understand him. Plain and simple. They just don't understand what this guy is talking about. And maybe they should have a different representative.

All right. And I really appreciate, you know, making this known to my colleagues, because it's a major, major problem. And it's not the only site on Long Island. But certainly this is -- this one could well run into the 100, \$200 million range. Because I faced the same situation about 15 years ago with {Zucks Fastner}, all right, and they polluted Lake Capri. And we were able to get some monies from Superfund, I believe, to the tune of almost \$7 million to clean up Lake Capri, because the homes around the lake were totally useless. But, you know, these kinds of things, they're involved, but what frustrates me is that I don't see definitive progress. I see lots of words, but no progress. Everybody is sort of pointing the finger, everybody chooses up sides, nobody trusts anybody, but the job isn't getting done. And obviously, we've reached a point where that has to change, that has to change.

CHAIRMAN HORSLEY:

Thank you. I think there was a question in there, Vito.

LEG. BARRAGA:

No question.

MR. MINEI:

That was therapeutic for me. I mean, but seriously, we share your frustration. And I think you probably articulated a little bit more forthrightly. If I was hedging, it's maybe too many of years of dealing with the agencies. But certainly, Ron and his staff, for years have been out there. And what we agreed to a few ago was that Suffolk County Health Department would maintain our independent ability and vigilance for monitoring and dealing with the citizens in your area there, but there would be open cooperation and communication that we were out there. And it was supposed to be a two-way communication.

We are concerned more recently with some of the indoor air testing and the progress for that, because right now, that seems to be among those avenues or ability for exposure, that seems to be a primary one in this, especially when you're talking about the amount of Volatile Organic Chemicals. Those are the ones that can vaporize easily, those are the ones that can contain some of those nasty chemicals that are either suspected or known human carcinogens. We are concerned about that. And just the general overall progress. I think you pretty encapsulated it for us.

But I do want to thank you for the support of words about our involvement, because we plan to maintain that kind of involvement on behalf of the County. But you do raise a significant point, and I sort of breezed through it quickly, about the difference between a voluntary cleanup and a Superfund regulated cleanup. We are about to discuss a Superfund regulated, and under CERCLA, under the Superfund Laws, there are firm guidance -- there are firm directives, and the principle

responsible party does not have as much say as to the direction of it. Also, in the case of Sag Harbor, we, the Health Department, and in particular Ron and his staff, he's far more diplomatic than I am, are welcomed into the investigation here in Sag Harbor.

Again, you have a site here, if you can visualize, very close to the bridge that goes over in Sag Harbor, that site was located very close to the harbor. The floating product is very close to this -- to the land surface. And I believe just a couple of feet of digging has exposed product. Ron, again, is doing some groundwater investigations in support of the State Health Department, in this case, is the lead on the Superfund. We have a very strong working relationship. The schedules are firmly set by the regulatory agency, and they have been far more open, we believe, with the public in the area of Sag Harbor as well as welcoming in work.

We have to arrange on behalf of the County, I believe, a process by which compensation is provided for all the considerable work. To this date, in Bay Shore, we were kind of the outsiders nipping at the heels and trying to prod the work go forward. But there's considerable effort when you're talking about all the monitoring wells, all the samples that have been taken, sub-surface investigations. I mean, you're talking real dollars, at least in the context of the budget I work with, and we should be really seeking some compensation with regard to, again, I believe, vital work. And I believe the residents in your district would also back me up on this, with regard to moving, not only the scientific knowledge, but also the also understanding they have of the level of the problem in their area. So that's something for us to try to work out together, and I look forward to your support.

I just wanted to quickly go through the rest of this presentation for you, and hopefully give you a little feel for the difference here.

Sag Harbor also is a significant source of NAPL contamination on-site. The excavation of source material is planned for the Fall of '07. The off-site risk for the community in soil -- again, from soil vapor, groundwater discharge, there are some residences in line with the direction of groundwater flow towards the harbor. And this is a New York State Superfund Project.

Halesite, and Ron and his staff have done some investigations up in Huntington, again, this plant ran for about 40 years -- almost 30 years. Again, same story, NAPL, off-site plume, but we don't believe a major impact to the community in this location. I believe it's near a marina on this site. In this case, DNAPL or denser material, again, this stuff can settle, is leaking into the harbor through a bulkhead. And I believe our investigations trapped some of this material up against the bulkhead.

But again, PAHs, VOCs, those chemicals can have serious consequences on marine life and essential habitat in some of these surface waters. Cleanup is to begin, again, in 2007. This is a voluntary cleanup site. Patchogue, we really haven't done much work here on this former MGP site. Again, a little bit of contamination of sub-surface oil. Risk, once again, from soil vapor that will have to have some investigation. And no cleanup agenda under a voluntary program has been established on this site. West Babylon, this facility only operated for a short time, and became a transfer and holding station, and now is owned by Park Avenue Fuel Company, and then the fuel tanks were removed in 2000. Once again, when you're talking in terms of the Volatile Chemicals, soil vapor is always a concern.

And I just wanted to leave you with what believe will be our guidance as we move forward on all of these sites. There has to be a way administratively and through a regulatory process to minimize the delay that goes on with these cleanups. There has to be a more timely means of addressing the off-site contamination, especially when they are risk to communities and homes. We're talking, in your district, YMCA and churches in the line of the contamination that really we have to get a better handle on what we're facing in regards to this. And also, we believe that we have to continue to monitor the risk off-site. The conditions have been changing over the years. As the technology moves forward, the remedial measures have been changing. And we believe, at least on our part,

the diligence has to continue with regard to the evaluations. And I welcome any comments or questions you may have.

CHAIRMAN HORSLEY:

Thank you. Vito, I'm going to turn this over to Legislature Stern in one second. Now, I know this is kind of -- this is a follow-up on to Legislator Barraga's question. He mentioned a quote of \$200 million, and all over the map, do you have any idea -- it sounds very extensive, but from what you speak of, do you have any concept of the dollars we're talking about for cleanup here?

MR. MINEI:

Ron informs me that's a number he's heard as a maximum, in that range of a couple of hundred million dollars. But, again, you know, some of these measures --

CHAIRMAN HORSLEY:

That's what you hear. In other words, there's nothing -- is that an educated guess or?? And the reason why I ask is because one of Legislature's concerns, not only, of course, the health issue, but also who is going to be paying for this cleanup, who is going to be responsible for the dollars, will the dollars come from the ratepayers or will it come from shareholders as National Grid is acquiring KeySpan and who's the ultimate responsibility. So 200 is not -- I want to hear this.

MR. MINEI:

The County Executive has expressed that, I think, pretty adamantly in our past meetings through his staff that he does not want to see the cost of this cleanup passed on to the ratepayers. But I'm going to ask Ron respond to your question directly.

CHAIRMAN HORSLEY:

We're coming from the same direction then.

MR. PAULSEN:

In their proposed remedial plan that's been accepted, you know, they list 40 million, but that really just talks about the sites, the specific sight cleanups. You have all the groundwater, you have sediment contamination. So 40 would get you the sites under control, but who knows how much more you'll need to get the off-site contamination under control, the sediments, you know, surface water impacts. So it's kind of open-ended. And I think that's why you hear up to 100 or two million.

CHAIRMAN HORSLEY:

Yeah. And I've heard even worse, but that's -- we won't go there. Do you -- in your -- in your professional opinion, are we closer to the 40 million or are we closer to the 200 million?

MR. PAULSEN:

I think the 40 million for the site cleanups, the specific sites where the material was discharged, is probably close. What's open-ended is, you know, these groundwater plumes, how fast they can be cleaned up, does additional work have to be done, pump and treat systems, are there properties that maybe, you know are so contaminated they may have to be purchased by KeySpan, they've done that past. So that's the open-ended part. So I think it could go up to a hundred million by the time we're done.

MR. MINEI:

And, Legislator, too, oftentimes we find in these groundwater contamination scenarios, and we follow it too, you address the source, you cut off the source, and sometimes, the plume has been around for so long and the cleanup can be so astronomical to whoever the party that's there, oftentimes the plume is left to sort of degenerate on its own or just move out of the area on its own. But there are special concerns. I got a call last year from researchers at LIU who were thinking of using Lawrence Creek as a clam hatchery, and we didn't think that would be such a good idea. I

mention that sometimes that this material could take on the consistency of vegetable oil, but it certainly doesn't taste like vegetable oil.

So we strongly suggested that that not be considered for a sanctuary for clam restoration activities. But that's why you see this floating number. My point was you'll see a \$40 million number, the \$200 million because it really behooves us to really press for a more stringent cleanup level than let it clean up on its own.

CHAIRMAN HORSLEY:

So to answer your question, closer to 100 million is your professional estimation.

MR. PAULSEN:

Yeah, well, the 40 million is already two years old. That report came out two years ago. So that estimate was two years ago. I am sure the cost of construction and moving things and, you know, getting rid of the soil has gone up. So that's probably -- every year they delay, it's probably another 10 million. So, yeah, I'd say by the time we're done with everything in that site, and that includes all the long term efforts that you have, these things -- this thing will be cleaned up over the next ten or twenty years. It's not going to be go in, excavate and walk away. This is a long term commitment to treat this over the next couple of decades. So, yeah, a hundred million is probably, you know, on the light end if you --

CHAIRMAN HORSLEY:

On the light end?

MR. PAULSEN:

Right.

CHAIRMAN HORSLEY:

Now, we've got another estimate going on.

MR. PAULSEN:

Well, if you consider it's going to go on for 20 years, yeah.

CHAIRMAN HORSLEY:

On the light end. Okay. Legislator Stern.

LEG. STERN:

Yes. Thank you, Mr. Chair. I know we're all concerned about proceeding without any further delay. Vito, I want to ask you about one of those specific delays that you had mentioned earlier, OU4, that there was some work, according to your outline, was supposed to have begun already last year. Can you comment on why that has not yet begun?

MR. MINEI:

I'm going to Ron to -- again, he's our point person on this. I'm going to ask Ronnie to answer that.

MR. PAULSEN:

That became an access problem. They had to get on to a property next door. KeySpan -- it looked like they were going to purchase the property, which probably would have been the best way to handle it. And then there was a breakdown in that negotiation. So they're having access problems. And, you know, I can't really answer any more than that. I know that they need to get access to a home next door. They have to relocate those people while they do the excavation, because the vapors will be so bad when their digging. They do these things under tents in controlled environments. You know, these things are not -- very volatile, so you don't want to be -- you know, you have communities right near them, so you have to actually put up a structure to contain that

and dig underneath that. So this is a major undertaking. You know, the delay is what's going to keep costing more and more for us.

LEG. STERN:

Would you -- in looking at any of the other sites, would that be an anticipated problem with -- with beginning cleanup at the other sites as well?

MR. PAULSEN:

Yeah. I think most -- Halesite, it's -- Halesite is probably going to have similar problems. They're having access problems there too. They have to dig next to one of the businesses. But I think they've worked those out. And I think Halesite should proceed this year. Sag Harbor is scheduled after this season. They didn't want anything done -- the community didn't want any digging done during the summer out there, so they agreed to wait until the fall. And they're going to, you know, start then. But they're going to have the same issues with controlling -- Sag Harbor is even more complicated because they're going to have to dewater. So they have to treat the water that they're pumping before it goes into the cove. So that's a complicated site too. But that's scheduled to occur this fall, and I haven't heard anything that's delaying that.

LEG. STERN:

And the other alternative remedial measures that you had mentioned, are there -- are there two or three that are widely popular and well accepted? Is there a list of 20 to 50? And who makes the determination as to what other remedial measure they're going to use, and how long does that process take?

MR. PAULSEN:

The interim remedial measures that they're using is oxygen injection mostly for the off-site plume, which is considered -- they take oxygen, atmospheric air and concentrate it to get a higher percentage of oxygen so they can inject that into the groundwater to try to enhance different processes to break that down. That's considered a polishing step in most remedial efforts. It's a good way, after you pump and treat, after you've removed the major contamination from the source area, that's a great way to clean up at the end of it. But in this case they're using it, we feel inappropriately as the first line of defense. And that some be useful. And it will have some effect, and it will knock down some of the contaminants, but it can also change the trajectory of the plume for different reasons. And we have some evidence that may be occurring. Soil vapor from it have -- the data shows that those have increased. So we are not happy with that. That's a very passive kind of treatment usually used later after you have done all the other things. They're doing polishing before we have source control and IRM in place that will really knock down, you know, the groundwater contamination. So that's kind of why we're frustrated, because -- it's not that using that isn't -- couldn't be appropriate or useful at some point, it's just the timing of it's not appropriate.

LEG. STERN:

So what would be a more effective way to go?

MR. PAULSEN:

We feel that, as Vito mentioned, in some of these areas, a pump and treat might be an effective way to go, where you pull that water out of the ground, treat it, and then it can be discharged. That's a traditional way. There's probably some areas where that would be appropriate. The big thing is the sooner they get the source under control, then they can follow through with some of these other IRMs; they can use chemical oxidation. The danger with some of these is that they produce bi-products or secondary vapor plumes. And if they're doing it, they can also evacuate those things. They can inject the air, but what normally they would do is they would also suck the air out of soil so that it couldn't get under someone's home. So they can use oxygen injection. That may not be a bad thing, but they should combine that with soil vapor extraction and treat those -- those, you know, vapors coming off so that they don't impact the homes. And then -- so there are things --

definite things they can do that are accepted. But they are doing very minimal type of thing that might be even more harmful. That's why we're -- you know, there's a lot of concern. And that's why the additional monitoring is going on, because they've changed the conditions. And that's why we feel it's important to go out in the community and to do more testing, because the conditions have changed now.

LEG. STERN:

Thank you.

CHAIRMAN HORSLEY:

Thank you very much, Legislator. Legislator Fisher.

LEG. VILORIA-FISHER:

Thank you, Mr. Chair. Thank you Vito and Ron for the presentation. It's very helpful. I have a couple of basic questions about this, because Legislator Stern did ask some of the questions regarding the process and how the operation is going, but when I look at one of your slides, you discussed the two-dimensional rate at which these contaminants move, and you said that they travel at one to two feet per day --

MR. MINEI:

That's typical groundwater movement, yes. But sometime chemicals can be on the leading edge, sometimes it can be retarded based on the characteristics of the chemicals you're dealing with.

LEG. VILORIA-FISHER:

So then this is downward movement or -- what dimension are you talking, down into our groundwater into our table?

MR. MINEI:

I'm talking horizontal.

LEG. VILORIA-FISHER:

You're talking about horizontal movement toward the surface water, toward the creek.

MR. MINEI:

That's just a rule of thumb we've used for 30 years with regard to groundwater movement.

LEG. VILORIA-FISHER:

Okay. But what about down -- height rather than width, going down toward -- into our groundwater heading toward our water table, filtering through the soil.

MR. PAULSEN:

There's two different types of contamination that we're talking about; is the NAPL, the oily --

LEG. VILORIA-FISHER:

Right.

MR. PAULSEN:

And that -- this slide is depicting where that has traveled. That's actually like an oily substance. It's kind of unusual that that would travel through the groundwater so well and to the depth. And that's what made this necessary to put a funnel and gate where you can't excavate this really because you'd have to dig 70 feet down under railroad tracks and everything else. So that's the one issue, the NAPL material. The other is the groundwater, which has dissolved constituents that come out of that NAPL. As groundwater passes through that, you know, they pick up contamination from the NAPL. And the NAPL has traveled not only off-site to the south a couple of hundred feet passed the

boundaries of the original site, but also down. It's believed the railroad had some play in that; the vibration and the pressure, that kind of --

LEG. VILORIA-FISHER:

Kind of shaking it to filter down?

MR. PAULSEN:

Yeah. There's a base clay on the South Shore, Gardners Clay, about 70 feet down that's kind of contained there, but it's pooling there.

LEG. VILORIA-FISHER:

What about -- now in Halesite you would have same kind of clay material?

MR. PAULSEN:

Halesite, the geology is a lot more complicated. The materials are not like South Shore sand where it's kind of uniform and it's outwash from the glaciers. The North Shore is more of a moraine, a mix. And that kind of helped, because it kept some of that material from being able to travel too far, although some of it did find ways to travel.

LEG. VILORIA-FISHER:

Okay. My concern is when you have materials that reach a certain depth, then the expense in the cleanup becomes, you know, really -- leaps in geometric -- leaps geometrically, I guess -- or exponentially, I should say.

MR. PAULSEN:

Sag Harbor is a shallower contamination. It got hung up on a peat layer. So they only probably have to go down 15, 20 feet to get it, and they'll get probably most of it.

LEG. VILORIA-FISHER:

So then is Bay Shore the deepest contamination?

MR. PAULSEN:

Yeah, Bay Shore by far is. It's also the oldest. It went for, you know, 70, 80 years.

LEG. VILORIA-FISHER:

Up until 1975, which is astounding.

MR. PAULSEN:

Yeah, it is. It's a major plant. A lot of the gas produced there went to the West Babylon plant. That's why that wasn't used to produce, it was more of a distribution area. So it's not as contaminated. And Patchogue was the same. That was -- they produced it somewhere else and they kind of distributed it there. But Bay Shore was the main hub for a lot of this on the Island.

LEG. VILORIA-FISHER:

But you haven't said at what rate of speed it travels down. So what you're saying is that's reached that 70 feet, that it's likely because of the geology that it would not travel much further down, that there is a natural barrier to keep it from going deeper.

MR. PAULSEN:

But horizontally it will. It can't get much deeper.

LEG. VILORIA-FISHER:

It will travel horizontally. I'm talking about the depth, because contamination to our aquifer is what I'm concerned about. So if you're saying that there's a natural barrier to keep it from going beyond a concern depth, is that true of all of the sites, because there is different --

MR. PAULSEN:

Right. Different characteristics to all of them. Like I said, Sag Harbor, it got confined by a barrier. There happened to be a peat layer there. Halesite is also, you know --

LEG. VILORIA-FISHER:

You said Halesite was also confined. Babylon?

MR. PAULSEN:

West Babylon, fortunately they only ran that plant for less than ten years. There wasn't a lot of contamination there, plus it's complicated. You had a fuel oil company in there for, you know, 20 to 30 years. So some of what we're seeing there is probably from the mixture of, you know, an oil company and minimal manufactured gas plant waste at that site. And so it's really only Bay Shore where the potential is that it got much deeper. And, you know, we're -- there is some assumption with that, that Gardners is consistent under that whole site. And for the most part it is, so that's a positive thing.

LEG. VILORIA-FISHER:

Let me ask you another question, Ron, about the chemistry here. I'm looking at the metals, and you do have arsenic Naphthalene and Benzene, all three of those, because of they're being known carcinogens, you have those asterisked, but I see some other pretty frightening names here, such as cyanide, lead, mercury. You've just highlighted the ones that are carcinogens, but that's not to minimize the toxicity of these other chemicals or metals.

MR. MINEI:

They're included on this list, because they all are COC, Contaminants of Concern. All I tried to do is highlight even further those that are known or suspected carcinogen.

LEG. VILORIA-FISHER:

Lead and mercury aren't --

MR. MINEI:

Obviously cyanide is not something you want in abundance in your natural environment.

LEG. VILORIA-FISHER:

Right. And you don't want to raise any shellfish on them.

MR. MINEI:

Cyanide among its other things, besides being toxic in its own right, can change the Ph of the groundwater, and you can get very acidic water going into a stream like Lawrence Creek, and that would dramatically change the environment for the sea life.

LEG. VILORIA-FISHER:

Now, can any of these chemicals -- I know that some of those chemicals would be trapped where we do have a natural barrier, keeping them from going to certain depths. But I know that there are other chemicals that can filtrate more easily. Can any of these chemicals filtrate further down easily?

MR. MINEI:

If indeed the Gardners Clay is as solid a shelf as we believe other it is in this case, other places they think the Gardners is more like swiss cheese, and you can't really rely on it as a barrier, but I believe the way the plume is found -- and I'm sure that they found anything below the Gardners with regard to some of this contamination. BTEX is the one we chase all over the County with gasoline leaks from fuel tank, and that certainly moves very readily.

You have to think of this complex management plan of trying to treat chemicals in place, some of it's sloughing off, some of it's going into solution that wasn't in solution, some of it is volatilizing, vaporizing. They call it intermedia trade-offs. You go from a groundwater contamination to an air contaminant. And typically, you have to work hard to trap it. So it's a very unwieldy, very difficult management program. But some of these do move very quickly.

Obviously, we're seeing a legacy now of over 100, maybe 150 years still present in the groundwater in this area. And we're talking maybe a mile's distance from the railroad down to Lawrence Creek, I'm not even sure it's that great. So it's been there a while, it continues, and that's why Ron keeps reinforcing, "Get the source controlled up at that Operable Unit 1," and then we can really move on with the other cleanups and try the measures that we think are more effective.

LEG. VILORIA-FISHER:

Okay. Vito, I have a question about the responsibility of the cleanup. I'm a little confused by the term voluntary. I know what voluntary usually means, but I'm not certain here, because you have two slides; the Suffolk County MGPs site status, and then the second one is voluntary cleanup versus Superfund. But in the first cell there, the note says, State no longer allowing this type of approach at any sites. Okay. Can you -- you went pretty quickly, I know there was a lot to cover, but I'm a little confused about -- because the first one you have Sag Harbor being the only Superfund, the rest of them being voluntary cleanup. If it's voluntary, what then kind of assessment of responsibility is there.

MR. MINEI:

Ron, again, just reminded me that a few things have changed in the regulations. You now have Brownfields Program. So either it goes to a Brownfields Program and you have to work out the arrangements, or it goes directly to Superfund with the more stringent requirements. That's why they don't use of terminology of voluntary cleanup anymore. That preceded the changes several years ago to the Brownfields regulations.

LEG. VILORIA-FISHER:

Okay. But you're using them here, so every place where it says voluntary, should we substitute some place else?

MR. MINEI:

No. They preceded those changes to the regulations, that's why.

LEG. VILORIA-FISHER:

So this is grandfathered?

MR. MINEI:

I believe that's the case.

LEG. VILORIA-FISHER:

Okay. So then where do we go with this as far as regulatory capacity? It's voluntary, so -- I'm trying to understand, if it's voluntary, then how do we assess responsibility?

MR. PAULSEN:

Well, there is a consent order that goes with the voluntary cleanup that they do have. KeySpan has -- for each site, a consent order was given, you are to do this, this, this and this. The problem is more that, you know, enforcing that, because they're given a little more leeway. They can do these pilot studies for a year or two to see if that works. So they're given a little more latitude to how they can approach the cleanup, where a Superfund would more directly say, look, this is the type of contamination we have, this is -- these are the types of treatment that we accept as -- you know, you have to use pump and treat -- they'll say, you're going to have to use pump and treat, where

with the voluntary, they've been given some leeway to do pilots to try to -- you know, if they show good faith and they're trying things that might be -- and some of that might be a good thing to try to expand treatment ways. The problem is they use that, it just delays what you know you have to do, you know. I mean, there's no sense going down that road if you know you have to get this source under control. And that's been part of the problems.

LEG. VILORIA-FISHER:

I have other questions, but I'll yield, Mr. Chair. Thank you.

CHAIRMAN HORSLEY:

Thank you, legislator Fisher. Legislator Barraga.

LEG. BARRAGA:

As a follow-up to Legislator Fisher's question, can this project be reclassified from voluntary to Superfund? It seems to me that would be a much better approach, much more aggressive approach to getting something done.

MR. MINEI:

I didn't think I whispered that loudly, but that was my point to Ron, that at some point, you know, again, it's been couched in terms of a consent order; are you meeting these deadlines. And so far the arrangement between the State and KeySpan has been, well, we're trying this IRM, it didn't work, we're going to move on to another one. But there has to be a point in time where the State can say, okay, we don't think your meeting the letter and the spirit of the consent order, therefore, we're placing you into the Superfund Program. We have that happen a few times. I don't know if we're close to that or what. But just looking at what's going on at Sag Harbor under Superfund and what is going on at Bay Shore under a voluntary cleanup, I can tell you which one we would prefer.

LEG. BARRAGA:

And when you say the State, we're talking about the DEC, the PSC? Who makes that decision to recategorize it from voluntary to Superfund?

MR. MINEI:

I'm not really aware. I'm going to ask Ronnie to chime in again. But recently the State Health Department has taken the lead, but I believe the original consent order was signed in '98 with State DEC. So typically, that regulatory agency would have the power to change the consent order.

LEG. BARRAGA:

Because, you know, unlike LIPA, KeySpan does come under the purview of the Public Service Commission, because there was discussion earlier with reference to who pays for this. And unless I miss my guess, KeySpan or National Grid will be before the PSC to try to get ratepayers to pick up the tab. All right. But, you know, to me that's almost a minor issue at this point. The major premise is to clean up this area. I don't want to put you on the spot. I really don't. But, you know, you represent the Health Department. How safe are those people living in those homes above that plume in Bay Shore? I mean, we talked about all the homes between Union Boulevard and south of Montauk there, you talk about St. Patrick's, you talk about the YMCA. I mean, there are people going in and out of those buildings all the time. I mean, the plume is the plume. I mean, what's your opinion or, you know, do you have an opinion?

MR. MINEI:

Well, I'll start with the good news that I had on the slide that I again cruised through pretty quickly that the one good news is there's no public supply wells in that area that are impacted, so we'll put that card aside. The concern for us and the immediate one we expressed in our letter to KeySpan and copied the State was the vapor, the indoor air quality. We're just getting around to doing a few -- I think we did four homes so far. And the YMCA and the church have asked us. But I can't tell you what the quality of the air was for ten years prior. I don't know how strong the plume was with

contamination 10, 15 years prior. But we hope to have a more definitive answer as to the current level of the health assessment as we get the results back from the indoor air. That's the immediately one. There are other concerns with contact --

LEG. BARRAGA:

What's the time frame on that in terms of those results?

MR. PAULSEN:

We've been at it for like two weeks now, so we're just starting to get some results in now. You know, every week we're going out doing a couple more of the homes. We did St. Patrick's School last week. We're out there this week doing a couple of other homes. There's another, you know, daycare-type facility. So we're trying to each week take -- you know, the community is calling us and we're trying to address those concerns. So we should start to see results probably -- you know, I'd say by next week we'll have some of the initial ones that we did. We should have some results, you know, from the lab.

CHAIRMAN HORSLEY:

Will you share them with us?

LEG. BARRAGA:

Because I'll be candid with you. Last night I attended a meeting with couple of hundred of people, and there were a number of ladies there who were very, very vocal. And they live where that plume is. And, you know, they were telling me about a number of families who have children now with disabilities. They were commonly using the term "Love Canal," which is a very alarmist term, especially when -- you know, I remember that years ago being in the Legislature. But this thing is of paramount importance to them and to the entire community. There has to be some sort of assertive behavior right across the board. No more bureaucracy. Let's just get this thing -- get some answers to these people. They don't deserve to live this way.

MR. MINEI:

I just wanted to respond to Legislator Horsley. We'll be glad to share the data with you, but under our confidentiality policies, the data goes directly to the resident with their name and address. We will give you the general findings in that area on the homes, but we're bound not to reveal the actual homeowner and the address on the home. But you'll get a picture, and we will be here to explain what those results mean.

CHAIRMAN HORSLEY:

Thank you. Legislator Barraga, I'm sorry to interrupt. I didn't mean to bounce in there, I just had to ask. Legislator Romaine.

MR. ROMAINE:

Yes. Very quickly. My colleagues have done an excellent job in raising their concerns and questions about this. But let me ask you this. Now the Health Department is conducting these tests around this plume, and how long will it be before those test results will be fully in?

MR. MINEI:

As Ron mentioned, we just started a couple of weeks ago. We're getting some of those results coming in. We believe that KeySpan is supposed to undertake their own indoor air quality test, but again the residents reached out.

MR. ROMAINE:

I'm not interested in KeySpan.

MR. MINEI:

Give us a few weeks, Legislator. We have several more to do.

MR. ROMAINE:

I'm interested in how long the Suffolk County Health Department is going to take. I understand that there's staffing issues, I know the Health Department has, you know, upwards of 240 vacancies in it that are funded in the budget, but left vacant. But nevertheless, you know, my concern is --

MR. MINEI:

We have the staff to do this.

MR. ROMAINE:

You do have the staff?

MR. MINEI:

Yes.

LEG. ROMAINE:

Okay.

MR. MINEI:

We have the lab and the field staff to do this. And we've pledged to the residents that we're going to get it done, because quite honestly, as the Legislator has already attested to, there's such a high level of, you know, concern and disbelief on the responsible entity doing it that they've reached out to us. We were hoping not to get into this business quite honestly.

MR. ROMAINE:

Do you believe that the Health Department could complete this --

MR. MINEI:

Give us a few weeks, Ed, please.

MR. ROMAINE:

-- could complete this task on or before April 1st?

MR. PAULSEN:

A lot of it depends on how many homes request this. We have certain areas that we feel should definitely be looked at, and those are the ones we're targeting. But we wouldn't turn anybody down so --

MR. ROMAINE:

Through the Chair. I assume this is in your district, Legislator Barraga?

MR. MINEI:

We will be glad to give you status reports.

MR. ROMAINE:

I'm sure you'll let people know of their ability to get tested by the Health Department. So I'm sure that request number of homes is going to go up exponentially. Do you think you can complete these tests by April 1st? Is that a reasonable time frame? I mean, let me know.

MR. MINEI:

No. I mean, just see where we are now. As Ron indicated, we took some tests a week or two ago, we don't have all the results in. But we will be glad before April 1st to give you a status report; what we've been finding to date. And again, as long as you abide by our, you know, constraints, we'll give you the general results, what it means in the area. The homeowners will get their results

directly. And it's up to them if they want to reveal it. But April 1st, to say we'll be done with everybody, with all the other challenges to staff, we will gladly give you status report where we're going with the numbers. We're hoping that the numbers that we're requesting doesn't jump as high as people are suspecting. The responsible party has agreed to undertake these indoor air testings. That their responsibility to do that. We're doing it because --

MR. ROMAINE:

I understand that, but I think that there's --

MR. MINEI:

-- we do this all the time. I mean, people ask us, we do it.

MR. ROMAINE:

To have a backup that is done by an impartial party that's obviously an arm of government is far more -- is far more comforting to know that you have some to test, the results that KeySpan may be doing and may be achieving against. Which goes to my second question. What powers does the Suffolk County Health Department have under the current legislation and Charter of this County to act if they deem that there is a public health issue that should be addressed? Do they have -- what powers do you have? I'm not talking about State DEC or anything else like that. What powers do we have under the State Law, County Charter, Local Laws for the Health Department to act in a forthright manner on this issue if it proves that such action is needed?

MR. MINEI:

I knew I wasn't going to escape unscathed from this presentation. Let me give you an answer in two parts, again, Legislator. The County Attorney has advised us time and time again that our Sanitary Code regulations, Article 12, etcetera, superceded by State Superfund and their consent order and their regulations. So I do not believe we have the authority to move in, although, we'll continue to press for this under Article 12 of the Sanitary Code.

But the other response is -- in the Sanitary Code, I don't want to go too, because the Public Health Division loves it when the Environmental Division talks about public health issues, but there is indeed a threshold level where the Suffolk County Commissioner as head of the Suffolk County District of the State Health Department can issue a concern with regard to public health hazards and other issues as well. So there is a level and a trigger point at which we can discuss public health. We are not there yet. We don't have the air test results yet.

MR. ROMAINE:

Well, what I would request of the Chairman possibly at our next meeting is a brief Executive Session where the County Attorney's Office can brief us on what avenues legally are open to us as a County.

CHAIRMAN HORSLEY:

I think that's just a fine idea.

MR. ROMAINE:

Five minutes, Mr. Chairman. At our next meeting. Give the County Attorney a month to prepare.

CHAIRMAN HORSLEY:

Frankly, we're keeping them busy from this committee. But I absolutely agree. The thought crossed my mind just as well. I'm in complete concurrence. And thank you for those good suggestions, Legislator. I got a quick question here, and it goes to our intervener status in the PSC hearings. Have -- KeySpan has taken the helm over since, what, 1998, in '97, '98 I think it was.

Now, in your opinion, and I have told -- I have been told it really hasn't mattered, has these years that have slipped by, now it's seven plus three, whatever, say ten years, has the cost to clean up

these -- this problem grown since -- and has this problem grown worse in the last -- in that intervening ten years?

MR. PAULSEN:

Yeah, I think the cost has gone up, just because the cost will go up every year that they delay the cleanup just for, you know, the cost of doing the cleanup itself. I mean, I heard -- I've read a report -- one of the earlier reports mentioned that it might cost 14 million. And this is a report that was done in the early '90s. So already from 14 million we went to 40 million, which could easily become --

CHAIRMAN HORSLEY:

And now you're estimating over 100 million.

MR. PAULSEN:

-- could become a 100 million. So every couple of years -- plus, you know, as things change and regulations change, even soil vapor three or four years ago -- it's only the EPA whose really taken a hard look at that two or three years ago and said that you really have to look at every Superfund site with an off-site plume and reevaluate for soil vapor issues, because they were much more important than previously known. So that regulation added on top -- you know it might make a problem that weren't aware of five or ten years ago, because the research or the data wasn't there. Now we're saying, oh, that could be a really serious problem. So you may have that now added on top if many homes have to be treated for vapor issues.

CHAIRMAN HORSLEY:

So all these costs from the original cost -- what was the original figure, 14?

MR. PAULSEN:

Fourteen was one of the early numbers.

CHAIRMAN HORSLEY:

Now we're talking in excess -- as your words -- over \$100 million because there has been delays in this cleanup. Now, let me go to the actual plume itself. I was told that the plume was probably in the Lawrence Creek back in '98 and it really hasn't gotten any worse, if anything it may be less severe because it's already gone into the water, etcetera, is that true?

MR. PAULSEN:

The plume has been pretty much in steady state because this plume is so old. So it kind of reached a point where it -- you know, it probably hasn't fluctuated a great deal over the last, you know, 20, 30 years, because once it made contact with there, you know, it's pretty much established itself.

CHAIRMAN HORSLEY:

So it wasn't -- do you believe it to be -- have reached Lawrence Creek by 1998?

MR. PAULSEN:

Oh, it probably reached Lawrence Creek, you know, decades ago.

MR. MINEI:

That was there in the '80s, Legislator.

MR. PAULSEN:

Yeah. It's been there quite a while.

CHAIRMAN HORSLEY:

Okay. So it's a fair statement to say that it has not grown worse from '98 to date? All we're saying is that the costs have grown exponentially.

MR. PAULSEN:

Well, I can't say that, because the more and more contamination you put in there, it takes up sites in the sediments. And you add more on top where the might adhere to or be barely broken down in a smaller area, those sites are used up or taken so it will spread a little more. So these things don't, you know, totally -- you know, if there's no natural processes that can really take the on -- and this thing is so -- this plume is so in tact because there's no dissolved oxygen in it, the Phs are not right. And the plume travels very much in tact. It doesn't really go through any real changes. So now you keep putting more and more of that into a situation that can't really, you know, have the sites or ability to degradate it naturally. You know, so it will tend to spread a little more. It's not a large -- - you know, a large thing, but it --

CHAIRMAN HORSLEY:

Which contradicts kind of what I heard at first. You said it really has been stable and hasn't really changed much.

MR. PAULSEN:

Well, it's reached a certain equilibrium.

CHAIRMAN HORSLEY:

Now you are saying that --

MR. MINEI:

Legislator, you have to keep in mind, number one --

CHAIRMAN HORSLEY:

I'm not a scientist.

MR. MINEI:

There's good news out there, that the source itself, the continual increase of disposing of waste has terminated for over 30 years. The bad news that Ron keeps talking about is when you're dealing with that nasty substance, the NAPL, they represent a constant source as it degrades a little bit, sloughs a little bit, some of it goes into solution. It isn't very soluble, but it still obviously is causing a problem. This plume in 30 years, if it was a discharge of gasoline, a one-time event, would have moved considerably. This plume, as Ronnie said, it pretty much in tact, because, in essence, you have a continual source as this NAPL resides in the soil and id able to come in contact with groundwater one way or the other; rain water percolating through, etcetera. So that's the bad news, is that nasty stuff still resides in the soil column.

CHAIRMAN HORSLEY:

Okay. So basically what you are saying, though the plume seems to have been stable over the last number of years, it has -- it has tended to grow worse -- I'm just trying to -- I'm not a scientist, so, you know, bear with me. So the plume and the problem seem to have grown worse because it has spread out a little more, it has maybe gotten a little more dense because this stuff is still moving through system and it's aging at different levels throughout plume, and that the situation because -- since 1998 may actually be worse than it is -- has grown worse over this last ten years. Did I read you right on that?

MR. MINEI:

I'd be concerned. I'm going to use my prerogative here a little bit. To say it's worse, again, it's difficult -- you know, we haven't been sampling it for ten years, number one, and number two, like I said, the level of discharge hasn't increased, but the material resides in there.

I would like to leave it as characterized as a very significant plume both in terms of depth and horizontally and in concentrations that we're still seeing as it relates to soil vapor problems, contamination of the groundwater itself and as it moves into Lawrence Creek.

And I just want to go back a bit. Ron has reminded me that when we talk soil vapor releases, we're not talking about just in homes. It can find other avenues of escape through storm drains, etcetera. So there are casual passers-by that can be exposed to this material as well. The residents obviously are our principle concern because they're obviously in place and exposed for the longest duration. But there are other areas, especially when you're injecting chemicals and moving -- we have a plume that's kind of skirting some of the collection mechanisms, because of these attempts to try to chemically oxidate the material as well. So there's a lot going on with this cleanup that really needs to be addressed, and we believe more formidably and more timely with regard to the cleanup.

CHAIRMAN HORSLEY:

Are there any further questions from the Legislature? All right. Gentlemen, you did a bang up job. You have educated us. That was what we are hoping for today. And we appreciate the time and effort you've put into this. And I'm more importantly impressed with the level of concern that you have shown for our -- for our citizens. Nice going, guys. I appreciate it.

MR. MINEI:

Again, your welcome. I want to thank you all too. I hope you get a flavor for the level of competence and lucky a guy I am to oversee a laboratory with the capability, world class scientist like Ron Paulsen. And again, I just want to express my appreciation to this Legislature for the financial as well as emotional support we've gotten over the years for our laboratory, our field work, as well as our engineers and technical staff. Thanks again.

CHAIRMAN HORSLEY:

Just moving back to the public portion, I have one card, Peter Quinn.

MR. QUINN:

Good afternoon, members of the committee. After hearing the presentation, particularly about Bay Shore, I wanted to make a couple of comments. Talk about good faith and voluntariness. I always think when business says we want to do it voluntarily, it means stall and delay, the way GE did with the PCBs in the Hudson River for 20 years before cleanup began.

And in this case, KeySpan talking about good faith, after Irving Like the attorney of record for the Bay Shore residents filed with the Public Service Commission in the KeySpan-National Grid merger case, KeySpan quietly filed a motion to dismiss, which gives you an idea of the direction that KeySpan has in paying for the costs.

In addition, I understand from Irving that there are three parties that may be payees; the insurance companies, the stockholders and the ratepayers. And considering some past payments, ratepayers have paid 30 million, insurance companies have paid 12 and a half million, and stockholders have paid zero, which gives you an idea of the direction. And I would, therefore, urge this committee and perhaps the full Legislature to send a letter to the new Chair Commissioner of the Public Service Commission asking that they be sure not to allow staff nor the Administrative Law Judge to dump -- to agree with KeySpan's position and make sure that Irving Like remains a party to intervene, because the impact is a serious one. But I really came here for another reason today -- a couple of other reasons, and I don't think I'm going to have time, so I may have to delay one of them.

CHAIRMAN HORSLEY:

We're back here on Tuesday.

MR. QUINN:

Right. So I'll see you then. But before that, let me comment about LIPA. We know that they had made -- you know from reading in the paper that they had arranged to give the community benefits package to Brookhaven, to various communities in order to acquiesce and agree to have Brookhaven accept a generating plant called Caithness there. Well, at last Thursday's meeting of LIPA, the

numbers change. I had never heard the number before, maybe you didn't either. It's now 185 million as announced by Kessel in the proposal which was adopted unanimously by the trustees.

And you should know that when I commented, I referred to it -- the pilot payments, payment in lieu of taxes, as a shell game, that it's really a tax, but I added a further comment, that it's a bribe to get communities to accept something which many others in the community -- by the way, Yaphank, a community, gets nothing out of that \$185 million. The disturbing thing is -- well, maybe it was a worth while thing. When I finished speaking, Richie Kessel said, "I agree with Peter Quinn, that this is a scam, it's shell game." Of course, he isn't going to change direction, because he was committed to doing it. So I would urge you by all means to send letters to the DEC, to the Commissioner of the PSC and to Elliot Spitzer and demand that KeySpan be held accountable, because that's going to impact this merger agreement. I thank you.

CHAIRMAN HORSLEY:

Thank you very much, Mr. Quinn.

MS. ESPOSITO:

Good afternoon. I just want to go back to MGPs. A couple of things I think that need clarification, and I have some suggestions for you as a Legislative body, as you can well imagine. The first thing is that you may know, but you may not know that the State DEC has a special division that handles all MGPs for the State. So our local or our regional DEC, Region 1, is not involved in this cleanup. We feel that's been a hindrance, not a help.

The dialog earlier about how can this -- or should this be transferred from a voluntary program to a mandatory program is exactly the right question, and that's what needs to happen. One thing that this Legislative body could do is you could write the new DEC Commissioner requesting that. I can tell you the community supports that. I have been working with that community very, very closely, particularly the people who live on the plume for several months now. We've had numerous meetings and conversations.

They're putting forth -- they have a new Bay Shore-Brightwaters MGP Task Force it's being called. It's comprised now of over a dozen community leaders and business leaders in that community. The sole objective is to protect the health and safety of the community, and they want a comprehensive and an expedited cleanup. They're very smart, they're very talented, and they're going to be very aggressive. And one of issues that they've raised is exactly what you hit on, which is switching it from a voluntary to a mandatory program. It can be done. It should be done. It needs to be done into a Superfund Program. Thank you.

But the purpose of that obviously would give the community what they need, clean-up standards, a cleanup time line, definitive progress reports, substantive and meaningful community participation in the cleanup progress. All of these things we don't have now for that community. So if you could do that and be helpful in that, that would be terrific. It would be embraced by the community. It's something that they are looking for and they're seeking.

I want you to know also, the DEC has failed the community. Maybe you can't say that, I know the County Health Department couldn't say that. I'm going to say that, and I'll take responsibility for saying that. The person in charge of this cleanup, his name is {Ammon}, should be removed from this -- from the Bay Shore site and someone new should come in. I want you to know that last meeting we had, the community task force, State DEC, Suffolk County Health Department, {Ammon} actually said to the public, and this is a quote, that when the plume hits Lawrence Creek, poof, it's gone, unquote. It's now the running community joke. And when we meet, we use that as joke, poof, it's gone. So we want to know if poof it's gone why don't we just dump it all in the creek? Because obviously, it would be gone. So there's not any confidence from the community towards the DEC.

Lastly -- I hear the beeper -- I'd like to say, I understand that there's a lot of concern about the cost, but as we go through this lengthy cleanup, I'd like you to embrace the sentiments that Legislator Barraga said earlier, and that is that that seems like the last priority. And I can tell you as a matter of fact as someone who sat with those people in their communities, in their living rooms, with their family, they're not saying, "Gosh, I wonder who's going to pay for this." What they are saying is, "How come no one is listening? How come it's not being cleaned up? Are my kids going to be okay? Is my air safe to breath?" So if we could just be mindful of the biggest priority, and that would be reflected in the community's goals and the task force's mandated as they've laid out, their goal is safety, and their goal is the health and the safety of their community. So as we go forth, I know you will, please embrace that sentiment. Thank you.

CHAIRMAN HORSLEY:

Quick question by Vivian Viloria-Fisher. But let me just thank you, first of all, for your comments today. They are very positive. And I would be -- I'd love to sit down, talk with you, and figure out a way in which this body, the Legislative Committee can work with you and work for your goals of cleanup. Because certainly, they are our's also. Again, we are -- obviously, we are taking a bigger picture here as well in looking at the ratepayers and the concern for the take-over of KeySpan and who is going to be held with the dollars. That runs in tandem. But you are absolutely right, the health issues are number one. And we don't mean to not reflect that. But we're just doing our due diligence, doing our business as a governmental body. But thank you for your comments. And I will call you in the next couple of days.

MS. ESPOSITO:

That would be terrific. Thank you.

CHAIRMAN HORSLEY:

Vivian Viloria-Fisher.

LEG. VILORIA-FISHER:

Just a quick question, Adrienne, because I do know you work so often with communities. Has there been any link between this community, which is the most heavily impacted and the other communities that have --

MS. ESPOSITO:

No, there is not.

LEG. VILORIA-FISHER:

Do you know if any of the people who are in the other communities are experiencing some of the same types of negative affects of these operations?

MS. ESPOSITO:

They haven't yet, and I'll tell you why. The Sag Harbor one as described is under the Superfund Program.

LEG. VILORIA-FISHER:

Right.

MS. ESPOSITO:

So it's completely different. And the other ones, the West Babylon and the Halesite and the Patchogue one are still being characterized. So frankly, no one knows they are there. And we don't know what's there yet. I'm waiting to see myself.

LEG. VILORIA-FISHER:

Are they experiencing any of the odors, you know that NAPL, and Benzene odors? Have you heard anything like that?

MS. ESPOSITO:

I don't know. I live in Patchogue. And since I became engaged with the Bay Shore community, I was surprised to learn there was one in Patchogue. I live right by the river, where I understand it's discharging into -- very disturbing for myself -- but I have not personally smelled it. But I really don't know the answer to your question.

LEG. VILORIA-FISHER:

Okay. Thank you, Adrienne.

CHAIRMAN HORSLEY:

I had never heard it was discharging into the river.

MS. ESPOSITO:

Well, we have to find out the characterization, so we're waiting to hear. I'm starting to get calls also.

CHAIRMAN HORSLEY:

Thank you.

MS. ESPOSITO:

Yes. It's very exciting.

CHAIRMAN HORSLEY:

All right. As far as I know, there's nobody else who would like to be heard today. Wonderful. Okay. We're going to move on to the agenda. First of all, I wanted to -- before we start with the agenda, I wanted to just make a comment concerning economic development in this County. Next meeting we're going to also have Commissioner Morgo attend and detail the particulars, including an economic study of the affects of having Canon, the positive affects of having Canon come to Long Island.

To me this is the biggest economic coo that I have seen in a number of years, since Computer Associates moved to Suffolk County. It is a terrific deal for us, and it's a boom for our economy. And Mr. Morgo is going to be coming, and he's going to give us a full update on Canon and where we are with that. And thank you, Ms. Fahey, for your participation. Okay. Let us move to the Tabled Resolution, which we only have one.

2090. To impose moratorium on aviation related construction at Francis S. Gabreski Airport pending Master Plan adoption.

LEG. STERN:

Motion to table.

CHAIRMAN HORSLEY:

Motion to table by Legislator stern. Second on the motion?

LEG. BARRAGA:

Second.

CHAIRMAN HORSLEY:

Seconded by Legislator Barraga. All those in favor? Opposed? So moved. It has been **TABLED (VOTE:5-0-0-0)**.

PROCEDURAL MOTION 1. Authorizing retention of consultant(s) for the purpose of representing the County of Suffolk before the Public Service Commission.

I'll make to motion to approve PM-01, seconded by Legislator Stern. At this point, on the motion, may I ask -- I've got just a quick statement, and I'd like to have -- is our County Attorney here? Seeing that you are, could you please come up? I got a quick question for you for the record.

MS. LOLIS:

Good afternoon.

CHAIRMAN HORSLEY:

Good afternoon. Thanks for being here, and thanks for hanging out. I appreciate it. Your office has stated that the ongoing process regarding the proposed acquisition of KeySpan by National Grid has become very contested. Your office has, quote -- your office has also stated, quote, it is imperative that someone be designated to review the documents from a factual expert -- expert standpoint as most of the documentation requires analysis of technical information. Quote, question, does your office have sufficient legal expertise and other expert resources to handle the ongoing process regarding the proposed acquisition of KeySpan by National Grid? If not, what plans do you have to secure the needed resources in order to fully represent the technical interests of the County and the interest of the County?

MS. LOLIS:

On the first two questions, yes and yes. Since we've intervened, we've received volumes of very technical data, and we need a consultant in the -- you know, an expert in the field, in the utility field, to interpret that data and to assist us in providing testimony or comment or whatever documentation we need to submit to the PSC. The consultant that has been retained has wonderful qualifications. He has already assisted us at the first stage in submitting testimony, including /-G issues that have been discussed today.

CHAIRMAN HORSLEY:

Thank you. That's the brief -- may I also -- is there anything else --

MS. LOLIS:

As to number three.

CHAIRMAN HORSLEY:

Please. I'm sorry to interrupt.

MS. LOLIS:

At this point, we feel that the consultant that we have is adequate for our purposes. As the proceeding develops, if it appears that additional consultants may be necessary or that the expertise of this particular consultant is not adequate to address our needs, then we will -- then we will come back to you and talk about it, an additional consultant. But right now, we believe that the consultants that we have have excellent qualifications and are able to meet our needs.

CHAIRMAN HORSLEY:

Thank you. The deadline on the legal brief to the Public Service Commission, which Mr. Radigan has assisted the County Attorney's Office has -- you have met the deadline, it was January 29th, right?

MS. LOLIS:

Yeah. Well, there were several deadlines.

CHAIRMAN HORSLEY:

Okay.

MS. LOLIS:

It depends on what aspect that we're commenting on. The first, I believe, aspect, that was 29, had to do with the rate increase. We have submitted that testimony. And I'm not sure what the next date is.

CHAIRMAN HORSLEY:

Okay. But that -- - in other words, we made -- we made our deadline --

MS. LOLIS:

Yes. Everything is on time.

CHAIRMAN HORSLEY:

We're on target.

MS. LOLIS:

February 19th would be the next deadline. Yes, we're right on time.

CHAIRMAN HORSLEY:

Excellent. And so that this committee understands, we are -- the priorities that Mr. Radigan and the County Attorney are addressing are those requests that we have made as a Legislature to question and act as interveners in, and one that would be for concern for the rates of the -- of the future acquisition take-over, rates to the ratepayers; two, that we maintain our labor force in Suffolk County, repowering the -- repowering the Northport and Port Jefferson plants and intervening in what we just discussed as the MGP gas -- manufactured gas locations and our concerns about the health. And as well as -- in a more -- and more to the point legally, is that we are looking and seeking to assure -- to be assured that the ratepayers will not be stuck with this 100 now plus million dollar bill. And that is what we're intervening in, and that's what Mr. Radigan is acting on, all four of those issues.

Thank you, very much for your testimony. Mr. Schroeder, does the budget -- does the Office of Budget Review have sufficient expert resources to prosecute the County's case in the ongoing PSC hearings?

MR. SCHROEDER:

Not without the addition of the outside resource. I've been involved with the review of the material as it's been coming in just before Thanksgiving. And in the last few weeks, been working very closely with Mr. Radigan, and his expertise has been extremely helpful in finalizing the testimony that was just submitted and will be instrumental in formulating and finalizing the testimony for the next submission on February 19th.

They are number of very complicated issues here relating to utility economics, utility finance, rate structure, and a number of other things, in addition to the MGP issue. And if I may just expand on what was said earlier, I believe the costs that were referenced by the Department of Health were direct costs associated with the MGP sites, and that some of the conversation, at least based on my understanding of it, some of the conversation related to the much higher costs than were mentioned here, related to some of the indirect costs that will follow in term of off-site mediation, tort issues and things like that.

To Legislator Barraga's concern that KeySpan may be looking to recover this. In the stand-alone rate filing, which we just filed testimony on, KeySpan is proposing 100% recovery of all site investigation and remediation costs, which they intend to recover over a seven year period. The rate filing for this year is only going to recover those costs already incurred or incurred through March of this year, and that amounted to less than \$6 million. So the many hundreds of millions of dollars number that's being thrown around it something that may yet be incurred and would not be

included in this particular rate case, which -- KeySpan is looking for just about 10% rate increase in September of this year if the merger is not approved.

Under the merger scenario, the ten year rate plan includes a local area distribution charge, which is not a line item on the bill. These sur costs, as they're referred to, would be recovered over that ten year period, but would not appear as a line item on the bill, in addition to the many other issues.

CHAIRMAN HORSLEY:

Thank you very much, Mr. Schroeder, for your comments. And so to summarize the costs for and the need for Mr. Radigan is certainly something you would agree with. But the costs for him are di minimus compared to the amount of dollars we're -- we're looking to protect our ratepayers from having to shell out.

MR. SCHROEDER:

Absolutely.

CHAIRMAN HORSLEY:

Absolutely. Okay. Are there any question of either the County Attorney or Mr. Schroeder? Mr. Romaine.

MR. ROMAINE:

Yes. I assume we're hiring a consultant by adoption of this resolution.

CHAIRMAN HORSLEY:

That's correct.

MR. ROMAINE:

And I assume that the consultant will not be able to bill for any hours until this resolution is approved and signed by the County Executive; is that correct?

MS. LOLIS:

I'm actually not positive on how the billing is working, but I would that's absolutely correct. Until we have an agreement into -- we don't have a consultant agreement in place until --

MR. ROMAINE:

So there is no consultant currently officially working for Suffolk County. I just want to get that clear.

MS. LOLIS:

That is absolutely correct.

MR. ROMAINE:

The reason I ask this question as early --

MS. LOLIS:

I if may, Legislator Romaine?

LEG. ROMAINE:

Yeah, sure.

MS. LOLIS:

Because of the time deadlines, this consultant has taken a chance on providing -- providing consulting advice to us in this first stage of the PSC proceeding knowing there's no guarantee that any contract will be approved. So we --

MR. ROMAINE:

But if any contract is approved, he can only be paid for the hours of service that he incurs after the contract has been signed, once the resolution has been passed and the County Executive has signed off on that and then the contract comes, only from that moment on is his billable hours payable; is that correct?

MS. LOLIS:

Unless the consultant contract agrees, unless the parties agree that he may be compensated for work performed prior to the date of the contract. It depends upon what the parties agree to.

MR. ROMAINE:

So by signing off on this resolution, I'm in essence signing a blank check for work that might have been done that I'm not aware of, that I haven't approved, that I haven't given consent to, because after this resolution is passed, the County Executive could enter or the County Attorney's Office could enter into a contract to pay someone for work that was done prior to this resolution or a contract being adopted; is that correct?

MS. LOLIS:

That is not correct. You are never approving a blank check. If any -- once a consultant agreement is in place, the consultant, like any other consultant that deals with the County, must provide an hourly bill with detailed itemized services provided and an invoice.

MR. ROMAINE:

Well, not to interrupt you, but having sat on this Legislature in prior years, any time a consultant was usually approved, we had a schedule of hourly fees or charges, and I see no attachment to this resolution whatsoever. The reason I'm raising all of these questions is earlier in this month, I was contacted by Legislator Kennedy who had spoken with Legislator Horsley asking if we would sign on to this, because this consultant was needed, absolutely needed to do this work. At which point, I called your boss, and I said, "Do you need outside consultants, outside help to prosecute this case?" She told me flatly no. In which case, I called Legislator Kennedy and conveyed that conversation to him.

And I want to put this on the record. Maybe I misinterpreted what she said, and that's possible. But I asked her, "Do you need outside help, outside consultants, outside attorneys or whatever with this particular case?" And she told me no. And based on that, I guess neither of us -- well, I don't know what Legislator Kennedy did, but I certainly did not sign on in advance to any resolution. Because I think what Legislator Horsley was saying if there was ten cosponsors, there was a good chance that this guy would start working for us prior to the adoption of the resolution. That's why I'm asking these questions. Because I have no problem, you know, hiring consultants and doing what needs to be done, but I just need a straight message. And maybe I misinterpreted what Ms. Malafi said, and that's totally possible.

But I don't have a list of what the hourly fees, I don't have any attachments to this, I don't have anything attached to this about how much this consultant is going to be charged, how many hours are we going to get, what are we going to get this service. Then I'm told by you that if we adopt this resolution and the County Executive approves it, that after the fact, when they sign a contract, they could go back and pay him for work that was done before the contract was approved. And that concerns me. I would like -- you know, obviously, I want to make sure that we have the best consultants, but I also want to make sure that the proper procedures are followed. And this is a concern.

MS. LOLIS:

If I may, through the Chair, respond to Legislator Romaine. First of all, as far as the -- and this is not in any way of matter of passing the buck -- Legislative Counsel and our office have been discussing the retention of an outside consultant and who that would be. I believe there was provided to Legislative Counsel what the rate -- what the fees were going to be, what the hourly fee

was going to be. And any consultant cannot guarantee how many hours they are necessarily going to work on on a particular project without seeing the data.

MR. ROMAINE:

I understand. But we have limits here stated in the resolution, so that doesn't bother me. But I don't have a fee schedule attached. And I can tell you, when we've hired other consultants, we've always had fee schedules attached so we know what the billable -- you know, what they would charge for each hour, for assistance, for photocopying, for this, for that. We have hired a lot of consultants in the Shoreham fight, and we always had lists of what charges would be, and therefore, we could audit these charges. This isn't even attached. I would make a recommendation to the Chairman, not delay this, that this -- that there be a change in the resolution -- motion be made to vote this out without recommendations, let it come to the floor on Tuesday and then let all the backup data be there Tuesday for us to consider this.

You can understand my concern, because I want to know that, and I want to see -- I'd also like to be able to amend on the floor this resolution so we could include a sample contract that I'm sure you have drafted if we were going to adopt this, so I can see what the contract looks like. I would be concerned if we were paying someone for any hours of work that was done before a contract was legally adopted. Or if the contract's going to state that we pay him for work that was done before the contract was adopted, let it come forward and let me colleagues at least have transparency about the way we're doing this.

MS. LOLIS:

If I may respond.

CHAIRMAN HORSLEY:

You can respond, and then we'll cut this off.

MS. LOLIS:

Okay. I believe that a fee schedule, again, was forwarded, and I'm sure that would not be a problem to present that by Tuesday. As for the consultant's contract, I'm sure we can have a proposed consultant's agreement for your review by Tuesday. That should not be a problem. And although, I don't have the resolution in front of me, as I understand, this is authorizing the retention of a consultant with a monetary cap.

CHAIRMAN HORSLEY:

That's exactly right. I was hoping you'd say that.

MS. LOLIS:

It is not guaranteeing that this consultant is getting this amount of money.

MR. ROMAINE:

I understand that. I just wanted to know what the hourly fees were and things of that -- because I've seen many of things, and I've never seen anything of this nature without attachments that would list all of those fees.

LEG. VILORIA-FISHER:

We did that with the Rutgers Study on affordable housing.

CHAIRMAN HORSLEY:

All right. I'm sure there are other precedents that we have here. If you could provide that for Mr. Romaine, I feel that's -- I'm very comfortable with that. Again, there's a cap of \$78,000. Again, we are -- we are up against the wall in a situation where we are going to save possibly many hundreds of millions of dollars for our ratepayers. So I'll let Mr. Romaine stand on principal here.

But what I'll do is I'll move to approve this -- - this motion. There's already a motion and a second. I'll take a vote on it. All in favor? Opposed? So moved. It's been **APPROVED (VOTE:5-0-0-0)**.

All right. I think that is all we have on the table. Motion to adjourn.

(*THE MEETING WAS ADJOURNED AT 4:00 P.M.*)

{ } DENOTES BEING SPELLED PHONETICALLY