

**ENVIRONMENT, LAND ACQUISITION & PLANNING COMMITTEE
of the
Suffolk County Legislature**

A regular meeting of the Environment, Land Acquisition & Planning Committee was held in the Rose Y. Caracappa Auditorium, Veterans Memorial Highway, Smithtown, New York on **March 9, 2001** at 10:00 a.m.

MEMBERS PRESENT:

Legislator David Bishop, Chairman
Legislator Michael Caracciolo, Vice Chair
Legislator Ginny Fields
Legislator Cameron Alden
Legislator Vivian Fisher

MEMBERS ABSENT:

Legislator George Guldi
Legislator Allan Binder

ALSO PRESENT:

Paul Sabatino, Legislative Counsel
Jeanine Dillion, Aide to Legislator Bishop
Edward Byrne, Department of Public Works
John Potente, Native America
Joe Gergela, Long Island Farm Bureau
Shepard M. Scheinberg
William Talmage
Henry Talmage
John Talmage
Nicole DeAngelo, County Executive's Office
Kevin Duffy, Budget Review Office
Elizabeth Nostrand, Aide to Legislator Vivian Fisher
Amy Juchatz, Suffolk County Department of Health
Allan Grecco, Suffolk County Department of Real Estate
Roy Fedelen, Suffolk County Department of Planning
Tom Isles, Suffolk County Department of Planning
Louise Harrison
Jim Spero, Assistant Director of Budget Review
James Dobkowski, Aide to Presiding Office Paul Tonna
Jim Bagg
Vito A. Minei, Suffolk County Department of Health
David Greir
Cynthia Barnes
Louis Harrison
Vito A. Minei, Division of Environmental Quality
David Smith
Cathy Mossholder
All Interested Parties

Minutes taken and transcribed by Irene Kulesa

(The meeting came to order at 10:15 a.m.)

CHAIRMAN BISHOP:

Will you please rise for the Pledge of Allegiance?

SALUTATION

CHAIRMAN BISHOP:

Good morning. This is Environment Land Acquisition and Planning Committee meeting of March 9th. We have a very lengthy agenda and a dirth of members, which is a problem. So what to do with it at this time. We don't have our Legislative Counsel either who is in transit. Members are in transit. So why don't we begin hearing from some of the public that have filled out cards. If they don't mind speaking to, not the full membership but only a partial membership, John Potente. You're card number one. So come on up, if you would? Oh, I'm sorry. Have a seat in front of one of the microphones. Good morning.

MR. POTENTE:

I'm here to speak about the acquisition for the properties, BOLC properties.

CHAIRMAN BISHOP:

Okay.

MR. POTENTE:

In Stony Brook. I'm going to make this short. There's an adjacent parcel of land that was just purchased by Suffolk County 37 acres, I believe and there was a forest created in the Town of Stony Brook. There's another parcel that we wish to include along with that but there's another seven acres. One of the best things -- the trend now in land conservation and forest preservation is to try and create conglomerate or contiguous forest area. So the larger the area that you have, the more you're protecting the forest. One of the best things that Suffolk County can do on this particular area is to add that adjacent parcel to the existing parcel right now. It helps to make a better forest and it helps to maintain the integrity of the existing forest. There's strong community support within the Town of Stony Brook that would help buttress an acquisition resolution. So I happen to live in Hauppauge and I believe that the people in Stony Brook are doing the right thing. This would be a good decision.

CHAIRMAN BISHOP:

Thank you very much. Is there anybody else here to speak on that topic? A whole group of you? Why don't you come up together? We have plenty of chairs. Thank you.

MS. HARRISON:

Good morning. My name is Louise Harrison. I'm co-chair of the Coalition for the future of Stony Brook Village and I'm here today to support Introductory Resolution 1136, Legislator Fisher's resolution to acquire approximately seven acres immediately adjacent to and contiguous with the Forsyth Meadow Nature Preserve created by the county last year. This is the down slope version, I mean, portion of the forest. It's closest to the harbor. It's the very footings of the Nature Preserve and we feel it's extremely important to acquire this property to protect the Nature Preserve's integrity. It's immediately adjacent to the commercial center. It's immediately threatened by a development plan. The developers are being sued by the Coalition. The Town of Brookhaven is being sued by the Coalition for approving a development plan that would damage Suffolk County's Nature Preserve, because it would come within thirty feet of it and would destroy the roots, the trees in the Nature Preserve and remove the buffer zone to the Nature Preserve. We feel that acquisition of this land is the only viable solution to the conflict in Stony Brook and we hope you will give it your fullest consideration.

MS. BARNES:

Good morning. My name is Cynthia Barnes. I'm the co-chair of the Coalition and I'm here to unequivocally support introductory resolution 1136. The citizens of the Three Village area want to save entire forest and have given not only their time and energy, now their money for the lawsuit to save the Stony Brook's last forest. The last seven acres are critical to this effort. The forest needs a buffer to protect the existing Suffolk County Nature Preserve and we're also working hard to keep the Stony Brook Post Office in the Village but out of the woods. Thank you.

MS. MOSSHOLDER:

Good morning. I'm Cathy Mossholder and I'm on the Steering Committee of the Coalition for the future of Stony Brook Village. I am also the secretary of the League of Women Voters of Suffolk County. I'm on the Board of Directors of the League of Women Voters of Brookhaven Township and I am a Three Village Garden Club member. I'm here this morning to ask you to please pass this resolution to support acquisition of the last seven acres behind the shopping center and adjacent to our Suffolk County Park. This is not only an environmentally sound decision; it is also a decision of good government. As a League member, it is my observation that the citizens of Suffolk County have overwhelmingly supported the Suffolk County Legislature in land acquisition. We appreciate greatly the care you are taking to use our taxpayer money in a beneficial manner and I believe that the acquisition of these seven acres is crucial to the integrity of the environment in historic Stony Brook. We also, as citizens of the Three Villages find ourselves in a difficult situation pitted to preserve the environmental integrity of our community against a town government who doesn't seem to share those same sensibilities. We appreciate the support that the Suffolk County Legislature is giving our community in helping us preserve the integrity of our environment and we ask that you once again support this resolution to acquire the last seven acres of lower Forsyth Meadow. Thank you.

MR. SMITH:

I'm David Smith. I'm kind of representing myself to speak in favor of this resolution. I think this might be a possible way of saving face here. What's happening at the moment is that the Ward Melville Heritage Association is going ahead with a project that is opposed by a majority of the local population and each side is kind of digging in its heels and we're getting in a situation which we'll create bitterness for the foreseeable future. I found out about this when I was going around the State University talking to faculty members and it was clear I was talking with people of course who lived in the area, how much opposition there was to this. It might be a way -- this proposal to purchase the remaining seven acres might be a way for the Ward Melville Heritage Organization to climb down gracefully. It might be a way of getting that events down. At the moment, the only municipal parking lot in the vicinity of the park is of course the big one in Stony Brook Village and people will be unable to go to the park from there. It seems such a shame. This proposal would also be a way of opening up the access from that direction and it would make a kind of combined attraction, make it more attractive to visitors to the Stony Brook Village and should be beneficial to the merchants as well. Thank you.

CHAIRMAN BISHOP:

Thank you. Are there any other members of the public who want to speak on this resolution? No. Are there any members -- thank you all. We're kind of expediting because we're under the gun for a number of reasons. Are there any departments that have an opinion on this resolution? Please?

MR. GRECCO:

Good morning.

CHAIRMAN BISHOP:

Good morning.

MR. GRECCO:

I just want to agree with everything, which has been said, and I believe it's the administration's position that we are in accord with Legislator Fisher and the other people have commented. I do want to remind everyone that this is a voluntary program and our indications with Ward Melville Heritage Foundation has shown not a great willingness at this point in time to consider this acquisition. So I just want everybody to be aware.

CHAIRMAN BISHOP:

Okay.

MR. GRECCO:

Of that fact.

CHAIRMAN BISHOP:

And there is many of those.

MR. GRECCO:

Yes, well yes and there is money in this account.

CHAIRMAN BISHOP:

Wait, before you go, I'm also going to call that one out of order and 1066. Can I just get your opinion on 1066, which is Greenways Program Oak Beach Inn? The Oak Beach Inn, Greenways.

MR. GRECCO:

Yes. We already have a resolution, as you know, to purchase the Oak Beach Inn under the former Drinking Water Protection Program with Babylon's allocated account. We do not believe there's sufficient funds in said account to make this transaction happen. Under the 1066, we are in support of this resolution for active parks. We believe there is sufficient monies in the account and the administration is supportive of passage of this resolution.

CHAIRMAN BISHOP:

Thank you. Planning Department, on the Stony Brook Purchase. Do you have an opinion on it?

MR. ISLES:

One point we'd like to raise and that is perhaps just a clarification and that is on the description in the resolution, which is not certain if; the proposal includes the commercial buildings on the property as well. It wasn't exactly -- to us, we would assume it doesn't but just to make that clear from our perspective. So it's just the hill going up and extending back towards Forsythe Meadow then.

CHAIRMAN BISHOP:

Okay.

LEGISLATOR FISHER:

Where it's not developed, so it's pristine.

CHAIRMAN BISHOP:

Legislator Fisher, you make a motion to take what is it?

LEGISLATOR FISHER:

1136.

CHAIRMAN BISHOP:

1136 out of order second by myself. All in favor? Opposed? 1136 is now before us.

LEGISLATOR FISHER:

Motion to approve.

CHAIRMAN BISHOP:

Motion to approve by Legislator Fisher, second by Legislator Fields. All in favor? Opposed? Four are in favor; four out of seven is a majority. The resolution is approved.

I.R. NO. 1136 Authorizing planning steps for the acquisition of land under Pay-As-You-Go 1/4% Taxpayer Protection Program (land adjacent to Forsythe Meadow Nature Preserve, Town of Brookhaven) ASSIGNED TO ENVIRONMENT, LAND ACQUISITION & PLANNING (Legislator Vivian Fisher)

VOTE: 4-0-0-3 APPROVED

CHAIRMAN BISHOP:

I make a motion to take 1066 out of order.

LEGISLATOR CARACCIOLO:

Second.

CHAIRMAN BISHOP:

Second by Legislator Caracciolo. All in favor? Opposed? 1066 is now before us. I make a motion to approve, second by Legislator Caracciolo. I appreciate that. All in favor? Opposed? 1066 is approved.

I.R. NO. 1066 (P) Implementing Greenways Program in connection with acquisition of active parklands. (Oak Beach Inn property) (Legislator David Bishop)

VOTE: 4-0-0-3 APPROVED

CHAIRMAN BISHOP:

Now we will go back to the agenda. Legislator Fisher, thank you. I know you have to leave.

LEGISLATOR FISHER:

Mr. Chairman, I would just like to put it on the record that because of the snow days and the rescheduling, I did have a previous engagement to be in Philadelphia early this afternoon and I have to travel through this rain to get there. So I would like to excuse myself for the rest of the meeting. Thank you very much.

CHAIRMAN BISHOP:

Thank you for coming here this morning. We have another member who is on their way. That's Legislator Alden. When we have four members, we have our quorum to vote. We can proceed with business until that time. We have many cards on the Talmage property farm issue and I know that members of the administration want to speak on that as well. So why don't we take up that dialogue at this time. Who would like to go first? The Talmage people? Okay. Why don't you come up as a panel?

MR. SCHEINBERG:

Good morning. My name is Shepard Scheinberg. I am the attorney for Friars Head Farm and the Talmage family. An application is pending before the Town of Riverhead Planning Board going back to June 13, 1998. The Planning Board will not act on the application until the Legislature has made known its intentions. The application has to do with the development rights that were conveyed to the County of Suffolk on December 29, 1977. This was the very first conveyance of development rights in the County of Suffolk. This started the entire program. What the Talmage family desires to do is to divide the one hundred and thirty one acres that is presently under the Farmland Preservation Program into two parcels. One parcel would contain 51.09 acres and the other parcel 80.64 acres. The 80.64 acre parcel they desire to sell and that would be sold subject to the restrictions because it's in the Farmland Preservation Program. The balance, the 51 acres would be retained for their agricultural production and it is present much of the retained property has greenhouses on it.

I would like to point out to the committee that under the deed, conveying the development rights, this being the very first one as I said, the Friars Head Farm retained the right to freely alienate the estate not conveyed to the County of Suffolk. So we are basically here for your permission, which we already have. So it would be very nice if you would approve our application.

LEGISLATOR CARACCIOLO:

Mr. Chairman? Just for clarification and this resolution has been submitted by the County Executive. Is there someone from the Division of Real Estate who can come forward and explain why we have -- or the Planning Department, why we have this resolution before us? Well, if it's academic, Mr. Scheinberg's --

CHAIRMAN BISHOP:

Advocating resolution chose to go first, so let them go through.

LEGISLATOR CARACCILO:

Well, just then as a point of order. It seems to me that if the representation by counsel is accurate, the question then becomes why do we have a resolution before us? Is there a necessity for the Committee in the Legislature to pass approval on a resolution, if in fact, it was already part of the deed and sale of this property?

MR. SCHEINBERG:

The Town of Riverhead Planning Department asked that it pass through the Legislature.

LEGISLATOR CARACCILO:

Counsel?

MR. SABATINO:

There's another issue before you get to that one, which is both the Farmland Committee Resolution and the proposed resolution say that the Town of Riverhead Planning board has approved the subdivision. I thought you said --

MR. SCHEINBERG:

Incorrect.

MR. SABATINO:

Well, you have to understand then, the information that was submitted to the Legislature, which includes a formally adopted resolution as a representation that became the predicate for the bill being tabled at the last meeting because you can't have an approval in place first and then come to the Legislature. So we have a factual problem just before you get to the threshold issue of, you know who does the approving? That's got to be reconciled because you've got a resolution passed ten, zero by the committee saying that there was a prior approval and then the actual resolution says that and that's why this committee tabled the bill two, three weeks ago.

MR. SCHEINBERG:

I represent to you Mr. Sabatino and to the committee that it has not been approved by the Riverhead Town Planning Board. We had a minor subdivision on the north side that was approved but that had nothing to do with development rights.

MR. SABATINO:

My only point is then this matter -- before it can even get to us, he is going to have to go back to the Farmland Committee, because the Farmland Committee voted ten, zero on the basis of this information. Because they've got in their third whereas clause that there was an approval. So I mean I can't speak for that committee but we can't work off a document that starts from a premise that's not real. Once you get beyond that, then the issue, you know today --

CHAIRMAN BISHOP:

If that's the problem, if that's the sole problem, I think we could overcome that.

MR. SABATINO:

That's a starting point. But then the second question which is why you are here?

CHAIRMAN BISHOP:

Let's go to the substance.

MR. SABATINO:

You're here because --

CHAIRMAN BISHOP:

Yes, why do you -- what does this resolution seek to accomplish? What's the implication accomplished?

MR. SABATINO:

This resolution is required by the County Code, which says you can't do anything with property that's got farmland development rights on it unless you get first a recommendation from the committee and then the approval of the Legislature. So legally you need it in order to make the -- in this case, the subdivision valid.

CHAIRMAN BISHOP:

All right. There's a parcel that's under the Farmland Preservation Program. It was the first one in the program. It was put in 1970. Now the owners of the parcel are seeking to subdivide.

MR. SCHEINBERG:

Correct.

CHAIRMAN BISHOP:

But they want to continue farm it. To use it in accord with the purpose of the program?

MR. SCHEINBERG:

That is correct.

CHAIRMAN BISHOP:

Is that your understanding as well?

LEGISLATOR CARACCILO:

I'm sorry, I missed that.

CHAIRMAN BISHOP:

It's going to be continued to be farmland.

LEGISLATOR CARACCILO:

Oh, absolutely. No, I'm very familiar with the intentions of the owners.

CHAIRMAN BISHOP:

I know you are.

LEGISLATOR CARACCILO:

And I think once the committee is made aware of their plan, it's to keep the property in agricultural use. It's not for any other purpose. My concerns and the concerns that were raised by committee members three weeks ago about what type of structures, were type of business, I believe, is what brought the parties today before the committee to answer and address those issues and those concerns. It's not going to be subdivided for any type of, you know, residential, commercial, industrial use.

CHAIRMAN BISHOP:

Why do you need to subdivide it?

MR. SCHEINBERG:

We need to sell it to a third party. That's the 80 acre parcel.

CHAIRMAN BISHOP:

To be continued to be farmed?

MR. SCHEINBERG:

Exactly.

CHAIRMAN BISHOP:

You found another farmer?

MR. TALMAGE:

I'm Bill Talmage and perhaps I can clarify this a little bit. We're a greenhouse company and we have our greenhouse company located on what would be the 50 acre parcel, which is a pretty large greenhouse company located on what would be the 50 acre parcel, which is a pretty large greenhouse company. The remaining 80 acres is across the street from where the golf course is being built on the north side and we would like something there that's attractive and our intention is to -- we hope to sell the property to a vineyard for a vineyard as opposed to a winery and that's our intention. That's what we would like because it would look better for -- it would be more attractive and --

CHAIRMAN BISHOP:

Now that's English, I understand that.

MR. TALMAGE:

I don't know the legal part of it but I'm just trying to tell where we're trying to get.

CHAIRMAN BISHOP:

All right. I -- and counsel says well the resolution should be clearer and it should state a lot of what we're now discussing.

MR. TALMAGE:

Our problem is that we have people that we're talking to and we hope to be able to consummate a deal and you know what happens with delays?

CHAIRMAN BISHOP:

Yes but you can go into contract now and by the time of closing, this could -- those kind of issues can be resolved, language and --

MR. TALMAGE:

That's one of the reasons why we --

CHAIRMAN BISHOP:

And we won't make you come back. Because I think that the committee is satisfied with the substance now, we're a little dubious of the form. So is that an accurate description of it?

LEGISLATOR CARACCILO:

Yes and again, I would just reiterate three weeks ago, committee members in unison, myself included, raised concern as to what the property would be used for, at that time. We did not know subsequent to that I spoke with you Bill a couple of days ago and made it very clear to you that from my perspective as a representative of that community and was a resident of that community, I would not like to see any kind of an eyesore or commercial residential development and quite clearly by virtue of the FDR Program that could not take place and I think it's important to underscore that, so that those types of fears could be allayed by right up front and that essentially what you have here is a one hundred and thirty acre parcel, which you will retain and use 50 acres for your greenhouse business and the other 80 acres would be sold to an individual who would use it for either a vineyard or some other type of agricultural use.

MR. TALMAGE:

That's correct and I'd like to apologize to the committee, at the last meeting we were intending to be here and there was a change of the date of the meeting that we didn't hear about until too late. Otherwise we would have been here to answer your questions at that time.

LEGISLATOR CARACCILO:

Okay. To your knowledge at this point, the individuals that would be purchasing this property, would they have any plans to put any type of structures on the property?

MR. TALMAGE:

I can't guarantee that. You know sometimes if you're talking to a vegetable farmer or a vineyard, there may be a requirement for our barn to keep their equipment in but it's as you know, we live right there too and we don't want to look at an ugly facility and it's not in the interest of the golf facility to have an ugly facility across the street as well. So the people that we're talking to -- what would we ideally would like to see is rows and rows of vines out there. There may be necessary for support buildings but there would not be many.

LEGISLATOR CARACCILO:

Okay, would there be any type of commercial building to the extent that some of the vineyards right now have tasting rooms and they have their distillery equipment there, catering operations?

MR. TALMAGE:

I don't think that those things are allowable in the Suffolk County Farmland Program Land anyway. So I don't think that, that's an issue.

LEGISLATOR CARACCILO:

Okay, I want to make sure that's a fact though. Is that your understanding, Shepard?

MR. SCHEINBERG:

That was my understanding that such structures would not be permitted or uses.

LEGISLATOR CARACCILO:

Okay, counsel?

MR. SABATINO:

I think there's a provision though in the Code which allows an application to be made for structures that are consistent with the agricultural use. So it's not a -- what happened is --

CHAIRMAN BISHOP:

Have a barn for example.

MR. SABATINO:

You have to come back to that, you know committee.

LEGISLATOR CARACCILO:

We come back to the Farmland Select Committee and the Legislative?

MR. SABATINO:

It should be both, yes.

LEGISLATOR CARACCILO:

Okay, okay, very good.

CHAIRMAN BISHOP:

In my opinion, if catering facilities is part of a vineyard, keep the agricultural industry viable, then we shouldn't stand in the way of that. I mean, the goal is to keep agriculture on the East End, not to micromanage every farm but thank you, gentlemen. I appreciate it. Now, I'd ask that members of any department that wish to speak on this issue, come forward at this time.

LEGISLATOR CARACCILO:

While we're awaiting the arrival, counsel.