ENVIRONMENT, PLANNING and AGRICULTURE COMMITTEE

of the

SUFFOLK COUNTY LEGISLATURE

Minutes

A regular meeting of the Environment, Planning and Agriculture Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, 725 Veterans Memorial Highway, Smithtown, New York on January 28, 2008.

MEMBERS PRESENT:
Leg. Jay H. Schneiderman, Chairperson
Leg. Lou D'Amaro, Vice Chairman
Leg. Daniel P. Losquadro
Leg. Brian Beedenbender
Leg. Jon Cooper

ALSO IN ATTENDANCE:
Presiding Officer William J. Lindsay
Leg. Edward P. Romaine, First District
George Nolan, Counsel to the Legislature
Barbara LoMoriello, Deputy Clerk of the Legislature
Ben Zwirn, Deputy County Executive
Thomas Isles, Director of Department of Planning
Christopher E. Kent, Director of Real Property Acquisition & Management
Lauretta Fischer, Department of Planning
Janet Longo, Department of Real Estate
Carrie Meek Gallagher, Commissioner of the Department of Environment and Energy
Catherine Stark, Aide to Leg. Schneiderman
Linda Bay, Aide to Minority Leader
Paul Perillie, Aide to Majority Leader
Debra Alloncius, AME Legislative Director
Julie Hargrave, Central Pine Barrens
Diana Sanford, Suffolk County Parks
Rick Brand, Newsday
Kara Hahn, Director of Communications
William Shilling, Legislative Aide
And all other interested parties

MINUTES TAKEN BY:
Diana Kraus, Court Stenographer

(THE MEETING COMMENCED AT 1:12 PM)

CHAIRMAN SCHNEIDERMAN:
Good afternoon. I'd like to call this meeting of the Environment, Planning and Agriculture Committee to order this Monday January 28th. If you all will rise and join us for the Pledge of Allegiance led by Legislator Lou D'Amaro.

SALUTATION

Since this is our first meeting of the year, we have a fairly short agenda. I have no yellow cards. At this point I think I will ask the Commissioner to step forward to the table. Is Commissioner Gallagher here? Or no? Okay, then is somebody from the Department here to answer any questions, you can come up to the forward table.

MR. ZWIRN:
I'm always glad to answer questions.

CHAIRMAN SCHNEIDERMAN:
Okay. And I see that we have some people from Planning in the audience as well. All right. So we'll move then -- I have no presentation schedule. We'll move right to the agenda.

INTRODUCTORY PRIME RESOLUTIONS

Our first resolution is **IR 1003, making a SEQRA determination in connection with the proposed acquisition of land for open space preservation purposes known as the Crystal Bay Construction Incorporation property in the Town of Riverhead. (Presiding Officer Lindsay)** And, again, this is open space preservation so it's hard to imagine any environmental impacts here. These are -- I think the County's viewing these all as Type II's now; is that correct?

MS. FISCHER:
Anything that's on the Master List One and Two and one resolution for Mastic-Shirley area were approved as a Type II. But this one was a separately introduced as a planning steps resolution so it did go before CEQ.

CHAIRMAN SCHNEIDERMAN:
Okay.

LEG. LOSQUADRO:
Motion to approve.

CHAIRMAN SCHNEIDERMAN:
Okay, there's a motion to approve by Legislator Losquadro.

LEG. COOPER:
Second.

CHAIRMAN SCHNEIDERMAN:
Second by Legislator Cooper.

LEG. LOSQUADRO:
And placed on the consent calendar.

CHAIRMAN SCHNEIDERMAN:
And placed on the consent calendar. Any discussion? All in favor? Opposed? Abstentions? **1003 is approved. (Vote: 5-0)**

1021, to promote environmental protection throughout Suffolk County by requiring the remediation of Brownfields property. (Romaine)

LEG. LOSQUADRO:
I'll make a motion to approve for the purposes of discussion.

CHAIRMAN SCHNEIDERMAN:
Okay. There's a motion by --

LEG. COOPER:
Motion to table.

CHAIRMAN SCHNEIDERMAN:
Okay. There's a motion to approve by Legislator Losquadro; a motion to table by Legislator Cooper.

LEG. D'AMARO:
Second.

CHAIRMAN SCHNEIDERMAN:
We have a second, I'm assuming to the motion to table?

LEG. D'AMARO:
Correct.

CHAIRMAN SCHNEIDERMAN:
Okay, there's a --

LEG. LOSQUADRO:
On the motion.

CHAIRMAN SCHNEIDERMAN:
On the motion Legislator Losquadro.

LEG. LOSQUADRO:
This piece of legislation accomplishes closing the loophole so to speak of -- we had a great deal of discussion with the County Attorney's Office. And many members of this body felt that the way that the Brownfields were presented to us led us to believe that there would be a clause in the contract that would require the remediation of that property. Unfortunately when it was brought back to us, we were told no such clause existed. This would simply make that a requirement in the contract as it was originally presented to this body by the County Attorney's Office. I don't see that this will damage the process any any way.

MR. ZWIRN:
Read the bill. The bill doesn't say that.

LEG. LOSQUADRO:
Mr. Zwirn, would you -- maybe through the Chair, you'd like to comment on it?

CHAIRMAN SCHNEIDERMAN:

Mr. Zwirn.

MR. ZWIRN:
Yes, Mr. Chairman, thank you. Originally when we had the discussions about the Brownfields legislation, Legislator Romaine had introduced this bill -- a bill like this last year. This bill talks about a time frame for foreclosure. It also talks about a time frame for the beginning of a process of cleaning up. It doesn't say it has to be remediated. And that was what the legislation originally called for; that when you bought the property, you would make a guarantee. That's what the -- some of the Legislators were looking for that guarantee; that whoever bought it, would make the commitment that they would clean it up.

This one says that after a certain period of time after a year, after foreclosure takes place, that some effort would be taken, something would be done. What that something that could be done, could be moving a stone to see if there's a pool of, you know, some liquid on the property. So it really doesn't -- the bill itself is not as onerous as what Legislator Romaine was asking for last year.

What we would like to do is have the opportunity to talk to the sponsor. We'd like to see if we can tweak the dates somewhat to make sure that it's a little more flexible in getting some of this property remediated. Legislator Losquadro -- if I can just finish. Just let me just finish this one last part; is that part the success of the program that we have at the present time where the requirement that the property be remediated is not part of the sale of the tax lien at the present time.

One of the properties that was closed was a property that Legislator Losquadro brought the owners back to the table when that property -- when the tax lien was going to be sold. Now they came back and paid the back taxes to the tune of almost $600,000. Now if they were under the obligation that that property had to the cleaned up, chances are they might not have come in and paid the back taxes.

But what is implied in them paying that amount of money for back taxes is that they will make every effort they can to clean it up. But in the event that it would cost $10 million to clean up the property, they might say, you know what, we'll cut our losses after half a million dollars and walk away from it.

In other words, we would not probably have realized any back taxes on that. So at least under the present plan, we are getting the back taxes and we are getting the implied cooperation, the implied agreement that they're going to try to -- try to remediate the property, why pay the back taxes on it. I assume that the folks that you brought to the table have every intention of trying to clean it up. But in the event that they cannot financially do that, we're still realizing the back taxes which helps all the taxpayers of the County.

LEG. LOSQUADRO:
In that particular instance the reason why they were willing to pay those taxes and move forward, and I think would be the case for most individuals unless it was a strictly speculative deal, was that they had a remediation plan already in place with the State Department of Environmental Conservation. So they knew what their costs were going to be going into it. Therefore, they're willing to pay the taxes because they know this is most likely going to be the range that's going to cost us to remediate this property and then move forward with the redevelopment, you know. Folks who are in the business of -- you know, getting into the land business, you hope to get a return on your investment. So, therefore, I would think that most individuals, you would assume at least, that if they're willing to get involved from a tax standpoint, it's worth a reasonable understanding that they're going to get a return on their investment. I don't know all the details of the bill, but as it turns out the sponsor has arrived so if there are any other questions, I'll certainly defer them to the sponsor.

MR. ZWIRN:

But if I can, I agree with everything that you said, Legislator Losquadro. But the fact is that these folks knew what the bottom line was going to be for cleanup. When you buy a tax lien, you did not own the property. You can't go on the property and do an examination. So you don't know what those numbers are and these folks do. That's part of the problem. And that's why we'd like to have the opportunity to talk with the sponsor on this bill to see if we can tweak the dates and see if we can come up with a way -- because this bill, as I said, is a lot less onerous than what was originally suggested last year. So it looks like, you know, the sponsor is moving in a direction that we may be able to reach a compromise.

CHAIRMAN SCHNEIDERMAN:
Can I ask, the objections to the bill in terms of the dates, it seems that there are two main dates here. One is the one year to foreclose; to commence foreclosure proceedings after they take the lien. And then there's two years from the foreclosure to actually do the remediation. Or is it maybe to commence the remediation? Commence remediation. You have problems with both of those dates, one of those dates?

MR. ZWIRN:
Well, I think the second date. We're not sure if two years will be enough for somebody to be able to do all the studies they need to have done to be able to do a -- get a number on what a cleanup would be. So we'd like to be able to talk to Real Estate Department, see what has been the past practice. But as I say, what it says is it's to commence some sort of remediation, but it doesn't really spell out -- at least it's very vague, which might be helpful. I mean it doesn't say what. I mean it doesn't say what --

CHAIRMAN SCHNEIDERMAN:
Maybe I can hear from the sponsor a little bit. I mean -- so basically it's -- the administration isn't objecting to the bill; just you want to look at some of the time frames?

MR. ZWIRN:
Right. And also -- and also point out that the way the property -- the tax liens have gone on the Brownfields has been very successful, beneficial to the taxpayers of the County because this year we expect to realize from 2007 to 2008 over $3 million from that last tax lien sale.

CHAIRMAN SCHNEIDERMAN:
Let me hear from the the sponsor a little.

LEG. ROMAINE:
Right. Let me start off by saying on January 2nd when I sat at the last seat and we all received our packets, this was in the packet. I've been in my office just about every single day. I have not heard from the administration once. I have not received a telephone call once about this.

This legislation is a result of myself and other members of this Legislature who sat on the Ways and Means Committee being lied to by the representative of the County Attorney's Office. And there's just no other way to say that. When last -- in 2006 when the Brownfields' liens came up, I expressed a great deal of skepticism when the program was put forward. And the administration wanted to do this. And my concern with any Brownfields was to make sure that it got cleaned.

And if you look at the verbatim record page after page after page, in every one I ask the representative of the County Attorney's Office, does this mean this property will be cleaned up? And repeatedly in every possible way that she could give us that impression, she said yes, this property would be cleaned up.

And then this fall year, a later later, we are confronted with this again. And they are -- now at this point, they've had the auction, they're selling the liens and there was no requirement for cleanup. And I asked that question on the record. Again, this is all verbatim. And on the record she said

there was no agreement to this effect. We all sat here. And then the Presiding Officer very skillfully took a lunch break and so forth and so on. And afterwards we were able to get --

P.O. LINDSAY:
Skillfully --

LEG. LOSQUADRO:
Skillfully took a lunch break?

LEG. ROMAINE:
We were able to get a verbatim transcript. And it was very clear that there was a dichotomy in what she was saying back in 2006 and what she was telling this Legislature in 2007. So this is the genesis of this legislation. The legislation does two simple things. It says if you buy this tax lien, you have a year to foreclose on this property. And once you own that lien, legally you can foreclose at any point.

Secondly, once you have foreclosed, you have an additional two years to begin to commence remediation on this property. The point of the bill is very simple. It's to make sure that Brownfields get cleaned up. That's the whole point.

I know the Executive has concentrated on the financial aspect of it. Oh, we'll get money into the County. This property we haven't been able to take possession of because it's contaminated. And this way we'll get our money back and so forth and so on. And that's a very noble goal. But I also think it's a noble goal to get properties cleaned up. That's the genesis of this.

And if I may indulge the Chairman because I'm not a member of this Committee, I just want to ask maybe Mr. Zwirn or Planning Department, I see they have representative here, I see Real Estate has representatives here, one simple question. How are these properties defined as Brownfields? Who determines that definition Brownfields for these properties? I see Ms. Gallagher, our Commissioner of Environment and Energy is here.

MR. ZWIRN:
And if I might after Carrie Meek Gallagher responds, may I just respond to just one or two things that Legislator Romaine said?

CHAIRMAN SCHNEIDERMAN:
Sure. Ms. Gallagher?

COMMISSIONER MEEK GALLAGHER:
Thank you. Good afternoon. If I might just clarify, there are definitions at the federal level and the state level and the one that the County uses under Environmental Conversion Law New York State; is essentially that it's any property where there is real or perceived contamination. And it's that real or perceived contamination that is causing a problem with the redevelopment.

So it does not -- and a lot of these properties we don't necessarily know if there is or what the extent of the contamination is because, of course, we don't own the properties. These are liens. However, if we knew of, if we had documentation of contamination, the County Health Services can go in and require a cleanup or forward it to DEC for cleanup. And we do that routinely. That was done on 300 properties last year.

CHAIRMAN SCHNEIDERMAN:
Can I just ask a follow up on that? Do we -- does the County before selling the lien conduct an environmental audit so we have a sense of what's there and how much it would cost to clean up?

COMMISSIONER MEEK-GALLAGHER:
No, again we can't do that because we don't own these properties. We have no authority to access

the properties, which is one of the problems. While I -- and I will say this on the record and I don't often do this but I'll say I agree with the spirit and the intent of Legislator Romaine's bill. One of the problems, and this was part of the discussion when we were going through -- I guess I wasn't here for the first round, but when we were going through the second round in the Brownfields tax lien resolution was the fact that a, you know, how could we require -- put in some type of requirement for cleanup when we don't know if there is contamination. We don't know the level of that contamination. We don't know how long it would take for the person who takes the risk on purchasing it to determine that. And, therefore, we wouldn't know how long it would take for them to get into a cleanup agreement with the state. And we don't know what level of cleanup would be required because there are no standards for soil cleanup in New York State. And that's one of the tricky things. So there are four different Brownfield program tracks that the state puts you into one you've gone through extensive remediation or investigative work for remediation plan.

One of the things that is a nice benefit of the way this program has proceeded is that the current owners or persons with interest in the property, when they want to come in and settle with us, we can require them to enter into a cleanup agreement with Health Services or with State DEC.

LEG. ROMAINE:
Could I ask a question? When these are declared Brownsfields -- and who makes that determination on the County level? You know, under Suffolk County Tax Act we normally take the properties. Who makes the determination not to take the properties and classify them as actual or potential Brownfields? Who makes that determination in County government?

COMMISSIONER MEEK-GALLAGHER:
There is now -- originally -- prior to my getting here, it seems like it was Health Services and Real Estate reviewing the tax lien list when it came through. Since then we've actually established an inter agency working group. We meet once a month. It includes representatives from the Treasurer's Office, Real Estate, Suffolk County Health Services, the County Attorney's Office, Public Works as needed. My folks from my Environmental Awareness -- Cancer and Environmental Awareness Division. So we then have a -- we receive the tax lien list. It goes through a visual inspection and a look up of the aerials of the photos of the site. And Health Services does an initial screening to see if they have a record on the property. And then the group meets and physically looks through and goes through and says, well, we have some concerns, we think, through the visual inspection or Health Services' records or any other information we have that it would not be in the best interest of the County to take title to this parcel because there could be contamination on the site.

LEG. ROMAINE:
So this committee makes a determination that it could be a real or potential --

COMMISSIONER MEEK GALLAGHER:
Right.

LEG. ROMAINE:
No, I'm looking for -- I'm looking for who is responsible for making that determination?

COMMISSIONER MEEK-GALLAGHER:
It's that working group; that inter agency working group now. Now, there were 57 -- all of the parcels that are on the existing tax lien list were the original 57 that had been identified prior to 2006 or by 2006. Through all of 2007 or all the tax liens that came through as being right for taking, we only identified eight parcels that we were concerned about taking title to.

LEG. ROMAINE:
Only eight of the -- how many?

COMMISSIONER MEEK-GALLAGHER:
I'm not sure of the total number. Chris, do you remember how many we've gone through? No, we'd have to check.

CHAIRMAN SCHNEIDERMAN:
So it is possible for something to be classified as a Brownfield property and potentially actually not have any contamination on it? Just --

COMMISSIONER MEEK-GALLAGHER:
Right. It's real or perceived contamination. So it's an auto body shop, it's a drycleaner, it's gas stations, it's marinas. A lot of marinas are --

LEG. ROMAINE:
I was looking at the piece of property in Riverhead, obviously the one that brought the concern.

COMMISSIONER MEEK-GALLAGHER:
The gas station.

LEG. ROMAINE:
Right.

COMMISSIONER MEEK GALLAGHER:
Former gas station.

LEG. ROMAINE:
And I got a report that seemed to indicate that there was minor existing contamination if any. And I would hate to think that we sold the the tax lien in this particular case for a nominal amount of money for land that may not need remediation. And that's something with the Chairman's permission at the next Committee meeting, I'll provide those records to everyone because I have great concern about how that probably got classified as a Brownsfields property. And then we sold it as a tax lien. But that's a separate issue.

What my bill does, what my resolution does, it says if you're serious about buying this tax lien, we want you to clean up the property. That's what I was assured was happening the first time in 2006 when this program came up. And those assurances were negated. The Legislature was never notified of that. And at our legislative meeting, there was a bit of ossification going where they tried to confuse us. There's no cleanup requirement. I want a cleanup requirement. The issue here is very simple. It's an issue do we clean up Brownfields or do we not? Do we have an obligation to do more than just take the money and run? The current program is --

COMMISSIONER MEEK-GALLAGHER:
I don't think that is the current program. It's certainly not the intent of the current program. Again --

LEG. ROMAINE:
It may not be the intent but is there any requirement for cleanup?

CHAIRMAN SCHNEIDERMAN:
All right. We're going beyond, I think, the bill. At this point I'd like to --

MR. ZWIRN:
This bill does not require a cleanup, Mr. Chairman.

CHAIRMAN SCHNEIDERMAN:
Ben, you're next on my list. Then we're going to go to Legislator Losquadro.

MR. ZWIRN:
I'm just saying that this bill doesn't require -- this bill says you have to do something. Now, I don't know, maybe Legislator Romaine can enlighten us as to what that something would be. But it doesn't give any definition. It says something has to be done within two years. Well, something's better than nothing. That's a great answer but that's -- it gives no direction to anybody.

CHAIRMAN SCHNEIDERMAN:
I thought it was to commence -- I thought it was to commence remediation.

MR. ZWIRN:
It says it has to do something, but we don't know --

COMMISSIONER MEEK GALLAGHER:
Commence, yeah.

MR. ZWIRN:
Commence whatever something happens to be. So it's not -- it's not clear what that requirement would have to be.

CHAIRMAN SCHNEIDERMAN:
Perhaps Legislative Counsel could weigh in on this issue in terms of the bill's specificity.

MR. NOLAN:
The term used is they'll commence remediation efforts within two years of foreclosure.

CHAIRMAN SCHNEIDERMAN:
So it doesn't say to what extent?

MR. ZWIRN:
It doesn't even say good faith efforts. I mean I don't know what --

CHAIRMAN SCHNEIDERMAN:
We have a lot of people at this point. So I'm going to go one more time Ms. Commissioner Gallagher.

COMMISSIONER MEEK-GALLAGHER:
Yeah, I just wanted to make more more comment. I think what we're seeing again, remember this is a very new program. Our first tax lien sale was in August of 2007. It's been seven -- you know six months since we first had this. And the fact that we now have these potential settlements coming in where we can require cleanup, where we'll get the money, it's requiring cleanup, I think it meets the intent of everyone -- you know, everyone in this room. And we really see three categories of properties emerging.

One is the categories where, again, the current owners or party -- interested parties are coming forward to try to settle with us where we can require cleanup.

The second category is where the tax liens are sold to a private -- a third party. And it would be surprising if they'd be willing to expend that money and take the risk if they weren't going to clean up and redevelop the property or at least clean it up and try to sell it.

And then the third category are those problem parcels, where you're going to need government intervention. And I think that's -- it's where there's huge tax liens or there's known contamination. And those are the parcels where the County should step in. We should figure out a way to work with DEC and EPA and other levels of government, Empire State Development Corp. And come up with the funding. And we should take title to those properties and figure out how we can get some

liability relief and be indemnified and clean those parcels up. Those are the categories. We should let the market place try to work on the first two categories and only leave to government and the taxpayers the responsibility for the third category.

CHAIRMAN SCHNEIDERMAN:
Legislator Losquadro.

LEG. LOSQUADRO:
Thank you. As far as specificity goes, I think you have sort of a multifaceted problem here because, number one, and it's always a word that sort of sticks in my mind, it's sort of one of those SAT words, if. You know, if, always, you know, those words you really pay attention to. You said if the property is contaminated. And I think that goes back to the question that Legislator Romaine was asking about how a property is determined to be a Brownfield. So I don't know how specific a piece of legislation could be to say you need a DEC approved or remediation plan because the person could buy the property and maybe it was just overgrown or it didn't look very good, and we were a little concerned about it; but as it turned out, it really wasn't much there or maybe there was a little bit of paint on the ground but it turned out it was latex and not oil base paint. So I don't know how specific you could be in terms of your requirements for a remediation plan because as it turns out, there may not be a remediation plan. So legally you can get into a quagmire there because you might be requiring someone to do something that legally they don't have to do.

I think this is going to require further discussion. I certainly would like more information about how we're determining what properties go into this program. I do see the potential for someone to really hit one out of the park so to speak, you know, maybe getting very lucky in buying a piece of property for a greatly reduced cost that as it turns out they can flip for a really substantial profit in a very short period of time. I think we should have a little more clear understanding of how we're determining how what properties go on that list. So that's what I would like to say.

CHAIRMAN SCHNEIDERMAN:
It's an important point. And it's not part of this bill, but it's something, I think, to take at look in the future. So I've never said this before but I'm going to try to say it right. Legislator Beedenbender.

LEG. BEEDENBENDER:
You got it right, Jay. Thanks. I guess my question would be -- well, one question for you, Carrie. You had said that for the parcels that the County owns where the owner comes up and says, oh, I want to pay my taxes, don't sell my lien, we do require that they clean it up. We make that part of the agreement or we don't?

COMMISSIONER MEEK GALLAGHER:
We can and we have been making that a requirement of every settlement so far. That's correct, Chris, right?

MR. KENT:
Yes.

COMMISSIONER MEEK GALLAGHER:
Yes.

LEG. BEEDENBENDER:
Okay. And I guess my second question would be for Counsel. I know we've been debating what the appropriate milestones or goal posts we should have here for, you know, you have to do this within a year, this within two years; I guess maybe it's not for Counsel but just a point maybe to the sponsor instead is why can't we require instead of cleanup, we'll make it specific. And you could say, you know, within X number of time you have to initiate the study, because if you're buying a Brownfield property regardless of whether or not it's real or perceived, you're implicitly understanding that, you know, I'm going to have to take a look at this property and do a study. So

wouldn't it be more appropriate, I guess, to the sponsor to make that one of the goal posts or the milestones rather than just say cleanup so we have something specific that we know they have this do?

LEG. ROMAINE:
No, because there's no requirement now to foreclose on the property in any period of time. So you could buy that lien, hold it, particularly if you know that adjacent property is being developed, until that lien takes on such a value that you can flip the lien for twice, three, four times the value so there's no requirement to foreclose on the lien.

My bill does two things. It requires -- if you're serious about buying this tax lien, you foreclose on that property within a year, and then two years from that date, three years from your original purchase of the lien, you begin remediation. And I say begin remediation because every project has different levels of remediation. And I ask the definition of a Brownfields because quite frankly the property that was sold in Riverhead on Pulasky apparently lacks very little in terms of needed remediation. I have certain reports in my possession which I'll share with -- maybe with Rick back there in the audience. And I wondered how that property got declared as a Brownfields. And then I wonder how I was assured that that property would be cleaned up.

And I asked that question repeatedly on the record and was told it was going to be cleaned up. And then a year later after the lien sale we're told, oh, no, there was no requirement. And then when we brought forward the verbatim proof that we were guaranteed this, then we got a song and dance.

MR. ZWIRN:
Mr. Chairman, he can't leave that unanswered because that's just not -- it's just not true.

CHAIRMAN SCHNEIDERMAN:
You can respond to it. I wish we would just stay focused on the bill in front of us and not on the past history here.

MR. ZWIRN:
Because if Legislator Romaine truly understood the Deputy County Attorney to say that that property would have to be cleaned up, then he would have supported the bill because that's what he wanted to hear. And if that's what he did hear, then he would have supported the bill. That's what he said. He voted against the bill. And that was the entire reason why he voted against it because that guarantee wasn't there.

CHAIRMAN SCHNEIDERMAN:
Okay. I do want to go back to -- because we can go back and forth on this. I want to go back to the bill and particularly understanding the time frame here because that was the issue the administration raised. And the way I understand it, it's one year to commence foreclosure. Now, I don't know how long it takes to foreclose. It may take six months to a year to foreclose. I would think the buyer here, the one who purchased the lien at the auction would probably want to do an environmental study before they even foreclosed because once you take title, you've got that responsibility. You were saying that it may take a longtime to complete a study and know what's involved with the remediation. But it seems to me they would do that before they took title otherwise it would be foolish.

LEG. BEEDENBENDER:
That's what I was suggesting.

CHAIRMAN SCHNEIDERMAN:
So we're talking maybe about already a four-year process, a year to foreclose -- a year to commence foreclosure, maybe a year to foreclose. When the foreclosure is finalized, the person takes title; then two years to commence remediation. It might be some -- doesn't mean they have

to finish remediation but they have to commence it. I'm not -- that might be something that needs to be clarified in the bill.

Mr. Kent from Planning -- from Land, right -- Real Estate, would like to also be heard on this. Okay. Mr. Kent?

MR. KENT:
First I'll go to the bill itself. I understand the provision that says that if they don't commence the foreclosure proceeding within one year, if they don't foreclose the property within one year, that I should make efforts to have the ownership of the tax lien revert --

CHAIRMAN SCHNEIDERMAN:
Revert back to the County.

MR. KENT:
-- to the County. I'm not sure what the Fourth Resolved clause says, that once they have foreclosed on the property and they don't commence their remediation within two years, what exactly are our rights there? I'm not sure what the fourth provision provides.

CHAIRMAN SCHNEIDERMAN:
I think for Legislative Counsel.

MR. NOLAN:
Well, I think the remedies would probably be built into the contract that we have with the bidder. If they didn't comply with the terms, you know, the contract would probably address that.

MR. KENT:
Yeah, so why don't we -- I mean we're going to make efforts to modify the rules, but I'm not sure what the Fourth Resolve clause does if anything other than it says the County Attorney can commence an action. It doesn't say what the action is for or what remedy we would be seeking. But that's something that I think we need to work on some language there in the Fourth Resolve.

But can I go back to something that Legislator Romaine said? The only difference between this program and our surplus auction program, okay, in that instance where we take title to properties and we become the owner, we sell them at auction to the highest bidder. I don't really -- I don't see a tremendous difference there. In the surplus auction people are getting great values. They're going to make home runs in the market place. That's why they're bidding, that's why they're buying.

CHAIRMAN SCHNEIDERMAN:
Right. I think the difference is there's no presumption that there's something wrong with the property. Once you've put that label Brownfield on it, even if -- it's just a perception, you're devaluing that property in an auction.

MR. KENT:
This bill doesn't address that part of the process at all.

CHAIRMAN SCHNEIDERMAN:
Right. It's really a separate issue to this bill. And I do have other people who want to comment here.

MR. KENT:
So if you want to go back and really address this, I think first if you want to look into how we designate those parcels as Brownfields, that might be the best way to go. We don't really designate them Brownfields. We just make the determination not to take title to them because there's something either present or perceived that should -- that forms a basis for us not to take title. And

we're probably making the right choice. Usually that information is coming from records that exist in the Health Department.

CHAIRMAN SCHNEIDERMAN:
I'm going to submit that we're closer to having a bill than perhaps we think. I think a little more dialogue in good faith between the administration and the sponsor, a little cleaning up of the language here would not hurt. You know, Mr. Kent, if you want to be involved in that process, I think that would make sense. People who are experienced with Brownfield remediation, it would help, too. And, you know, the idea as much as it might be an anthema to the sponsor of tabling this for a month, I don't think it's such a bad idea, Mr. Romaine, if you're willing to do so. And Presiding Officer Lindsay I also have on my list.

LEG. ROMAINE:
If that's a question, Jay, the answer is I'm never prepared to table my resolutions. And I'll explain why as I did in the beginning. This was laid on the table on January 2nd. Today is January 28th. The administration has made no attempt to either contact me by fax, phone or e-mail. So to raise these questions at this date and to say that there's a problem sounds like a stall tactic to me. Obviously --

MR. ZWIRN:
Then I would ask the Committee to vote it down until the bill is in proper form because if he doesn't want to work with us, that's fine. The way it is now --

CHAIRMAN SCHNEIDERMAN:
Right. I don't think we're moving in a productive direction at this point. Frankly I think the intent of the bill is fine. We've never been a swift Legislature. Sometimes things take time. Your intention is you have espoused, Legislator Romaine, is to get these properties cleaned up. There's a legitimate concern in the language of this bill that commencing remediation doesn't necessarily mean that they're going to actually clean up the property. So we may need to go one step further and to make sure these properties actually -- they follow through with the remediation, not just do a, you know, stick a shovel in the ground and go home. So I think that's a legitimate point. And, again, Mr. Lindsay was next on the list.

P.O. LINDSAY:
The whole debate raises questions. Some of them are not directly related to the bill but I'm a little confused about -- if the County holds a tax lien on my property and I own the property, and I come in with a bag full of cash, I want to reclaim my property, what right do we have to tell the owner that he has to clean up the property? How do you do that?

MR. KENT:
What we've done here -- to tell you the truth, we don't. We don't have the right but we have been successful --

P.O. LINDSAY:
You just said you do.

MR. KENT:
We've been successfully negotiating that into an agreement to remove them from the tax lien sale. Most of these people don't have the bag of money to pay off the total amount.

P.O. LINDSAY:
Okay. I come in with a bag of money. I want to reclaim my property.

MR. KENT:
You have the right to do that. You go right to the -- you don't even come to us. You go the County Treasurer, you pay your past taxes and the lien is gone.

P.O. LINDSAY:
And the property's still dirty?

MR. KENT:
Correct.

P.O. LINDSAY:
Okay. So it doesn't get cleaned up?

MR. KENT:
No.

P.O. LINDSAY:
And the other thing that gets back to Legislator Losquadro's question, and I guess it's a dilemma that we're in, we want to make sure that the property is a Brownfield before we auction it off, that we don't get duped. But the only way we can absolutely be sure of that is to do an environmental inspection of the property. And we can't do that because we haven't filed a lien to claim the property.

CHAIRMAN SCHNEIDERMAN:
We don't have title.

MR. KENT:
We haven't taken title to the property, that's correct.
P.O. LINDSAY:
We haven't taken title.

COMMISSIONER MEEK GALLAGHER:
Right. Now some of --

P.O. LINDSAY:
So if we do file and take title to the properties so we can do our environmental assessment, then it's our problem. It's on our plate forever.

MR. KENT:
We then have liability. Yeah, once we go into the chain of title, any owner in the chain --

P.O. LINDSAY:
I don't know how you solve that problem.

MR. KENT:
We're doing the best we can.

P.O. LINDSAY:
I realize you're doing the best you can.

MR. KENT:
We're not trying to dupe anybody.

P.O. LINDSAY:
But I don't know how to get it any more definitive without claiming the property.

MR. KENT:
That's correct.

COMMISSIONER MEEK-GALLAGHER:
It's difficult. And if I might just add to that, from the original 57 property tax liens that were identified parcels that were identified, a number of them, which is why they've not been put on the tax lien resolutions to auction off are superfund sites, you know, either state or federal superfund sites. You've got Lawrence Aviation, you've got McKinsey, you've got -- you know McKinsey Chemical. You've got a whole bunch of them that are known superfund sites that we would never -- you know, we don't want to take title to obviously, be in the chain of title, nor would we ever be able to auction those off unless we did something like we did with Ciratron where there was the EPA and the State and the County came together. The site was cleaned up to an extent where we could auction it off.

CHAIRMAN SCHNEIDERMAN:
You know, obviously if it's a superfund site, we have lots of information about that property.

COMMISSIONER MEEK GALLAGHER:
Right.

CHAIRMAN SCHNEIDERMAN:
But there are groups -- I know one company called Toxics Targeting, there may be other companies out there, without -- we don't have to take title. You can get reports of, you know, every DEC spill. As long as there's something, some record, even neighboring -- even if it's not on that property, it might be the properties around it, there might be a plume that's been detected in the groundwater, that may give us more information so --

MR. KENT:
Those are the records -- those are the records that we look at in deciding not to take title to the properties.

CHAIRMAN SCHNEIDERMAN:
Okay. Because, you know, we should, I think, routinely before we do a sale do some kind of research on it, as much as we can.

COMMISSIONER MEEK GALLAGHER:
We do. And that's the whole point of finally having an inter agency working group that has the expertise in all those different areas that can provide us with, well, what records does Health Services have? And they also get all the DEC records. And essentially Health Services from their past experience on enforcing cleanups has listed several types of, you know, categories of properties that they recommend not taking title to unless you know that there is absolutely no documented contamination such as --

CHAIRMAN SCHNEIDERMAN:
So you're doing a risk assessment and you're getting a sense of how large the expense may be if it really -- if there is a problem. Now then the bidder who buys it, I don't know if they get to see those reports, but they are taking -- they're taking a risk. And they may turn out to be buying something that's going to be very costly or they might get lucky and it turns out to be very cheap.

MR. KENT:
Right. We give them the opportunity to FOIL those records prior to the auction. And then they can go in and look at them or have their experts go in and look at them. I really think the only difference between this and the surplus auction is that we're not taking title. If the market place perceives these parcels as having value over and above the cost of the lien and the cleanup, they will compete. They will bid on it and compete for the right to buy the lien. Ultimately they're going to then clean up the properties. We have that on one instance. Of the two that sold, one we got a $135,000 more than the lien amount. So obviously it was perceived that the cost of cleanup was not going to be that great. And then they were going to go forward with the property.

CHAIRMAN SCHNEIDERMAN:
All right. Let's hope this will be the last one. I'm going to go to Legislator D'Amaro and hopefully --

LEG. D'AMARO:
Thank you. Just assuming that the determination is made properly that this is a Brownfield property, safe to make that assumption, I know you go through a process, you're not just pulling this out of thin air or looking at an aerial photograph, you're looking at records, you're looking at circumstance, you're looking at what surrounds this property. And let's assume that you determine that a property is a Brownfield, I'd rather err on the side of caution and not take title to that property and try and dispose of it in some other way. And I agree with that.

But I sat on that Ways and Means Committee also. And we have an opportunity here to implement a public policy. It's not just about raising the funds, which is important to do. And we do that with surplus property sales. What we want to do is implement the policy that also hopefully will lead to cleaning up the property. And I am encouraged that you are saying today that you don't necessarily disagree with that policy, or that we can implement a requirement that the properties ultimately get cleaned up, but I do get concerned about how we do that. And I think, Legislator Romaine, with all due respect I think you're intention is right on especially what transpired in the Ways and Means Committee. But I also think we have to do this carefully.

If we're going to be holding out to the public that, look, we're selling these Brownfields tax liens and they're going to be cleaned up, well then we better make sure that we have the right language to ensure that that's ultimately going to happen, number one.

Number two, when we come up with that language, we have to decide or make the best determination that we can whether or not that's going to affect the marketability of the liens themselves. Okay? So that's something we have to consider as well. So I think -- I think this could be the beginning of a process in coming -- in getting all the experts involved in the process together to have the dialogue and determine whether or not, one, what type of deadlines do we impose, how long should they be, what actually should be the benchmark or requirement? And then ultimately if we think we have something we're comfortable with, does that affect the marketability of the lien? Because we can have all the requirements in the world, but if no one shows up and bids on the properties, we're never going to implement that public policy. So I think we're walking a line here.

MR. KENT:
Also the effect would be that the people who own it knowing that the program is -- that the bidding will not be hot and furious, they won't come forward and settle with us and pay off the liens on the properties they have interest in. So you're basically impacting it in two ways.

Also I don't know if you paid attention recently Nassau's trying to do something. They're trying to be very creative. But if you read the RFP that they put out, it doesn't require cleanup either. So everybody's struggling with this.

CHAIRMAN SCHNEIDERMAN:
Hopefully we're going to do better than that.

MR. KENT:
Yeah. Everybody's struggling with this.
LEG. D'AMARO:
Just as a last comment, I just want to add that, you know, my impression on the Ways and Means Committee very briefly was in fact that we could not or were not going to actually mandate the cleanup of the property. I think that was the culmination of that dialogue. But that didn't change how I felt about it. And what I felt was, look, if we're selling Brownfields properties or tax liens, rather, and we have an opportunity to help clean up the environment and get these properties cleaned up, I think we should do so. And that was my intent.

CHAIRMAN SCHNEIDERMAN:
I think that's the big --

MR. KENT:
The ones that get sold -- the ones that get sold, I think will be cleaned up. The ones that they perceive the contamination to be too great of a cost to clean up will not be sold. Ultimately that will fall into category three; that the County or the State or the federal government is going to have to expend monies to clean them up. The ones that get bought in the market place, they're perceiving that to get a return on their investment, they're going to buy the lien, clean up the property and still have enough margin on the property to make money or else it wouldn't be worthwhile.

CHAIRMAN SCHNEIDERMAN:
I'm happy to hear as a matter of policy that we appear to be moving toward a requirement that the bidders clean these properties up. I know that's the intention of the sponsor so it looks like we're getting there.

LEG. ROMAINE:
I'll be happy to --

CHAIRMAN SCHNEIDERMAN:
I'll give you the last word.

LEG. ROMAINE:
First of all I want to thank you and I'd be happy to move this without recommendation. I stand ready for the rest of the afternoon and tomorrow to meet with the administration to work on a compromise amendment on this. So I would ask this Committee to vote it out without recommendation because without feet to the fire, this is going to be tabled, this is going to tabled, and this is going to be tabled and there is going to be nothing coming out of this. If you vote it out without recommendations, I am prepared for the rest of this day and all of tomorrow to meet with the administration around the clock to fashion a worthwhile compromise particularly in light of their stated mission that they also would like to see Brownfield properties cleaned up.

MR. ZWIRN:
Let me just say I stand ready to work with Mr. Romaine even after 5 o'clock around the clock.

CHAIRMAN SCHNEIDERMAN:
That's fine. But I just want to point out, too, you know, I think the time frames in it, I don't see the objections yet to the time frames, the year, the two years seem okay. But maybe you're going to make an argument and explain why you need more than two years to commence cleanup. My issue with this bill is not the time frames. It's the language relating to cleanup. It only says since commence cleanup and there's no procedure for actually completing cleanup. And if there's a way to do that, I would feel more comfortable moving the bill forward. Presiding Officer Lindsay?

P.O. LINDSAY:
When is the next Brownfield auction?

MR. KENT:
That's a point I was just going to make. And I'd have to bring rules over here to have them approved by the Legislature before I can have the next --

P.O. LINDSAY:
Do you envision another one in '08?

MR. KENT:

Yes.

CHAIRMAN SCHNEIDERMAN:
Yes?

P.O. LINDSAY:
Latter part of '08?

MR. KENT:
I was hoping for sometime in the first six months of '08.

COMMISSIONER MEEK-GALLAGHER:
However, given all the concern that's been raised about, you know, through this bill and through other concerns when we were actually getting approval to finally sell the liens, we decided it's better to hold off and figure out what those new rules and regulations for the auction sale were going to be before we advertised another lien sale.

P.O. LINDSAY:
But it's certainly not within the next month?

COMMISSIONER MEEK-GALLAGHER:
No. No, we will not hold one until we have resolution with this body as to what those rules and regulations should be and how we should proceed.

CHAIRMAN SCHNEIDERMAN:
Right. You have that on the record, Legislator Romaine, so there's nothing to lose with the tabling for one month. And I will support that. Okay. So we have a motion to table. We have a second. All in favor? Opposed?

LEG. LOSQUADRO:
Opposed.

CHAIRMAN SCHNEIDERMAN:
One opposed. Abstentions? No abstentions. Okay. **(IR 1021 tabled. Vote: 4-1-0-0. Legislator Losquadro opposed.)**

LEG. ROMAINE:
Thank you again, Mr. Chairman. And I fully expect to work with the administration. I hope my fax is humming later this week on suggestions.

MR. ZWIRN:
Mr. Chairman, I'm here right now. I'm ready to step outside with my pen and pad and, Mr. Romaine, let's go.

CHAIRMAN SCHNEIDERMAN:
Okay. **Resolution 1022, authorizing planning steps for acquisition under Suffolk County Multifaceted Land Preservation Program for the Smithtown Boulevard property, Town of Smithtown, Suffolk County Tax map 800-168-4-1. (Kennedy)**

LEG. COOPER:
Motion to table.

CHAIRMAN SCHNEIDERMAN:
There's a motion to table by Legislator Cooper, second by Legislator D'Amaro. I'd like to hear from Mr. Isles.

DIRECTOR ISLES:
If I could just very, very briefly, not to get into this application because I understand you've made a motion to table, just to present to you a concept that this involves an existing developed property. As you can see it's a former gasoline station. There's a resolution to purchase this under hamlet parks active --

CHAIRMAN SCHNEIDERMAN:
Brownfield, maybe?

DIRECTOR ISLES:
Could be Brownfields, I don't know. I think the point that we wanted to get across is that with these types of acquisitions, and we have two on today that are involving improved properties, and we've had some in the past including one in December, we'd like to suggest that the Committee consider some sort of process to get some of the information upfront about these acquisitions. And I say this because it becomes very difficult for us in the Planning Department to evaluate these uses in terms of not having much information about the intent of the sponsor, the reuse of the buildings, the ultimate use of the property and so forth. So we'd like to --

CHAIRMAN SCHNEIDERMAN:
Can I just interrupt for one second? On these planning step resolutions, do they go to CEQ first?

DIRECTOR ISLES:
No.

CHAIRMAN SCHNEIDERMAN:
They go after. This one certainly should go first.

DIRECTOR ISLES:
Perhaps. So what I'd like to -- what we've put together is just a small questionnaire that we'd like you to consider adopting at some point in terms of for these types of planning steps, we have buildings and so forth on the property, it would help, I think, to get certain information on the table while you're considering planning steps to help better evaluate the proposal as well as start getting the information together in terms of how this could move forward.

These types of properties are quite different from open space acquisitions where we all know that they're there for water protection or wetland protection. And I'm not saying that these are good, bad or indifferent. I'm just saying absent information, for example, on the Smithtown Boulevard site, here again, it's exceedingly difficult for us to provide guidance to you as to whether it's appropriate or not appropriate and so forth.

In the second case that's on today, which is the Kraft parcel, Mr. Legislator Schneiderman's office has been in touch with us conveying information and so that has helped. But I think this just might standardize it a little bit. And we just ask you to give that consideration.

CHAIRMAN SCHNEIDERMAN:
Legislator Losquadro.

LEG. LOSQUADRO:
I just want to ask the property to the direct -- directly to the north on the other side of Smithtown Boulevard, it looks like there's a fair amount of open space there. Is that municipal land, is it private land? Do know what that is?

CHAIRMAN SCHNEIDERMAN:
It's the Bavarian Inn. No, just kidding. Just kidding.

LEG. LOSQUADRO:
The Chairman's comments notwithstanding, do you know what that property to the north is?

DIRECTOR ISLES:
We understand that it's privately owned property.

LEG. LOSQUADRO:
It is. Okay. Thank you.

CHAIRMAN SCHNEIDERMAN:
All right. Any other questions? There's a motion to table; there was a second. All in favor? Opposed? Abstentions? **(IR 1022 Tabled. Vote: 5-0)**

And, again, I think we'll take your concerns or recommendations to heart with planning steps for active use type properties or improved type of properties. I think that's important that we give you some direction. And I can't compel my colleagues to fill out the form but we can at least be aware that you would like that.

DIRECTOR ISLES:
We appreciate that.

CHAIRMAN SCHNEIDERMAN:
Okay. Moving onto **IR 1025, authorizing planning steps for acquisition under Suffolk County Multifaceted Land Preservation Program, Kraft property, Town of Huntington. (Cooper)**

LEG. COOPER:
I'd like to make a motion to table for one more session.

CHAIRMAN SCHNEIDERMAN:
Okay, I have a second by the -- sponsor to table, second by Legislator Losquadro. All in favor? Opposed? Abstentions? So tabled. **(IR 1025 tabled. Vote: 5-0)**

1026, appointing member to the Suffolk County Water Authority James Gaughran. (Cooper) Thank you. James Gaughran. Is there a motion?

LEG. COOPER:
Motion to approve.

LEG. D'AMARO:
Second.

CHAIRMAN SCHNEIDERMAN,
Motion by Legislator Cooper, second by Legislator D'Amaro. If I could ask -- there's a motion to table. I'm still going to ask Mr. Gaughran to come forward. Mr. Gaughran, if you'll come forward. He's in the audience. Whether it's tabled or not, he deserves the courtesy of the interview. That is a tradition before the committee but there is a motion to table by Legislator Losquadro. Is there a second to the tabling? Motion fails.

Okay, Mr. Gaughran. Okay. Thank you, Mr. Gaughran, for coming in front of the Committee. If you'll take a moment to introduce yourself, tell us why you're interested in serving on the Suffolk County Water Authority, what particular qualities you'll bring and what is your vision for groundwater protection and groundwater -- and water delivery in Suffolk County. I think that will help frame our discussion.

MR. GAUGHRAN:

Thank you very much, Legislator Schneiderman. How's that? The microphone was always on when I was a Legislator. That was part of the problem.

CHAIRMAN SCHNEIDERMAN:
Just for the record, Mr. Gaughran's resume is being distributed to the members of the Committee.

MR. GAUGHRAN:
Thank you very much, Legislator Schneiderman. And I also have some news clippings from when I was a public official just -- with some of the environmental issues that I was involved in, which perhaps will help you in your deliberations.

I'd like to thank you very much for this opportunity to come before you today and to thank Legislator Lindsay and other sponsors for bringing my name forward. I very much appreciate that. I feel that I have a very strong background for this position both in the private sector as well as in the public sector. I served as a Legislator here for three terms. I was also prior to that a member of my Town Board for a term and I was always very much involved in environmental issues and particularly in issues dealing with the protection of the waterfront.

In fact, when I was first elected to the Suffolk County Legislature, there had already been the concept of using the Quarter Percent Sales Tax to preserve the critical watershed areas throughout Suffolk County; however, the concept wasn't really working because it was a program that was basically just going to buy some properties as the sales tax was collected every year. And so once a year you would try to buy some parcels.

The problem was that these parcels were worth a lot of money. And at that point in time there was major development pressures for a lot of the Central Pine Barrens and many of the properties that have subsequently been protected under this. So I worked with the administration at the time as well as with then Legislator Englebright and Legislator Field and we re-wrote the program. We submitted it to the taxpayers in a referendum. And we were actually able to bond the money and put some standards in to make sure that we're actually buying waterfront -- I'm sorry -- water quality properties as opposed to just properties that look nice. And the result was that by bonding we could -- we were able to -- and future legislators were able to buy up a lot of the very important parcels. And it turned out as we had predicted that the value -- the real estate values would escalate much higher than the cost of the bonding.

So that's one particular thing that I'm very proud about. And there were a lot of other Legislative initiatives I was involved in in the environmental area. And I recognize that because I know some people have suggested that perhaps this particular position should be picked -- you should pick somebody who is an environmentalist. Well, I believe I am an environmentalist based on the record and involvement that I have had over the years.

I'm also a practicing attorney. I have my own practice in the Town of Huntington. It consist of primarily municipal law where I assist both clients as well as some municipalities in dealing with municipal issues, land use including opposition to developments that I feel are harmful to the environment. And I also have been involved in some environmental litigation in suing polluters whether it's polluting the drinking water or just polluting the land. And I also have been involved in some Brownfields projects in making sure that some of these properties get cleaned up and preserved. So I actually enjoyed your discussion before.

I would very much like to be a member of the Suffolk County Water Authority because, again, it's an area that interests me and I think it's something that I can do to try to help the future of Suffolk County, help my children, your children, future grandchildren because what I see this position as primarily being is the delivery of water services, making sure that it's done economically; but also the preservation of our drinking water and making sure that we're not taking actions as a water authority today that may make it a little bit cheaper and a little bit easier to provide the drinking water but we're setting some bad precedents in the future and not doing what we need to -- to

preserve, you know the precious aquifer and what we have.

And I know there's always a balancing test, but one of the things that I have been concerned about and reading from the outside is perhaps a direction in non-coastal areas to start routinely going into the Lloyd Aquifer which I believe is really a very precious part of our aquifer system that really needs to be preserved for future generations. And I think it is very dangerous to be routinely in non-coastal areas drilling in there just to get some pure water because it might be a little bit more economical. I know it is routinely drilled into in coastal areas and into the west, in Queens and in Nassau County. And the coastal areas are really -- isn't as much of a problem since the water is, from what we know, floating out under the Long Island Sound anyway. But my concern is that if we start taking a precedent and depleting this, it is going to potentially destroy something that we might need very much in the future if the other levels start to deplete and we don't get the recharge that we need. And I know recently the Authority sought to do that and was actually knocked down by the New York State Department of Environmental Conservation.

So even if we want to do it, I think we have to be realistic in that we're going to have to come up with other solutions to purify our water system where we need to do it that doesn't involve digging into the Lloyd Aquifer in non-coastal areas because this administration is not going to support it. And so I think that means we probably have to -- and by the way, I believe it is a good Authority, it is well run and there are good, you know, professional employees that work there. But I think we need to look perhaps at ways that we can in the long run start to save some money so that we can look to other ways to keep this water system pure without having to set a dangerous precedent.

And one of the things I would like to see done is I know our new State Comptroller, Mr. DiNapoli, has a major interest and has brought a lot of staff in to deal with public authorities and try to find ways that they can save money in the future. And that would be something that I would recommend that the Water Authority would do to see if we can take advantage of his assets, his staff and his funding rather than Suffolk County taxpayer dollars to see if maybe we can come up with some areas where we can come up with some cost savings so that we can look to other means other than digging into this precious part of the aquifer system.

So I -- you know, I'll be a very diligent member of this board and try to do the best that I can to try to preserve our drinking water, working very closely with you as a former legislator. I know it was important to me when I had issues in my district dealing with the Water Authority and members of the Authority at the time who always worked very closely with me and so I would pledge to do that and to do the best that I can for the people in Suffolk County.

CHAIRMAN SCHNEIDERMAN:
Thank you, Mr. Gaughran. I have some Legislators who have questions starting with Dan Losquadro.

LEG. LOSQUADRO:
Thank you, Mr. Gaughran. I thank you for coming down. I thank you for wanting to take this on. But I do have a couple of concerns. First of all, I was looking through the packet you distributed. And as an elected official and having served as Chairman of the Environment Committee, you had some great successes in that area. But I'm sure as you know as a former elected official many times we rely on those who are the true experts in the field in areas of hydrology, very esoteric matters relating to the environment that we just may not have complete familiarity with. And if the make-up of the board was different right now, if we had someone who had that true level of expertise, then, I think you would be a good fit. But absent that I really feel that it is an important component of this board to have someone with that very esoteric skill set, the real expertise in these environmental areas. And I just happen to think that's very important.

Another aspect is, and this is coming from sort of an east end guy and I hate to always make the east west argument, I know Jon always gives me funny looks when I do that, but I do think we need a little geographic diversity on this board as well. And from what I can see we're sort of clustering

the membership towards the western end of this County. And being that we are preserving a lot of space on the east end to preserve our drinking water supply, I think that someone -- or having the diversity of the board a bit more geographically would also be something important.

But really my concern lies at this point with the fact, as I said, if the make-up of the board was different right know, I certainly think you would make an excellent addition. But I think it's very important at this juncture especially with the way development is going, to have someone with those specific skill sets. Not taking anything away from your successes, your history. And as I said I appreciate you even wanting to take this on, but I just feel it's important to have someone with those very specific skills at this time. So thank you for coming down.

CHAIRMAN SCHNEIDERMAN:
That was a comment, not a question so we'll --

MR. GAUGHRAN:
May I just respond? Is it all right, Mr. Chairman?

CHAIRMAN SCHNEIDERMAN:
Did you want to respond to it?

MR. GAUGHRAN:
Yeah.

CHAIRMAN SCHNEIDERMAN:
Sure.

MR. GAUGHRAN:
Well, thank you, Legislator Losquadro for your comment. I can just tell you that when I served in the Legislature, and you can ask the colleagues of mine from Brookhaven, from the east end whenever there was a proposal to buy an important piece of watershed property, I was always there and was always very supportive of that. And that's -- you know, I will be very concerned. I recognize that the Central Pine Barrens is significantly in Brookhaven in the east end. And we have a important responsibility there.

The other think is that I believe the Water Authority hires experts and engineers and people with particular environmental expertise to guide members. And my entire career including as an attorney I've been very much involved in talking to environmental experts and talking to engineers and learning these problems. And while I don't have an environmental science degree or I'm not an engineer, I'm an attorney, I think I have a good strong background in the environmental field. Thank you very much.

CHAIRMAN SCHNEIDERMAN:
Legislator D'Amaro.

LEG. D'AMARO:
Jim, good afternoon. Thank you very much for coming down today. I really am -- I am going to support your appointment to the Suffolk County Water Authority. And I guess I have more of a comment than a question although I might build a question into it. I've known Mr. Gaughran for many years in the legal community. We're both practicing attorneys as as well as when I chaired the zoning boards of appeals in the Town of Babylon. And Mr. Gaughran has appeared before that board while I was chairing over there in the Town of Babylon. And, you know, if you want to talk about professionalism and if you want to talk about someone who is extremely ethical in his approach to government and representing clients, we have the right person sitting here in that chair before us today. And I think that's very important to keep in mind in giving -- especially given some of the historical background of this particular authority.

As far as policy initiatives, I think -- again, I'm asking the Committee to take a look at what we saw here today; not only did Mr. Gaughran come here to present himself to this Committee, but he's already talking about and thinking about what policy initiatives he's concerned about. He's already talking about the Lloyd Aquifer. He's already talking about different things that he can do when he comes to the authority. And that's the Jim Gaughran that I've known. He's someone who comes in fully prepared, throws himself into whatever subject or issue that he's dealing with. And I think that was his reputation also as a Legislator.

So I'm very happy that you're here today. I'm pleased to see that we're attracting quality candidates to the Suffolk County Water Authority and I have every intention of supporting you.

MR. GAUGHRAN:
Thank you very much.

CHAIRMAN SCHNEIDERMAN:
Let me ask. This may turn out to be a question. It might just be a comment. But as somebody from the east end, obviously, you know, it would be great to have somebody from the east end, but that's not a slight on your abilities to serve. But we do have some unusual characteristics on the east end. There are a lot of areas that are not currently served with public water, that people have private wells both on the north and south fork. And particularly the north fork which is very agricultural and we've been doing, I think, a pretty good job trying to preserve farming. Of course, farming does have impacts on groundwater. And I want to make sure people do have decent water to drink without added chemicals potentially getting into them. So if you have any thoughts on extensions of public water or your approach to providing water, where the water might come from in those regions, like the north and south fork.

MR. GAUGHRAN:
Well, I think we have an obligation to work with Legislators that represent their area and the towns that represent the areas to try to deal with the specific problems particularly where there are contaminated wells and find ways that we can expand the water service there. As you point out, agriculture is one of the major problems with the drinking water that we have now, I think, in the west end. And the reason the people are talking about going the Lloyd Aquifer is that some of the chemicals that got in there from farms that are now subdivisions 30 years ago are now becoming a problem. So I think we have to try to leverage state and federal funding towards trying to find ways that we can come up with ways because in some cases it's the cost of the piping and the delivery of the service and doing that as well. But also to try to find ways that we can tap into our drinking water without depleting our supply but providing more volume. And that may mean that we have to in some cases put in some more wells here and there. And maybe we have to run some additional piping over certain areas of the County so that we can be providing the supply of water that we need. And in some cases it may mean that we have to invest more in terms of filtration and some of the things that have to be done so we that make sure it's safe, clean, drinkable water.

CHAIRMAN SCHNEIDERMAN:
Any other questions for Mr. Gaughran? Legislator Losquadro.

LEG. LOSQUADRO:
No, Legislator Beedenbender.

LEG. BEEDENBENDER:
How long is a full term? Just curiously? I don't know. I know this resolution only deals 'til March 24th, but just how long is a full term on the board?

MR. GAUGHRAN:
I'm curious of the answer, too.

MR. NOLAN:

I'm trying to remember. I believe it's three years. I'll double check for you after the meeting, but that was even a question could we do this in one resolution.

P.O. LINDSAY:
I thought it was five.

MR. NOLAN
It could be, Bill. I'm going to check for the Legislator afterwards.

CHAIRMAN SCHNEIDERMAN:
Let me ask another, I guess, two part question. One is water conservation; hasn't been mentioned but it's often a pretty important element of a groundwater policy, drinking water policy. Any thoughts on water conservation? And in general what do you think are the greatest threats right now to our quality of drinking water from a, you know, government policy perspective?

MR. GAUGHRAN:
Right. I guess one of the greatest threats, of course, is the over development of areas that shouldn't be developed or shouldn't be over developed and, you know, perhaps industrial development in an area that shouldn't be industrially developed because it could lead to future contamination. Developing, you know, in the Pine Barrens where it needs to be preserved and shouldn't be developed at all so that we -- you know, so that we get the total recharge. So I think that's probably, you know, the key thing that we have to do in the future.

In terms of water conservation, I think most of the, you know, programs have basically been to try to promote it voluntarily. And maybe we need to do more in the public information area of the Water Authority. Bills are mailed out every month. And I know I get them. And one of the questions I always have is why do I have to send my check to Newark, New Jersey? Why can't we have somebody processing the payments here in Suffolk County? But maybe I'll look into that if I get appointed. But that's basically all I get is my bill. Maybe we could be using the bill and the stamp that we're sending out any way to promote some water conservation.

You look at Georgians and see, you know, what they went through where they basically have to start rationing water down the road. We would hope we don't get to the point but there may be a point in the future where municipalities may have to start enforcing certain aspects to conserve water whether it's dealing with sprinkler systems or some of the industrial commercial uses of water. I mean I hate to propose that but years from now that may be what will have to be done if we're not preserving our drinking water and getting people voluntarily to, you know, turn down the facet and perhaps do some things that -- or not do some things to protect our supply of water, our quantity. Just a couple of thoughts that I have.

CHAIRMAN SCHNEIDERMAN:
Thank you. Let me also ask you, too, because it sounds like this may be a time consuming position, you know it's a compensated position. Obviously you feel like you have the time. But maybe formally on the record do you feel like you can make the commitment that this position warrants?

MR. GAUGHRAN:
Oh, absolutely. You know, I am a sole practitioner. So I basically pick my only clients and make my own time. And this is an area of interest to me. And I would certainly be devoting a considerable amount of time to this position. I'm not going to be somebody appointed just show up at meetings. I'm going to want to go there and see firsthand what they're doing and make myself available to go to community meetings and to do whatever it takes to try to make this authority strong and to protect our drinking water.

CHAIRMAN SCHNEIDERMAN:
And just maybe I'll ask Counsel to comment on this. Before there was a question about the term. This seems to be finishing the term that was vacated by Michael Deering and then you'll be back --

LEG. LOSQUADRO:
Couple of months.

CHAIRMAN SCHNEIDERMAN:
I would suspect should your name be put forward in March when the next term starts. So this would really just be finishing the last two months of Mr. Deering's term. Is that correct, Counsel?

MR. NOLAN:
That is correct. In fact there was some discussion could we do the three year term and finish this unexpired term in one resolution. We cannot. It has to be two separate resolutions. So there will be another resolution coming forward for Mr. Gaughran, I presume, in a couple of months.

MR. GAUGHRAN:
Well, then if I'm appointed you'll have a very short record to review; see if you want to keep me.

CHAIRMAN SCHNEIDERMAN:
Okay. Any other questions? Okay, so there was a motion to approve and a second. All in favor? Opposed? Abstentions? **(IR 1026 approved. Vote: 5-0)** You are approved. Mr, Gaughran, just so you understand, you do not need to appear in front of the full Legislature. Your name will at the next meeting will be put forth in front of the full Legislature with this Committee's recommendation to approve. And congratulations.

MR. GAUGHRAN:
Thank you very much, Legislators.

CHAIRMAN SCHNEIDERMAN:
Okay. Hold on, I'm not saying there's no further business. That's you. Can I have Commissioner Gallagher? Can I just get from you if you're prepared if you're prepared to do this because it's really kind of central in the County is our acquisition program of open space. And I just kind of want to get a quick sense of where we are. I know the voters approved a large bond with the quarter penny extension but we have several other funds as well. I kind of want to know where we are, how much is in the pipeline, how much money is available, what programs. If you're not prepared to do this today, certainly at the next meeting. I'll turn it over to Commissioner Gallagher.

COMMISSIONER MEEK-GALLAGHER:
I have a status report on the funds. And if you're interested or we could do it at the next meeting, I'll do a quick overview of the acquisition program itself, the process.

CHAIRMAN SCHNEIDERMAN:
Let's hold off on that 'til the next meeting if you don't mind. But just if we can do a five-minute overview of the funds for today and then we can all be dismissed. Okay. Has everybody received this spread sheet provided by the department? Okay, Commissioner Gallagher.

COMMISSIONER MEEK-GALLAGHER:
Yes, so you'll see that unlike in all the previous most recents, some you'll see are in the black with all the anticipated new revenues, approximately 43 million available for future negotiations.

CHAIRMAN SCHNEIDERMAN:
Is that about one property in Southampton or --

COMMISSIONER MEEK-GALLAGHER:
Exactly.

CHAIRMAN SCHNEIDERMAN:
One small property.

COMMISSIONER MEEK-GALLAGHER:
Just a few notes. The first program, the Drinking Water Protection Program 1987 12-5-A, that is only for Core Pine Barrens parcels. And you'll see the three SOS programs that are listed in the middle, those all expired at the end of December 31st so what's listed is monies that were already encumbered and a few -- Janet, I believe a few still have to close?

MS. LONGO:
Yeah.

COMMISSIONER MEEK GALLAGHER:
Why don't you come up.

So you won't be seeing those three columns that much longer but the -- because the program did expire but we carry them until --

CHAIRMAN SCHNEIDERMAN:
The three SOS columns?

COMMISSIONER MEEK-GALLAGHER:
The three SOS columns. For the Legacy Fund Multifaceted and the bonded Quarter Percent, those are all -- we put in what we're anticipating in revenues. And you'll see in blue anticipated new funds for 2008, that line. For Multifaceteds 8.8 million. Legacy Fund is 15 million this year. And then we're projecting 80 million although that might go up. That we'll be -- requesting to bond for this year probably in two separate bonding resolutions. And we're working out those details with the County Attorney and the Comptroller's Office and other budget --

CHAIRMAN SCHNEIDERMAN:
That's the Quarter Penny money?

COMMISSIONER MEEK GALLAGHER:
That's the Quarter Penny money.

CHAIRMAN SCHNEIDERMAN:
You're going to do it in two shots? Is that what you said?

COMMISSIONER MEEK GALLAGHER:
That's what we're anticipating so that we'll know -- we want to have it --

CHAIRMAN SCHNEIDERMAN:
So the total approval, was it 350 million?

COMMISSIONER MEEK-GALLAGHER:
322 million that we could bond over four years. So we're going to see -- we figure we'll do maybe a $50 million shot for the first six months worth of bonding, see where we are with accepted offers and do the second shot based on accepted offers because you have to close those parcels within a certain period of time when they're attached to the bonding.

CHAIRMAN SCHNEIDERMAN:
Questions, Legislator D'Amaro.

LEG. D'AMARO:
No, I just wanted to comment that 80 million or maybe more, that's the recent Quarter Penny extension with the right to borrow against. That's the last stand.

COMMISSIONER MEEK-GALLAGHER:

That's the last stand.

LEG. D'AMARO:
That's the last stand therein. In that column is the last stand of land acquisition in Suffolk County; is that right?

COMMISSIONER MEEK GALLAGHER:
Well, it's a portion of it. We need the -- we still need the --

LEG. D'AMARO:
You can't have a last stand if there's going to be another stand after that.

COMMISSIONER MEEK GALLAGHER:
Oh, you mean from Suffolk County's perspective?

LEG. D'AMARO:
Right.

COMMISSIONER MEEK GALLAGHER:
Well, we still need the towns and we need the state to get more involved, but, yeah. And we'll be requesting that.

LEG. LOSQUADRO:
Through the Chair, if I may, the last stand moniker sort of given because by the time this extension runs out in all likelihood there will be very little available land to purchase so therefore the tag line attached to it.

CHAIRMAN SCHNEIDERMAN:
I don't know that that's true. We'll see. But we'll see how far the money goes. We have 320 million?

COMMISSIONER MEEK-GALLAGHER:
322 million that we can borrow upfront over the first four years.

CHAIRMAN SCHNEIDERMAN:
Right, additional months.

LEG. D'AMARO:
Something like 2030

COMMISSIONER MEEK GALLAGHER:
Right. 2030 when we paid off all the bonds. We'll have transitioned to needing funds for stewardship as opposed to acquisition.

CHAIRMAN SCHNEIDERMAN:
Okay. Any other questions? All right. Some of the properties that seem to be coming in front of us including some that I'm putting into the pipeline actually have buildings and structures upon them; like I have a property I'm putting a planning steps in at the next meeting for that is a marina type of property. Where -- you know, this is a property I'm hoping to do for aquaculture type of purposes. Where should we be looking for funds for these types of things? For those properties that may have improvements?

COMMISSIONER MEEK-GALLAGHER:
You mean which funding source?

CHAIRMAN SCHNEIDERMAN:

It seems like most of the money is in the New Quarter Penny. Does it allow for that?

MS. LONGO:
Yeah, it does.

COMMISSIONER MEEK-GALLAGHER:
It does actually. The New -- the extension we broadened it. It does allow for active recreation and hamlet parks in the New Quarter Penny.

CHAIRMAN SCHNEIDERMAN:
Okay.

COMMISSIONER MEEK-GALLAGHER:
So you can use the money to those types of acquisitions. We've traditionally done that through Multifaceted.

CHAIRMAN SCHNEIDERMAN:
Would a marina type of property qualify under that?

COMMISSIONER MEEK-GALLAGHER:
Not for -- no, not for commercial use, right? You're saying that the County would then -- you'd like to use it then for aquaculture purpose?

CHAIRMAN SCHNEIDERMAN:
For aquaculture, right. To tie it in with our aquaculture lease program. It would be like a training facility for people who are participating or wanted to learn -- and the idea is more people who are actively engaged in aquaculture, the cleaner the bays and harbors will be.

COMMISSIONER MEEK-GALLAGHER:
Right. I've just been advised, though, that we're not sure that it allows for any type of commercial use on county parkland.

CHAIRMAN SCHNEIDERMAN:
Okay.

MS. LONGO:
But that you work out with Tom Isles in the Planning Department before you --

CHAIRMAN SCHNEIDERMAN:
Right. You know, it might have to be through a new bond, but I just wanted to see how the money that's out there, seems that's where most of the money is. The SOS is all fully committed.

COMMISSIONER MEEK GALLAGHER:
Right. Well, it expired so you can't do anything new anyway.

CHAIRMAN SCHNEIDERMAN:
Okay. And then there's the Legacy -- which one of these is the Legacy Program?

COMMISSIONER MEEK-GALLAGHER:
The one that says Legacy fund 15 million.

CHAIRMAN SCHNEIDERMAN:
Oh, Legacy Fund, okay. Thank you. The Legacy Fund, and that has -- sorry about that. That is --

MS. LONGO:
That's a 50/50 partnership.

CHAIRMAN SCHNEIDERMAN:
Right.

COMMISSIONER MEEK-GALLAGHER:
At least a 50/50 partnership.

CHAIRMAN SCHNEIDERMAN:
And there's 8 million left?

COMMISSIONER MEEK GALLAGHER:
Well, East Hampton and Southampton have money.

CHAIRMAN SCHNEIDERMAN:
So then 8 million not committed so far? That's left in that? Of the original -- was it $50 million bond?

COMMISSIONER MEEK GALLAGHER:
Well, that's -- there's still another 15 million next year. So so far last year was 20 million. This year is 15 million. And next year is another 15 million. So, it's -- yeah, it's 50 million but as -- you know, today we had 35 -- once this new 15 million is appropriated, essentially there's been 35 million appropriated. And after you deduct everything that's in contract or accepted offers, you have 8.3 million available for negotiations.

MS. LONGO:
For this year.

COMMISSIONER MEEK GALLAGHER:
For this year.

CHAIRMAN SCHNEIDERMAN:
The Multifaceted has a little bit left over. Now that program, does that continue to fund itself? Do we get new funds for Multifaceted or that's an old bond?

COMMISSIONER MEEK-GALLAGHER:
Yes, we get new funds. It's a capital program so we get new funds every year. So far we have -- this year we have a little bit less in Open Space because there was such a need for affordable Housing. There were so many projects in the pipeline. That's one where it's split every year between money for affordable housing and money for open space.

CHAIRMAN SCHNEIDERMAN:
Okay. Is that the bond that was approved a few years ago? Is that where that money is coming from?

LEG. BEEDENBENDER:
That's capital money.

CHAIRMAN SCHNEIDERMAN:
It's all new capital.

COMMISSIONER MEEK-GALLAGHER:
It's all new capital. Every year it's put into the capital budget.

CHAIRMAN SCHNEIDERMAN:
Okay.

COMMISSIONER MEEK GALLAGHER:
It started -- it rolled up a bunch of other --
CHAIRMAN SCHNEIDERMAN:
No, no. I'm talking about the Multifaceted Program.

COMMISSIONER MEEK-GALLAGHER:
Right. But I think they did that to roll up a lot of the other programs.

CHAIRMAN SCHNEIDERMAN:
Are there strings attached to that one as well, the Multifaceted?

MS. LONGO:
There's different requirements. There's farmland, open space, active parklands. And each has a different requirement. But again Planning has the details -- actually they have a booklet. And you should be talking to Tom Isles about it.

COMMISSIONER MEEK-GALLAGHER:
Well, it's the least restrictive of the programs. But, for example, if it was for Active Recreation you would need a partner.

MS. LONGO:
Right.

COMMISSIONER MEEK GALLAGHER:
There's certain types of -- you know.

CHAIRMAN SCHNEIDERMAN:
Okay. All right. Any other questions? All right. Thank you. All right, if there's no further business then I will call for an adjournment.

(THE MEETING CONCLUDED AT 2:33 PM)
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