

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 December 8, 2008.

MEMBERS PRESENT:

Leg. Jay H. Schneiderman, Chairperson
Leg. Lou D'Amaro, Vice Chairman
Leg. Daniel P. Losquadro
Leg. Brian Beedenbender
Leg. Jon Cooper (excused absence)

ALSO IN ATTENDANCE:

John M. Kennedy, Jr., Twelfth District
George Nolan, Counsel to the Legislature
Kevin Duffy, Budget Review Office
Barbara LoMoriello, Deputy Clerk
Ben Zwirn, Deputy County Executive
Thomas Isles, Director of Department of Planning
Vinessa Manfre, Aide to Leg. Cooper
James Bagg, Chief Environmental Analyst/Department of Planning
Christopher E. Kent, Director of Real Property Acquisition & Management
Lauretta Fischer, Department of Planning
Paul Perillie, Aide to Majority Leader
Justin Littell, Aide to Leg. D'Amaro
Catherine Stark, Aide to Leg. Schneiderman
Dominick Ninnivaggi, Vector Control, DPW
Robert Kessler, Coalition to Save the Yaphank Lakes
Audrey Kessler, Coalition to Save the Yaphank Lakes
Johan McConnell, South Yaphank Civic Association
Frank P. Castelli, Department of Environment & Energy
Diana Sanford, Suffolk County Parks
And all other interested parties

MINUTES TAKEN BY:

Diana Kraus, Court Stenographer

THE MEETING WAS CALLED TO ORDER AT 1:10 PM

CHAIRMAN SCHNEIDERMAN:

Good afternoon. I'd like to call this meeting of Environment, Planning and Agriculture Committee to order this 8th day of December 2008. If you all will rise and join us for the Pledge of Allegiance led by Legislator D'Amaro.

SALUTATION

You may be seated. Before we start, let me state for the record that Legislator Cooper has an excused absence from today's meeting. I have no presentations scheduled.

PUBLIC PORTION

Do we have any speakers' cards? Okay. There. I have two. Robert Kessler followed by Johan McConnell. Mr. Kessler, please.

MR. KESSLER:

Committee members, my name is Robert Kessler from the Coalition to Save the Yaphank Lakes. First of all, I want to thank Steve Levy and Kate Browning for co-sponsoring this bill for County Road 21; for the drainage on County Road 21. It's a very important bill for the health of the Carmen's River. It's one of the most pristine rivers on Long Island.

I'm sure you know that the Carmen's River is also a New York State wild and scenic river and it must be preserved. Right now we are dealing with the invasive plants in the lakes along the Carmen's River and the drainage along County Road 21 will be a good first step, important first step in controlling the invasive plants.

We urge you to pass this bill and help us protect our streams and rivers so that we can pass them onto our children. Thank you.

CHAIRMAN SCHNEIDERMAN:

Thank you, Mr. Kessler.

MS. MC CONNELL:

Good afternoon, Johan McConnell. I'm president of the South Yaphank Civic Association and also a member of the Coalition to Save the Yaphank Lakes. I would like to thank County Executive Steve Levy and Legislator Kate Browning for sponsoring resolution 2157-2008. The Yaphank Lakes are an important part of the Yaphank community and at the present are being overtaken by an invasive species. The storm drainage into the lake is definitely a contributing factor. And we would ask that you approve resolution 2157-2008. Thank you.

CHAIRMAN SCHNEIDERMAN:

I have no further cards. And we will move to the agenda starting with CEQ Resolutions.

CEQ RESOLUTIONS

52-08, ratification of recommendations for legislative resolutions laid on the table for November 19th, 2008. These are the Type II actions. Do I have a motion? Motion by Legislator

Beedenbender, second by Legislator D'Amaro. All in favor? Opposed? Abstentions? **Approved.**
(Vote: 4-0-0-1. Leg. Cooper not present)

53-08, proposed Francis S. Gabreski Airport, Holey Moses Cheesecake, Lease an existing building at the Airport, Town of Southampton. Same motion, same second. Any questions? All in favor? Opposed? Abstentions. **Approved. (Vote: 4-0-0-1. Leg. Cooper not present)**

54-08, proposed Francis S. Gabreski Airport, Hampton Jitney, lease 3 acres to relocate bus shelter and parking lot, Town of Southampton. Unlisted Action. All in favor? Same motion, same second, same vote. **(Vote: 4-0-0-1. Leg. Cooper not present)**

55-08, Sewer District #2, Tallmadge Woods, CP 8188 request for concurrence that project is consistent with Type II, Town of Brookhaven.

LEG. LOSQUADRO:

Motion.

CHAIRMAN SCHNEIDERMAN:

Motion by Legislator Losquadro, second by Legislator D'Amaro. Any discussion? All in favor? Opposed? Abstentions? **(Vote: 4-0-0-1. Leg. Cooper not present)**

56-08, IR 1894-2008 Adopting Local Law Number 2008, a Local Law to reduce fertilizer near surface waters, Type I Action, negative declaration. I'll make the motion, second by Legislator Losquadro. All in favor? Opposed? Abstentions? **Approved. (Vote: 4-0-0-1. Leg. Cooper not present)**

57-08, proposed Francis S. Gabreski Airport, Ocean Aviation, Leasing 3 acres to Construct 13 small Aircraft Hangars on the north side of the Airport, Town of Southampton. I'll make the motion.

LEG. D'AMARO:

Second.

CHAIRMAN SCHNEIDERMAN:

Second by Legislator D'Amaro. All in favor? Opposed? Abstentions? **Approved. (Vote: 4-0-0-1. Leg. Cooper not present)**

58-08, CR 50, stormwater remediation to Champlin Creek at CR 50, Union Boulevard, Town of Islip. Motion by Legislator D'Amaro, second by Legislator Beedenbender. Any discussion? All in favor? Opposed? Abstentions? **Approved. (Vote: 4-0-0-1. Leg. Cooper not present)**

And **59-08, CR 11, Highway and Drainage improvements to CR 11, Pulaski Road from Larkfield Road to NYS 25A - CP 5095, Towns of Huntington and Smithtown.** Same motion, same second, same vote. **(Vote: 4-0-0-1. Leg. Cooper not present)**

TABLED RESOLUTIONS

Moving onto tabled resolutions, **IR 1706, authorizing planning steps for the acquisition of land under the Suffolk County Drinking Water Protection Program as amended by Local Law number 24-2007, Bissett/Palumbo properties, Town of Huntington.** (Stern)

LEG. D'AMARO:

Motion to table.

LEG. BEEDENBENDER:

Second.

CHAIRMAN SCHNEIDERMAN:

Motion to table by Legislator D'Amaro, second by Legislator Beedenbender. Any discussion? All in favor? Opposed? Abstentions? So tabled. **(Vote: 4-0-0-1. Leg. Cooper not present)**

IR 1790, authorizing planning steps for the acquisition of land under the Suffolk County Drinking Water Protection Program, as amended by Local Law number 24-2007 St. Joseph's property, Town of Islip. (Montano)

LEG. D'AMARO:

Motion to table.

LEG. BEEDENBENDER:

Second.

CHAIRMAN SCHNEIDERMAN:

Same motion, same second, same vote. **(Vote: 4-0-0-1. Leg. Cooper not present)**

IR 1791, Adopting Local Law Number 2008, a Local Law prohibiting the distribution of plastic carryout bags by retail stores. (Viloria-Fisher) I think this is still recessed.

LEG. D'AMARO:

It is.

CHAIRMAN SCHNEIDERMAN:

-- on the floor at the Pubic Hearing.

LEG. LOSQUADRO:

Motion to table.

CHAIRMAN SCHNEIDERMAN:

Motion to table by Legislator Losquadro.

LEG. D'AMARO:

Second.

CHAIRMAN SCHNEIDERMAN:

Second by Legislator D'Amaro. All in favor? Opposed? Abstentions? **Tabled. (Vote: 4-0-0-1. Leg. Cooper not present)**

IR 1823, to promote environmental protection throughout Suffolk County by requiring the remediation of Brownfields properties. (Romaine)

LEG. D'AMARO:

Motion to table.

CHAIRMAN SCHNEIDERMAN:

Motion to table by Legislator D'Amaro.

LEG. BEEDENBENDER:

Second.

CHAIRMAN SCHNEIDERMAN:

Second by Legislator Beedenbender. Any discussion? All in favor? Opposed? Abstentions?

LEG. LOSQUADRO:

Opposed.

CHAIRMAN SCHNEIDERMAN:

Legislator Losquadro is opposed. **(Vote: 3-1-0-1. Leg. Losquadro opposed. Leg. Cooper not present)**

IR 1892, adopting a local law to authorize the use of development rights for smart growth community development and job creation. (PO Lindsay)

LEG. D'AMARO:

At the request of the sponsor, Mr. Chairman, motion to table.

CHAIRMAN SCHNEIDERMAN:

Okay. Motion to table by Legislator D'Amaro, second by --

LEG. LOSQUADRO:

Second.

CHAIRMAN SCHNEIDERMAN:

-- Legislator Losquadro. All in favor? Opposed? Abstentions? **Tabled. (Vote: 4-0-0-1. Leg. Schneiderman not present)**

IR 1894, Adopting Local Law Number 2008, a Local Law to reduce the use of fertilizer near surface waters in Suffolk County. I'll make a motion to approve. Do I have a second?

LEG. LOSQUADRO:

Second.

CHAIRMAN SCHNEIDERMAN:

Thank you.

LEG. LOSQUADRO:

Explanation.

CHAIRMAN SCHNEIDERMAN:

Sure.

LEG. D'AMARO:

And a motion to table, Mr. Chairman.

CHAIRMAN SCHNEIDERMAN:

And a motion to table.

LEG. BEEDENBENDER:

Second.

CHAIRMAN SCHNEIDERMAN:

And a second to the tabling motion.

This is a watered down version of a bill that was before you sometime ago, pun intended. The original bill created a 100 foot setback from surface waters for the use of fertilizers. These products contain nitrogen and phosphorus which are -- can be extremely toxic to our harbors in particular. The nutrient loading tends to accelerate the growth of algae. Alga blooms have been associated

with things like the brown tide that was devastating to the shell fish in Great South Bay and other areas.

I reduced from 100 set back which Legislators found objectionable particularly on small lots to a 20 foot set back which is a minor set back, in my mind not far enough. All the research that I've done recommends 100 feet but 20 feet is certainly better than zero. I've also included exception for those properties that contain at least a 10 foot wide natural buffer area that will absorb the nitrogen before it enters the harbors. And I believe there's an exemption, yes, there is an exemption in for artificial -- people were concerned about artificial ponds, like manmade ponds in backyards and so I have exempted those as well.

And I hope this meets your approval at this point. And I'd like to see it move forward if for nothing else to send a message to the homeowners and to their landscapers that we value marine life and, you know, the health of our bays and harbors and we're willing to take some minor measures to improve our environmental quality.

LEG. D'AMARO:

What's the date of the last amended bill?

MR. NOLAN:

We actually just amended it this morning to reflect the CEQ's determination on SEQRA. So the SEQRA provision has been changed.

CHAIRMAN SCHNEIDERMAN:

The public hearing is closed. All right. There's a motion to table. Tabling motion comes first. Mr. Zwirn, you look like you're poised to comment on this.

MR. ZWIRN:

No, I would just say that the Chairman -- the Commissioner of the department has problems with enforcement of this bill because some of the maps have plus or minus a 100 feet. So, I mean, it would be very hard to find somebody out of compliance and be able to do anything about it. So it may be well intentioned, it's one of these bills that may be unenforceable from a practical point of view so --

CHAIRMAN SCHNEIDERMAN:

This very similar argument was made with the last fertilizer bill we did, the no fertilizing from November to April. It's hard to enforce but it's a law that probably ought to be on the books anyway.

MR. ZWIRN:

Yeah. I think the maps, though, I think is what the problem is here because they have -- even the maps have, you know, they vary. I mean the months, you know what the months are but here you may -- it's problematic.

CHAIRMAN SCHNEIDERMAN:

Right. Well, the way we wrote the bill because this was a concern early on, too, is how would people know. And that's really why we use standing water so people can clearly see where the water was and then, you know, they can pace off basically appropriate distance.

All right. So there's a tabling motion and a second so let's vote on that. All in favor? Opposed?

LEG. LOSQUADRO:

Opposed.

CHAIRMAN SCHNEIDERMAN:

So two opposed, two in favor so the tabling motion fails. Now there is a motion to approve and a

second. All in favor? Opposed?

LEG. D'AMARO:
Opposed.

LEG. BEEDENBENDER:
Opposed.

CHAIRMAN SCHNEIDERMAN:
And John's not here.

LEG. BEEDENBENDER:
You want to reconsider?

CHAIRMAN SCHNEIDERMAN:
We'll reconsider the tabling. Can we do that procedurally?

LEG. BEEDENBENDER:
Did we call the vote?

CHAIRMAN SCHNEIDERMAN:
We did but we can still -- somebody on the prevailing side could reconsider and then I'll support a tabling.

LEG. D'AMARO:
I'll offer a motion to reconsider IR 1894, Mr. Chair.

LEG. BEEDENBENDER:
Second.

CHAIRMAN SCHNEIDERMAN:
Okay. All in favor? Opposed? Abstentions? 1894 is back.

LEG. D'AMARO:
Mr. Chairman, I'll offer a motion to table IR 1894.

LEG. BEEDENBENDER:
Second.

CHAIRMAN SCHNEIDERMAN:
Okay. There's a motion and a second? All in favor? Opposed? Abstentions? **1894 is tabled.**
(Vote: 4-0-0-1. Leg. Cooper not present)

All right. **IR 1929, authorizing planning steps for the acquisition of land under the Suffolk County Drinking Water Protection Program as amended by Local Law Number 24-2007 Toppings Farm property, Town of Brookhaven. (Romaine)**

LEG. D'AMARO:
Motion to table.

LEG. BEEDENBENDER:
Second.

CHAIRMAN SCHNEIDERMAN:
I'm sorry. There's a motion to table by Legislator D'Amato. There was a -- who was the second?

Second by Legislator Beedenbender. Any discussion? All in favor? Opposed? Abstentions? **So tabled. (Vote: 4-0-0-1. Leg. Cooper not present)**

IR 1989, authorizing planning steps for the acquisition of land under the Suffolk County Drinking Water Protection Program, as amended by Local law Number 24-2007, the Cohen property in the Town of Riverhead. (Romaine) I'll make a motion to approve.

LEG. LOSQUADRO:

Second.

CHAIRMAN SCHNEIDERMAN:

Second by Legislator Losquadro.

LEG. D'AMARO:

Motion to table, Mr. Chair.

CHAIRMAN SCHNEIDERMAN:

Maybe to table by Legislator D'Amaro.

LEG. BEEDENBENDER:

Second.

CHAIRMAN SCHNEIDERMAN:

Second by Legislator Beedenbender. If I could hear from Planning on this, maybe we can get some more information.

DIRECTOR ISLES:

Okay. This was discussed at the last meeting of the Environment Committee two weeks ago. It is a property that is long and narrow. It varies in width from what we estimate to be 11 feet to 17 feet and has a length of several hundred feet. In itself it certainly would not be buildable.

The significance of the property, however, from the County's standpoint lies with the fact that there's County property on either side of it so it is part of an open space belt that extends from the west and extends considerably to a distance to the east heading in the vicinity of Indian Island County Park. So this is land that is, here again, in the vicinity of Flanders Bay. This strip is somewhat of an anomaly or a spite strip perhaps created many years ago. It is not per se threatened in terms of buildable aspects of it.

The key consideration for acquisition would be to assist the County in management of the property to consolidate holdings. So, here again, it's not one that's threatened where there's going to be some irreparable harm caused if there's no action on this; however, it is one where we feel it would be in the best interest of the County at some point whether it's now or later to consolidate this with the County's holding. And the reason for that is in stewardship in terms of site control as well as security. So when Park Rangers observe someone cutting down trees, for example, is it on county property, is it on private property, those kind of things are made easier. Plus management of species and forests and so forth is part of the Parks Department Conservation Programs. So it is a unique parcel. That's our take on it. If you have any questions, we'll try to do our best to answer those questions.

CHAIRMAN SCHNEIDERMAN:

It's not a developable strip so I can't imagine the cost would be significant to the County. So it's just basically from a management stewardship perspective. We own the pieces on both sides of it.

DIRECTOR ISLES:

Right.

CHAIRMAN SCHNEIDERMAN:

To sort of make our own holdings whole.

DIRECTOR ISLES:

Right.

CHAIRMAN SCHNEIDERMAN:

It would make sense to be in the -- so this was inadvertently omitted from those other acquisitions?

DIRECTOR ISLES:

We didn't -- it was sponsored by the local legislator, the bill, to acquire the properties. So I'm not sure what the motivation was but I assume it was just an omission or just was not seen.

CHAIRMAN SCHNEIDERMAN:

And it's not used for access to the properties -- any other properties?

DIRECTOR ISLES:

It does not appear -- the other properties are owned by the County as you get to the railroad tracks which is then really a separation in the areas.

CHAIRMAN SCHNEIDERMAN:

Legislator Losquadro and then Legislator D'Amaro.

LEG. LOSQUADRO:

Thank you. Mr. Isles is exactly correct. You know, we purport to want to be good stewards of the land that we preserve where the situation -- we have preserved lands on both sides. For whatever reason -- I know I'm dealing with a parcel right now that we were just talking about earlier that has tons of parcels involved and it's -- you can see that occasionally that can happen, that a parcel could get missed during an acquisition process.

We have an opportunity to complete our holdings here, give us the ability to not have any impediments to our stewardship of that land. I think it's important that we do so. And as Legislator Schneiderman pointed out, I can't imagine that this land will have much value on the market but that will be left up to the appraisal process to determine. I think it's important that we take that next step.

CHAIRMAN SCHNEIDERMAN:

Legislator D'Amaro.

LEG. D'AMARO:

Yeah. I just wanted to ask are the taxes current on this parcel? Do we know if the taxes are current?

DIRECTOR ISLES:

I do not know. I could find that out. We're not certain. We have not checked. But we certainly can check with the Town of Riverhead and see if the taxes are current or not.

LEG. D'AMARO:

Okay. Thank you.

CHAIRMAN SCHNEIDERMAN:

Any other questions or discussions? Okay, I think again we had a motion to table and a second and a motion to approve and a second. So let's take the tabling motion first. All in favor? Opposed? I'm opposed. Abstentions?

LEG. LOSQUADRO:

We have two and two.

CHAIRMAN SCHNEIDERMAN:

This is the tabling motion.

LEG. LOSQUADRO:

Both of you are in favor of tabling?

CHAIRMAN SCHNEIDERMAN:

So Legislator D'Amato and --

LEG. LOSQUADRO:

It has to table.

MR. ZWIRN:

We'll check to see if the taxes are current.

CHAIRMAN SCHNEIDERMAN:

I will abstain. No, make it opposed to tabling. Opposed to tabling. So 1989 is tabled. **(Vote: 3-1-0-1. Leg. Schneiderman opposed. Leg. Cooper not present)**

Moving onto 2026, authorizing Suffolk County Planning Commission to establish notice protocols for applications under commission review. (Schneiderman) I'm actually working with the Planning Department on this. So I'm going to make a motion to table until I can resolve some of the concerns that the Department has.

LEG. LOSQUADRO:

I'll second that, Mr. Chairman, but I will say --

CHAIRMAN SCHNEIDERMAN:

Yes, Legislator Losquadro.

LEG. LOSQUADRO:

I will just say I hope you do work whatever details out in a timely fashion because I think this is very important. And I saw that with the Tall Grass property that was up in my area that there was a lot of confusion as to, you know -- I don't think people thought that information was disseminated as well as it could have been so there was just some animosity as a result of that in the community. And anything that can be done to just -- even if it's just managing the perception, to make sure that there is a protocol for those sort of advisements, I think that's very important.

CHAIRMAN SCHNEIDERMAN:

Right. Well, this grew out of a conversation I had with a constituent who had an application before the Town Planning Board that was approved. And then the Suffolk County Planning Commission did not approve it. She didn't know it was going before the Commission; would have liked to be able to present her side of the story or at least be present.

And what happens is since it was denied, it had to go back to the town before the Planning to require a super majority. But one of the members was out with, actually, cancer; was quite ill and she had to wait, I think, six months before that member returned. And then eventually it was overridden. But it did really shed some light on a problem that there really needs to be more notice when somebody's -- you know, the most affected party here has no idea that this is going to -- this is happening and could really affect their livelihood, then it's a -- you know, I think we can do something here. What this requires -- it would require that Planning -- County Planning Department to notify the applicant in this case. And Mr. Isles has some concerns about how that might take

place or what the best mechanism to do that. Right, Tom, did you want to comment at all?

DIRECTOR ISLES:

Yes, we do have some concerns about that. We have concern -- we certainly don't quarrel with the concept. The Planning Commission has certainly been very proactive involving the public in their decision making. Our concerns would be that we primarily deal with municipalities. We have no problem with dealing with applicants; however, if we notify the applicant, do we then have to notify the neighbors who might have a voice to say at that point, too.

Also understanding that the Planning Commission under state law and county law has as its -- its purpose is to review matters of intermunicipal and County wide concern. They're not there to necessarily substitute for local decision making local boards and so forth. So we don't want it to -- we don't think it's a good idea to have it walk and talk and look like a planning board hearing or ZBA hearing. So we think how it's done is very important. We appreciate your cooperation and having some time to work on this.

And I have spoken as we have with the Chair of the Planning Commission Mr. David Colon. And he takes this very seriously and understands the spirit of it. So between now and presently your next meeting in January we could some recommendations back to you at that point.

CHAIRMAN SCHNEIDERMAN:

Before you go, Legislator Losquadro, I just want to throw -- I threw out one other concept with Mr. Isles that might achieve this since -- apparently it's a rare situation where the Planning Commission actually votes opposite of the Town Planning Board. It doesn't happen very often where as -- you know, so there will be a lot of times when applicants would be notified but typically they'd come only to find out that the Planning Commission is supporting what the town did.

So we talk maybe about in the cases where they voted opposite of the towns there would be some kind of appeal process where the applicant could be brought in back to the Commission to then make their case within a certain time period. That might be another mechanism for dealing with this problem. One of the reasons why I'm asking for the tabling today.

Legislator Losquadro.

LEG. D'AMARO:

D'Amaro.

CHAIRMAN SCHNEIDERMAN:

D'Amaro, sorry. Sounds the same.

LEG. D'AMARO:

Director Isles, I hear your concern. It's really -- the review at the County level from the Planning Commission is really a review that's referred from, let's say, a municipality. The Planning Commission's ruling is not necessarily a ruling against the applicant. It's really more of the County Planning Commission expressing its opinion with respect to a request made by the referring agency; is that correct?

DIRECTOR ISLES:

(Shaking head yes)

LEG. D'AMARO:

So right now, I mean I've received many notices from the County Planning Commissioner in my former role of chairing a zoning board. Is the meeting that you have -- that the Planning Commission has, is that open to the public and is the public invited to speak currently? Is that the current procedure?

DIRECTOR ISLES:

The meeting is -- the meetings are certainly open to the public. The public is invited via the county website. We do post the agenda on the website and also by -- under the Open Meetings Law we do notify media of the meetings so there are a number of ways that we promote the announcement of the Planning Commission meetings; and, yes, anyone from the public is provided with an opportunity to speak at every meeting of the County Planning Commission.

LEG. D'AMARO:

So if I were following my application for the town and were told that it was referred to the Planning Commission, I could find out from the Planning Commission when that hearing may take place. I can come to the hearing and express an opinion on the application.

DIRECTOR ISLES:

Yes. And just to clarify, it's not a hearing. But as far as the meeting, it is --

LEG. D'AMARO:

Right.

DIRECTOR ISLES:

-- they could attend to the meeting and speak.

LEG. D'AMARO:

Right. That's why I asked. It's not a hearing.

DIRECTOR ISLES:

Right.

LEG. D'AMARO:

But at some point my application would be called on the Planning Commission agenda.

DIRECTOR ISLES:

Yes.

LEG. D'AMARO:

And at that point is when anyone present who wanted to speak on that application would be heard? How does that work?

DIRECTOR ISLES:

The current procedure of the Planning Commission as reflected in their adopted bylaws is to have a public portion of the meeting at the top end of the agenda.

LEG. D'AMARO:

Okay.

DIRECTOR ISLES:

And, here again, that's the time when public comments are then presented. The Commission does not typically in my experience with them open it up during the actual item on the agenda. So the procedure they have would allow the public to speak before they take it under consideration, before they hear a staff report on the matter.

LEG. D'AMARO:

That's fine. As long as there is some opportunity presently.

DIRECTOR ISLES:

Yes, there is, absolutely.

LEG. D'AMARO:

And so it's not necessarily a bad thing, that if my application's going to be discussed in an official capacity that I'd be permitted to at least get notice of that fact.

DIRECTOR ISLES:

Here again we don't quarrel with that as far as the spirit of that as I expressed. There's a little bit of a question with us in terms of --

LEG. D'AMARO:

The perception of --

DIRECTOR ISLES:

Yeah, perception of notifying some people but not other people if there are other stakeholders that have an interest in it. Perception, you know, taking on what may appear like a local hearing when, here again, our purpose is not to substitute for locality. And then lastly which I did mention today but it's a little bit of an issue with us and that is the timing, the County Planning Commission has a maximum of 45 days within which to review municipal referrals, which Legislator Schneiderman has made very clear, he doesn't want to extend that.

So in terms of how we have sufficient time, then, to take any applications, get them prepared for the meetings, get the notice out to the applicant on a 30 day cycle meetings, it's something we can do. We can figure it out but it is a little bit of an issue with us to make sure we can fit it in and properly meet whatever deadline is put into this bill.

LEG. D'AMARO:

I tend to agree with your concern about surrounding neighbors because once the applicant's given the formal notice, if it doesn't go the way that maybe some surrounding neighbors would like it to go, you're going to get feedback on that as well. And obviously that's why town boards and zoning boards notify not only applicants who are following their application but surrounding neighbors as well.

DIRECTOR ISLES:

Right. And just to add to that without, you know, extending this too long for you today, but I think the other point on this, too, is that the Commission is concerned about being put into a position where they've received a full statement of the facts from the municipality as required by law, the full file so to speak. They've had a review by a professional planner in the County Planning Department. They have a written report from County Planning. And then there, here again, have this before them at a meeting.

If new information is presented which it certainly can be, let's say by the applicant, the Commission then is put into a position of having to then weigh that information on the spot. It's not from the municipality. And then judging is it accurate, is it on target and so forth, not that this is not a reason not to hear the public but it's just something they're saying, well, how are we going to deal with this? And they've dealt with a few times with information.

LEG. D'AMARO:

Well that really goes to what the charge is it at that particular meeting, is it really -- is it really -- that's why I initially asked about or pointed out the fact that this is really a referral from another agency asking for you to review it based on the agency's position or statement of facts.

DIRECTOR ISLES:

Right.

LEG. D'AMARO:

So once you establish that it would be appropriate to have that public input, then, by all means I think you should send notice. But the threshold issue is whether or not that's a forum where you should be getting that information at that point. It's not a hearing on the application at the municipal level. It's really a referral from the municipality into your agency.

DIRECTOR ISLES:

Exactly.

LEG. D'AMARO:

Which is not to pass judgement on whether or not it passes or fails at the town level. It's just a recommendation really to the town, the referring agency or village.

DIRECTOR ISLES:

Right. It is a recommendation. You know, it can become significant in the case where they don't have enough votes to override but that's what it is.

LEG. D'AMARO:

Perhaps just notice of the public portion, yeah, I'm sure you can word a notice in a way that --

DIRECTOR ISLES:

We can, I'm sure we can and address the concerns of the Commission. And here again, we appreciate the time just to try to look at some of these ideas and put something that's going to be fair but also not put the Commission in the position where they're accused of, well, you notified one person but not the other and things of that nature.

By the way, the prior practice of the Commission has been that they would accept new information if it came from the municipality or came through the municipality. So this extraneous information coming in from whomever has been the concern so that's what we want to try figure out is how do we handle that so we can some chance to validate it, to judge it, to access it, still keep the process informed and fair.

CHAIRMAN SCHNEIDERMAN:

What affects this the most is that super majority. If it was just a recommendation then the person could go back to the town, planning board or whatever board, and make their case as to why the recommendation should be rejected or, you know, overrode. But because of that override, it really -- it affects it in a pretty significant way.

DIRECTOR ISLES:

At times, I guess.

CHAIRMAN SCHNEIDERMAN:

It does. Legislator Losquadro.

LEG. LOSQUADRO:

Mr. Isles alluded to it, you followed up on it. That's all I want to point out, that to classify this as purely advisory in nature I didn't think was really accurate because of the denial issue and the super majority requirement on the part of the governing municipality then to override that ruling. So I just wanted to point that out. That was all. Thank you.

CHAIRMAN SCHNEIDERMAN:

Tom, you are now as you said posting the agendas on the website. How far in advance do you post them before the actual date of the hearing?

DIRECTOR ISLES:

One week.

CHAIRMAN SCHNEIDERMAN:

Or not hearing, the discussion, the meeting. One week.

DIRECTOR ISLES:

Yes.

CHAIRMAN SCHNEIDERMAN:

Seven days prior.

DIRECTOR ISLES:

Yes.

CHAIRMAN SCHNEIDERMAN:

And it lists each item being considered?

DIRECTOR ISLES:

It lists the tentative agenda which would list each item being considered. There's always a chance that there could be a fall off if there's some problem with an item, but, you know, 99 percent of the time that's the final agenda.

CHAIRMAN SCHNEIDERMAN:

For how long have you been doing this?

DIRECTOR ISLES:

The Planning Commission? This year.

CHAIRMAN SCHNEIDERMAN:

You just started.

DIRECTOR ISLES:

Yeah. That part of it, the posting on the website started this year.

CHAIRMAN SCHNEIDERMAN:

Okay. Any other discussion? I made a motion to table. Was there a second? Second by Legislator Losquadro. All in favor? Opposed? Abstentions? **Tabled. (Vote: 4-0-0-1. Leg. Cooper not present)**

IR 2028, Adopting Local Law Number 2008, a Local Law to adopt a full cost disclosure policy for land acquisition resolutions. (Alden)

Public hearing was closed. Is there a motion of any kind?

LEG. BEEDENBENDER:

Motion to table.

CHAIRMAN SCHNEIDERMAN:

Motion to table by Legislator Beedenbender, second by --

LEG. D'AMARO:

Second.

CHAIRMAN SCHNEIDERMAN:

-- Legislator D'Amaro. Any discussion? All in favor? Opposed? Abstentions? So **tabled. (Vote: 4-0-0-1. Leg. Cooper not present)**

INTRODUCTORY PRIME

IR 2144, appropriating funds in connection with the Brownfields Program, Gabreski Airport APDD site, CP 8223. (County Exec) This is, I guess, 222,000 bond. Go ahead.

LEG. LOSQUADRO:

Could we just get a translation of the acronym?

CHAIRMAN SCHNEIDERMAN:

Plan Development District is the -- Airport Plan Developments.

LEG. LOSQUADRO:

Airport Plan Development District. Thank you. Okay.

CHAIRMAN SCHNEIDERMAN:

Okay, so this is roughly 50 acres for economic development.

LEG. D'AMARO:

I'll offer a motion to approve.

CHAIRMAN SCHNEIDERMAN:

Motion by Legislator D'Amaro, second by Legislator Beedenbender. All in favor? Opposed? Abstentions? **Approved. (Vote: 4-0-0-1. Leg. Cooper not present)**

IR 2145, appropriating funds in connection with the Brownfields Program, former Bellport gas station site. (County Exec) Same motion, same second. All in favor? Opposed? Abstentions? **Approved. (Vote: 4-0-0-1. Leg. Cooper not present)**

IR 2146, appropriating funds in connection with the Brownfields Program, former Canine Kennel site at Gabreski Airport. (County Exec)

Same motion, same second, same vote. **(Vote: 4-0-0-1. Leg. Cooper not present)**

IR 2156, amending the adopted 2008 Operating Budget to transfer funds from Fund 477 Water Quality Protection, amending the 2008 Capital Budget and Program and appropriating funds in connection with purchase of new street sweeper/eductor trucks. (Co. Exec) This is \$600,000. 600,000 for street sweepers. Is there a motion?

LEG. LOSQUADRO:

Mr. Chairman, are these the trucks that also have the vacuums that clean out the storm drains?

MR. CASTELLI:

Yes, we just saw a demonstration this morning. These are -- they're not your traditional street sweepers. They have a vacuum devise that removes a lot smaller particles.

CHAIRMAN SCHNEIDERMAN:

State your name for the record, sir.

MR. CASTELLI:

Frank Castelli from Environment and Energy.

LEG. LOSQUADRO:

So this will allow the storm drains to be cleaned out in a more efficient manner?

MR. CASTELLI:

Yes.

LEG. LOSQUADRO:

And especially if we're considering going to any of the filtering devices and things of that nature, we'll certainly need this equipment to be able to properly maintain those drains; correct?

MR. CASTELLI:

Right, right. Actually two aspects to these trucks. They also -- they have a more efficient way of cleaning the roadways because of the vacuuming capability, rather than just sweeping. Okay. And they also have a vacuum -- it's like a vacuum attachment that you could actually pop the grate off of a store drain and vacuum the debris out.

LEG. LOSQUADRO:

Right. I mean to me, there's always a better mouse trap so to speak. The street sweeping aspect, I think, is important because it does a better job of getting the stuff off the roadway so it doesn't clog up the drains to begin with, but I think the really important aspect of this is the ability to actually physically clean the drains that this equipment has.

MR. CASTELLI:

Right, right. And this is an important pollution prevention. It qualifies under the WQPRP 477 funding as a pollution prevention project. So it reduces the amount of pollutants going into the storm drains and ultimately into the surface waters.

LEG. LOSQUADRO:

I make a motion, Mr. Chairman.

CHAIRMAN SCHNEIDERMAN:

All right. I actually had questions, too, but we haven't had a motion yet so let's entertain a motion and a second. Motion by Legislator Losquadro.

LEG. D'AMARO:

I'll second.

CHAIRMAN SCHNEIDERMAN:

Second by Legislator D'Amaro. Frank, I understand that this is a street sweeper with some kind of device added to it. Right? That will, you know, remove debris from the catch basins; is that right?

MR. CASTELLI:

Right. Yeah.

CHAIRMAN SCHNEIDERMAN:

So what did it add on to the cost of the street sweeper to add this modification for these storm drains?

MR. CASTELLI:

Well, these are -- they're -- I don't know. These are approximately \$200,000 each. And Public Works is asking for three trucks. So it's a total of 600.

CHAIRMAN SCHNEIDERMAN:

200,000 for the trucks itself?

MR. CASTELLI:

The whole unit. The truck itself would be \$200,000, yeah.

CHAIRMAN SCHNEIDERMAN:

What I'm trying to get at is I mean normally we'd buy street sweepers. And originally when I saw this I thought, okay, street sweepers, okay, you can make an argument that street sweepers themselves help eliminate road pollutants that could get into the bays and harbors but they also pick up sand and gravel and all kinds of things that, you know, might more be a public safety concern, you know, an aesthetic concern.

MR. CASTELLI:

Right.

CHAIRMAN SCHNEIDERMAN:

So I've been trying to figure out legitimately how much of this is water quality related. And so now I'm trying to get at is if we'd normally buy a road sweeper, a street sweeper and we're adding to it, a component, it makes this vehicle or adapts this vehicle to the storm drain cleaning, how much additional did we add above it, you know.

MR. CASTELLI:

I don't have those figures at my fingers. I don't know what a typical traditional street sweeper costs, but I do know that the US Environmental Protection Agency has deemed that this type of pollution prevention measure would be a critical best management practice for improving the quality of surface waters. An important thing to differentiate this machine from the traditional street sweeper is that you can get removal of a lot small particles with the vacuum method; for instance salt particles, when you spread -- you see when the -- the emulsion of salt that's left on the roadway after a storm, the vacuum device will remove smaller particles than a traditional sweeper. And the salt particles are important to remove from the street surfaces before they get washed into the waterway.

CHAIRMAN SCHNEIDERMAN:

Okay. And this obviously's been through Water Quality Committee.

MR. CASTELLI:

Yes. We approved the \$600,000 from the 477 funds to purchase three of these new street sweeper vacuum eductor trucks.

CHAIRMAN SCHNEIDERMAN:

And these three trucks were listed obviously in the capital budget so we're shifting it now from bonded to 477.

MR. CASTELLI:

I don't think they were ever listed in the capital -- these specific street sweepers are being purchased specifically as water quality protection policy prevention.

CHAIRMAN SCHNEIDERMAN:

Legislator D'Amaro, did you want to say something? Legislator Kennedy?

LEG. KENNEDY:

Thanks, Mr. Chair, even though I'm not a member of the Committee, this gives me the opportunity to ask this instead of in two weeks from now: Frank, what happens with the spoils, with the sweeping spoils? Where are they disposed of?

CHAIRMAN SCHNEIDERMAN:

Right in the harbor.

LEG. KENNEDY:

Pretty much, yeah. Just back it up to a boat ramp, right?

MR. CASTELLI:

One more interesting point about the new trucks is that the design that they are contemplating purchasing has a scissor type lift mechanism so that the body of the truck that collects the sediments from the road way can actually be lifted up and discharged directly into a dump truck rather than the traditional street sweepers have to be loaded with a front end -- loaded into a front end loader. So we completely eliminate the need to have an additional front end loader out there and additional personnel. The sedimentation, the solid materials that's collected to tell you the truth I'm not exactly sure what they do with that. It must go to the landfill.

LEG. KENNEDY:

We saw not too long ago that there was a quite a bit of question about what happened with spoils even from some of the town sweeping programs. So I would be interested, you know, if we're, you know, willing to make this investment in the first instance, of a piece of equipment that may be double or triple what we would look at for an ordinary street sweeper, I would be at least wanting to know that we have made some kind of decision regarding what the ultimate disposal of material's going to be so that we can assure that it doesn't, you know, at the end of the road make its way back into the water system.

MR. ZWIRN:

I think right now we just dump it in Nassau County.

LEG. KENNEDY:

Beautiful. Just pull it up to 110 and get close to the line. The other question that I had with this is, and this may not be one for you, Frank, or you as well, Ben, but again I'd just like to try to get an idea sometimes of, I know we have about 1200 miles of county roads, we're looking at purchasing three of these enhanced types of vehicles, do we have said areas of county road that they'll be out on? Are they going to be working throughout all of the county roadway system? We got a useful life on them? How many drains do we have? Just some of the basics, what do we look at for operational purposes?

MR. CASTELLI:

The reason they decided to purchase three is that there are three separate districts. The plan is to have one for each of the sweeping removal maintenance district.

LEG. KENNEDY:

For maintenance purposes, is that how we divide it?

MR. CASTELLI:

Yeah, that's what --

LEG. KENNEDY:

West, middle and east?

MR. ZWIRN:

I can speak, Legislator Schneiderman, back on County Road 39 before they did the improvements, these would have been perfect to have them out there because there were parts of that road when it rained hard it just -- it was just awful. And we used to have pumper trucks out there and DPW would be out there. So now we don't have that problem anymore but there are parts of it -- North Main Street in East Hampton where my car became a submarine would also be a place where it would be helpful.

MR. CASTELLI:

And one more thing I should bring up is the Suffolk County Storm Water Management Program pursuant to the SPDES general permit, the New York State DEC permit, does require a -- has set a goal of 50% reduction in the amount of litter and debris entering surface waters via the County

storm -- storm sewer system. So this would be directly, you know, directly attributable to helping reduce how much goes into the surface waters in meeting that 50% goal.

CHAIRMAN SCHNEIDERMAN:

Everybody all right? All right, there's a motion and a second. All in favor? Opposed? Abstentions? **Approved.** Thank you. **(Vote: 4-0-0-1. Leg. Cooper not present)**

IR 2157, amending the adopted 2008 Operating Budget to transfer funds from Fund 477 Water Quality Protection, amending the 2008 Capital Budget and Program and appropriating funds in connection with stormwater remediation to the Yaphank Lakes and Carmen's River at CR 21, Main Street/Yaphank, Middle Island Road (Co. Exec) This is 200,000. Do you want to provide any information on this one?

MR. CASTELLI:

Yes, please. This is a non-point source pollution preservation project. And it's for \$200,000 for design -- engineering design to identify -- there's four -- to identify the four sub-water shed -- sub-water sheds for the upper and lower Yaphank Lakes. And this is preliminary design work which will go towards finding the best ways of remediating storm water discharges into the upper and lower Yaphank Lakes. And as the people from the Save the Yaphank Lakes stated, we've been having -- seeing a lot of problems with these lakes recently in terms of invasive species. And any remediation of the storm water going into these lakes would serve to help that situation.

CHAIRMAN SCHNEIDERMAN:

Okay. So motion by Legislator Beedenbender, second by Legislator Losquadro. All in favor? Opposed? Abstentions? **Approved.** **(Vote: 4-0-0-1. Leg. Cooper not present)**

IR 2158, appropriating funds in connection with planning for restoration of wetlands (Co. Exec) This is 141,000.

LEG. BEEDENBENDER:

Motion.

CHAIRMAN SCHNEIDERMAN:

Motion by Legislator Beedenbender.

LEG. LOSQUADRO:

I'll second for the purposes of explanation.

CHAIRMAN SCHNEIDERMAN:

Second by Legislator Losquadro.

LEG. LOSQUADRO:

Just a quick question. Where are we exactly, Planning? Any particular areas? It's a fair sum of money but obviously not enough to do a plan for the whole County so what are we looking to do with this money specifically? Maybe it is enough to do the whole County and I might be surprised; pleasantly so.

MR. NINIVAGGI:

Hi, I'm Dominick Ninivaggi, Vector Control Superintendent of the Department of Public Works. I am familiar with this overall project. And they asked me to come by to answer any of your questions on that.

This is -- this appropriation is part of a larger capital project. Its one year's funding has already been appropriated. This is a follow-on year. And with the previous years and this year, it'll total about \$500,000 to fund the consultant team to do planning work for wetlands restoration.

We are working on this project as we speak. After an RFP process, a consultant team was chosen. And the contract is in its final stages. I'm not sure if it's been signed off as of today but it will be signed off on very shortly. We're already starting to work with the consultant team so this by itself is just a part of the funding for this project.

LEG. LOSQUADRO:

Thank you very much.

CHAIRMAN SCHNEIDERMAN:

Dominick, this has nothing to do with the mosquitos control functions, right, or the open marsh management?

MR. NINIVAGGI :

This is a follow-on to the long-term plan that we did for wetlands management and vector control. At the end of that project, many of the environmental groups were concerned that we didn't have enough information in that -- to go ahead and doing wetlands management projects. So this is to further what's called a Wetlands Stewardship Program.

Now the primary purpose of the Wetland Stewardship Program is natural resources and to better manage our wetlands, identify wetlands in need of restoration and possibly go forward with restoration efforts. Where mosquito control fits in is that, number one, if we're doing a restoration or management project, we want to make sure we're not making the mosquito problem worse. In addition there are wetlands management techniques that will actually reduce mosquitos while preserving and protecting natural resources and, therefore, reduce our reliance on pesticides. So while mosquito control is a part of the overall program, it's only part of it and not the primary part.

CHAIRMAN SCHNEIDERMAN:

Legislator D'Amaro.

LEG. D'AMARO:

Thank you. So what this really turns out to be funding for the consultant who was selected through the RFP process to assist the Wetlands Stewardship Committee in developing a long-term strategy; is that?

MR. NINIVAGGI :

That's correct.

LEG. D'AMARO:

And who was selected?

MR. NINIVAGGI :

It was a team headed by LKB Associates, which is, I believe, Lockward, Kessler and Barnett. Barton, I'm sorry. And like I said we've -- the whole -- the contracting process went through. They were the winning bidder. Contract, again, is -- everybody is happy with the contract. I just don't know if it's actually been signed yet.

LEG. D'AMARO:

The contract is for how long?

MR. NINIVAGGI :

It's for three years.

LEG. D'AMARO:

Okay. And what is the compensation structure in the contract? Is it based on time spent or is it a one time retainer fee or flat fee?

MR. NINIVAGGI :

That's getting a little out of my area of expertise in terms of the contract management but my understanding -- you know, the contract has specified the series of tasks that have to be done. They are broken down in the contract and the contractor's fee is to be charged against the overall sum, you know, have been set in the contract.

LEG. D'AMARO:

And the specific area of responsibility for the consultant is spelled out in the proposed contract. Has it been signed by the consultant yet?

MR. NINIVAGGI :

I'm not sure if it has or it hasn't at this point. I know that they saw the final draft and they were happy with it and they were planning to sign. I just don't know if it's been signed as we sit here.

LEG. D'AMARO:

Okay. Do you know off hand, I mean I agree that you need the expertise in order to develop the strategy and should be working along with the Wetlands Stewardship Committee. But is the three year contract -- we're appropriating, I think, 140,000 today, is that -- can that be exceeded in the contract?

MR. NINIVAGGI :

No.

LEG. D'AMARO:

Over the three-year period?

MR. NINIVAGGI :

No. There's a set amount which, I believe, is about \$502,000. And that can't be exceeded without the County's approval.

LEG. D'AMARO:

Okay.

CHAIRMAN SCHNEIDERMAN:

Okay. If there's no further questions, we'll call the vote. All in favor? Opposed? Abstentions?
Approved. (Vote: 4-0-0-1. Leg. Cooper not present)

IR 2159, authorizing the application to the Environmental Protection Fund Grant in the amount of \$1,025,000 from the New York State Office of Parks, Recreation and Historic Preservation. (Co. Exec)

LEG. LOSQUADRO:

Motion.

CHAIRMAN SCHNEIDERMAN:

There's a motion by Legislator Losquadro.

LEG. D'AMARO:

Second.

CHAIRMAN SCHNEIDERMAN:

Second by Legislator D'Amaro. I guess doesn't need to go on consent. It's just authorizing the application for a grant. All right. All in favor? Opposed? Abstentions? **Approved. (Vote: 4-0-0-1. Leg. Cooper not present)**

The last item, **IR 2180, authorizing the acquisition of land under the New Suffolk County Drinking Water Protection Program, open space component for the McDonnell property, Town of Smithtown. (Kennedy)**

LEG. LOSQUADRO:

Motion.

CHAIRMAN SCHNEIDERMAN:

There's a motion by Legislator Losquadro.

LEG. LOSQUADRO:

Well, I'll hold off on that for a moment.

CHAIRMAN SCHNEIDERMAN:

All right.

LEG. LOSQUADRO:

Mr. Chair? Mr. Chair?

CHAIRMAN SCHNEIDERMAN:

Legislator Losquadro.

LEG. LOSQUADRO:

Just a brief explanation of the acquisition costs. I'm trying to recall this from ETRB. That would include any and all demolition and removal costs? If you could give us an explanation of what we're looking at here.

MR. KENT:

The acquisition will be subject to the removal of all improvements on the property. The acquisition is subject to the removal by the seller of all the improvements on the property.

LEG. LOSQUADRO:

Thank you.

CHAIRMAN SCHNEIDERMAN:

Legislator Kennedy, if you want to provide some additional information.

LEG. KENNEDY:

Absolutely, Mr. Chair, I'd be happy to. This matter is before the Committee this afternoon with a request actually to contemplate a motion for discharge without recommendation as it is to be considered by CEQ on Wednesday. I've been assured that it has been reviewed by CEQ. They are comfortable with the unlisted category predicated on the fact that the owner will be responsible not only for demolition of the uninhabitable two bedroom one story home but the septic ring and the emptied aboveground 275 gallon oil tank.

Prior to close, the County will take the property not only removed of any improvements but also subject to a satisfactory -- I don't know if it's a phase one. As a matter of fact, Mr. Chair, can I go ahead and speak with Mr. Kent for a second because he and I have talked about this property probably more than anybody has about, you know, the purchase of the Taj Mahal.

Part of the contract, Chris, is that the property passes muster with -- it wasn't a phase one but it was something called like --

MR. KENT:

Yeah, post demolition will be a phase two. After the demolition of the structure and the abandonment of the cesspools.

LEG. KENNEDY:

Right.

MR. KENT:

And any kind of water, supply or oil tank if it's there.

LEG. KENNEDY:

Absolutely. Right. And it'll be capped, the power -- juice is already cut. I mean we're moving in those directions already. So clearly there will be no long term impact that could enure to the County as a result of anything that might be on the property. Also the contract itself which I've seen gone through, reviewed -- no, I haven't reviewed it with the parties. They're aware of it but I'm just aware of the fact of the contents of the contract. And there is a sizable and ironclad clause in there that if there is any type of a latent environmental defect that the County is indemnified and held harmless.

That being said, I'd ask the Committee to go ahead and move this parcel at this point. You'll also perhaps be cognizant of the purchase price. It is substantially below what an improved structure is; however, this property if you may recall was one that spent a considerable amount of time under water.

LEG. LOSQUADRO:

I make a motion to discharge without recommendation, Mr. Chairman.

CHAIRMAN SCHNEIDERMAN:

Why without recommendation?

LEG. LOSQUADRO:

Because of the CEQ.

CHAIRMAN SCHNEIDERMAN:

I'll second that motion to discharge without recommendation.

LEG. D'AMARO:

On the motion.

CHAIRMAN SCHNEIDERMAN:

Legislator D'Amaro.

LEG. D'AMARO:

Yes, through the Chair, Legislator Kennedy, I'm just curious as to the appraised value is below market if it were a habitable dwelling.

LEG. KENNEDY:

Absolutely.

LEG. D'AMARO:

But still \$130,000 for something that appears to be partially under water, why would the appraisal come in even at that amount?

LEG. KENNEDY:

My recollection is that this went through a fairly -- I don't want to say -- it wasn't a contrived appraisal process. It was an appraisal process that was predicated on remediation work that had been done for similar types of residences in the area that had required a significant amount of elevation of the property itself.

LEG. D'AMARO:

So if I were to, let's say, purchase this property at arm's length and wanted to make it habitable, it could be done; it would be a substantial cost and that's how the appraisal value's arrived at?

LEG. KENNEDY:

In essence, yes, as a matter of fact that was it. And then --

LEG. D'AMARO:

Almost like backing into it in effect.

LEG. KENNEDY:

Correct. And then those expenses as well as the demolition costs were then factored in what the ultimate, I guess, offer was that was presented.

LEG. D'AMARO:

Well, the demolition would be at the expense of the present owner; right?

LEG. KENNEDY:

Yes, that's correct, yes. I'm sorry. I misspeak. Yes, you're right.

LEG. D'AMARO:

So the appraised value is a reflective of a vacant parcel which would need some serious remediation to become buildable?

LEG. KENNEDY:

I think the appraised value is predicated on an improved parcel that would require utility realignment, basement elevation and a substantial amount of -- but, you know, rather than speculate I will say I know I talked at length with Mr. Kent about this. Through the Chair, maybe he can give us the specifics.

CHAIRMAN SCHNEIDERMAN:

Absolutely.

MR. KENT:

The appraised value was worked backwards. If the house was raised up and was built up either on stilts or on an exposed foundation above ground, the house could be built higher than the water level. So if the cost of what the -- the house would be worth after the improvements less the cost of improvements, which would be to raise the house up. And there are other houses in that neighborhood that are elevated above ground either on stilts or on a foundation that's above ground.

CHAIRMAN SCHNEIDERMAN:

Would the DEC approve a septic system?

MR. KENT:

Well, there are other houses in that neighborhood. I think there are at least two other homes that were listed in the appraisal report that show the houses built eight feet above ground to provide the eight feet flood protection in that area. And the cost of those improvements were subtracted from what the house would be worth after the improvements. So just for argument sake, I don't remember right off the top of my head, but if the house is worth 390,000 after the improvements and the cost of the improvements were 260,000 that would give you a 130,000 value for what's there now.

CHAIRMAN SCHNEIDERMAN:

Right. And does that include the cost of the dock for the gondola that you need to get to the house?

MR. KENT:

There could be some grade improvements that would allow the water to run in a certain direction. I think the grade improvements were included, yes.

LEG. D'AMARO:

Mr. Kent, is it more than just theoretical? And what I mean by that is there is New York State freshwater wetlands in the rear of the parcel. And I would assume that there's sufficient set back from that to reconstruct the house if that was the direction it were to take.

MR. KENT:

There are -- the fact that the house is there and there is a foundation and a structure, would allow a structure to be built in the same exact foot print raised up above the water level.

LEG. D'AMARO:

So redevelopment, although costly, is not something that would be precluded by code or by wetlands regulations?

MR. KENT:

That's correct. And that's how it was presented to ETRB, that the redevelopment would be allowed. It would be costly. And the cost of redevelopment would be subtracted from the market value of the structure that would result from the improvements made after -- after it was raised up.

LEG. D'AMARO:

I appreciate it. As always, Director Isles, it received a rating of 24. And it does indicate, which I like to see on the top half of the form, that there are some criteria that are met with respect to the environmental sensitivity of the property. Do you care to speak on that at all?

DIRECTOR ISLES:

There's one point, yes. There's one point I would like to make. That is environmentally the parcel did score 24 overall. As far the wetlands on the property, as you point out, Mr. D'Amaro, the property adjoins to the west New York State designated wetlands which is the blue line on the aerial photograph. We did not assign it points for wetlands because those aren't -- the line didn't actually go onto the subject property.

It is possible and probably likely that a portion of the subject parcel is classified as wetlands upon flagging by New York State DEC. So we have not put that on the form because at this point we can't verify it. But just for you to know that it's possible that either five or ten points could be added on for that.

Just to go to one other comment from the Planning Department is the -- so environmentally we think this does stand up as at least meeting the 24, 25 points that the Committee looks for; that there are environmental values to this and it is adjacent to a County parkland open space.

The other issue, however, is the issue of the policy question on your part as to whether the County should buy improved property for open space purposes. It is something we did discuss in our open space policy plan that we presented to you last year. And policy recommendation number 12 was specifically on this topic. And we just expressed some concern and caution on buying improved properties under the Open Space Programs, indicating that the first priority should be undeveloped, pristine environmentally significant properties. We know in this case the sponsor has put in that the cost of the building be removed from the acquisition value. We understand that. We do think that's an important policy question for you to consider and not take it lightly which certainly you're not.

LEG. D'AMARO:

If I could just speak to that, I don't take it lightly. It is a factor because once you do it, you're heading -- you're setting a precedent for that type of policy. So, you know what I would look for in

an acquisition like this is that the -- it's not something that we should do as the norm in purchasing developed parcels. But if there is a sufficient environmental concern, I think that there's a balancing test here where that could outweigh the fact that it is developed and also the way the transaction is put together where we don't pick up the demolition cost, and there's the phase one, phase two to make sure we're not buying anything that's contaminated.

So I am going to support bringing this to the full Legislature but I just want to state for the record that I don't do it lightly. I do it knowing full well that this is a policy decision that we should not be making in the normal course of business. And I think that the -- you have to take a very close look when applying that balancing test to make sure that there truly is an environmental reason for going through this process and purchasing developed -- a developed parcel.

DIRECTOR ISLES:

Just to add, make one statement on that is in terms of the quantity we're talking about, it would not surprise me if we had thousands of homes in Suffolk County that were in some way affected by either ground water or tidal flooding at times, certainly on the south shore and certainly along the river and stream corridors. I'm not saying that they're comparable to this being next to county parkland and having the severity of problem this does, but I think the point about stepping very carefully in terms of the precedent is well advised. And, here again, something we observed in the policy plan we put together last year and appreciate that you've taken it under attention today.

LEG. D'AMARO:

And just one final comment, that, you know, I've supported land acquisition on parcels that don't meet any of the natural resource characteristics and meet solely the physical characteristics. And I think it was appropriate to do that; however, again, on this particular instance at a minimum I would look to see that we get some natural resource characteristic criteria that's met and we have a significant number here which I think when I apply my analysis would lean towards doing the acquisition.

DIRECTOR ISLES:

And, Mr. Chairman, my final statement at this point. I just think this is a good example. There are times when we come to you with a recommendation to buy a parcel next to a wetland and we say this should be purchased for buffer protection of that wetland area. This is a very good example of a parcel that, I think, we all agree never should have been developed, what to do with it after the fact is a difficult question. But there are many parcels we come to you on that are adjacent to wetlands areas. They're not directly wetlands but the impact of wetlands resource often owned by the County. So this is an example of what can go wrong on those parcels and we think it's a good lesson for all of us.

CHAIRMAN SCHNEIDERMAN:

Yeah. Okay, so I'll call the vote. This is --

MR. ZWIRN:

If I might, Mr. Chair, just to weigh in with the County Exec's position, as you recall he vetoed the planning steps with respect to this. And I think part of the message was that he thought it was a very dangerous precedent because if you look at the overview of this, there are other houses that could easily be affected. And the question is where do you stop?

The Town of Smithtown certainly should bear some responsibility here because they allowed this house to be built in the first place. I don't know how long that house has been on that site. I don't know if it's been there for 25, 30 years.

LEG. KENNEDY:

Probably more like 60.

MR. ZWIRN:

I don't know what the situation was, you know, prior to that but they say it's about 1954 it was built. So certainly without -- would have looked to see if the Town of Smithtown at least would come forward and meet some of the responsibility here.

CHAIRMAN SCHNEIDERMAN:

Is that the kind of thing that flood insurance would typically cover if you own a home and the wetland line changes and suddenly you find yourself under water?

LEG. KENNEDY:

Mr. Chair, we recently had whole re-evaluation of the flood plains here in Suffolk County. And this area to my recollection, as a matter of fact, did not wind up coming back in. It was primarily associated with coastal water flood plain analysis rather than interior fresh water flood effects. So you're point's well taken, but, you know --

CHAIRMAN SCHNEIDERMAN:

Well, then we wouldn't be buying these things. Basically the owner would be compensated through insurance.

LEG. KENNEDY:

But there is an alternate remedy. All alternate remedies have been explored here. And, you know, I think the County Executive's position is well taken as Mr. Isles articulated it well. There has been no effort on my part to move forward with other adjoining properties despite the fact that my office received quite a bit of contact with requests towards that direction. This property unfortunately was unique in the magnitude of its distress. Also, as we've all heard, we know -- I know firsthand, we know firsthand the wildlife opportunities and the habitat there in the Lilly Pond Preserve, and this certainly helps to add and expand that.

CHAIRMAN SCHNEIDERMAN:

I mean it certainly seems if there were no house on this property this would be a prime target for acquisition. But it does have a house on it. But moving forward in the manner that you described, we would be buying it as if there is no house on it because we would not close on it until the house was removed and the property restored.

LEG. KENNEDY:

Not only no house but no other supporting improvements as well, Mr. Chair, no septic system which will be approved. And the applicants are bearing the cost of all those application processes as well. I've been assured by the town building department as well as the County Health Department where we have to do a septic tank abandonment test prior to collapse and backfill as well as DEC who has to do oversight work on the demo as well, that they will all cooperate with the process going forward.

CHAIRMAN SCHNEIDERMAN:

So the town is contributing in that component a little bit. But they're not a partner in the acquisition.

LEG. KENNEDY:

No. At this point, as a matter of fact, they are not, Mr. Chair. There are some things that are within my purview and others that are not. I'm proud of where I come from but I don't control the acquisition process at the town level.

CHAIRMAN SCHNEIDERMAN:

Any other discussion? All right. Did we have a motion and a second?

There's a motion and a second to discharge, that's right, I was the second on discharging it without a recommendation. I think Legislator Losquadro made the motion. All right. All in favor?

Opposed?

LEG. BEEDENBENDER:

Opposed.

CHAIRMAN SCHNEIDERMAN:

Abstentions? All right, one opposition, Legislator Beedenbender, three yes's; so it is approved.

(Vote: 3-1-0-1. Leg. Beedenbender opposed. Leg. Cooper not present)

We have one more item. I said it was approved. It really was discharged without recommendation.

Resolution 2190, I believe, we distributed. This was not assigned to Environment but I think it should have been assigned. It was assigned to Public Works Committee, should have gone to Environment. I would like to take care of 2190 at this Committee. We have the Chair of Public Works here as well who is nodding affirmatively. Counsel, is there anything we need to do to modify the agenda?

MR. NOLAN:

No, you don't have to modify the agenda. It was mistakenly assigned to Public Works. All of 477 transfers are all through this Committee and we should do it here today.

CHAIRMAN SCHNEIDERMAN:

All right. So **2190, is amending the adopted '08 operating budget to transfer funds from Fund 477 Water Quality Protection amending the '08 Capital Budget and Program and appropriating funds in connection with storm water remediation to Moors drain at CR 48 North Road.** And it wouldn't hurt to have some additional information. Frank, do you have that information?

MR. CASTELLI:

This is on now. Actually this is a project where it's going to be taking money from various other projects and applying it towards remediation of CR 48 storm water. I'm not really prepared to speak on this to any detail. Bill Hillman from Public Works was planning on coming to the Public Works Transportation Committee tomorrow afternoon. So unfortunately we're not really prepared to give you much detail. I know that is -- like you said, it's a transfer of funds.

CHAIRMAN SCHNEIDERMAN:

I would say in light of that testimony, why don't we leave it in front of Public Works. I'd hate to discharge it without the information we need so --

LEG. BEEDENBENDER:

That's fine.

CHAIRMAN SCHNEIDERMAN:

All right. So that concludes our agenda. We are adjourned. Thank you.

**THE MEETING CONCLUDED AT 2:32 PM
{ } DENOTES SPELLED PHONETICALLY**