

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 May 4, 2009.

MEMBERS PRESENT:

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

ALSO IN ATTENDANCE:

William J. Lindsay, Presiding Officer
Leg. Edward P. Romaine, First District
George Nolan, Counsel to the Legislature
Sarah Simpson, Assistant Counsel
Ben Zwirn, Deputy County Executive
Kevin Duffy, Budget Review Office
Tim Laube, Clerk of the County Legislature
Thomas Isles, Director of Department of Planning
James Bagg, Chief Environmental Analyst/Department of Planning
Lauretta Fischer, Principal Environmental Analyst/Department of Planning
Janet Longo, Department of Real Estate
Carrie Meek Gallagher, Commissioner of the Department of Environment and Energy
Jessica Kalmbacher, Planning Department
Catherine Stark, Aide to Leg. Schneiderman
Justin Littell, Aide to Leg. D'Amaro
Kaitlin Boyd, Aide to Leg. Beedenbender
Lora Gellerstein, Aide to Leg. Cooper
Marcus Povinelli, Aide to Leg. Losquadro
Joseph Prokop, Village Attorney for Village of Greenport
Robert Kroudop, Director of North Fork Preserve
Myron Kaplan, Esq.
Gail Lolis, County Attorney's Office
Bill Hillman, Department of Public Works

ALSO IN ATTENDANCE: (Continued)

Gail Lolis, County Attorney's Office

Paul Perillie, Aide to Majority Leader
Linda Bay, Aide to Minority Leader
Debra Alloncius, AME Legislative Director
Kenneth C. Kleese, Jr.
Thomas Fernandez
Barbara A. Fernandez
David Nyce
Rodney Kempton
Val Henderson
Rodney Kempton
Tom Ryan
Ken Reisig
Glenn Ohlsen
John Tamm
And all other interested parties

MINUTES TAKEN BY:

Diana Kraus, Court Stenographer

MINUTES TRANSCRIBED BY:

Denise Weaver, Legislative Aide

THE MEETING WAS CALLED TO ORDER AT 1:15 PM

CHAIRMAN SCHNEIDERMAN:

I'd like to call this meeting of the Environment, Planning and Agriculture Committee to order this 4th day of May 2009. If you would please rise and join us in the Pledge of Allegiance led by Legislator Lou D'Amaro.

SALUTATION

You may be seated. Before we start just a -- Mr. Presiding Officer?

P.O. LINDSAY:

Because we have our new microphones now, this is back being broadcasted on the internet, so just to make everybody aware of it. And when we were in public we were having trouble with the mike system of not going off and so we suspended until we got these new microphones. But we're back on the air again.

PUBLIC PORTION

CHAIRMAN SCHNEIDERMAN:

That's it? Okay. We are -- well, before we even get to the public portion, let me say that Legislator Cooper has an excused absence from today's meeting as well as Legislator Losquadro.

We'll go to public portion. I have two cards. The first one is Kenneth Kleese. Oh, I have more cards. I have a bunch more. So we're going to start with Kenneth Kleese, Jr. Shaw's property he's speaking on. If you'll come up to the podium. You have three minutes, sir.

MR. KLEESE:

Yes, good morning. Good afternoon. I'm in favor of having the Shaw property purchased by the County. The land falls within the environmentally sensitive Forge River watershed. It is in fact about 1500 feet from the southwest corner of the property to the headwaters of the river. And there are most likely underground streams flowing through this property.

The land is in immediate danger of being developed. The Town of Brookhaven is currently considering a 26 home subdivision here. The subdivision is of the cluster variety which will be more harmful to the watershed. The land is also boarded on two sides by farmland for which the development rights have already been purchased. Adding this parcel will preserve an open space view which will be in character with the surrounding community.

The County may also be able to benefit from this property by saving money since the property is currently full of bushes that could be planted along the County roads. Thank you.

CHAIRMAN SCHNEIDERMAN:

Thank you, sir. Our next speaker is Mayor Nyce; David Nyce, from the Village of Greenport.

MAYOR NYCE:

Good afternoon and thank you for this opportunity to address you. Pardon me, I'm a little nervous with the public speaking, which is very odd, but it is the case.

I'm here to speak to the issue of Clark's Beach and the pending potential acquisition by the County of Clark's Beach. Clark's Beach was purchased in the '30's by the Village of Greenport for its sewer district for wastewater treatment plant siting. The plant never got sited there and was sited elsewhere. The outfall pipe did actually go through that property.

In the ensuing years there were several different commercial ventures proposed for the property. Nothing has ever come to fruition. It is at this point zoned R-80. I want to point out also that the property is not contiguous nor is it in the Village itself. It exists within Southhold Town, some half mile outside of the Incorporated Village. Again, is a property that is zoned residential and outside of.

Three years ago or so prior to my being elected, it was determined that the property should be sold. The then Mayor had a handshake deal with the County Executive's Office and the Southhold Town in a three-way purchase of the property. When I came into office, I reached out to the Real Estate Division. There was a new head of Real Estate there. He and I went through the deal. He asked if we could restructure the deal. After much back and forth we did determine to restructure the deal giving the County additional protections in the purchase in that instead of it being a three-way purchase of the entire piece of property, we carved off the prime piece of property, which is contiguous to a piece of property the County already owns as Inlet Pond, a nature preserve stewarded by the Audubon Society there now. They determined a price for the property well below market value. I went and had an additional public hearing to make sure that the Village residents were still in favor of this as a way to go. They are in fact in favor of preserving this piece of property.

To my understanding the proposed acquisition meets or exceeds all of the requirements that the County has set up. Again, it's been in the planning process for up to two years. I believe it's at the point now where a vote of this Committee to acquire -- or an approval from this Committee would then send it to the full Legislature for its final vote.

I can't stress enough the importance of this to my small 2,000 square foot -- 2,000 person village. I was up here last week and heard Legislator Beedenbender talking to Senator Gillibrand at the time making a point about the taxes in Suffolk County in his district having a per capita income much lower than that of the surrounding area. The Village of Greenport's per capita income per family is about half that of Southhold Town. I'm desperately trying to preserve a small working class village within the town.

This money is absolutely necessary to diffuse some debts. We are basically no different than any other property owner within Suffolk County by my estimation. We have a piece of property that we can no longer afford to maintain. We have two choices; we can sell it to preserve it or sell it to develop it. That's not meant as any sort of threat or anything to the County. It's merely the way things are. We can no longer afford to keep the piece of property. Our preference is to preserve it. It has never been our intention that the County should buy municipal open land or municipal parkland. This is open land, but it's not -- has never been deemed parkland.

It has been our hope that the County would help us preserve this beautiful piece of property. It pains me to have to sell it. It is unfortunately a necessary step at this point. So I'm here on behalf of my Village Board, the Village residents and residents of Southhold Town to entreat this Committee to vote to approve, I'm sorry, to send this to the full Legislature for a vote. I thank you for your time.

CHAIRMAN SCHNEIDERMAN:

Thank you, Mr. Mayor.

MAYOR NYCE:

I'm sorry, I'd also -- I don't know what your procedure is, if there are -- if you guys have any questions, I'd be willing to answer any.

CHAIRMAN SCHNEIDERMAN:

Typically we don't ask questions at this point.

MAYOR NYCE:

Fine.

CHAIRMAN SCHNEIDERMAN:

I will in a -- after we get through the other speaker cards, I'm going to ask to take this resolution out of order so we'll have it in front of us. And I would ask you to be available if there are questions.

MAYOR NYCE:

Absolutely.

CHAIRMAN SCHNEIDERMAN:

Okay.

MAYOR NYCE:

Thank you.

CHAIRMAN SCHNEIDERMAN:

Thank you, Mayor Nyce. Thomas Fernandez.

MR. FERNANDEZ:

Good afternoon. I'm here representing the residents of Sunnyside Acres in Manorville. And we are here to ask you to purchase the property called Shaw Nurseries which is within the Forge River watershed area. We've submitted to Legislator Romaine a petition that is covering 65 houses that surround north, south, east and west the property of Shaw Nurseries. We have 122 signatures on that. And we would like that preserved as agricultural land or open land to stop the development which is going to greatly cause a problem with the watershed and the aquifer. There is a plan to develop it and they want to cluster homes on it. And we're not in favor of that. We live in the watershed area. We live in the outer regions of the Pine Barrens and we're requesting that the Town purchase that 32 acres and make it farm preservation land. Thank you.

CHAIRMAN SCHNEIDERMAN:

Thank you, sir. Rodney Kempton.

MR. KEMPTON:

Good morning, gentlemen. I live in the Manorville area. And I'm here to also request like Tom that you folks could purchase that property rather than have cluster housing put on it. I've lived in the area for 33 years. And one of the things that makes South Manor and Manorville Manorville is the one acre zoning which has been preserved there for all of these decades. You don't want to see cluster housing there. And, in fact, adjacent to the property there are six other homes there that are vacant now. There are several homes that are foreclosed on and I'm sure there are probably ten homes within a half mile radius of a place where you want to build 26 more homes. It just doesn't make much sense to me. And I think it would ruin the -- ruin the area and the openness that we all love so much and the reason that people came to Manorville to start with.

Originally we had one acre zoning because of well water and septic systems. Now this area has street water, but we'd still like to preserve the one acre zoning and everything around that area. And in our -- our area is one acre zoning now. The open farmland and the one acre zoning is what brings people to Manorville. And we'd like to see that area remain as it is. Thank you, gentlemen.

CHAIRMAN SCHNEIDERMAN:

My Last speaker card is John Tamm.

MR. TAMM:

Good afternoon. I'm talking about the same thing about the Shaw acquisition. I feel that it should be acquired because the -- not only the environmental reasons, which are very important, but also

the quality of life. In Manorville -- I moved out here in '84. And since I moved out here, every parcel of land seems to be developed. I do not want to see strip malls all over the place; okay? They are not doing that. But the thing is every square foot of area seems to be being built.

Now, there's plenty of homes for sale, older homes. I want the quality of life to exist because my wife and I came out here because we liked it. If you build all over the place, you're not going to have the quality of life in Brookhaven and in Suffolk County. If you keep building houses, there's going to be no room for people to really enjoy their life. And that's all I have to say. Thank you.

CHAIRMAN SCHNEIDERMAN:

Okay. That's the last card I have. Why don't since we have the Mayor of Greenport here, take that one out of order, that would be the Clark's Beach. And then since we got several people speak on the Shaw property, we can follow it up with that. So I'll make a motion to take 1338 out of order. Do I have a second?

LEG. D'AMARO:

Second.

CHAIRMAN SCHNEIDERMAN:

Second by Legislator D'Amaro. All in favor? Opposed? Abstentions? **1338** is in front of us.

Authorizing the acquisition of land under the New Suffolk County Drinking Water Protection Program (effective December 1, 2007) open space component for the Village of Greenport property (Clark's Beach, Town of Southold) (SCTM No.

1000-040.00-01.00-023.000 p/o). (Romaine) Okay. I will make a motion to approve. Do we have a second on the motion to approve?

LEG. D'AMARO:

I'll second it.

CHAIRMAN SCHNEIDERMAN:

Thank you, Legislator D'Amaro. There's a second on the motion to approve. So it -- why don't I turn things --

LEG. BEEDENBENDER:

Do you want them to go first because I had a couple of questions.

CHAIRMAN SCHNEIDERMAN:

Yeah, well I thought I would allow the Planning Department and Real Estate Division to make their presentation first.

DIRECTOR ISLES:

Okay. As indicated the subject property is known as Clark's Beach. It's located within the Town of Southold. It is on the north side of North Road, which is CR 48, extending out to Orient Point in that direction. Subject parcel totals 6.2 acres. It is a parcel that is proposed to be split over the current ownership, which is depicted on the map before you. So the shaded red area would be the excluded part of the acquisition. The area with the perimeter red line, which is triangular in shape is the proposed acquisition before you at this time.

The subject parcel as indicated is a little over six acres. It is adjoining Inlet Pond County Park, which is to the -- essentially to the east. We did do a rating on this property based on the County's open space criteria and we've circulated that before you. The rating comes up with a point score of 34 points.

If you have any questions on any of the points that were achieved, certainly we'll do our best to address those questions. I think environmentally the site we feel does have value. It has bluff frontage, Long Island Sound frontage and proximity to Inlet Pond County Park.

The issue I think is the issue of whether the County should be buying it from a municipal entity and whether that's an appropriate public policy to take in this acquisition.

If you have any questions I'll defer to Mr. Zwirn, if there are any other points you'd like to go into.

CHAIRMAN SCHNEIDERMAN:

The area that's omitted from the acquisition, what happens? Is that where this outflow pipe is? Who's going to maintain that or is that being privately developed or sold to someone else?

LEG. ROMAINE:

Mr. Chairman, Mr. Chairman? Me, Ed.

CHAIRMAN SCHNEIDERMAN:

Oh, Legislator Romaine.

LEG. ROMAINE:

Right. Thank you. Although I'm not a member of this Committee, originally the entire parcel was going to be purchased jointly by the Town of Southold and the County of Suffolk with an easement for the outfall pipe.

At the insistence of the Real Estate Department, Greenport, we worked this deal and separated the parcel so the parcel in red now will be left to the Town of Southold to acquire in its entirety, but we'll be acquiring the parcel to the east, which is adjacent to County property.

The Mayor is here. If he has any -- I think he could answer the questions far better than I could.

MAYOR NYCE:

I can add to that. Subsequent to that deal changing, I have had conversations with the Town Supervisor who was going to give -- send me a letter of support, I forgot to pick it up. We've been holding off on any deals with the town pending this deal going through; not wanting to complicate anything and to push one thing in front of another. The deal initially, yes, was a three-way deal for the entire property with an easement for the Village for its outfall pipe. This came up afterwards. We've held off all other deals since then.

CHAIRMAN SCHNEIDERMAN:

Just looking at the aerial, the access, yeah, at least the current access to the triangular portion the County would be acquiring, well, the access to it is in that omitted section, the road access.

MAYOR NYCE:

The idea of the lot line change was that access to that triangular portion would be through Inlet Pond, which is a contiguous piece. Which is -- I'm sorry, which this piece would then become contiguous to. So you're actually only adding land to the other County parcel.

CHAIRMAN SCHNEIDERMAN:

I don't see an access road anywhere else other than on the omitted section.

MAYOR NYCE:

Access road to -- I'm sorry, maybe I'm not understanding.

DIRECTOR ISLES:

There is no access road to --

MAYOR NYCE:

Right.

DIRECTOR ISLES:

-- the proposed purchase from the Village. Under this acquisition proposal it would be through part of the trail network that extends through this property. You know, the County property, which is Inlet Pond County Park.

MAYOR NYCE:

Right.

CHAIRMAN SCHNEIDERMAN:

I mean, we have quite a bit of Sound front there already. And we'd be adding onto that Sound front. I don't know how accessible this would be without some sort of vehicle access and a parking area somewhere. Is that part of the plan, Tom?

DIRECTOR ISLES:

No it isn't. The current Inlet Pond County Park contains a parking area along County Road 48. There's a small building there for which the North Fork Audubon Society operates it on behalf of the County. And you park right along the road in a parking lot. And it is available then for pedestrian hiking through the property to the Sound. It is not intended to be for vehicular access to the Sound from Inlet Pond County Park. And this would be the same situation. It would be for hiking access.

It's primarily -- the acquisition of Inlet Pond was primarily for the purpose of protection of the actual Inlet Pond itself, which you can see on the map, and the Sound frontage as well.

CHAIRMAN SCHNEIDERMAN:

But it would be accessible -- you'd be able to park along CR 48 and walk down, so.

DIRECTOR ISLES:

Right. The parking -- the existing parking lot for Inlet Pond County Park, which is certainly ample and walking to the property from there.

CHAIRMAN SCHNEIDERMAN:

Legislator Beedenbender.

LEG. BEEDENBENDER:

Thank you, Mr. Chair, sorry. Mayor, I know you mentioned that this was originally purchased for the sewer -- there's a sewer pipe, but is the sewer pipe on the shaded area or on the area that we're buying?

MAYOR NYCE:

The shaded area.

LEG. BEEDENBENDER:

The shaded area, okay. So that's not our concern.

The other thing that you mentioned earlier, because I've been hearing conflicting reports about this is whether or not this particular piece of land is already parkland. And the reason I ask is because I know that there's been some concern that it's either the County buys it or it would be sold privately to a developer. But if it's parkland that's much more complicated. So I guess it is not considered parkland?

Because -- and the only other concern I had heard was that even though it hadn't been declared parkland by function of its use, this is very loud, I'm sorry, by function of its use, it had become parkland. Is there -- as far as you know, is there any, you know, weight to that argument?

MAYOR NYCE:

No. It has been chained off. It has been -- and I'm new to the area, I'm eight years out in that

area. In that eight years it has never been -- there's never been encouraged access. It's never been a listed beach on the list of beaches listed in Southold Town or the Village. It has been a property, again, zoned R-80 as long as I know. Prior to then, I believe it was still zoned for utilities. The intent had always been some sort of development. There was a development idea, I think, a fish hatchery, up until the mid late 90's. The idea has always been to somehow use the piece of property. And, yeah, there are locals that have hunted there, gone swimming there. I camped there illegally, you know. So it has been used, but -- I know this on tape, right?

LEG. BEEDENBENDER:

Yeah.

MAYOR NYCE:

But it is --

LEG. BEEDENBENDER:

That's okay, Mayor.

MAYOR NYCE:

No, it has never -- it has never been officially deemed parkland nor has it really been used as parkland. It has been used -- it was used as a dumpsite quite honestly, so.

LEG. BEEDENBENDER:

Okay. All right, thank you. Like I said, there was -- I was hearing conflicting things back and forth. And if you tell me it's not then that's --

MAYOR NYCE:

Absolutely.

CHAIRMAN SCHNEIDERMAN:

Legislator D'Amaro.

LEG. D'AMARO:

Mr. Mayor, I wanted to explore a little bit, first does the Village have any other parcels under threat of development that you're going to ask us to buy?

MAYOR NYCE:

No, sir.

LEG. D'AMARO:

No. This is it?

MAYOR NYCE:

This is the only piece of property -- the only piece of real property that we have other than parcels that have been -- there are some parcels contiguous to {Moore's} Woods, there's a scavenger waste plant that we're dealing with the town to redo, we're not going to ask the County to buy that.

The only other property is within the Incorporated Village is an old Mobile property, which we're dealing with Mobile with. They're talking about doing a nature preserve there. Whether or not they deed it over to us or the town, we don't know. But, no, there's nothing else that the Village owns. This is the last piece of real property that we have.

LEG. D'AMARO:

And the Village's position now is that if the County does not buy this property, you will sell it to a developer.

MAYOR NYCE:

Unfortunately --

LEG. D'AMARO:

Even though --

MAYOR NYCE:

-- we will have to sell it. I'd still prefer to sell it and preserve it, if it's not to the County. We have reached out to the Peconic Land Trust, to the Group for the East End, to Nature Conservancy. We've reached out to all the different groups. No one has -- you know, there's not a big enough group to take on the whole thing.

So the reality of it is, I think, if the County doesn't purchase we're really not left with any other choices other than to explore the development of it. But I'm open to suggestions. We're in a situation where, yes, we need the money, as plainly as that.

LEG. D'AMARO:

Well, you know, we balance constituent needs in our respective positions everyday without needing the money and where do we get it from, you know. Do we raise taxes? Do we sell an asset of the Village or the County? How long has the Village owned this property?

MAYOR NYCE:

Since the '30's.

LEG. D'AMARO:

Since the 1930's.

MR. NYCE:

Yes.

LEG. D'AMARO:

So you're selling a Village asset shoreline property. Was this a vote of your Village Board that came to this conclusion?

MAYOR NYCE:

This was a vote of the Village Board prior to my being on it. It was -- and they pursued it at that point. What I did when I got elected I reached out to the County, the people that had started this deal and said I want to hold a public hearing, because that had not been done. I did that within the first month of being in office. And I have to tell you the overwhelming majority of the people in the Village understand that it needs to be sold. And if it's to be sold, they want it to be preserved.

Now they also understand that that's a very sort of -- that's a razor's edge to be on; you know, that may not be possible. They would very much like it preserved. They also, as I stated before, the median income in Greenport is not very high. For me to raise taxes to cover would push people out. And the bottom line of it is I would be pushing people out of their homes to raise taxes to cover this. This 1.7 that's proposed will offset, will diffuse a good portion of debt now, but will buy us time to refinance, etcetera, etcetera. This is not -- it's not the fire sale that it appears, but I really -- I'm backed into a corner.

I mean, ultimately I'm going to shoot myself in the foot by saying this. Ultimately I don't want to sell this piece of property, I really don't. I love the piece of property. I don't have a choice. Three years ago I stood up at a Village Board meeting and asked them why they were considering this, you know, was there no other choice? And at that point I had the freedom to say that without all of the other knowledge behind it. In the two years that I've been here, or have been in office there, we have no other choices. And it's unfortunate.

LEG. D'AMARO:

I appreciate your dilemma. You know, we struggle with very similar issues on the County level --

MR. NYCE:

Yeah.

LEG. D'AMARO:

-- going through our budget.

MR. NYCE:

I know that you do.

LEG. D'AMARO:

Yeah.

MR. NYCE:

And I'm sorry for the long-winded answer to your question.

LEG. D'AMARO:

No, I understand. I truly do. It's, you know, you're damned if you do and you're damned if you don't when you're in these tough economic times. It's difficult to make these types of decisions, but fortunately it seems based on the rating that this irrespective of whether or not a municipality owns the property, it seems that this would be the type of acquisition the County would target in our programs anyway.

MAYOR NYCE:

Right.

LEG. D'AMARO:

So I think maybe there's a little bit of luck there also.

MAYOR NYCE:

Ultimately part of this also that plays into this is, if I'm truly fiscally responsible we sell to it to develop it so we get more money and I diffuse more of the debt, It's not really what the Village wants to do. And that's what I needed to determine before I could at least put my whole heart into coming to the County and saying please purchase this.

LEG. D'AMARO:

Okay. Thank you.

MAYOR NYCE:

Thank you.

LEG. D'AMARO:

Thank you, Mr. Chairman.

CHAIRMAN SCHNEIDERMAN:

Any other questions from the Committee? Legislator Romaine.

LEG. ROMAINE:

Although I'm not a member, if I could ask the Mayor some questions. It's understanding from the previous Mayor, that there was an agreement made with the County Executive to purchase this, a verbal agreement to move forward with this. And that agreement has never been negated over the three years of the process; is that correct?

MAYOR NYCE:

Not to my knowledge, no. I picked up what was, I guess a handshake deal if you will.

LEG. ROMAINE:

Right.

MAYOR NYCE:

And, you know, the new head of Real Estate came in and so, yeah, it has sort of morphed, is what has happened. It's been a three plus year process.

LEG. ROMAINE:

My understanding is that this resolution has gone through every --

LEG. BEEDENBENDER:

You've got to hold it down.

LEG. ROMAINE:

Oh. My understanding is that this resolution has gone through every process, SEQRA, etcetera, etcetera, etcetera.

MAYOR NYCE:

Yeah, my understanding is that it is this Committee and then it would go to a vote of the entire Legislature.

LEG. ROMAINE:

Right. So we've done everything and the last thing to do is adopt this resolution. And we were hoping that the Executive would introduce this resolution, but he chose not to. Although, I don't know if you're aware of this, the Executive did include the \$1.6 million for Clark's Beach in the list of bonding that goes out to the bond counsel because I checked with the Comptroller's Office and apparently you cannot list these things unless bond counsel -- it can only be spent for those purposes. And that money according to the Comptroller was set aside exactly for that purpose. I don't know if you're aware of that.

MAYOR NYCE:

I had heard that, but that's beyond my scope.

LEG. ROMAINE:

Right. I think Mr. Sawicki is quoted in the Suffolk Times. And I would suggest that if any of you would like to see Mr. Sawicki's quote he expressed his incredulity at this situation. In all of his experience in government he's never seen anything like this.

However, let me just go over some points again. This parcel of property is zoned residential. This part is outside the Village.

MAYOR NYCE:

Yes.

LEG. ROMAINE:

This is not parkland.

MAYOR NYCE:

No.

LEG. ROMAINE:

And you do have a debt from the previous administration from repairs that were made to the Village such as Mitchell Park to improve the Village but a debt nevertheless that has to be at least in some

way reduced; Is that correct?

MAYOR NYCE:

I will carefully answer, yes.

LEG. ROMAINE:

Okay. And the sale of this property, be it to the County, which probably is less than you could probably get in the private market today, would preserve this property. The other option is to sell it on the open market and get as much as you possibly can. Considering it's in the Town of Southold and they'd have to deal with the planning issues with the development of the property.

MAYOR NYCE:

Yeah, those are our two choices at this point.

LEG. ROMAINE:

Thank you very much.

MAYOR NYCE:

Absolutely. Thank you.

CHAIRMAN SCHNEIDERMAN:

Legislator D'Amaro.

LEG. D'AMARO:

Just to Director Isles, just to pick up on what Legislator Romaine was saying, the source of the funding, for the record, would be which program?

DIRECTOR ISLES:

It's under the New Drinking Water Protection Program.

LEG. D'AMARO:

So that's the funding from the Quarter Cent.

DIRECTOR ISLES:

It is.

LEG. D'AMARO:

And the funding that we have in that program could only be used for acquisition purposes; correct? It's a dedicated revenue.

DIRECTOR ISLES:

It is a dedicated revenue source with a -- yes, for open space acquisitions, as may be determined by the Legislature and the Executive.

LEG. D'AMARO:

Okay. Thank you.

CHAIRMAN SCHNEIDERMAN:

Okay. So I made a motion earlier.

MR. ZWIRN:

Mr. Chairman, may I have an opportunity to weigh in a little bit?

CHAIRMAN SCHNEIDERMAN:

Mr. Zwirn.

MR. ZWIRN:

Thank you. We appreciate Mayor Nyce's candor and his dilemma. The County Executive's position has always been consistent on this. While this property would certainly be an acquisition that the County would look for if it were not in the public domain. And what the County Executive is afraid of is that you have school districts out there, you have villages out there that are all facing economic trouble right now. I mean, there's no question about it.

Look, if the County could take its assets and say, let's go to the federal government here and we spend billions of dollars on open space, how about, you know, you take it over from us and give us a check for a couple of billion dollars and that would help us out here in the County. You can go to the state. The village's are going to the towns.

We're afraid of setting a precedent. And the County Executive has been consistent. Even when Legislator Horsley had a piece in the Village of Lindenhurst, he was consistent in saying, *you know, it's in the public domain, it can be protected*. We have precious resources right now with the Quarter Percent money. And then we're going to have to be very selective when we go forward to purchase property. And when property is already in the public domain, it seems counterproductive to buy that with taxpayer dollars from another entity. In this case it would be the taxpayers of Suffolk County.

Now the property in question has been parkland. We have letters that are in the file from the Long Island Scuba Association saying for the last 40 years people have been picnicking there, they've been diving there. It's just been recently that it's been chained off.

And then you have the alienation of parkland issue, where if it is going to be parkland, it's going to be sold by a public entity, it has to go through two successive Legislative approvals in the New York State Legislature, which I don't know if that would be likely. So the pressure of private development is not as real as it might seem.

With respect to what Legislator Romaine said about the bond issue, this was -- this was on the list. But the money has not been appropriated and it's not -- that money -- Clark's Beach is a placeholder there and that money can be used for other properties down the road. So that money is not -- it's not that that money cannot be used for other purposes and other land acquisitions.

So this is the dilemma. I mean, we're going to face this dilemma probably again. The County Executive is, you know, he's understanding; he's very appreciative of the Mayor coming down here pleading his case because he's got a real problem in the Village. But the County Exec's also concerned that this is going to be just the beginning. And if you say yes now, where possibly can you say no.

CHAIRMAN SCHNEIDERMAN:

I know there's going to be a response. I think you sufficiently muddied the waters with that. I have to say that to go the approach of forcing them to sell it to a private entity and then purchase it because it's certainly worthy of preservation, only would this elevate the price. And so I understand the concern about precedent, but it also, you know, as we try to save every dollar, to have to pay more for it just simply, you know, to resolve that issue, I don't think that necessarily is the right way to go.

We have -- does anybody want to respond to Mr. Zwirn? I think, okay, Legislator D'Amaro, I think, also Legislator Beedenbender had a question for Counsel.

LEG. D'AMARO:

Yes, Mr. Zwirn, I was thinking of the precedent also. But I guess unprecedented times bring new precedents, you know. What you're focusing more on, who owns the property, I think we're focusing a little more on, does it fit within the parameters of our program and our rating form, which it does, I mean, clearly.

It is in the public domain, but we have the Village Mayor here telling us that it's very -- there's a potential that it won't go into the -- that it will go into the private domain and be developed.

You're talking about parkland and that issue to me concerns me a little more because if the -- if the State Legislature is required to vote, then we're kind of spinning our wheels here. So do we have anything definitive or how would we find out, how would we resolve the parkland issue?

MR. ZWIRN:

I think you'd probably have to hear testimony from people who've lived in the Village over the past 25, 30 years to see how that property has been used. As I say, we have letters in the -- that were in support of acquisition actually, but saying it has been used as parkland for picnicking, for hiking, for scuba diving, swimming, ever since some of these people can remember.

LEG. D'AMARO:

Would it require -- let's say we went ahead with this resolution and we're now in the acquisition process. What would be required for someone to make that claim? I mean, who would make that claim?

MR. ZWIRN:

Well, maybe I could leave that to Legislative Counsel. I imagine if somebody wanted to stop the sale -- I mean, I don't think the sale necessarily to a municipality would be an alienation of parkland. I mean, I don't think that's the issue. I think it's just going to go to the -- a private developer. And that's when it would become an issue.

LEG. D'AMARO:

Oh, I see. In other words it's a restriction on the Village's ability to sell the property for development, is what you're saying.

MR. ZWIRN:

I stand corrected. It would still -- Tom Isles is telling me that it would still need Legislative approval from the state even if goes to the County.

LEG. D'AMARO:

Even here.

MR. ZWIRN:

If it's determined to be parkland.

DIRECTOR ISLES:

Exactly.

CHAIRMAN SCHNEIDERMAN:

That would also affect the appraised value. When we appraised it to determine this price, Commissioner, I assume that we appraised it as developable property; correct?

DIRECTOR ISLES:

I'll defer to Real Estate on that. But my recollection at the Environmental Trust Review Board, it's based on the fair market value of the property as determined by the appraisal and the appraisal review process, which is for the purpose of development.

CHAIRMAN SCHNEIDERMAN:

If it was undevelopable parkland it would have, I would think, a much lower price than the price that we're paying. So it seems clear that we determined that it would -- somebody determined that it's developable property.

MAYOR NYCE:

If I may, I mean, with all due respect --

LEG. D'AMARO:

Yeah, Mr. Chair, if I may, Mayor Nyce, you were pretty definitive in your response that it's not parkland. Have you or your attorneys looked at that issue?

MAYOR NYCE:

It has never been zoned as parkland. It has never been deemed to be used as parkland. And with all due respect to Mr. Zwirn, if there's a parking lot in the Village that's used as a flea market every weekend, is it still -- does it become flea market? This is -- it's open land. It has been ready for development for a great deal of time. Governments don't necessarily work very quickly. It has never been -- it has never been zoned as a park. It's never been zoned as a beach. It's been called Clark's Beach because that's what it's been called.

It was bought for utility purposes. There were several ventures sited there. They didn't succeed. It is now zoned R-80. It has been. It's been taxed as R-80. As far as anybody is concerned in the Town of Southold, that is a developable piece of property and is not parkland. It has been used by people, yes. But the use in this case, I don't believe indicates that it's parkland. I think the use is that it was an open piece of land that --

LEG. D'AMARO:

Okay. I understand what you're saying.

MAYOR NYCE:

I'm sorry, by the same -- is it -- I mean, squatters rights kind of things?

LEG. D'AMARO:

But is it -- sure.

MAYOR NYCE:

Do people using it that way cause it to be that?

LEG. D'AMARO:

As the Village Mayor though, is there a way for property to become parkland just by use?

MAYOR NYCE:

Our Village Board has the -- I believe we have the authority to stipulate that use. But it would still go through the town. The town zones the property not the Village.

LEG. D'AMARO:

Right. Oh, you don't have zoning --

MAYOR NYCE:

And by use, the Village has never --

LEG. D'AMARO:

We'll we're not really talking about the zoning here.

MAYOR NYCE:

Okay.

LEG. D'AMARO:

What we're talking about, there seems to be some legal precedent that says if municipal owned land is used as a park irrespective of whether or not it's officially designated as a park, it in fact is

parkland and to alienate or to sell the property, you would require a vote of the State Legislature.

MAYOR NYCE:

I understand. The Village Board to my knowledge has never, never passed any ordinance or any stipulation saying that this is in fact parkland. It has always been a piece of land available for some venture, whatever that venture may be.

LEG. D'AMARO:

Okay. Thank you.

CHAIRMAN SCHNEIDERMAN:

For the record, did you say that it is being taxed? So you're saying that the Village is paying taxes to the town on it?

MAYOR NYCE:

I believe we're paying taxes to the town, I mean, minimal because it's undeveloped residential property.

CHAIRMAN SCHNEIDERMAN:

Right.

MAYOR NYCE:

So it's a minimal.

CHAIRMAN SCHNEIDERMAN:

Well, it's low taxes for undeveloped property, but you are paying -- if it was a park you would be paying no taxes.

MAYOR NYCE:

Right. Absolutely.

CHAIRMAN SCHNEIDERMAN:

Okay. And Legislator Beedenbender was next, but if we could defer to Presiding Officer, if you don't mind. Mr. Lindsay.

MR. PROKOP:

If I could respond to Legislator's question, my name is Joseph Prokop, I'm the Village attorney of the Village of Greenport. I've been the Village Attorney for in excess of five years now through both administrations that have dealt with this. And this matter -- I've dealt with the County for this matter for a number of years. I'm familiar with the property and its use. I'm also familiar with the issue of parkland and alienation. I researched that extensively, litigated that issue, not in this property, other properties. And I've been practicing municipal law in this County now for nearly three decades.

The issue that you're raising doesn't exist with this piece of property. It's a municipally owned piece of property that's vacant. The sole use of the property is for the sewage operation of the Village. It has an extensive sewage outflow pipe. We actually coordinated the transfer to the County around the use of that pipe because it's a, you know, it's a large chunk of the property, right down the middle of the property. And there is no actual use of this property as a parkland. First, it's never been dedicated as a parkland by the Village or any other entity. That dedication has never occurred. And that's what Mayor Nyce was referring to.

There also is no de facto use of the property as parkland. You know, I don't want to deny that, you know, it's vacant municipal property. I would never deny that people pass across the property and probably there's people that pass on the beach front, the same way private properties have people passing and using the beach front at the waterline.

But there's never been any recognized or actual use of this property as a park or parkland that would -- that in any way let alone rise to the level that would require the intervention of the State Legislature.

And I believe that the -- my familiarity with this would lend me to believe that the question of alienation of parkland that's referred to in this area really has to do with the alienation of the use rather than of the title. And the property is -- this was all set up so this whole transaction, and my entire involvement with this and the County's entire involvement since day one, has been to make this property extension of the County park that's adjacent to it.

And that the last thing that, the case law or the -- or any state precedent that is in this area of law regarding the required Legislature approval would ever want to do is prevent a transaction like this. I mean, it's not in the realm of that area of law or possibility.

And, you know, this matter has been in the public discussion now for three years. And for a few letters to come in, you know, at this time and if this was a valid question, which it's not, I mean, there would have been a controversy from day one about the potential alienation of the park.

CHAIRMAN SCHNEIDERMAN:

Mr. Presiding Officer.

P.O. LINDSAY:

I really, I think the Counsel really answered what I was going to ask. It seems pretty reasonable. I mean, if the Village was to change its mind and go ahead and develop this as a sewer plant on that property, would they have to go to the State Legislature? I think not.

CHAIRMAN SCHNEIDERMAN:

No, I mean, municipalities often bank property. I know I did that when I was supervisor for potential future municipal use if it seemed to make sense and you feel like your land supply is dwindling and you don't know what the future needs of the town are. There was certainly differences between those properties and parkland properties and I made sure that they were not dedicated as parks so that the community at a later date could sell them if they felt like they needed to, when they had other ways of solving those future problems. So I don't think this is unusual for a village to purchase a piece outside of its boundaries for a potential later use or in this case a utility or outfall pipe. It makes sense to me, certainly.

Okay. So we have a motion. Legislator Beedenbender was going to speak. I think his question has been answered.

LEG. BEEDENBENDER:

Yeah, I was just going to say I think the Counsel made an excellent point, that was the question I was going to ask. I think the alienation goes to the use, not to who's on the deed.

MR. PROKOP:

That's correct.

CHAIRMAN SCHNEIDERMAN:

Okay. So I made a motion earlier to approve, seconded by Legislator D'Amaro. I'll call the that motion at this point. All in favor? Opposed? Abstentions? **Approved. (Vote: 3-0-0-2. Legislators Cooper and Losquadro not present)** So it now will move onto the full Legislature for a vote.

MAYOR NYCE:

Thank you.

CHAIRMAN SCHNEIDERMAN:

I'm going to make a motion to take 1315 out of order. That's the Shaw property which several people here have spoke on behalf of that planning steps -- planning steps resolution.

LEG. BEEDENBENDER:

Second.

CHAIRMAN SCHNEIDERMAN:

Second by Legislator Beedenbender. All in favor? Opposed? Abstentions? **1315** is now before us. **Authorizing planning steps for he acquisition of land under the Suffolk County Drinking Water Protection Program as amended by Local Law number 24 - 2007. (Shaw property Forge River watershed, Town of Brookhaven) (Romaine)** And again we will allow for Planning and Real Estate to make their presentation.

DIRECTOR ISLES:

Okay, while Lauretta is handing out the rating forms and the aerial photographs, I will begin by giving a description of the location of the property as described earlier today. And some of the comments we heard the property is located in Manorville in the Town of Brookhaven extending the portion along the east side of Bonds Road and a small portion along the south side of Moriches Middle Island Road.

The parcel totals about 32 acres. It is currently used as a nursery, as an agricultural production use and consists of several different lots, a total of four -- pardon me, five lots, here again, that are shown on the aerial photograph.

We have looked at the parcel in terms of the County's Open Space Rating Form and have rated the parcel at a total of eight points based on the size of the parcel. In terms of the other aspects of the property, we do acknowledge that it is within -- it's north of Forge River so it does reflect the location within the Forge River watershed, which we do have mapped. It's rather extensive. But in terms of point value, which looks at more specific criteria such as wetlands, wetland buffer areas, groundwater resources such as deep flow recharge areas, natural habitat. The site is a farm so it's been cultivated. Natural habitat is not significant. The criteria also looks at physical, geological considerations as well as looking at matters approximate to other County parkland and open space resources and so forth.

So with that, we've completed -- we completed the review based on the information we had available at the time of the review. And as I indicated, it scored eight points. As you know, the standard cutoff as a guide is 25 points. The form itself is rated up to a hundred although, here again, the average is lower than that. But it's 8 points.

If you have any questions, we'll do our best to address those questions.

CHAIRMAN SCHNEIDERMAN:

We'll start with Legislator D'Amaro. I have questions myself, too.

LEG. D'AMARO:

Thank you, Director Isles. I'm taking a look at the rating form that's been submitted for this application. And it does not get any points assigned for the Forge River watershed area although -- maybe you could just explain exactly what the watershed area is and how come it's not included on the form.

DIRECTOR ISLES:

We do have -- we do have a map of the watershed area, which I can provide to you. And this is one provided by the Town of Brookhaven. You'll see that it is very extensive and takes in a lot of property. So that in itself is not a significant factor in the sense that, here again, we're looking at a site that's cultivated. The priority of the County at Forge River is looking at parcels that are closer to the river that have other values as well as being within the watershed such as wetlands, wetlands

buffer areas, significant habitat in terms of plant and animal habitat and so forth.

More to the point of your question in terms of watershed considerations, that is provided in designation based on location in the physical characteristics of the form. And it talks about things such as item number three, which identifies sites that have been identified as part of estuary programs such as the South Shore Estuary Program Comprehensive Management Plan. So there are points given if it's part of the larger estuary or resource protection. So that's -- that's how it's been addressed in the rating form.

LEG. D'AMARO:

There's a correspondence that I have in the file in support -- I think it was directed to you from Mr. Kenneth Kleese, if you received a copy that. The second paragraph, I just want to -- it's not that long. I just want to read it. It says *this subdivision is proposed to add 28 houses to a watershed area that has been overwhelmingly built and poorly planned to such a degree that the Forge River has been declared by the New York State Department of Environmental Conservation as an impaired waterway. The southwest corner of the property is less than 1500 feet from the headwaters of the Forge River. There are already hundreds, if not thousands, too many residential units built in the area from the mouth to the headwaters that are currently draining into the river. Talks about the slope of the land and it says in conclusion add to that the effects of the additional cesspools or septic tanks and it is quite clear that building in this area will certainly add to an already bad situation.*

Do you -- even though it's not on our form, do you agree that that is a concern in the watershed area and that it's a bad situation that could be made worse by development of this parcel?

DIRECTOR ISLES:

My response to that is a couple of points. Number one, is we are getting copies of the watershed map provided to you. I believe you do have a copy at this point. And what we see at the Forge River is that it is certainly a watershed that is characterized by extensive development. And that's most significantly illustrated with the dark colorization, the brown colorization which extends on the left side or on the west side of the Forge River; left side of the map, west side of Forge River, which is in the Mastic Beach, Mastic and Shirley area where there is relatively high density development of four to six units per acre, dwelling units per acre.

As you look to the east side of the Forge River, you see a lighter coloration and that's reflective of less intense land use. And in fact, in the subject parcel, the zoning for that parcel is for one acre density. And in fact that's conforming to the County's Health Code requirement which under Article Six requires minimal lot size of 40,000 square feet for 300 gallons per acre discharge.

So I think the statement is correct, certainly in terms of there has been overdevelopment in terms of inadequate wastewater disposal overall within the Forge River watershed. I would take an issue with the characterization of this parcel, the subject parcel. It is at a much lower density than prevailing density within the watershed. It conforms to Article Six. You can take a point that every parcel should be preserved within the watershed; and that's a certainly a point that can be taken. We feel from County Planning that, here again, based on the multitude of criteria that are aimed at selecting the most worthwhile parcels for consideration, that this one would not rank in that category.

LEG. D'AMARO:

Okay, thank you. And the property does conform with Article Six of our own regulations. So that's an acceptable level of density for development in this area.

DIRECTOR ISLES:

Yes. The subdivision that's proposed does appear to conform to Article Six, which would provide for an acceptable level of development as it relates to water quality impacts.

LEG. D'AMARO:

Thank you.

CHAIRMAN SCHNEIDERMAN:

Legislator Beedenbender.

LEG. BEEDENBENDER:

Tom, the title, or at least -- on the very top of the map that you handed out, it says Forge River County Park Addition. I just wanted to ask about that. I'm not obviously very familiar with the area, but I don't believe that we have a -- I don't see a park around here so I'm just confused as to what that is referring to. And is there a parkland that this is adjacent to?

DIRECTOR ISLES:

No, it is not. And we apologize that that was misconstrued.

LEG. BEEDENBENDER:

Okay.

DIRECTOR ISLES:

The County certainly has been acquiring properties in the Forge River watershed.

LEG. BEEDENBENDER:

Right.

DIRECTOR ISLES:

And Friday afternoon when this was put together, that's the -- determination was made at that point so we'll correct that.

LEG. BEEDENBENDER:

Okay. I just wanted to make -- I wasn't being critical. I just wanted to make sure that I wasn't missing something that otherwise was in place.

DIRECTOR ISLES:

Understood.

CHAIRMAN SCHNEIDERMAN:

If I may, too. Commissioner, the rating form that you used for this appears to be the rating form used to acquire environmentally sensitive properties. Do we have separate rating forms for farmland development to preserve farmland? We do, right?

DIRECTOR ISLES:

Yes.

CHAIRMAN SCHNEIDERMAN:

So this was reviewed not as a purchase of development rights. This was reviewed as a full fee acquisition.

DIRECTOR ISLES:

Correct.

CHAIRMAN SCHNEIDERMAN:

And the property currently is a nursery, is it not? That's what somebody had said earlier?

DIRECTOR ISLES:

Yes, that's my understanding and that's what the aerial photograph shows, that it has been used as a nursery and I believe it still is.

CHAIRMAN SCHNEIDERMAN:

So it might have a fundamentally different rating if it was put through as a farmland preservation piece.

DIRECTOR ISLES:

I would imagine it would.

CHAIRMAN SCHNEIDERMAN:

My only concern is as we try to protect the Forge River and the water quality, that a nursery, although we want to preserve our agriculture, it's also pretty tough, though, in terms of its nitrogen and other potential pesticide type of contaminants that could enter the waterways. And it certainly seems like the community would like to see it remain a nursery. I think that that's what the speakers were suggesting; that it not be developed for housing but -- yet we've reviewed it as if we were to acquire it and it would become a -- I don't know. What would it become? Fallow farmland. It would just sit there, right?

DIRECTOR ISLES:

The review is based upon on the resolution that was submitted. We have not reviewed it based on our proposed farmland acquisition of development rights. That would be a separate review process. It would also -- that's a partial acquisition; here again, it's not a full fee so I'm not sure if the owner would have interest in that or not.

CHAIRMAN SCHNEIDERMAN:

Legislator Romaine, you're the sponsor here. Did you want to comment on this?

LEG. ROMAINE:

Yes, thank you. Although I'm not a member of this Committee I appreciate the opportunity to speak.

To begin with, the resolution was submitted because the owner has no interest in farming or selling the development rights. He is interested in selling it outright. And if not he intends -- at 4:00 today there will be a hearing at the Brookhaven Town Board to approve a subdivision. And then he'll sell it to a developer that will develop this as a subdivision.

Let me ask you a couple of questions. And I notice that the Planning Commissioner said there were no other County properties in the area. Does the County own any of the development rights nearby?

DIRECTOR ISLES:

We believe those are town development rights. We could check that. We're not certain that they're County development rights. They didn't come up on our map initially that we put together on Friday.

LEG. ROMAINE:

Yeah, forgive me. Because usually when I look at a map that you present, you usually present whether it's County or town owned. There's different colors and it's reflected on the map. Are these County or town owned in terms of development rights?

DIRECTOR ISLES:

I can't answer that at this time. Based on the preliminary review when we put this together they were not.

LEG. ROMAINE:

I'm going to say that your review was incomplete and hopefully you would be able to do a more thorough job as you go back and take a look at this.

Let me go on from there. You indicated Article Six; I think, Legislator D'Amaro raised that and you said it was consistent with Article Six one acre zoning. And the one acre zoning is where you don't have sewage treatment plants. People are allowed to develop their property because they have one acre to put a cesspool or septic tank and it diffuses the effluent. Are you aware, have you contacted the Town of Brookhaven Planning Department as to the town's recommendation for the development proposal for this? Are they looking to develop on one acre or are they looking to cluster on one half acre, which would in fact concentrate the effluent?

DIRECTOR ISLES:

We have been in touch with the Town of Brookhaven.

LEG. ROMAINE:

And are they building on one acre or are they looking to cluster on half acre?

DIRECTOR ISLES:

The Town of Brookhaven is not building this property. This is a privately owned parcel for which a subdivision application for a cluster subdivision has been filed with the Town Planning Board. As you indicated, there is a hearing on that today.

LEG. ROMAINE:

Right.

DIRECTOR ISLES:

I cannot speak on what the Town Planning Board will or will not approve. I can tell you that an application has been filed for a cluster subdivision on this property that appears to be consistent with zoning.

In terms of the point about the cluster and the effect of reducing down to half acre lots, from the terms of Article Six of the County Health Code, that would be immaterial. The County Health Code looks at overall density of the property, not the configuration of development.

LEG. ROMAINE:

Thank you. I would raise another question. Almost all of the Forge River watershed properties have been acquired, some as small as an eighth of an acre have been on the side of the Third Legislative District. This the first piece of property to come forward in the First Legislative District. This is 32 acres. This isn't an eighth of an acre or quarter of an acre or all the others.

But I will tell you today, that I am going to do an extensive review of the rating sheets of those small checkerboard parcels of property that I have voted for continuously on the Third District's side. And I voted for them because I understand the need to prevent more development, more sewer effluent reaching the river. And this is a perfect example -- this isn't a small parcel. This isn't the one eighth of an acre parcels or the one quarter of an acre parcels that we have developed time and time and time again. This isn't even the small little parcels in the Mastic/Shirley Conservation Area that we've purchased. I'm going to take a look at those rating sheets as well.

Because I have to tell you, your rating is extremely disappointing and it may have been a preliminary rating. This is 32 acres of land that is within 1500 feet of the headwaters of the Forge River. This is a major development that will have a major impact on the Forge River. And I am gravely concerned that this is treated the same way in the rating forms as the smaller parcels were treated on the other side, on the west side of the Forge and the west side of Bonds Road. It is -- and I am going to ask my staff to go back and look at each and every one of those ratings. And I am going to return to this Committee with my findings on that because this is nothing short of disturbing.

DIRECTOR ISLES:

We would welcome that. Those parcels are generally wetlands parcels or direct wetlands buffer parcels. Every rating form we've done is available for public inspection. I would welcome that from any one member of this body or any member of the public.

CHAIRMAN SCHNEIDERMAN:

That was also part of a larger planning study, was it not?

DIRECTOR ISLES:

Yes, it was part of both of both master list I and master list II.

CHAIRMAN SCHNEIDERMAN:

Legislator Beedenbender.

LEG. BEEDENBENDER:

Legislator D'Amaro can go.

CHAIRMAN SCHNEIDERMAN:

Legislator D'Amaro.

LEG. D'AMARO:

Yes, thank you. Just to follow up on that, then, when you say they were part of master list I and II, the smaller parcels, which Legislator Romaine is referring to, were part of those lists, those master lists, so they were targeted for acquisition even beyond what the rating may have been? We don't even do a rating for those parcels or some of them; is that correct?

DIRECTOR ISLES:

They're done as part of an overall comprehensive planning effort. So they're based strictly on environmental criteria and looked at holistically. And that's how the master list is generated. We use a lot of input from other agencies, from the towns and so forth. So that's how that list is generated. Here again, they're all environmentally scientifically based.

LEG. D'AMARO:

Okay. And the rating form here, Director Isles, what I hear coming from Legislator Romaine is that you're being accused of somehow incorrectly completing this rating form. Do you want to change anything on it now?

DIRECTOR ISLES:

At this point in time I have no changes to recommend. We certainly keep an open mind. If there's more information that's presented that changes the criteria in the forms, the rating in the form, we're happy to consider that. We always put these together as best we can. And if there's information we missed, we welcome that.

In this case we completed the form using our internal staff, professional environmental planners, the County Planning Department. We did also contact the Town of Brookhaven, head of Land Acquisitions at the staff level for the town. They indicated they had no interest in it from his standpoint as the Director of Land Preservation. He did not identify to us any other critical environmental factor or criteria that we need to take into consideration. But absolutely if there's information we've missed, I'm more than happy to reconsider it and come back to the Committee.

LEG. D'AMARO:

Well, I appreciate that. And I just want to assure you that I've had disappointing rating forms also. But when I'm disappointed I'm not going to take that out on you, not this Legislator.

LEG. ROMAINE:

Point of personal privilege, point of personal privilege. First of all --

CHAIRMAN SCHNEIDERMAN:

There's several people who want to comment here, Legislator Romaine.

LEG. ROMAINE:

Well, I just want to make something clear for the record.

CHAIRMAN SCHNEIDERMAN:

If you'll be brief.

LEG. ROMAINE:

Yeah, very brief. I made no accusation of our Planning Director. I just raised some interesting questions, that we've acquired a great deal of small parcels in developed communities north of Montauk Highway, on the west side of the Forge and the Ponds, that there was development all around those properties. And they were small parcels of property and we acquired them. And I voted for every one of those acquisitions because I believe in preserving as much of the land in the Forge River watershed.

I certainly did not mean to anyway impinge on the Planning Director or anything. I just wanted to point out that fact that stands out to me because I believe that this land should be preserved. And I did not mean to imply anything as far as our Planning Director was concerned and certainly make no accusation. I simply pointed out the fact that we have bought extremely small parcels in developed areas that were in the Forge watershed.

CHAIRMAN SCHNEIDERMAN:

Legislator Beedenbender.

LEG. BEEDENBENDER:

Thank you Mr. Chairman. While I can certainly identify with Legislator Romaine's desire to preserve a parcel of land that's located within his Legislative district, I'll echo what Legislator D'Amaro said in the sense that there have been parcels in my district that I sought to preserve that simply didn't have the rating and I've had to back off.

And, Legislator Romaine, while I understand, you know, your passionate defense and advocacy towards the preservation of this land, I guess I'm left with no other way to think, while I understand you said you are not suggesting that this was done differently, to raise the issue that you're concerned that this was treated differently because it's in a different Legislative district, I mean, that's what we have a professional planner and a planning department for. They rated it and it came up at 8. And while that's disappointing to go forward, I look to Tom and his department to give me that number and to give me that recommendation. And we've certainly acquired plenty of parcels in your Legislative district. So I just believe that it would be a little bit hard for me to believe that they are rating it any differently based on where they are.

So at this point, you know, if there is additional information, I'm confident that Tom will evaluate it and put it into the form and report back to us with whatever those changes will be, either in the positive or negative. But at this point, you know, I would offer a motion to table based on the rating alone. And if there is additional information that would lead this Committee to see a higher score, at that point my evaluation would change. But at this point at 8 points, I can't -- I would offer a motion to table simply because it's so low.

LEG. ROMAINE:

Thank you. And I just want to say thank you. I appreciate that. And certainly if you want table this, what I will try to do is develop additional information and bring it to the attention of our planning developer -- our Planning Director. And I will also seek the support from the Town Board and Supervisor Lesko for this acquisition. And I'm hopeful to get his support on this. I haven't spoken with him. But now in light of the fact of today, we will see even the town will join with the

County and we can develop additional point scores for this property. Thank you very much.

CHAIRMAN SCHNEIDERMAN:

I have something I want to say, too. But there was a motion to table. Is there second on the tabling?

LEG. D'AMARO:

Second.

CHAIRMAN SCHNEIDERMAN:

Second by Legislator D'Amaro. I want to -- I wasn't actually surprised by the rating on this. I raised a concern about the rating sheet itself because this was evaluated for its environmental sensitivity. And clearly, you know, there's no wetlands and there's no natural habitat on this property. I wouldn't be surprised to see a low score. We were quick, it seems, to dismiss the idea of preserving this for farmland, though, it may actually have a decent score as a farmland piece. There was a representation made by the sponsor that the owner wasn't interested in continuing to farm. It is possible, at least to me, that this could be -- there could be another entity that came in and stepped in, took a piece of it for farming, like a Peconic Land Trust type of thing. I'd love to see the farming continue on this property. I'd like to see it done in a way that was reducing pesticides or eliminating pesticides, reducing fertilizer so we can protect that Forge River.

So it's kind of the perfect scenario for setting up a purchase of development rights with a -- since we can't control the private sector farming but maybe through a not-for-profit type of farming entity, this land could be leased to an organic farmer maybe or something like that.

So I wouldn't mind a conversation with the owner. I don't know if the owner's here. But maybe that may be a better approach and certainly partnership with the town would help. But I think even if the town steps in as a potential partner on the full fee purchase, I don't think you're going to get the rating up to anywhere near what our threshold is. I think that's a route that's going to go nowhere. And maybe a better route would be to look toward preserving farming in a less environmentally adverse way. Just a thought.

And, Commissioner, if you have any thoughts on whether -- if this were rated as a farmland purchase, and I'm sure there's dwindling farmland in this area as well with all the development, how it might score on a rating, do you think it would hit the threshold?

DIRECTOR ISLES:

It's hard to say. Certainly the size is positive. The fact that it's adjacent to farmland is positive. And we can certainly do a form on that and just see what the rating would be based, here again, on the information we have available now. I think it would rate better as farm than it would as open space at least that.

By the way, the Farmland Committee meets on May 26th of this month. They meet bimonthly; so if there's an interest in doing that, it may be timely to go before the Farmland Committee if the owner is interested.

CHAIRMAN SCHNEIDERMAN:

To the sponsor, you might want to do a parallel resolution under the Farmland Program. At least you have the two things in motion.

LEG. ROMAINE:

The owner has no interest.

CHAIRMAN SCHNEIDERMAN:

Could he maybe -- or she doesn't have an interest in farming it. I'm not suggesting that this person or entity continue to farm it. That there might be another entity that could come in to farm it; that the owner could be out of the picture completely. But, you know, typically, and Commissioner,

correct me if I get these numbers wrong, but when we purchase the farmland, we're often paying them about eighty percent of the full value of the property anyway so that other twenty percent could potentially be purchased by a separate entity, potentially a not-for-profit that would lease it out to a local farmer or farm family.

DIRECTOR ISLES:

That's certainly possible. And it has been done in other locations. Whether it's possible here with the owner's position, I can't say.

CHAIRMAN SCHNEIDERMAN:

Didn't we do something like that in Syosset? I think that was the area. Vivian Fisher's district --

DIRECTOR ISLES:

Setauket you mean?

CHAIRMAN SCHNEIDERMAN:

Setauket. Thank you.

LEG. D'AMARO:

We don't have jurisdiction over Syosset.

CHAIRMAN SCHNEIDERMAN:

Setauket, thank you. Not yet. In Setauket. You know the property I'm talking about? It was a large farm and I think we bought it as a farmland but there was another group that was going to continue to farm it, not the current owner.

DIRECTOR ISLES:

You know, and actually we didn't do that. But I think that's a farm you're referring to. Peconic Land Trust has done it and we've done it in partnership with them, for example, the {Debra Light Preserve} where they could have done additional development on that property. And they've waived that as part of the development rights purchase. The concept has been talked about a lot. Peconic Land Trust has a farm in Southold where they've done that. And it's one of the emerging ideas, in how do we continue agriculture in Suffolk County. But, here again, in terms of specific examples by Suffolk County, our program is geared towards development rights acquisition, not towards a full fee with a lease back or a sale back at this time.

CHAIRMAN SCHNEIDERMAN:

Okay. So there's been a motion to table and a second. All in favor? Opposed? Abstentions? The resolution is tabled. **(Vote: 3-0-0-2 Legislators Cooper and Losquadro not present)**

Ed, do you want me to do North Fork Preserve out of order, 1202?

LEG. ROMAINE:

We have people from the North Fork Preserve. I believe Mr. Kaplan and Mr. Krudop and his mother are here. Yes.

CHAIRMAN SCHNEIDERMAN:

Okay. I'll make a motion to take resolution 1202 out of order.

LEG. D'AMARO:

Second.

CHAIRMAN SCHNEIDERMAN:

Second by Legislator D'Amaro. All in favor? Opposed? Abstentions? 1202 is now before us. **(Authorizing planning steps for the acquisition of land under the Suffolk County Drinking**

Water Protection Program, as amended by Local Law Number 24-2007, North Fork Preserve property, Town of Riverhead.) (Romaine)

I don't need if we need additional background on this. I know I did at the last meeting ask or inquired about property along the Sound whether there meet be some potential property for acquisition or any tax -- I think it was tax defaults properties that you guys looked into. And apparently there are none.

I don't know, Commissioner, if you looked at whether there might be some properties that could be targeted for acquisition. So if we are going to acquire a large parcel like this, we could provide a water access as well.

DIRECTOR ISLES:

Yes, we did look at the parcels along the Sound. What we're circulating right now is a revised map that is at a larger scale to look at this property. So that's number one, to note that it's a new map that gives you a broader picture of the site. I think it's easier to read than the prior map we submitted.

In terms of your point, Mr. Chairman, in terms of the parcels along the Sound, we did check with the Division of Real Property Acquisition and Management. They indicated to us that the County does not currently have any tax lien or tax foreclosed properties along this location.

Secondly, we did an examination of properties that we felt from a planning standpoint might be conducive to this. And if you'd like, we can actually show you detailed aerals. They are outlined in the overall map and labeled number one, number two, number three. They all have constraints to them. And they all had some problems with them. They're relatively narrow so there would be issues with securing the access, the management from the Park's standpoint. There are also issues with potential incompatibility with adjacent residential properties because they are relatively narrow lots.

And then lastly there are issues with the bluff around the Sound. And what Lauretta's handing out now are maps of each of the three parcels that were at least, we felt, candidate sites. And they also indicate the bluff heights. So our conclusion at this time is, number one, is that there are no tax default lots available. And, number two, the private lots that we examined appear to be problematic. It's obviously your call and the sponsor's call as to whether they want to add these in now or not, but we think they are problematic and should be carefully considered if at all.

CHAIRMAN SCHNEIDERMAN:

I guess on the issue of bluff height, the houses that are near these, they must have staircases and things like that to go down to the beach.

DIRECTOR ISLES:

Well, I think there's two issues. One is the maintenance of the idea, well, we're going to build a staircase for the public for County residents to then go down the bluff. And if you'll notice there's that ongoing issue of should the County be doing that, should the County be providing for that kind of access, what is the cost of that, what is the replacement cost upon damage to that stairway, what is the liability side of it.

And then secondly many of the properties along here which I didn't say it before have revetments where they're -- they have bulkhead and riprap material that's used to reenforce the bluff. It then introduces another problem in terms of potential erosion and the cost of securing our property if the County were to go ahead and buy the property. Potential if we didn't choose to do a revetment and that kind of erosion control measure, would we be then exposed to possible claims of damage to adjacent properties. I'm not going to go there but, here again, it's something we would be concerned about. I believe we dealt with this on a property in Shoreham as well, a similar kind bluff access issue.

CHAIRMAN SCHNEIDERMAN:

You know, I was, as you know, Supervisor of a town that had numerous waterfront properties, some of which where we did have municipal staircases down to -- several of them, to me that's not uncommon. It would be covered I'm sure under the County's insurance. But it just seemed, you know, I don't want to throw numbers out as to what it's going to cost to buy this 300 acre property, but it's not going to be insignificant. The cost of a stairway is probably insignificant. It connects to it so --

DIRECTOR ISLES:

Well, I think it's tied in with the whole -- a number of issues, not just -- that's just a factor we feel --

CHAIRMAN SCHNEIDERMAN:

If we're making a large, you know, significant County park, you know, on the scale of some of the other big County parks, you know, like Cedar Point or whatever, and I don't know what the potential use is here, but it seems it would be a much -- more widely used park if it had access to the beach. You're so close to the beach there. The residents along the shore probably don't want that, but it just seems like a -- certainly a natural addition to a park like this.

DIRECTOR ISLES:

Well, we furnish the information for your consideration. The only other point -- or two other points I'd like to make in terms of updates is attached to the aerial are two additional aerial photographs. And these are oblique aerials that look at five parcels. Three of them are located along the entrance to the North Fork preserved property. There are three lots with some agricultural and residential structures on them. And then the second map, 8 1/2 by 11 map, has two lots that are agriculturally used. Those are included in the acquisition resolution.

We would question that and feel that that -- you know, in terms of the buildings and so forth that are associated with the first three parcels, we're are not convinced that there's an appropriate County purpose to folding those into this acquisition. At this point we would feel that it would probably be best to remove those from consideration.

And then as far as the agricultural parcel, our records indicate that the town owns the PDR to the parcel to the north and -- which is the development rights. And, here again, for a full fee acquisition of those two lots we feel that that really wouldn't fit in to and be associated or attached to the County park that's proposed. So we feel that those probably should be eliminated from the resolution as well.

So we just wanted to bring that to your attention.

Secondly, we had mentioned this at the last meeting when we discussed this is that the resolution spoke of the Drinking Water Program. We just feel it should be amended to reflect if the resolution goes forward specifically the Open Space Program.

CHAIRMAN SCHNEIDERMAN:

Questions about ownership but I'll let Legislator Beedenbender ask a question and I guess we'll come back to me.

LEG. BEEDENBENDER:

Tom, I just wanted to clarify one of the things you just said. There's two parcels that are, I guess, what I would call the southeast corner of this map. The parcel right above it outlined in yellow is town owned development rights, you said?

DIRECTOR ISLES:

Right. The Town of Riverhead owns the development rights. The underlying fee is owned by one of the property owners involved with this property.

LEG. BEEDENBENDER:

Now did the town own the development rights -- they didn't own the development rights for the two that are two outlined in red.

DIRECTOR ISLES:

They do not.

LEG. BEEDENBENDER:

They do not. They are separate lots, I guess? Just seems kind of --

DIRECTOR ISLES:

(Indicating yes)

LEG. BEEDENBENDER:

Okay. Well, that seems -- you know, when I look at the closer map, it's easier for me to see that they're separated. And I guess I would agree with you it's somewhat confusing to me how we could use that to benefit the larger parcel, the 300 and some odd acre parcel that we're looking at over several lots. I'm not sure how that would tie in especially since they're not connected. And I guess that's a concern that you're raising.

DIRECTOR ISLES:

Yes, it is.

LEG. BEEDENBENDER:

All right. Thank you.

CHAIRMAN SCHNEIDERMAN:

Legislator D'Amaro.

LEG. D'AMARO:

Thank you, Mr. Chairman. Director Isles, also I've heard that there is -- I think we heard some testimony last meeting when we considered this that there's a dispute over the ownership, not of the parcel but of the entity that owns the parcel. And my concern here is whether or not if we go ahead and begin even planning steps, are we getting into the middle of the dispute; a private dispute where we don't belong? Do you have any information with respect to that?

DIRECTOR ISLES:

I do not. And I've heard about the same issue but it's not something that I'm knowledgeable enough to comment on.

LEG. D'AMARO:

Has a title searches been run yet? I assume not.

CHAIRMAN SCHNEIDERMAN:

No.

LEG. D'AMARO:

Well, not necessarily one that we ran, but do you have any title search that's been run on the property, anything preliminarily?

DIRECTOR ISLES:

We do not in County Planning, no.

LEG. D'AMARO:

I'm just curious whether or not a lis pendens had been filed or if there is any pending litigation with respect to the ownership issue; and whether or not there's a lis pendens on the property which could

go for quite some time if they're going to litigate the issues. But -- so we don't really have any information at all with respect to who to deal with if there's a proper party or an improper party to deal with as far as the ownership issue or do we know who we should deal with if we pass the resolution?

CHAIRMAN SCHNEIDERMAN:

This gentleman may have an answer. You'll have to identify yourself for our record purposes.

DIRECTOR ISLES:

I would defer to the County Attorney. They would have to research that at least for the department's perspective.

LEG. D'AMARO:

Okay. Thank you. A appreciate that.

Good morning.

MR. KRUDOP:

Good morning. My name is Robert Krudop. I'm the Director of the North Fork Preserve. There is litigation. There was litigation. We -- I guess some minority shareholders had sued the majority shareholders. And the case has been dismissed. Again, it was -- it was reargued and that was dismissed. And currently they're appealing it. There is no hold on us. There is nothing that can't stop us from going forward and taking a vote and selling the property.

If you have any questions, I can get you a hold of -- I can get you in touch with our attorney, Ron Rosenberg. And he can go ahead and answer anything or any concerns that your Counsel may have in reference to this property.

The number you can get me at -- I can read you a letter that our attorney has sent to Mr. Romaine in reference to the North Fork Preserve Incorporated.

"We represent Myron Kaplan, Janet Krudop, Robert Krudop, North Fork Preserve Incorporated. We have been made aware that recently in an apparent attempt to disrupt the process that the parties have made towards a potential purchase of the North Fork Preserve property by the County, an attorney for George Penny" -- who I have to let you know he owns one out of 150 shares -- "wrote to inform you that an appeal was pending in the Appellate Division, Second Department arising out of prior litigation between a group of minority shareholders including Mr. Penny against my clients relating to the North Fork Preserve. The pending appeal is without merit and should not delay in any way the Legislature's decision making process with regard to the potential purchase of the property. We are confident that the appellate division will affirm Justice Emerson's order dated January 10, 2008 in all respects which conclusively found that the defendants had no case and dismissed the complaint in its entirety. The defendants have already tried to undue Justice Emerson's order by moving to renew and reargue which motion was also denied in its entirety by the order dated September 25th, 2008. We have no doubt the Appellate Division will affirm. The decision on appeal is expected later this year."

If you have any questions for me, I'm here to answer anything.

LEG. D'AMARO:

Well, renew and reargue is just done pro forma on any litigation when you're dismissed. It's not uncommon. I'm concerned about the appeal, however, because if we're expending County resources in planning steps and it ultimately turns out that there's some merit to that litigation, and this is stopped in its tracks, then, we would be doing all of our efforts at taxpayer expense really wasting our time and money.

MR. KRUDOP:

Sir, we're not wasting your time or money.

LEG. D'AMARO:

No, you're missing my point then. I said if there was merit to the litigation, if that was decided on appeal.

MR. KRUDOP:

Sir, they're shareholders.

LEG. D'AMARO:

Okay.

MR. KRUDOP:

You have a corporation.

LEG. D'AMARO:

Right.

MR. KRUDOP:

You own a share of stock. They can't take that share of stock away from the owners of the corporation. The corporation only owns the -- I guess 170 acres that you're talking about.

LEG. D'AMARO:

Well, here's my concern. If the corporation's taking action in violation of the shareholders' rights, which we have knowledge of the litigation now, we might not necessarily be a third party at, you know, arm's length purchaser.

MR. KRUDOP:

All right. I'll give you this scenario.

LEG. D'AMARO:

Do you disagree with that?

MR. KRUDOP:

You have to rephrase the question.

LEG. D'AMARO:

Well, in other words we have knowledge of this dispute.

MR. KRUDOP:

Correct.

LEG. D'AMARO:

And of pending litigation on appeal. So are we now a third party purchaser at arm's length having that knowledge?

MR. KAPLAN:

I believe we can give an opinion about that.

MR. KRUDOP:

I believe that we'd have to consult with Ron Rosenberg and let you -- answer your question.

MR. KAPLAN:

We have an opinion about it. This is Robert Krudop. Myron Kaplan. The pending appeal is without merit and should not delay in any way the Legislature's decision making process. We're confident that the Appellate Division will affirm Justice Emerson's order, which conclusively found that the

defendants had no case and dismissed the complaint in its entirety. The motion to renew and reargue was also denied as we've said. And our Counsel's opinion is that we have no doubt that the Appellate Division will affirm the decision. And the appeal's expected later this year.

LEG. D'AMARO:

Okay, I appreciate that but it's not really responsive to my doubt or concern.

MR. KAPLAN:

I don't believe that we can offer the County any legal opinion about its status.

LEG. D'AMARO:

Because we really don't know the outcome of that appeal. And my only concern would be should you not prevail on the appeal, we're going ahead with knowledge of that lawsuit. So if we went ahead with our planning steps and evaluated the property, had an accepted offer, went to contract, there is a possibility having knowledge of the lawsuit that that contract could be struck by a court. That's my concern. Or even conveyance of title could you be reversed.

MR. KAPLAN:

To enter into a contract would require an affirmative vote of the shareholders of North Fork Preserve.

LEG. D'AMARO:

Which if it's taken in contravention of the minority shareholders' rights could be reversible.

MR. KAPLAN:

Presumably there's appeals and relief in every business matter. Presumably. But were there to be a majority vote of the shareholders, it is not likely that it would be found that there was any contravention of the minority shareholders' rights.

LEG. D'AMARO:

Let me ask this. How long until that appeal is decided; what's your time line or expectation on the appeal?

MR. KAPLAN:

Sometime toward the end of the year. And this is May.

LEG. D'AMARO:

Okay, thank you.

CHAIRMAN SCHNEIDERMAN:

Obviously these are issues that will have to be resolved. And think some of them will be resolved in the planning process. But I did want to ask, you know, we talked earlier about property in Greenport. It's a small municipality looking to -- to preserve it, turning to a larger governmental entity like the County. And the County certainly has been a significant force in preserving open spaces in Suffolk County, but sometimes you come upon very large properties that are difficult even for the County with its available funds. And I'm wondering if this is the kind of thing where we should at least try to interest New York State. And I know that they're having their own financial troubles. But state parks have, you know, significant holdings in our area as well. I don't know, have you had any discussions with the state on this property?

DIRECTOR ISLES:

We have not, but I will point out two things. One is that the state has taken ownership of the former Keyspan property, which is a short distance east of this and have intentions of opening that up for 300 acres of public access to Long Island Sound and the associated area. So they are doing a significant investment in this area that they recently committed to.

The second point is, certainly a good point in terms of sharing funding. In our initial conversations with the County Parks Commissioner, there was some concern for that in terms of -- if the state's going to be a partner, then this will be state park even if we're a partner. So that's what happens when the state wants to assert a superior -- a role in the property. And that can be perfectly fine. But I think there is some concern that if this is developed as a major County park with the intention of the County being able to program it and so forth, that that may not be the best arrangement. It's too soon for us to say with any complete degree of certainty.

But in answer to your question in terms of a preliminary evaluation, the state has significant investment down the road at the KeySpan property, the former KeySpan property. And that the opportunities for County activities, County park use here may be diminished if it is a state park participation. But that could be explored further.

CHAIRMAN SCHNEIDERMAN:

Any other questions? Legislator Romaine.

LEG. ROMAINE:

Yes, thank you. It would seem because of the legal question that you may want to table for another session, this has been tabled twice. I know my staff has been in touch with Planning. It never ceases to amaze me how I never heard about any of these additions despite all the discussions that my staff has had with Planning. I never heard about the concerns about the three parcels and then the other two parcels that were expressed.

So, Mr. Isles, what I'm going to ask you to do is I'm going to ask you to put all your concerns once and for all in writing or e-mail and get them to me in writing or e-mail so I can have them before me. Because this had been tabled -- it was tabled at the last meeting in March. It was tabled at the meeting in April. And now it's back before us and this is the first time I'm hearing about this. And I'm a little bit surprised about that because -- do you doubt for one question that I would go back to the owners of the property and ask about amending the resolution to take out the three parcels? And as far as the Sound parcels are concerned, that was never part of my original resolution. And I doubt that it's going to be part of it and we'll see who wants to add that but I don't.

But you did make a valid point about the three parcels and you did make a valid point about the other two parcels; but if I had known about that, I certainly would have contracted George and amended my resolution after I had spoken with the owners of the property to see if that was amenable.

So what I'm going to ask you to do is every recommendation you have about North Fork Preserve, since this looks like it's going to be tabled because of the legal issue, I'd like that in writing or by e-mail before the next meeting. And I believe the next meeting -- I know we meet -- June 9th is the Legislative meeting so eight days before that, probably June 2nd, I'd like to get that prior to June 2nd. Is that possible, Mr. Isles?

DIRECTOR ISLES:

In terms of the three parcels along the Sound, they've been investigated by the Department at the request of this Committee. In terms of the language on the resolution, we made that statement at the last meeting. We transmitted that to your office. I did not receive any further comment from your office. We are acting in good faith, Mr. Legislator.

In terms of the parcels identified today, in an assist to this Committee, we created a larger map on Friday to better illustrate this property and identify that those parcels under closer examination we feel are called into question. We rated this parcel as 36 points. We stand behind that. We rate it the way we see it.

We have no further comments at this time. If there's any further investigation that this Committee would like us to do or the sponsor would like us to do, please tell us what you want and we will do

the investigation. We have no further follow-up based on what we've been -- has been conveyed to us at this meeting. The legal follow-up is beyond the jurisdiction of the County Planning Department.

LEG. ROMAINE:

So you have no other further recommendation. So what I'm going to do is I'm going to get the minutes from the last two Committee meetings and this Committee meeting. And I'll use those as my basis for your recommendations. And I will proceed accordingly. I have no intention at the current time of offering anything in purple for acquisition. As far as the five parcels, the three and two, this is the first time I'm hearing about it. Unless my aide did not convey that information to me. And I doubt that that's the case. If this Committee asked you to investigate that, I would have appreciated at least a heads up. I was not a member of this Committee and I was not at the last meeting of this Committee.

So I will speak with the owners about your recommendations. I'm going to get it right from the verbatim minutes. But if you have any additional recommendations, what I would ask is that prior to the June 2nd meeting of this Committee, that you forward them either in writing to me or by e-mail because I would appreciate that; that would give me a heads up and help me better plan the presentation of this resolution of which I am a sponsor. Thank you.

CHAIRMAN SCHNEIDERMAN:

If I may, this is really only the second time this has been before this Committee. The last meeting -- this is an enormous acquisition. All right, maybe it is the third time. This is only the second time I recall discussing it. Quite a bit of this came at my request as Chair of this Committee to see how we -- if we are going to pursue an acquisition this large and create a significant County park, I want to make sure that, you know, we had potential -- we explored the access to the Sound, which would be, I think, very important as well as access to the property. And I thank the Commissioner for looking into some of these issues. And I think the prudent thing to do probably would be to table it so if you are going to amend, it sounds like you're not going to amend it to include or exclude any properties.

LEG. ROMAINE:

Well, you know, it's hard for me to say that because this is the first time I'm hearing those recommendations. And what I really have to do is talk with the property owner and see what their desire is. And based on their desire, because again we don't condemn property, we deal with property owners, based on that desire, you know, then I can amend the resolution accordingly. But had I had a heads up on this, even as late as Friday, I could have worked with George to do that and met the amendment deadline so that this could be considered accordingly.

But I guess I'll be prepared at the next meeting unless Planning has anything else. And as far as the other parcels, I'm going to not mix apples with oranges. And that's not to say that the parcels one, two and three in purple are something that I will not consider in the future but I'm not going to consider them now. That's separate and apart from the North Fork Preserve. And the other five parcels I'm getting this recommendation now. I'll meet with the owners of the parcels and discuss with them. And then if an amendment is appropriate, I will submit an amendment to this.

But what I'd like to know is if there's anything else that would present a last minute problem that Planning sees with this property, I certainly will appreciate a heads up so I can address it before the next committee meeting.

CHAIRMAN SCHNEIDERMAN:

I'll just add, I understand you don't want to put any of the one, two or three in, but when this -- as this continues to be reviewed --

LEG. ROMAINE:

As of now.

CHAIRMAN SCHNEIDERMAN:

-- it will affect my decision. If there's no Sound access -- I'm not saying I wouldn't support the acquisition here but it certainly would be much more appealing to me if it contained a way for users of this property to be able to walk down to the water there.

LEG. ROMAINE:

Those are separate acquisitions owned by separate property owners I believe. I don't believe they're the same owners.

CHAIRMAN SCHNEIDERMAN:

It would be a separate planning steps, I would think.

LEG. ROMAINE:

Right. It would be a separate planning steps. And that's something I would not mix apples and oranges. And I certainly won't put it together with this resolution. And if that is something that you think is worthwhile, and if the Committee is interested in supporting, it's something I'm certainly willing to --

CHAIRMAN SCHNEIDERMAN:

It might come down to just a simple easement. It might not even be a, you know, acquiring a whole developable lot, but a twenty foot wide strip somewhere that could get people down to the water.

LEG. ROMAINE:

Well, that's something for the Committee and the Planning Department to bring to my attention. And then I'll make a decision on that as the district Legislator. Certainly right now I do not wish to mix apples with oranges. And as far as the five parcels that were identified, that was part of the original resolution, I will talk with the owners. And if an amendment is appropriate, we certainly will make that amendment to that. And, again, I don't see Riverhead Town's farmland development rights highlighted on this map. Maybe that's me, but I think there's a separate color code for that as well and maybe I've missed it. But I'm looking at the North Fork Preserve map. And I know somewhere adjacent is Riverhead Town. I think maybe it was on the original one, yes, it was. The parcel immediately to the east just north of Route 25 is in fact a town land developments rights parcel. It isn't reflected on the bigger map but it's probably just color coding.

Anyway, I'm certainly willing to consider anything. But what I would like is someone to either e-mail me or send me something in writing as to their recommendations. Thank you very much.

CHAIRMAN SCHNEIDERMAN:

Legislator D'Amaro.

LEG. D'AMARO:

Yes, thank you. Just to close off the discussion, I would like also as part of my consideration if we're going to table this today to just ask the gentleman who was at the podium before if you can communicate with our County Attorney's Office with respect to that litigation. Ms. Lolis is sitting right in front of you from the Department of Law, just so if the issue should come up again and I have those concerns about the litigation, they'll be in a position to give us their opinion as well. I would appreciate that. Thank you, Mr. Chairman.

CHAIRMAN SCHNEIDERMAN:

I don't think there's been any motions yet on this. Am I right, Mr. Clerk? So is there a motion to table? Okay, motion to table by Legislator Beedenbender, second by Legislator D'Amaro. Any discussion? All in favor? Opposed? Abstentions. **So tabled. (Vote: 3-0-0-2 Legislators Cooper and Losquadro not present)**

TABLED RESOLUTIONS

All right let's go back to the beginning of the agenda now. Going back to 1285, it's a -- I didn't go back far enough here. Okay, tabled resolutions.

IR 1989-08, Authorizing planning steps for the acquisition of land under the Suffolk County Drinking Water Protection Program, as amended by Local Law No. 24-2007 (Cohen property Town of Riverhead) (Romaine) This is a little less than a half an acre. All right. There's a question as to whether this is already timed out. The six month time rule. I'll make a motion to table.

LEG. D'AMARO:

Mr. Chairman, I'll second the motion.

CHAIRMAN SCHNEIDERMAN:

All in favor? Opposed? Abstentions? **(Vote: 3-0-0-2 Legislators Cooper and Losquadro not present)**

2028, Adopting Local Law No. -2008, A Local Law to adopt a full cost disclosure policy for land acquisition resolutions. (Alden)

LEG. BEEDENBENDER:

Motion to table.

CHAIRMAN SCHNEIDERMAN:

Motion to table by Legislator Beedenbender, I'll second. All in favor? Opposed? Abstentions?
Tabled (Vote: 3-0-0-2 Legislators Cooper and Losquadro not present)

IR 1001, Authorizing the acquisition of land under the New Suffolk County Drinking Water Protection Program (effective December 1, 2007) open space component for the Drybrook Holdings LLC property - Town of Brookhaven (SCTM No. 0200-587.00-03.00-046.001). (Romaine) Any motions?

LEG. D'AMARO:

Motion to table.

CHAIRMAN SCHNEIDERMAN:

Second, I'll second.

LEG. ROMAINE:

Point of information. Could I ask what this scored on the rating sheet that the Planning Department prepared?

DIRECTOR ISLES:

Yes, this property is 12 acres of a larger area that was included in the resolution submitted by Mr. Romaine. And the original resolution rated at 25 points. We then looked at this site because this is the only parcel that's currently before the County for consideration for acquisition in a resolution. It's 12 acres as I said. And it rated 21 points by itself.

CHAIRMAN SCHNEIDERMAN:

And how was it zoned, this property?

DIRECTOR ISLES:

This property is zoned industrial L1 District in the Town of Brookhaven.

CHAIRMAN SCHNEIDERMAN:

Yes. And this review, I think your recommendation was we're waiting to see what happened with the other parcel, the larger parcel.

DIRECTOR ISLES:

Correct. It's both -- the other parcels that were included in the resolution that had this property. And then across the street are properties known as the AVR properties that are rather extensive. They were on the master list. And we did support the resolution initially on the idea that if the AVR properties were purchased and protected, that would make sense to include these properties. The AVR properties are not going forward, in terms of a County acquisition at this time.

So the question then becomes is this a fragmentation, is it -- does it have a critical mass? It's not near any other County properties, here again, along this roadway, in this area. It also has a practical problem with the fact that it's a very shallow depth parcel. It has a lot of frontage in a very isolated location. It may be conducive to dumping and littering and so forth. And it really has very low utility for hiking and so forth since it's such a shallow parcel. There are homes that back up to this.

So taken by itself, we would have reservations as reflected in the point score. If at some point this does generate into a larger acquisition program where there's significant County interest, our point of view would change at that time.

CHAIRMAN SCHNEIDERMAN:

This is an acquisition resolution. So we already have a contract with the owner. Is that correct? That's contingent upon Legislative approval?

DIRECTOR ISLES:

Yes.

CHAIRMAN SCHNEIDERMAN:

Any other discussion?

LEG. D'AMARO:

I just want to point out that the real merits of the property though lie with the contiguous properties that were on the master list. That resolution was passed a few years ago. When you say there's no movement or it's not going forward, I guess that means that the other owners of those parcels are not interested in selling. Is that accurate?

DIRECTOR ISLES:

Right.

LEG. D'AMARO:

And then since this property is standing alone, when you do your evaluation because of the rating at 23 --

DIRECTOR ISLES:

21 for this parcel alone.

LEG. D'AMARO:

21, 21. Okay. All right, thank you.

LEG. ROMAINE:

Just some quick questions.

CHAIRMAN SCHNEIDERMAN:

Legislator Romaine.

LEG. ROMAINE:

Yes. First of all, the AVR property is not in my district. It's in Legislator Browning's district. Secondly, let me ask you some questions about be this particular parcel of property. How close is it to the Pine Barrens core? Is it in fact adjacent to the Pine Barrens core?

DIRECTOR ISLES:

We don't have a map of the Pine Barrens in front of us, but our recollection, mine, as well Laretta Fischer who is a Principal Environmental Analyst with the County, indicates that the property is in the vicinity of the compatible growth area. The core is not on the map that was presented to the Committee which shows the surrounding area, the neighborhood and so forth.

You have industrial development along the south side of the Expressway to the west. And you have what we referred to before as the AVR property to the east. We can certainly provide you with an exact measurement if you would like or distance.

LEG. ROMAINE:

Yeah, I would appreciate that because the industrial development you talk about is off William Floyd Parkway and this is two or three, four miles east of that and south of that. And certainly that industrial property is nowhere visible. So to give the impression like it's right around the corner is not in fact the case. I would appreciate receiving from your office exactly how close it is to the Pine Barrens core and how close it is to the recharge area. If you could give me those measurements, I will certainly appreciate that.

DIRECTOR ISLES:

We would be happy to do so. The industrial is actually quite close and I'm looking at an aerial right now that I can see industrial buildings within the vicinity of the subject parcel. I'd be happy to share that with you. But we'll get you the exact distance.

LEG. ROMAINE:

Thank you.

CHAIRMAN SCHNEIDERMAN:

Okay. There is a motion to table and a second on this. All in favor? Opposed? Abstentions?
Tabled. (Vote: 3-0-0-2 Legislators Cooper and Losquadro not present) That was 1001.

IR 1021, Authorizing the granting of a permanent easement to the Suffolk County Water Authority for production, distribution and transmission of drinking water on drinking water protection lands of the County of Suffolk (SCTM No. 0200-300.00-01.00-005.001 p/o) (Romaine)

LEG. D'AMARO:

Motion to table.

LEG. BEEDENBENDER:

Second.

CHAIRMAN SCHNEIDERMAN:

Motion by Legislator D'Amaro, second by Legislator Beedenbender. Any discussion? Legislator Romaine.

LEG. ROMAINE:

Yes, could I ask my esteemed colleagues why they'd like this tabled? Or someone?

LEG. D'AMARO:

Am I esteemed?

LEG. ROMAINE:

Yes. In my eyes you are.

LEG. D'AMARO:

My understanding is it requires CEQ approval and that's not been acquired yet.

LEG. ROMAINE:

Okay. It's a technicality then that it requires CEQ, it hasn't been addressed at CEQ? I thought CEQ might have taken this up.

LEG. D'AMARO:

That's my understanding.

LEG. ROMAINE:

Okay. Can I ask, I see the County Attorney is here. Has it been put on the calendar for CEQ?

MS. LOLIS:

That I'm not sure. I believe it had to go to CEQ and to the Parks Trustees.

LEG. ROMAINE:

Okay.

MS. LOLIS:

The reason actually I came up is because this parcel's also part of a larger global agreement with the Water Authority involving, I mean, I can't even tell you how many parcels actually in complete satisfaction of one of our settlement agreements with them. Plus they would be giving us cash. The agreement has been finalized on our end as to form. It has been sent to the Water Authority for their review and approval.

LEG. ROMAINE:

Let me just discuss the purpose of this resolution and then I'll see -- who is responsible once this resolution has been -- because it has been tabled, I think, two or three times at this point, who is responsible in making sure that it goes before CEQ once it's on our agenda? Who would be responsible for scheduling that under the County Charter?

DIRECTOR ISLES:

It's my understanding it's the initiating unit is the term that's used in the County Code to define who starts the SEQRA process.

LEG. ROMAINE:

And who would be the initiating unit?

DIRECTOR ISLES:

Whoever started the proposal.

LEG. ROMAINE:

Well, actually made it to resolution.

DIRECTOR ISLES:

Okay. I can check with Mr. Bagg from CEQ. But the term that's always used is the initiating unit.

LEG. ROMAINE:

Would it be the Clerk of the Legislature that would be required to notify Mr. Bagg and the president of the Parks Trustees and the Parks Commissioner to put it on their agenda?

DIRECTOR ISLES:

I don't think it would be head of the Parks Trustees would initiate it because they're not the initiating unit.

LEG. ROMAINE:

No, no, no, no. It's initiated by my resolution.

DIRECTOR ISLES:

I can't answer. I don't know the answer to that question.

LEG. ROMAINE:

This parcel of property, for those who don't know where this is, I'll give you a brief description. If you go to exit 71 of the Expressway and you might take that if we ever open the Riverhead County Center again and we ever have meetings there; but if you're coming from the Expressway, you take exit 71, if you go down about a mile, a mile and a half, you will notice that there is a subdivision of homes on the north and south side of that road. This would be east and west, I guess it would be, because the road runs -- this would be in one of those off to the side, that area and the surrounding area are on Peconic River, which is still in the Town of Brookhaven. It's the most eastern part of the Town of Brookhaven. It's known as Peconic Lake Estates. They have no public water. They are very interested in getting public water. But there is no well facility nearby.

Furthermore, the Water Authority not only would need a well facility, but they'd need a pumping station because of the change in altitude. As you go up there's all hills in that area, they'd have to pump and that's what the parcel of land that I'm trying to give to the Water Authority an easement for so they could actually do that, provide a pumping station so when they install public water mains that they have an opportunity to reach everyone in this area. So that the thing.

Now, you're telling me that CEQ needs to be notified and apparently no one has done that. I don't know if it's Planning that does that or whatever and at the Parks Trustees. So what I'm going to do is something I didn't figure I would do as a Legislator because usually this is an administrative thing, I will have to write to CEQ and I will have to write to the Parks Trustees and ask them to put this on their agenda. I'm kind of surprised that I have to do that because you would think that this would be automatic, but I guess I have to do that in this particular case.

So I certainly would not object to this being transferred -- I mean tabled until I can get this on CEQ's agenda and the Park Trustees' agenda. It's just a shame that it had to linger for at least two sessions to be tabled because someone forget to mention that.

CHAIRMAN SCHNEIDERMAN:

Can I get some clarification on some issues regarding this? The property that you're looking, Legislator Romaine, to put the pipe, I guess it's a pipe thru, I guess under the ground, is that County parkland? Currently and is they're -- are there -- it's going to be fences or alienation of parkland type of issues that would come about from this type of easement.

And, Gail, you sound like you were working on this -- doing this a different way. Is that correct? Do I understand that?

MS. LOLIS:

Yes, we sometime last year started negotiating with the Water Authority through the County Executive's Office in an attempt to satisfy the \$1.5 million credit that we have from the settlement a couple of years ago, if you recall. So we were looking towards a global settlement. And they notified us of parcels that they may be interested in having an easement upon. And they provided us with a list. That list has been finalized on this end and that's part of this global agreement that now is in the Water Authority's hands.

They don't know specifically at this juncture where on any particular parcel they may want to place an easement or place a well. That's something that they're going to reserve and every time they designate a particular place we will come -- they will come back to us and we'll come back to the Legislature.

As far as alienation of parkland, because it's an easement to the Water Authority, we don't have a problem with that. The Charter permits us to do that because this was with Drinking Water.

CHAIRMAN SCHNEIDERMAN:

Is it parkland? Or it's always preserved for Drinking Water?

MS. LOLIS:

It was Drinking Water Protection. And this is one of the things that we can do with that.

CHAIRMAN SCHNEIDERMAN:

All right. So if this property's preserved for Drinking Water Protection, it wouldn't prohibit the placement of a water tower, whatever the types of structures that are related to delivery of water?

MS. LOLIS:

Yes.

CHAIRMAN SCHNEIDERMAN:

Okay.

LEG. ROMAINE:

Mr. Chairman, just simply add to that, my office has had extensive discussions with the Water Authority about bringing public water to the Peconic Lake Estates area. And this was a specific parcel that they spoke to us about. And this is the first time I'm hearing about a global settlement. Again, I'm not a member of this Committee. I'm glad I'm attending because you find out a great deal when you start raising questions.

But clearly this is an issue that is specific to a group of my constituents, we're looking forward to getting public water. And I don't know about any global settlements, but unless a global settlement can tell me that they're going to solve this problem sooner than later, this resolution I'm going to try to get this committee to consider, I understand it should be tabled now because it has to go to CEQ and Parks Trustees. And I guess no one submitted it and I'll find out who is responsible under the Charter for submitting it, but I will submit it now. But when it's gone that course through CEQ and through Parks, this will be back because I'm looking to get my constituents public water. Unless the County Attorney can assure me in writing that this parcel is going to be part of that global settlement and this resolution is unnecessary, this is a question of providing people that have water that is of questionable value with clean public water as soon as possible.

And even under the most rosy of scenarios should my resolution pass, they probably won't see it for another year. So I am going to proceed with all speed, although government sometimes moves like a glacier, to get this done and not depend on others to do their job. I will do it for them and I will submit this to CEQ and the Parks Trustees. And when that gets approved I will be back before this Committee to seek approval of this resolution because it meets a very specific need. And it addresses a very specific request from the Suffolk County Water Authority and I will share with you all the correspondence with the Water Authority. Thank you.

CHAIRMAN SCHNEIDERMAN:

Legislator D'Amaro.

LEG. D'AMARO:

I would like to address this to Ms. Lolis or to our Counsel. The resolution includes a form agreement of an easement. It's attached as exhibit C. Do we normally grant easements without a description

or a negotiated signed agreement from the Water Authority in this case? I mean, are we approving the form agreement or are we approving something more? It seems to me that that document has just with all the blanks in it, there's something that still needs to be negotiated. So if we voted to approve this resolution, are we approving and locking you into this particular agreement or is this going to be a negotiated document?

MS. LOLIS:

What I recall --

LEG. D'AMARO:

Have you seen the easement agreement attached to this resolution? Is it accurate? Is it negotiated? Had it been signed? Is there a legal description so we know what we're voting for? You know, those are my questions.

MS. LOLIS:

I'm not looking at it right this second. But if I recall it was the form easement that had been used in the past. We have changed procedures with the Water Authority as far as easements were concerned because of the differences in terms of what the value of those easements are. So we are not necessarily following those forms. This is -- that is a negotiated -- that is a form that needs to be negotiated, but in any event the value of this easement is included in that larger global agreement.

LEG. D'AMARO:

Okay. I appreciate that, but it seems to me that if we're going to vote on the resolution, shouldn't the Water Authority sign the easement agreement first before we vote?

MS. LOLIS:

You should have something before you that know what you're approving in terms of value.

LEG. D'AMARO:

Because really all I'm saying is, yeah, I'll give you an easement, but I'm not even defining that easement.

MS. LOLIS:

That's correct.

LEG. D'AMARO:

So this -- just through the Chair to the sponsor, I think we need to have an executed agreement from the Water Authority to consider the resolution as well.

LEG. ROMAINE:

Legislator D'Amaro, thank you. Because you have given me yet another step to do, which I'll be happy to do, but it would prevent the last minute replacement bill being introduced to defeat this resolution. I will make sure that the Water Authority does have an easement agreement before you. Right now it's probably going to be tabled for a couple of sessions before CEQ and the Parks Trustees deal with it. As soon as that is dealt with and this is back before you, I will have reused the form easement agreement that the County Attorney has used repeatedly with the Water Authority. So we thought that we were doing the right thing, again I'm not an attorney, but you make an --

LEG. D'AMARO:

Ed, I'm just -- I'm more concerned about the legal description of the easement.

LEG. ROMAINE:

Right, right. But you make an excellent point and I will make sure that there will be a legal description in that and I deeply appreciate that because I can see this happening, you know, after we did all the other steps that someone would say, *oh, but wait a second*.

So I will absolutely make sure that there's a legal description of the property. And what I will do is when we have that signed from the Water Authority, we will actually send that over to the County Attorney's Office so that no one can claim oh, we didn't see this. And make sure that it's there so it can be reviewed and then every T is crossed and every I is dotted. And I appreciate that information. Thank you very much.

LEG. D'AMARO:

You're welcome. That's a separate issue from whether or not this is included in the other agreements that are being negotiated, but just to move this one along, I figured. Okay.

CHAIRMAN SCHNEIDERMAN:

Gail, I didn't follow all that in the settlement. It sounded like the Water Authority owes the County a certain amount of money. Is that right or did I get that part wrong?

MS. LOLIS:

No, we owe them.

CHAIRMAN SCHNEIDERMAN:

Oh, we owe them. Okay, so we would be paying them off rather than in cash in easements.

MS. LOLIS:

Correct.

CHAIRMAN SCHNEIDERMAN:

Okay. And I'm not sure whether we need a meets and bounds description but it certainly before we could authorize an easement, we'd have to have a fairly discernable description, whether it's a 20 foot wide easement along the northern boundary or whatever it might be, you know. Because otherwise who knows what we gave away. We'd have to have the approximate value and all of that.

So, you know, and I don't think Legislator Romaine, anybody's attempted to hold this up at all. It sounds like everybody agrees that we should at least make a good effort to get these people good quality drinking water. And it sounds like the administration is moving in that direction, you're moving in that direction. And we kind of have to work together and make sure it moves quickly.

Was there a motion on this? I think there was a motion and a second to table. Okay. All in favor? Opposed? Abstentions? **It will be tabled. (Vote: 3-0-0-2 Legislators Cooper and Losquadro not present)**

Okay. It sounds like we're up to **1120, Authorizing the acquisition of land under the New Suffolk County Drinking Water Protection Program (effective December 1, 2007) Hamlet Greens, Hamlet Parks or Pocket Parks component - Grace Presbyterian Church property, Town of Brookhaven (SCTM No. 0200-392.00-03.00-017.000). (Beedenbender)** Legislator Beedenbender, what's your pleasure here?

LEG. BEEDENBENDER:

I'll make a motion to table, Mr. Chairman.

LEG. D'AMARO:

Second.

LEG. BEEDENBENDER:

Hopefully the next time around we'll be able to move forward on this. The Town of Brookhaven just needs to complete a resolution that would -- the sponsoring agreement to allow us to move forward.

CHAIRMAN SCHNEIDERMAN:

Okay. There's a motion by the sponsor to table, second by Legislator D'Amaro. All in favor? Opposed? Abstentions? **1120 is tabled. (Vote: 3-0-0-2 Legislators Cooper and Losquadro not present)**

1138, Authorizing planning steps for the acquisition of land under the Suffolk County Drinking Water Protection Program, as amended by Local Law No. 24-2007 (Lang property - Town of Shelter Island) (SCTM NO. 0700-018.00-030.00-004.000). (Romaine) This is 11.57 acres. This is that square shaped property not on the water but stepped in from the water, near, I think, the landfill area, the former landfill site. And the Town of Shelter Island expressed no interest in partnering.

DIRECTOR ISLES:

When we spoke to the town they expressed no interest to the town supervisor.

CHAIRMAN SCHNEIDERMAN:

All right. So I'll make a motion to table. Maybe the sponsor can look into that issue with the Town of Shelter Island.

LEG. ROMAINE:

Can I ask just a question? What did this property rate on the rating form?

DIRECTOR ISLES:

13 points.

LEG. ROMAINE:

13 points, okay. Mr. Chairman, I will speak with the Town of Shelter Island and the supervisor and town board members regarding this property. I will also make them aware, I guess we have it online, the rating form. And I will make them aware of the rating form and then seek to decide what to do, whether to keep this an active resolution or withdraw it. Thank you.

CHAIRMAN SCHNEIDERMAN:

Tom, the partnership, how many points does that get you?

DIRECTOR ISLES:

Five points.

CHAIRMAN SCHNEIDERMAN:

So that would bring it up to 15. It's still pretty far below the threshold.

DIRECTOR ISLES:

It'll bring it 17.

CHAIRMAN SCHNEIDERMAN:

Oh, I'm sorry, 17.

DIRECTOR ISLES:

Yeah.

CHAIRMAN SCHNEIDERMAN:

What was their original, it was --

DIRECTOR ISLES:

It'd be 18, yeah. 13 points, yeah.

CHAIRMAN SCHNEIDERMAN:

18. It was 13 and adding five so it brings it to 18. And the threshold for your recommendation is what, 25? Is that --

DIRECTOR ISLES:

Right.

CHAIRMAN SCHNEIDERMAN:

So just bear that in mind, Legislator Romaine, that it still would be below the threshold.

LEG. ROMAINE:

As I said, Mr. Chairman, I will discuss this with the Shelter Island Town Board. I'll be out there next week and I'll meet with the supervisor and discuss this specific thing with him. Thank you.

CHAIRMAN SCHNEIDERMAN:

Okay.

LEG. BEEDENBENDER:

Motion to table.

CHAIRMAN SCHNEIDERMAN:

All right. There's a motion to table by Legislator Beedenbender, second by Legislator D'Amaro. All in favor? Opposed? Abstentions? **1138 is tabled. (Vote: 3-0-0-2 Legislators Cooper and Losquadro not present)** We did 1202 all ready. Moving onto introductory prime.

INTRODUCTORY PRIME

IR 1285, Making a SEQRA determination in connection with the proposed replacement of retaining wall at Indian Island Golf Course, Town of Riverhead. (Pres. Off. Lindsay) I'll make a motion to approve and place on the consent calendar.

LEG. D'AMARO:

Second.

CHAIRMAN SCHNEIDERMAN:

Second by Legislator D'Amaro. All in favor? Opposed? Abstentions?

APPROVED and placed on the CONSENT CALENDAR (Vote: 3-0-0-2 Legislators Cooper and Losquadro not present)

1286, Making a SEQRA determination in connection with the proposed acquisition of land for open space preservation purposes known as the Seatuck Cove - Widenor property, Town of Brookhaven. (Pres. Off. Lindsay) Same motion, same second, same vote. **APPROVED and placed on the CONSENT CALENDAR (Vote: 3-0-0-2 Legislators Cooper and Losquadro not present)**

1287, Making a SEQRA determination in connection with the proposed improvements to CR 39, North Highway, EIP from CR 38, North Sea Road to NYS 27A Montauk Highway, Phase III, Town of Southampton (CP 5528). (Pres. Off. Lindsay) Same motion, same second, same vote. **APPROVED and placed on the CONSENT CALENDAR (Vote: 3-0-0-2 Legislators Cooper and Losquadro not present)**

1298, Making a SEQRA determination in connection with the proposed replacement of the irrigation system at Charles R. Dominy County Park a/k/a West Sayville Golf Course, Town of Islip. (Pres. Off. Lindsay) Same motion, same second, same vote. **APPROVED and placed on the CONSENT CALENDAR (Vote: 3-0-0-2 Legislators Cooper and Losquadro not present)**

present) 1315 we've already done.

1328, Making a SEQRA determination in connection with the proposed construction of highway maintenance facilities, salt storage building, CP 5048, Hampton Bays, Town of Southampton. (Pres. Off. Lindsay)

Same motion, same second, same vote as 1298. **APPROVED and placed on the CONSENT CALENDAR (Vote: 3-0-0-2 Legislators Cooper and Losquadro not present)** We did 1338 so we're up to 1359.

1359, Approving planning steps for the acquisition of Farmland Development Rights - March 2009. (Co. Exec. Levy) It's a total of 56 and a half acres in three different parcels.

DIRECTOR ISLES:

Mr. Chair, aerial photographs and rating form -- or aerial photographs are being circulated right now. They do include rating forms, I believe. If not, they're in the package with you.

Let me point out that there are three properties in this resolution, three sites. This resolution, however, is being amended today and it will be two sites. So I'd like to go over those sites at this time.

Number one is the Harbes Farm, which is located in Mattituck. This is a 20 acre parcel that is proposed for the planning steps for the consideration of the County's Purchase of Development Rights Program. The aerial photograph indicates the subject parcel in red and indicates the areas that are proposed to be excluded, which includes a wooded area on the north end and a residence on the south end of the property. There is Riverhead Town PDR in this vicinity as well as jointly owned County and town PDR further to the west.

This was reviewed by the Suffolk County Farmland Committee. And the Farmland Committee generated a rating of 17.5. If you have any questions -- and by the way the rating on the farmland is a little different from the open space. It goes from zero to 25 and the so called guideline is ten points for a so called passing grade.

The second farm is item number three on your list, which is the Pappalardo property and this is 9.5 acres of land. This is a larger parcel that totals 37 acres in Calverton also in the Town of Riverhead. It is -- a portion of this site has been requested by the property owner to be included in the County Farmland Preservation Program. It is depicted in the blue line on the map before you. It totals about nine-and-a-half acres. This was reviewed by the County Farmland Committee. It did achieve a score of 11.25. It does meet minimum requirements of seven acres and so forth to qualify for the program. So on that basis on soils the committee has recommended it to you. We do indicate in the map, here again, other PDR property that we're aware of in this vicinity just for your reference.

If you have any questions we'll do our best to address those questions.

LEG. BEEDENBENDER:

You said you're amending it so you would like us to table it.

DIRECTOR ISLES:

The County Executive will be submitting an amended attachment A to this resolution so to go from three farms to two farms. So I think it can go forward on that basis.

LEG. BEEDENBENDER:

Right. But the reason -- I would ask this to Counsel, the attachment A in a situation like this is part of the resolution, it references it directly. So if it's not in its final form right now --

MR. NOLAN:

We could vote it out of committee. They have until five o'clock today to amend this resolution. So

you could discharge it perhaps without recommendation. If they make the amendment today then it will be eligible for a vote on Tuesday.

LEG. BEEDENBENDER:

Okay.

MR. NOLAN:

If they don't, it won't be.

LEG. BEEDENBENDER:

All right. Well then I'll offer the motion to discharge it pending the amendment without recommendation, yeah, to the floor.

LEG. D'AMARO:

Second.

CHAIRMAN SCHNEIDERMAN:

All right. There's a motion by Legislator Beedenbender to discharge without recommendation, second by Legislator D'Amaro. All in favor? Opposed? Abstentions? Okay. It's **discharged without recommendation. (Vote: 3-0-0-2 Legislators Cooper and Losquadro not present)** Okay.

We are up to **1363, Amending the Adopted 2009 Operating Budget to transfer funds from Fund 477 Water Quality Protection, from the program ending November 30, 2007, amending the 2009 Capital Budget and Program, and appropriating funds in connection with stormwater remediation to County Road 36, South County Road, at Patchogue and Bellport Bays, Phase I, Town of Brookhaven (CP 8240.321). (Co. Exec. Levy)**

Commissioner, if you want to add any information. Commissioner Gallagher's not here. I don't know if Director Isles has that information.

LEG. BEEDENBENDER:

I think Mr. Hillman is here. But for the purposes of discussion I'll offer a motion to approve.

LEG. D'AMARO:

Second.

CHAIRMAN SCHNEIDERMAN:

Okay. There's a motion to approve by Legislator Beedenbender, second by Legislator D'Amaro. The motion's before us.

MR. HILLMAN:

Good afternoon.

LEG. BEEDENBENDER:

You gotta hold your finger on the mike, Bill. We're all learning. It's like a complete retraining.

MR. HILLMAN:

Yeah, this isn't going to be good for me. This project was approved by the Water Quality Committee a number of years ago. Probably three -- three, four years ago. There was -- I'm not exactly sure how it transpired, but the funding was never appropriated. So we're -- the job is fully designed, we're ready to go -- we will be ready to go to construction shortly and we're just waiting on the funds. Originally, we were asking for about \$2.8 million. That unfortunately is not available in the Water Quality funding at the moment. So we've scaled the job back and I believe there is 2 million available in Water Quality funding. We've worked it out with Commissioner Gallagher so we're hoping that -- move forward with our project. If you want any details on the County Road 36

project, I'd be more than happy to expand on it.

CHAIRMAN SCHNEIDERMAN:

Any questions for Mr. Hillman? I just wanted to take a moment to look at the memo I have about availability.

LEG. D'AMARO:

What do you get for \$2 million on a County road?

MR. HILLMAN:

We will be addressing eight direct discharges to both Patchogue Bay and Bellport Bay and we'll be treating those direct discharges prior to their direct discharge. So the stormwater will be treated.

LEG. D'AMARO:

How is it treated? Through what facility?

MR. HILLMAN:

It's called a vortex baysaver catch basin. It essentially -- this is bad because I talk with my hands all the time. It's about 20 foot long depending on the volume of water. It has a first chamber what's called a swirl separator and it holds your solids. It then has a weir system that the water goes below a weir and that next chamber holds your oils and then finally it discharges and they -- it's a recommended product by both the EPA and New York State DEC for stormwater mitigation. And they say when you remove the solids and the oils your -- it's 90% of the battle. So it's a good -- very good first step. And it is expandable. If, for instance, we determine that there's a phosphorous problem in the future, you can add things onto the discharge to maybe take care of that phosphorous, but right now it's the best technology available and it's recommended like I said by both the EPA and DEC.

CHAIRMAN SCHNEIDERMAN:

Who does the maintenance? Does DPW or does Town of Brookhaven do that?

MR. HILLMAN:

Yeah, that's the other good thing about this. We do the maintenance inhouse. But because of the size of this, that first chamber is the most of the structure. And we're able to maintain this probably on like an annual basis. And you pop one manhole cover, stick a vac hole and suck everything out. So it's one location, one manhole cover, but large quantities of material come out. So it's fairly maintenance friendly.

CHAIRMAN SCHNEIDERMAN:

Okay. Let me ask Kevin from BRO, is the money available for this?

MR. DUFFY:

We are not sure. What has happened is that for the last eight years in Operating Reviews we've been discussing the idea that reserves should be established. The Water Quality Program was amended in 2007. And as you'll see, the resolution refers that it's seeking to take money from the program ending November 30th, 2007. What this does, and you'll see on our memo, it does not then have to go through the Water Quality Environment Review Committee that was set up in 2007, which all of the new projects do.

What we've discussed and we don't have, is that when the program was amended, both the land acquisition components, open space and farmland, they were combined. And what we've looked for and what we've discussed and what the Legislature has wanted is the Legislature has wanted reserves to be established in the budget so we can see the amount of funding that is available.

What we did and what we discussed in our Operating Review is we attempted to breakdown the operating and capital expenses. We showed capital expenses that occurred in 2008 as being

charged against the earlier program, which would leave an ending balance of one million, one ninety-seven, twenty-five, which is less than what they're asking for. That's on page two of our April 27th memo.

CHAIRMAN SCHNEIDERMAN:

Right. Well, then, no, that's important. Before you said, you know, when we reauthorized the Quarter Penny the farmland and the open space components were combined. But the Water Quality component was still kept as a separate fund. Was it not?

MR. DUFFY:

What happened with the Water Quality Program is a stewardship function was added, which had different criteria from the original program. So what should have occurred at that point is that the projects that -- the balance of funds being available as of 11/30/2007 had different criteria is what has occurred because the stewardship was added.

We have said and we've written this, I guess, in the last two Operating Reviews that the Executive should establish reserves. Actually we've said this since the start of the program in 2000. That reserves should be established for the five components. When it was amended, two of those components, the open space and farmland, there was now a third land component, which was a acquisition of land after 2007 which had different criteria. Because what would happen, you should only be able to spend the funding on the type of programs that were authorized. With Water Quality, Water Quality the amount of funding was increased but also a stewardship component was added.

CHAIRMAN SCHNEIDERMAN:

But this project would have been appropriated under the old program or the new program. And it was approved, what, under the old program.

MR. DUFFY:

Well, if you're under the new program it would have to go before the Water Quality Protection and Restoration Review Program.

CHAIRMAN SCHNEIDERMAN:

It has apparently gone before that committee.

MR. DUFFY:

Well, if you look on page three of our report, which we copied from what Commissioner Gallagher gave us, it has approved by Water Quality Review Commission, I believe it's the CR 36 stormwater remediation, which does not have an approval date, but has the amount that Mr. Hillman said, the \$2,780,000.

CHAIRMAN SCHNEIDERMAN:

Right. But Mr. Hillman said it had been approved. So there's some confusion there as to maybe since this memo because this memo's, I think, is a few months old at this point. Or no?

MR. DUFFY:

Our memo came out April 27th.

CHAIRMAN SCHNEIDERMAN:

Oh, April 27th so it's very recent. All right. Do we have an answer whether it has or has not been through Water Quality Committee?

MR. HILLMAN:

Yeah, I do have specific dates, yes. May 19th, 2006 it went through as two specific projects. One for the Bellport Bay, one for the Patchogue Bay. And the first was in the amount of \$1.8 million, which was the Patchogue Bay. The Bellport Bay was \$980,000. Both were approved on May 19th,

2006 by the Water Quality Committee.

MR. DUFFY:

That's a different committee from the one that now exists. That's the committee that was established under resolution 659-2002, which at that point Legislative Counsel said that resolutions that came before the Legislature, since this was merely advisory, the Legislature could submit resolutions without that. When the law was amended under Local 24-2007, section 12 2b states that all projects that'd be subject to the approval of the Suffolk County Legislature after review and submission of the recommendation by the committee.

What we have discussed in our memo is that yes, the Legislature can approve a project even if it's not recommended by the committee, but the committee first has to make its recommendation before the Legislator votes. So the point we're making or the --

CHAIRMAN SCHNEIDERMAN:

So the new committee, not the old committee, you're saying.

MR. DUFFY:

Correct.

CHAIRMAN SCHNEIDERMAN:

I'm thinking of a of legal question, but and then -- so we have a couple questions. We have a kind of procedural legal question and we also have an accounting question. Right? As to whether the funds are available, whether --

MR. DUFFY:

The question is we're under the old committee and there are old funds available, which we are not certain of because the Operating Budget does not break down what the reserves are for the original Water Quality Protection and Restoration Committee.

CHAIRMAN SCHNEIDERMAN:

And, Bill, you guys are ready to go with this. Right?

MR. HILLMAN:

Yes, that's correct.

CHAIRMAN SCHNEIDERMAN:

You know, I don't want to hold it up, but we can't approve it either. So why don't we discharge it without recommendation with the hope that maybe we can get some of these questions answered by the time it hits the floor. Are you guys okay with that?

LEG. D'AMARO:

What?

CHAIRMAN SCHNEIDERMAN:

To discharge it without recommendation so we don't holdup, because DPW's ready to move forward on the project, but we have a legal question and we have a financial question. We don't know if we have the money. And we don't know if we followed the proper procedures, so. I would be okay with discharging without recommendation.

LEG. BEEDENBENDER:

Yes, I would -- we could discharge it. Discharge it without recommendation pending to find out if we can actually pay for it. It seems like a, you know, important question. I mean, we can follow our procedures but we certainly can't make money, so. So I'll offer the motion to discharge without recommendation.

CHAIRMAN SCHNEIDERMAN:

Okay. So a motion on 1363 by Legislator Beedenbender, discharge without recommendation, second by Legislator D'Amaro. All in favor? Opposed? Abstentions? Okay. **1363 is discharged without recommendation. (Vote: 3-0-0-2 Legislators Cooper and Losquadro not present)** Hopefully Commissioner Gallagher will be able to be there too when it's discussed at the meeting.

1374, Authorizing the acquisition of Farmland Development Rights under the New Suffolk County Drinking Water Protection Program (effective December 1, 2007) for the Hilty property - Hilty Horse Farm Town of Riverhead (SCTM No. 0600-045.00-01.00-013.002 p/o). (Co. Exec. Levy) This is an 11 acre property.

DIRECTOR ISLES:

If you'd like me to start, just giving the rundown on this. The forms and aerials are being circulated by our Planner, Jessica Kalmbacher, who oversees the County Farmland Program for the Planning Department.

This was a planning steps resolution about two years ago, as I recall. And, pardon me, about 14 months ago. The site is located in the Town of Riverhead in the Hamlet of Northville. It is along the east side of West Lane. It is depicted on the aerial photograph with the red ink and it indicates the area to be excluded or retained for development purposes as the retained acreage. The net acquisition area is 11 acres out of the total 13 acres on the parcel.

Here again, it was reviewed by the Farmland Committee originally back in January of 2008. It achieved a point score of ten points. Here again, the Farmland Program is scaled zero to 25. I will point out that it appears that it would gain another two points if it were to be evaluated today based on the price per acre so it would actually go up to approximately 12 points. And at that time the rating was a scale of a maximum of 22 points.

The acquisition before you then is for consideration then for a purchase of development rights for 11 acres at \$73,000 an acre. Based on the acreage under the current estimate it would be a total acquisition of \$803,000. Here again, this has gone through the process with the Real Property Acquisition and Management Unit as well as the Environmental Trust Review Board and negotiated with the property owner.

If you have any questions, I'll do my best to address those questions.

LEG. BEEDENBENDER:

Tom, just to refresh my recollection, it is out of 25, but ten is usually the standard that we use for farmland?

DIRECTOR ISLES:

Yes.

LEG. BEEDENBENDER:

Okay. Thank you.

DIRECTOR ISLES:

You're welcome.

CHAIRMAN SCHNEIDERMAN:

Any other questions? Do we have motion on 1374? I'll make a motion to approve.

LEG. D'AMARO:

Second.

CHAIRMAN SCHNEIDERMAN:

Second by Legislator Legislator D'Amaro. All in favor? Opposed? Abstentions? **1374 is approved.**
(Vote: 3-0-0-2 Legislators Cooper and Losquadro not present)

1375, Authorizing acquisition of land under the Old Suffolk County Drinking Water Protection Program [C12-5(E)(1)(b)] - for the Long Island Realty Company property - Pine Barrens Core - Town of Brookhaven (SCTM No. 0200-461.00-03.00-027.000). (Co. Exec. Levy) About 14.4 acres.

DIRECTOR ISLES:

Okay. As indicated, this is Pine Barrens core property. The map is being circulated by Laretta Fischer. This is located between the Long Island Expressway and County Road 111, on the north side of the Expressway. By way of reference the Pine Barrens Trail Center is across the street from this site and directly abuts extensive County holdings in the Pine Barrens core.

Here again the subject parcel's outlined in red. It's about 14.4 acres. As I indicated, there are County parcels to the east. There are also on the map, you can see County parcels to the west. So it is an area that is, here again, highly important and the acquisition itself, here again, consists of 14.4 acres. The acquisition price is \$365,300. Here again, this has gone through the ETRB process. The program under which this is proposed for acquisition, the acquisition resolution is the Old Drinking Water Program, the 12-5(E) Program.

If you have any questions, I'll do my best to address those questions.

CHAIRMAN SCHNEIDERMAN:

All right. We have a couple of questions.

LEG. D'AMARO:

What is the rating?

CHAIRMAN SCHNEIDERMAN:

The rating on this?

DIRECTOR ISLES:

This is a core parcel so it was preapproved years ago by the Legislature, I think 2002.

CHAIRMAN SCHNEIDERMAN:

Can I ask, Tom, the price is that based on a development credit price or is -- it doesn't -- what's the total price on that?

DIRECTOR ISLES:

\$365,300.

CHAIRMAN SCHNEIDERMAN:

Right. Oh, it's 7000 per acre?

DIRECTOR ISLES:

7000 per acre for the residual and 115,000 for the Pine Barrens credit. And there's a certain percent assumption or estimate of Pine Barren credit yield, which I think was 2.3. I'll defer to Real Estate on that.

CHAIRMAN SCHNEIDERMAN:

So that's the going rate these days for those credits, about 115,000?

DIRECTOR ISLES:

At the time of the appraisal and the review, that was the number that was generated and accepted by the Interim Review Board and the ETRB. Here again, I'll defer to Real Estate for more questions

on the appraisal, if you have any.

CHAIRMAN SCHNEIDERMAN:

How long ago was that reviewed?

MS. LONGO:

I don't know. Not that long ago, where it's coming up now.

CHAIRMAN SCHNEIDERMAN:

I just want to make sure that we're within the timeframe for these appraisals and -- a falling real estate market, I think those credits are probably falling, too. And I just want to make sure we're in the right --

MS. LONGO:

They are slightly falling, but all -- yes, we're in contract with this so any accepted offers that we have once we're in contract, you know, sometimes things take longer than others to actually finally close. However, it's my recollection that this isn't more than six months old, the contract. And it is underlying fee and the Pine Barrens credit value.

CHAIRMAN SCHNEIDERMAN:

Okay. Thank you. Legislator Beedenbender.

LEG. BEEDENBENDER:

Just really quickly either Tom or Janet, I'm not sure who, I don't recall having been here when you've done one of these before. So just for my own education, \$7000 an acre, and that's because it's in the Pine Barrens?

MS. LONGO:

Correct.

LEG. BEEDENBENDER:

And is there -- I mean, this is just a phenomenal price. So this is what happens when we get the Pine Barrens core?

MS. LONGO:

Well the value is in the credit value -- the Pine Barrens credit value.

LEG. BEEDENBENDER:

Right, but if you take the credit away --

MS. LONGO:

Then it's -- the underlie is just the residual land. It's kind of like the residual farmland development property. You can --

LEG. BEEDENBENDER:

But I guess my question is, my lack of understanding is why it's worth so little? Because it's barred from the development so it's just --

MS. LONGO:

Right.

LEG. BEEDENBENDER:

-- it's just dirt. Here's nothing you could -- that you can't do anything with.

MS. LONGO:

Well, it's trees in this case.

LEG. BEEDENBENDER:

Trees. All right. Okay. Well, I'm just saying -- well, I don't know if there's oil below.

MS. LONGO:

There's drinking water below it.

LEG. BEEDENBENDER:

All right.

MS. LONGO:

That's why we're buying it.

CHAIRMAN SCHNEIDERMAN:

It's not that this property -- this has come up many times. You could not develop this property.

LEG. BEEDENBENDER:

No, no.

CHAIRMAN SCHNEIDERMAN:

It's not under threat of development. It's just part of the Pine Barrens program that these credits will be either transferred or purchased.

LEG. BEEDENBENDER:

Right. I was just saying I don't recall having done one of these since I've been here so I was just unfamiliar, but --

CHAIRMAN SCHNEIDERMAN:

Legislator Romaine.

LEG. ROMAINE:

If I may, Mr. Chairman.

CHAIRMAN SCHNEIDERMAN:

You may.

LEG. ROMAINE:

When I first entered the Legislature for the second time, I introduced a resolution for the parcel immediately south of the Expressway on the opposite side of County Road 111. And at the time it was listed as Pine Barrens core. And people said to me, *why are you doing this? They can't develop this property. Why are you putting in a resolution to buy land that can't be developed anyway?*

And they argued against it and actually tabled my resolution to death and it naturally died. And the argument is *why are we buying land that can't be developed anyway?* And maybe there's an answer to that because that was the argument that was used against my resolution. So I'm asking that question, *why are we buying this if can't be developed? What's the purpose? Particularly as money for purchasing land becomes scarcer and scarcer.*

CHAIRMAN SCHNEIDERMAN:

Commissioner, is there a statutory obligation for us to purchase these credits if they're offered to us? Or how does that work?

DIRECTOR ISLES:

Not to my knowledge. There's not a statutory obligation to purchase the credits if they're offered, but this goes back to the Pine Barrens plan, which was completed in 1995, which identified the

preservation of the core, a state designated Central Pine Barrens Program as being an important public policy objective. The method for preservation of the core was through a number of means, one of which was public acquisition, which is the dominant preservation technique that has been used. And out of the 52,000 acres in the core, there are probably an excess of 40,000 acres that are in public ownership.

However, there was a program put into effect for the transfer of development rights and that's another tool for the preservation of the Pine Barrens core. That has been used, but it was never discussed in the Pine Barrens plan that that would be the only tool. It was viewed as being the major open space program by the involved agencies, the State, the County and the Town, as well as the Transfer of Development Program.

As far as the decision on this parcel, it becomes a policy question obviously for the Legislature as to whether this warrants an acquisition. We believe it does and we believe that the County's upholding its end in terms of the conservation of resources and given the extensive County holdings in this vicinity. But, here again, it's your call as to --

CHAIRMAN SCHNEIDERMAN:

But the fee is inexpensive. I don't think anybody can argue that -- what? Of the 6000 or the \$7000 an acre to buy the fee, it makes sense to have this publicly owned and managed.

The question is are the credits -- that's where the bulk of the money is going to buy those credits, which would lead to development not on this parcel, but in some receiving area or someplace that's compatible for growth similarly.

DIRECTOR ISLES:

(Indicating yes)

CHAIRMAN SCHNEIDERMAN:

And Once we buy them, I don't even think they can be transferred to affordable housing. Can they?

DIRECTOR ISLES:

In the core they cannot.

CHAIRMAN SCHNEIDERMAN:

Right. So they'd be just completely sterilized, those credits?

DIRECTOR ISLES:

Yeah, extinguished, whatever the term is, yeah.

CHAIRMAN SCHNEIDERMAN:

Right, extinguished may be a better term. So I guess as a philosophical question, is that a good use of money? It's hard to argue against the fee purchase for such a low number. But I can see the point on the credit. Janet?

MS. LONGO:

I'd just like you to know that this funding source that the money's coming out of can only be spent on core Pine Barrens. We're not bonding this money. It's cash in the bank. It's the Old Drinking Water Protection money; can only be spent on core Pine Barrens. We still have -- even after this acquisition, we still have over a million dollars in that fund. There aren't that many core Pine Barrens properties left. So it doesn't make sense not to spend the money on these properties when they become available. I think there's about 2000 acres still in private ownership in the entire core that we're all targeting for acquisition.

CHAIRMAN SCHNEIDERMAN:

I understand that. But let's say we just bought the fee, the individual would still own the credits.

Right?

MS. LONGO:

We don't buy the -- well, if they wanted to do that, they can go to the Pine Barrens Commission and get their Pine Barrens credit --

CHAIRMAN SCHNEIDERMAN:

They could sell them on the open market. It's like a commodity.

MS. LONGO:

-- in exchange for conservation easement on the property. But we don't buy the fee and let them keep the development rights. That doesn't make any sense to me. We buy either the entire parcel. Or once it's encumbered by conservation easement and they've sold their development credits, you know, they get their credit certificate, then we can buy the underlying fee. But we don't just buy the fee and let them keep the development rights like that.

CHAIRMAN SCHNEIDERMAN:

The credit is a transferable tradeable item.

MS. LONGO:

They buy the credit. Exactly.

CHAIRMAN SCHNEIDERMAN:

But you're saying we can't get to the fee unless we buy the credits as well in one deal?

MS. LONGO:

Right. It's a voluntary program.

CHAIRMAN SCHNEIDERMAN:

Legislator Romaine.

LEG. ROMAINE:

So when we purchase, if we purchase this property, we're buying the property, does the owner retain the ability to sell the credits?

MS. LONGO:

No. We're buying the entire thing.

LEG. ROMAINE:

So we're extinguishing the credits when we purchase the property?

MS. LONGO:

That's what you do when we purchase Pine Barrens property in full fee.

LEG. ROMAINE:

Why then would we sell the County of Suffolk this property? I don't know who it is, it's in my district, and I'm very familiar with the location; because if I'm not mistaken what's a Pine Barrens credit going for now?

MS. LONGO:

About a hundred and something thousand dollars in the Town of Brookhaven.

LEG. ROMAINE:

And how many credits are there associated with this property?

MS. LONGO:

2.3. Thank you.

LEG. ROMAINE:

So that would give him maybe 230, \$250,000. What are we paying for the property?

MS. LONGO:

365.

LEG. ROMAINE:

So it's a little bit more, I understand. Okay.

MS. LONGO:

Because we're paying for the underlying fee.

LEG. ROMAINE:

So he isn't getting a lot of Pine Barrens credits. And it makes it a better deal to sell it because we can't do anything else with it. If we were to buy this property, what would happen with it?

MS. LONGO:

He can apply for a hardship exemption to the Pine Barrens Commission and build on it.

LEG. ROMAINE:

And how likely would the Pine Barrens Commission be capable of giving him --

MS. LONGO:

I can't speak for them but many exemptions have been granted. That's part of the Pine Barrens Act and the whole Pine Barrens Program, when that law was created.

LEG. ROMAINE:

I'm familiar with the way it works. But I didn't realize that they had had many exemptions.

MS. LONGO:

Sure.

LEG. ROMAINE:

Okay.

MS. LONGO:

You can go on the Pine Barrens Commission website and they have a table of everything that's been approved. All the applications that have been approved, denied, that are still pending.

LEG. ROMAINE:

Okay. Thank you.

CHAIRMAN SCHNEIDERMAN:

Any other questions? All right. Have we done motions on this yet? I don't think so.

LEG. BEEDENBENDER:

Motion to approve.

CHAIRMAN SCHNEIDERMAN:

All right. Motion by Legislator Beedenbender to approve.

LEG. D'AMARO:

Second.

CHAIRMAN SCHNEIDERMAN:

Second by Legislator D'Amaro. All in favor? Opposed? Abstentions? **Approved. (Vote: 3-0-0-2 Legislators Cooper and Losquadro not present)**

1376, authorizing acquisition of Farmland Development Rights under the New Suffolk County Drinking Water Protection Program for the Delea F. Sasso and estate of E. Sasso property, Delea Sod Farm, Town of Riverhead. (Co. Exec. Levy) 70 acres approximately and Jessica's distributing, I guess, an aerial.

DIRECTOR ISLES:

Okay, the aerial's being circulated. As indicated by the Chair this property is located in the Town of Riverhead. It is 70 acres of a parcel about 109 acres. It is a sod farm presently. The property was rated at the initial planning steps phase by the Suffolk County Farmland Committee and achieved a rating score of 13 points. The acquisition indicates a purchase price of \$5,040,000. And I think that's it. If you have any questions, I'll do my best to address those.

CHAIRMAN SCHNEIDERMAN:

Any question from the Committee?

LEG. BEEDENBENDER:

It's now a rating of 15, though? You said 13 but the hand-out you gave said the score is 15. I know but the map -- the front of the map says Town of Riverhead score 15.

LEG. ROMAINE:

It says 13 on this (indicating).

LEG. BEEDENBENDER:

I mean, we're both high. I was just curious.

DIRECTOR ISLES:

Right. The correct score is 13.

LEG. BEEDENBENDER:

Okay. All right. Well, that's still sufficient.

LEG. ROMAINE:

This is next to the Cheery Creek Golf Course. You people have golf outings there.

CHAIRMAN SCHNEIDERMAN:

What's the price on this?

DIRECTOR ISLES:

The price per acre is \$72,000. It's estimated at 70 acres which would make it \$5,040,000. That is adjusted on the final survey prior to closing so it might go up or down slightly but the rate per acre does not change.

LEG. BEEDENBENDER:

Motion to approve.

CHAIRMAN SCHNEIDERMAN:

Motion by Legislator Beedenbender.

LEG. BEEDENBENDER:

Yes.

CHAIRMAN SCHNEIDERMAN:

Is there a second? I don't know that I'm going to second. You know, I don't know if I'm going to object to this but it always seems to bother me when you buy sod farms under Drinking Water Protection because they are such intense users of, you know, ag-chemicals. And sure it's open space, but it goes completely against, to me, the protection of groundwater resources. They're hard on the soils. They tend to -- you know, they're not food production.

LEG. BEEDENBENDER:

Let me -- I misunderstood. I was looking at this as farmland. That's why the 15 -- I misheard you. I don't know why I was thinking that -- this is open space?

CHAIRMAN SCHNEIDERMAN:

No, it is farmland.

LEG. BEEDENBENDER:

Okay.

CHAIRMAN SCHNEIDERMAN:

Growing sod is considered agricultural use. You're not growing corn or potatoes or things that people need to eat. I imagine a lot of this is, you know, goes out to estates and things like that, but it's just for -- you know, it's tough on preserving your groundwater, your aquifer. But it is valid agricultural use, you know, we want to preserve agriculture as well. It's just -- I'm just raising that as a, kind of an internal conflict that sod farming is not particularly benign environmental type of activity.

LEG. D'AMARO:

What would the property yield if it were developed? Do you have that calculation?

DIRECTOR ISLES:

Well, this is in the Town of Riverhead Agricultural Protection Zone, APZ for short. This would -- this permits on-site development of one house, one dwelling unit per two acres. So the yield would be roughly estimated around 35 units on the 70 acres we're considering minus potentially roads or drainage.

I'll also point out just that there is extensive County and Town development rights land around this property. And we're sensitive to the points of the Chair in terms of the environmental issues. And over the course of time we would hope that those issues would be alleviated somewhat with better stewardship and management programs that this Legislature has supported through the Water Quality Program funding.

LEG. D'AMARO:

But wouldn't it continue as a sod farm?

DIRECTOR ISLES:

It could. The County doesn't restrict it to a sod farm. But a lot of times farms are rotated. Over the course of time farming does seem to change. Potatoes were a big crop here many years ago. They're less significant now. They may come back. The main purpose --

CHAIRMAN SCHNEIDERMAN:

They cause problems, too. You know, {temac} and {aldegarr}, things like that were not benign either but at least it was food production.

LEG. BEEDENBENDER:

What can we grow?

CHAIRMAN SCHNEIDERMAN:

You can farm organically but, you know -- I think, originally when the program was first conceived, the thought was to support the farming industry, the food producing. Not necessarily your tree farms and your sod farms. I think it was to kind of keep food production going. It's changed through the years and the Ag and Markets Law in New York State which kind of oversees all this, allows -- really protects all kinds of agriculture, any kind of agriculture, not just food production. But I think the architects of the original farmland program, I think, did it largely to keep people farming. It wasn't really viable; didn't produce enough money for these farmers to pay their taxes as the value of land kept going up and up and up. And this was a way to basically keep these guys in business.

LEG. BEEDENBENDER:

Let me just -- I know you have concerns about the use of a sod farm, but doesn't it -- if I'm a homeowner, doesn't me putting sod mitigate me pouring tons of fertilizer down on the ground to grow grass from dirt? I mean is there a counterbalance to the fact that you have a sod farm in one location and another location where you --

LEG. D'AMARO:

Then again you got to fertilize it.

LEG. BEEDENBENDER:

I know you got to fertilize it, but am I wrong? You can tell me I'm wrong. Usually when you look like that, Tom, I'm wrong.

DIRECTOR ISLES:

I don't think we can say that this is going to reduce fertilizer loading on the receiving line. I guess what you're saying is they're not going to seed their own lawn and put fertilizers at that time. But if they do put in sod, they will eventually have to fertilize that, if they want to maintain it in that condition.

CHAIRMAN SCHNEIDERMAN:

You know, perfectly green lawn is not a natural state. It's virtually impossible --

LEG. BEEDENBENDER:

But it looks nice.

CHAIRMAN SCHNEIDERMAN:

-- to maintain either without intensive labor or with chemicals. They tend to be chemically dependent, these types of lawns. So in some ways we're perpetuating the use of lawn chemicals. I'm not sure what I want to do here. But there's been a motion; there hasn't been a second.

LEG. BEEDENBENDER:

If there's no second then I'll just offer a motion to table.

CHAIRMAN SCHNEIDERMAN:

Let's table it until we have a larger Committee here. So there's a motion to table.

LEG. BEEDENBENDER:

We'll table it, that's fine. I can't believe I'm the one -- this is very odd.

CHAIRMAN SCHNEIDERMAN:

There's a motion to table by Legislator Beedenbender. I will second. All in favor? Opposed? Abstentions? **Tabled. (Vote: 3-0-0-2 Legislators Cooper and Losquadro not present)**

1378, Authorizing the acquisition of land under the New Suffolk County Drinking Water

Protection Program (effective December 1, 2007) open space component - for the Davies property Wading River Wetlands - Town of Riverhead (SCTM No. 0600-024.00-01.00-010.000). (Co. Exec. Levy) This is 1.7 acres I believe for roughly 15,000.

DIRECTOR ISLES:

Correct.

LEG. BEEDENBENDER:

This is for stewardship purposes I assume?

MS. FISCHER:

Preservation.

DIRECTOR ISLES:

All right. This is part of the Wading River wetlands. This is located just to the east of the LIPA/Shoreham power plant, the closed plant. They're extensive wetlands, which are clearly depicted on the aerial photograph. A lot of this is owned by the Nature Conservancy for conservation purposes. The master list, which is the hatched parcels and crosshatched parcels have identified other acquisitions and the County has completed several acquisitions at this point. Certainly it's environmentally significant. It is a direct tributary into Long Island Sound. The price is 1.7 acres at \$15,000. So it is a nominal value. But it would enable better stewardship management of this wetlands system.

LEG. D'AMARO:

Motion to approve.

LEG. BEEDENBENDER:

Second.

CHAIRMAN SCHNEIDERMAN:

All in favor? Opposed? Abstentions? **Approved. (Vote: 3-0-0-2 Legislators Cooper and Losquadro not present)**

1379, Authorizing the acquisition of land under the New Suffolk County Drinking Water Protection Program (effective December 1, 2007) - open space component - for the Widenor property - Seatuck Cove - Town of Brookhaven (SCTM No. 0200-834.00-04.00-002.007). (Co. Exec. Levy)

DIRECTOR ISLES:

Okay. This is property as indicated located on Seatuck Cove in the Town of Brookhaven. The parcel is outlined in red. I'd just point out in the aerial photograph the other conservation holdings in this area include, State of New York land to the south, Suffolk County land to the -- further to the west. And there is a planning steps resolution approved under IR 2172 also to the west of a pending possible County acquisition.

The acquisition before you achieved a point rating of 33 at the time of planning steps consideration. Based upon that, the resolution was approved, Real Estate contacted the owner, did the customary process. Before you then is the proposed acquisition at a valuation of \$430,000 for two-and-a-half acres of land.

If you have any questions, we'll try to address those questions.

CHAIRMAN SCHNEIDERMAN:

As this was my planning steps resolution originally, I would certainly make the motion to approve. Is there a second?

LEG. D'AMARO:

This isn't underwater, is it?

CHAIRMAN SCHNEIDERMAN:

No, no, no. In fact that the original planning steps included three lots, the two above it, but they have since been developed. But this is a, you know, the state owns a big chunk of property there. What's the --

LEG. D'AMARO:

The environmental significance, Director Isles, of this property?

DIRECTOR ISLES:

The significance is twofold. One are the wetlands that are located on the property on the southeast portion of the property as well as the adjoining wetlands buffer. The blue line on the map indicates the state mapped wetlands boundary. So that's first.

And secondly, the coastal location in Seatuck Cove. The concern about additional loadings, nitrogen and fertilizer loadings and so forth.

And, I guess a third point, too, is that with the other preservation that's occurred in this area, there's a rather substantial preservation in this part of Moriches Bay. And so this is a case where we have a modest size parcel of two-and-a-half acres. However, in looking at the larger picture, we're looking at a preservation area that's rather extensive.

LEG. D'AMARO:

The property owned by the State of New York, you mean, in conjunction with that.

DIRECTOR ISLES:

I'm sorry.

LEG. D'AMARO:

It's extensive because of the property owned by the State of New York?

DIRECTOR ISLES:

Yes, yes. As well as, here again, other County holdings to the west and Town holdings, too, actually.

LEG. D'AMARO:

You could put a really nice house on this.

CHAIRMAN SCHNEIDERMAN:

What was the score on this one? The score was in the 30's. Right?

DIRECTOR ISLES:

33.

CHAIRMAN SCHNEIDERMAN:

Did I get a second, Legislator D'Amaro?

LEG. D'AMARO:

Not sure.

CHAIRMAN SCHNEIDERMAN:

All right. Second by Legislator D'Amaro. All in favor? Opposed? Abstentions? **Approved. (Vote:**

3-0-0-2 Legislators Cooper and Losquadro not present)

Before I move onto 1381, can I just check on that northern property? The IR is 2172. I think we had an accepted offer and then it was beyond the timeframe so we had to reappraise it, I believe. And was another offer made? Can I get just a quick status on that?

MS. LONGO:

We had made an offer on that quite a while ago. And it didn't really -- it didn't get accepted entirely. We were negotiating for a longtime and then the offer became old. So right now actually we are -- we've ordered updated appraisals on this piece. I can't think of the woman's name. They're the sisters. You know who I'm talking about.

LEG. BEEDENBENDER:

If you need updated appraisals, then you need us to table it?

MS. LONGO:

No, no, no, no.

CHAIRMAN SCHNEIDERMAN:

No, no, it's not before us. I'm just -- it's an adjoining parcel. I'm just inquiring the status.

LEG. BEEDENBENDER:

I'm sorry.

MS. LONGO:

You're talking about the rectangular piece.

CHAIRMAN SCHNEIDERMAN:

I see there's a Caroline {Zass} or something like that, something like that.

MS. LONGO:

Yeah, we've ordered updated appraisals on it is the answer.

CHAIRMAN SCHNEIDERMAN:

But didn't -- I thought that was about six, seven, eight months ago that that happened.

MS. LONGO:

I think there -- we're dealing with the Town of Brookhaven because there was a question of how many lots it would yield. So we're working with DEC and the town to come up with a definite answer before we can actually do the appraisals.

CHAIRMAN SCHNEIDERMAN:

You didn't have that the last time we appraised it?

MS. LONGO:

We had a very old determination by DEC. And that time they thought well, maybe this would go through, you know, it would still be applicable. But this time they said that they didn't think that they would approve the four lot subdivision. But it's something that we're in the process of discussing with DEC. And we'd like something in writing at this point too.

CHAIRMAN SCHNEIDERMAN:

I think we had a resolution. We had something from the Town Board of Brookhaven saying that they would take the house that's on it or demolish the house, something to that effect.

MS. LONGO:

That was all part of the negotiations but it didn't --

CHAIRMAN SCHNEIDERMAN:

Right.

MS. LONGO:

They fell apart.

CHAIRMAN SCHNEIDERMAN:

Can we just make sure this is moving forward.

MS. LONGO:

You can take that one, the rectangular piece as moving forward in the sense that we're updating the appraisals and we will make another offer.

CHAIRMAN SCHNEIDERMAN:

Okay. All right.

Resolution 1381, Authorizing the acquisition of land under the New Suffolk County Drinking Water Protection Program (effective December 1, 2007) - open space component - for the Bell Mier, Inc., property Tuthill Creek/Pine Lake - Town of Brookhaven (SCTM No. 0204-012.00-06.00-029.001). (Co. Exec. Levy) I think we've already received a copy of the aerial for this. Commissioner?

DIRECTOR ISLES:

Yes. The aerial has been circulated. And what we're showing here is a little bit of a different view than our customary aerial. But we broadened out the perspective here to give you a view of Tuthill's Creek extending from Sunrise Highway south past Montauk Highway and down towards the bay.

What this indicates then is a concerted effort to among a number of agencies to preserve what remains of open space along Tuthill's Creek. There's extensive ownership by the Village of Patchogue outlined in purple. There's ownership by and conservation by the Water Authority in blue. And there -- and we've also indicated parcels that are identified under the master list as well as parcels that are in the process of negotiation and acquisition review by Real Estate for Suffolk County, here again, outlined in orange.

Subject parcel's in red. It's at the corner of Montauk Highway or on Montauk Highway. We do have a blowup of that on the insert in the aerial. It is 1.1 acres directly in the stream corridor of Tuthill's Creek. And the acquisition is -- here again, this is part of Master List Two, this parcel, that's where it was originally identified. For the 1.1 acres the acquisition through the Environmental Trust Review Board is \$173,695.

If you have any questions we'll attempt to address those.

CHAIRMAN SCHNEIDERMAN:

Any questions for Director Isles? Okay. Is there a motion? Motion?

LEG. D'AMARO:

Motion to approve.

CHAIRMAN SCHNEIDERMAN:

Motion by Legislator D'Amaro.

LEG. BEEDENBENDER:

Second.

CHAIRMAN SCHNEIDERMAN:

Second by Legislator Beedenbender. All in favor? Opposed? Abstentions? **1381 is approved.**
(Vote: 3-0-0-2 Legislators Cooper and Losquadro not present)

1382, authorizing the acquisition of land under the New Suffolk County Drinking Water Protection Program (effective December 1, 2007) - open space component - for the estate of John Sullivan property - Miller Place/Yaphank Road NP addition - Town of Brookhaven (SCTM No. 0200-189.00-04.00-016.000). (Co. Exec. Levy)

DIRECTOR ISLES:

Okay. Once again the subject parcel's outlined in red in the aerial photograph. This is also a Master List Two parcel. The Miller Place/ Yaphank Road Nature Preserve has been building for approximately the last 20 years. As you can see on the aerial photograph, the County parcels and current County ownership are outlined in green and they're rather extensive.

At this point in time the efforts of the County are in finalizing and completing this conservation area. This parcel, this acquisition represents one of those few remaining acquisitions on the east side of the Yaphank/Miller Place Road and we have a few more to go on the west side and this reserve is done.

The parcel itself is .368 -- .36 acres. Relatively small but here again looking at the context at the overall nature preserve. The acquisition price is \$75,000.

If you have any questions, we'll try to address those.

CHAIRMAN SCHNEIDERMAN:

What's the purpose in general of this reserve? Is this an aquifer protection reserve?

DIRECTOR ISLES:

It's for drinking water protection purposes. It is a Special Groundwater Protection Area. It's an area too that's been subject to a lot of development in the Miller Place/Mount Sinai area.

CHAIRMAN SCHNEIDERMAN:

Can I ask a question about the Water Authority's role? In that settlement, the MTBE, they received quite a bit of money. Is some of that money going toward land acquisition, protecting aquifer areas? Do you know?

DIRECTOR ISLES:

I'm not aware of that, no.

CHAIRMAN SCHNEIDERMAN:

It'd be good to find out because maybe some of these things, I'm not suggesting that I'm on board with this, but some of these acquisitions that are clearly designed to create, you know, a water protection type of district might fall into their program if they do have a program with that money. I think it was close to a hundred million dollars they got. All right. Is there motion?

LEG. BEEDENBENDER:

Motion.

CHAIRMAN SCHNEIDERMAN:

Motion by Legislator Beedenbender.

LEG. D'AMARO:

Second.

CHAIRMAN SCHNEIDERMAN:

Second by Legislator D'Amaro. All in favor? Opposed? Abstentions?

Approved. (Vote: 3-0-0-2 Legislators Cooper and Losquadro not present)

1385, Authorizing the acquisition of land under the New Suffolk County Drinking Water Protection Program (effective December 1, 2007) - open space component - for the Katala-Gruber and Katala property - Mastic/Shirley Conservation Area II - Town of Brookhaven (SCTM Nos. 0200-983.50-02.00-050.000 and 0200-983.50-02.00-069.000). (Co. Exec. Levy)

DIRECTOR ISLES:

Okay. The subject parcel is outlined in red. It's actually two separate parcels. What's also depicted on the map would be other parcels that are recommended in master list II, which these two parcels were included within. What's also depicted are existing County holdings outlined in green.

This is an area that's certainly familiar to this committee in Mastic Beach. This program for acquisition and conservation came out of the Narrow Bay Study completed by the County Planning Department. And is a reflection of a number of factors that warrant acquisition of this parcel in this area including the proximity to the barrier island, the closest point to the mainland is at this location.

The potential flooding and then very real flooding impacts on a strong high tide, these roads are wet, are flooded. This is actually a sand road in front of this particular property.

And also -- so there's a hazard to development at this location for flood purposes. And then secondly, there's a conservation value with Mastic Beach, Mastic and Shirley being among the most densely developed hamlet in -- hamlets in Suffolk County. This is an extensive tidal wetlands area that despite the boxes on this map and the appearance of a lot going on here, this is a vast tidal wetlands area that is largely intact; very low grasses, and certainly has high value in terms of typical wetlands value for control of stormwater during storm events, for habitat incubation, for filtration of pollutants and so forth.

So in a way this is a broken record because we've come to you on many other acquisitions in Mastic Beach and this is furthering that program. And I'll point out I believe it's been going very successfully in terms of the rate of acquisitions and in conservation in this location.

If you have any questions, we'll try to address those questions.

CHAIRMAN SCHNEIDERMAN:

Questions from the committee? Legislator Romaine.

LEG. ROMAINE:

Yes, this is in the threat of development?

DIRECTOR ISLES:

I am not aware of that.

LEG. ROMAINE:

Is this a developable parcel on the current Town of Brookhaven's regulations?

DIRECTOR ISLES:

The parcel was appraised at a value of \$17,000, which would suggest that it may not be. However, in terms of the question of can something be developed, the answer to that is ultimately determined by a permit application and potentially an application to the Board of Appeals. Certainly there are other lots in this area that are developed in parcels of this size so I don't think it's out of the question.

LEG. ROMAINE:

Is this a single and separate lot that has been in ownership as a single and separate lot for

sometime?

DIRECTOR ISLES:

I am not aware of that.

LEG. ROMAINE:

Because if it isn't, I don't see how this could be developed even under the Town of Brookhaven regulations. Nor could you make an appeal to the ZBA.

DIRECTOR ISLES:

I believe the value --

LEG. ROMAINE:

An appeal could be made if it was a single and separate and had been held in single and separate ownership for some time, but if this had been -- if this isn't single and separate, I don't see how this would -- and then there's a question of can this be built on if this is wetlands, tidal wetlands, it's highly unlikely that this could get a building permit from the Town of Brookhaven. Have you explored that?

DIRECTOR ISLES:

Well, two points. Number one, the question of whether it can get a building permit, as I said, becomes a little bit speculative. In my 20 years of town planning experience I could never say with certainty and speak for a board, a planning board, a town board, a zoning board of appeals as to whether or not they would issue a variance or a zoning change to allow development.

I would agree with you that there would be constraints to development in this, not the least of which would be New York State law regulating tidal wetlands. Those laws, especially the tidal wetlands law do not prohibit development as much as regulate development. And I have seen many occasions where DEC will seek to mitigate impact, but they are concerned about confiscation of property value and to totally deny development was unusual.

I think the second point, however, is that the value here of \$17,000 does reflect a diminished expectation of investor return on this property; no question about it. And I think in terms of looking at the long view on this conservation area, to take the chance and say, well maybe it won't be developed, maybe it will be, I think this provides an opportunity of making a fair transaction with the property owner that protects this property, that allows for a consolidation of properties. So rather than the County Park's Department dealing with a checkerboard in a management program that there's a consolidation and eventually this all becomes an open conservation area that reflects the true environmental resource, the extensive tidal wetlands in this location that were overlain with this filed map system, probably back in the 1920's that totally was -- disregarded those environmental considerations.

So we feel that it's still warrants consideration. And we can take a chance with whether or not a permit will be issued. We feel that the valuation being proposed with the opportunity in terms of a fair negotiated acquisition with the owner, that this would be appropriate and base our comments on that.

LEG. ROMAINE:

Thank you.

CHAIRMAN SCHNEIDERMAN:

There's a motion to approve.

LEG. BEEDENBENDER:

Second.

CHAIRMAN SCHNEIDERMAN:

And a second. All in favor? Opposed? Abstentions? **Approved. (Vote: 3-0-0-2 Legislators Cooper and Losquadro not present)**

IR 1386, Authorizing the acquisition of land under the New Suffolk County Drinking Water Protection Program (effective December 1, 2007) - open space component - for the Brookside Park Associates, Inc. Property Tuthill Creek/Pine Lake - Town of Brookhaven (SCTM Nos. 0204-003.00-03.00-013.000 and 0204-003.00-03.00-022.000). (Co. Exec. Levy) It's about almost nine acres, 225,000.

DIRECTOR ISLES:

Okay. This is a follow-up to the parcel we had a few moments ago on Tuthill's Creek, here again in Patchogue in the Town of Brookhaven. Showing again the overall map of the Tuthill's Creek stream corridor. This parcel's north of the prior parcel we had. 8.8 acres. Here again, a mixture of very environmentally sensitive lands. Surface water, which is Tuthill's Creek itself as well as adjacent wetlands and upland properties. The parcel is 8.8 acres so it's a rather significant parcel given the patchwork of accumulation of parcels in this area. The valuation as recommended by the Environmental Trust Review Board was \$225,000.

If you have any questions we'll try to address those.

CHAIRMAN SCHNEIDERMAN:

Of that almost 9 acres most of it's underwater. Is that correct?

DIRECTOR ISLES:

Certainly a large portion of it is. To get to the north there is more upland and a little bit to the east.

CHAIRMAN SCHNEIDERMAN:

Any development potential on this one?

DIRECTOR ISLES:

I think there is always a development potential. Here again, it becomes a little bit of a guessing game. I think to the north there would be a reasonable chance of, I'm not even going to use the word a reasonable chance, I think an application could be put forward on the north end of the property, probably the northwest that would be able to present an application that I think could make a strong case, I'll make that point.

So it's not a case where this could be developed for eight houses on an eight acre parcel, absolutely not. My estimate, just here again, and a quick evaluation here, would be the possibility of one building lot on the north end. The rest of it is certainly beyond -- and especially here again, not dealing with the issue of the confiscation of property rights that if there's some development potential I think that's reasonable for one dwelling unit.

CHAIRMAN SCHNEIDERMAN:

You know, I'm not really familiar with this area though. I guess it's listed as a creek, Tuthill's Creek. Does it function though more as a pond?

DIRECTOR ISLES:

Well, the Tuthill's Creek is a creek and it is a flowing water body with headwaters north of Sunrise Highway. It flows directly into the Great South Bay. It's part of the South Shore Estuary Program management area.

It was -- it is a creek that certainly has been compromised over the course of history with development. But it's also a creek where there are, as you see in the larger aerial photograph, an extensive undeveloped properties that are privately owned that could still further impact negatively the creek. And there is an opportunity to still preserve water quality, to minimize future degradation

of water quality, stormwater, drainage capacity, all those reasons why wetlands are sought to be protected. And this is probably the last chance for the Tuthill's Creek corridor, these acquisitions that are going to protect this critical fringe right within the surface water body itself or on the direct interface with the water body and the adjacent development that exists in Patchogue.

CHAIRMAN SCHNEIDERMAN:

Yeah, just looking at the aerial, just looked like this was a section where that creek widened. And I know it just like -- looks like downstream there's an area called the West Lake. And this looks like it also might appear as a pond, less than a creek, but I'll take your word for it. Legislator Beedenbender.

LEG. BEEDENBENDER:

Yeah, just to follow up on that, Tom, are these two separate lots based on the drawing?

DIRECTOR ISLES:

Yes.

LEG. BEEDENBENDER:

And I guess, you know, kind of similar to what Legislator Schneiderman was asking, that parcel, the larger parcel, the one that appears to have the standing water in it, whether or not it's a wetland I don't know, but it just seems -- I don't want to handicap it, but how could anybody every build in -- it's standing water so the parcel just to the northwest, that one makes clear sense to me. But this other one, it just -- I mean, the fill alone that would be required to be build something here.

DIRECTOR ISLES:

Well, in this case they're in common ownership so the parcel to the north is joined with the parcel to the south in terms of ownership purposes. So I agree with you that if someone came in and said, *well, I want to fill some of this surface water body to build the property*, two things; filling surface water is probably the most extreme and least likely permit ever issued. And then -- so that's a real stretch.

And then secondly, there's an opportunity for the property owner to, because it isn't single and separate, it is joined with that parcel to north --

LEG. BEEDENBENDER:

Okay.

DIRECTOR ISLES:

-- to develop to that side of the property, potentially, here again.

LEG. BEEDENBENDER:

But they're not -- they're two different lots but they're not single and separate?

DIRECTOR ISLES:

Right.

CHAIRMAN SCHNEIDERMAN:

They're merged --

LEG. BEEDENBENDER:

They're merged.

CHAIRMAN SCHNEIDERMAN:

-- zoning. Is that what you're saying?

DIRECTOR ISLES:

They're merged in terms of the common ownership of Brookside Park Associates. And I think that would apply from a zoning standpoint as well.

CHAIRMAN SCHNEIDERMAN:

Okay.

DIRECTOR ISLES:

It is within the Village of Patchogue and is subject to their zoning regulations, which I can't directly speak on. But that -- based on the typical applied practice of single and separate it would be joined.

LEG. BEEDENBENDER:

So I guess the question I was getting at, Commissioner, is that it just -- and I guess I get it from what you said previously, you don't believe it would be foolish for us to obtain this or pay for it because it just seems like there's very little chance of that portion ever being developed. But it's either one; it's either all or nothing.

DIRECTOR ISLES:

Here again, it's ultimately a policy decision as to whether you feel it's an appropriate expenditure of public funds and in good public policy. We feel that looking at the two parcels and we have a willing seller, that there is, we believe, a potential for a development at least on the north end of this site. That the valuation of \$225,000 for 8.8 acres appears to reflect that expectation.

In terms of the philosophical side, well, the southern piece could -- is really very unlikely to be developed and maybe it's not worth the County's interest. Certainly I would respect your point of view if you feel that's appropriate and that's fine. We feel from County Planning that looking at this stream corridor, looking at the -- I mean, number one, the existing landholdings that are in the public sector, that there is a significant public presence towards preservation now and consistent with County policy on many other stream corridors.

And then secondly, there are opportunities, it's not like this is all done and spoken for and developed, that there are significant opportunities to either develop the rest of this and further impact and compromise the stream corridor or to preserve it and have a management arrangement whereby there's continuous holdings and management control. Potentially even the subject of a future application for some water quality improvements such as minimizing stormwater runoff.

When the County owns the land or some other public agency, those options become a lot easier to exercise and control, you know, both for the stewardship as well as for remediation through water quality improvement programs. But I'll respect the policy side of that and your judgement on that.

LEG. BEEDENBENDER:

Thank you.

CHAIRMAN SCHNEIDERMAN:

Is there motion?

LEG. D'AMARO:

Motion to approve.

CHAIRMAN SCHNEIDERMAN:

Motion to approve by Legislator D'Amaro, second by Legislator Beedenbender. All in favor? Opposed? Abstentions? **Approved. (Vote: 3-0-0-2 Legislators Cooper and Losquadro not present)**

And that concludes our agenda and we are adjourned. Thank you.

THE MEETING WAS CONCLUDED AT 4:30 PM
{ } DENOTES SPELLED PHONETICALLY