

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 July 27, 2009.

MEMBERS PRESENT:

Leg. Jay H. Schneiderman, Chairman
 Leg. Lou D'Amaro, Vice Chair
 Leg. Brian Beedenbender
 Leg. Jon Cooper
 Leg. Daniel P. Losquadro (not present)

ALSO IN ATTENDANCE:

William J. Lindsay, Presiding Officer
 George Nolan Counsel to the Legislature
 Sarah Simpson, Assistant Counsel
 Ben Zwirn, Deputy County Executive
 Kevin Duffy, Budget Review Office
 Barbara LoMoriello, Deputy Clerk
 Thomas Isles, Director of Department of Planning
 DeWitt Davies, Department of Planning
 Gregory T. Green, Cashin Associates
 James Bagg, Chief Environmental Analyst/Department of Planning
 Pamela Greene, Director of Real Property Acquisition & Management
 Laretta Fischer, Principal Environmental Analyst, Department of Planning
 Carrie Meek Gallagher, Commissioner of Department of Environment and Energy
 Jessical Kalmbacher, Planning Department
 Catherine Stark, Aide to Leg. Schneiderman
 Justin Littell, Aide to Leg. D'Amaro
 Kaitlin Boyd, Aide to Leg. Beedenbender
 Marcus Povinelli, Aide to Leg. Losquadro
 Paul Perillie, Aide to Majority Leader
 Linda Bay, Aide to Minority Leader
 Steve Tricaraco, County Executive's Office
 Debra Alloncius, AME Legislative Director
 Maureen Dolan Murphy, Citizens Campaign for the Environment
 John Woods, UFCW Local 1500
 William Brauninger
 Christine Boelke, Parks Department
 Greg Rivara, Cornell Cooperative Extension, Aquaculture Leasing
 Maureen Dolan Murphy, Citizens Campaign for the Environment
 Dave Calone, Chair of the Suffolk County Planning Commission
 Charles Scheer, Long Island Farm Bureau
 Marilyn Jordan, Senior Conservation Scientist, Nature Conservancy
 Paul Matthews
 Steve Rosario

Bill Pell, Sr.
Bill Pell, Jr.
Michael Craig
David Relyea
Alexandra Donargo
Karen Rivara
Robert Wemyss
John Woods
Jon Caruana
Patricia Brodhagen
Ron Warren, Department of Public Works, Director of Operation & Maintenance
Tom Kehoe, East Coast Shellfisher Growers Association

MINUTES TAKEN BY:

Diana Flesher, Court Stenographer

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THE MEETING WAS CALLED TO ORDER AT 1:11 AM

CHAIRMAN SCHNEIDERMAN:

I will call the Environment, Planning and Agriculture Committee to order this 27th day of July 2009. If you all will rise and join us for the Pledge of Allegiance led by Legislator Brian Beedenbender.

SALUTATION

You may be seated.

PUBLIC PORTION

I think what I'm going to do since I have a bunch of cards here is to go to public portion and then we'll do the presentation. We do have two presentations today.

The public portion comments will be limited to three minutes. Our first speaker to address us is Paul Matthews, if you'll step up to the podium. On deck is Maureen Murphy from Citizens Campaign for the Environment.

MR. MATTHEWS:

Hello, Paul Matthews. I'm here to make a few comments regarding this program. We're excited about it. And I have been before you before with the concept of using the early release of larval shellfish to establish clam beds and other types of shellfish beds. So I'm just here to say thank you for your support in the past. And we'd like to have you consider the work that we've been doing with Cornell in researching this subject and with the funds from Ed Romaine over the last couple of years. And hopefully this new technology can have a place in the lease program and maybe inspire those to have some kind of cooperative effort to make the beds a success and the aquaculture program a success. Thanks very much.

CHAIRMAN SCHNEIDERMAN:

Thanks for your support, Mr. Matthews. Maureen Murphy from Citizens Campaign for the Environment on the plastic bag law. It's IR 1418. And on deck is Greg Rivara on the aquaculture law.

MS. MURPHY:

Good afternoon. Maureen Dolan Murphy, Citizens Campaign for the Environment. CC strongly sports resolution 1418, a local law to reduce the use of disposable bags. As many of you are aware, this forward looking legislation implements a small surcharge on disposable paper and plastic bags encouraging members of the public to bring their own reusable shopping bags.

As I have stated before in front of you, this legislation works to dramatically decrease the amount of plastic bags in the environment and encourages the use of reusable bags. The City of Toronto placed a small five cent surcharge on disposable bags. And within three weeks Canada's largest grocer released figures that showed a 75% drop in plastic bags and the increase in sales of reusable bags by five folds.

Reducing disposable bags is good for the environment, good for our pockets and good for the grocery stores. As King Kullen previously testified, it costs the grocery stores approximately 1.5 cents for each bag. By enacting this legislation, the retailer saves money by not having to purchase large quantities of disposable bags and saves the valuable storage space by not having to stock boxes and boxes of disposable bags.

When Westport banned plastic bags, the local Stop and Shop posted a huge sign thanking Westport for the cutting edge initiative. Every week we see more and more municipalities looking at this type of cutting edge legislation. Recently Austin, Texas announced their interest. We urge you to pass this out of committee and let the full Legislature vote on this important piece of legislation.

Suffolk County is surrounded by the Atlantic Ocean and three major estuaries: Long Island Sound, the Peconic Estuary and the South Shore Estuary Reserve. We have an obligation in protecting our water marine resources. Dolphins have returned to Long Island Sound and Crestly's reporting the highest whale counts off Long Island in over 20 years. As we continue to make progress in restoring our waters, let us not turn them into plastic soup. Thank for this opportunity to comment.

CHAIRMAN SCHNEIDERMAN:

Thank you, Maureen. Okay, Greg Rivara on the Aquaculture Lease Program. And then Patrick Brodhagen. Patricia Brodhagen. Sorry.

MR. RIVARA:

Thank you. Since 1986 I've worked with the County, State and Towns as well as shellfish farmers and baymens associations interested in shellfish cultivation. I provide unbiased research space information to start and grow businesses, solve problems and develop new technologies. I've been a member of the Suffolk County Aquaculture Leasing Program Advisory Committee since its inception in 2005.

A Suffolk County Aquaculture Leasing Program would further legitimize a growing shellfish farming industry on the East End. Now all it takes under DEC policy is \$100 per year to maintain a five acre water column assignment whether it is used or not. By including performance criteria a *use it or lose it* clause is built into the Suffolk County Program. This will actually free up areas now occupied by hobbyists for productive use by those serious about commercial shellfish farming. Those hobbyists or oyster gardeners can join our spat program to continue to culture oysters on a small scale. The proposed program in its current form allows for limited growth of the industry while protecting other users of the estuary. Thank you.

CHAIRMAN SCHNEIDERMAN:

Thank you, Mr. Rivara. Our next speaker is Patricia Brodhagen. And then Jon Caruana.

MR. BRODHAGEN:

Hi. Pat Brodhagen, Vice President Public Affairs for the Food Industry Alliance of New York State. I'm going to hand out a memorandum or a can I just give that to you? Great. I just didn't want to hand you my scribble scabble.

DOCUMENT HANDED OUT

I think what I'll do is, let me just try to quickly cover what's put in I little bit pros in the memorandum rather than reading it. But as you know, our trade association represents grocery stores including about 130 food stores here in Suffolk County. And the trade association and FIA on behalf of our members opposes intro res number 1418, which is the five cent tax on plastic and paper bags.

And the first two reasons really sort of wrap into one. Really on behalf of our customers, we just can't support a tax right now. It will increase the cost to shoppers when they're in the supermarket. It's as simple as that. And, of course, not just in the supermarket, every time they shop anywhere in the County, those nickles are going to add up. And at this point nickles matter. What we've seen in grocery stores, what our own members tell us and what the surveys are showing us, that people have rather dramatically changed their shopping habits. And so that what we see is that the amount per transaction is down as customers increasingly are switching to lower cost items. So that new nickles, our problem. And this is just not the time to do it.

At the very same time we are very supportive of the recycling program that's on going. And in addition to the recycling program mandated by law, and as you well know fashioned on New York on Suffolk County's law which pre dated the state law, we are selling reusable bags. We are giving credit in some cases but in all cases encouraging the use of reusable bags and we are providing opportunities to recycle those bags.

And I've been trying to ask the members for some data to share with you. And because every member's a little different and I have different numbers and different forms, it's sort of apples to oranges, all I can really do is give you a snap shot. But the snap shot is really interesting. One chain reports of 50% increase for the first six months this year over the first six months last year in the rebates that they're paying out to shoppers who are bringing their own bags.

CHAIRMAN SCHNEIDERMAN:

I have to ask you to wrap up.

MR. BRODHAGEN:

Okay. Then I let me go to my third point and I will read that if that's okay. And we can get into the data maybe in another time. The key issue that we haven't issued that I want to put on the table today is the question about whether the County has the authority to levy this tax without state enabling legislation. It is a well settled rule of law that counties are not sovereign states but municipal corporations which have no inherent power except for that authority expressly granted to them in the state constitution or by statute.

If you look at, and I cited here New York State Constitution Article 16, section one, it prohibits the state from surrendering or delegating the power to tax and goes onto provide that any law which any laws which delegate the taxing powers shall specify the types of taxes which may be imposed thereunder. And if you want to read that, that third bullet point in what I passed out to you, you will see it there. But this is a concern to us. We believe it's pretty clear that should the County go this direction, and we hope that you will not, but that it would require enabling legislation in Albany. And I would point to the situation in New York City where Mayor Bloomberg conceived of a similar tax and his counsel advised that they would need enabling legislation which they subsequently did have introduced. Although subsequent to that they dropped

CHAIRMAN SCHNEIDERMAN:

Pat, again, I appreciate your comments. You're well over the three minutes. I have a lot of speakers, so.

MS. BRODHAGEN:

I know. Thank you very much.

CHAIRMAN SCHNEIDERMAN:

Jon Caruana followed by John Woods.

MR. CARUANA:

Good afternoon. My name is Jon Caruana. I'm an operations specialist for A & P Waldbaums. And I'm here as a person working for Walbaum stating exactly what we are doing to make great inroads in the recycling process in our supermarkets and really how it represents all the other supermarkets on Long Island.

For the most part we have made substantial improvement on part of a conference call to stores that do not item pack more than three items per bag. Our goal is to get to five items per bag in the process of every single cashier with every single store. We have a review process. We measure this weekly. We spent over \$20 million last year in the use of bags. And we have totally made a substantial improvement in the amount of bags plus the recycled bags. Our tonnage is up in the recycling of bags from one period last year to the same period this year. So we're focussing on this. And through the efforts of people, our communication, from a company's point of view it is probably one of the better ways to recycle the bags within the store.

We also train cashiers how to properly bag with plastics by boxing out so that they can get more items in per bag and use the common sense of not only just putting boxes but perishables with perishables and so forth. One of the things that we have as a news letter and I just want to read like the opening line, the opening conversation is bagging up the competition five for five. We've come a long way as a company. On our bagging initiative to date as a total organization, we're ahead of last year's number by 6.3 percent. Congratulations, a job well done.

However, there's still a lot of ground left to cover. We don't have to tell you by now but the company's goal is still five items. We're averaging about 3.7 right now. We were last

year averaging about 2.2 to 2.5 in many stores. That's total company, not just the Waldbaums banner.

But again, like our focus is constantly to improve our results and also to train people that we can utilize as we did with the bottle redemption. About 15 to over 20 years ago it was a process of recycling and that's what we really need to do is to recycle and collect what we use. Okay. Thank you.

CHAIRMAN SCHNEIDERMAN:

Thank you, sir. Next up is John Woods followed by Robert Wemyss.

MR. WOODS:

Good afternoon, Chairman Schneiderman, members of the Committee. My name is John Woods. I am the political director for the United Food and Commercial workers Local 1500. Local 1500 is New York State's largest food workers' union.

I'm here today to again speak in opposition to the bill that would ban tax plastic bags in Suffolk County. I would like to state, however, however good this measure is this measure is intended, I'm sure if we just looked at the environment, no one can argue that we need to recycle more; not just plastic bags but everything. America is more and more going to a *use it once and throw it away* culture. And we need to intensify our recycling efforts more, which is why I'm going to again applaud the reduce and recycle bill that was passed by this legislation last year and effectuated in January.

As far as the bill in question, I do not believe that we can modify human behavior through legislation. And with this bill, the devil's in the details. And the details this bill surely lacks. It's very easy to say that we can just charge at the register for customers that use plastic bags. The sponsor of this bill says that with such ease. Well, front end operations in stores aren't just that simple which is where our members work. If this did happen, bags could not be at the back of registers anymore. They would be a taxable product that would have to be monitored and kept in secure locations. So front operations would slow down as a cashier would have to bag all the item themselves and then count and charge each item.

The sponsor's response to that was, well there can just be a UPC on the bag and the cashier would scan. Well, again, plastic bags are printed with water based ink that breaks down isn't environmentally friendly. UPC's cannot be printed on plastic bags with any reliable standard. I've been in the supermarket industry for almost 25 years. And I remember when I was a cashier at 15 and 16 that there wasn't plastic. And the environmental community applauded when these new product came out called the plastic bag because the supermarket industry was destroying millions of trees a year for the production of paper bags.

Right now there is new technology, bags that are biodegradable that break down, that are corn based stalks that are made of corn. It is in very simplistic stages but the technology is coming. So just like paper was taken care of by the invention of plastic bags, I do believe that within ten years, this is my personal opinion, five to ten years that this problem will take care of itself. We'll have a new product that will break down similar to those chips in packing that you get when water hits it. It automatically disintegrates. So I believe this problem will eventually take care of itself. Let's let the recycling bill that this legislation passed and is working take more effect. I believe people are embracing it and doing it on their own. Again, we can't modify human behavior through taxation and legislation. Thank you.

CHAIRMAN SCHNEIDERMAN:

Thank you, Mr. Woods. Next is Robert Wemyss followed by Carol Rivara. Again each speaker is allotted three minutes for their comments.

MR. WEMYSS:

My name is Bob Weymss. I'm secretary of North Shore Baymens Association. I think this

bill should be tabled for further review. I think the County designating cultivation zone without testing it is clearly against the law. The state law requires that productive areas not be included in the cultivation zone, that has a period on it. It's not designate the cultivation zone and then test. It's test and then designate the cultivation zone.

The Peconic Aquaculture Committee that sat made recommendations. Not everybody agreed with them but they were within the public trust. That's what the state legislature had in front of it when they passed the law. Peconic Aquaculture Committee recommended that oyster grant lands were not not be included in the cultivation program that are, again, productive areas. And what the County this plan has a five year look back on scallop habitat where Peconic Aquaculture Committee recommended a 20 year look back which takes you back to 1983 before the brown tide. And that's a completely different map than what's proposed by the County now.

This ends up being a gift to people who hold oyster grants for productive underwater lands which were illegally included. They're known to be productive. There was a lawsuit. County Legislature had a resolution asking that to reacquire that land. And that land has been designated as cultivation zone. Same land aquaculture technologies, treasure a million dollars worth of clams off of. And the County designates it as part of the cultivation zone when they can't have productive lands in the cultivation zones.

Karen Rivara, Greg Rivara own property out in Gardiners and Peconic Bay, hundreds of acres, which you will be giving a gift to them through this legislation of millions of dollars of hard clams that are in the bottom out there. This is a public resource. You should watch what this bill does. It's not ten acres for this person and ten acres for that person. It's thousands of acres for people who hold oyster grants and when the State Legislature refused to give them the cultivation rights to those lands. Now and you're going to end run the Sate Legislature by giving it to them directly. It's illegal. Scrap it.

CHAIRMAN SCHNEIDERMAN:

Thank you, Mr. Wemyss. Okay, Karen Rivara is next followed by Alexandra Donargo.

MS. RIVARA:

Hi, my name is Karen Rivara. I would like to make a couple corrections from the last speaker before I start. The ground he referred to is owned by my company Arrows Cultured Oyster Company, not by my husband. And I've been cultivating it for the last ten years. And it is not loaded with product that is natural.

I would like to thank you for the opportunity to speak in support of introductory resolution 1546 adopting the Suffolk County Shellfish Aquaculture Lease Program. I have been growing shellfish on Long Island for 26 years. I'm active in our local and regional growers association. The Growers Cooperative, I am a member of, now has more New York members than Connecticut members.

Our co op mission is to promote sustainable, environmentally responsible aquaculture. Through our cultivation efforts, we are beginning to generate funds that will be dedicated to projects that benefit the Peconic Estuary. Being able grow our business under the type of framework proposed by this lease program will further enable us to enhance our benefit to the community in which we work.

I am also the industry representative on the Aquaculture Lease Program Advisory Committee. I am well aware of the time and money that has been spent to develop this program. This program will clean up the old legal framework under which all current farms operate. It will also allow a minimal amount of acreage for new entrance. I believe this program will successfully allow shellfish aquaculture of a variety of native species without interring unfairly with other stakeholder uses. It has gone through an environmental review that includes all forms of modern shellfish farming of the various shellfish farm. Very few other stakeholder uses could have withstood the scrutiny.

It was developed under a format that allowed for public input at all 20 of our meetings.

Unfortunately some who voice opposition now did not bother to attend any of our work sessions. Because there is an extensive review process for each lease application, and because the program itself will be reviewed after five years, all conflicts can be addressed and mitigated. Let's not forget that 60 years ago 40,000 acres in the Peconics were used for oyster farming. Yet bay scallops were abundantly harvested during that time. And that's wild harvest.

This program and the restoration efforts by the County, State and local Towns may renew the Bay's productivity. Over the past 30 years New York has only found ways to limit commercial aquaculture. Yet the wild harvest of commercial import and shellfish has declined over that period. It is time for New York to give commercial aquaculture a chance so that we can enjoy the same level of productivity as the rest of the east coast states. The Aquaculture Lease Program is supported by diverse groups such as the Nature Conservancy, Peconic Land Trust, East Coast Shellfish Growers Association and Long Island Farm Bureau. Please move to adopt this program. Thank you very much.

CHAIRMAN SCHNEIDERMAN:

Thank you, Ms. Rivara. The next speaker is Alexandra Donargo followed by David Reiyea.

MS. DONARGO:

Hi, my name is Alexandra Donargo. I work for Cornell Cooperative Extension and also a private owned oyster company. I'm here to speak on behalf of IR 1546. I believe that the Suffolk County Aquaculture Lease Program or introductory resolution 1546 for the Peconic and Gardiners Bay is an important piece of legislation and vital to the management and productivity of Peconic and Gardiner's Bay.

I have spent the past three years working in these waters as a shellfish farmer as a researcher for not for profit organization and a commercial bayman or woman. And so the past three years have given me me insight into the importance of aquaculture to both the health of our bays and as a stimulus to our local economy.

I find that Suffolk County Aquaculture Lease Program to be the most the efficient management plan to foster shellfish aquaculture and conserve natural resources. Though the past three years have allowed me to be a part of our maritime culture and privy to the troubles of our local baymen, I do admit that my three short years working as a shellfish farmer is nothing compared to the many years my employers and supervisors and many of the people here have endured.

My opinions and testimony here is that of a student. I was taught to understand the complexity of managing common property resources and I find Suffolk County's Aquaculture Lease Program to be both fair and enforceable and takes into account the history and culture of the east end of Long Island.

I do understand that theory and practice do not always go hand in hand but any scholar or student will tell you that historically success has been grim when enabling individuals to sustain long term productive use of natural resources.

The Aquaculture Lease Program Management of underwater land helps remedy this program and is the innovative policy needed to strengthen conservation efforts and to maintain our historic tradition of shellfishing in Peconic and Gardiner's Bay. Also as the as a recreational boater, I don't find if there are if the land is leased out, I don't find there to be any navigational hazards. I don't think it would be a problem. I'm not concerned about it. I don't think other recreational boaters will be. Thank you.

CHAIRMAN SCHNEIDERMAN:

Thank you, Alexandra. Next is David Relyea followed by Michael Craig, is it? It's hard to read all these.

MR. RELYEA:

My name is David Relyea. I'm one of the owners of Frank M. Flower and Sons Shellfish

Aquaculture Company in Oyster Bay, Nassau County. I've been doing shellfish aquaculture since 1964 when I was in high school. Now I'm one of the owners of the company that I worked for. The reason my company is still in business and give you a little background, it is one of the original shellfish oyster clam companies that started in the 1800's; 1887. All of those companies are now out of business including the Blue Point Company. We're the only one left. And the reason for that is shellfish aquaculture. My boss back in the '60's H. Butler Flower, who was one of Frank M. Flower's sons had the foresight to develop aquaculture at his business in Bayville. And it didn't work at first. It took ten years to get it going. But once it did, it showed promise and kept us in business.

Now as far this aquaculture just to give you an idea of scale, we have 50 employees, full time employees. And we have about 1800 acres of bottom leases from the Town of Oyster Bay. And the Town has seen fit to continue to release to renew our leases time after time because they think we've been doing a good we've been good stewards of Oyster Bay. And we have good public support. We have support of the Oyster Bay North Oyster Bay Baymens Association. And we think that we do shellfish aquaculture right.

Now, the program that I see developing out here will give smaller operations not more than several people an opportunity to do aquaculture. You know, there's no opportunity here for a company the size of mine, the dinosaur to take advantage of anything out here. The total leases for the next ten years will only be 600 acres. So, you know, that's not a lot of acreage. This program, you know, is just a little more than a token to get aquaculture started. It's a good way to try it. And it can be expanded on at some point in the future, if you people think that it's the right way to go. I don't think there's anything to be afraid of here. I don't see a roomful of baymen today objecting to it. Actually it's an opportunity for them to get into aquaculture and to stay on the bay.

So I would urge you to adopt this. Let's give it a try. My only interest in this monetarily is that I supply seed to a lot of the aquaculturists in the Peconics. We provide quality seed from New York State so that aquaculturists don't have to go out of state and take a chance of bringing something in. So that's my personal interest in it, but I've been to almost every hearing and leasing program meeting to support the industry. And I think we only have one more to go after this. Thank you.

CHAIRMAN SCHNEIDERMAN:

Thank you, sir. Michael Craig is next followed by Bill Pell, Junior.

MR. CRAIG:

My name is Mike Craig. I am an oyster aquaculturist in Peconic. I'm an off bottom grower. I believe this resolution 1546 should be supported. It gives people like me an opportunity to work on the water and keeps our small family business going. There are some environmental plusses for this program as well. It creates habitat for fish. It also cleans the water by filter feeding. And there really is nothing to be afraid of it here. Site's been approved by New York State, the Coast Guard and the Army Corps of Engineers. And these sites pose no threats or impediments to navigation.

There will also be a benefit to the local economy, not only by the sale of our product but by the cost of doing business. Connecticut's now the leader in clam production. And there's a reason for that. It's called aquaculture. And New York State can come back on the map. This is the first step in doing so. And I think the program's been set up properly so that it can be monitored and adjusted as necessary so that there is flexibility here. And, again, I thank you for the time.

CHAIRMAN SCHNEIDERMAN:

Thank you, Michael. Bill Pell, Junior followed by Bill Pell, Senior; father and son act, right?

MR. PELL, JR:

Hello. Thank you for the opportunity to speak today on bill 1546. I'm for it. I've been growing oysters for the last eight, nine years. I do own land bottom or grants out there. And, yes, it would help me. It would help other oyster growers and it would help other people who want to get into the business. It would help other baymen who want to branch off and stay in there. You might hear some small problems with it, but the problems can be solved later on. Get this thing going, get it up, this would be the best thing for the County and the State, to bring back seafood business on Long Island, again, like it was years ago. Thank you very much.

CHAIRMAN SCHNEIDERMAN:

Thank you, Mr. Pell. Bill Pell, Senior followed by Steve Rosario.

MR. PELL, SR:

Thank you very much. I really didn't expect to speak today but my son conned me into it. I was born, brought up in the seafood business. My father had on oyster business. He had New York State permit number nine. I'm going back into the '40's. The East End of Long Island thrived on a marine life. I asked my father one time what happened during the Great Depression, '32? How did the East End survive? He said on our natural resource: Oysters, clams, scallops. We lost our jobs somewhere but we always could turn to the Bay to bring something home to eat for our families.

I think when I was here in office before I was Former Supervisor of Southold Town, we tried to get Cornell we did get Cornell to come out and set a research lab up to produce and reproduce. Flowers led to {LINGA ist} in the early '60's. They got artificial oysters to breed and come on. This is another step to help people on the north fork and south fork, on the east end of Long Island to sustain a living from the water. I have read this bill through my son and I'm all for it. Again, I didn't expect to speak today but I do think this should be supported. Thank you.

CHAIRMAN SCHNEIDERMAN:

Thank you, Mr. Pell. Our last speaker is Steve Rosario.

MR. ROSARIO:

Thank you, Mr. Chairman, members of the Committee. I made it just under the wire because I just drove from Albany to be here this afternoon. We are here my name for the record is Steve Rosario. I'm with the American Chemistry Council on behalf of our progressive bag alliance unit within ACC. I'm here to speak in opposition to IR 1418, which is the bill that would impose a tax on plastic bags. And I basically have five points that I'd like to make very quickly.

First, taxes on items like that really don't work. We could look at the Ireland experience. And you don't have to listen to us. The Scottish Environment Department did an analysis of the Ireland law and basically concluded that that law does not work. And Scotland is not following in the same footsteps.

The second point is last year Suffolk County and the State of New York passed a recycling law that went into effect this year. And we're asking the Legislature to give that law the opportunity to work both from a recycling standpoint and from a manufacturing standpoint. And I have here just one of my props, a plastic bag that is used by Newport News, which is a women's clothes retailer. And this is how they deliver many of their products to their consumers. And this is made out of 25 percent recycled content which means that they are using material that they get from programs whether they're in Suffolk County, in New York State or elsewhere. And if a manufacturer or customer like this cannot get the material, they go back to using virgin. So, again, we think that's a good idea to allow the recycling law to work.

Third, obviously jobs. Not only our manufacturing jobs, and I apologize, I didn't have time to look at how many facilities we have here in Suffolk County but we do. When I go back, I'll go through my list and I can provide that to you, the Chairman.

But more importantly are the recycling jobs. We tend to think of recycling as a green industry. And obviously if a recycler can't get the material, what they do is at risk.

Fourth, we think that because this a tax proposal that you do need some enabling legislation, and I think some previous speakers may have raised that. We know that New York City has backed off up in Albany from its position that it didn't meet enabling legislation. We know that they have introduced such legislation because New York City did not feel they had the authority to impose this.

And then my last point is back to the investment, over the the past 20 years we have invested much in recycling whether it's plastic bags, bottles, etcetera. With plastic bags we are in our infancy.

CHAIRMAN SCHNEIDERMAN:

Wrap up.

MR. ROSARIO:

And we hope that you will give us the opportunity to make that work. Thank you.

CHAIRMAN SCHNEIDERMAN:

Thank you, sir. Okay, we do have one more speaker. I missed a card, Tom Kehoe, if you'll step forward.

MR. KEHOE:

Thank you, Mr. Chairman. My Legislator, Mr. Cooper, good to see you and rest of the Committee. Thank you for the opportunity to address you. I come before you today as a business owner in Jon Cooper's district. I own I'm a president of K & B Seafood. We've been in business about 20 years, but I've been in the shellfish business for too many years. All right? More years than I want to tell you. I'm also an elected trustee in the Village of Northport. I chair on the national level, the Molluscan Shellfish Institute which is the umbrella group of the National Fisheries Institute which does all of our lobbying effort in Washington on fisheries issues. And I'm the President of the East Coast Shellfish Growers which represents about 1,000 oyster farms from Maine to Florida. So I have a lot of experience with these issues. And I do get the opportunity to address gentlemen and groups like this all up and down the east coast.

You heard from one of a local gentleman, who he and I have been on the opposite side of issues for many, many years, Bob Wemyss representing the North Shore Baymens group, which to the best of my knowledge is pretty much a defunct organization with just two or three members. They have opposed this sort of activity for the past 20, 25 years fearing that, you know, public resource should not be go into private hands.

You know as well as I do being in the public domain and being an elected official, that's one of the great things that we have to do sometimes, is how do we allow people access to public resources and yet not shut everybody else out?

There are very, very few baymen still making a living on Peconic Bay. And I wish Mr. Pell, Senior for coming, the former Supervisor of the Town of Southold, really, I wish he had taken a little more time to just tell you the dwindling numbers of men and women that no longer work on Peconic Bay because there's no resource left. This is an opportunity for the County to allow men and women no one's going to get rich on this public resource but it will allow men and women that choose to that make that their way of life a way to supplement their living. As I told Jon out in the hall, if we had this in Huntington, the men would disenfranchise when the lobsters died, we'd be able to supplement their living and a lot of them would still be, you know, living and maintaining a life style that they had done for many, many years.

This is a sustainable program, gentlemen. This is a green program. It doesn't get much more sustainable than shellfish aquaculture. This will provide jobs. It's not going to provide thousands but it will provide hundreds of jobs and incrementally increase each and

every year. It will allow men and women the opportunity to supplement their living and maintain that rugged life style that really the East End of Suffolk County is still known for. Can baymen, boaters, sport fishermen and aquaculturists live together? You bet. And you guys hold the key to make that happen and it can happen very easily if you approve this and move it up to the public to the general session for a vote next week so thank you very much. Thanks, Jon.

CHAIRMAN SCHNEIDERMAN:

Thanks. Okay, that concludes our public portion.

PRESENTATIONS

We will move onto presentations. We have two slated for today. The first is David Calone. He's Chair of the Suffolk County Planning Commission. Mr. Calone.

MR. CALONE:

Thank you, Mr. Chairman and members of the Committee. It's good to see all of you. Appreciate you having me. I'm here to share with the Committee the Suffolk County Planning Commission's annual report on the status of Suffolk County and on the activities of the Commission. I like it better when I sit in that chair because this thing's always on.

CHAIRMAN SCHNEIDERMAN:

The podium mike stays on if you want to go there. You might be more comfortable staying at the table.

MR. CALONE:

I'll do that if you don't mind, Mr. Chairman.

Thank you. Again, thanks for having me. As you all know, the core role of the County Planning Commission under state and county law is to identify and promote county wide land use values and planning priorities and to formerly apply regional considerations to individual development projects in Suffolk County.

One of the requirements of us under the law is to issue an annual report including an update on the activities of the Commission and a survey of conditions in the County. And thank you for passing out the annual report. First let me briefly update you on the activities of the Commission. With the approval of the Legislature, the Commission was reconstituted about three or four years ago to have members with diverse backgrounds who can together think about the big picture impact of land use on Suffolk's future.

As described in the annual report, we've taken three important steps in that regard in the last year. The first step was to reduce the Commission's involvement in more localized projects. Tom Isles and our staff at the County Planning Department received nearly 2500 required referrals sent from the municipalities to the Commission in 2007. The vast majority of these were determined to be local determinations. But think about this. You have a package put together in town hall or village hall sent to the Dennison Building, reviewed by the staff here just to be determined to be a local determination just to be sent back to the town or village hall to be logged and recorded. And repeat that 2500 times and that's a lot of time and effort. And we felt that was a waste of staff time both from the County's side as well as municipality side and a waste of taxpayer money.

So we have proposed inter municipal agreements that will eliminate about 2000, approximately 80 percent of those referrals, and cut up to two months out of development time for each of those projects. We believe this will provide a significant savings for taxpayers and developers. And I'm pleased to let you know that the majority of the towns and over a third of the villages now have agreed have signed off on those agreements since we proposed them at the beginning of this year.

The second step that we took was to revise our commissioning guidelines for the first time in a decade to ensure consistency and predictability in the Commission's decision and procedures. And I think you've all received this but we have a new Suffolk County Planning Commission guidebook. The guidebook was issued in January. And it identified several core county wide land use values, in particular energy efficiency, housing and public safety. And we sketched new policy guidelines for each of those areas.

The third step we've taken is one that we worked on just the last two or three months. And that's the creation of four inter municipal land use task forces bringing together local elected officials to focus on land use issues that have county wide impact.

The task forces came out of the visits around the the County. I've had the chance to travel all ten town halls in Suffolk over the last year. I met with all the supervisors. And what we heard was that there was a lack of coordination and conversation among the towns and villages. So what we've done is we've recently launched this effort to bring together municipal leaders from across Suffolk to collaborate and search for common approaches to deal with shared land use challenges that have county wide impact; to create model codes, facilitate innovation, identify best practices and share strategies that work. And basically there's a simple principle here: It's that nothing we can do apart can have as much impact as what we can do together on these issues. That doesn't mean that one size fits all, but rather than we can develop shared solutions to address these common challenges.

The four task force areas are energy and environment, smart growth and accessible design, housing and public safety. We believe all of these have impact across the County and are critical of Suffolk County's future. The task forces are comprised of commission members and local elected officials with experts and interest groups serving as advisers. We now have over 20 elected officials from across the County on the task forces. It includes over two thirds of the town supervisors, variety of town council members and mayors. And some of them are actually on more than one task force. And the effort's now been endorsed by the East End Supervisors and Mayors' Association and supported by the Village Officials' Association. And I understand that the Regional Planning Council's going to be voting on a resolution to endorse this effort in the coming weeks. Also Congressman Steve Israel has reached out to express his support particularly as we look towards some commonality with regard to energy standards across the County.

I'd like to just take one moment to let you know briefly what we're doing with each of those four task forces. Energy and environment, we held our first kick off at Brookhaven Town Hall. We had more than 20 attendees. And I got a kick out of the fact that we had elect representatives from all over the County but we had the western most mayor, Mayor Hare from the Village of Lloyd Harbor. We had the eastern most mayor, Mayor Nyce from Greenport. It all came together in Brookhaven Town Hall to talk about how we as a county and municipalities within the county can do a better job of coordinating our energy efficiency and environmental efforts. So the Commission's going to put that task force folks on energy efficient buildings, distributed generations, storm water rain off and agricultural land use standards.

You know, in Suffolk County there are 42 different rules about how you put a solar panel on the roof. We have 42 different municipalities and they all have their own procedure. You know, I think the bottom line is we need to make it easier for people to pursue energy efficiency and distributed generation. The wide scale adoption only comes about when social norms change. And we can look down the street and think it's odd when people don't have solar panels or don't have a hybrid car; not when it's odd that they do. And, you know, the bottom line, the green revolution's going to be spurred by federal investment coming down but it's the areas where you all represent, your neighborhoods where that fight's going to be won everyday. If people have a hard time putting solar panels on their roof and doing energy efficient things, we're never going to make this a green island. And so the bottom line is we need to work together with municipalities to make that happen. And that's actually why LIPA's endorsed this effort and said if we can come up with a standard for how to put solar panels on the roof, they'll provide financial

incentives to get towns and villages on board with that standard.

Briefly our smart growth and accessible design task force, we have four supervisors on smart growth task force focussing primarily on sewers. There's a consensus among municipalities in Suffolk County that we need to have a strategy for pursuing sewer funding at both the federal and state level and also looking at additional local funding options. We're starting that process right now.

Accessible design, bottom line is we are aging as a county and we need to take simple design steps to enable folks to be able to stay where they live and to age in place. It's a tremendous savings to our taxpayers as well as helps keep families together. There are simple things we can do in the building code to make sure that a house can be livable in as people age.

With housing, the housing task force, our third task force, the Town of Riverhead is hosting the kick off meeting for that task force this coming Monday. They haven't yet set priorities yet because they're just doing their kick off meeting, but, you know, expectation is they'll be assisting municipalities and providing a variety of housing options throughout our County.

And the last of the four task forces is public safety. We're working with the District Attorney and County Police Commissioner's Office to identify land use principles with public safety implications. And that's commercial, residential and industrial developments. You're talking about minimal costs if you take into account public safety considerations when you're putting a site plan together. But the impact can be real. And in next year's annual report I hope that we'll be able to share with you the progress of these task forces and show that we're able to be successful in encouraging the towns and villages to work together to identify best practices and to put them into place.

The fourth step that we've taken or we're looking to take as a Commission is we hope in the near future to begin the creation of a Suffolk County Comprehensive Plan. Suffolk has never formally adopted a comprehensive plan. Under the law it's the Planning Commission's responsibility to create a comprehensive plan for consideration by the Legislature. And it's our intention to begin to do so. It's my hope that maybe we'll have an announcement about that in the coming weeks, but, look, comprehensive plan is critical for looking at where we are as a county, identifying where we want to be and providing a blueprint for how we get there. And it will serve as a strategic plan for Suffolk. And I believe that it is critical to our future and I look forward to working with all of you on that. But bottom line is when the economy turns and the new wave of development hopefully comes, whether it's next year or years from now, we need to be prepared to grow and use our resources in a thoughtful way consistent with what we want to see for Suffolk's future.

I want to turn now just to the conditions of the County, much of what I talked about is laid out in the annual report. The other aspect of the annual report is the report on the conditions of the County. As the report indicates Suffolk remains one of the best places to live in the United States, but citizens endure a very higher cost of living to be here. In short Suffolk is a great place to live if you're well off; a difficult place to live if you're working class and a darn near impossible place to live if you're poor.

The national economic downturn is certainly taking its toll. And I was going to give you a couple of bullet points from the annual report. As a measure of land use activity the Commission received in 2008 2100 referrals. That's 11 percent decrease from 2011. But most telling was the fact that subdivision referrals across the County were down by 50 percent; from 140 in 2007 to 74 in 2008. And the media's already reported this but among the statistics in the report, is the finding that there were 1668 new units authorized by building permits in Suffolk County in 2008. That's the lowest number since records started being kept in 1950. And as you know unemployment had jumped by more than 50 percent in 2008 to 7.3 percent.

I will end on a positive note by simply observing that that negative news is tempered by

the conclusion that Suffolk's young adult brain drain may be reversing as a result of the baby boom echo generation starting to come of age. Between 2000 2007 Suffolk actually witnessed an increase of 23 percent in the number of people 20 to 24 years old. So that's my silver lining to the numbers that you'll see.

In conclusion let me just acknowledge the hard work throughout the year by our fantastic County Planning Department led by Tom Isles and Dan Galizeo. I also want to recognize the efforts by the members of the County Planning Commission in particular my fellow officers, Vice Chair Constantine Kontakosta from Greenport, and our secretary Adrienne Esposito from Patchogue. Between the task force effort, comprehensive plan effort and the fact that three of the largest developments in the history of Suffolk County are in the planning process right now, that being Yaphank, Heartland and EPCO, the next 18 to 24 months look to be very busy ones for the County Planning Commission. But I appreciate the opportunity to update you on what we've done. And certainly any questions you have

CHAIRMAN SCHNEIDERMAN:

Thank you. Let's get questions, comments? Maybe I'll start. This is the second time I've had the pleasure of hearing you present. I attended one of the Supervisors and Mayors' meetings where you presented. And, first, I want to say just how fortunate the County is to have you in a voluntary capacity. I don't know how you find the time to do this but it's really music to my ears

MR. CALONE:

I have an accommodating wife.

CHAIRMAN SCHNEIDERMAN:

all the things all the things that you're doing bringing everything together and seeing the County play this role working with the municipalities, the villages and towns in doing some regional types of planning. And you're hitting on all, I think, the important topics from transportation and housing to energy use. It's really great to hear. You mentioned a comprehensive plan. And I had worked at the level local on a comprehensive plan once. And I'm wondering now if the County were to adopt a comprehensive plan, it seems like it would make sense, would town zoning have to be compatible with the County's comprehensive plan?

MR. CALONE:

No. However, I think the idea behind a comprehensive plan, as it is at a local level, is not just, since we as a county don't have specific land use control, it's more holistic. It's looking at things we do have control over, whether it's infrastructure, whether it's whether it's what are our assets, how do we best make use of those assets, what's a strategic plan for the County going forward, whether it's, you know, how do we best make use of our economic development base across the towns. And, look you're seeing pieces of that, whether it's the aquaculture program that, you know, we certainly support and hope you guys will, too, or trying to take advantage you're trying to take advantage of existing assets.

And the question is is, you know, the idea is behind a comprehensive plan is think about that holistically and to think about particularly things that we as a county do control. There's infrastructure and things like that, where can we where should we or can we re incentivize development. And, look, you as elected body who has control over purse strings, can then actually can tie money to that plan, but just as the federal government does to the levels of government below it. But there's no enforcement mechanism. There's certainly no, you know, requirement that the towns and villages comply.

CHAIRMAN SCHNEIDERMAN:

Okay. Other comments or questions? Again, thank you so much for all the time you're putting in. It's great to have you aboard.

MR. CALONE:

Appreciate it. Thanks for your support.

CHAIRMAN SCHNEIDERMAN:

Okay, we are going to move on to our second presentation. This is the Water and Land Invasive Species Advisory Board. And the presentation will be made by Charles Scheer, representative of Long Island Farm Bureau and Marilyn Jordon, Senior Conservation Scientist at the Nature Conservancy.

MR. SCHEER:

Thank you.

DR. JORDAN:

Charlie, we have a few hand outs I can give.

MR. SCHEER:


Yeah, okay, we have some hand outs to go around. I sit on the board which this Committee created as a representative of Farm Bureau. And we would like to just explain how we have come up with the recommendations for this year's change in the law, which I think was done in a very well and methodical manner. I'd like to thank the members and the Chair of the Committee for the opportunity to present our methodology by which the Long Island Invasive Species Management Area Scientific Review Committee, which is the advisory group that we use and the Water and Land Invasive Species Committee, which was created by this Committee, used to recommend changes in law number 22 2007.

Dr. Marilyn Jordan will be explaining the process we use to actually determine which plants, both aquatic and terrestrial, which were determined to be either added or removed from the do not sell or managed list included in this local law.

I would like to address how these two committees were developed and function so that this Committee can better understand how we came to our conclusions. Both committees are made up of interested and affected organizations throughout Suffolk County. We had a balance of Suffolk County Park, County Health, County DOT, Long Island Nursery Association, Farm Bureau, Cornell Cooperative Extension and Soil and Water conservation districts in addition to Nature Conservancy representatives on the Water and Land Invasive Species Board. And I have a  there was a slide here just to give some idea, I think we have a slide of the committee makeup. And you can get some idea that we had a very good representation. I think all interested parties were represented.

The Long Island Invasive Species Management area, which was created by the State of New York for each area, Long Island being specific, Hudson Valley and various areas in New York all having their own group, was created and functions as an advisory group to the board. We have additional representatives on that committee, which Marilyn can put up from the Brooklyn Botanic Garden, State and Federal Parks Commissions, SUNY Farmingdale and other various botanical organizations that review the various plants and try to evaluate them to see whether or not they're invasive and should have been included.

The recommended changes in the present law have been based on rankings developed for a statewide evaluation of species, which Dr. Jordan will explain shortly. And this evaluation system will also, now that it's been developed in Long Island, will be used throughout New York State in the various management area groups. These recommendations were reviewed by the Water and Land Invasive Species Board before being recommended to this committee for legislation adoption.

One of the important additions to the present law was the inclusion of an exempt clause which would allow the sale of completely sterile cultivars of banned species. This was a very important issue for many of our nursery men on Long Island that said, well, if we can prove that a plant is not invasive, can we then sell it even though it is already on a species ban list. So we have sort of broken very good ground for the  I guess for the nation in

being the first area that is going to have in the legislation a method by which a species can be certified as being sterile and being allowed to be sold without threat to our environment.

This type of clause would make it possible for nursery men and landscapers to grow and sell cultivars that are a hundred percent sterile but would not be a threat to the environment. And would encourage the development of this cultivars by the industry thereby helping hopefully the economic income of our industry and thereby the Suffolk County tax base. This would help foster our large greenhouse and nursery industry in Suffolk County.

In addition to these provisions, we have developed phase out periods. We would be recommending to allow growers to dispose of inventories without financial impact to their businesses particularly in these difficult economic times. These recommendations have been a result of many hours in the past years of volunteers and all interested parties. Doctor Marilyn Jordan will now explain how we went about the evaluation process so you can better understand it. Thank you.

SLIDE SHOW PRESENTATION

DR. JORDAN:

Thank you, Charlie.

Well, the Long Island Invasive Species Management area recognized that we needed a documented clear protocol based on the best available science, clearly explained documented and repeatable. We needed this firm scientific foundation in order to do the job correctly. A protocol for making the assessments as to whether a species is invasive was developed by myself along with Gary Moore at the Brooklyn Botanic Garden and Troy Weldy, Nature Conservancy in eastern New York. Next slide, Charlie.

And this ranking system was based on other existing ranking systems. We didn't have to create it from nothing. We had good precedence to follow. Next slide.

The Nature Conservancy contracted with the Brooklyn Botanic Garden to help in addition to helping develop the protocol to use the protocol to fill out the forms for 178 non native plant species including all of the 63 that were on the list of plants that were prohibited in the 2007 legislation. And LIISMA, the Invasive Species Management area created a scientific review committee, on which I serve as does Charlie, to review these assessments done by the Brooklyn Botanic Garden. This committee has been meeting since March of 2008 and we've done 130 of those 178 species so far. Okay, next slide.

Not only will the results of our work help the County to modify the list of species that are invasive, our results will also be used by New York State. The state has a committee now that is working on coming up with a list of all or lists of all invasive species including plants. And they're accepting of our protocol and our results. Next slide.

So the protocol is really a two step process. I'm going to focus on the protocol, the part of it that assess the plants invasiveness for the whole State of New York; the second step looking at if it's invasive on Long Island or any other of the eight regions or prisms of New York State is pretty quick. So, next slide, Charlie.

First of all, in order to be reviewed for invasiveness a species has to be non native. This is the part of the federal law and also the state law requirements. And to determine if a species is native or not, we are using the New York Flora Associations data base to make that determination. Next.

The protocol itself is divided into four parts with questions in each of the parts. The categories one, two and four ecological impact, biological characteristics and difficulty of control are more or less inherent to the species itself. And section three has to deal with the distribution of these species and how abundant they are in the landscape. Next slide.

If every each question has several possible answers, each one with a different point value. And if a species got the highest ranked point value answer to every single one of the 20 or so questions in the protocol, it would score 100 points. If the score is 80, greater than 80, we consider it to have a very high invasive nature; 70 to 80 a high invasive nature, 50 to 69 is moderate; low is below 40 40 to 49, rather; and insignificant is below 40. If the species does not escape from cultivation or cannot persist in New York's climate, then we do not assess it and it gets a not accessible designation. And if we cannot answer at least 70 points worth of questions, we consider these species unknown, we don't have enough information to assess that species. Next slide.

Then for the Long Island region or any of the other regions, if the species is common and a lot more likely to be so, it gets the same rank as the state rank. If it is somewhat less likely or not that common, it would get one step below in invasiveness. And if it's unlikely it would get two steps below the state invasiveness rank. Okay, next slide, Charlie.

So I'm going to go through an example of Oriental Bittersweet. I'm not going to go through every question. It takes us an hour usually to do that at our meetings, but I've given the Committee members a hand out that's the complete form for the species if you want it see more of the details. So, next slide.

For Oriental Bittersweet, we were able to answer I can hardly read the slide myself from here, I'm sorry about that for the rest of you, but 78 points worth I'm sorry 90 points worth of questions could be answered. And the plant scored 78 points. So 78 divided by 90 gave it a score of 86. So this plant is very high invasive plant. And I think you all know that if you see bittersweet wrapped around the trees, there's vine on the trees everywhere. Next slide.

Just an example, quick example of one question from each of the four sections of the farm, impact on community structure, bittersweet's pretty bad draping the trees. Next slide.

A mode and rate of reproduction, it produces lots of viable seeds so it scored high. Next slide.

Density of stands, we have lots of it and they're very common so again it got a high score. Next slide.

And seed banks, how long the seeds will stay viable in the soil, between one to ten years. So it got less than the highest point value for that. If you want to see the results of our work, a text description of the protocol we're using and the forms themselves, they are now posted on line at NYIS.info, that's New York Invasive Species.info. And it's under resources and species risk assessment. Next slide.

As I say, we've reviewed 130 species so far. And of those 59 scored greater than 70 points and are either a high or very high invasive. And the review committee recommended that all of the species that scored high or very high be considered as candidates to prohibit from sale. And all of our decisions, all of our votes on every species were unanimous. Next slide.

And as Charlie mentioned, stakeholders have worked together to craft a species specific phase out periods in the law so no grower is going to be stuck with plants that he can't sell. There's plenty of time to clear out existing stock. Next slide.

And also again as Charlie mentioned, the language is in the revision to the law that's proposed that would allow for future exemptions of a cultivar or a variety of a plant that's sterile; can't make seeds or pollen. Next slide.

So for the complete list of species and the phase out dates, you can look on the Suffolk County website or I've given handouts to the committee members. Next slide.

So in the future we're going to keep working on this. We've got more species to go, 48 or so. And for next year's revision there will be a few more species that may change. We may add or take off the prohibited list or recommend that that be done. But in every case these assessments are based on the best available science and will be voted upon and approved by the multi stakeholder LISSMA Review Committee and also the County's Invasive's Advisory Board. Next slide.

The question has been raised if species that are widely sold and planted and have been for many years and are naturalized, is there any point to prohibit it from sale now? Is it too late? Well, I think it's not too late. And the reasons for, that, next slide, Charlie, people are still planting plants even in developed areas. Their landscaping doesn't last forever. Things come out; things get added. And as you import more individuals of invasive plants, you may bring a new gene type that could hybridize with existing plants that are naturalized and suddenly become more invasive than previously.

And then there's the common sense problem of should land managers be spending a lot of time and effort to eradicate the most damaging, ecologically damaging invasive species from their parks and preserves when they're being sold right outside the gates to the park? And it's a value judgement, too. We want to protect the environment while still minimizing financial impacts on the nursery industry. And people who want to do the right thing will if they have some guidance in terms of a list of the plants that are invasive and shouldn't be used. And also the banning of species from sale will help to stimulate the research we need to develop sterile cultivars. Next slide, Charlie.

So you might wonder, well, if these big sellers are prohibited, what am I going to plant? Well, Cornell Cooperative Extension is working on that issue. And they have prepared and will soon be releasing a list of alternatives to invasive species that includes both native plants and non natives that are not invasive. Okay, next, Charlie.

And that's the end. Pictures of two of the worst invaders, Japanese Barberry and winged euonymus in natural areas in Suffolk County and Nassau. So if anyone has questions we'd be happy to answer them.

CHAIRMAN SCHNEIDERMAN:

Any questions? I know this is foreign to most of you. I sat through a lot of these committee meetings. They are doing a really good job. It's just very specific. If you're not in horticulture, it could be quite confusing. I get lost certainly in these meetings, too. But basically, you know, in the amendments we're adding a few new species of plants and as well as we're putting language in so that sterile versions of some of the banned plants could be introduced at a later point. Okay. Thank you.

CEQ RESOLUTIONS

We'll go to the agenda starting with CEQ resolutions, **18 09 CEQ/Historic Trust Recommendation Concerning the County's Acquisition of Historic Structures and other buildings.** Is there a motion?

LEG. D'AMARO:

Motion.

CHAIRMAN SCHNEIDERMAN:

It's all CEQ. Motion by Legislator D'Amaro, second by Legislator Cooper. Is that a second I see?

LEG. COOPER:

Yes.

CHAIRMAN SCHNEIDERMAN:

Thank you, sir. All in favor? Opposed? Abstentions? Approved. **(Vote: 4 0 0 1. Leg. Losquadro not present)**

19 09, Ratification of Recommendations for Legislative Resolutions Laid on the Table for April 28th, 2009, May 12th, 2009 and June 9th, 2009. (Type II Actions). These are all Type II Actions. We'll take the same motion, same second, same vote. **(Vote: 4 0 0 1. Leg. Losquadro not present)**

20 09 Proposed Sludge Thickening Enhancement at Sewer District # 7 Medford, Wastewater Treatment Facility. (Type II Action). Again, it's considered a Type II Action. This is for the Medford waste water treatment facilities. Same motion, same second, same vote. **(Vote: 4 0 0 1. Leg. Losquadro not present)**

21 09 Proposed Improvements at Sewer District # 5 Strathmore Huntington. (Type II Action) Same motion, same second, same vote. **(Vote: 4 0 0 1. Leg. Losquadro not present)**

22 09 Proposed Acquisition for Open Space Preservation Purposes Known as the Overton Preserve Belonzi Property. (Unlisted Action, Negative Declaration) Same motion, same second, same vote. **(Vote: 4 0 0 1. Leg. Losquadro not present)**

23 09 Proposed Acquisition for Open Space Preservation Purposes Known as the Overton Preserve Stanton Avenue LLC Property. (Unlisted Action, Negative Declaration) Same motion, same second, same vote. **(Vote: 4 0 0 1. Leg. Losquadro not present)**

24 09 Proposed Restoration of the Elwood Schoolhouse/Little Red Schoolhouse. (Type II Action) Same motion, same second, same vote. **(Vote: 4 0 0 1. Leg. Losquadro not present)**

25 09 Ratification of Recommendations for Legislative Resolutions Laid on the Table for June 23rd, 2009. (Type II Actions)

MR. BAGG:

Excuse me if I can.

CHAIRMAN SCHNEIDERMAN:

Come on up, Jim. You have to hold it as you speak. The light should come on.

MR. BAGG:

If I might point out, in CEQ resolution 25 of '09 the ratification of recommendations for legislative resolutions laid on the table on June 23rd, resolution number 1603 of 2009, which is the acquisition of the Bavarian Inn for imminent domain, that is acquisition of property. And according to the SEQRA rules and regulations, it cannot be a Type II Action. It has to be an unlisted action, an Environmental Assessment Form filled out and submitted to CEQ.

CHAIRMAN SCHNEIDERMAN:

So are you suggesting we table 25 09 because it includes it?

MR. BAGG:

Well, the way it is now, it's not correct in terms of following SEQRA requirements. It would be deficient from a SEQRA point of view. It has to be an unlisted action, you know, with a negative declaration attached to it at the very least in the EAF.

CHAIRMAN SCHNEIDERMAN:

I don't want to hold up the other projects. So, Counsel?

MR. NOLAN:

I think we can vote this.

CHAIRMAN SCHNEIDERMAN:

It can be voted?

MR. NOLAN:

I think we can vote 25 09 because that contains that recommendation.

MR. BAGG:

Yes, because that contains that recommendation.

CHAIRMAN SCHNEIDERMAN:

Okay, that's fine, then. Okay. So 25 09, ratification of recommendations for legislative resolutions laid on the table June 23rd, 2009 meeting. Same motion, same second, same vote. **(Vote: 4 0 0 1. Leg. Losquadro not present)**

26 09 Proposed Sewer District #1 Port Jefferson, Interceptor Replacement CP 8122, Village of Port Jefferson. (Type II Actions).

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

27 09 Proposed Introductory Resolution No. 1609 09 Acquisition of partial interest in an existing facility, the John P. Cohalan Court Complex. (Unlisted Action, Negative Declaration). Same motion, same second, same vote. **(Vote: 4 0 0 1. Leg. Losquadro not present)**

TABLED RESOLUTIONS

That brings us to our tabled resolutions starting with **IR 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) I will make a motion to table.

LEG. D'AMARO:

Second.

CHAIRMAN SCHNEIDERMAN:

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

IR 1418 Adopting Local Law No. 2009, A Local Law to reduce the use of disposable bags by retail stores. (Viloria Fisher) We've closed the public hearing on this.

LEG. D'AMARO:

Motion to table.

LEG. BEEDENBENDER:

Second.

CHAIRMAN SCHNEIDERMAN:

Motion to table by Legislator D'Amaro, second by Legislator Beedenbender.

LEG. BEEDENBENDER:

At the request of the sponsor.

CHAIRMAN SCHNEIDERMAN:

At the request of the sponsor. All in favor? Opposed? Abstentions? **1418 is tabled. (Vote: 4 0 0 1. Leg. Losquadro not present)**

IR 1508 Adopting Local Law No. 2009, A Local Law Amending Chapter 278A of the Suffolk County Code addressing invasive non native plant species.

(Schneiderman) The public hearing is closed on this. So I will make a motion to approve.

LEG. COOPER:

Second.

CHAIRMAN SCHNEIDERMAN:

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

IR 1546 Adopting Local Law No. 2009, A Local Law establishing the Suffolk County Shellfish Aquaculture Lease Program in Peconic Bay and Gardiners Bay. (Co. Exec.) For discussion purposes, why don't I start? I'll make a motion to approve.

LEG. BEEDENBENDER:

Second.

CHAIRMAN SCHNEIDERMAN:

Second by Legislator Beedenbender. All right. We have DeWitt Davies joining us. We have Greg Green joining us as well as Commissioner Isles.

If I can start most of the comments we heard, I think all but one were quite favorable to this program today. And, you know, I should say I've enjoyed working, you know, with everybody on this Aquaculture Lease Program. It is complicated but ultimately it's a very limited scale program. Roughly 60 acres of new leases this year. And that will continue for ten years to a total of 600 acres in a system that's 100,000 acres total. In a targeted area of around 30,000 we're talking roughly about 600 acres. Yet this gentleman, Mr. Wemyss brought up several points. One is that we didn't look back far enough. We should have looked back 20 years and only five. I don't think there was a statutory requirement that we look back 20 years. Maybe a recommendation by some committee.

The other issue he has brought up privately with me and perhaps some other Legislators is that somehow we are legalizing old grants that were never made legally. And we are giving monopolies to certain individuals to harvest through potentially mechanical means productive bottom lands. So these old oyster grants, some of them are hundreds of acres now may suddenly be able to harvest naturally occurring scallops or clams. And I know that that is not correct, but I wanted to get on the record exactly how we're going to be treating these old grants in terms of allowing other species to be cultivated there and how we're going to ensure that the baymen who make their living off of harvesting naturally occurring species are not going to be harmed in any way by this program. Mr. Isles?

DIRECTOR ISLES:

Thank you, Mr. Schneiderman and members of the Committee this afternoon. We appreciate this opportunity. We'll be as brief as possible but also as complete as possible and answer your questions. The two questions you've raised in terms of well, what about the process for identifying what zones could be considered, I'd like to ask Greg Green, our consultant on this, to comment on that. And the second question I'd like to go to DeWitt Davies on. Let me just tell you in brief that this has been the subject of three and a half years of extensive effort and examination. But let me first ask Greg to handle that first question.

CHAIRMAN SCHNEIDERMAN:

First question in particular had to do with how many years we should be looking back. I guess there was a committee that the State had put together that recommended a 20 year look back. We apparently have taken a five year look back. And so the question was, you know, some of these areas prior to Brown tide may have been productive areas that, you know, maybe now we're allowing aquaculture to occur on. If you look back only five years, most areas are not productive, so.

MR. GREEN:

Well, we established the shellfish cultivation zone by looking at all data that was available. We looked at scientific published data as well as we conducted a large number of interviews with knowledge of people of the estuary. There was no five year look back period. We looked at all information that was made available both published and through interviews. We looked at reports that dated from the '80's and the '90's. We spoke to people who had been on the bay for a longtime. And anything that was considered worthy or significant in terms of natural production from all those sources was deleted from the shellfish cultivation zone. So there was no specific five year look back.

CHAIRMAN SCHNEIDERMAN:

We also deleted a thousand feet from the shore line. So our program starts at a thousand feet.

MR. GREEN:

Yeah, everything along the shoreline was a thousand feet was also eliminated. That was one of the initial criteria for establishing the zone.

DIRECTOR ISLES:

Let me just add to that, too, that that process which took over a year from our consultants to do with a lot of input from the advisory committee resulted in the reduction of the usable area by almost 80,000 acres. So that process of looking at environmental shellfish natural baymen use and so forth, conk fishermen, all the other users out there ended up in a substantial reduction of area that could be used for ultimate shellfish aquaculture under this program. What I'd like to do now is

CHAIRMAN SCHNEIDERMAN:

DeWitt, right. Specifically on these grants and how we're treating the grants, and are we giving monopolies to certain individuals to harvest bottom lands that may be productive? I'm talking about potentially thousands of acres of grant lands.

MR. DAVIES:

The answer to that is no. Reference was made to the potential legality or illegality of these old grants. Section 13032 of the Environmental Conservation Law, which is the authorization for this program, ratified all existing grants that were in good standing. That means that the grants that have remained as a result of the past activity of Suffolk County during the late 1800's are in good standing if, in fact, taxes have been paid and title is secure.

CHAIRMAN SCHNEIDERMAN:

Those grants were all oyster grants; is that correct?

MR. DAVIES:

That's correct. And when at one time as Tom mentioned before I believe there was about 50,000 acres of private grants; we're down to about 5800 acres today. In terms of how that has been addressed in the program, the holders of those grants have the right for oyster cultivation. They don't need a lease from Suffolk County to do anything to cultivate oysters. And in fact right now about 1100 acres are under cultivation and have state permits for the cultivation of oysters. We're dealing with a leasing program that goes beyond oysters and extends the ability to culture other types of shellfish on these grant lands in an attempt to clean up a really confusing situation that existed over these years.

CHAIRMAN SCHNEIDERMAN:

DeWitt, so basically we would allow the grant holder who's got an oyster grant in good standing to lease their own property up to ten acres for other shellfish. But they still would have to establish that the area that they're leasing of their own grant land is non productive for other species.

MR. DAVIES:

That's correct, because of the fact that there are a number of these grants which are not used or used for oysters only. If they come into the program and request a lease for ten acres, they'd have to go through the Committee, they would have to determine whether or not that particular parcel involved is productive for hard clams. And the criteria that we developed for the program is that the site has to have less than 2.0 hard clams per square meter. And that has to be determined by going out in the field and having a qualified individual do that survey on the bottom and to verify whether or not that threshold is exceeded. If he has 2.1 hard clams per square meter on that site, it is not lease able.

CHAIRMAN SCHNEIDERMAN:

Now, is that ten acre, that's a limit or is it ten acres per year?

MR. DAVIES:

They are entitled they would have the ability to apply for ten acre lease on a fallow grant. And they could

CHAIRMAN SCHNEIDERMAN:

One ten acre. In other words

MR. DAVIES:

One ten acre one ten acre lease.

CHAIRMAN SCHNEIDERMAN:

So they're not up to fifty acres in five years. You're talking one ten acres.

MR. DAVIES:

No. That was that was under the old programs where there was a larger amount. If they got that ten acre lease, in the future they could apply for one more ten acre lease if in fact they had the ability to do that. But in any case, if it's not permitted, they would have to go out and do that hard clam survey. And that criteria was developed by Cash and Associates. And if there's a density of two or less clams per square meter of legal size, that's the that is way below the commercial threshold that people would frequent in an area to take clams on a commercial basis. So it's rather foolproof. It's testable. It's verifiable. And it's conclusionary.

CHAIRMAN SCHNEIDERMAN:

No one else could apply for a lease on those grant lands to do the same thing?

MR. DAVIES:

If they want to do anything beside oyster cultivation on a grant, they'd have to get a lease from the County. This is one of the things that we've attempted to do to straighten out the program.

CHAIRMAN SCHNEIDERMAN:

But not from one of the individuals who has a grant. So our leases to other individuals would not be over that land where the grant is. So in essence those individuals do have some additional benefit because they don't have to wait on line like everyone else hoping to get a ten acre parcel somewhere that we've identified. They have their own grant land, but they can get permission to do a ten acres, maybe 20 acres over time on their own land.

MR. DAVIES:

Right.

CHAIRMAN SCHNEIDERMAN:

So there is there is a benefit. Those people are getting a particular benefit that other people aren't getting.

MR. DAVIES:

I guess the way we've looked at that is if they have private property to begin with, they're

paying taxes on it, they have title to it. They have the ability to grow oysters on that property. It would be very difficult for Suffolk County to lease that property for clam cultivation to some other entity when in fact it's privately owned for them for another purpose. That's why we had to treat those grant lands in a different way as opposed to the non granted lands that are out there where the public in general can apply for a lease.

CHAIRMAN SCHNEIDERMAN:

I understand. It's an unusual circumstance.

MR. DAVIES:

Very strange.

CHAIRMAN SCHNEIDERMAN:

Legislator D'Amaro, you had a similar question.

LEG. D'AMARO:

Thank you, Mr. Chairman. Those were very similar questions that I had. I wanted to ask you also whether or not I haven't read the entire set of regulations that are proposed for this, but if there's an applicant for a lease, does the County have to grant the lease if it's is it pursuant to objective criteria or is it discretionary on behalf of the County?

MR. DAVIES:

There are a number of criteria that would have to be addressed when a lease applicant comes forward to the County; okay. We will hold a cycle for applications. Those applications are subject to an initial meeting with the staff in the Department of Planning as proposed. We would have up to three sites proposed per applicant. They would pick those sites. We would tell them at that time if there are any specific constraints associated with those sites that we know of.

We've also asked the Department of Environmental Conservation staff to sit in on those meetings so that they also could brief the potential applicant about the potential sites that they've selected. That would be subject to a public notice of 60 days during which everyone can comment on those particular sites. All those comments from the public and governments, etcetera would be collated and reviewed and submitted to the Aquaculture Lease Board, which consists of the Director of Planning, Commissioners of Environment and also the Economic Development Commissioner.

And there would be a public meeting at which all of the sites that have been proposed in the given application cycle would be subject to additional review by everyone and looked at from a regional context point of view. And that's where we get the question of whether there are too many perhaps too many site applications for a lease in one area versus another, etcetera. We can see what the problems are.

If there are objections with respect to productivity, they can be weighed. And at that point the board would approve sites, reject sites or conditionally approve sites based on further testing if, in fact, a question pertaining to clam productivity is raised.

So there are a number of steps here that would assure that the public interest is protected. We have a number of criteria in the document which relate to the suitability, the background of individuals, etcetera. They, for example, can't necessarily have a really a bad record from the point of view of conservation law violations and things of that nature. But to answer the question quickly, yes, we do have a lot of standards and criteria which would be applied.

LEG. D'AMARO:

When an area is proposed for leasing, those areas are delineated by the County or does the applicant themselves bring in the proposed area?

MR. DAVIES:

The situation would be as follows. We have a lease aquaculture lease sites map which divides up the cultivation zone into a number of grids. These grids are used for accounting purposes, if you will, to help us and the applicant identify potential lease sites. They can go and say *I'd like to have an application for grid site 321*, for example. If that particular site passed the test with respect to public review, aquaculture lease board review, etcetera and if it wasn't subject to the hard clam criteria that we have, if it passed that test, then at that point the lease site would have to be surveyed by a qualified land surveyor. And the corner points for that site would be determined accurately. A map would be prepared. It would be attached to the lease, etcetera.

So, again, it's accountability; it's being exact with respect to the locations of these sites. We will be able to notify the public when, in fact, a lease is issued about where exactly they are. We will have maps of exactly where they are. And these could be posted and sent out to the public on our website so that everybody will know where these sites will be located.

LEG. D'AMARO:

And when the sites when you're going through that process and there are several sites being looked at perhaps to match up with an applicant for a lease, there still further first of all you need to specifically delineate where that area is and that's a survey that will be done. Who pays for that survey?

MR. DAVIES:

At the present time we have approximately \$180,000 under a water quality protection program, funded capital project which will deal with the preparation of the accurate surveys and the records for this program.

LEG. D'AMARO:

So the County's paying for the surveys?

MR. DAVIES:

(Indicating yes)

LEG. D'AMARO:

Okay. And what about the further testing to see whether or not you meet the criteria for the bottom with respect to the clams and all of that?

MR. DAVIES:

The County is not paying for those surveys. If an individual picks a site where there's an objection to that site, based on what we would call a credible objection based on individuals who harvest shellfish in the region, etcetera, come to the public meeting or send some documented proof that they've harvested shellfish in a particular area, and that would trigger the need for a survey, that survey would not be paid for by Suffolk County. The applicant would have the ability to conduct that survey at that site if he wanted it or choose one of his alternative two sites where such objections were not raised. So there is a way that the applicant can proceed with the process for application and not get hung up on doing a survey if there's an objection. If he wants to continue with the survey, he certainly could do that.

LEG. D'AMARO:

But in the first instance you get the benefit of a presumption that you're within a cultivation zone. If you're within a cultivation zone, you get a benefit of a presumption that you meet the criteria. It's only if you get a credible objection and then further testing would be done

MR. DAVIES:

That's correct.

LEG. D'AMARO:

to determine whether or not it's a suitable site.

MR. DAVIES:

That's correct.

LEG. D'AMARO:

So we didn't go through that extensive testing in order to come up with a cultivation zone itself.

MR. DAVIES:

No, there's no need to do that. In fact, since we're only dealing with a small percentage of this area, it would be prohibitively expensive, etcetera to do the whole system. There is no need to do the whole system because, in fact, there is no interest to lease the whole system. This is the fallacy of the argument that has been presented. If there is a bona fide objection to a particular site, we can test that site. And if there is if it shows up, we will not lease it. It's cut and dry. But there is no need to go and test 110,000 acres with that in mind.

DIRECTOR ISLES:

If I could just add to that, too.

LEG. D'AMARO:

Before you do, Director Isles, and I absolutely want to hear what you have to add, but given the fact that the bed, the bay bed, needs to be of a certain status or state as directed, I presume by the state law, are we complying with the state law by not having that further testing which would be, I'm sure, very cost prohibitive? I don't want to do it, but I also want to make sure that our program is valid. How do you get comfort with that in compliance with the state directive?

MR. DAVIES:

I don't think there is a problem with that whatsoever. In fact, we've had State of New York participation on this project from the very beginning. And that never been raised by the New York State DEC as a question or a problem that we would have to deal with here.

LEG. D'AMARO:

So it's fair to say that the state is on board with the methodology of determining where the cultivation zone is?

MR. DAVIES:

Yes.

LEG. D'AMARO:

Okay. Thank you.

CHAIRMAN SCHNEIDERMAN:

You know, Dr. Green's comments, too, in terms of how they delineated these areas, although they didn't do this kind of benthic surveys that you're talking about that would give you a percentage of shellfish per acre or something like that, they did use anecdotal records and interviews and determined areas that had been productive in the past. So, Legislator Beedenbender.

LEG. BEEDENBENDER:

I just had one quick question. A couple of the speakers who spoke in favor of the bill did mention the limited scope of it. And that, you know, nobody's going to get rich doing this. So I guess my follow up to that statement would be do we still think there's going to be an interest? I mean this ten acres is sizeable enough that somebody could make a decent enough return to make it worth their while so we anticipate that we'll be able to lease these 60 acres a year up to 600 over the ten years.

DIRECTOR ISLES:

We do. And, here again, there was a lot of research put into this not only with this Committee but there was reference to the Peconic Bay Committee which was headed up and organized by the Nature Conservancy back in 2001. And then there was a county committee created by the County Legislature in 2001 as well. So in terms of the viability of ten acres as a lease site, we believe and we believe based on that prior work plus the input of our committee that it could work. And in fact the State of New York has had a temporary marine assignment program for the past 25 years where they've been giving out assignments, not leases, for five acre parcels to be used in Peconic Bay system for aquaculture.

That has been working. There is about 33 operators out there at the present time. So we do think it's viable. As we heard before from Mr. Relyea he feels that it could also be larger, but we've chosen as far as the committee, anyway, and the department to recommend at a small scale. We do believe it is viable. We also believe that, you know, a big part of this, when the State Legislature granted the County the authority to create this program based on the 2004 legislation as DeWitt referred to, is we've got a mess out there of antiquated ad hoc programs. The old grant lands with some questions as to what you can do, what you can't do, the State Legislature has ratified those that were bona fide at that time. And then we've got this temporary program that the states had. This is the opportunity to clean this up, create an organized what we believe fair program but also at a very small scale.

So in answer to your question, we think it is the right number. The state has specifically said that there must be both a five year and a ten review by you, by the County and the County Legislature down the road for the purpose of then evaluating what worked, what didn't work, what should be changed and so forth. But they've started off in this very conservative mode.

LEG. BEEDENBENDER:

Okay. And just as a quick follow up to that discussion I believe Legislator Schneiderman was having with you earlier, we say that 60 acres a year over ten years is 600 acres, but it could be more than that. If I had an oyster grant for a piece of land, you could give me a grant but that doesn't count against the 60 because that's already my grant. So there is the opportunity that this would be a little bit broader than that which is good because that means somebody's making money, somebody's eating food in a restaurant and the Bay's getting cleaner, so.

DIRECTOR ISLES:

All right. I'll ask DeWitt to summarize the numbers. We do have a situation of dealing with existing grants and existing temporary marine assignments and then allowing some modest growth. We'll give you the specific numbers.

MR. DAVIES:

All tolled, and this number came from the Final Environmental Impact Statement, which was previously adopted by the Legislature in December of last year, to the maximum extent when we're considering all conversion of marine assignments, we're looking at permitted oyster grants for species other than shellfish and also permitted oyster grants as well as those that don't have permits, the total is 3,173.5 acres. That includes the 600 acres of new leases. That is the maximum that could be leased by the end of the first decade.

So, you're right in saying that it's more than 600 because of these other programs that we have considered that are on going, etcetera. So it's more than 600. But it will not be more than 3,173 and most likely it'll be under that because of other constraints that we have to deal with.

DIRECTOR ISLES:

To put that into prospective, too, the Bay system, that represents less than three percent of the Bay system. So the other 97 percent would then is available and would remain available for all other users. And that's what this has all been about; it's been managing

the competing uses, the complimentary uses and so forth in a manner where there's the least amount of conflict, how do we accommodate the divergent interest in the Peconic Bay system? Here again, less than three percent under the maximum is, as DeWitt Davies has explained, in the first ten years of the program.

CHAIRMAN SCHNEIDERMAN:

I want to go back to the issue of ensuring that we're not leasing productive lands, only unproductive lands. We're not giving away a natural resource that's there to any individual. And under the program the onus is really not on the person getting the lease but some other concerned individual to say wait, no, no, don't lease that piece of land; that's productive. I'm a bayman, I go out there, I clam in that area. So I have a couple of questions relating to that. One is the notice. How would the bay person know that we're about to lease a section of land?

MR. DAVIES:

Okay. First off, we'll have as I mentioned before all lease applications are subject to a 60 day public notice review period. We will send out notices of the applicant, his sites that he's selected for potential lease. All of that information will go out to all of the towns on the East End. They'll be posted also on the county website.

CHAIRMAN SCHNEIDERMAN:

Does that include the town trustees?

MR. DAVIES:

Well, right now we are sending them to the town governments. We can also send them to the town trustees.

CHAIRMAN SCHNEIDERMAN:

I would appreciate it because those are the individuals who I think have the closest knowledge of those areas.

MR. DAVIES:

That's not a problem. And it'll also be posted on the website so that everyone will have the opportunity to know what that particular lease application cycle will consist of. When this starts, there will be the baymen will know this before many other people will know it; that's for sure.

CHAIRMAN SCHNEIDERMAN:

Okay. So let's jump to the next phase. Let's say the people who had the knowledge actually have notice. Then you used the word credible. That only if a credible objection so do you have a definition of what's credible? If somebody says I go out there and, you know, I've been digging clams there for years, is that credible? What makes it credible?

MR. DAVIES:

We have looked at that specific question. And the issue of credibility was addressed as follows: An individual wants to object, it would behoove him to say and document that he is a licensed commercial shell fisherman, and that he has undertaken certain activities in an area and harvested shellfish from that particular area and documents that in some way. And he would be able to send, if he can we just don't want people making outrageous claims without any substantiation whatsoever.

CHAIRMAN SCHNEIDERMAN:

But without requiring somebody to go out and file an affidavit, I mean what kind of document would they need? They're not going to have a receipt or something? Other than their word.

MR. DAVIES:

Their word might be we're not going to, you know, diminish the word of an individual who is a respected bayman who has the support of his colleagues. If we have half a dozen people come into the room and say I'm a licensed bayman in the Town of Southampton, I

fish this area, the men around me have fished this area and we can prove that, then that is a credible objection. If people just show up and say, well, they shouldn't be any leasing in a 103,000 acres of property out there that the County has ownership to, that is a little less it doesn't have as much weight; put it that way.

CHAIRMAN SCHNEIDERMAN:

Okay, so let's move onto the next step. So they've got the notice. They've made what you consider, the committee's considered a credible objection. So now the individual has to go out and do a benthic mapping, ground truthing, whatever you want to call it of this area. Do we have any standards, any methodology delineated or written down that this is what you have to do, here's how you have to go about showing it's not productive, how many test holes, whatever you call it, what percentage of naturally occurring shellfish would make it productive versus unproductive?

MR. DAVIES:

Okay. There's two parts to that. And I'll refer to Greg for the second part this, Greg Green. The first part would be if someone objects, some group, someone objects on the basis of clam productivity to a particular site, that information is brought to the Aquaculture Lease Board. The Aquaculture Lease Board has the ability at that point to reject that set up, that site outright. Or they could say we can approve that site for lease subject to a site specific field test for hard clam productivities. So before we even get to the actual testing of the bottom, the Aquaculture Lease Board can actually say that site's off limits because we've heard enough. Now, if it gets to that next step I'll refer to Greg.

MR. GREEN:

Yes. In our program document, we came up with suggested and recommended guidelines for conducting the benthic survey. We require that it be done in a scientific way, in a statistically reliable way. And we suggested some standard procedures for doing that. We then specified an exact procedure because we wanted to leave it somewhat flexible. But we did recommend a number of procedures for sampling shellfish that will work and that we'll accept the data from. But basically we wanted it to be statistically reliable and scientific and done by an objective party.

CHAIRMAN SCHNEIDERMAN:

So you don't have a number of hard clams per square meter or per acre or something like that? An empirical figure?

MR. GREEN:

We do. That's the two clams per square meter that we were referring to before. That number is based on examination of clam density data from the Peconic system as well as from other bays on Long Island. There's a lot of data that we looked at and we came up with that as a guideline value on which to base these surveys.

CHAIRMAN SCHNEIDERMAN:

So less than two would be unproductive?

MR. GREEN:

Yes, less than two is unproductive.

CHAIRMAN SCHNEIDERMAN:

Less than two is unproductive. Okay. Any other questions, comments? Okay. I thank you. And again I think the Committee has been doing an extraordinary job. And it is a complex matter even though it's a small program. And I know, DeWitt, this is your specialty, you know, I know you have a lot of education experience here. And I appreciate your work and all of you. Commissioner, you've been doing an excellent job. So, all right. I have made a motion to approve and there has been a second as well. So this is IR 1546. There's no further discussion, I'll call the vote. All in favor? Opposed? Abstentions? **1546 is approved. (Vote: 4 0 0 1. Leg. Losquadro not present)**

DIRECTOR ISLES:

Thank you very much.

CHAIRMAN SCHNEIDERMAN:

Which is a good thing because there's actually a time line, is there not, Commissioner, in terms of

DIRECTOR ISLES:

There is. The State has give the County up until the end of 2010 next year to issue a lease. If the County fails to do so, the authority or the ownership of the 110,000 acres goes back to the State of New York at that point. Thank you, again.

INTRODUCTORY PRIME**CHAIRMAN SCHNEIDERMAN:**

Okay, we can move to the introductory prime resolutions. First one is

IR 1573, Authorizing the planning steps for the acquisition of land under the Suffolk county Drinking Water Protection Program, as amended by Local Law No. 24 2007 (Dreeben property Town of Southampton). (Schneiderman) I am the sponsor. I'm going to actually ask to table this.

LEG. D'AMARO:

Second.

CHAIRMAN SCHNEIDERMAN:

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

IR 1587, Approving planning steps for the acquisition of Farmland Development Rights May 2009. (Co. Exec.) This is May 2009. There's about 146 acres in total, 14 parcels. This is an omnibus purchase of development rights program.

DIRECTOR ISLES:

What you have before you then are five farms totalling 14 parcels that have been reviewed by the Suffolk County Farmland Committee after a meeting on May 26th, I believe, the date was. These are the ones that were recommended from the Committee. The first is Tilden Farm in Huntington, which is actually a Christmas tree farm. It received a score of 8.75. The committee score is typically a break of ten. In this case the committee took note of the historic aspect of this. This farm has been in operation for literally centuries is what we're told by the committee. Also looking at the limited farmland available so it was recommended by the committee for consideration and fairly a decent acreage on it as well 14 acres in western Suffolk.

The second one is Rottkamp. This achieved a rating 14.75. This is a location with road crops on it. And, here again, of a strong rating in a farm belt in the Town of Riverhead.

The next one is Shelter Island Farm. We only have one other farm in Shelter Island, which is a horse farm. This is also known as Sylvester Manor which is an historic farm in Shelter Island going back to the 1600's. It is a parcel of got a rating of 11.5 by the Farmland Committee. This is a parcel that's being brought back into farming. Farming has commenced on the property and it is being brought back into production. Total acreage once it's all in production is 83 acres; pardon me, 85.3 acres.

Next we have Zip Millstone Southampton Town, which is also a crop agriculture farm. This is a parcel that rated 11.25 by the County Farmland Committee. The committee was concerned about the property being subdivided. It's subdivided into residential lots. So the recommendation of the committee was that the subdivision be abandoned prior to the closing or acquisition by Suffolk County of the development rights as we go forward. This is for the purpose to not have the parcel subdivided and actually used for those purposes and not have viable agriculture occurring. It is a very high visibility site as well.

The last one was Dogwood Associates in the Town of Southampton. This is a parcel of about 19 acres. And the Committee is recommending a partial acquisition of development rights. Part of the property is wooded. Part of it is open farmland. This is along Montauk Highway in _____ and is currently being utilized for rye grain production and is a cover crop material, I believe, in this case. And also the parcel _____ by the way, just in terms of location is within the Village of Sagaponack.

If you have any questions on any of these _____ these are, here again, planning steps so this would authorize the first step in the process which are the _____ confirming interest by the owners and then appraisals from that point.

CHAIRMAN SCHNEIDERMAN:

Questions? Legislator Cooper.

LEG. COOPER:

Thank you. I had a question regarding the final parcel, with the cut off being about eleven. This parcel's substantially below that minimum rating. It's only 7.75. My overriding question is why do we lump together district parcels ranging from Huntington to Southampton particularly in the case where we have a couple parcels that have lower than recommended ratings? And certainly three of the parcels I would have no problem approving. The other two raise some questions in my mind, but I'm put in a position where I have to vote for all of them or vote for none of them. So why don't we do five separate resolutions?

DIRECTOR ISLES:

You could certainly do it that way. The traditional pattern has been for the _____ the practice has been for the recommendations of the Farmland Committee to be brought forward in a single resolution. You're right on the last one. It did receive a rating as we reported to you in the forms of 7.75. The typical _____ you know, the recommended cutoff, which is, here again, not mandatory but is a ten is typical so the committee usually looks for a score of ten or greater.

In the case of the Dogwood Associates property, here again, it's hard for me so speak for the Committee. But if I could just try to summarize it, I think they were interested in the visibility of the property, the viability, the agricultural soil; and also the fact that there's preserved land in this vicinity. It's not farmland, but there's open space that's adjacent or in the vicinity of this parcel. I think the committee felt that it would also tie into that preservation belt. But, here again, they're packaged as part of the committee recommendations and obviously I'll defer to you in terms of the Legislature as to how you would like to take these.

LEG. COOPER:

Thank you, Tom.

DIRECTOR ISLES:

You're welcome.

CHAIRMAN SCHNEIDERMAN:

Legislator Beedenbender.

LEG. BEEDENBENDER:

Tom, just on a somewhat related but a little bit separate note, on the Shelter Island property, the Fiske property, how do we measure where we can consider a farm? And I know it's kind of a vague question. It says vegetables. But when I look at the piece of property outlined on red on this map, it looks like a lot of it is wooded. So how do we define _____ I think you may have answered this while I was sitting here once before, but I don't remember what it was. I can see some areas that look like there were farmed that are being farmed and some others that are not. So why _____ what's the rationale for including those in the development rights purchase?

DIRECTOR ISLES:

All right. The parcels that were included or are included and recommended by the Farmland Committee are those that are outlined in white. The overall parcel is outlined in red, the subject parcel. It is a large parcel. It's in excess of 240 acres. So the parcels within that, the 85.3 acres that are recommended are in the stage of being converted to agriculture production. This historically was a farm going back a 100, 200, 300 years ago. This was used for agricultural purposes. The current owner and operator of the property is converting it to farmland. In terms of your specific question, well what constitutes farming, agricultural production, we go to New York State Law on that, Agriculture and Markets Law. And we've used that as a guide. Now in this case the Farmland Committee has sought to ensure that there's actual growing of crops, preparation of soil, tilling of soil and planting of crops to commence this acquisition or any acquisition.

Now, in the case of Sylvester Manor, the parcel that you've mentioned, Legislator Beedebender, this property has commenced some production, here again, from the historic past. I inspected the site along with other members of the Planning Department last fall. And what the committee has said is that we'd like to start the process at this point, but obviously we come back to you. And if we come back to you for an acquisition resolution, it would have to be proven that there's actual agriculture occurring. So there is farming that's occurring on this site presently. He's intending to fill it out to the 85 acres that's before you. And obviously if we come back to you for an acquisition resolution, we would demonstrate that to you. If not, we would not bring it back to you.

LEG. BEEDENBENDER:

Okay, thank you. And I appreciate the clarification. I was in error there. But just as a follow up, I would imagine that by the time the acquisition comes, he would not have developed all 83 acres, but there would be this substantial movement towards doing that. Is there any sort of requirement as we purchase development rights that he has to do what he is intended because we've purchased these development rights to allow him to continue to farm?

DIRECTOR ISLES:

Well, you're right that I don't think it will all happen at once. So I think if we were to come back, if this moves forward, we would probably come back in subsets. So maybe it's forty acres, maybe it's 20 acres. The minimum farm size in New York State is 7 acres for, you know, most farmland. So it wouldn't be anything smaller than that. But as he's expanding the agriculture

LEG. BEEDENBENDER:

So it would come to us with each one of these three like the one most to the north looks like it's probably the area that's productive now and then as he the owner, I shouldn't say he, but as the owner makes it productive, they would come to us with whatever whichever parcel they were ready for.

DIRECTOR ISLES:

Right.

LEG. BEEDENBENDER:

Okay.

DIRECTOR ISLES:

Right. I think that's the one he's intending to come in first for an acquisition; that could be maybe a year or two from now improving the cultivation.

LEG. BEEDENBENDER:

Okay. But these will come in in stages as they get developed for cultivation?

DIRECTOR ISLES:

Exactly.

LEG. BEEDENBENDER:

Good. Thank you very much.

CHAIRMAN SCHNEIDERMAN:

Any other questions or comments? I'd like to have I made a motion yet? No, I have not. I would like to make a motion to approve it as a whole even you know the one that he raised questions about, Legislator Cooper raised questions about which happens to be in my district, it lost it lost points because of the high value of the land which is somewhat unfair; lost two points because it's expensive farmland. It only got one point for protected farmland nearby but I believe this area has a large amount of protected farmland nearby. It depends on how you define nearby. So I think, you know, you have to look at that score, I think, through maybe a different lens there but I'd like to make a motion to approve the whole packet. We are buying other farmland in the Sagaponack area, so, is there a second?

LEG. COOPER:

I'll second it.

CHAIRMAN SCHNEIDERMAN:

Second by thank you Legislator Cooper. All in favor? Opposed? Abstentions? Approved. **(Vote: 4 0 0 1. Leg. Losquadro not present)**
Can the Clerk list me as a cosponsor on that resolution, please?

IR 1588, Authorizing, empowering and directing the Suffolk County Planning Department to file a grant application pursuant to the New York State County Agricultural and Farmland Protection Planning Grant Program for matching State funds to develop an update to the Suffolk County Agricultural and Farmland Protection Plan. (Co. Exec.)

LEG. D'AMARO:

Motion.

LEG. COOPER:

Second.

CHAIRMAN SCHNEIDERMAN:

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

IR 1592, Authorizing the acquisition of Farmland Development Rights under the New Suffolk County Drinking Water Protection Program (effective December 1, 2007) for the VW Enterprises LLC property Mitchells Lane Farm Town of Southampton (SCTM No. 0900 050.00 01.00 005.000). (Co. Exec.) The aerial is being distributed. The rating form is 11. Commissioner?

DIRECTOR ISLES:

Okay, the subject parcel is under the name of VW Enterprises LLC, also called Mitchells Lane Farm. It is a parcel of 23.8 acres located in the hamlet of Brookhaven within the Town of Southampton. It's a proposed full fee pardon me development rights purchase for the purpose of farmland preservation.

A couple of the key aspects of this acquisition is the current property is, here again, intact at the 23.8 acres. There are no cutouts proposed or building sites. It does have extensive frontage on both Mitchells Lane as well as Scuttle Hole Road. It is also adjacent to other land owned by Suffolk County for farmland preservation which is the property to the right hand side or east of your map.

The acquisition at this point is a full county acquisition. We understand from Real Estate

that there may be some town interest but at the present time it's a county acquisition. We have included in the resolution the purchase price which is \$420,000 per acre for this. And I'm not sure if I noted or not, the property is currently farmed for potatoes and corn, basically alternating off for those two types of crop agricultural uses.

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

CHAIRMAN SCHNEIDERMAN:

Legislator Beedenbender.

LEG. BEEDENBENDER:

Tom, did you just say that there maybe town interest?

DIRECTOR ISLES:

There may be. At this point we have no confirmation so we're proceeding based on

LEG. BEEDENBENDER:

Well, I would you know, I don't know how the rest of the Committee would feel, but it would be my recommendation to wait until we got a final determination. Because that \$10 million, if there's a possibility that the town could share in it through whatever funding source might be available to them, I'd like to know only because this is the type of acquisition we normally would want to partner in. And it is expensive. It's not as expensive as some of the land we were just talking about; but if we can partner, that would certainly be helpful to us.

DIRECTOR ISLES:

We always try to do that. And Real Estate certainly does a very good job with reaching out to the municipalities and seeking their participation. The towns in the east end, which have been relying on the community preservation fund, do not have the revenues they originally had. We have had them participating in some acquisitions, but certainly it's been tailing off lately. We, you know, here again, we prepared this based on a county acquisition and we understand your point. If it were to change, we would certainly come back to you but I'll defer to whatever the Committee wants to do on this.

LEG. BEEDENBENDER:

Well, yeah. Listen, I don't question the process that you guys have at all. It's just, you know, before I heard you say that I had some questions about the cost of the acquisition. But if there is a possibility I know the CPF, you know, its funding source has dried up a bit, you know, there's not as much as real estate transactions going on throughout the County. But if it's possible, you know, even if it's not 50/50, if it's 80/20 or something, we're still talking about a sizeable amount of money so I don't know how the rest of the Committee feels, particularly our Chairman, this is your legislative district, but if there's a possibility of that, I'd like to see if we could explore it.

CHAIRMAN SCHNEIDERMAN:

Right. I'd certainly like to see this land preserved. This is a highly visible area, important farming area. These partnerships, Tom, they're often what, 70/30, 70 us and 30 town; is that right?

DIRECTOR ISLES:

Well, they vary based on how much the localities have. The standard often had been 50/50. But actually in the Town of Southampton for a while they were doing 70 percent town contribution but that certainly has changed. And, you know, more recently we have a farm that should be coming to you soon in Southampton that I'm familiar with where the town, I think, is a 20 or 30 percent partner and just based on the limited funds.

CHAIRMAN SCHNEIDERMAN:

You know, I certainly would to see this move forward. I can certainly understand my colleagues wanting to at least reach out to the town to see if they would partner so we

can stretch our dollars further. I'm, you know, I'm still going to make a motion to approve.

LEG. BEEDENBENDER:

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

CHAIRMAN SCHNEIDERMAN:

Legislator Cooper.

LEG. COOPER:

Another question. Tom, let's say that the County were to move forward with this acquisition for \$10 million. And in five years or ten years the person who's farming the land passes away and the property falls in possession of his heirs, let's say, and his kids no longer want to farm, are there any protections in the contract that would require the land to remain under cultivation for a certain period of time? And if that doesn't happen, if it were to become fallow, what redress is there?

DIRECTOR ISLES:

The County program is for the purchase of development rights. So what it basically does is to take away the development pressure so that the chance of this land being available and used for farming is much more likely because it's not competing with development. That does not guarantee that or require that it has to be farmed. In the history of the county program, we have almost 10,000 or about 10,000 acres of protected county owned farmland right now. There is a very small percentage which is fallow. And my experience and my observation is that over time many of those parcels do eventually come back into production. If they were in production, went out of production I've seen cases where it's been brush and trees growing and they clear and grow.

There's another problem, though, which is the, you know, high value area in terms of, here again, ensuring that it's an agricultural production. In this case they're not doing a cutout which we think is positive so they're not going to build I mean the worst case is building a very expensive home. And then it becomes somebody's deluxe backyard. And that's not what we want to see happen.

So in specific answer to your questions, they're not required to farm it. The incentive is that this land can be leased to a farmer if the owner doesn't want to farm it themselves. And we think the program generally works for that purpose. I will add in that the prior resolution which was to consider the grant to update the county's farmland plan, it's one of the things we want to look at in that planning process is, are there some adjustments to the County program that would better ensure a continuation of farming. That's the best answer I can give you at this point in terms of how the program is currently structured based on Chapter Eight of the county code.

LEG. COOPER:

But it is I'm getting back to the Southampton parcel that we considered in the previous resolution, which is water front parcel. Theoretically it would be possible for at some point in the future, as I said, the heir to the farmer or the purchaser of the property to intentionally take it out of cultivation and build a

LEG. BEEDENBENDER:

There's no development rights on the property.

LEG. COOPER:

So development rights would apply to even putting a private home on the property?

DIRECTOR ISLES:

Absolutely. It would only be permitted for, you know, agricultural structures, a barn, a pasture, fence or something like that. So, no, they cannot build a house on this property in any way, shape or form at this time.

LEG. D'AMARO:

Commissioner, if I can just follow up on that, that's filed by, I would assume, a covenant and restriction on file with Riverhead or at least a deed restriction. There's some mechanism there, one where you acquire the development rights, I would assume; right?

DIRECTOR ISLES:

Right. There is a deed of development rights that is prepared. We have a representative from the Department of Law here that could certainly answer that better than I can. But we have a contract. That's filed, as I understand it, plus the deed itself of county's development rights with whatever conditions may be on there are recorded in the County Clerk's Office.

LEG. D'AMARO:

Are the parameters of the program delineated by us or is it more governed by the terms of the bond used to purchase the development rights?

DIRECTOR ISLES:

They're governed by the County Law, which is Chapter Eight; and, here again, I'll certainly open to the County Attorney to comment. But there are very specific parameters within both the deed and the contract as well as within Chapter Eight. The deed and contract refer back to Chapter Eight in terms of what can you do with the property. It spells it out. So it is very specific in my interpretation of it.

LEG. D'AMARO:

Is there anything in the current program that prohibits the County from marketing those deeds; those development rights?

DIRECTOR ISLES:

From marketing?

LEG. D'AMARO:

Not that I want to do that, but I'm just those can become very available commodities at some point.

DIRECTOR ISLES:

To my knowledge there's no provision for marketing the deed the development rights.

LEG. D'AMARO:

No. I mean is there prohibition?

DIRECTOR ISLES:

The only thing I'm familiar with in Chapter Eight is that if there's an alienation of the County's interest such as somebody wants to take those development rights and put them back on the property, do something else with them, my understanding of the law is that requires a mandatory requires a review by the Farmland Committee, approval of the Legislature and approval of a mandatory referendum of the voters of Suffolk County in a general election.

LEG. D'AMARO:

That's because the program was originally approved by a mandatory referendum?

DIRECTOR ISLES:

I'm not sure of that but

LEG. D'AMARO:

Okay. We don't need to get into that now. But in your opinion you would need at least that three levels of approval, which is quite onerous?

DIRECTOR ISLES:

That's what's currently specified in Chapter Eight.

LEG. D'AMARO:

Thank you.

DIRECTOR ISLES:

You're welcome.

COMMISSIONER MEEK GALLAGHER:

Mr. Chair, I did want to just respond or augment the response to Legislator Cooper's question earlier. There is an effort by groups such as Peconic Land Trust to ensure that once land is preserved as farmland, and say the next generation is not interested in continuing to farm that they would try to market to another farmer to come and use that land either for it to be leased by the owner or to actually sell the fee to the next you know, to another farmer because there is such a shortage especially on the south fork of remaining farmland that's in active production. So there are programs out there to try to encourage that and to try to encourage the continuation of farmland on farming on preserved farmland.

LEG. BEEDENBENDER:

I'll make a motion to table, Mr. Chairman just based on my previous comments to see if we can get some sort of partnership from the Town of Southampton.

CHAIRMAN SCHNEIDERMAN:

I understand. And, Mr. Isles, if a renewed effort, maybe a written request could be made to the Town? I'm still going to support approving this. Approving it doesn't rule out the Town stepping forward and joining us in the acquisition, so, but I certainly understand if we can get some money from the Town. So, the tabling motion would come first. Was there a second?

LEG. COOPER:

I'll second the motion.

CHAIRMAN SCHNEIDERMAN:

Okay, Legislator Cooper seconding the tabling motion. All in favor? Opposed? I'm opposed. Abstentions? 1592 is tabled. **(Vote: 3 1 0 1. Leg. Schneiderman opposed. Leg. Losquadro not present)**

IR 1593, Authorizing the acquisition of Farmland Development Rights under the New Suffolk County Drinking Water Protection Program (effective December 1, 2007) for the Andrews property Town of Riverhead (SCTM No. 0600 058.00 02.00 012.002 p/o). (Co. Exec.) And the aerial is being distributed. 18.8 acre proposed acquisition.

LEG. BEEDENBENDER:

Mr. Isles, is this the same company? In 1592 and 1593 it does list Mitchells Lane Farm, at least on my agenda. Is that I'm looking at something wrong?

CHAIRMAN SCHNEIDERMAN:

I think there was a mistake.

LEG. BEEDENBENDER:

Okay, all right, never mind. I apologize.

DIRECTOR ISLES:

Okay. Subject parcel's located in the Town of Riverhead within the hamlet of Wading River known as Andrews Family Farm. Before you we've circulated an aerial photograph that indicates the subject farm outlined in red. The proposal has two cutouts. We call them retained acreage on the aerial photograph, two acres on the north end and four acres on the south end. The property does, however, still have extensive frontage along Hulse Landing Road.

Subject parcel then for the acquisition would be about 18.8 acres out of the total parcel area of a little over or almost 25 acres. The current crops on the property are a mixture of row crop agricultural scallions, radishes, collard greens and mustard greens. We've inspected the site. And, here again, the parcel was recommended by the County Farmland Committee. It goes back sometime. The score at that time was 19 out of 22. We do not have a copy of that. And, here again, it just goes back to a very old rating and an old rating system used by the Farmland Committee.

We will point out that the parcel is in an area that has extensive both County TDR purchase as well as Riverhead Town. And we feel it's a strong acquisition at this point in terms of protecting a large farm belt of agriculture.

If you have any questions, we'll do our best to address it. The purchase price by the way is \$72,000 an acre at the 18.8 acres estimated at this point.

CHAIRMAN SCHNEIDERMAN:

I'll make a motion to approve.

LEG. COOPER:

Second.

CHAIRMAN SCHNEIDERMAN

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

IR 1594, Authorizing the acquisition of Farmland Development Rights under the New Suffolk County Drinking Water Protection Program (effective December 1, 2007) for the H. Wojewocki, D. Wojewocki and P. Wojewocki property Wojewocki Family Farm Town of Riverhead (SCTM No. 0600 020.00 03.00 008.000 p/o). (Co. Exec.) Anybody know how to pronounce it? I'm sure they'll get it by the press conference; they'll know how to say it.

DIRECTOR ISLES:

Okay. The Wojewocky Family Farm, I believe. It's a parcel located in Northville in the Town of Riverhead of about 35.5 acres that are proposed to be purchased. There is a two acre cutout along Sound Avenue. The far parcel has frontage on Sound as well as on a road going to the north of the property. The parcel is directly adjacent to existing county owned development rights as well as other lands in the vicinity owned by the County and the Town of Riverhead. So it is a large significant farm belt. The parcel scored 16 in the County rating system. The parcel is currently farmed with pumpkins. The purchase price of the property is on a per acre value is \$58,000. If you have any questions, we'll per acre. If you have any questions, we'll try to answer those questions.

CHAIRMAN SCHNEIDERMAN:

Any questions? Score of 16. I'll make a motion to approve.

LEG. D'AMARO:

Second.

CHAIRMAN SCHNEIDERMAN:

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

IR 1601, Authorizing the acquisition of land under the New Suffolk County Drinking Water Protection Program (effective December 1, 2007) open space component for the Stanton Avenue LLC property Overton Preserve Town of Brookhaven (SCTM Nos. 0200 477.00 02.00 014.001, 0200 477.00 02.00 015.000 thru 023.000, 0200 477.00 02.00 024.001, 0200 477.00 02.00 030.000 thru

037.000, 0200 477.00 02.00 044.000 thru 047.000, 0200 494.00 03.00 014.000 thru 026.000, 0200 495.00 01.00 001.000 thru 024.000, 0200 495.00 01.00 026.000 thru 027.000, 0200 495.00 01.00 029.000 thru 037.000, 0200 495.00 02.00 001.000 thru 026.000, 0200 495.00 03.00 001.000 thru 028.000, 0200 495.00 04.00 001.000 thru 038.000, 0200 495.00 05.00 003.000, 0200 524.00 01.00 001.000 thru 046.000, 0200 524.00 01.00 051.000 and 052.000). Numerous tax map parcels. Roughly 162 acres in total. Purchase price of somewhere in the neighborhood of \$14 and a half million. 14.58, something in there, \$90,000 per acre. Commissioner.

DIRECTOR ISLES:

This is a parcel that's part of what's known as the Overton Preserve area in the Town of Brookhaven encompassing the hamlet a portion of the hamlet of Coram. Just to give you a general reference the boundary to the west side is State Route 112. To the north is essentially Mill Road. And to the south is Granny Road. This is an acquisition target area that goes back about four years. It's an area that encompasses about 400 acres of land that were identified for preservation at that time.

You have before you today two resolutions to consider to authorize acquisition. The resolution identified in 1601 is known as the Stanton Avenue LLC property. It is two large tracts, one of which reflects an old file map which is the extensive red coloring in a grid format on the left hand side of the map. And then the balance of the property is un subdivided about equal dimensions but totalling about 162 acres an area.

It is a significant acquisition in the sense that this almost completes the acquisition process in Overton. Here again, we have the one other parcel in 1602 that's on for a little over three acres. Then there's a parcel to the east that potentially would be the last acquisition in the area. All the other parcels have been acquired and protected either by the County or the Town of Brookhaven.

Subject parcel itself is within a special ground water protection area, the Central Suffolk Groundwater Protection area. It is an area in terms of the Overton Preserve where it's got a variety of environmental conditions of both uplands, wetlands, meadow areas, upland wooded areas; and here given all within a deep flow recharge area. There are tiger salamander habitats to the south of the subject parcel. So here again it was identified in prior decisions of the County to acquire. Lands have been based upon that premise and those conditions.

In the case of this acquisition the purchase price is \$90,000 per acre. It was rated by County Planning Department staff. And the rating form is attached giving a rating of 38. And we evaluated both the 1601 and 1602 matters in this rating form. If you have any questions, we'll try to address those questions.

CHAIRMAN SCHNEIDERMAN:

Legislator Beedenbender.

LEG. BEEDENBENDER:

Tom, I'm just trying to orient myself. I know you gave us the roads. Is this the parcel that includes the problem with the paint ball facility?

DIRECTOR ISLES:

It is not.

LEG. BEEDENBENDER:

It is not.

DIRECTOR ISLES:

That's located to the east.

LEG. BEEDENBENDER:

Okay.

DIRECTOR ISLES:

And you can see the clearing on the southwest portion of that site. Or I can point it out to you later on where it actually shows this road name here, which is David Overton Road, which does not exist.

LEG. BEEDENBENDER:

Okay.

DIRECTOR ISLES:

It's a dirt road. That's where the paint ball was.

LEG. BEEDENBENDER:

Okay. I can see well, somebody bought it, then.

MS. FISCHER:

We did.

LEG. BEEDENBENDER:

We did.

DIRECTOR ISLES:

Yeah, that was addressed in the acquisition process. The people operation is closed.

LEG. BEEDENBENDER:

Okay.

DIRECTOR ISLES:

And there was a clean up that occurred prior to closing.

LEG. BEEDENBENDER:

Okay. Because I know at one point there was a concern with the owner that the owner had moved out or done something in the proper time period. Perhaps I'm thinking of something different.

DIRECTOR ISLES:

Right. And the paint ball was on the Town of Brookhaven parcel, which is to the south.

LEG. BEEDENBENDER:

Yeah. Right.

DIRECTOR ISLES:

What was encroaching onto what we were potentially going to buy was some dirt parking area.

LEG. BEEDENBENDER:

Right.

DIRECTOR ISLES:

And actually some of the paint ball operation. And, here again, as a precondition to purchasing the property, that had to be adequately cleaned up, removed and terminated as a use before the closing occurred.

LEG. BEEDENBENDER:

Thank you, Tom. I appreciate that. I'll make a motion to approve, Mr. Chairman.

LEG. D'AMARO:

Second.

CHAIRMAN SCHNEIDERMAN:

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

Just as a side note since some of these are multiple millions of dollars that we're approving, it would good, I think, to get a report soon on where we stand with the revenue sources. Okay.

IR 1602, Authorizing the acquisition of land under the New Suffolk County Drinking Water Protection Program (effective December 1, 2007) open space component for the Belonzi property Overton Preserve Town of Brookhaven (SCTM No. 0200 524.00 01.00 047.002). (Co. Exec.) We've already some discussion about this. Maybe we can take the same motion, same second. This is that three acre parcel that's the second aerial in the packet you were just handed. Same motion, same second, same vote. Approved. **(Vote: 4 0 0 1. Leg. Losquadro not present)**

IR 1603, Authorizing the commencement of Eminent Domain Proceedings for the Bavarian Inn property, Town of Smithtown (SCTM No. 0800 171.00 05.00 015.000). (Kennedy) 2.5 acre of property that I think all of you are familiar with.

LEG. COOPER:

Motion to table.

CHAIRMAN SCHNEIDERMAN:

There's a motion to table by Legislator Cooper. Is there a second?

LEG. BEEDENBENDER:

I'll second it.

CHAIRMAN SCHNEIDERMAN:

Second by Legislator Beedenbender.

LEG. BEEDENBENDER:

Just on the motion.

CHAIRMAN SCHNEIDERMAN:

On the motion Legislator Beedenbender.

LEG. BEEDENBENDER:

I understand Legislator Kennedy's desire to move forward. And in fact, you know, we had a long conversation about this. I think this was one of the first things I ended up voting on when I got here was the acquisition. If the building is in such disrepair, which it most certainly is, it can't have electric service, it has water in the basement and a multitude of other problems. It seems to me that it would be appropriate for the Town of Smithtown to condemn and or demolish this building rather than come in this fashion.

And my other concern with eminent domain I know we're doing this for the plaza theatre in Legislator Eddington's district, but we're doing that because we intend to flip it and make it into something. We're going to turn it over into a public benefit. I'm not sure that there would be a similar opportunity for the County to do that in this case. And I guess and I'm also of the understanding that at some point we may just acquire this through tax default as well. So I think there's a lot of outstanding questions. So I'm not ready to move forward at this point.

CHAIRMAN SCHNEIDERMAN:

Any other discussion? All in favor? Opposed? Abstentions? So tabled. **(Vote:**

4 0 0 1. Leg. Losquadro not present)

That concludes our agenda and we are adjourned. Thank you.

**THE MEETING CONCLUDED AT 3:34 PM
{ } DENOTES SPELLED PHONETICALLY**