

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 November 9, 2009.

MEMBERS PRESENT:

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

ALSO IN ATTENDANCE:

Legislator DuWayne Gregory, Fifteenth District
Legislator Wayne R. Horsley, Fourteenth District
George Nolan, Counsel to the Legislature
Patrick Skip Heaney, Commissioner of Economic Development and Workforce Housing
Kevin Duffy, Budget Review Office
Barbara LoMoriello, Deputy Clerk
Thomas Isles, Director of Department of Planning
James Bagg, Chief Environmental Analyst/Department of Planning
Lauretta Fischer, Principal Environmental Analyst, Department of Planning
Carrie Meek Gallagher, Commissioner of Department of Environment and Energy
Catherine Stark, Aide to Leg. Schneiderman
Paul Perillie, Aide to Majority Leader
Linda Bay, Aide to Minority Leader
Steve Tricaraco, County Executive Aide
Gail Lolis, Deputy County Attorney
Peter Imbert, Mayor of Village of Amityville
Marge Acevedo, Aide to Presiding Officer
And all other interested parties

VERBATIM MINUTES TAKEN BY:

Diana Flesher, Court Stenographer

THE MEETING WAS CALLED TO ORDER AT 1:10 PM

CHAIRMAN SCHNEIDERMAN:

Good afternoon. I'd like to call this meeting to order of the Environment, Planning and Agriculture Committee this 9th day of November 2009; if you all will rise and join us for the Pledge of Allegiance led by Legislator Brian Beedenbender and then please remain standing.

SALUTATION

Please remain standing for a moment of silence. I'm sure as you entered you saw the flag flying at half mass. That is in honor of the 13 soldiers who died at Fort Hood. There was also another 30 wounded. And joining in the moment of silence I'd like to include Staff Sergeant Keith Bishop from Medford who died in a helicopter crash recently in Afghanistan, who was buried this morning. So if we could send our prayers to the families and honor their memory with a moment of silence.

MOMENT OF SILENCE OBSERVED

Thank you.

PUBLIC PORTION

We're going to start with public portion. I only have one speaker card. If you wish to be heard and have not completed a speaker card, please do so. They are up in the front. I'd like to ask Mayor Peter Imbert from Amityville, Village of Amityville to come to the podium and make your presentation. You have three minutes, Mr. Mayor.

MAYOR IMBERT:

Thank you, Mr. Chairman. I'm here to ask this Committee to support resolution to fund the Village of Amityville for money that was previously approved by this Legislature. Under the Greenways Program the Legislature approved the acquisition of five parcels in the Village of Amityville for an open space project which is on Nautical Park.

One of the parcels could not be acquired because the Real Estate Division couldn't come up with the price and they asked us to condemn it. And then with the Court's decision on what it was worth, they felt that they were then -- would be comfortable with funding those monies.

While the condemnation process took some time and County Executive Gaffney left office, and we have a new County Executive, they took a different position during that or since then as stating that the County does not acquire open space projects from municipalities. Well, the Village had laid these funds out in good faith along with the other four properties we worked with the County on purchasing, we had laid out 25 to 30,000 per property. And then we came to the County Real Estate Division for the reimbursement for the monies we laid out and we were told *we don't buy property from municipalities*.

Well, we would have never bought it. We're a two-and-a-half square mile Village and that was the deal we had. We were working with Mr. Burke and Peter Belyea of that division. And now we're here, we're short that money and we've made no progress with the County Executive. Paul Sabatino was the one we met with. And so I see no other recourse than to appeal to this Committee and the Legislature to ask for that money back.

CHAIRMAN SCHNEIDERMAN:

Okay. Any questions for the Mayor? Thank you, sir.

MAYOR IMBERT:

Thank you.

SLIDESHOW PRESENTATION

CHAIRMAN SCHNEIDERMAN:

All right. At this point I'd like to ask Commissioner Gallagher to make a brief presentation concerning -- I guess, this is on the solar -- solar carport, is that what you're presenting on?

COMMISSIONER MEEK-GALLAGHER:

Yes, exactly, a potential solar carport project that the County may be entering into have shortly with Enxco.

CHAIRMAN SCHNEIDERMAN:

Go ahead.

COMMISSIONER MEEK-GALLAGHER:

So, by way of background, back in 2008 LIPA had announced an RFP to generate up to 50 megawatts of solar power on Long Island and sell it into the -- sell it back into the grid. It was to help boost the renewable -- renewable portfolio; LIPA's renewable portfolio. Suffolk County had at the time submitted a list of potential sites to LIPA that might be considered mostly roof tops, actually. And then LIPA awarded the bid to two companies BP Solar, which you're probably familiar with is doing a huge project out at Brookhaven National Lab, close to 37 megawatts. And then a smaller company Enxco. And then, you know, a month or two later Enxco contacted the County and was interested in following up with us on some potential sites. And what they were most interested was developing solar carports.

The key to this to remember, though, you know, all throughout is that the project is really subject to LIPA approving a power purchase agreement with Enxco. So, we're coming to you now to give you a briefing because Enxco is actually scheduled to be presenting to the Riverhead School Board tomorrow night. And we wanted to make sure that you as the County Legislature which will be voting on this lease within the next couple of months, hopefully, had the same information that's going to be presented to, you know, potentially a public meeting tomorrow night. We were unaware that Enxco had started talking to some of these other entities until just recently because we had been under a non-disclosure agreement with them.

But Enxco is actually a subsidiary of a French company, {Electricite de France} and -- but Enxco's their American counterpart and a subsidiary. They focus on large scale renewable energy projects. Enxco is the one that works in North America. And right now they have over 13,500 megawatts in project under development. And they produced over 2,700,000 megawatt hours of green energy as of 2008. So they have the capacity, they have the potential, they've proven that they can do this type of project.

So the plan is that the County would lease parking lots to Enxco to construct these solar carports. And it won't reduce any parking spaces because I know that's always a big question, not necessarily at the County facilities, we're talking about some of them, but at the -- some of the railroad sites that we're looking at. It would produce roughly 15 megawatts which is enough to power 3,000 homes. All the power would be sold to LIPA into the grid so we don't have to worry about a power purchase agreement or purchasing that power. That's all handled by LIPA. And then Enxco maintains all the liability. They operate, they maintain the sites, they're liable for the solar power systems. We don't have any liability for them.

And so here's a rendering of what it would look like at the Dennison Building potentially. You can see it actually would be a carport. The solar panels would be on top. And they're in between the parking spaces so that we don't lose any parking spaces. We actual get cover from the snow and also from the sun. So it's really a benefit to people that will be parking in these sites.

And you should know that this has been a collaborative effort with my Department, with Department of Public Works, the County Attorney's Office, Department of Economic Development so everyone that needed to be in the loop has been, you know, involved in whether these sites are suitable or not, whether we have the legal ability to do this, etcetera and so forth.

And this is just, again, just showing the parking lot. So you can see we have a lot of asphalt that could really be used -- turned into a much more productive project where we can generate solar power. The Riverhead County Center, Cohalan Court Complex. And then we're looking at two, possibly three train stations that the County owns including Ronkonkoma, which is huge. It could generate up to five megawatts of solar power just on Ronkonkoma alone, the Deer Park Train Station; and now we're revisiting potentially the Brentwood Train Station. But that's -- that's why the lease negotiations are still underway.

And so some of the project benefits, obviously there's job creation and economic development. So this is really kind of a win/win for the economy, for the environment and for the County taxpayers as well since it will be generating revenue to the County over the life of the project. 150 to 200 construction jobs, two full-time technician jobs, some on-call contracts for maintenance and cleaning. It'll give a big boost to the renewable market on Long Island. It will show our support of renewable energy. It's going to be one of the largest solar projects on the east coast. New York State, as you know, has renewable energy goals that need to be met. This will help them meet that. And it's really a visible project. It'll show that not just solar can work, but that distributed solar generation can work unlike these massive solar farms which is what they're doing; BP's doing at BNL.

And then here's some of the environmental benefits. You're looking at, you now, massive offsets of carbon dioxide, 13,359 metric tons which would be the equivalent of removing 2000 -- roughly 2500 cars from the road each year or reducing emissions from 31,000 barrels of oil or reducing emissions from burning probably 70 rail cars worth of coal and reducing the equivalent amount of emissions from electricity use in 1800 average American homes over one year. Also reduces our reliance on fossil fuels, improves our air quality, reduces emissions of SOx, NOx and carbon dioxide as well. And that is really -- that's it. Questions?

CHAIRMAN SCHNEIDERMAN:

We'll start with Legislator Losquadro.

LEG. LOSQUADRO:

Thank you. You mentioned the PPA, the power purchase agreement. That will obviously -- all of that would have to be done upfront and in place before we entered into any agreement; correct?

COMMISSIONER MEEK-GALLAGHER:

Well, we could sign a lease agreement. But we could not vote -- we would not bring it forward to you.

LEG. LOSQUADRO:

Until the PPA was in place?

COMMISSIONER MEEK-GALLAGHER:

Yes. Because the PPA -- so the PPA and SEQRA are -- LIPA's the lead agency for SEQRA. That is all supposed to happen at their December 17th meeting which -- they moved up their meeting date. We were hoping to bring this to you the last meeting of the year but unfortunately they moved that so you will now be seeing this early next year.

LEG. LOSQUADRO:

Okay. Couple of basic questions when it comes -- I know obviously is a big concern over losing parking spaces. And I like that idea, you know, of sort of cantilevering them to achieve that goal, of

not losing any. I guess there's some sort of uniform standards here in terms of engineering that they're built to sustain the type of wind loads that we can receive on Long Island and all that good stuff?

COMMISSIONER MEEK-GALLAGHER:

Yes. And that's why it's been so important to have the Department of Public Works involved right from the beginning because they have been doing that type of QAQC on the engineering specs and the design specs for this project. And we will not be entering -- we will not be signing a lease agreement unless Department of Public Works is satisfied that all that has been met.

LEG. LOSQUADRO:

And this is something that they're entering into; they would be responsible, I guess, there's adequate height clearance for taller vehicles if damage were sustained to it. Even though it's on our property, they still maintain the responsibility for that?

COMMISSIONER MEEK-GALLAGHER:

Yes.

LEG. LOSQUADRO:

Okay. And my last question is about a PLA, a project labor agreement or making sure that this is done at the prevailing wage or by union labor being that it's on our -- going to be on our properties.

COMMISSIONER MEEK-GALLAGHER:

Yes, and they're aware of all that and those were all attachments to the Letter of Intent that we signed and there are attachments to the lease agreement.

LEG. LOSQUADRO:

Great. Thank you.

CHAIRMAN SCHNEIDERMAN:

Legislator Beedenbender.

LEG. BEEDENBENDER:

Thank you. Real quick, Carrie, one of the things you -- one of those potential spots you put up there was the Ronkonkoma Train Station.

COMMISSIONER MEEK-GALLAGHER:

Yes.

LEG. BEEDENBENDER:

And conceptually I have no problem whatsoever. The one thing that I would ask, and I know that you said you've been talking to Planning and everything, and I know Director Isles has been involved with the Town of Brookhaven, they're doing a Hub Study in this area. And at the same time the Town of Brookhaven is doing a Hub Study and they're also doing a land use plan for the area. And one of the main things that they're trying to accomplish is that area just to the north of where the tracks are, you know, the southern part, that's the Islip -- that's the Islip section of the parking lot, but there's also some parking lot on the north. I wouldn't want to do this if it would really conflict with the land use plan and what they're trying to make this area look like because there's a lot of architectural concern. So I guess most of it's focussed on the southern portion, on the south side. Islip owns some of that, Suffolk owns some of that but it's all in the Town of Islip there.

COMMISSIONER MEEK-GALLAGHER:

It's in the Town of Islip but the County owns and maintains this southern parking lot.

LEG. BEEDENBENDER:

Okay. Right. Well, the second portion, then, the RFP's that the County received for the sewer study, all the 13 sewer districts, this overhead right there is one of the areas that the County's looking at for sewers. And one of the consultants who -- they have to go out to bid because we expanded it but one of the consultants in their draft, they kind of used this as a model for a place that actually has room to build a plant. And part of that was that very easterly portion where the parking lot is, and there's also some land that's not a parking lot that the County owns. So I don't have any problem with building these carports. But this is one of the few areas that has land that could potentially be used to actually site a plant.

So I would ask, you know, when you're talking to Public Works about the stability of these structures and the snow load, to me it kind of looks like a parachute so I'm sure it's got to be pretty stable on the ground, make sure that they're taking into effect -- into account what they may do with sewers because this area could certainly need it, not just for the commercial district but for the residential areas as well that have some severe flooding issues.

So I would just ask that you keep, you know, talk with the Town of Brookhaven about their portion which is just to the north but I know that Islip has been involved because the sewer plant from all my guesses would have to be in the Town of Islip just to the east of this. So keep that in mind and keep that possible project in mind because I wouldn't want to see us do one but prevent the other because these are two things that actually should kind of go together.

COMMISSIONER MEEK-GALLAGHER:

Okay. We will.

LEG. BEEDENBENDER:

Thank you.

CHAIRMAN SCHNEIDERMAN:

Commissioner, can you rewind back to the shot that showed the carport, the potential at Dennison because I had a question. When you first said solar carport, which I think is a wonderful idea, I imagine basically the whole or a large section of a parking lot covered. And, you know, Brian had mentioned snow loading. And I'm wondering like in this type of design, because you will get snow -- some snow underneath it. And how difficult that may be to plow as well as repaving areas, too, if they need to be repaved. So just one thing to, as a consideration, because now the snow plow, I guess, would have to kind of weave through that, go through each parking -- and it'd be pretty hard to plow an area like that I would think.

COMMISSIONER MEEK-GALLAGHER:

DPW does have vehicles that would have no problem going under these. So that was all taken into consideration and discussions to make sure that if we did this, they wouldn't interfere with Emergency Services, with snow plowing, any of those types of activities that we know we need for public safety.

CHAIRMAN SCHNEIDERMAN:

Okay. Thank you. Legislator Beedenbender.

LEG. BEEDENBENDER:

The one thing I forgot to mention, I know the County doesn't own the parking garage to the north of the Ronkonkoma Train Station, but that seems like a perfect opportunity -- I don't know if we can mention it to this group because the top floor doesn't have a roof as far as I'm concerned. So every other floor of the parking garage has a roof. That would seem almost a perfect spot to put -- to add a roof. So I know that's not County-owned but that might be something that we can pass along to them and say -- almost nobody could object to putting a roof when every other floor has one, so. And it's a pretty massive parking garage, too.

COMMISSIONER MEEK-GALLAGHER:

Sure.

LEG. GREGORY:

Mr. Chair, if I may?

CHAIRMAN SCHNEIDERMAN:

Yes. Legislator Gregory.

LEG. GREGORY:

Commissioner, I just had one question. Were there any discussions about the Wyandanch Train Station?

COMMISSIONER MEEK-GALLAGHER:

Yes, they were. Actually Wyandanch was -- one of the reasons that the lease negotiations were ongoing is we had originally included Wyandanch because the County also owns and maintains that; however, we found out a little bit late in the game that the Town of Babylon has plans to do an intermodal facility there, so -- and when we saw the diagrams of what that plan would entail, they actually had taken up the entire parking lot plus annexed additional sites adjacent to the parking lot. And it really did not seem compatible with what we trying to do, so. But it was considered and we were hoping to include that.

LEG. GREGORY:

Thank you.

CHAIRMAN SCHNEIDERMAN:

It seems there are so many parking lots, you know, like places like Smithaven Mall, you know, giant parking lots where you could --

COMMISSIONER MEEK-GALLAGHER:

Exactly. So we want to be a model. We really --

CHAIRMAN SCHNEIDERMAN:

You could do this. It's really a great use of space that's not really being used.

COMMISSIONER MEEK-GALLAGHER:

Right.

CHAIRMAN SCHNEIDERMAN:

Yeah, Legislator Horsley.

LEG. HORSLEY:

Yeah. Hi, good afternoon. I'm sorry I missed most of your presentation.

CHAIRMAN SCHNEIDERMAN:

I was worried about not having a quorum today and we only had three --

LEG. HORSLEY:

I came for this.

CHAIRMAN SCHNEIDERMAN:

-- and then there were five, so.

LEG. HORSLEY:

This is good stuff. Has there been any consideration for the -- any of the areas down at the beaches or what kind of thought has been put into this?

COMMISSIONER MEEK-GALLAGHER:

There have been. There are two main concerns. One is erosion and what impact that may have because we never know if we get hit with a bad nor'easter, what that could do, not just to the beach but to the parking lot. And the second is then the immediate impact that you're going to have of salt water and the winds and everything. It's a much more direct impact than when you're inland more so on maintaining and operating these. But the biggest concern is, this is a twenty year project. Some of our beaches may not be here in twenty years. I mean there's that possibility if we don't --

LEG. HORSLEY:

Always the environmentalist, ah?

COMMISSIONER MEEK-GALLAGHER:

(Laughing) So that was a big concern. But we did -- we were trying very hard to find some places on the south shore beaches and it just did not seem, you know, economically feasible with the risk over a 20 year project span.

LEG. HORSLEY:

Okay. Is that -- how did you figure -- how do you figure that? I'm curious. Some of the barrier beaches -- maybe not one of the County parks but one of the towns or something like that.

COMMISSIONER MEEK-GALLAGHER:

Well, we were focussed mainly on the County-owned just because it's obviously much easier for Enxco to enter into than one agreement or essentially, you know, an agreement with one entity. And in those areas there were a lot of concerns about erosion, the salt water impacts, the wind impacts which are much more severe right at the beach fronts. So we weren't talking to the towns about, you know, possible beach locations; however, if we can get this model up and running and show that it is possible, maybe there would be, as the economies of scale and as the market -- the prices for things come down, maybe it would become more feasible to do that because certainly we have these huge asphalt parking lots right next to our beaches and it seems like a great opportunity.

LEG. HORSLEY:

Seems like an opportunity. Okay. Thank you.

CHAIRMAN SCHNEIDERMAN:

Thank you, Commissioner.

Okay, we'll go to the agenda.

MS. LOMORIELLO:

Cooper's not here.

CHAIRMAN SCHNEIDERMAN:

All right. So, Legislator Cooper and Legislator D'Amaro are not present and both have excused absences.

CEQ RESOLUTIONS

Going to CEQ resolutions.

36-09, Ratification of Recommendations for Legislative Resolutions Laid on the Table for September 17th, 2009 and October 13th, 2009. (Type II Actions) Can I have a motion?

LEG. BEEDENBENDER:

Motion.

CHAIRMAN SCHNEIDERMAN:

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

37-09, Proposed Vector Control 2010 Annual Work Plan. (SEQRA Complete). Same motion, same second, same vote. **(APPROVED. VOTE: 3-0-0-2. Legislators D'Amato and Cooper not present)**

38-09, Proposed Smith Point County Park Master Plan Update, Town of Brookhaven. (Type I Action, Negative Declaration) Same motion, same second, same vote. **(APPROVED. VOTE: 3-0-0-2. Legislators D'Amato and Cooper not present)**

39-09, Proposed Multi-Use Recreational Facility at Cherry Avenue County Park, Town of Islip. (Unlisted Action, Negative Declaration) Same motion, same second, same vote. **(APPROVED. VOTE: 3-0-0-2. Legislators D'Amato and Cooper not present)**

40-09, Proposed CR 13, 5th Avenue & CR 13A, Clinton Avenue Roadway and Intersection Improvements, Town of Islip. CP 5538. (Unlisted Action, Negative Declaration). Same motion, same second, same vote. **(APPROVED. VOTE: 3-0-0-2. Legislators D'Amato and Cooper not present)**

41-09, Proposed Acquisition for Open Space Preservation Purposes Known as the Peconic River County Park Addition Naftal Associates, L.P. Property in the Town of Brookhaven. (Unlisted Action, Negative Declaration) Same motion, same second, same vote. **(APPROVED. VOTE: 3-0-0-2. Legislators D'Amato and Cooper not present)**

42-09, Proposed IR 1861-2009 Authorizing the Granting of Permanent Easements to the Suffolk County Water Authority for Production, Distribution and Transmission of Drinking Water Supply and Ancillary Facilities on Certain Parcels Acquired by the County of Suffolk under the Old Drinking Water Protection Program. Towns of Brookhaven, East Hampton, Islip, Riverhead and Southampton. (Type 1 Action, Negative Declaration) Same motion, same second, same vote. **(APPROVED. VOTE: 3-0-0-2. Legislators D'Amato and Cooper not present)**

43-09, Historic Trust Approval to Authorize the North Fork Audubon Society to Act as Custodian of Inlet Pond County Park. Same motion, same second, same vote. **(APPROVED. VOTE: 3-0-0-2. Legislators D'Amato and Cooper not present)**

TABLED RESOLUTIONS

Okay, moving onto tabled resolutions **IR 1418, Adopting Local Law No. -2009, A Local Law to reduce the use of disposable bags by retail stores. (Viloria-Fisher)** Is there a motion?

LEG. LOSQUADRO:

Motion to table.

CHAIRMAN SCHNEIDERMAN:

Motion to table by Legislator Losquadro.

LEG. BEEDENBENDER:

Second.

CHAIRMAN SCHNEIDERMAN:

Second by Legislator Beedenbender. Any discussion? All in favor? Opposed? Abstentions? So tabled. **(VOTE: 3-0-0-2. Legislators D'Amato and Cooper not present)**

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) Planning, I think, is adjusting the rating form based on this being a hamlet park. So we're going to need another cycle here so I'll make a motion to table.

LEG. BEEDENBENDER:

Second.

CHAIRMAN SCHNEIDERMAN:

Second by Legislator Beedenbender. All in favor? Opposed? Abstentions? So tabled. **(VOTE: 3-0-0-2. Legislators D'Amaro and Cooper 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)

LEG. BEEDENBENDER:

Motion to table.

CHAIRMAN SCHNEIDERMAN:

Motion to table by Legislator Beedenbender.

LEG. LOSQUADRO:

Second.

CHAIRMAN SCHNEIDERMAN:

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

IR 1651, Adopting Local Law No. -2009, A Charter Law to authorize the use of development rights for smart growth, community development and job creation. (Lindsay) I'll make a motion to table.

LEG. LOSQUADRO:

Second.

CHAIRMAN SCHNEIDERMAN:

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

IR 1696, Authorizing planning steps for the acquisition of land under the Suffolk County Drinking Water Protection Program, as amended by Local Law No. 24-2007 (Passionist Monastery of Our Lady of the Isle property Town of Shelter Island). (Romaine) Motion to table.

LEG. BEEDENBENDER:

Second.

CHAIRMAN SCHNEIDERMAN:

Second by Legislator Beedenbender. All in favor. Opposed?

LEG. LOSQUADRO:

Opposed.

CHAIRMAN SCHNEIDERMAN:

Abstentions? Legislator Losquaro's opposed.

LEG. BEEDENBENDER:

Two's fine to table?

MR. NOLAN:

Yes.

(VOTE: 2-1-0-2. Legislator Losquadro opposed. Legislators D'Amaro and Cooper not present)

MS. LOMORIELLO:

So it's tabled?

LEG. LOSQUADRO:

Counsel advised us for tabling a majority of those present is sufficient.

CHAIRMAN SCHNEIDERMAN:

It takes two to table. (Laughter)

IR 1697, authorizing planning steps for the acquisition of land under the Suffolk County Drinking Water Protection Program, as amended by Local Law No. 24-2007 (Long Island Beagle Club property Town of Riverhead). (Romaine)

LEG. LOSQUADRO:

Motion to approve.

CHAIRMAN SCHNEIDERMAN:

There's a a motion to approve by Legislator Losquadro. Motion to table.

LEG. BEEDENBENDER:

Second the motion to table.

CHAIRMAN SCHNEIDERMAN:

All right. On the motion to table, we don't have to vote on the authorizing because we didn't have a second. So all in favor of tabling? Opposed? Abstentions?

LEG. LOSQUADRO:

I'm opposing.

CHAIRMAN SCHNEIDERMAN:

1697 is tabled. **(VOTE: 2-1-0-1. Legislator Losquadro opposed. Legislators D'Amaro and Cooper not present)**

INTRODUCTORY PRIME

Okay, introductory prime. **1897, Making a SEORA determination in connection with the proposed sidewalks on CR 92, Oakwood Road, (CP 5497), Town of Huntington. (Pres. Off.)**

LEG. LOSQUADRO:

Motion to approve and place on the consent calendar.

CHAIRMAN SCHNEIDERMAN:

Okay. Motion to approve and place on the consent calendar by Legislator Losquadro, second by

Legislator Beedenbender. All in favor? Opposed? Abstentions? Approved. **(VOTE: 3-0-0-2. Legislators D'Amaro and Cooper not present. Place on consent calendar)**

IR 1898, Making a SEQRA determination in connection with the proposed sidewalks on CR 79, Bridgehampton-Sag Harbor Turnpike, (CP 5497), Town of Southampton. (Pres. Off.) Same motion, same second same vote. **(VOTE: 3-0-0-2. Legislators D'Amaro and Cooper not present. Place on consent calendar)**

IR 1899, Making a SEQRA determination in connection with the proposed sidewalks on CR 85, Montauk Highway, (CP 5497), Town of Islip. (Pres. Off.) Same motion, same second, same vote. **(VOTE: 3-0-0-2. Legislators D'Amaro and Cooper not present. Place on consent calendar)**

IR 1912, Appropriating funds in connection with the Suffolk County Multifaceted Land Preservation Program and authorizing acquisition under the Suffolk County Multifaceted Land Preservation Program the Open Space Preservation Program for the Pollert property Sterling Creek, Town of Southold (SCTM No. 1000-034.00-04.00-019.001). (Romaine) Do we have a motion?

MR. NOLAN:
Mr. Chairman.

CHAIRMAN SCHNEIDERMAN:
Legislative Counsel has an opinion on this.

MR. NOLAN:
Well, I spoke with Legislator Romaine's office shortly before this meeting. There needs to be some amendments to the bill and they are -- they said they would like the bill to be tabled.

LEG. LOSQUADRO:
Motion to table.

LEG. BEEDENBENDER:
Second.

CHAIRMAN SCHNEIDERMAN:
All right. There's a motion to table by Legislator Losquadro, a second by Legislator Beedenbender. All in favor? Opposed? Abstentions? Tabled. **(VOTE: 3-0-0-2. Legislators D'Amaro and Cooper not present)**

And the last item on the agenda, **IR 1923, Authorizing planning steps for the acquisition of land under the Suffolk County Drinking Water Protection Program, as amended by Local Law No. 24-2007 (Bay Village Park parcel Town of Babylon). (Gregory)** Lauretta is passing out, I guess, an aerial and maybe a rating form, if you have.

DIRECTOR ISLES:
There's no rating form. The Legislature previously authorized the acquisition. What we have provided to you is an aerial photograph, however.

CHAIRMAN SCHNEIDERMAN:
Director Isles, can you give us some background here?

DIRECTOR ISLES:
Yes.

LEG. LOSQUADRO:

I'm sorry. Specifically what are the other structures especially to the south of that with that driveway and everything?

DIRECTOR ISLES:

Okay. There are four parcels that are outlined in green that are owned by Suffolk County. On the southern or lower parcel there are structures that are used for recreational purposes on the property. So they're used for different meetings, community events as I understand it. I've been to the site a while back and so forth. So they are buildings that complement and facilitate the park on this location.

This parcel or these parcels, five parcels, were included in the resolution going back to the late '90's, early 2000's under the Greenways Program. At that time the Legislature authorized an acquisition of all five parcels based on the information we've been able to collect thus far.

At that time there were buildings on several of the parcels fronting on Montauk Highway. The County obviously went forward with the acquisition of four of the five parcels. As indicated by the Mayor in earlier comments, the Village went ahead and through the use of eminent domain purchased the parcel that's outlined in red, which is the subject of the resolution before you today.

Following the acquisition of the property -- the properties, the County and the Village entered into an agreement for the development of the park. The Village then moved ahead with the site development which includes, here again, a hamlet park as you can see on the aerial photograph that incorporates both County land as well as Village land.

In addition, the County also authorized \$250,000 in infrastructure money from the Greenways Program at that time adding to the County's investment. We have not rated this parcel because, here again, the Legislature's already approved it for acquisition going back to approximately ten years ago.

As far as the policy question of whether the County should buy it at this point, we think some of those have been raised already. We'd also raise the point about the valuation. Under the current ETRB procedures, I believe we'd have evaluated it based on the current value of the property. I think that's something we'd have to reconcile if this is going back in time. I'm not sure how we would do that. But fundamentally it's a policy question. I'm not aware of the details of the arrangement back when this parcel was acquired. We don't know of any agreement specifically whereby the County agreed to reimburse the Village. Maybe it exists, but we're not aware of that at this point.

If you have any questions from a Planning standpoint, we'll try to address those.

CHAIRMAN SCHNEIDERMAN:

This policy that the County does not buy from municipalities, that's -- I've never -- I mean I've heard people try to say but that has not been the case in the past. We have Clark's Beach, for example. But there are times when a property's owned that is not in park status. That could be sold to the private sector and developed where it may make sense for the County in an effort to preserve that, if a municipality lacks the means to do so for us so step in. In this case this looks like it's already in a hamlet park status; right, so in terms of --

DIRECTOR ISLES:

It is. It is a park presently.

CHAIRMAN SCHNEIDERMAN:

So it's been dedicated as parkland?

DIRECTOR ISLES:

I don't know if it's dedicated but it certainly is used as park. It has a gazebo on it and walkways and so forth.

CHAIRMAN SCHNEIDERMAN:

So we don't know what promises were or were not made to the Village of Amityville at the time? It sounds like the Mayor's representing that certainly that the Village was under the impression that they were just holding this and then the County was going to reimburse them, that they were never planning to own this for a long period of time. It was going to be folded into the County Park.

DIRECTOR ISLES:

I'm not aware if there was an agreement or an understanding. Apparently the acquisition agent did check with the -- Mr. Burke who was handling this acquisition at that time. He didn't recall an agreement from what I'm told. But in terms of the information we have, we're not aware of anything concrete, whether it was a hand shake or just an understanding that that's what would happen. That may have been the case.

CHAIRMAN SCHNEIDERMAN:

Legislator Gregory, do you have any additional information regarding the Village's ownership and any promises that may have been made?

LEG. GREGORY:

It was always the intention from -- I mean this dates back to when Legislator Bishop was the Legislator for this area. It was actually the first -- from my understanding it was the first piece of legislation that are Greenways funds. And as Mr. Isles said, that the five parcels were supposed to be purchased. There was a disagreement as to the appraisal. Then it came into the process of the condemnation which the County doesn't do. So it was the Village's agreement with the County that they would go through with the condemnation and that they would be reimbursed for the reasonable fees to do that and that this would be incorporated into the overall park.

LEG. LOSQUADRO:

Just a question through the Chair.

LEG. GREGORY:

Yes.

LEG. LOSQUADRO:

So the value for this property was not determined by an arm's length transaction. It was determined by the Courts in the condemnation proceeding?

LEG. GREGORY:

Right. I mean there were appraisals subsequent to the condemnation; but, yes, the Court did make a final determination as to the value of the property.

LEG. LOSQUADRO:

Okay. Thank you.

LEG. GREGORY:

And subsequent -- and then -- I mean there was Legislator Bishop, it went through Legislator Mystal -- actually Legislator Postal, Legislator Mystal and the County. The Village's just looking for, you know, reimbursement of the funds that they -- when they entered into this agreement, that they thought they'd be able to get. And it's been -- I think it's been ten years. It was 1999 that this purchase was first started. So it's been a longtime.

CHAIRMAN SCHNEIDERMAN:

Do you know how much money that condemnation cost in total?

LEG. GREGORY:

The overall cost was about 450,000. The Village is -- they're under no impression that they would get all of that reimbursed. I think it's in the neighborhood of maybe 200,000, somewhere around there.

LEG. LOSQUADRO:

Does that include, obviously, the cost associated with conducting the condemnation? What was the actual award value for the property?

LEG. GREGORY:

I don't have that with me, but it's far less than the 400,000. I mean that includes legal fees and all that stuff.

LEG. LOSQUADRO:

Right. I mean I was going to say this is a 60 by 87 foot parcel.

LEG. GREGORY:

Right. There was a structure on there at one point. So that may have been -- that would increase the value of it.

LEG. LOSQUADRO:

I know from Greenways, and I remember some of these parcels back when Legislator Bishop was here, and we have the Heritage Park up in my district which was formed through the Greenways process. And usually it is, you know, some sort of inter-municipal agreement, you know, that the County will buy the land and then the Town will do the build-out of the park or what have you. But in this case we put a great deal of money forward into the build-out of the park as well. We put a quarter million dollars forward into that out of Greenways.

So I don't know, I mean I wasn't privy to the discussions, you know, as to how all of that worked. But I think the County has already made a very significant investment in making this park take place in the first instance. So I don't know; difficult -- difficult situation for the County and for the Town obviously to be in. You know, everyone certainly appreciates that they, you know, took that lead position to go through the condemnation to complete the holdings for this park, but I don't know where that leaves us in terms of responsibility.

LEG. GREGORY:

Right. The Village, as the Mayor stated, they put in an investment as well. I have some of the minutes from the public hearings that they've had to -- for the -- regarding this parcel and the project. It was always their intention that they -- that there was some type of agreement, that they would get reimbursed for these monies. So just -- I guess what I just ask is that we just go through the process, maybe we can have our people evaluate it and see what is a reasonable price and, you know, this is just the beginning of a long process, I suspect.

CHAIRMAN SCHNEIDERMAN:

Do you know who manages the park, the County or Amityville?

LEG. GREGORY:

The Village has taken on the responsibility of managing it, taking care of it.

CHAIRMAN SCHNEIDERMAN:

Who pays the utility bills on the building? Is that all --

LEG. GREGORY:

That building, from my understanding, is not in use.

CHAIRMAN SCHNEIDERMAN:

Neither of the two? There's two buildings there.

LEG. GREGORY:

There's the second -- I think this is probably an older picture. I'm only aware of, maybe my memory's failing me, of this -- the one -- the building to the left, the most westerly building. The other one, I don't believe, is there any longer.

MS. FISCHER:

If I could just add that we have a management agreement with the Village of Amityville, a 20 year agreement. And those types of costs are included in their responsibility.

DIRECTOR ISLES:

Utilities.

MS. FISCHER:

Utilities are included in the Village's --

CHAIRMAN SCHNEIDERMAN:

So they're maintaining the buildings, utilities. They're mowing the lawn --

MS. FISCHER:

That's correct.

CHAIRMAN SCHNEIDERMAN:

They're collecting the garbage, all of that.

MS. FISCHER:

That's part of the agreement that was under the Greenways Active Recreation that we buy the property and that they maintain and improve the property. And we also did give them \$250 (sic) towards their portion of it to do the improvements as well.

CHAIRMAN SCHNEIDERMAN:

There is some agreement that we buy the property and they maintain it, but that didn't include the piece that was subject to condemnation.

MS. FISCHER:

My understanding is that our value was not accepted by the owner at the time. And the Village made the determination that they would move forward on a condemnation. I don't know whether the County was involved in that decision or not.

CHAIRMAN SCHNEIDERMAN:

Lauretta, do you know the difference between the price determined through condemnation versus the price the County offered on that?

MS. FISCHER:

I don't know for sure. I do have some indications but I don't know for sure. We'll -- we will be getting that information. We have asked for the file, to go through our file and get that kind of information together for you.

CHAIRMAN SCHNEIDERMAN:

Because I would be amenable to reimbursing the Village for what we originally offered. It sounds like that's what we were trying to do and then they stepped in to finish it because the owner wouldn't take our price. But it sounds like the -- just from the little that I've heard that the intention all along was for the County to acquire this all as a park with Amityville managing it. And if that's what we represented at the time, I think we should make good on our promises. But what is the Committee -- there's only three of us here today. So I'm going to make a motion to approve the

planning steps. It doesn't commit us more than getting some of this information. There's a second by Legislator Beedenbender. Dan, what do you want to do here?

COMMISSIONER HEANEY:

Thank you. If I can just comment, I'm not going to -- certainly not my place to debate whether or not this is precedent setting, but clearly there is no track record for the County engaging in this kind of after-the-fact negotiations to acquire land.

I would simply say that if you begin a planning steps process, you're probably putting yourself out on a slippery slope from which it's very difficult to come back. As I understand it, the County has been a large participant, not only in the acquisition of the majority of the parcels, but also in the development of the infrastructure for park purposes. County has been in there for a big amount of money. I just want to put that out there for your consideration.

LEG. LOSQUADRO:

Mr. Chairman?

CHAIRMAN SCHNEIDERMAN:

Legislator Losquadro and then Legislator Beedenbender, I believe.

LEG. LOSQUADRO:

I'm going to make a motion to table at this point. I would like some more information and I'd like some specific as to how much this specific acquisition costs on the count of the village-wise. This is not precedent setting for us, by the way. I mean we have -- Counsel and I were just discussing at least three examples we could think of where we have done this. I just want to see if the infrastructure costs that we put into this perhaps offset our responsibility for not completing the acquisition with that one out parcel that the Village picked up themselves through the condemnation. Because generally speaking our responsibility as -- through the Greenways, as was in my district, is we would pay for the land and then the Park build-out would be the responsibility of the Village that would -- or a town that would then manage it. We took the additional step here of investing in that infrastructure. So I'd like to get a little more information on this. I'm not saying I would ultimately be adverse to it, but I think we need a little more information and refer it at this point.

LEG. GREGORY:

If I could, yes, the County's investment has been significant, but they were actually -- at one point they were actually even talking about doing additional \$250,000. I remember a few years ago there was a meeting with myself and Legislator Mystal and some others, Lynne Bizzarro from the County Attorney's Office. And it was determined at that time that they couldn't do an additional Greenways grant which would have brought the County's investment to 500,000. So there was discussions of even more of a County investment so that -- the Village is only looking to get back some of the costs that they weren't even looking to incur from the first instance. And so I urge you, you know, allow it to go through the process.

LEG. LOSQUADRO:

Motion to table.

CHAIRMAN SCHNEIDERMAN:

Legislator Beedenbender.

LEG. BEEDENBENDER:

No, no. I'm good.

CHAIRMAN SCHNEIDERMAN:

Director Isles, the program we bought this under, you can't condemn under that program, right? It has to be a willing seller, right?

DIRECTOR ISLES:

I can't answer that right now because it's a Greenways Program but -- which was set up as a voluntary program but that's -- I couldn't answer that question without researching and talking to the County Attorney about it.

CHAIRMAN SCHNEIDERMAN:

It's possible that everything was going smoothly until we hit a seller that wasn't a willing seller, wasn't willing at that price and --

DIRECTOR ISLES:

I don't know.

CHAIRMAN SCHNEIDERMAN:

-- then the Village, because they may not have been bound by that restriction that may exist, may have stepped in. Okay. Yeah, the County has invested in this property. It is a County Park and we have invested in a lot of our County Parks so -- all right. So there's a motion to table. There's not enough votes to pass it. I'll second the motion to table. All in favor? Opposed? Abstentions? So tabled. **(VOTE: 3-0-0-2. Legislators D'Amaro and Cooper not present)**

I believe we have an Executive Session. What is the matter?

DIRECTOR ISLES:

It involves the matter of Suffolk County resolution 43-2009 which is also known as the Agthe Corporation and also locally known as Peerless Photo Products and Tesla. This was a planning steps resolution --

CHAIRMAN SCHNEIDERMAN:

Right, the Tesla property, okay.

DIRECTOR ISLES:

-- the Legislature approved. We want to come back to you with some additional information at this point.

CHAIRMAN SCHNEIDERMAN:

Okay. So our regular meeting, I guess, is not technically adjourned yet. We'll adjourn after we come out, so -- but I will need a motion to go into Executive Session provided by Legislator Losquadro, second by Legislator Beedenbender. All in favor? Opposed? Abstentions? We are in Executive Session. I will ask everyone to leave except -- Tom, are you okay if we go into the conference room with this?

DIRECTOR ISLES:

Whatever you want.

CHAIRMAN SCHNEIDERMAN:

All right, so we're going to go into the conference room. We're not going to do any business after this anyway so if you want to leave, you can go.

EXECUTIVE SESSION FROM 1:56 PM TO 2:45 PM

CHAIRMAN SCHNEIDERMAN:

Motion to come out of Executive Session, second by Legislator Losquadro. All in favor? Opposed? Abstentions?

Okay, we are now back in session. I'll make a motion to adjourn. We are adjourned.

THE MEETING CONCLUDED AT 2:45 PM
{ } DENOTES SPELLED PHONETICALLY