

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 March 15, 2010.

MEMBERS PRESENT:

Leg. Vivian Vilorio-Fisher, Chairperson
Leg. Lou D'Amaro, Vice Chair
Leg. Jon Cooper
Leg. Daniel P. Losquadro
Leg. Thomas Muratore

ALSO IN ATTENDANCE:

George Nolan, Counsel to the Legislature
Ben Zwirn, County Executive's Office
Robert Lipp, Deputy Director, Budget Review Office
Laura Halloran, Budget Review Office
Barbara LoMoriello, Deputy Clerk
Thomas Isles, Director of Department of Planning
Jessica Kalmbacher, Planning Department
Lauretta Fischer, Principal Environmental Analyst, Department of Planning
Janet Longo, Real Property Acquisition & Management
Tom Ryan, Aide to Leg. Vilorio-Fisher
Justin Littell, Aide to Leg. D'Amaro
Paul Perillie, Aide to Majority Leader
Linda Bay, Aide to Minority Leader
Dot Kerrigan, AME Legislative Representative
Dennis Brown, County Attorney's Office
Gil Anderson, Commissioner of Public Works
Richard Amper
Regina Seltzer
Arlene Forward, League of Woman Voters
Dorothy Cappadona, League of Woman Voters
And all other interested parties

VERBATIM MINUTES TAKEN BY:

Diana Flesher, Court Stenographer

THE MEETING WAS CALLED TO ORDER AT 1:11 PM

CHAIRPERSON VILORIA-FISHER:

Welcome to today's meeting of Environment, Planning and Agriculture. Please join us in the Pledge.

SALUTATION

PUBLIC PORTION

Thank you. We have one one card, Regina Seltzer. Reggie, come on up. How are you?

MS. SELTZER:

I'm fine. Thank you. And how are you?

CHAIRPERSON VILORIA-FISHER:

Good. You look well.

MS. SELTZER:

Good afternoon.

CHAIRPERSON VILORIA-FISHER:

Keep your finger on the button.

MS. SELTZER:

Got you. Good afternoon. I'm here about the \$411,000 that is being proposed. But before I speak, I would like to really know a little more about it. And I was hoping that there would be a discussion and some explanation so that --

CHAIRPERSON VILORIA-FISHER:

Reggie, we will be having a discussion during the course of the meeting as we get to the resolution.

MS. SELTZER:

And will I be able to speak after that?

CHAIRPERSON VILORIA-FISHER:

No, because we have the public portion first.

MS. SELTZER:

Okay.

CHAIRPERSON VILORIA-FISHER:

So if you can just put your comments on the record --

MS. SELTZER:

I will.

CHAIRPERSON VILORIA-FISHER:

Because actually we have a few questions about this, also. And I know with your experience, you know, we'll really take your comments very seriously.

MS. SELTZER:

Thank you very much. First of all, thank you for letting me speak. And my opposition to this, I'll put on the record my opposition to this expenditure. I would like to suggest that the people of Suffolk County -- in fact the people of this country are just fed up with reading every single day in

one newspaper or another about the illegal, unethical behavior of our elected officials. And this kind of proposal, which is trying to do something that is totally contrary to the general procedure seems to me to be opening all of you up for that kind of ethical misbehavior.

I don't understand why the developer is not the person who is doing this. The developer is usually the person who is expected to pay for the EIS. And since I don't want to take up more time, I just want you to know that I am definitely opposed to this and that I hope all of you realize that this is a very questionable, legally questionable, ethically questionable proposal. Thank you.

CHAIRPERSON VILORIA-FISHER:

Actually, Reggie, I have a question for you. Because that was something that I was going to ask the County Executive's Office about that. It had always been my understanding that the developer paid for the EIS. But, of course, as you know this is a project that encompasses several different projects within it. I mean, you know, we've discussed the whole issue of segmentation under SEQRA. So, as you know, CEQ is requiring the full EIS.

MS. SELTZER:

Absolutely.

CHAIRPERSON VILORIA-FISHER:

And because this is a multifaceted project, I propose this is why they're going -- why the County Executive's Office is taking this position to go forward with an EIS on the whole project. So, how do we square the different components of the project and the responsibility for the EIS and the issue of segmentation and looking at it as a whole? Can you just address that for me? Because I find that very confusing. And I will be asking the same questions of the County Executive's people but I do want to hear a different opinion on it.

MS. SELTZER:

Okay. It is my opinion, and it's just my opinion, that this is, first of all, premature because there is -- there has been no definite decision to treat this whole thing, which is what you're suggestion, that it's going to be treated as a whole. In fact, the way this should be treated is it should be considered with the Carmen's River project that we have; and, therefore, until there is a determination just what is being studied at this point, this is totally premature. Okay? You cannot just give out a bond issue, which is what I assume this is going to be, for a project that is at this point not spelled out in detail. And it isn't. And it is totally questionable as to what this particular law firm -- this particular firm that is supposed to be doing the environmental study is going to be studying. Because there are all sorts of questions about it. Until the Legislature determines, and I think the full Legislature has to make that determination, just what it is that you're talking about, I don't see how you can assign any kind of contract to anybody. I don't know if I'm making myself clear.

CHAIRPERSON VILORIA-FISHER:

No, you are. I was just asking someone to have Counsel come out --

MS. SELTZER:

Right.

CHAIRPERSON VILORIA-FISHER:

-- because I wanted to ask him that question.

MS. SELTZER:

Right. And I think it's a very -- I think there are all sorts of questions you have to ask. Because this whole thing at this point is so pie in the sky. I mean, you know, nobody really knows what we're talking about. Nobody knows what the project really is. I have never seen a project which has so -- such a vague presentation. And this has been very vague. The only thing is, it's had a lot of PR about how it's going to give homes to people who can't afford it and that it's going to give jobs to people who need jobs. But that's all just vague language. It doesn't do what it's supposed to do,

which is spell out what it is we're doing.

And basically the biggest problem I have with this whole project is that you cannot sell that land until you know what you're selling it for. And you have to have a specific public purpose for that property. You cannot sell public property except with very, very definite limitations. I don't understand how he's doing this. And I hope you don't let him get away it. Thank you.

CHAIRPERSON VILORIA-FISHER:

Okay. I was just asking Counsel about your comment regarding bond counsel. And actually when we get to the resolution, I think we'll address that then.

MS. SELTZER:

Thank you very much.

CHAIRPERSON VILORIA-FISHER:

I just wanted to make sure -- but, wait, there's another question, Reggie. You don't think you're going to have an easy time here, do you? Legislator D'Amaro has a question for you.

LEG. D'AMARO:

Thank you. Good afternoon. I want to make sure I understand your comments. We -- the Legislature had a resolution before it.

MS. SELTZER:

Correct.

LEG. D'AMARO:

That would do two things: Declare 255 acres of property surplus. And I believe authorize a contract of sale. That received a CEQ recommendation of a positive declaration. Subsequently this Legislature adopted a positive dec. The next step is to go ahead with the EIS. I want to understand what you're objecting to today. Is it just how it's being funded? Do you feel that it's not the County's obligation to do the EIS? Or is it that you feel there's insufficient definition of what's proposed in order to conduct the proper EIS?

MS. SELTZER:

I think it's all of those things. Okay. My first objection is that the proposal to sell the 255 acres is surplus property, cannot go ahead. It is not legal because --

LEG. D'AMARO:

Okay. But let me just --

MS. SELTZER:

Okay. But that's the first part. So if --

LEG. D'AMARO:

But we're not -- what we're talking about today is the supporting environmental study in support of a resolution that's being offered. And, of course, we cannot act on that resolution without doing the environmental study. And through the Impact Statement process, I believe you would have to further define what is being proposed and how it's being proposed. So are you suggesting today that we cut off funding for the Environmental Impact Statement?

MS. SELTZER:

I'm suggesting that, yes, you cut off funding at this point. I'm not saying you cut off funding; I'm saying you do not use the funding that is being proposed at this point for two reasons. One, because generally it is the developer who does the EIS and funds the EIS. That has been standard.

And the second thing is that it seems to me that it is untimely. You can't -- if what we're talking

about, okay, is not legal, if the whole process is not legal, if -- if everything that we're talking about cannot go forward, then I can't imagine that you would want to ask the taxpayers to spend \$411,000 which is what I assume the amount is, for something that is not legal and for which you have no authority and it makes no sense. I mean, especially in a time like now, when we're cutting parks, we're cutting the use of schools. We're cutting all sorts of things. It just make no sense to spend that money.

LEG. D'AMARO:

I take no issue with the economic troubles we're in. And I agree with you on that score. But what I'm trying to comprehend is if I have to eventually take a vote on a bill, and I want to know the environmental impact prior to casting that vote, which in fact is required by law --

MS. SELTZER:

Correct.

LEG. D'AMARO:

Okay? And I'm going to ask Counsel also when we get to the bill whether or not this is a proper funding mechanism, whether or not we have an obligation or whether or not we're choosing as a County to do the EIS for whatever reasons we may have. You know, we'll have that debate. But certainly in order to cast a vote on a resolution that requires an Impact Statement, I need to get it from somewhere. And during that Impact Statement process is when we'll further -- I would assume, the project will be further defined.

MS. SELTZER:

Well, since the Impact Statement is directly connected to as far as -- I think as far as your immediate concern is, is connected to the development of the Legacy Village, then it would seem to me that Legacy Village has the -- not the County Legislature -- has the obligation of funding it. And unless they can show you that there is some sort of legal condition that makes you -- the answer is no. The County Legislature not only does not have the legal obligation at this point, but would actually be in a very, very questionable legal position to be funding something that may never even be constructed.

LEG. D'AMARO:

Okay. Thank you.

CHAIRPERSON VILORIA-FISHER:

Thank you. Our next speaker Richard Amper.

MR. AMPER:

My name is Richard Amper and I'm Executive Director of the Long Island Pine Barrens Society. Ms. Seltzer makes one of the three points that I want to make and I'll try to make mine very succinct. It's not clear that this project is going to move ahead. It's not clear whether it can legally move ahead. It's not clear whether this developer is going to move ahead with this project now.

If he is, he may be the more appropriate subject to a party to do the Environmental Impact Statement. And I guess the way I would frame it is, this Legislature ought to be fairly well assured that a) the project is real; b) that it's -- and b) that it's legal before you commission \$411,000 Environmental Impact Statement. No one would disagree that you could not approve the project in the absence of an Environmental Impact Statement, but it might be nice to know whether this is a real project or a figment of somebody's imagination.

On that same subject, I don't know about the rest of you, but I'm somewhat troubled -- I understand there was an RFP in this process, but my understanding is that this \$411,000 would be paid not so much by the County Executive who has proposed it, but by this Legislature to Cameron Engineering. And at some point or other, I don't know about you, but I am troubled that there is a conflict of interest between the County Executive's appointee of John Cameron as the head of the

Regional Planning Commission, the Commission's support for projects not just like this that are not very popular to say the least and are not terribly realistic, but they are being promoted by the Regional Planning Council to a great extent in the very same way that, for example, the Riverhead Resorts Camping, this thing, this 350 foot indoor ski mountain, is being promoted and advanced by the Regional Planning Council, which is also represented by Cameron Engineering. And at some point or other, even if they come in with a low bid, it would seem to me there's a conflict of interest between an appointee of the administration, who is advancing and promoting these projects however unrealistic and how desirable they are, and the amount of money that potentially could change hand in terms of a contract.

So, I notice this because in the Riverhead case, Michael White, the Executive Director, appears at meetings designed to advance the Riverhead Resorts Project and says *Mr. Cameron is not present today because he's recusing himself*. Well, he's not recusing himself from a \$411,000 Environmental Impact Statement. So at some point I think the Legislature has to get into this and say before we get involved in authorizing the cutting of checks, we need to understand who we're cutting them to and what the potential conflicts is.

But the principal concern on the part of the community is we've talked to people associated with the project. They may be on or off the record on these things, but it is not clear to anybody, planning people that we talked to, Brookhaven town officials and employees, it's not clear whether this project is real and it's going to move ahead. And the investment of public funds in advance of a conclusion that this is for real is the first problem. The second problem is who should do the study.

So I did come to talk just very briefly about the greenhouse conversation, which is on your agenda. But I think you want to keep this one subject at a time. And I'm happy to wait for that.

CHAIRPERSON VILORIA-FISHER:

This is public portion, not public hearing so you can speak about both topics at the same time.

MR. AMPER:

Okay. Then let me say that as you folks know when I approached the Legislature both at its last meeting and several years ago when this issue came up, it is the position of the Pine Barrens Society, and most environmental and civic organizations, that the purchase of development rights program of farmland is good, but it was represented to the public as something that we're going to, shall we say, prohibit development. And these concrete permanent greenhouses that strip all of the topsoil from the land and the concrete foundations that go with them, and the glass and the 98 percent coverage that we had seen before, it's not, I think, what the public intends. And quite frankly both from the public standpoint, which is my interest, and from the farmer's standpoint which would be Joe Gergela's or Lyle Well's interest monetarily, I think we do need to consider to what extent the public's going to continue to support purchasing development rights when what's going on on those farms look darn like development.

So we're trying to sort that out and we're trying to avoid -- the Farmland Select Committee is clearly better informed than the public and those of us who advocate for them in terms of which -- making recommendations as to what land should be purchased and other things that they are more knowledgeable of. But they may not be completely objective about what they can do with land where the County has paid them 90 percent of the value of the land not to develop it. And the people who have done that then go back the following summer and they're not picking strawberries or in the fall picking pumpkins, it's covered with industrial buildings. That is something, I think, the Legislature needs to take responsibility for.

So we have proposed not leaving it to the determination of the Farmland Select Committee, but to have the Legislature pass legislation that says there's a finite amount of development now, what is that -- do you really want to get into how much topsoil can be removed and other things? We think it's lot coverage that's going to do it for you and for the public. If the public goes out and it still looks like a farm and it functions as a farm, that's fine. If they want to make -- if they want to do

industrial agriculture, that's perfectly fine. But then don't ask the public to pay for the development rights. If they're going to develop it and turn it into a factory, then it's a factory and the County doesn't have an issue. This is not designed fundamentally to subsidize the farming industry. I'm sure if they could have their cake and eat it too, they would. But that's not what I think you mean to do. And I don't know how much longer the public can support that, if they're getting a very different result than what they thought they paid for.

In fact, I would want to go so far as to say I think it may constitute a gift of public wealth for private purposes if the owner of the property gets to continue to do exactly what's he's been doing for the last ten years on it after we've given him money to prevent his doing certain things on it. I think he's getting the benefit and the public's not getting the benefit and so there's a problem there.

Apart from that we've had a conversation --

CHAIRPERSON VILORIA-FISHER:

Before you go on, I'm sorry. I'm sorry, Mr. Amper, before you go on, you know that we cannot act on this today, that we're going to need to table it because it's still in public hearing.

MR. AMPER:

Yes, I do.

CHAIRPERSON VILORIA-FISHER:

Okay. I just wanted to be sure that you knew that we could not act on it today.

MR. AMPER:

Yes, I do. No, I do know that. I just -- I did want to talk to the Committee because the Committee may be making recommendations or considering these things. And I've had a very, very useful conversation immediately after the legislative session from Joe Gergela who indicated that this is not as contentious as we originally thought. He may still want to see the Select Committee have a role, but he has talked to Tom Isles and I've got a call into him. There does seem to be an understanding that if we could limit the construction of permanent buildings on this site to less than 10 percent, and these hoop houses which actually let the farmers start the growing season in March rather than in May, which seems like a perfectly reasonable thing and nothing that the public can take exception to, if we can have a ceiling of 15 percent on hoop houses and 10 percent on all other permanent structures, we may have something that works as well for the public as it does for the farmers.

The Farm Bureau is right to point out to you that there are not too many people who are doing that now. It's less than one half of one percent of the farmers are doing this kind of industrial development anyway. If that is so, then there's probably no harm done by telling the rest of them they probably ought not to do that. And that's the long and short. I think there can be an understanding on it, but I think the Legislature's role in this is different from the Farmland Select Committee's. I would be perfectly happy if somebody were prepared to give me 90 percent of the value of my property as long as I can continue to do anything I wanted with it. But I think that's not what you meant and I think that's what the public supported.

If there are other questions, I'm happy to answer them. But otherwise thank you for your time.

CHAIRPERSON VILORIA-FISHER:

Yes, in fact Legislator D'Amaro has a question.

LEG. D'AMARO:

Thank you. Good afternoon. I agree with you on the Farmland Charter revisions that we're looking at. And I appreciate how involved you are in that and we need to make sure we get that right.

MR. AMPER:

Yeah, we go out and sell this to them. And we're really not having a problem with the farmer.

LEG. D'AMARO:

Right.

MR. AMPER:

We're just saying how do we reconcile these conflicts.

LEG. D'AMARO:

And that you're having that conversation now. And the resolution is still tabled because the public hearing has been recessed. I think it's very productive and I appreciate that. And we'll have more time to debate that, what constitutes farming, how much development, is it proper development, is it appropriate, you know, we'll get through that process.

I want to go back to the Yaphank Legacy Village surplus resolution. You said during your comments, you know, we don't want to spend taxpayer money or bond to pay for a study if the project's not real. Well, it seems to me that we have a proposal in front of us to declare the property surplus and to enter into a contract to sell, to move that process forward. What more do you need to be convinced that it's a real project?

MR. AMPER:

Well, I'd like somebody other than those who have proposed it to share the view that this is being seriously considered either by the County or the Town. I understand they have their rights to make an application, but in the -- for the first part you say they're not somebody who's indicated a willingness to do it. This is a project -- a site specific project and there's a specific developer who's supposed to do it. I would think that the developer a) ought to have closed on the property to indicate his commitment to this. I would think that he should, as Ms. Seltzer suggested, bear the responsibility for payment for --

LEG. D'AMARO:

With all due respect and I apologize for interrupting, but just to take that point, unless we declare the property surplus, there is no closing. I mean I think we have a developer, you're right, that has responded to an RFP and is willing to go forward in the process but --

MR. AMPER:

I don't know whether he's willing to go ahead in the process. And I'd like the Legislature to assure themselves about that in the first place.

LEG. D'AMARO:

Okay, that's fair enough. But unless we get to the surplus resolution, we're certainly not moving forward. I'm just a little confused by -- I'm very concerned about spending taxpayer money on a project that might be dead on arrival. And if that's the case, I want to know. But it seems to me that we've had a pretty long discussion about this project already. Our CEQ has already made a recommendation. This Legislature's already adopted it. We're talking about declaring property surplus. I mean it seems to me that that project is moving in a forward direction.

MR. AMPER:

Well, the question has been raised as to whether you may legally declare it surplus. And that's a matter for the legislature to determine. And if you -- if you think you can, then, I think you might. But absent the certainty that it's legal, absent the certainty that you're going to declare it, this is not something that shouldn't be done but is premature at best. You don't start first by spending \$413,000 on an Environmental Study and later figure out whether the developer's moving ahead and whether it's legal for you to transfer the land, and whether the Legislature's disposed to surplus the land. You wouldn't want to cut the check first. You'd want to find out as much as you could about the viability of the project.

We've also heard the CEQ raise serious questions about the project. So I'm just simply saying

because you've been so good about trying to be fiscally conservative in terms of expenditures in these tough times, I'm you, I want to -- I'm being responsive to the public. I want to satisfy myself that what we're dealing is real, it's going to happen, it's legal. This particular developer is going to develop this land in this way before I start cutting a check. That's all. It's the sequencing that I'm concerned about more than anything else. But I've also shared with you this particular application is to hire a particular consultant. And I think we've got some problems there, too.

LEG. D'AMARO:

All right. Thank you as always. I appreciate it.

TABLED RESOLUTIONS

CHAIRPERSON VILORIA-FISHER:

We'll move to the agenda. Okay, Tom, we'll ask you the questions as we move through the agenda, okay?

IR 1028, authorizing the acquisition of land under the New Suffolk County Drinking Water Protection Program (effective December 1, 2007) open space component - for the Pollert property Sterling Creek - Town of Southold (SCTM No. 1000-034.00-04.00-019.001). (Romaine)

Okay, can you bring us up to date on this, please, Mr. Isles?

DIRECTOR ISLES:

Yes, I can. This was an acquisition that was approved for planning steps several years ago. It is property located adjacent to Sterling Harbor in the hamlet of Greenport in the Town of Southold. It is a parcel that was reviewed and rated. We previously have circulated that and the rating was 26 points.

This is a case -- actually I think this parcel has merits that probably speak for a higher value but in terms of the County's rating, here again, it did score the 26.

The acquisition would involve about 17.6 acres of land. It is proposed for acquisition involving two funding programs being partially through the Multifaceted Capital Program and then partially through the Quarter Percent Program. The acquisition costs is \$85,000 per acre, which is a value of \$1,493,450. As you may recall, there was a question as to the appropriateness of the value based on the timing that occurred from the original review by the Environmental Trust Review Board. Based upon that, the Division of Real Property Acquisition and Management did update the appraisals. They were presented to the ETRB. A revised offer was then made to the owner which was accepted. We were advised by the County Attorney's Office last week that that contract has been signed.

We had also advised the sponsor through the Division of Real Property Acquisition and Management of some suggested changes to the resolution. We see that those have been incorporated at this point. If you have any questions, we'll do our best to address those questions.

CHAIRPERSON VILORIA-FISHER:

Okay, so we are now ready to move on it is basically -- from our conversation that --

DIRECTOR ISLES:

Yes.

CHAIRPERSON VILORIA-FISHER:

We are ready to move on it. Okay. Are there any questions regarding this?

LEG. COOPER:

Second.

CHAIRPERSON VILORIA-FISHER:

Okay. So I guess I'll be the first. I'll make a motion to approve, seconded by Legislator Cooper. All in favor? Opposed? Abstentions? Motion carries. **(VOTE: 5-0)**

IR 1037, Adopting Local Law No. -2010, A Charter Law to expand the functions of the Council on Environmental Quality to include advising Suffolk County on bicycle routes. (Schneiderman) It's still a public hearing so I'll make a motion to table.

LEG. COOPER:

Second.

CHAIRPERSON VILORIA-FISHER:

Seconded by Legislator Cooper. All in favor? Opposed? Abstentions? Motion carries. **(VOTE: 5-0)**

IR 1052, adopting Local Law No. -2010, A Charter Law to provide flexibility in the membership of the Council on Environmental Quality. (Schneiderman) That's already done with Public Hearing, isn't it? Okay.

LEG. COOPER:

Make a motion to approve.

CHAIRPERSON VILORIA-FISHER:

Motion to approve by Legislator Cooper, seconded by Legislator Muratore. All in favor? Oh, I'm sorry, I thought you were making a motion. Go ahead, Legislator Losquadro.

LEG. LOSQUADRO:

Explanation.

MR. NOLAN:

The change is the Chairman of this Committee is a member. This would allow the Chairman to designate somebody to attend in their place.

LEG. LOSQUADRO:

Fine. No problem.

CHAIRPERSON VILORIA-FISHER:

And if you recall when Legislator Schneiderman was the Chair and he was driving all the way from East Hampton, sometimes it was difficult so he would have wanted to have a voting designee.

Okay, so there's a motion to approve and a second. All in favor? Opposed? Motion carries. **(VOTE: 5-0)**

IR 1174, adopting Local Law No. -2010, A Local Law amending Chapter 8 of the Suffolk County Code. (Co. Exec.) And as we have said, the public hearing is still open on that so I'll make a motion to table.

LEG. COOPER:

Second.

CHAIRPERSON VILORIA-FISHER:

Seconded by Legislator Cooper. All in favor? Opposed? **IR 1174 stands tabled. (VOTE: 5-0)**

INTRODUCTORY RESOLUTIONS

IR 1201, Amending Resolution No. 811-2009, authorizing planning steps for the acquisition of land under the Suffolk County Drinking Water Protection Program, as amended by Local Law No. 24-2007 (The Links at East Quogue property Town of Southampton) (Schneiderman)

DIRECTOR ISLES:

This is a resolution that was previously approved for what's known as The Links at East Quogue for a much larger parcel. The matter before you today is to pass a resolution that would correct one tax map number mistake from the number ten to the number one. And then also to add a parcel which is identified as parcel 11 that is depicted on the map that Laretta Fischer is circulating in the box. And it provides the access to a portion of the site. We don't have an objection to the change. Obviously this is still in the process of review and preparation by Real Estate. But as far as the change before you, it's a technical correction to ensure that the resolution matches the actual property that's under consideration.

CHAIRPERSON VILORIA-FISHER:

I'll make a motion to approve.

LEG. COOPER:

I'll second.

CHAIRPERSON VILORIA-FISHER:

Seconded by Legislature Muratore. All in favor? Opposed? **IR 1202 on stands approved.**
(VOTE: 5-0) So, it's just a small technical correction.

IR 1220, Authorizing planning steps for the acquisition of land under the Suffolk County Drinking Water Protection Program, as amended by Local Law No. 24-2007 (Gentleman's Driving Park property) Town of Brookhaven. (Losquadro) It's in Legislator Losquadro's district. Dan, where is that exactly? I don't remember.

LEG. LOSQUADRO:

It's actually very close to your district. If you look --

CHAIRPERSON VILORIA-FISHER:

I'm looking at that. It's very close to my district.

LEG. LOSQUADRO:

If you look at 347 and Canal, it's sort of just to the north and east of Colesseo's if that's a good landmark for you.

CHAIRPERSON VILORIA-FISHER:

Right.

LEG. LOSQUADRO:

Good pizza, by the way.

CHAIRPERSON VILORIA-FISHER:

Right, it is good pizza. So it's not far from the shopping center.

LEG. LOSQUADRO:

No, not at all. It's a very interesting parcel. It has a good deal of history. Actually you can see the very faint outline through those red lines, a former horse track that did exist there --

CHAIRPERSON VILORIA-FISHER:

Somebody was just talking to me about that.

LEG. LOSQUADRO:

-- at one time. It's a very interesting parcel. It hasn't rated very high as of yet, but I'm still trying to get the Town interested and involved which could potentially add another five points to this. But it is a ten acre parcel in an otherwise very highly developed area. So I'm going to make a motion to table it for this cycle to continue to try to work with the Town on this. But I certainly think it could hold future merit.

LEG. COOPER:

I'll second the tabling.

CHAIRPERSON VILORIA-FISHER:

And on the motion -- before we get to that, because there were people -- I happened to be speaking at a -- to a group about the census coming. And there was a small group of people who thought that that was my district and came to me just Sunday, yesterday, asking me if we could protect this because they looked at a google map image of this. And there's still remains of that old horse track. And they wondered if it could be --

LEG. LOSQUADRO:

Yes.

CHAIRPERSON VILORIA-FISHER:

-- a historical landmark because it's part of our equestrian history. So it's just very serendipitous that this should be -- I didn't realize when I looked at this that this was the same piece that they were talking to me about yesterday.

LEG. LOSQUADRO:

It's a very interesting parcel. I'm sure we'll discuss the history of it more in the future. But as I said, I certainly do think that it will hold future merit. But I certainly wanted to get it to Planning to let them take a look at that and allow me some time to perhaps work with the Town. But I'd like to hear their input on this.

CHAIRPERSON VILORIA-FISHER:

And that's Woodcrest right there; right by there, right?

LEG. LOSQUADRO:

Yeah, that's correct.

CHAIRPERSON VILORIA-FISHER:

These were senior citizens from Woodcrest.

LEG. LOSQUADRO:

Yes.

CHAIRPERSON VILORIA-FISHER:

So they were very interested. Okay, sorry, Tom, to keep you waiting but these are just -- it was just so serendipitous that this came up yesterday.

DIRECTOR ISLES:

Just a couple of comments. We have provided an aerial photograph as well as a rating form. It did rate a point score of 14. And that was based upon eight points for the property being located in a special groundwater protection area.

And, then, secondly based on the parcel size, which was six points, and here again, it did achieve a slightly higher score with that because it's in an area with a population density greater than 1,000 persons per square mile. But that's it. It was 14 points. It's not adjacent or near any other County Parks. So sometimes when you deal with Parks that are below the typical threshold of 25, one of the mitigating measures may be proximity to other County holdings or interest. If there's additional information that the sponsor comes along with and wants to share with us, we will certainly evaluate that in terms of any subsequent changes to the resolution.

Let me just make two other points with this if I could, please. One is that, I'll just point out to you that as you can see on the aerial photograph, this is a conglomeration of a number of lots. It's an old file map system. There are 43 separate lots here with various owners. It may be difficult to actually assemble this entire piece based on that circumstance. But just, here again, to make sure that everyone knows that.

And the last point I'd like to make is just a general statement about planning steps. We did hear at the last meeting of this Committee from Commissioner Gallagher giving a report on the status of funds. And one of the important points on that is that we appear to be getting to the point of being fully subscribed for our current funds. And just a caution in terms of, as we go forward, and as you and the County Executive go forward that in terms of the availability of future funds, it's a little less certain at this point. So just that that be known as we consider additional planning steps, that the pipeline is already full. And in terms of funds, it's not clear that we have sufficient funds to go past what's already in the pipeline.

CHAIRPERSON VILORIA-FISHER:

Okay. Tom, you had mentioned to me before about the fact that there were so many different owners. Do you know if any of them are already willing sellers or are we going to have to try to convince each person -- each owner one by one?

DIRECTOR ISLES:

I do not know.

CHAIRPERSON VILORIA-FISHER:

Okay. Thank you. Any other questions? Okay. The sponsor made a motion to table, seconded by Legislator Cooper. All in favor? Opposed? **1220 stands tabled. (VOTE: 5-0)**

IR 1232, making a SEQRA determination in connection with the proposed acquisition of land for open space preservation purposes known as the Hauppauge Springs Sacco as contract Vendee Property, Town of Islip. (Pres. Off.) I'll make a motion to approve and place on the consent calendar.

LEG. COOPER:

I'll second.

CHAIRPERSON VILORIA-FISHER:

Seconded by Legislator Cooper. All in favor? Opposed? **1233 is approved and placed on the consent calendar. (VOTE: 5-0)**

1133, making a SEQRA determination in connection with the proposed acquisition of land for open space preservation purposes known as the Sagaponack Woods County Greenbelt Bennet, Tilton & Tilton property, Town of Southampton (Pres. Off.) If it's okay with everybody, we'll do a same motion, same second, same vote? **(VOTE: 5-0. Placed on consent calendar)**

LEG. LOSQUADRO:

Sure.

CHAIRPERSON VILORIA-FISHER:

1234, making a SEQRA determination in connection with the proposed rehabilitation of Middle Country Road and Horseblock Road intersections at County Road 83, Patchogue-Mt. Sinai Road, Phase 2, CP 5548, Town of Brookhaven. (Pres. Off.) Same motion, same second, same vote. **(VOTE: 5-0. Placed on consent calendar)**

1246, accepting the donation of certain lands now owned by Darcy Gazza and transfer such lands to the Suffolk County Department of Parks, Recreation and Conservation for wetland protection purposes (SCTM No. 0200-982.90-08.00-010.000). (Co. Exec.) And my understanding is, Mr. Isles, that this is a perfectly fine piece. And it's not Brownfields or anything like that and it is a donation.

DIRECTOR ISLES:

Correct, it is. This is in Hedges Creek in East Patchogue.

CHAIRPERSON VILORIA-FISHER:

Okay, I'll make a motion to approve.

LEG. COOPER:

I'll second.

CHAIRPERSON VILORIA-FISHER:

Okay, seconded by Legislator Cooper. All in favor? Opposed? **IR 1246 is approved. (VOTE: 5-0)**

IR 1263, amending the 2010 Capital Budget and Program and appropriating funds in connection with the development of County owned land in Yaphank for an Environmental Impact Statement (CP 6420) (Co. Exec.)

Okay. Mr. Zwirn, can you join us, please, and anybody else who wishes. Okay. You heard some of the conversation during the public portion. And I have heard rumors alluding to something that Mr. Amper said on the record. And that is that we don't have the certainty that the developer who was to going to develop the residents' portion of this, that he's not committed to this at this point in time? That he's re-thinking it because of the difficulties.

MR. BROWN:

No, he's made a commitment to reimburse us for the cost of the Environmental Impact Statement. He has.

CHAIRPERSON VILORIA-FISHER:

So he is still in contract? There wasn't an escape clause there?

MR. BROWN:

There was actually -- there's no contract because that's the subject of the local law which was tabled subject to call on the general meeting agenda. But we did have a Letter of Intent, which Letter of Intent did expire at the end of the year. But we've been in negotiations and those negotiations have concluded. And the Letter of Intent would be extended for a period of time pending the completion of the EIS. And he's agreed to reimburse the County for the cost of the Environmental Impact Study.

CHAIRPERSON VILORIA-FISHER:

Is that a written agreement, Dennis?

MR. BROWN:

It's written in draft. It's not signed yet.

CHAIRPERSON VILORIA-FISHER:

Okay. When do you anticipate that being signed?

MR. BROWN:

Literally it could be any day. Last week I sent an e-mail to the counsel for Beechwood and asked him if he could, you know, complete it as we discussed and send it to me. But it's -- we reached an agreement. I don't expect it not to be executed under any circumstance.

CHAIRPERSON VILORIA-FISHER:

Okay. I believe there's a question by Legislator Losquadro.

LEG. LOSQUADRO:

The commitment to pay for that EIS, would that be contingent on the project moving forward in its current form? How is that Letter --

MR. BROWN:

I don't have that Letter of Intent in front of me but -- so I don't recall that. I'd have to get back to you on that question specifically.

LEG. LOSQUADRO:

I think that's a very important component. You could make a commitment to pay and if it doesn't go forward in a form that is agreeable or the developer thinks would be financially advantageous to him to actually complete the project, then just say, *well, I'm not going to move forward and I'm not going to pay for the EIS*, then we're on the hook for it.

MR. BROWN:

Sure. I understand. And I'm sure we covered that, but I don't -- do not have the draft in front of me and that was because I just ordinarily don't cover this committee. Gail asked me to come over. So if I could back to you with that answer.

LEG. LOSQUADRO:

That's fine. One more question on that same note. If the project were not to move forward in its current form, I'm sure you're aware there is a lot of resistance to many aspects of this plan --

MR. BROWN:

Sure.

LEG. LOSQUADRO:

-- if we move forward with an EIS and then because of public pressure and negotiations or what have you or concerns about tax impact on the school the project was modified, how would that affect an EIS that was already completed? Would portions of that have to be redone? Maybe Mr. Isles could answer that better.

DIRECTOR ISLES:

The EIS is proposed to look at the maximum development scenarios. So what's been --

LEG. LOSQUADRO:

And at this point we don't expect it to get any worse; if anything it would be reduced. So it would be the maximum potential development.

DIRECTOR ISLES:

Exactly. So if it's reduced, then the impacts would be reduced as well.

LEG. LOSQUADRO:

All right. Thank you.

CHAIRPERSON VILORIA-FISHER:

Okay, Dennis, there was another question raised.

MR. BROWN:

Sorry.

CHAIRPERSON VILORIA-FISHER:

Did you want to add something to that, Dennis, before I ask my question?

MR. BROWN:

No, no. I just thought maybe Tom could recall if there was a contingency in the agreement -- in the reimbursement agreement but he doesn't recall either. But we'll get back to you with that.

CHAIRPERSON VILORIA-FISHER:

Okay. I have a question about another remark that was made by Mr. Amper regarding a possible conflict or appearance of conflict of interest. If there's a recommendation by a board and the member of that board is also a member of the engineering firm who's going to be reviewing or preparing the EIS, has this gone before the Ethics Board? Has this been discussed internally? I'm just -- have you -- do you have an answer to that?

COMMISSIONER ANDERSON:

Yes. During the Waiver Committee Review that issue did come up and John Cameron has in writing, you know, offered to recuse himself from any discussions with regards to the Long Island Planning Commission you know, in furtherance of this project before them.

MR. ZWIRN:

If I might add, my understanding is Mr. Cameron was not a Suffolk County appointment, but a Nassau County appointment. So it wasn't the County Executive who appointed him to the Regional Planning Board.

CHAIRPERSON VILORIA-FISHER:

But the question to the County Exec is as to the person who's in both roles. I believe that's how the question was directed. Not for the County Executive to, you know --

MR. ZWIRN:

I think that's what Mr. Amper said, that it was the County --

CHAIRPERSON VILORIA-FISHER:

Okay, maybe I --

MR. ZWIRN:

My understanding was that --

CHAIRPERSON VILORIA-FISHER:

I might have missed that point. But my question still remains regarding the actual person having both roles. And that's what Mr. Anderson was alluding to, that Mr. Cameron is recusing himself in recommendations being made by the Regional Planning Council with regards to furtherance of this project.

COMMISSIONER ANDERSON:

Correct. We have that in writing.

CHAIRPERSON VILORIA-FISHER:

Okay. No matter who it was that appointed him or recommended him. Okay. Thank you, Gil, for that information.

LEG. LOSQUADRO:

Motion to table.

CHAIRPERSON VILORIA-FISHER:

I'm going to second that motion. On the motion, Legislator D'Amaro.

LEG. D'AMARO:

Thank you. Dennis, there was a Letter of Intent which already expired you said at the end of the year?

MR. BROWN:

Yes.

LEG. D'AMARO:

Did that Letter of Intent also provide for reimbursement of the --

MR. BROWN:

No, it's a separate agreement.

LEG. D'AMARO:

-- EIS? Oh, it's a separate agreement?

MR. BROWN:

Yes.

LEG. D'AMARO:

So the renewed Letter of Intent that you're expecting, let's say any day now is not going to address this issue?

MR. BROWN:

No. The separate agreement does address the issue. The Letter of Intent was not renewed until we got -- was not subject of renewal until we got a commitment from the developer that he indeed would reimburse the County for the EIS.

LEG. D'AMARO:

In the resolution it says in one of the Whereas clauses, an EIS needs to be prepared by the County. Why is it that it needs to be prepared by the County as opposed to a developer who would prepare and spearhead that effort?

MR. BROWN:

Because the County is still the owner of the property and the developer is not -- doesn't have any interest at present; is not even a contract vendee.

LEG. D'AMARO:

All right. So the County is the appropriate party to prepare the EIS?

MR. BROWN:

Interested party, yes.

LEG. D'AMARO:

Under the SEQRA law?

MR. BROWN:

Yes.

LEG. D'AMARO:

Is that accurate?

MR. BROWN:

Yes.

LEG. D'AMARO:

Okay. However, it doesn't mean that a developer cannot reimburse the County for the cost of doing so.

MR. BROWN:

We're aware of no reason why the developer couldn't reimburse us. In fact, we think that it's common and he's agreed to reimburse us.

LEG. D'AMARO:

If this resolution were passed today and then by the full Legislature, of course, on Tuesday, would any funds be expended without the renewal of that Letter of Intent? Is it coupled to that specific portion?

MR. BROWN:

No, they're not. They're not. They're not.

LEG. D'AMARO:

Is EIS going more towards the general declaration of surplus?

MR. BROWN:

Yes.

LEG. D'AMARO:

Okay. So even if the Letter of Intent were not renewed for some reason, which you say is highly doubtful, would we still need to go forward with funding the EIS as the responsible party to get to the surplus resolution?

MR. BROWN:

Yes.

LEG. D'AMARO:

All right. Thank you.

MR. ZWIRN:

Our concern, Madam Chair, if I can, is that --

CHAIRPERSON VILORIA-FISHER:

Just hold on a minute, Ben. I would just feel more comfortable having this tabled until we have the Letter of Intent completed and signed. And then I'd feel that we have a better positioning to move forward with this. But right now I have a lot of questions. And as we speak I have even more questions.

MR. BROWN:

I'm sure I could have -- there are two letters now. One is the Letter of Intent.

CHAIRPERSON VILORIA-FISHER:

Yes.

MR. BROWN:

The original Letter of Intent, which has expired, that was the expression of intent to enter into

contract to sell and develop the land.

CHAIRPERSON VILORIA-FISHER:

Right. I meant the commitment to reimburse.

MR. BROWN:

Yeah, it's the commitment.

CHAIRPERSON VILORIA-FISHER:

I had a question about bonding this. And that would then happen if we -- if we bond the money, will the commitment to reimburse us include the interest that would be accrued on that bond? There are just a few more questions that I'd like answered. And I think tabling this for one month will give us a time to fully explore some of the questions that really hadn't occurred to me to be honest until I heard some of the testimony. And I had had a question coming in here because I had heard that there were a number of civic groups who had said that Beechwood was pulling back. And I guess that that kind of rumor goes around with this size project. But I do want to address those and see where they're coming from. And so I really would feel more comfortable seeing the written agreement. And I think waiting one month wouldn't hurt that. Legislator Cooper.

MR. BROWN:

I could have the written agreement by Tuesday. Because we have an agreement in principle. It's all drafted. It's just a matter of working out some of the finer details.

CHAIRPERSON VILORIA-FISHER:

Legislator Cooper has a question.

LEG. COOPER:

The separate agreement covering reimbursement by the developer, when does that expire?

MR. BROWN:

I could answer that question on Tuesday. I'm not sure if there's an expiration date on it.

CHAIRPERSON VILORIA-FISHER:

All right. There's a motion to table and a second.

MR. ZWIRN:

If I can?

CHAIRPERSON VILORIA-FISHER:

Oh, I'm sorry, Ben. I didn't get back to you. I apologize.

MR. ZWIRN:

No, that's okay. The Legislature ordered us to go ahead with a full pos dec. And that's what we're doing. And what we're afraid of is that this is going to be a chicken/egg sort of situation. You know, we have -- if we can just get this just moved along perhaps with a discharge recommendation just to get it to the floor, if we don't have the answers on Tuesday, all this does is does an Environmental Impact Statement on the property looking at full development; so that everybody will have an opportunity to see what that would be.

Now, the Town of Brookhaven down the road can do their own if they want after this is all done. But this would give everybody the kind of information that has been requested. And we have made a good faith effort to go ahead and do that and find an offset for the funding for it. We have a commitment from the developer to reimburse the County. We would just ask your indulgence to try to just move the project along.

CHAIRPERSON VILORIA-FISHER:

Ben, I understand what you're saying. I don't think -- this is a very big project. And I think -- and I'm telling you I'm looking to table it just for a month and have some questions answered. And that's really not a lot of time for a project of this magnitude to just table it for one month. You know, I've had lots of my legislation tabled for a month because people needed to take another look. So I stand with my motion to table.

LEG. COOPER:

Madam Chair, although I'm not prepared to vote for the resolution until I see both agreements, I would be willing to make -- and I would like to make a motion to discharge without recommendation and then we'll see what may be forthcoming on Tuesday.

LEG. D'AMARO:

I'll going to second that motion. And also just on the motion, just once again, I tend to agree with the Chair, that, you know, we have unanswered questions here and certainly we should have those answers before taking a vote. But I think it's also important to move it along because this is a positive step in getting more information out on the project so we can start having more informed decisions about what we're doing with respect to the environmental impacts as well as the project itself. We need this step in order to vote on a resolution that is pending before us. If we can get the answers on the reimbursement, if we can get the other answers to questions that were asked today, I see no reason why we couldn't vote Tuesday so I'm going to second that motion.

CHAIRPERSON VILORIA-FISHER:

Okay. There's a motion and a second to discharge without recommendation? All in favor?

LEG. LOSQUADRO:

Tabling takes precedence.

CHAIRPERSON VILORIA-FISHER:

There's a motion and a second to table. All in favor? Opposed?

LEG. COOPER:

Opposed.

LEG. D'AMARO:

Opposed.

CHAIRPERSON VILORIA-FISHER:

Okay. **1266 stands tabled. (VOTE: 3-2-0-0. LEGISLATORS D'AMARO AND COOPER OPPOSED)**

IR 1268, authorizing the acquisition of land under the New Suffolk County Drinking Water Protection Program (effective December 1, 2007) open space component - for the Ashley Builders Corp. Property Lake Panamoka - Town of Brookhaven - SCTM Nos. 0200-172.00-03.00-012.000, 0200-172.00-03.00-069.000, 0200-172.00-03.00-070.000, 0200-172.00-03.00-072.000 and 0200-172.00-03.00-073.000) (Co. Exec.)

I'll make a motion to approve.

LEG. LOSQUADRO:

Second.

CHAIRPERSON VILORIA-FISHER:

Seconded by Legislator Losquadro. All in favor? Opposed? **1268 stands approved. (VOTE: 5-0)**

IR 1269, authorizing the acquisition of land under the New Suffolk County Drinking Water

Protection Program (effective December 1, 2007) open space component - for the Penney Estate property Reeves Bay - Town of Southampton - (SCTM No. 0900-147.00-01.00-006.005). (Co. Exec.)

LEG. COOPER:

Motion to approve.

CHAIRPERSON VILORIA-FISHER:

Motion to approve by Legislator Cooper.

LEG. D'AMARO:

Second.

CHAIRPERSON VILORIA-FISHER:

Seconded by Legislator D'Amaro. All in favor? Opposed? **IR 1269 stands approved. (VOTE: 5-0)**

IR 1278, authorizing planning steps for the acquisition of land under the Suffolk County Drinking Water Protection Program, as amended by Local Law No. 24-2007 (Daisy White Nursery property Town of Brookhaven) (Losquadro)

LEG. LOSQUADRO:

I've been informed by Planning that they don't have the rating complete on this yet. This is another property in my district. This is actually one that I had been alluding to in some of the prior discussions when you have a property owner come forward to you, that in this case we have a nursery property, someone who is looking to no longer be in this business, not a younger generation that's going to take it over. And I think we have an opportunity being this is -- it's level, it's cleared. I think this would make a very good pocket park but it's something that's going to take some more time to review not only with Planning, but also working with the Town, much as we did with The Wedge property in Mt. Sinai to possibly work out an agreement for a build-out or a maintenance of a property. But I think we have an opportunity -- another opportunity here in an area that is almost completely developed and one of the remaining pocket parcels here. So I certainly think, again, this one has a future. I look forward to working with Planning to complete the rating on this and bring it forward to this Committee. So, again, I'm going to table this.

CHAIRPERSON VILORIA-FISHER:

Motion to table by the sponsor, seconded by myself. All in favor? Opposed? **IR 1278 stands tabled. (VOTE: 5-0)**

IR 1280, authorizing planning steps for the acquisition of land under the Suffolk County Drinking Water Protection Program, as amended by Local Law No. 24-2007 (Copeland property Town of Brookhaven) (Viloria-Fisher) I'm looking at this with Planning and I don't want them to go ahead and spend a lot of staff time until I'm certain that we have an appropriate access point. So I'm going to make a motion to table.

LEG. COOPER:

I'll second.

CHAIRPERSON VILORIA-FISHER:

Seconded by Legislator Cooper. All in favor? Opposed? **IR 1280 stands tabled. (VOTE: 5-0)**

I think this sets some kind of record for this particular Committee. Thank you very much everyone.

THE MEETING CONCLUDED AT 3:29 PM
{ }DENOTES SPELLED PHONETICALLY