

ENVIRONMENT, LAND ACQUISITION AND PLANNING COMMITTEE

of the

SUFFOLK COUNTY LEGISLATURE

MINUTES

A regular meeting of the Environment, Land Acquisition and Planning Committee was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, Veterans Memorial Highway, Smithtown, New York, on August 9, 2010.

Members Present:

Legislator Vivian Vilorio-Fisher - Chairwoman
Legislator Louis D'Amaro - Vice-Chairman
Legislator Daniel Losquadro
Legislator Tom Muratore
Presiding Officer William Lindsay - Ex Officio Member

Members Not Present:

Legislator Jon Cooper

Also In Attendance:

George Nolan - Counsel to the Legislature
Tom Isles - Director of Planning
Lauretta Fischer - Real Estate Department
Carrie Meek-Gallagher - Comm - Department of Environment and Energy
Ben Zwirn - Deputy County Executive
Renee Ortiz - Chief Deputy Clerk - Legislature
Robert Lipp - Deputy Director - BRO
Laura Halloran - Budget Review Office
Alpa Pandya - Nature Conservancy
Denis Brown - County Attorney's Office
All other interested parties

Minutes Taken By:

Donna Catalano - Court Stenographer

(*THE MEETING WAS CALLED TO ORDER AT 1:10 P.M.*)

CHAIRWOMAN VILORIA-FISHER:

Good afternoon, everybody. Welcome to the meeting of the Environment Committee. I will be leaving, because I just got a call that my sister-in-law -- my daughter-in-law is heading to the hospital having the third grandchild. So I will be leaving as soon as I get enough people to here to have votes. Okay. Please join in the Pledge led by Legislator Losquadro.

SALUTATION

May I just have moment of silence. The son of one of our friends, Michael Comando, who works in the Board of Elections died in a car accident Saturday night. He was 24 years old. Austin Comando.

MOMENT OF SILENCE

CHAIRWOMAN VILORIA-FISHER:

We do have a presentation by the Invasive Species Advisory Board. And they're going to be explaining to us IR 1827. We did have to make some changes in that. There was a mistake when the resolution was drawn up. So can you come up please and have a seat there with Budget Review. I'm sorry, but I have to go. I think Bill Lindsay is going to come in so that we will have a quorum. Just have a seat right there. There are three chairs there. If you need another one, pull one up. You know the routine, right? You have to press the button and keep your finger on it.

LEG. LOSQUADRO:

Good to see everyone. Alpa, what's it been, four, five years since I've chaired this committee? But everything old is new again. Good to see you. Like riding a bike. Please.

MR. SHEER:

I'm Charlie Sheer. I represent the Long Island Farm Bureau on both the Scientific Review Committee and the Land and Water Invasives Committee. We would like to thank the members and the Chair of the Suffolk County Environment Planning and Agricultural Committee for the opportunity to present the methodology the Long Island Invasive species Management Area Scientific Review Committee and the Water and Land Invasive species Committee created to use by these committee to change -- make changes to Local Law Number 22-2008 and based -- it's all based on sound science.

Dr. Jordan will be explaining the process that was used to determine which plants, both aquatic and terrestrial were determined to be added or removed to the Do Not Sell managed list included in the Local Law. I would like to address how these two committees were developed and functioned so that this committee could better understand how we came to our conclusions.

Both committees were made up of all interested parties and affected organization in Suffolk County. We had a balance Suffolk County Park, Suffolk County Health Department, County DOT, Long Island Nursery and Landscape Association, Farm Bureau, Cornell Cooperative Extension, Suffolk County Soil Conservation District and the Nature Conservancy represented on the Water and Land invasive species. The LIISMA Scientific Review Committee has additional representation from the Brooklyn Botanical Garden, State and Federal Parks, New York State SUNY at Farmingdale and others.

The recommended changes in the present law are based on rankings developed for the statewide evaluation of species by Dr. Jordan. And she will be explaining shortly how these are used to evaluate plants. This system we have developed here on Long Island is also going to be used by New York State in their invasive species evaluation. These recommendations have been reviewed by the Water and Land Invasive Species Committee, and therefore, are now being recommended to

this committee for Legislative adoption.

One of the important additions added last year was inclusion of an exemption clause that would allow the sale for completely sterile cultivars and banned species -- - from banned species. This type of clause would make it possible for nurserymen and landscapers to grow and sell cultivars that are 100% sterile and would not threaten the environment. This would encourage development cultivars by the industry, and this would help foster our large greenhouse and nursery industry here on Suffolk County.

In addition to the phase-out periods, our recommendations will allow the growers to dispose of inventories without a financial impact to their business particularly in these tough economic times. These recommendations have been a result of many hours in past two years from volunteers of all the stakeholder parties. Dr. Marilyn Jordan will now explain how the evaluation process was done.

DR. JORDAN:

Thank you, Charlie. I think some people here have heard this talk before and others not. If you have any questions, don't hesitate to ask. Okay. The work I am presenting was done under the auspices of LIISMA, the Long Island Invasive Species Management Area. And LIISMA is one of eight New York regions called Prisms, Partnerships for Invasive Species Management.

We recognized early on that revisions to the County list needed to be made on the basis of a ranking system or protocol that was based on the best available science; clearly explained, full documented and repeatable. So I was one of three people who helped developed such a protocol. There was one other conservancy colleague plus Gary Moore, a scientist at the Brooklyn Botanical Garden. The protocol we developed in early 2008 wasn't created from scratch. We took the best parts of other protocols that did similar tasks and adapted them to New York State needs.

The Nature Conservancy contracted with the Brooklyn Botanic Garden to use this protocol that we had developed to assess the invasiveness of about 180 non native plant species, including all 63 species that had been on the original 2007 Suffolk County Do Not Sell List. And in order to review the assessments done by the Brooklyn Botanic Garden, LIISMA appointed a scientific review committee, which I chaired and Charlie Sheer here was a member of that committee.

Charlie mentioned many of the voting members that were on the scientific review committee, and they included academics, the Brooklyn Botanic Garden, Long Island Botanical Society, Cornell Coop Extension, Farm Bureau and the Nursery Industry and land managers in various agencies. The results of LIISMA SRC work was presented to the Suffolk County Water and Land Invasive Advisory Board, and the members of the board are listed here.

After two years and 42 meetings, this dedicated group of volunteers had stuck it out, hung in there, and we assessed about 175 species, five species were combined with another one, because they were very similar. So that's how 180 became 175. And of those species, 69 were ranked high or very high in invasiveness. And the committee recommended that all of these species that ranked high or very high should be prohibited from sale. All of our votes were unanimous.

We requested and it was done that phaseout periods be incorporated into the law and the list so that nursery growers would not be impacted by the law; they would have time to sell out their existing stock before the date arrived when each species was banned.

As Charlie mentioned we also suggested that an exemption was incorporated for the future to allow exemptions for cultivars that were sterile. And these cultivars would have to be documented to be sterile by scientific peer review criteria, guaranteed by producer to be sterile, have safeguards so that these cultivars and sources could be documented and identified. And it should be deemed appropriate for exemption by both the advisory board and the LIISMA scientific review committee.

Also, as Charlie mentioned, New York State adopted the ranking system and the results that we have done to determine plant species considered invasive for New York State. The DEC is currently in process of developing regulations. So they do not yet have a list, but the invasiveness ranks for the plants have been accepted. The procedure that we developed and used is a two-phased process. First, we use a form that was developed for New York State so that all of our assessments could be used, not just on Long Island, but for the State of New York. The second step was then tailored for each of the eight regions of New York to decide if the species that was invasive as a state level was also that invasive or possibly less so in different regions of the State.

For the purposes of our ranking system, an invasive plant is a species that is nonnative to the ecosystems under consideration. So it was not originally in New York. And also, its introduction would cause or is likely to cause harm; economic, environmental or harm to human health. And a species, all synonyms, subspecies, varieties, forms and cultivars of that species unless proven otherwise by some scientific evaluation procedure yet to be developed.

At the present time, there is no protocol for assessing invasiveness or cultivars, but that is something being actively at present. Well, what do we mean by environment harm? I just have a limited number of pictures here to give you an idea. On the left is what a normal forest would look like with a diverse understory of native shrubs. And you can't see the wildflowers down at the ground level, but they are bad too. After a Norway Maple invades, the forest looks like what you see on the right; shrubs and wildflowers are shaded out by the dense canopy of the Norway Maple and the competition for water and nutrients that the Norway Maple routes provide. So it's a very drastic change in biodiversity and ecosystem structure and function.

Here's some pictures of aquatics. You can have invasive aquatic plants as well. And they dominate ponds and lakes and make a soupy green mat that impedes recreations, shades out native plants, impacts fisheries and is generally not a very good situation.

So just briefly to summarize what's involved in the form -- I'm not going to go into details, but I'm happy to provide them if you want them -- the form was divided into four broad categories: The first is ecological impacts, the second, biological characteristics and dispersal ability; and the fourth is difficulty of control. Those three sections are inherent ecological and biological characteristics of the species. Category three, ecological amplitude and distribution. What this really means is its distribution in New York State, nationally and globally.

We assigned points to each question and point to each of the answers to the question with the highest points being the point value for the greatest impact. If all the questions could be answered and the maximum impact score assigned, the plants could score 100 points. We actually had one species that scored 100 points, and that was the aquatic in the lower right-hand slide of the previous -- one of the previous slides, your Asian Water Mill Foil. Many plants are considered very high, and anything scoring between 70 and 80 is high. And then it drops off from there. Moderates are 50 to 69. These plants are not invasive enough to warrant prohibiting from sale, but they are plants that land managers of natural areas should think twice about. Certainly don't plant them and consider removing them if their found in a natural area. And then below moderates are low and insignificant.

If a species could not persist in New York climate, then it would be non assessable. We were assessing only species that could establish in natural areas in New York. The Long Island invasive rank for a species is the same as the New York State rank or less, but not greater. The State ranking is the highest possible invasiveness ranking that could be given based on the invasiveness in the area of New York in which the species was most problematic. So if a species is common or very likely to expand on Long Island, it automatically got the same rank as the State. If it were moderately likely, it got one level lower. So it would get, say, a high instead of a very high. And if it's unlikely to establish or spread, then it got two ranks lower, which automatically means it couldn't be ranked invasive.

This is just an excerpt of the beginning of the Do Not Sell list, which I believe you all have. It's too much to show the whole list on screen, and it wouldn't probably be too useful to see every Latin name. But every single one of these species were assessed using the protocol.

For the future, more information maybe gathered (inaudible) that might have been assigned to a species. And if that happens, then the SRC Committee will meet again, we'll have meeting 43 or 44 or whatever it takes, and we will look at those species and reassess it and possibly some ranks could change. And if a new species appears that was not known before in New York State, we will also meet again to assess those new species. And invasiveness assessments in any case will always be based on the protocol rigid peer review scientific and approved by the SRC.

Some questions that have been raised as we went through this process included does it matter if we prohibit or not a species that's already been sold for years and is well established in landscaping and even escaped into natural areas, is it going to make a difference? Well, I think it would, because not all of Long Island is totally developed and frozen in time in this moment. Natural areas continue to be converted to residential areas and people plant new plants.

Plants in older established landscapes are often replaced, ripped out, new things planted. And in both cases, it would not be good to have invasives planted. That's one more place in which invasives could escape into natural areas. Also a factor we don't often think about, and that's the genetics of these plants that we put in our yards. Each new import of an invasive plant species could bring a different genotype. And sometimes these new genotypes are more invasive or they can hybridize with existing plants in the same genotype that were planted there before, and the result could be a new invasive species or one that is already invasive but it now even worse. So adding new plants, importing new of invasive species is not a good idea.

And then, does it make sense for land managers to be out there eradicating at great expense and effort invasives in their parks and preserve while the neighbors around them are planting these same invasives? It doesn't make sense. Reinfestation would cost time and money forever.

It's also a valued judgement. Do you want to do the right thing by the environment while still minimizing financial impacts on the nursery trades? And there's an educational value too. If people know that species are prohibited from sale, they'll think twice and they might remove from their yards some of these invasive species that they had planted unknowingly years before.

And finally, I think research to identify and develop sterile cultivars would be given a boost if growers knew that these plants were going to become illegal in two years or three years or five years. But never fear, you will have things to buy in your nursery that are useful and beautiful and will meet your needs even after the invasive non-natives are removed. Cornell Cooperative Extension has developed a list of alternatives to invasive ornamental plants. It includes not only natives, but non-natives that are known to be noninvasive, and that's fine. Two of the examples here, Red Maple, which is native and Purple European Beach, which is not native, but is not invasive are two possible options instead of Norway Maple.

And I'll just close with a couple of pictures of weeds behaving badly. I'm happy to answer any questions if you have. If you want to see the forms and the details, you can go to the New York Invasive Species web page, nyis.info. Everything is there. Thank you.

VICE-CHAIRMAN D'AMARO:

Okay. Thank you for your presentation. I apologize for being a little late this morning -- this afternoon rather. But we do appreciate the annual and the recommendations that were made. Is there further presentation to be made or is that the conclusion?

MS. PANDYA:

I have a couple of handouts with the new species list, the phaseout periods, etcetera. It's also in the Local Law, but I think this is a form that may be a little simpler for your information and digestion and circulation hopefully to your own constituents. And I just wanted to very briefly, there's a couple of people here from the County Soil and Water Conservation District who have really been instrumental in getting the word out to the general public through their websites about what are invasive species, what are the lists the invasive species people should not be planting and what are alternatives. If you have any questions do obviously get in touch with them excellent, they've done an excellent job with this.

VICE-CHAIRMAN D'AMARO:

Okay. I want to thank you for that. And you can hand the handouts to our staff here. We will make sure we get a copy of those. Are there any questions from any member of the committee with respect to the presentation? If not, is there anyone here who would like to speak on that particular topic before we get to the public portion? For the record, there's no response. What I'd like to do it take the related IR out of order that relates to the presentation we just heard and that would be IR 1827. I'll offer a motion to take that bill out of order, seconded by Legislator Losquadro. All in favor? Opposed? Abstentions? Motion carries. The bill is before us. **1827, Adopting Local Law No. -2010, A Local Law adding new invasive non-native plant species to the County's Do Not Sell List. (Viloria-Fisher)**

LEG. LOSQUADRO:

Motion to approve.

VICE-CHAIRMAN D'AMARO:

It requires a public hearing. So motion to table by Legislator Losquadro, seconded by Legislator Muratore. All in favor? Opposed? Abstentions? Motion carries. That bill has now been tabled. It will go to public hearing and then come back to committee for a vote. **TABLED (VOTE: 4-0-0-2 Not Present: Legislators Viloria-Fisher and Cooper).**

Next item on the agenda is the public portion. Are there any cards today? No? Anyone here who would like to address the committee before we start with the agenda? For the record, there's no response. We will go right to the agenda. Just note there are CEQ resolutions today.

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)

Motion by the sponsor, Legislator Losquadro, to table, seconded by Legislator Muratore. All in favor? Opposed? Abstentions? Motion carries. **TABLED (VOTE: 4-0-0-2 Not Present: Legislators Viloria-Fisher and Cooper)**

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:

Same motion.

VICE-CHAIRMAN D'AMARO:

Same motion, same second, same vote. **TABLED (VOTE: 4-0-0-2 Not Present: Legislators Viloria-Fisher and Cooper)**

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'll offer a motion to table.

LEG. LOSQUADRO:

Second.

VICE-CHAIRMAN D'AMARO:

Seconded by Legislator Losquadro. All in favor? Opposed? Abstentions? Motion carries.

TABLED (VOTE: 4-0-0-2 Not Present: Legislators Vilorio-Fisher and Cooper)

1416, Authorizing planning steps for the acquisition of land under the Suffolk County Drinking Water Protection program, as amended by Local Law No. 24-2007 (Garsten property Town of Riverhead). (Romaine)

LEG. LOSQUADRO:

Any new information on this? Mr. Isles, do you have new information regarding this property?

DIRECTOR ISLES:

I do not.

VICE-CHAIRMAN D'AMARO:

I'll offer motion to table, seconded by Legislator Losquadro. All in favor? Opposed? Abstentions?

Motion carries. **TABLED (VOTE: 4-0-0-2 Not Present: Legislators Vilorio-Fisher and Cooper)**

1430, Authorizing planning steps for the acquisition of land under the Suffolk County Drinking Water Protection Program, as amended by Local Law No. 24-2007 (Heritage Square property Town of Brookhaven). (Romaine)

I'll offer a motion to table, seconded by Legislator Muratore. Thank you. All in favor? Opposed?

Abstentions? Motion carries. **TABLED (VOTE: 4-0-0-2 Not Present: Legislators Vilorio-Fisher and Cooper)**

1534, Adopting Local Law No. -2010, A Charter Law to authorize the transfer of development rights for non-profit community centers. (Schneiderman).

P.O. LINDSAY:

I make a motion to approve.

VICE-CHAIRMAN D'AMARO:

There's a motion to approve by the Presiding Officer.

LEG. LOSQUADRO:

Motion to table.

VICE-CHAIRMAN D'AMARO:

A motion to table. Are there any seconds on any motions? There's a second on the motion to table. I'll second the motion to approve. The motion to table takes precedence. Mr. Brown, good morning -- good afternoon.

MR. BROWN:

Thank you. Only with respect to this bill, there's a reference to approval by the Sewer Agency. And actually, I thought this was mentioned once previously at this meeting by Gail Lolis. The reference to the Sewer Agency -- approved by the Sewer Agency is incorrect. It actually should be a reference to the Board of Review.

VICE-CHAIRMAN D'AMARO:

In other words, the TDR process deals with the Board of Review, not the Sewer Agency itself.

MR. BROWN:

Correct.

VICE-CHAIRMAN D'AMARO:

Right. Is that in the IR you are talking about?

MR. BROWN:

Yes.

VICE-CHAIRMAN D'AMARO:

I'll ask our counsel, Mr. Nolan, to take a look at that.

MR. NOLAN:

Okay. It does make sense. That is a point that has been raised before. No one has asked me to amend the bill yet, but it probably does need that amendment.

P.O. LINDSAY:

I'm support the table.

VICE-CHAIRMAN D'AMARO:

All right. The motion to approve then is withdrawn, I'll withdraw my second. I'll call the vote on the motion to table. All in favor? Opposed? Abstentions? Motion carries. **TABLED (VOTE: 4-0-0-2 Not Present: Legislators Viloría-Fisher and Cooper)**

1554, Authorizing planning steps for the acquisition of land under the Suffolk County Drinking Water Protection Program, as amended by Local Law No. 24-2007 (Sirfar Associates LP property - Town of Brookhaven).

LEG. MURATORE:

Motion to table.

VICE-CHAIRMAN D'AMARO:

Motion to table by the sponsor, Legislator Muratore, seconded by Legislator Muratore. All in favor? Opposed? Abstentions? **TABLED (VOTE: 4-0-0-2 Not Present: Legislators Viloría-Fisher and Cooper)**

1609, Amending the 2010 Capital Budget and Program and appropriating funds in connection with improvements to County environmental recharge basins in the Town of Smithtown (CP 5072). (Kennedy)

I'll offer a motion to table.

LEG. LOSQUADRO:

I'll second that. I just have a question. Didn't we ask if there was a previous established ranking as to when these would be done, whether some of these might be in the plan of work already? Wasn't that the reasoning behind waiting on this? Are we trying to get some more information? I haven't seen any.

VICE-CHAIRMAN D'AMARO:

My understand was there was an issue, I think, with the offset.

MR. NOLAN:

It uses the Legislative Offset Account to pay for this, and I think that was the issue; how much money was left in that account for the rest of the year. I think there was concern that we were drawing down the offset account.

LEG. LOSQUADRO:

In addition, instead of looking for another offset, is some of this work going to be performed in the course of, you know, the normal duties of the Department Public Works. Obviously, we need to continue to table it.

VICE-CHAIRMAN D'AMARO:

Right. And I think the Presiding Officer had also raised the of the 477 Fund on this as well. But I think we were advised that normally this type of remediation work is not part of the 477 Account. So there's a motion to table. Has a second been received on the motion to table?

MS. ORTIZ:

Yes.

VICE-CHAIRMAN D'AMARO:

Okay. I'll call the vote. All in favor? Opposed? Abstentions? Motion carries. **TABLED (VOTE: 4-0-0-2 Not Present: Legislators Vilorio-Fisher and Cooper)**

1671, Amending the adopted 2010 Operating Budget to transfer funds from Water Quality Protection (Fund 477) and amending the 2010 Capital Budget and Program and appropriating funds in connection with stormwater remediation on CR 80 at Senix Creek in Center Moriches (CP 8239). (Romaine)

I'll offer a motion to table. I believe this has a Water Quality Review Committee issue as well, seconded by Legislator Losquadro. All in favor? Opposed? Abstentions? Motion carries.

TABLED (VOTE: 4-0-0-2 Not Present: Legislators Vilorio-Fisher and Cooper)

1695, Authorizing the inclusion of new parcels into existing certified agricultural districts in the County of Suffolk. (Co. Exec.)

Requires a public hearing. I'll offer a motion to table, seconded by Legislator Losquadro. All in favor? Opposed? Abstentions? Motion carries. **TABLED (VOTE: 4-0-0-2 Not Present: Legislators Vilorio-Fisher and Cooper)**

And last of the Tabled Resolutions is 1699, ***Authorizing planning steps for the acquisition of land under the Suffolk County Drinking Water Protection Program, as amended by Local Law No. 24-2007 (School Board of Education property - Town of Brookhaven) (SCTM No. 0200-392.00-04.00-016.000). (Muratore)***

This was a bill sponsored by Legislator Muratore.

LEG. MURATORE:

Motion to approve.

VICE-CHAIRMAN D'AMARO:

Okay. Motion to approve.

LEG. LOSQUADRO:

I'll second for the purposes of discussion.

VICE-CHAIRMAN D'AMARO:

Mr. Isles, any information for us?

DIRECTOR ISLES:

At this point, we have not completed a rating. We did receive a sketch plan of the property, but I think -- as we talked about at the last meeting, there were several proposals that were presented to us. And -- so at this point, here again, we have not been able to finalize this. So at this point we're waiting for the concept plan that is proposed for this site, and then from that, we'll rate it. If there is a miscommunication with the sponsor, we'll be happy to conference with the sponsor to clarify anything else that we need to complete the rating. But at this point, we would need that.

VICE-CHAIRMAN D'AMARO:

Okay. So we're working toward the rating. Presiding Officer Lindsay, did you have a question?

P.O. LINDSAY:

The property is owned by a school district?

DIRECTOR ISLES:

It is.

P.O. LINDSAY:

I guess it isn't written policy, but it seemed to have been the policy that we don't buy property from another government entity. I mean, if it's going to change, I'd like somebody to let me know, because I just passed on one in my district because of that.

MR. ZWIRN:

If I might, Mr. Chair.

VICE-CHAIRMAN D'AMARO:

Mr. Zwirn.

MR. ZWIRN:

The County Executive is of the same mind as the Presiding Officer with respect to this and buying property that's already in public hands. We've had a debate on this over the last several years. And the position has been consistent. In fact, the next bill that's up, the first of the introductory Resolutions, is another property that, in that case, owned by the Commack School District. And the County Executive would be opposed to that as well.

VICE-CHAIRMAN D'AMARO:

Okay. Well, that's also my recollection, that when property is owned by some jurisdiction as opposed to a private entity, we usually pass on that working. But we're still working on the rating as well, so perhaps the Planning Department and the sponsor can get together and talk through those issues. Is there a motion to table pending? There was a motion to approve. Legislator Muratore, did you want to withdraw your motion to approve?

LEG. LOSQUADRO:

I'm going to withdraw the second to approve pending the outcome of the rating of the property.

LEG. MURATORE:

Motion to table.

VICE-CHAIRMAN D'AMARO:

Motion to table by the sponsor, seconded by Legislator Losquadro. All in favor? Opposed? Abstentions? Motion carries. **TABLED (VOTE: 4-0-0-2 Not Present: Legislators Vilorio-Fisher and Cooper)**

1728, Authorizing planning steps for the acquisition of farmland development rights under the Suffolk County Drinking Water Protection Program, as amended by Local Law No. 24-2007 (Marion Carll Farm Property Town of Huntington). (Kennedy)

DIRECTOR ISLES:

This property is, as noted by Mr. Zwirn, owned by the Commack School District. It is a property that years ago was part of a much larger farm. At this point in time, the parcel is about nine acres in area. It is -- it does have a number of buildings on the property; former barns and a residential structure.

Per the procedures in County Code, this matter was referred to the Suffolk County Farmland Committee who reviewed the case on their meeting on July 27th, and at that time, tabled the matter. Therefore, we would respectfully request at this point that this committee table this pending a report from the Farmland Committee. And let me just explain the reason Farmland Committee did table it is a couple of issues; number one, the property is not currently farmed, so that was viewed as a significant issue in terms of coming into the County's Farmland Protection Program. There was discussion, the sponsor did appear at the Farmland Committee Meeting and indicated he is in conversations with various civic groups and Peconic Land Trust about starting up a farm program, but at this point, there's no farming on the property, so the committee viewed that as a fundamental problem and inconsistency with the program.

Secondly, there also issues with covenants on the property. This was part of an estate transfer going back to 1969 that restricted the use of the property to educational uses, a museum, a far, a school, things of that nature. So there's a serious question as to whether commercial agricultural production would even be allowed. Therefore, here again, with the number of issues, not the least of which is that it's owned by the school district presently, in addition, that it's not currently farmed, we request that this matter be tabled.

VICE-CHAIRMAN D'AMARO:

Okay. And this property is owned by the town itself, the Town of Huntington.

DIRECTOR ISLES:

It's owned by the Commack School District.

VICE-CHAIRMAN D'AMARO:

Oh, by the school district. Based on those issues, I'll offer a motion to table, seconded by Legislator Losquadro. All in favor? Opposed? Abstentions? Motion carries. **TABLED (VOTE: 4-0-0-2 Not Present: Legislators Viloría-Fisher and Cooper)**

For the record, the next resolution 1754 has been withdrawn.

1755, Making a SEQRA determination in connection with the proposed Department of Public Works Sewer District No. 14 - Parkland, construction of additional recharge bed, (CP 8118), Town of Islip. (Pres. Off.)

P.O. LINDSAY:

I make a motion.

VICE-CHAIRMAN D'AMARO:

Motion to approve by Presiding Officer Lindsay, I'll second. All in favor? Opposed? Abstentions? Motion carries. **APPROVED (VOTE: 4-0-0-2 Not Present: Legislators Viloría-Fisher and Cooper)**

1756, Making a SEQRA determination in connection with the proposed Cedar Point County

Park Master Plan, Town of East Hampton. (Pres. Off.)

Same motion, same second, same vote. **APPROVED (VOTE: 4-0-0-2 Not Present: Legislators Vilorio-Fisher and Cooper)**

1757, Extending authorization for stormwater remediation improvements in County parks, Town of Smithtown. (Kennedy)

LEG. LOSQUADRO:

Explanation.

VICE-CHAIRMAN D'AMARO:

This is also a 477 project, I believe. I'm going to just ask BRO to take this opportunity to update us on that account and the status of the account and the funds remaining. Mr. Lipp, if you have a moment.

MR. LIPP:

In terms of the Water Quality Protection Program component, the 11 3/4% of the quarter cent sales tax, coming into this year, 4 there was a total of \$3.8 million in terms of a fund balance or 2.3 million from the current program and a remainder of 1.5 million to be used up from the previous program which had ended prior to December of 2007.

According to the latest information from the Environment and Energy Department, they are estimating, for lack of a better term, that that fund balance of 3.8 million will possibly go down to below \$2 million. So we do still have funds remaining, but that's sort of being whittled away. And if you look at the 2010 adopted Operating Budget for the funds, basically what's going on there is we are probably just at or slightly below in terms of appropriations of what the Water Quality Review Committee is actually recommending.

So the moral of the story is we're having trouble trading water on a stand-alone basis for the current year, but there is still some funds balance left over.

MS. MEEK GALLAGHER:

Mr. Chairman, if I might just add that after our two Water Quality Review Committee Meetings in June and July, we recommended all of the -- we recommended \$2.75 million worth of projects that you will be seeing come before you, including two that are on the agenda today. So we're not aware of any additional funds that we have available right now to do additional projects this year. And we're waiting to see, you know, come the end of this year what's available in essentially the spring after the audit for this year, what comes in this year.

LEG. LOSQUADRO:

The reason I asked for an explanation is this just appears to extend the deadline for something, but we went into this long explanation.

MR. NOLAN:

Right. These were monies that were in the 2005 Capital Budget Program. The monies were appropriated, but the project has not been done. And under the Charter, after five years, it automatically expires unless extended by a resolution of the Legislature, and that's what this resolution is doing.

VICE-CHAIRMAN D'AMARO:

Well, it would impact the fund if we chose not to extend.

LEG. LOSQUADRO:

Well, isn't that money that we have already accounted for that we were going to let it expire and it

would have rolled back into the fund or do we already have it accounted for as being incumbered funds?

MS. MEEK GALLAGHER:

I believe it's -- we are accounting for it as committed funds, but obviously nothing has been expended, mostly because we never had a contract. There are some other issues, I believe, with the original resolution, there were some concerns that were raised; didn't have a match.

MR. BROWN:

It doesn't have a match, right. And the original contract was prepared, but it was rejected because the Town of Smithtown never passed a matching resolution.

VICE-CHAIRMAN D'AMARO:

So when this resolution was originally passed in 2005, it requires a match from the town and that has not come to fruition yet; is that correct?

MR. BROWN:

Actually, the resolution did not require a match. But the resolution just required an inter municipal agreement. And we've taken the position that there has to be a match between 477 funds as well as County funds when the -- when the project is benefitting a town, because the statute of the State Law as well as our Local Law benefits County projects, not projects of municipalities and towns. So we always look for matching funds.

VICE-CHAIRMAN D'AMARO:

This project, however, is accounted for within the fund. When we speak of the 43.8 million balance going into this year, we don't put on top of that this project, that's already included.

MS. MEEK GALLAGHER:

Right, because there was a resolution that was passed. Therefore it has been -- you know, it was accounted for way back when.

VICE-CHAIRMAN D'AMARO:

Well, what are the chances of coming -- have a meeting of the minds on the inter municipal agreement?

LEG. LOSQUADRO:

Hopefully some time between now and December 31, 2012, when this will extend it to --

VICE-CHAIRMAN D'AMARO:

Right.

LEG. LOSQUADRO:

-- that meeting of the minds could take place. I'll make a motion to approve.

VICE-CHAIRMAN D'AMARO:

Okay. That's fine. I'll second. All in favor? Opposed? Abstentions? Motion carries.

APPROVED (VOTE: 4-0-0-2 Not Present: Legislators Vioria-Fisher and Cooper)

1784, Amending the 2010 Capital Budget and Program and appropriating funds in connection with the Charter Law extending and accelerating the Suffolk County ¼% Drinking Water Protection Program for Environmental Protection for land acquisitions. (Co. Exec.)

LEG. LOSQUADRO:

Motion.

VICE-CHAIRMAN D'AMARO:

This continues with the same program, the borrowing program?

MS. MEEK GALLAGHER:

Correct. It's the next amount of, you know, money that we think we need to close on properties before May of next year, which is when we would request again.

VICE-CHAIRMAN D'AMARO:

Okay. Thank you, Commissioner. Motion by Legislator Losquadro to approve, I'll second. All in favor? Opposed? Abstentions? Motion carries. **APPROVED (VOTE: 4-0-0-2 Not Present: Legislators Vilorio-Fisher and Cooper)**

1788, Amending the Adopted 2010 Operating Budget to transfer funds from Fund 477 Water Quality Protection, amending the 2010 Capital Budget and Program, and appropriating funds in connection with advancing the hard clam restoration in the Great South Bay (CP 7180). (Co. Exec.)

I'll offer motion to approve, seconded by Legislator Lindsay. All in favor? Opposed? Abstentions? Motion carries. **APPROVED (VOTE: 4-0-0-2 Not Present: Legislators Vilorio-Fisher and Cooper)**

1789, Amending the Adopted 2010 Operating Budget to transfer funds from Fund 477 Water Quality Protection, amending the 2010 Capital Budget and Program, and appropriating funds in connection with a bay scallop restoration project in East Hampton (CP 8710). (Co. Exec.)

I'll offer motion to approve, seconded by Legislator Losquadro. All in favor? Opposed? Abstentions? Motion carries. **APPROVED (VOTE: 4-0-0-2 Not Present: Legislators Vilorio-Fisher and Cooper)**

1808, Authorizing the acquisition of land under the New Suffolk County Drinking Water Protection Program (effective December 1, 2007) - open space component - for the Bellport Clubhouse LLC property - Beaverdam Creek addition - Town of Brookhaven (SCTM Nos. 0200-931.00-02.00-050.001, 0200-931.00-02.00-050.002, 0200-931.00-02.00-050.003 and 0200-931.00-02.00-050.004). (Co. Exec.)

VICE-CHAIRMAN D'AMARO:

Director Isles.

DIRECTOR ISLES:

Let me begin by noting that the next seven resolution all are for the same area, the Beaverdam Creek Corridor in the Town of Brookhaven, so resolution -- Introductory Resolution 1808 through 1814. So my comments will be general and encompass all of those parcels -- pardon me -- resolutions. And certainly, if you have specific questions in each one, I can go through that. But fundamentally, these are parcels that were originally identified in the Greenways Program beginning in 1998 as a targeted watershed protection area in Suffolk County, here again, specifically, in the Town of Brookhaven.

The parcels in question, as you see in that very marked up colorful map indicate parcels in terms of the parcels that are before you today. So what you will see then would be the individual resolutions by the name of the resolution, by the property owner, but it also shows existing ownership by both Suffolk County, Brookhaven Town and the State of New York.

At the present time, the area in question is about 300 acres in the upper water shed of Beaverdam Creek. About 200 acres are already protected, 100 acres of which are protected by Suffolk County lands that we've already purchased, 100 another acres are protected through lands owned by the Post Moral Foundation, a non-for-profit land conservation organization, as well as the Town of Brookhaven and New York State.

So the two -- the resolutions before you now, the seven resolutions, will add another 34 parcels to this conservation area as well as totaling about 57 acres in land. So it's a significant step forward bringing Suffolk County's holdings to over 150 acres. The Beaverdam Creek Corridor and Beaverdam Creek itself is one that is relatively pristine in terms of water quality. It was identified in a Suffolk County Planning Study going back to the mid '90s looking at the impact of land conservation on water quality and comparing it to other -- another stream corridor of a much more developed nature in Suffolk County, but pointing out that land conservation, in this case, has had a beneficial and a significantly beneficial affect in maintaining high water quality in the Beaverdam Corridor.

Since that time, the South Shore Estuary has been created, an estuary of Statewide significance in protection. So in addition to not only the benefits of, here again, water quality within the Beaverdam Corridor, those benefits also extends into the South Shore Estuary in terms of water quality in the Bay. So the first case before you then, as indicated by the Chair, is Bellport Clubhouse, LLC. This is 3.67 acres for a purchase price of \$128,555. If you have any questions, I'll do my best to address those questions.

LEG. LOSQUADRO:

Motion.

VICE-CHAIRMAN D'AMARO:

Thank you, Director Isles. Any questions? Motion by Legislator Losquadro to approve, seconded by Legislator Muratore. All in favor? Opposed? Abstentions? Motion carries. **APPROVED (VOTE: 4-0-0-2 Not Present: Legislators Vilorio-Fisher and Cooper)**

1809, Authorizing the acquisition of land under the New Suffolk County Drinking Water Protection Program (effective December 1, 2007) - open space component - for the Derosa property - Beaverdam Creek addition - Town of Brookhaven - (SCTM No. 0200-902.00-03.00-015.000).

Without object, I'll do same motion, same second, same vote. **APPROVED (VOTE: 4-0-0-2 Not Present: Legislators Vilorio-Fisher and Cooper)**

1810, Authorizing the acquisition of land under the New Suffolk County Drinking Water Protection Program (effective December 1, 2007) - open space component - for the Schoolhouse Management, Inc. Property - Beaverdam Creek addition - Town of Brookhaven - (SCTM Nos. 0200-902.00-03.00-012.000, 0200-902.00-03.00-019.000, 0200-902.00-03.00-024.000, 0200-931.00-02.00-051.000 and 0200-931.00-02.00-052.000).

Same motion, same second, same vote. **APPROVED (VOTE: 4-0-0-2 Not Present: Legislators Vilorio-Fisher and Cooper)**

1811, Authorizing the acquisition of land under the New Suffolk County Drinking Water Protection Program (effective December 1, 2007) - open space component - for the Rempell Corporation property - Beaverdam Creek addition - Town of Brookhaven (SCTM Nos. 0200-961.00-03.00-038.000, 0200-961.00-03.00-039.000, 0200-961.00-03.00-065.000, 0200-961.00-03.00-067.000, 0200-961.00-03.00-068.000, 0200-961.00-03.00-070.000, 0200-961.00-03.00-089.000, 0200-961.00-03.00-093.002,

0200-961.00-03.00-093.003, 0200-961.00-03.00-093.004 and 0200-961.00-03.00-096.001). (Co. Exec.)

Same motion, same second, same vote. **APPROVED (VOTE: 4-0-0-2 Not Present: Legislators Viloría-Fisher and Cooper)**

1812, Authorizing the acquisition of land under the New Suffolk County Drinking Water Protection Program (effective December 1, 2007) - open space component - for the Quentin Land Management, Inc. Property - Beaverdam Creek addition - Town of Brookhaven - (SCTM No. 0200-902.00-03.00-016.000).

Same motion, same second, same vote. **APPROVED (VOTE: 4-0-0-2 Not Present: Legislators Viloría-Fisher and Cooper)**

1813, Authorizing the acquisition of land under the New Suffolk County Drinking Water Protection Program (effective December 1, 2007) - open space component - for the Sunview Estates, Inc. Property - Beaverdam Creek addition - Town of Brookhaven (SCTM Nos. 0200-902.00-03.00-009.000, 0200-902.00-03.00-014.000 and 0200-902.00-03.00-022.000). (Co. Exec.)

Same motion, same second, same vote. **APPROVED (VOTE: 4-0-0-2 Not Present: Legislators Viloría-Fisher and Cooper)**

1814, Authorizing the acquisition of land under the New Suffolk County Drinking Water Protection Program (effective December 1, 2007) - open space component - for the Lakewood Gardens LLC property - Beaverdam Creek addition - Town of Brookhaven (SCTM Nos. 0200-931.00-02.00-049.000, 0200-931.00-02.00-053.00, 0200-961.00-02.00-081.000, 0200-961.00-02.00-082.000, 0200-961.00-02.00-084.00, 0200-961.00-02.00-085.000, 0200-961.00-02.00-086.000, 0200-961.00-02.00-088.000 and 0200-961.00-02.00-090.000). (Co. Exec.)

Same motion, same second, same vote. **APPROVED (VOTE: 4-0-0-2 Not Present: Legislators Viloría-Fisher and Cooper)**

1817, Authorizing the acquisition of land under the New Suffolk County Drinking Water Protection Program (effective December 1, 2007) - open space component - for the Shultz's Holding Corp. Property - Forge River - Town of Brookhaven - (SCTM No. 0200-750.00-03.00-040.002). (Co. Exec.)

This is an actual acquisition resolution. Director Isles, did you have a comment?

DIRECTOR ISLES:

We would like to request that this be tabled at this time. There's still some environmental work we are completing.

VICE-CHAIRMAN D'AMARO:

Okay. That's fine with me. I'll offer motion to table.

LEG. LOSQUADRO:

I'll second. I just want to make sure we're not going to having difficulties with our timeframe closing, because obviously we have a value. And do we have, obviously, an accepted offer?

DIRECTOR ISLES:

I can't comment in terms of the affect on the acquisition directly. We do have a contract, we do have an accepted. As part of that contract, we do do due diligence in terms of a phase one or

possibly a phase two environmental review.

LEG. LOSQUADRO:

So that's -- we're undertaking that now?

DIRECTOR ISLES:

Yes. There are but potential impediments to getting that completed that may affect this purchase by the owner, but we'll keep you posted.

LEG. LOSQUADRO:

Is there a dog on the property?

DIRECTOR ISLES:

It is a former duck farm. But at this point, we're on hold on the phase two. And once that's completed and if that's completed, we'll come back to.

LEG. LOSQUADRO:

I second the motion.

VICE-CHAIRMAN D'AMARO:

All in favor? Opposed? Abstentions? Motion carries. **TABLED (VOTE: 4-0-0-2 Not Present: Legislators Viloría-Fisher and Cooper)**

1818, Authorizing acquisition of land under the Old Suffolk County Drinking Water Protection Program [C12-5(E)(1)(b)] for the Condon property - Pine Barrens Core - Town of Southampton - (SCTM Nos. 0900-334.00-03.00-033.000 and 0900-336.00-01.00-014.000). (Co. Exec.)

LEG. LOSQUADRO:

Motion.

VICE-CHAIRMAN D'AMARO:

For discussion purposes, Legislator Losquadro offers a motion to approve, I'll second. Director Isles, any comments on this?

DIRECTOR ISLES:

This is in the core of the Pine Barrens. It's actually in the transition area to the dwarf pine plains. It's an acquisition of 1.56 acres at \$46,400.

VICE-CHAIRMAN D'AMARO:

I'll call the vote. All in favor? Opposed? Abstentions? Motion carries. **APPROVED (VOTE: 4-0-0-2 Not Present: Legislators Viloría-Fisher and Cooper)**

1819, Authorizing the acquisition of land under the New Suffolk County Drinking Water Protection Program (effective December 1, 2007) - open space component - for the Lot 64.3 Oakview Trail Trust - Lake Panamoka - Town of Brookhaven - (SCTM No. 0200-172.00-03.00-064.003). (Co. Exec.)

I'll offer a motion to approve for discussion purposes.

LEG. LOSQUADRO:

Second.

VICE-CHAIRMAN D'AMARO:

Seconded by Legislator Losquadro

DIRECTOR ISLES:

The aerial photograph of the subject parcel is being circulated. Subject parcel is identified in red. This is in the Pine Barrens, Central Pine Barrens of Suffolk County, in the Compatible Growth Area. But this is a location directly on Lake Panamoka and an area that is partially developed. There are a few portions that are undeveloped. There is rather significant County land indicated in green. It is certainly environmentally sensitive. And I'll also point out that directly adjacent to this identified in yellow, there's a parcel that does have approved an authorizing resolution and is in contract for purchase by the County. In this case, this is a joint acquisition with the Town of Brookhaven with each entity, the county and the town, putting in \$75,000. If you have any questions, we'll address those questions.

VICE-CHAIRMAN D'AMARO:

Okay. Thank you, director Isles. If there are no questions, I'll call the vote. All in favor? Opposed? Motion carries. **APPROVED (VOTE: 4-0-0-2 Not Present: Legislators Viloría-Fisher and Cooper)**

1823, Approving the acquisition of the assets of the Pond Woods Property Owners Association Water Distribution System by the Suffolk County Water Authority. (Pres. Off.)

Legislator Lindsay.

P.O. LINDSAY:

Motion.

VICE-CHAIRMAN D'AMARO:

Motion by the Presiding Officer to approve.

LEG. LOSQUADRO:

I'll second the motion.

VICE-CHAIRMAN D'AMARO:

Seconded Legislator Losquadro.

LEG. LOSQUADRO:

Just on the motion.

VICE-CHAIRMAN D'AMARO:

On the motion.

LEG. LOSQUADRO:

Is this something that the Water authority has done in the past? Is there a purchase agreement that will be spread out over time for the owner's counsel?

MR. NOLAN:

I don't know the particulars to the deal. It's on file in the Clerk's Office is you wish to review it. This is something we -- the Water Authority comes to us anytime they're purchasing a water supply system, we have an approve it. But I don't know the particulars of the acquisition.

LEG. LOSQUADRO:

I know how they usually work these agreements out. I did a lot of research on this with the drinking water distribution bill that I did. So that's fine. As long as there's an agreement between the homeowners and the Water Authority. I was just curious if we knew those particulars. But as long as that agreement is in place and it'd filed with the clerk, that's fine.

VICE-CHAIRMAN D'AMARO:

Okay. And the Water Authority is asking us to approve an asset purchase by the Water Authority of an existing water district. So I would assume the Water Authority has vetted it is as well and has come to the conclusion that there's value to purchasing as well as a public purpose.

LEG. LOSQUADRO:

Well, what they usually do is usually there's some sort of deficiency with the system, the Water Authority will go in, agree to acquire the system, they'll figure out a cost per linear foot, whatever it is, and then they'll amortize that cost out over a number of years in the bill of those who are within that community.

VICE-CHAIRMAN D'AMARO:

All right. There is a motion to approve pending that has received a second. I'll call the vote. All in favor? Opposed? Abstentions? Motion carries. **APPROVED (VOTE: 4-0-0-2 Not Present: Legislators Viloría-Fisher and Cooper)**

1835, Adopting Local Law No. -2010, A Local Law amending Chapter 8 of the Suffolk County Code. (Co. Exec.)

Requires a public hearing. I'll offer a motion to table, seconded by Legislator Losquadro. All in favor? Opposed? Abstentions? Motion carries. **TALBED** for a public hearing. **(VOTE: 4-0-0-2 Not Present: Legislators Viloría-Fisher and Cooper).**

LEG. LOSQUADRO:

On the motion. Just a comment a I believe from Mr. Isles.

VICE-CHAIRMAN D'AMARO:

I apologize.

LEG. LOSQUADRO:

On chapter 8, how close are we on this.

DIRECTOR ISLES:

Thank you. Just very briefly, the Legislature last left off on this on June 22nd where a public hearing was held. And I think we've gotten 99 percent of the issues resolved. There were three things that came up at that meeting by the Legislature and some of the speakers.

One is that the Farmland Committee had the authority to grant variances. There was some feeling that the Legislature should have a role in that. Secondly, there was an issue with the fact that there was no cap on the variances, so the feeling was that there should be some limit to how much of a variance could be granted. And then thirdly, there were issues over the criteria that would be used by both the Farmland Committee and the Legislature in granting variances.

I'm happy to report that we have suggested language that would provide for a ratification role of this committee that the Farmland Committee if they approve a variance is then subject to ratification by the Legislature through this committee. Without that, it could not go forward. So we are suggesting that in the revised legislation.

Secondly, we have suggested a cap, that a variance could not exceed 25% of the lot coverage. So where the current lot coverage is 10 to 15%, in no case could it exceed 25% even with EPA Committee approval. So there is a cap. The third issue in terms of the criteria for variance, that's the one issue we still have a disagreement on with one of the stakeholder groups. We have fashioned variance criteria that reflects in large part town law and village law on variances. And we think it's appropriate in this case. There's a belief that it should mirror Pine Barrens Core Area variance criteria, which we respectfully disagree with. We will present this to you in greater detail

at the public hearing next week. But we think we are there, we hope.

VICE-CHAIRMAN D'AMARO:

Okay. That's encouraging news. Thank you, Director isles. We already voted that resolution, I believe. Okay.

The last resolution is **1847, Amending the Adopted 2010 Operating Budget to transfer funds from Water Quality Protection (Fund 477) and amending the 2010 Capital Budget and Program and appropriating funds in connection with stormwater system planning and engineering in support of discharge remediation and stream water silt removal at the Nissequogue Tributary Headwaters North from the Village of the Branch to Miller's Pond Weir (CP 8710). (Kennedy)**

I have been advised by Counsel that the SEQRA process is not complete. On that basis, I'll offer motion to table, seconded by Legislator Losquadro. All in favor? Opposed? Abstentions? Motion carries. **TABLED (VOTE: 4-0-0-2 Not Present: Legislators Vilorio-Fisher and Cooper).**

That concludes business of the committee. I'll offer a motion to adjourn, seconded by Legislator Losquadro. All in favor? Opposed? We are adjourned. Thank you very much.

(*THE MEETING WAS ADJOURNED AT 2:15 P.M.*)

{ } DENOTES BEING SPELLED PHONETICALLY