

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 September 2, 2010.

MEMBERS PRESENT:

Leg. Vivian Vilorio-Fisher, Chairperson
Leg. Lou D'Amaro, Vice Chair
Leg. Jon Cooper
Leg. Daniel P. Losquadro (not present)
Leg. Thomas Muratore (not present)

ALSO IN ATTENDANCE:

Legislator John M. Kennedy, Jr., Twelfth District
George Nolan, Counsel to the Legislature
Ben Zwirn, County Executive's Office
Robert Lipp, Deputy Director, Budget Review Office
Laura Halloran, Budget Review Office
Renee Ortiz, Chief Deputy Clerk
Thomas Isles, Director of Department of Planning
Jessica Kalmbacher, Planning Department
Michael Mule, Department of Planning
Pamela Greene, Director of Real Property Acquisition & Management
Lauretta Fischer, Principal Environmental Analyst, Department of Planning
Janet Longo, Real Property Acquisition & Management
Carrie Meek Gallagher, Commissioner of the Department of Environment and Energy
Tom Ryan, Aide to Leg. Vilorio-Fisher
Justin Littell, Aide to Leg. D'Amaro
Marge Acevedo, Aide to Presiding Officer
Paul Perillie, Aide to Majority Leader
Linda Bay, Aide to Minority Leader
Polly Weigand
Bruce Ettenberg
Tom Lyon
Kenneth Schmidt, SC Ag and Farmland Protection Board
Vito J. Cottone, CCA member
And all other interested parties

VERBATIM MINUTES TAKEN BY:

Diana Flesher, Court Stenographer

THE MEETING WAS CALLED TO ORDER AT 1:00 PM

CHAIRPERSON VILORIA-FISHER:

Will the Environment, Agriculture and Planning Committee please join us at the horseshoe. Okay, good morning. Welcome to today's meeting of EPA. Please join us in the Pledge of Allegiance led by Legislator D'Amaro.

SALUTATION

PUBLIC PORTION

We do have a card from Polly Weigand.

MS. WEIGAND:

Hi. My name name is Polly Weigand. I work for the Suffolk County Soil and Water Conservation District. I'm a Soil District technician. I serve on the Suffolk County Invasive Species Advisory Board, the Long Island Invasive Species Management Area's Scientific Review Committee. And I also have in the past served on the Suffolk County Invasive Species Task Force.

I am addressing bill 1827. I am the only Suffolk County employee to serve on all three of these committees and would like to affirm that others have testified that all the proposed species have been scientifically assessed through a modeling program conceived by the Brooklyn Botanic Garden and the Nature Conservancy. Dr. Jordan of the Nature Conservancy had presented on the methods associated with this assessment program. The results of the ranking have been systematically reviewed and unanimously approved by the members of the Scientific Review Committee which includes botanists, academia, the nursing industry, the Nature Conservancy, the Long Island Farm Bureau, Cornell Cooperative Extension, Nassau County Parks Department, Brookhaven National Lab, New York State Department of Parks, Historic Preservation and Recreation, the National Parks Service, the Brooklyn Botanical Garden as well as my agency. Respectively the species have also been approved by the Advisory Board, which includes additional County Representatives.

Phase out periods for horticulturally propagated species have been identified within this legislation. All phase out periods are reflective of each species maturation and were determined through consultation with the nursery and landscape industry professionals. An exemption for allowing the propagation and sale of sterile cultivar already exists within the current legislation. This exemption provides the incentive to create an opportunity to market sterile cultivars if they are created, reviewed and approved. Both of these directives were intentionally provided to help ease the economic implications on the nursery and landscape industry as it relates to the banning of horticultural invasive species.

Invasive species are the leading cause of the loss of biodiversity next to development. This holds true in Suffolk County. In my position with the district, I have and continue to witness the economic and ecological costs of invasive species on County and private lands. I find myself increasingly called upon to provide recommendations towards the identification and control of invasive species especially in agricultural and public lands.

A legally recognized list lawfully identifies the culprits and serves as a catalyst for dissemination of information and the promulgation of financial support towards species identification, control and the use and encouragement of appropriate plant species. Most critically a current legal list helps to ensure the prevention of the spread of new invasive species which is the most economically beneficial measure against invasive species encroachment.

I can answer any questions that you might have regarding this bill or species if you would like.

CHAIRPERSON VILORIA-FISHER:

Thank you, Polly. Is there anyone who has a question for Polly? Okay. And, again, you know, there are people in the audience that I see who are from the industry who have also sat at the table so that we'd get a well-rounded view. And I also congratulate you for the Native Grasses Program, because when you're planting native grasses, then you're discouraging those invasives taking over.

MS. WEIGAND:

Yes. The program is to provide alternatives for the nursing and landscape industry and the general public, to enhance their landscaping activities. So it actually goes hand in hand with this list.

CHAIRPERSON VILORIA-FISHER:

Thanks, Polly. Thank you very much.

MS. WEIGAND:

Thank you.

CHAIRPERSON VILORIA-FISHER:

I understand that Tom Lyon wanted to speak, but I haven't received a card yet. Tom? Are you here? This is the opportunity to speak now. Tom, if you don't mind, can you sit at the table because that mike is not picking up well. Okay.

MR. LYON:

I'm Tom Lyon. I'm co-director of Hobbs Community Farm and also a member of the Legislature's Victory Garden Task Force. And I don't have complete information, but I do want to speak in general about the Farmland Preservation Program that we have. There's some talk of amending a couple of proposals.

I'm a sixth generation Long Islander. And I think that the issue from 30 years ago is a little different today. We're talking about not just preserving farmland but preserving a more inclusive thing here. We're trying to include people who are not necessarily the farmers on the land but also people that are the supporters of those farmers, people that -- well, I'll give you an example. Hobbs Community Farm was preserved two years ago with Brookhaven Town funding. It would not have qualified under some of the proposals that we have now because that had not been farmed for several years. It was reverted to a church when Mr. Alfred Hobbs passed away. And the alternative without the farmland preservation that Brookhaven Town did was probably to sell it for housing.

In three years we've gotten hundreds of local residents, students, people to be on that property, to learn to appreciate agriculture and to appreciate how hard it is for farmers to work. I think Joe Gergela talks a lot about the infrastructure of farming on Long Island; that we need farmers and we need merchants and we need all of the -- all of the necessary commercial things to make it work. But we also need very educated consumers in this whole process. And when you start with our young people who are not going on field trips to farms anymore because it's too far from the west end of Suffolk to the east end, and they don't have time for long field trips, we have to do things where kids don't just go to farms for entertainment and ride around, you know, in a hay ride and think that's what farming is all about.

So, I'm just really -- and I don't want to belabor this, but I think the important point is that the educational mission of farming in Suffolk County, both the past and the present and the future is extremely important. And I hope whatever legislation is considered by the -- to adapt and adjust this, we'll keep in mind the children and their need to understand farming and the educational programs that may not quite fit into this legislation and how we can ensure that that can happen. We can maintain farms and also get our children and our families out onto these farms and really

understand what farming is all about. So it becomes the consumers that really make it sustainable. Thank you very much.

CHAIRPERSON VILORIA-FISHER:

Tom, I just wanted to let you know that the restrictions for the acquisition of the farmland development rights didn't come out of the legislation that's before us. Because, as you know, I was interested in that acquisition. And that was long before these changes were made. That has been -- I believe that those are State Ag and Markets standards. I'm not sure. And I'll ask Mr. Isles when he comes up. But we also have a kind of executive summary of the changes that were made and the items that were covered under the legislation that we're considering today. And I just asked Tom to make sure that I had an extra copy here to give to you. Okay? So you can take a look at that. And I thank you for your efforts in many areas regarding this. And we both know important it is to get the kids engaged.

MR. LYON:

Thank you.

CHAIRPERSON VILORIA-FISHER:

So I appreciate your coming down. But I did want to just clarify that that wasn't a change that was made by the legislation that we're looking at today; that that was something that was already existing in our program.

MR. LYON:

Okay. Thanks.

CHAIRPERSON VILORIA-FISHER:

Okay. Bruce Ettenberg.

MR. ETTEMBERG:

Good afternoon. My name is Bruce Ettenberg. I live at 12 Pinecone Lane in Commack, New York. I'm here representing the Friends of the Marion Carll Farm. The Marion Carll Farm is nine acres left of a much larger farm that's been in Commack for 300 years. And in June of 2010 the Commack School District put a proposal before their residents of Commack to sell the farm to the Holiday Corporation for development of 30 some odd condo homes. And that resolution was defeated by the voters of Commack by more than two to one. So the residents of Commack don't want that area developed.

And we have worked very closely with Legislator Kennedy, Cooper and Nowick to put the Marion Carll Farm under the Farmland Preservation Act. We went out to the Committee in July to speak to them. And we see that there's now a resolution 1835 before this Committee put forward by the County Executive. And that resolution would specifically deny Marion Carll Farm being covered under the Farmland Preservation Act because it's not a working farm. It's an historic farm. From 1990 to 2000 western Suffolk BOCES ran an educational program there, that we'd like to see running again. And it does not have, therefore, \$10,000 in sales because it's not a working farm. And if this resolution is passed, there'll be no hope for resisting the lure of development money to the school district of Commack. So I'm hoping that we can persuade you to not pass this resolution.

CHAIRPERSON VILORIA-FISHER:

Okay. Thank you, Mr. Ettenberg. Did you have a comment, Legislator?

LEG. COOPER:

I just had a question. Do you see any prospect of Marion Carll Farm once again coming under cultivation in the future and at least some of the property being devoted again to agricultural use?

MR. ETTEMBERG:

We've put forth a proposal to the school district that this fall we turn over the ground in about two or three acres to -- for planting this spring. We're waiting to hear from the school district. We have a meeting with the superintendent next week on Wednesday so we're certainly hoping to begin immediately to make that farmland productive again.

LEG. COOPER:

Thank you.

LEG. KENNEDY:

Madam Chair.

CHAIRPERSON VILORIA-FISHER:

Legislator Kennedy.

LEG. KENNEDY:

Thank you. While not a member of the Committee, thank you for letting me speaking. As you know, I'm one of the sponsors along with Legislator Cooper on the Farmland Preservation Planning reso.

In answer to Legislator Cooper's question, not only is there an opportunity to restore conventional crop growth, but the seven or eight support buildings there on the Marion Carll grounds, actually some of them are in somewhat remarkable shape. Over \$800,000 in state environmental quality bond money has been put into restoration, not only the sheep barn but also the dairy cow barn as well. And both actually would be more than adequate to bring back livestock development.

We -- as a matter of fact when Legislator Viloria-Fisher and I were out at the County farm, there are infant livestock there that actually would be available for starting a, you know, a group of farm animals to actually bring back whether it's sheep, goats or what have you, to bring the Marion Carll campus back to its formal use both from agricultural, orchard and for livestock production. So it's definitely a real opportunity and a viable plan to go forward. Thank you.

CHAIRPERSON VILORIA-FISHER:

Thank you, Legislator Kennedy. Let me ask the sponsor, it was my understanding that there might be another problem regarding the requests of the family when they -- when they gave the school district this property regarding how the -- who the successive owners of that property would be, whether it would revert to the family if the school district were to sell it. Does anybody have an answer to that? I thought that I read something about that somewhere.

LEG. KENNEDY:

Yes, Madam Chair, I'll let Bruce speak as well. Marion Carll -- Friends of Marion Carll Group have been very active in trying to get some legal clarification. I actually wrote to surrogate John Czygier and then solicited an opinion from Trust Estates practitioner that I know.

The law is very clear in that it bequeathed the property to the school district for very specific purposes. For all intent and purposes the property has sat fallow for the last eight to ten years. The school district has maintained some utilities there, but they've not done all that could be done, I guess, in keeping up the structures on the property. Nevertheless, and that's part of the reason why it's important to have a dialogue with the school district, it does seem that they still have the ability to go ahead and operate it.

They do not have fee title absolute. What they have is, is they have current use and occupancy of the property and can convey some rights. But the reverters are to the heirs of Marion Carll of which there are about seventeen now spread throughout the country. There's an attorney in Commack, Arthur Goldstein, who represents some of the heirs. We're trying to ascertain actually the whole list of heirs, what rights they could or could not convey. I think that's it in a nutshell. Is that it,

Bruce?

MR. ETTENBERG:

There were five uses in the will that Marion Carll left to the school district. And they essentially said that it had to be used for public use and that there had to be a museum and any other uses that the school district wanted to use for public use.

In the resolution to sell the nine acres to the Holiday Corporation, my understanding was that the school district was willing to then, if they did it for private use, revert the property to the heirs and the Holiday Corporation would purchase it from the heirs. So the school district has to first give up the property and say that they will no longer use it for that purpose. That was pretty much settled in the vote that -- the proposal that was voted down in June. So my understanding is that the school district is now looking into ways to use that property again.

CHAIRPERSON VILORIA-FISHER:

Okay. Any other questions for Mr. Ettenberg? Okay, thank you very much for coming down.

MR. ETTENBERG:

Thank you.

CHAIRPERSON VILORIA-FISHER:

Tom, I need you with all that correspondence I've received. We've had a lot of letters over the intervening time since our last meeting. Some of them from you, Legislator Kennedy.

LEG. KENNEDY:

How about some more?

CHAIRPERSON VILORIA-FISHER:

Actually one of Legislator Kennedy's longer letters has to do with 1835. So, Mr. Isles, if you could just come forward because I believe he has some very specific questions. But before we turn it over to Legislator Kennedy's questions, I believe that some of the issues that were brought up, and I discussed this with Legislator Kennedy, and as you just heard me speak with Mr. Lyon, the issue of the size of the property is not an issue that came up because of 1835; it actually has been the policy of the Farm Development Rights Acquisition Program for as long as I've been a Legislator here. And I was wondering how did that particular criteria originate and why?

DIRECTOR ISLES:

You are correct in my opinion, in terms of the -- your interpretation of the existing code, Chapter 8, and the practice of the Suffolk County Farmland Committee. The existing code does in deed make reference to New York State Agricultural and Markets Law section 201 in terms of the definition of agricultural production. And that specifically refers to commercial agricultural production. And so there is a direct reference to state law that the purposes of the County's program going back 30 years was for the purpose of preserving commercial agricultural production. And, here again, in terms of the definition of that it referred to state law.

So it is in there presently in terms of that reference. And if you look at that reference in state law, it does refer to those thresholds that we talked about, \$10,000 of gross receipts per year.

The new chapter only changes that by making it explicit in this code. So rather than make it an indirect reference to state law, it makes it clear. It removes any questions on that. So in terms of the --

CHAIRPERSON VILORIA-FISHER:

Are we bound by that in our program or is that suggested, is it a framework, is it a practice, is it statutorily something that restricts us?

DIRECTOR ISLES:

I'm not going to make a legal opinion. But what I can tell you in terms of the code itself, it is specifically written into the definition of agricultural production. So, certainly our interpretation as the County Planning Department has been that's the standard that's used. Certainly the Marion Carll school has been presented to the Farmland Committee and they did review it and tabled it at the request of the sponsor at their last meeting. They will take it up at the next meeting this month -- later on this month. But if I could, if you would allow me to, I would like to respond to a couple of the comments that were stated.

CHAIRPERSON VILORIA-FISHER:

Before we go there, I want to just stay on this for one second.

DIRECTOR ISLES:

Sure.

CHAIRPERSON VILORIA-FISHER:

Because there have been several people who have brought up the size and the dollar amounts on the production. And my response has been that I don't believe that passing 1835 would be what is creating that; rather it's the standard that we have been using. So whether or not we pass 1835, those standards are in place. And if in fact we want to change our definition of what constitutes a farm, be it size or level of production in dollars, that that would be a change that would have to be made by some other means. Is that a correct assessment? In other words, we have no impact on that definition by passing 1835.

DIRECTOR ISLES:

In my opinion you do not. But, here again, it currently refers to state law. It will continue to refer to state law, but it will be a little more explicit. Here again, I'm not going to make a legal opinion. I'm not obviously qualified to do that in terms of what the County can or can't do. But if I could just say in terms of the intent to preserve the Marion Carll School is certainly, I understand it, I can appreciate it. It is certainly of importance historically in that community. So I would never argue with that.

In terms of the merit of it coming into the County Farmland Program, I would offer a severe caution of modifying the county program by saying you know what? \$10,000 a year is not important or not necessary. Commercial agricultural production is not necessary to establish a threshold to get into the county program. Because the other side of the coin that I want to bring to your attention is the concern when your predecessors set up this program 30 years ago and what you're doing today is to preserve agriculture in Suffolk County as an industry. And then with the indirect economic benefits, tourism benefits and so forth, part of the battle we fight and part of what we -- the Farmland Committee looks at is properties we buy that are not used for farms, that are used for big backyards of people or, you know, uses that are not ag production.

So we understand, here again, this case of Marion Carll Farm has -- I think should be considered for what it is, and what it is, and the County Legislature and Executive should make a decision in terms of what's appropriate. But I think it's totally wrong to now change the County's program so that any kind of standard of commercial agricultural production is either eliminated or somehow weakened, I think it would have a dire consequence for the rest of our program. So I would just -- it's of grave concern to me.

I think the other point I'd like to make is that one of the amendments that's coming out of this is that for the first time we are putting in a program to allow agricultural education. You've preserved 10,000 acres of farmland in Suffolk County. We think the idea of the citizens of Suffolk County as has been spoken of by Mr. Lyon, that children can get to see what this does and understand local food production and so forth. So we put in a condition suggested and the County Executive has accepted to allow agricultural education as part of these farms by approval of the Farmland Committee. So that if a farmer wanted to have a special day on how do bees make honey, or how

are potato chips made from potatoes and so forth, they could do that kind of ag education.

So I think we've tried to come up with the program that does allow those activities. I think they're right. I think any kind of change to weaken what's commercial agricultural production is a very severe threat to this program. And I think that as far as the Marion Carll School property, it's important certainly it's been achieved, I understand it, I've heard about it. I'm not sure what the solution is. I just don't think changing the County code so that particular property can get is a very good practice. We haven't completed the review at the Farmland Committee. Maybe it fits in; maybe it doesn't. Certainly if it was brought back into production, if next year they started doing something to produce crops or livestock or something, that's a horse of a different color. No pun intended. And certainly that might be a route to take because that would then qualify.

Or maybe there's another program. Here again, I can't say. Maybe we do have programs that allow the purchase of historic buildings. That's a whole other issues in terms of what Parks Department can support. But I'm really concerned about this program being used for the current status of this property, which is not a farm.

CHAIRPERSON VILORIA-FISHER:

Did you have a question or comment?

LEG. KENNEDY:

Certainly, Madam Chair. I appreciate Director Isles' concerns. My comments that I submitted on 1835 while very much mindful of Marion Carll was an attempt on my part to look at something that I think we try very hard to stay away from as a body, but nevertheless we as individual Legislators must be cognizant of, we are a huge county. And we are geographically different from east to west dramatically. And so -- and by the way, I did have a chance to consult Ag and Markets Law Section 301 after I had first written the query, the memorandum. And I do see that Ag and Markets utilizes those two figures, both from the 7 acre threshold for consideration and the monetary delta for the larger and the smaller.

I would ask Counsel to give us an opinion as to the legal significance. But I'd also point out that Ag and Markets Law goes onto consider a variety of different agricultural types of ventures, both growing commercial agriculture as well as new start ups. Very detailed when it comes to wine making and viticulture in that it allows for properties to be considered for inclusion as they're going through the startup process without hitting the revenue marks yet.

But more importantly I think what I would say is, is that certainly in my Legislative district, I would be hard pressed to find a parcel that's in excess of seven acres foregoing farm purposes. But by the same token, I do know of farm properties or agricultural incidences within my legislative district that I'd like to see recommended and possibly included. As Legislator Isles (sic) is concerned, that the Farmland Program would be modified for one specific property, I would say not at all am I concerned about just Marion Carll. I'm concerned more about codifying a threshold that the west end districts will be almost impossible to find. We will be legislating a purchase and a support program that almost exclusively is going to operate from Brookhaven and east. And that's --

CHAIRPERSON VILORIA-FISHER:

We have saved some farms in the Town of Huntington.

LEG. KENNEDY:

Yes, we have. But the number of parcels that we found that meet that threshold become fewer and fewer. So what I would offer as a possibility just for the Committee's consideration is some acknowledgement of the surrounding community and the size of the proposed parcel for possible inclusion. Not to throw the baby out with the bath water, but we are a diverse county amongst our ten towns. And to put one absolute threshold in place, I think, doesn't give credence to the differences in our various communities.

CHAIRPERSON VILORIA-FISHER:

Okay. I just want to reiterate that those may be very good points and something for us to explore and discuss. But I don't believe that it's pertinent to the vote on 1835; because those are practices that have been before us for 30 years and are part of the standard that we've used in the program. And 1835 is amending, you know, what we have had existing. And this is not an amendment to it.

LEG. KENNEDY:

But what I would say, Madam Chair is --

CHAIRPERSON VILORIA-FISHER:

But you see it as an amendment.

LEG. KENNEDY:

When you look at the code now, there's nothing in our Suffolk County code that speaks about any specific threshold for inclusion of a particular property. George, do we have something in there right now that talks about a seven acre minimum?

MR. NOLAN:

Not expressly.

LEG. KENNEDY:

Right. So obviously many things that we do incorporate by reference state standards or state statutes or other ways of going ahead and doing business. But we do not have anything in our County Code right now.

CHAIRPERSON VILORIA-FISHER:

But it's the standard under which we've been operating for thirty years.

LEG. KENNEDY:

Again, yes, as a matter of fact --

CHAIRPERSON VILORIA-FISHER:

And it's been articulated here. However, I see that as a different -- a separate discussion, I think. I have to say I don't agree with you.

LEG. KENNEDY:

Okay.

CHAIRPERSON VILORIA-FISHER:

Although I was disappointed that I couldn't acquire Hobbs Farm through the county program, the town was able to do it. I see it's a model of community gardening and farming.

LEG. KENNEDY:

Absolutely.

CHAIRPERSON VILORIA-FISHER:

So there are viable options. I don't believe that there are probably that great of number in the western towns of farms that are viable, productive farms that would have commercial significance. You know, we're trying to protect commercial farming in Suffolk County.

LEG. KENNEDY:

Yeah.

CHAIRPERSON VILORIA-FISHER:

We're trying to protect the industry. And I don't know the answer to this. But this 1835, which has been, I think, a labor of great intensity by the Planning Department, by the Planning Division,

covers a great deal of elements in our program, a great many of elements in our program. And Mr. Isles and the other members -- and the members of his staff have been tremendously responsive. And I have to say Carrie Gallagher has been tremendously responsive to the queries that have been brought to them and criticisms, suggestions.

I believe that what you're suggesting, Legislator Kennedy, is looking at the entire acquisition program. And I think it's a bigger issue than what we're doing here. And maybe it's something we can revisit at some other time. But I'm really prepared to approve what's -- to vote for approval of what's before us, because I think it's a good solid piece of legislation. And I think what you're talking about would take a longtime to do an evaluation of whether or not we need to make such a basic and fundamental change in our program.

LEG. KENNEDY:

Well, Madam Chair, what I would suggest to you is, you know some of it I could do on my own by reaching out with Planning; and as a matter of fact I was going to attempt to do it with the various towns, working with the Assessors in the five western towns would be fairly straight forward to see how much acreage is assessed as agricultural acreage and, therefore, potential candidates for possible inclusion being brought forward.

My suggestion is not to go ahead and to abandon a threshold, nor to go ahead and eliminate the monetary requirements. I would say that we as a body should have some ability or latitude if there is a particular parcel in our district that we'd like to offer. If we embrace the standards that are being brought forward now, we almost categorically then eliminate what may be parcels that in fact could be brought forward.

And now I will turn to Marion Carll as a specific. Where it is a property that has not been actively farmed for the last seven or eight years, as Director Isles has indicated, we are working on a plan to recommence agriculture on the site. I think that there should be at least some provision in the amendments to the changes that allows for consideration for a parcel with an active farm plan by a viable community organization that gets brought forward to be eligible for consideration.

Right now as I read it, that's not there. So that's why I would suggest it should at least warrant some ability on our part as individual Legislators cognizant of properties in our districts, knowledgeable of the community groups that we work with, the opportunity to at least bring a parcel forward for consideration. Obviously the Farmland Committee will decide that yes, it's got merit, it's viable or it's not. But to go the other way bars us from even that opportunity. And that's my biggest concern, Madam Chair.

CHAIRPERSON VILORIA-FISHER:

Legislator Cooper.

LEG. COOPER:

I understand that the primary goal of our existing program to acquire agricultural and farmland development rights, is to preserve commercial agriculture in Suffolk County. But, you know, there are other societal benefits that accrue by preserving farmland that may fall under that threshold. As Legislator Kennedy mentioned, it's virtually impossible right now for me to find any farmland parcels in my district that would qualify under the existing criteria. And one ramification of that is that, it's true, you know, kids that go to school in Huntington, they don't visit farms anymore because there really aren't that many farms that they can visit. And I'm concerned that if that trend continues -- I mean I'm all for preserving the larger agricultural parcels on the east end. But if they're out of reach to residents of western Suffolk County who pay a disproportionate share of the taxpayer dollars that are used to preserve the parcels, I don't know if that's fair.

So I would like to perhaps reevaluate that criteria just as we did several months ago where we revised the rating form used to acquire open space, where we gave additional points for parcels that were in areas that had high population densities, which were primarily western Suffolk County. I

don't know whether we can do something similar in this case.

DIRECTOR ISLES:

We did. We did include it in the farmland criteria as well, that there's a population density factor that gives extra points for being -- to give it extra points because of a western Suffolk, a central location, just so you know that did occur.

LEG. COOPER:

But you still set that minimum threshold, though, at seven acres. Now, I don't want to necessarily hold up 1835 because I'm in support of 1835, but I have this concern. Is it true that we -- is there any reason why we could not vote to approve 1835 today? And then at some future point have this debate on this particular issue; where I would like to try to see some movement to address these concerns. Or would be better for us to table this now and try to take this up concurrently?

DIRECTOR ISLES:

Well, we would certainly request action today. This has been a two-and-a-half year effort. In respect to the comments, certainly the comments are well understood. There are numerous farms that we have protected in western Suffolk; obviously not as many as eastern Suffolk. We have a number in the pipeline right now, BB and GG, Tilden Farm and so forth. But in terms of that component that's less than seven acres, there is a provision to go below seven acres, but you have to generate more dollar value. So that might be a high productivity farm operation. Maybe on five acres, four acres, maybe a green house, something like that. So it's not like you can't go below seven acres, but it is a higher bar at that particular point in time.

The only thing I wanted to add to the discussion is that the Farmland Committee has had a few instances, and we have in the administration side, where it's been a question as to the production as we get into the acquisition. And the Farmland Committee has stipulated well, okay, get the property into production. And then by the time we go to contract and go to close, we establish proof that that's occurred.

So if it's in doubt as to where are they in that \$10,000 per year threshold, but there is a plan to come up with a farm. The Committee has been open to that, and said, okay, show us how that's going to happen and then make that part of their decision. And so it's not like they're a brick wall. I think they try to be -- they're pro-farming, certainly. So I don't want to characterize this in a black and white manner, that's it's all or nothing. Obviously the numbers are the numbers. But I think in terms of the application and the administration of that, the County does try to work with that.

And then my last comment is, we have had a few cases, and I'm thinking about the one, and Janet Longo will know the name of it because I don't, the small farm in Northport -- Louis Oliver. And this was a locally significant farm property. There was a lot of emotional attachment to it. They said let's put this into the Farmland Program. It was like two acres. And there's no way that we could fit it into the County Farmland Program based on the acreage, dollar value. But there was a solution. It was preserved through a joint effort of the County, the Town of Huntington and the Village of Northport. And it's not in our Farmland Program. But they found a solution involving the community that saved that locally important resource.

So I think we have been able to address most of the problems or sensitive subjects without weakening the County's program whether it be an adverse consequence going into the future that would potentially undermine our program and undermine the public confidences. What are we preserving? Are we preserving farms? Are we preserving little postage stamps that are -- I'm sorry, I don't mean to make an editorial characterization. But on the extreme form the intent of the program, so.

LEG. COOPER:

Tom, just one followup question. I want to allude to the flexibility that you spoke about that the

Farmland Committee has evidenced in the past. If 1835, though, is approved today and minimum thresholds are codified, will they lose that flexibility? How will they still be able to be flexible if we're tying their hands through this bill?

DIRECTOR ISLES:

Well, I don't -- and certainly I didn't mean to convey that they wouldn't be flexible in terms of the numbers, and that's true. But let me give you an example of one we just had out in Southold Town just south of County Road 48, a farm parcel that had been approved a couple years back, I think, in 2005 or so. And they came back to us and said *you know what? We'd like to sell you our development rights.* We said *okay, there's a legislative resolution that authorized planning steps.*

Well then the question became *so are you farming it?* And they kind of gave us an uncertain answer. And it turned out they were just getting -- bringing it back into production. There were some grape vines, there was a vinery operation. And so we conducted an inspection, some planners in our Department, Farmland Committee members, and one actual vineyard expert. And it was confirmed that, yes, even though it's not producing anything yet, there is active planting going on. And so that's a case where the Farmland Committee worked with the owner that, yeah, you've demonstrated you're getting this, not just a fallow field, it's been sitting there for ten years doing nothing, that you're putting it into production, but you're not going to yield product for another year. And at that time, here again, maybe the acquisition then could catch up. They'd be producing and would fulfill the requirements of the program. And we'd be back to you for an acquisition resolution at that point.

I'm just pointing that out. So in answer to your question does it lower the numbers, it does not and we wouldn't have the authority to do that. However, in terms of how the property owner could achieve that, and perhaps if Marion Carll School, that if there was a plan and a program to bring it into production, and 10,000 in some respects sounds like a lot of money, in a commercial farming standpoint, I'm not sure that it's a -- it's certainly probably not a lot to live on, so I don't know if it's such an onerous bar, and that's just my own personal opinion, but I think it is a bar of sorts.

So there have been approaches. And that's one example of the Southold property where the Farmland Committee did speak directly to the owner and say you're producing zero right now. Maybe at the time the resolution was approved initially you were producing, but show us how you're going to bring it back into production. He said *fine, that's what I'll do.* And it seems like a logical and practical solution.

CHAIRPERSON VILORIA-FISHER:

Tom, Hobbs Farm, once the volunteers got in there and worked on the farm, how many thousands of pounds, Tom, were harvested? Was it 20,000 pounds?

MR. LYON:

We've produced over 50,000 pounds of food in the last couple of years. And we brought in about \$700 from a little farm stand we have on the property. But we're supplying to eleven different food pantries on Long Island. Just that whole issue of the money, you know.

CHAIRPERSON VILORIA-FISHER:

Thanks. That's all the information I wanted. Thanks, Tom. What I'm saying is that although they weren't selling it, the value was there. So, Tom, they wouldn't have to be looking at the commercial sale of that. It would have been -- however, at that time the church needed the money right away. They wanted it to close quickly so we, you know, and the Town was able to do it. But, Tom, that might -- you just proved the point that was made by Mr. Isles, that it was fallow, there was a group who was able to work. And we could have then re-visit it once it was showing that it was producing those tens of thousands of pounds.

DIRECTOR ISLES:

Absolutely.

CHAIRPERSON VILORIA-FISHER:

And also regarding Marion Carll, our Victory Garden Task Force has -- we've just about completed our report. And in part of what we're providing is a community garden tool kit to help groups that are working. And many of these will be community gardens on school properties, to help groups create school community -- create gardens on school properties or other, you know, corporate properties, public, you know, any number of different models. And maybe once the group that obviously has a number of people already involved and committed, if there's an agreement made between the group and the school district to create a farm, and once there is production, then it could be re-visited.

DIRECTOR ISLES:

Absolutely, yes.

CHAIRPERSON VILORIA-FISHER:

Because right now we're looking at fallow land. And I think it seems like a little bit of complications with the heirs and the succession of it and --

LEG. KENNEDY:

Title questions, no doubt about it, Madam Chair. But, again, let me restate that the questions that I raised with 1835 are not exclusively associated with an ability to acquire Marion Carll. I questioned -- and some of it I found out subsequent had some statutory basis, so there was an explanation as to where the seven acres came from. It was the state senate and the state assembly, I guess, that embraced that. But I also, again, raise for you whether or not there's a need for us to go ahead and have that specific language brought into our County Charter. And then I also talked a little bit about some of the other functions that I saw there, too.

One in particular, and I don't want to take the Committee's time up with this, I figured I would put my thoughts down in writing so that you could see. Dealing with processed foods, that was one that really was troubling because I thought specifically about what this orchard along Pulasky Road, they make apple cider. Well, they were acquired, I guess, Legislator Nowick brought them forward. And I know -- I don't know, were they through the Farmland Preservation or were -- so how do they sell the apple cider?

DIRECTOR ISLES:

They can absolutely both presently and in the new code sell apple cider from apples that are grown on that farm. There's no question about that. In terms of production, production cannot occur -- processing -- pardon me, wrong word -- processing cannot occur on county PDR. But in terms of selling apple cider from products that are grown on that premises, absolutely.

LEG. KENNEDY:

Does that mean, then, that if they had have excess capacity in their presses, they couldn't take apples from a neighboring orchard and vend it? They can only process and sell cider from the apples grown on that property?

DIRECTOR ISLES:

I'm assuming the processing function that they're doing is not on county PDR because the County didn't buy the entire -- the PDR for the entire parcel. There are a number of cut outs there. So assuming the processing function is on non-PDR, as far as the County's concerned they could do whatever they want.

LEG. KENNEDY:

Oh, I see, okay. Maybe that's the way to address that, Madam Chair. I don't know. Again, it was a kind of ham-handed attempt, you know, as I went through it and just raised questions from a general, you know, elected's perspective. Maybe in some cases it's a lack of understanding. I've never had occasion to work with farmland preservation.

CHAIRPERSON VILORIA-FISHER:

Thank you, Legislator Kennedy, for taking the time to put this all in writing. Thank you very much.

CEQ RESOLUTIONS

Okay, we'll go onto CEQ Resolutions. And, John, if you could just stay a minute because we have a question for CEQ about another letter that you wrote to me. Okay, and that's regarding -- is it IR 18 -- the other piece that you have? The Legacy Village questions that you have. Give me the number again, John.

LEG. KENNEDY:

1670. IR 1670.

CHAIRPERSON VILORIA-FISHER:

Thank you. Hello, Mr. Mule. It's good to see you.

MR. MULE:

Good morning to you.

CHAIRPERSON VILORIA-FISHER:

Okay, why am I not finding it, John?

LEG. KENNEDY:

1670 goes back. Where is it, George?

CHAIRPERSON VILORIA-FISHER:

What Committee is it in? It might be in Ways and Means.

LEG. KENNEDY:

The problem is -- Ways and Means, I believe, but I don't know if the CEQ determination was made on that reso yet.

CHAIRPERSON VILORIA-FISHER:

Okay. 1670, which was selling the portion of the -- what's called Legacy Village. This is the industrial portion. And I believe that there was a problem regarding sedimentation because we've already contracted with GEIS for the entire 255 acre parcel. And I believe that there was an issue regarding -- treating it separately once we started the GEIS.

MR. MULE:

There hasn't been an issue identified yet. It's actually on the agenda for this upcoming CEQ meeting for the Council to review, the 15th of September.

CHAIRPERSON VILORIA-FISHER:

Okay. So sorry, I won't have an answer for you until then. But I thought, you know, I would just share that with Mr. Mule while you were here so that -- you probably will be at the CEQ meeting and we'll discuss it in depth at that time.

LEG. KENNEDY:

Okay.

CHAIRPERSON VILORIA-FISHER:

Okay, thank you again. It's all yours.

MR. MULE:

Okay, thank you.

First up we have **CEQ Resolution 30-2010, Ratification of Recommendations for Legislative Resolutions Laid on the Table for June 22, 2010, July 7, 2010, August 3, 2010 and August 17, 2010. (Type II Actions)** Pro forma mostly Type II Actions with CEQ's classification recommendations in the left-hand margin.

I do want to bring your attention to a few items. On August 3rd, 2010 packet, IR 1817, authorizing acquisition of land under the New Suffolk County Drinking Water Protection Program, Open Space Component for the Schultz Holding Corp property, Forge River, Town of Riverhead, Phase One Environmental Assessment was conducted, which identified several recognized environmental conditions.

CHAIRPERSON VILORIA-FISHER:

Oh.

MR. MULE:

A phase Two was recommended. And last I heard the County is awaiting access to the property to conduct a Phase Two. And once that is complete, if and when that is complete, an EAF will be filled out and submitted to CEQ for review.

CHAIRPERSON VILORIA-FISHER:

Okay. I just want to ask Counsel. Clearly until the Phase Two is done, I would rather not see us close on this. But approving the CEQ recommendations doesn't preclude -- actually it helps us to look further at it, to look at the --

MR. NOLAN:

I think we can approve the CEQ resolution today.

CHAIRPERSON VILORIA-FISHER:

Yeah. And we'll continue to look at the results of the Phase Two once we get access to the property.

MR. NOLAN:

I believe that's correct, yes.

CHAIRPERSON VILORIA-FISHER:

Okay. Thank you for pointing that out.

MR. MULE:

And one other one on the August 3rd laid on the table, 1820, appropriating funds in connection with Stony Brook University Hospital Comprehensive Psychiatric Emergency Program, just pointing out that Stony Brook University is going to be the SEQRA lead agency on this. And they are currently in the process of completing SEQRA. And once that's complete, we can go ahead with that one.

CHAIRPERSON VILORIA-FISHER:

Is that it?

MR. MULE:

That's it.

CHAIRPERSON VILORIA-FISHER:

Okay, I'll make a motion to approve, seconded by Legislator Cooper. All in favor? Opposed? Motion stands approved. **(VOTE: 3-0-0-2. LEGISLATORS MURATORE AND LOSQUADRO NOT PRESENT)**

MR. MULE:

Next up is **CEQ resolution 31-2010, proposed Acquisition of Land for Open Space Preservation Purposes Known as the Beaverdam Creek County Wetlands Property in the Town of Brookhaven. (Unlisted Action, Negative Declaration)** CEQ recommends classification as an unlisted action with a negative declaration with the action posing no adverse impact on the environment.

CHAIRPERSON VILORIA-FISHER:

Same motion, same second, same vote. **(VOTE: 3-0-0-2. LEGISLATORS MURATORE AND LOSQUADRO NOT PRESENT)**

Next up **CEQ resolution 32-2010, Proposed Acquisition of Land for Open Space Preservation Purposes Known as the Reeves Bay Flandhampton Holdings, LLC property, in the Town of Southampton. (Unlisted Action, Negative Declaration)** CEQ recommends classification as an unlisted action with a negative declaration. The action has no adverse impact on the environment.

CHAIRPERSON VILORIA-FISHER:

Same motion, same second, same vote. **(VOTE: 3-0-0-2. LEGISLATORS MURATORE AND LOSQUADRO NOT PRESENT)**

Thank you. See on you 15th. Thank you very much.

Mr. Isles, before we get to the agenda, and I was wondering if Janet could join you at the table for a minute. The reason I'm asking you to join Mr. Isles is because I just want to put something on the record that came up at our last general meeting. And I want to re-visit it when we enter executive session at our next ETRB meeting.

There was a Legislator -- well, Legislator DuWayne Gregory alleged that there were problems with an appraisal of property in his district, that it was purposely under appraised. I voted to approve that appraisal based on the presentation that had been made at ETRB. Was there anything about that appraisal -- because I'm sure you're aware of the allegations that were made, was there anything unusual about that, that should bring it back to ETRB to be reappraised? Do you remember where it was? I don't remember where it was. I believe it was in Amityville.

MS. LONGO:

I'm not an appraisal reviewer so --

CHAIRPERSON VILORIA-FISHER:

The reason I asked you to come up is because you're part of ETRB and I just wanted to talk about it with the two of you.

MS. LONGO:

We don't ever under appraise or over appraise or mess around with appraisal numbers, ever. Our appraisal review staff thoroughly investigates and reviews every appraisal report that we receive and good faith and good conscience puts forth the number that they feel is the correct market value under the circumstances and each, of course, property is different. So I can't make any comment on numbers or anything else, but we would never under appraise or over appraise any piece of property. We review the appraisal reports. It goes through the Committee. It goes through the Internal Review Committee and then it goes to the ETRB committee with full explanations. And it's voted on.

CHAIRPERSON VILORIA-FISHER:

And they work independently. And they're working objectively.

MS. LONGO:

Absolutely objectively, yes.

DIRECTOR ISLES:

If I could just add one point to that, too, so in the event a property owner receives an offer that went through this very complete and thorough and professional process and they felt otherwise in terms of their value, as I understand it, Real Estate does permit the submission of an alternative appraisal or valuation of other comparables. So they will review those and entertain those. And if there's something that was wrong or incorrect or a comp that was missed or something, my understanding -- in fact, the ETRB has received requests for reviews based on new information. We then hear a report as to whether or not it changes the recommendation of our professional appraisal review staff.

MS. LONGO:

Correct.

CHAIRPERSON VILORIA-FISHER:

I don't know whether or not you had received a request to re-review that particular parcel, but I'll get the information and I'll request that myself just to re-visit it, because of the allegations that were made here. And I just want to take a second look; although I think we had taken a second look at it if I recall. But I'll be in touch with you just so that we can -- yes, Mr. Isles.

DIRECTOR ISLES:

If I could just add one -- I'm sorry, I didn't mean to interrupt you, but I think there was another comment at that meeting, too, about the notice of meetings for the Environmental Trust Review Board. Just for your information, we had originally had a process of mailing out the agendas to the members of the Legislature who were not on the ETRB so that they would get copies of those.

It was brought to our attention that sometimes they got them too late, like the day of the meeting or the day before the meeting. So we then began a process of e-mailing those notices exactly when we e-mail them to the members of the ETRB. I understand that that may be insufficient as well. So what we're prepared to do is to notify aides as well, just to try to get the word out. If there's anything further you would like us to do in terms of notifying the Legislature, we'd be happy to consider that. But we do do direct e-mail notification to every member of the Legislature for every ETRB meeting. And, here again, if that's not adequate, let me know.

CHAIRPERSON VILORIA-FISHER:

I believe that the request by the Legislator was that Legislators be notified when properties in their districts were going to be on the agenda at an ETRB meeting. I believe, Mr. Kennedy, that that was the request.

LEG. KENNEDY:

I think so, Madam Chair.

CHAIRPERSON VILORIA-FISHER:

I think that's what you mentioned to me.

LEG. KENNEDY:

Yes, I had mentioned, as a matter of fact, Director Isles did put that process in place, I think, after I raised a concern about a particular property that was in my LD that I only became aware of after ETRB met. And he is correct, I do get the e-mails about the schedule going forward. You know, we all have a flood of e-mails that we have to go through. My recollection is, is sometimes it's still a short time period. Land, that I try to go ahead and, you know, and make every meeting. But sometimes you may have an ETRB meeting set that -- or the notice comes, we're talking maybe a week or something like that away, and I don't know if that's sufficient for everybody always to accommodate schedule-wise. If that's the way it goes for ETRB, then maybe that's what it is. I don't know.

CHAIRPERSON VILORIA-FISHER:

Well, our calendar is set for the year for our meetings. It's the third Friday of every month. And I think that as a courtesy because you made that request, Mr. Isles' division began sending out the e-mails to remind people of the meetings.

LEG. KENNEDY:

Well, Legislator Gregory, I believe, also had a question or concern, though. That was part of what prompted our discussion.

CHAIRPERSON VILORIA-FISHER:

That's what I'm talking about.

LEG. KENNEDY:

Okay. Right.

CHAIRPERSON VILORIA-FISHER:

Yes, Legislator Gregory asked that when -- I believe that his request was that if there's a parcel in someone's district that that person be made aware that it was going to be before ETRB.

DIRECTOR ISLES:

Well, here again, we notify every Legislator of every meeting of every time on the agenda. I'm not sure what else you want us to do.

CHAIRPERSON VILORIA-FISHER:

Thank you very much.

TABLED RESOLUTIONS

We'll move to the agenda now. We'll begin with our **tabled resolutions. 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)** I just -- I think that Legislator Losquadro's still working on this, right? We'll continue to table it.

DIRECTOR ISLES:

I'm not sure. He hasn't furnished anything further to us. The last time he made a --

CHAIRPERSON VILORIA-FISHER:

Okay, and I haven't heard anything about it either. So as soon as Legislator Cooper comes back, we'll -- I'll make a motion to table, seconded by Legislator D'Amaro. And we'll have the vote as soon as he comes back.

LEG. COOPER:

I'm here, yes.

CHAIRPERSON VILORIA-FISHER:

Okay, there's a motion and second to table IR 1220. All in favor? Opposed? IR 1220 stands tabled. **(VOTE: 3-0-0-2. LEGISLATORS MURATORE AND LOSQUADRO NOT PRESENT)**

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) I believe that this sponsor still has work to do on that as well. I'll make a Motion to table.

LEG. COOPER:

Second.

CHAIRPERSON VILORIA-FISHER:

Seconded by Legislator Cooper. All in favor? Opposed? IR 1278 stands tabled. **(VOTE: 3-0-0-2. LEGISLATORS MURATORE AND LOSQUADRO NOT PRESENT)**

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) That's mine. I'm going to actually withdraw that resolution. I don't see an access point. I walked it and I just can't see how we could work it out. Thank you, Laretta, for the work; for your information on that. **IR 1280 WITHDRAWN BY LEGISLATOR VILORIA-FISHER**

IR 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) I'll make a motion to table.

LEG. COOPER:

Second.

CHAIRPERSON VILORIA-FISHER:

Seconded by Legislator Cooper. All in favor? Opposed? IR 1416 stands tabled. **(VOTE: 3-0-0-2. LEGISLATORS MURATORE AND LOSQUADRO NOT PRESENT)**

IR 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 make a motion to table.

LEG. COOPER:

Second.

CHAIRPERSON VILORIA-FISHER:

Seconded by Legislator Cooper. All in favor? Opposed? IR 1430 stands tabled. **(VOTE: 3-0-0-2. LEGISLATORS MURATORE AND LOSQUADRO NOT PRESENT)**

IR 1534, adopting Local Law No. -2010, A Charter Law to authorize the transfer of development rights for non-profit community centers. (Schneiderman) I'll make a motion to table.

LEG. COOPER:

Second.

CHAIRPERSON VILORIA-FISHER:

Seconded by Legislator Cooper. All in favor? Opposed? IR 1534 stands tabled. **(VOTE: 3-0-0-2. LEGISLATORS MURATORE AND LOSQUADRO NOT PRESENT)**

IR 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). I'll make a motion to table.

LEG. COOPER:

Second.

CHAIRPERSON VILORIA-FISHER:

Seconded by Legislator Cooper. All in favor? Opposed? Abstentions? IR 1554 stands tabled.

(VOTE: 3-0-0-2. LEGISLATORS MURATORE AND LOSQUADRO NOT PRESENT)

IR 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 make a motion to table.

LEG. COOPER:
Second.

CHAIRPERSON VILORIA-FISHER:
Seconded by Legislator Cooper. All in favor? Opposed? Abstain? IR 1609 stands tabled.
(VOTE: 3-0-0-2. LEGISLATORS MURATORE AND LOSQUADRO NOT PRESENT)

IR 1671. There are so many different projects right around there that I'm totally confused by all of them at this point.

LEG. KENNEDY:
As am I, Madam Chair.

CHAIRPERSON VILORIA-FISHER:
Okay. And I sit on the Water Quality Committee and have reviewed them. And it still gets a little confusing.

(IR 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 don't believe that that has come before the Water Quality Review Committee. So I will make a motion to table.

LEG. COOPER:
Second.

CHAIRPERSON VILORIA-FISHER:
Seconded by Legislator Cooper. All in favor? Opposed? IR 1671 stands tabled. **(VOTE: 3-0-0-2. LEGISLATORS MURATORE AND LOSQUADRO NOT PRESENT)**

LEG. COOPER:
Excuse me, Tom, do you know when the next committee meeting is?

CHAIRPERSON VILORIA-FISHER:
Carrie, when are we meeting again?

COMMISSIONER MEEK GALLAGHER:
Probably not until next spring.

CHAIRPERSON VILORIA-FISHER:
We've used up all the money. I thought we had a little left. I thought we had about 200,000 left or something.

COMMISSIONER MEEK-GALLAGHER:
We have a little over 50,000 so not a lot can be done with that unless something else -- you know, unless something else falls through and we are able to put those funds back into the pot, which we would then have to go to the committee first.

CHAIRPERSON VILORIA-FISHER:
John Kennedy used most of it.

COMMISSIONER MEEK-GALLAGHER:

I know.

LAUGHTER

CHAIRPERSON VILORIA-FISHER:

Okay. Did I call the vote on that? Okay, 1671 stands tabled.

IR 1695, authorizing the inclusion of new parcels into existing certified agricultural districts in the County of Suffolk. (Co. Exec.) And that's 137 parcels in Brookhaven, East Hampton, Riverhead, Southampton, Southold, Nissequogue and Southampton. That's correct?

DIRECTOR ISLES:

(Shaking head yes)

CHAIRPERSON VILORIA-FISHER:

And, by the way, there was something that Legislator Kennedy mentioned earlier regarding going to the Assessors to see where the farms were. If we have an agricultural district, then we know who's farming there, right?

DIRECTOR ISLES:

Yes.

CHAIRPERSON VILORIA-FISHER:

If they've made applications, they've been accepted.

DIRECTOR ISLES:

Right. Let me just begin by noting that today -- joining us today at your meeting is Ken Schmidt who is the Chairman of the Suffolk County Agricultural and Farmland Protection Board; has been doing so for a number of decades, I believe, and has done an outstanding job and knows a lot more about this than I do. But in terms of your question, we do have a list of the owners that are included in this resolution based on the Assessor's records. I'm not sure, however, if that answers your question.

CHAIRPERSON VILORIA-FISHER:

Well, actually I was just going to give Legislator Kennedy a short cut, if you wanted to look at that, you could look at who is listed in the agricultural district as having a farm, somebody who was assessed as part of an agricultural district, right?

DIRECTOR ISLES:

That's true. You could look at that list, absolutely, or map.

CHAIRPERSON VILORIA-FISHER:

All right.

LEG. KENNEDY:

Madam Chair, are the Ag Districts set up township or do we have a county wide agricultural district? In other words, in Smithtown, do we have an agricultural district for the Town of Smithtown?

DIRECTOR ISLES:

Yes, there is an agricultural district that incorporates the western five towns. And by the way in terms of getting into an agricultural district, it is voluntary. So in terms of are there properties in Smithtown that are in the Agricultural District's Program, only if they wanted to get into the program and they applied to, they could go in. And let me just get you an answer to your question are there any in Smithtown. And I believe there are, but we're going to get you an answer to that in a

second.

LEG. KENNEDY:

No, we don't have to hold up the Committee with that at all, Tom. So then if I speak to you, you can give me a list of those properties that are in in my Legislative district.

CHAIRPERSON VILORIA-FISHER:

I'm hearing that the Town has a list.

DIRECTOR ISLES:

The answer in terms of the County program is yes. The question would be the timing of getting that to you. I'm just not sure how quick we can get it to you, but there certainly is that information. And basically it's a compilation of what's already in the district and what's going to be added in if this resolution's approved.

CHAIRPERSON VILORIA-FISHER:

And I'm hearing from Marge that the Town Assessor's office would have it. The tax is assessed in a certain way. If you're in the agricultural district, the Assessor would have that, right?

DIRECTOR ISLES:

Right. And, here again, Mr. Schmidt's an expert on that, so not to put him on the spot but he knows everything about that.

CHAIRPERSON VILORIA-FISHER:

I'm getting a lot of nodding back there. So it looks like the people who know are saying yes, the Town Assessor would have that information. And I believe we've voted to approve that or not? I'll make a motion to approve, seconded by Legislator Cooper, who's jumping at his mike. All in favor? Opposed? IR 1695 stands approved. **(VOTE: 3-0-0-2. LEGISLATORS MURATORE AND LOSQUADRO NOT PRESENT)**

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) I believe Legislator Muratore's still working with the school district on it? This isn't ready to go yet, right?

MS. FISCHER:

No.

DIRECTOR ISLES:

Here again, I'm not sure what he's specifically working on. We did discuss it at the last meeting of the Committee. On August 11th I sent him a follow-up summarizing what the Department needs to be able to complete a rating. At this point we have not received anything further.

CHAIRPERSON VILORIA-FISHER:

Okay, that's what I thought. I didn't think he had finished doing the work on that. Okay, I'll make a motion to table, seconded by Legislator D'Amaro. All in favor? Opposed? IR 1699 stands tabled. **(VOTE: 3-0-0-2. LEGISLATORS MURATORE AND LOSQUADRO NOT PRESENT)**

IR 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) Again, I'll make a motion to table, seconded by Legislator D'Amaro. All in favor? Opposed? IR 1728 stands tabled. **(VOTE: 3-0-0-2. LEGISLATORS MURATORE AND LOSQUADRO NOT PRESENT)**

IR 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.)

DIRECTOR ISLES:

Mr. Mule just reported CEQ is asking for more information on that one.

CHAIRPERSON VILORIA-FISHER:

Okay. This is the one where the Phase One was done and we're waiting for the phase II?

DIRECTOR ISLES:

Yes.

CHAIRPERSON VILORIA-FISHER:

Okay.

DIRECTOR ISLES:

We need the Phase Two and we need CEQ review.

CHAIRPERSON VILORIA-FISHER:

Right. It needs to go back to CEQ.

DIRECTOR ISLES:

Right.

MS. FISCHER:

Yes.

CHAIRPERSON VILORIA-FISHER:

I'll make a motion to table.

LEG. COOPER:

Second.

CHAIRPERSON VILORIA-FISHER:

Seconded by Legislator Cooper. All in favor? Opposed? Stands tabled. **(VOTE: 3-0-0-2. LEGISLATORS MURATORE AND LOSQUADRO NOT PRESENT)**

IR 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) I'll make a motion to approve.

LEG. COOPER:

Second.

CHAIRPERSON VILORIA-FISHER:

Second by Legislator D'Amaro. All in favor? Opposed? IR 1827 stands approved. **(VOTE: 3-0-0-2. LEGISLATORS MURATORE AND LOSQUADRO NOT PRESENT)**

IR 1835, adopting Local Law No.? -2010, A Local Law amending Chapter 8 of the Suffolk County Code. (Co. Exec.) Would you like to make a motion?

LEG. D'AMARO:

I'll off it, sure; motion to approve.

CHAIRPERSON VILORIA-FISHER:

Motion to approve by Legislator D'Amaro.

LEG. COOPER:

I would actually suggest --

CHAIRPERSON VILORIA-FISHER:

Well, I'll second it and then we can talk about it.

LEG. COOPER:

Because of some of the issues that we discussed earlier I'm not quite ready to approve this, but I don't want -- I'm willing to let it out of Committee so I would like to make a motion to discharge without recommendation.

CHAIRPERSON VILORIA-FISHER:

Would you like us to address any of your concerns now?

LEG. COOPER:

No, just some of the outstanding issues, whether -- I'm not convinced that it should necessarily hold up 1835. But as I said, I don't want to take a position right and approve.

CHAIRPERSON VILORIA-FISHER:

Okay.

LEG. COOPER:

I'd rather discharge.

CHAIRPERSON VILORIA-FISHER:

Okay, so there's a motion to discharge without recommendation.

LEG. D'AMARO:

I'll withdraw my motion to approve, Madam Chair.

CHAIRPERSON VILORIA-FISHER:

Okay. And I will second the motion to discharge without recommendation. All in favor? Opposed? IR 1835 is discharged without recommendation. **(VOTE: 3-0-0-2. LEGISLATORS MURATORE AND LOSQUADRO NOT PRESENT)**

IR 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) Okay, actually SEQRA has to be completed on this, right?

LEG. KENNEDY:

I think we did get a SEQRA approval because this was laid on the table --

CHAIRPERSON VILORIA-FISHER:

My notes said the SEQRA process was not complete.

LEG. KENNEDY:

I think it's a Type II negative dec.

CHAIRPERSON VILORIA-FISHER:

Is Michael Mule still here?

DIRECTOR ISLES:

I don't believe so.

CHAIRPERSON VILORIA-FISHER:

Can you shed light on this? Carrie?

DIRECTOR ISLES:

I cannot. I don't know if it's been reviewed.

CHAIRPERSON VILORIA-FISHER:

Carrie?

COMMISSIONER MEEK GALLAGHER:

Unfortunately I don't recall on this one either. I know it had been an issue. And I don't know if it has been addressed yet.

LEG. KENNEDY:

I believe that the original question, that there was a SEQRA question, was whether or not we were going to actually do any work out of this resolution. And if that was the case, then we had to establish lead agency status. And then we would have to go ahead and actually follow the process.

CHAIRPERSON VILORIA-FISHER:

Smithtown is the lead agency, right?

LEG. KENNEDY:

No. As a matter of fact this is for -- {Steve Harmon} and {Chuck Goldman} are here. If you remember, Madam Commissioner, when we talk about this, this is for the preliminary planning and engineering work to do approximately 5,000 linear feet running north from the Smithtown Village of the Branch border up through to Miller's Pond and the Miller's Pond Weir. But this will fund the actual tabulation that's predicate to the issuance of the DEC permits. So that's where our engineering firm and our land use firm comes into place, through the flora and the fauna inventory, sediment coring, definition of width of the water body itself. And in this case will actually be engineering estimation for replacement of two sets of culverts with existing 24 inch conduit and probably replacement with box culvert. We met this morning on it --

CHAIRPERSON VILORIA-FISHER:

I'm sorry to interrupt you, but I remember the value of the project itself and that we had no problem in the Water Quality Review Committee passing it and saw it as something that was important. It was an important piece of the whole project. The question I have is regarding SEQRA process. And Counsel is suggesting that we discharge without recommendation because he'd like to just look into the SEQRA process. There was just a question somewhere along that line. And I want to follow, you know, trace where it is in the SEQRA process. Okay. And we'll get that by the next meeting. We have time.

LEG. KENNEDY:

I'll be one for less. As a matter of fact, yeah, we do, as a matter of fact. And if you -- as I said we have {Beth Laurette} and {Chuck Goldman} from Land Use and {Steve Herman} if there's any questions as to the substance of the work to be funded.

CHAIRPERSON VILORIA-FISHER:

Right. I don't remember having any problem with the substance of the work. It's a good project and it's important. Okay, so I'm going to make a motion to discharge without recommendation.

LEG. COOPER:

I'll second.

CHAIRPERSON VILORIA-FISHER:

Second by Legislator Cooper. All in favor? Opposed? 1847 is discharged without recommendation. **(VOTE: 3-0-0-2. LEGISLATORS MURATORE AND LOSQUADRO NOT PRESENT)**

Okay, now Laretta will start passing out paper. **IR 1857, accepting the donation of certain lands now owned by Rudolph Fabrizio and transfer such lands to the Suffolk County Department of Parks, Recreation and Conservation for Pine Barrens Core Preservation purposes (SCTM Nos. 0200-356.00-04.00-006.001, 0200-356.00-04.00-009.001, 0200-356.00-04.00-010.000 and 0200-413.00-02.00-007.000).** (Co. Exec.) Anybody? No money?

DIRECTOR ISLES:

No, no money and no other consideration. It's just a straight donation. It's not tied to an article 6 TDR. And it's within an area that is core of the Pine Barrens and an area with rather significant County holdings presently.

CHAIRPERSON VILORIA-FISHER:

Motion by Legislator D'Amaro.

LEG. COOPER:

Second.

CHAIRPERSON VILORIA-FISHER:

Seconded by Legislator Cooper. All in favor? Opposed? Approved. **(VOTE: 3-0-0-2. LEGISLATORS MURATORE AND LOSQUADRO NOT PRESENT)**

Okay, **1861, amending the 2010 Adopted Operating Budget by transferring funds from Cornell Cooperative Extension's Administration Program budget to their Agriculture and Marine Programs. (Co. Exec.)** Okay. I will make a -- well, would you like to make a motion to approve, Legislator Cooper?

LEG. COOPER:

I would love to. Thank you.

CHAIRPERSON VILORIA-FISHER:

Seconded by Legislator D'Amaro.

LEG. D'AMARO:

Yeah, I just wanted an explanation.

CHAIRPERSON VILORIA-FISHER:

Okay. Is there anyone here from Cornell? Would you like to offer an explanation, Counsel?

MR. NOLAN:

I would rather if Budget Review did.

CHAIRPERSON VILORIA-FISHER:

Okay, Budget Review.

MR. LIPP:

It transfers money from -- \$10,770 from Cornell's administrative program budget to their Agriculture and Marine Program. 5,370 to the Marine Program and 5,430 to the Agricultural Program. So it's just a transfer.

CHAIRPERSON VILORIA-FISHER:

And it has something to do with the Worker Compensation?

MR. LIPP:

Workman's Comp and unemployment cost for each of the programs. And there's no net change in Cornell's appropriations.

LEG. D'AMARO:

So, Rob, is this something we normally do in the regular course of business or was this something that was not anticipated; increases that were not anticipated or something underfunded in their budget?

MR. LIPP:

Apparently it was wasn't anticipated so they're just trying to move the money around from their base budget request.

LEG. D'AMARO:

Well, these funds are being moved from the administrative budget, administration, which I assume is a line in the operating budget down to the specific programs. And I'm just curious why couldn't they just pay it out of that administration line? Why do we have to actually amend the budget to do this?

CHAIRPERSON VILORIA-FISHER:

Does it have to go through both that -- through that program to get to the Department of Health Services? It's Department of Health Services who's covering the Workers' Comp?

MR. LIPP:

Exactly, yes. And it's just a more accurate representation of what the program is. So you're codifying, you know, the resolution to more accurately reflect what they're doing.

CHAIRPERSON VILORIA-FISHER:

Because it's the people who are in those programs who are being covered by Workers' Comp through the Department of Health Services. And then Cornell has to kind of pay it back in?

MR. LIPP:

Exactly.

LEG. D'AMARO:

Yeah, I understand that. But is this -- is this something that we've done in the past? Or have we in the past paid it out of the administrative line?

MR. LIPP:

I'm not sure. I'd have to get back to you on that.

LEG. D'AMARO:

Because it's my understanding that each of the programs would submit a budget if I'm not mistaken. And those budgets would be relied on by the County and anticipating what funding, if any, were given to each specific program.

MR. LIPP:

Actually what's going on is you're changing activity codes so it's going from one Cornell program contract agency activity code to a different program. So you're moving it to a different appropriation effectively.

LEG. D'AMARO:

Right. But my point is that if we're making this change mid-year, is it because it was just either unanticipated or is it an expansion of a program, an expansion of a budget after the fact that we had

reviewed it? "We" meaning the County?

MR. LIPP:

Right. I would say it's not an expansion. What they're doing is they're sort of reallocating the funds that they were given. In a perfect world you could say that we gave the money for the express purpose in each budget line. But I think hyper-technically we don't look at it that closely. So they have the flexibility. They were given an appropriation by us and they need to move the money around given that they found what they did mid-year.

LEG. D'AMARO:

So in effect it's more of a housekeeping measure --

MR. LIPP:

Exactly.

LEG. D'AMARO:

-- to make the appropriations more accurately reflect the budgets of the programs?

MR. LIPP:

Exactly. The budget when it's adopted is a planning document. And it rarely winds up exactly the expenditures equalling what's adopted.

LEG. D'AMARO:

Okay. I appreciate that. That's fine.

LEG. COOPER:

Motion.

CHAIRPERSON VILORIA-FISHER:

I believe we have a motion to approve and a second.

LEG. D'AMARO:

And I second.

CHAIRPERSON VILORIA-FISHER:

All in favor? Opposed? Abstentions? Motion carries. **(VOTE: 3-0-0-2. LEGISLATORS MURATORE AND LOSQUADRO NOT PRESENT)** Mr. Isles?

DIRECTOR ISLES:

Just one item I'd like to bring to your attention. We and the County Executive will be requesting a Certificate of Necessity at the next General Meeting. And the purpose of that just to give you a heads up is we have received notification of a federal grant award for the acquisition of farmland. And we were notified of this about two weeks ago. And they need a --

CHAIRPERSON VILORIA-FISHER:

It has to be under seven acres.

LAUGHTER

DIRECTOR ISLES:

It's greater than seven acres; we're okay. And they need an answer by the end of the month, end of September for the federal fiscal year to close. So we will be presenting that to you. It's over a million dollars. If you have any questions be it now or at the meeting, certainly we'll address those. But it's pretty plain vanilla. And we think it's suitable.

CHAIRPERSON VILORIA-FISHER:

What program did it --

DIRECTOR ISLES:

What program? This is through the US Department of Agriculture, the Federal Farmland Protection Program. There was a little under \$5 million granted throughout the State of New York so we got 20 percent of that for Suffolk County. So it's pretty good this day and age.

CHAIRPERSON VILORIA-FISHER:

Very good. Thank you.

If there are no further comments or questions, we stand adjourned.

**THE MEETING CONCLUDED AT 2:39 PM
{ } DENOTES SPELLED PHONETICALLY**