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4 ENVIRONMENT, PLANNING & AGRICULTURE COMMITTEE  
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6 OF THE  
7  
8 SUFFOLK COUNTY LEGISLATURE  
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10 MINUTES  
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12

13 A meeting of the Environment, Planning & Agriculture Committee of  
14 the Suffolk County Legislature was held in the Rose Y. Caracappa  
15 Legislative Auditorium of the William H. Rogers Legislature  
16 Building, 725 Veterans Memorial Highway, Smithtown, New York on  
17 January 30, 2017.  
18

19  
20 MEMBERS PRESENT:

21 Leg. Kara Hahn, Chairperson  
22 Leg. Al Krupski, Vice Chair  
23 Leg. Sarah S. Anker  
24 Leg. Thomas Muratore (excused absence)  
25 Leg. Robert Trotta  
26 Leg. Bridget Fleming  
27

28  
29 ALSO IN ATTENDANCE:

30 George M. Nolan, Counsel to the Legislature  
31 Sarah Simpson, Assistant Counsel/Legislature  
32 Amy Ellis, Chief Deputy Clerk/Legislature  
33 Laura Halloran, Budget Review Office  
34 Katie Horst, County Executive's Office  
35 Philip Berdolt, Parks Commissioner  
36 Jason Hann, County Executive's Office  
37 Janet Longo, Real Property Acquisition & Management  
38 Frank P. Castelli, Economic Development & Planning  
39 DeWitt Davies, Chief Environmental Analyst/Planning  
40 Michael Pitcher, Director of Communications/PO  
41 Alyssa Turano, Aide to Leg. Hahn  
42 Catherine Stark, Aide to Leg. Krupski  
43 Robyn Fellrath, Aide to Leg. Anker  
44 Brendan Chamberlain, Aide to Leg. Muratore  
45 Greg Moran, Aide to Leg. Trotta  
46 Elizabeth Sutton, Aide to Leg. Fleming  
47 Rick Brand, Newsday  
48 Dave Schwartz, Newsday  
49 John Pavacic, Presenter/Pine Barrens  
50 And all other interested parties  
51

52 MINUTES TAKEN BY:

53 Diana Flesher, Court Stenographer  
54  
55  
56

THE MEETING WAS CALLED TO ORDER AT 10:05 AM

**CHAIRPERSON HAHN:**

Okay, everyone welcome to the Legislature's Environment, Planning & Agriculture Committee. If we could all rise for the Pledge led by Legislator Anker.

**SALUTATION**

Okay. Okay, we do have correspondence that I will share. It's a letter that, I think, will take a little longer than three minutes so I'm not going to read it into the record. It's from Herb Strobel from Center Moriches, but I will forward this around to the Committee and to the Clerk and to anyone else who is interested regarding Introductory Resolution 1025. And then that's our correspondence.

**PUBLIC PORTION**

We now have the Public Portion. Speakers who have filled out cards get three minutes to speak. And the first -- we have two cards today. The first is Jessica Anson.

**MS. ANSON:**

Good morning, members of the Suffolk County Legislature Environment, Planning and Agriculture Committee. I'm here today to speak in support of Introductory Resolution 1025, a local law to ensure continuity of farmland preservation and advocate for its adoption as quickly as possible.

I'm sure you're all well aware of the September court decision that has thrown the Farmland Preservation Program into a state of uncertainty and confusion. To summarize, the decision by the Court prevents farmers from using necessary agricultural practices to operate a viable farm operation by putting a stop to the erecting of barns, greenhouses, fencing and irrigation systems and many other essential farm activities.

Since the Farmland Program's inception, the use of insulation of agricultural structures and equipment has been permitted. Over the past 45 years when farmers sold their development rights to the County, there was an understanding that they were selling only the ability to develop their land residentially or commercially. When entering this contractual agreement with the County, farmers were under the impression that they would retain full agricultural rights to build necessary structures to continue or evolve their operations.

The court decision that prevents the County from issuing permits for structures on preserved farmland will harm farmers operating businesses if it is not changed or overturned. It is taking rights away from farmers that they never intended to sell.

We are supportive of the County's decision to appeal the misguided court decision, but the appeal process will take time. In order to -- for agriculture -- in order for agricultural production to

1 continue, farmers need some way to engage in sound agricultural  
2 practices at their operations.

3  
4 Introductory Resolution 1025 is a sensible solution to restore  
5 confidence in the Farmland Program. This will encourage farmers to  
6 continue preserving their farmland as development pressures only  
7 continue to increase. The proposed legislation provides clarity to  
8 some of the overly broad aspects of the court decision through  
9 accurate definitions of the structures and equipment vital to  
10 farming.

10:09AM

11  
12 The County program has been successful in preserving over 10,000  
13 acres of land that could have been lost to commercial and  
14 residential development. Without the ability to continue farming,  
15 the remaining acreage will be lost to development; currently  
16 preserved lands will become fallow and de facto open space; and the  
17 first Farmland Preservation Program in the nation will entirely  
18 fall apart.

10:09AM

19  
20 I believe this is not what the residents of Suffolk County want to  
21 see. The adoption of Introductory Resolution 1025 is important to  
22 getting the Farmland Program back on track and restoring confidence  
23 in farmers' ability to evolve and utilize technological  
24 innovations. Farmers need to make a living to continue farming.  
25 And it's not farmland without farmers. Thank you.

26  
27 **CHAIRPERSON HAHN:**

28 Thank you very much. Were there any questions? Legislator Trotta.

29  
30 **LEG. TROTТА:**

31 Where in the decision does it say you can't put up fencing or  
32 irrigation? Because I've been told by many people that that's  
33 absolutely not true.

34  
35 **MS. ANSON:**

36 So the definition of structures in Chapter 8 is this  
37 all-encompassing definition that includes everything from  
38 structures, fencing, irrigation. So that --

39  
40 **LEG. TROTТА:**

41 Can you point specifically to where it is? Because I've been told  
42 by, you know, numerous lawyers, people involved in this said it's  
43 just not true.

44  
45 **MS. ANSON:**

46 In Chapter 8 Suffolk County Law, Chapter 8 the definition of  
47 structures includes all of those things.

48  
49 **LEG. TROTТА:**

50 I have Chapter 8 in front of me. What section?

10:10AM

51  
52 **MS. ANSON:**

53 In the definition section. I have it here actually. I can read it  
54 for you out of Chapter 8.

1 **LEG. TROTТА:**

2 And what did the court decision say?

3  
4 **MS. ANSON:**

5 There are no structures allowed on preserved farmland. And so the  
6 "structure" in Chapter 8 says that's any improvement, constructed  
7 or erected which requires location in, on or under the ground or  
8 attachment to something having a location in, on or under the  
9 ground including but not limited to farm stand, greenhouses,  
10 processing facilities, alternative energy systems, berms,  
11 buildings, irrigation pumps, land screens, parking areas, signs,  
12 fences and utilities.

13  
14 **LEG. TROTТА:**

15 That's in the court's decision?

16  
17 **MS. ANSON:**

18 That's in Chapter 8 of the Suffolk County law.

19  
20 **LEG. TROTТА:**

21 I'm reading that here but --

22  
23 **MS. ANSON:**

24 Doesn't define structures.

25  
26 **LEG. TROTТА:**

27 What does the court decision say?

28  
29 **MS. ANSON:**

30 That there are not -- structures are not allowed on preserved  
31 farmland.

32  
33 **LEG. TROTТА:**

34 Did the court specifically say certain types of structures? Or did  
35 it just say the structures as provided in this.

36  
37 **MS. ANSON:**

38 I believe -- it did not specify -- give examples or specify types  
39 of structures.

40  
41 **LEG. TROTТА:**

42 Okay. So in that case you'd have to go back to the court and ask  
43 them if that -- maybe that's what they're talking about. If the  
44 Court specifically said structures, maybe it didn't pertain to  
45 this; maybe the court's decision is structure.

46  
47 **CHAIRPERSON HAHN:**

48 I know that Counsel wanted to weigh in.

49  
50 **MR. NOLAN:**

51 Yeah, unfortunately, you know, you can't go back to the Judge and  
52 say, "hey, what exactly did you mean?" You know, you have to take  
53 an appeal. That's -- you know, judges -- it just doesn't work that  
54 way where a judge issues a decision and you go back to that judge  
55 and say "we're not exactly sure what you meant."

1 Unfortunately, the court decision invalidated both local laws and  
2 really just eviscerated Chapter 8 entirely. And in there is a  
3 definition of structures. So right now it just left a lot of  
4 uncertainty. He just said, what the County -- the permit process  
5 constitutes an alienation of the rights that we purchased. And  
6 beyond that, you know, there wasn't that much guidance.

7  
8 **LEG. TROTТА:**

9 If someone put, let's say, a deer fence up, who would -- someone  
10 would have to complain about the deer fence, I'm assuming.

11  
12 **MR. NOLAN:**

13 Correct. You know, somebody would have to complain about it. But  
14 I think a lot of farmers feel a little uneasy about proceeding in  
15 that fashion and hoping that somebody doesn't complain about what  
16 they do on their property.

17  
18 **LEG. TROTТА:**

19 Common sense would prevail that the judge wasn't talking about a  
20 deer fence.

21  
22 **MR. NOLAN:**

23 Well, unfortunately, like I said, the judge invalidated the last  
24 two local laws we enacted which constituted Chapter 8. And beyond  
25 saying that the permits was an alienation, he didn't give really  
26 any guidance as to what is permissible going forward.

27  
28 **LEG. TROTТА:**

29 Do we have a copy of the judge's decision?

30  
31 **MR. NOLAN:**

32 Sure.

33  
34 **LEG. TROTТА:**

35 Can I see it?

36  
37 **MR. NOLAN:**

38 Absolutely.

39  
40 **CHAIRPERSON HAHN:**

41 Legislator Fleming.

42  
43 **LEG. FLEMING:**

44 Thank you, Madam Chair. So, you know, we've done a lot of  
45 discussion with regard to how do we address this. I think -- I  
46 appreciate Mr. Nolan's guidance on this with regard to the  
47 ambiguity that is -- that has now sort of taken over the program  
48 because of this decision. And while, Rob, I think you may be right  
49 that common sense would dictate that you should be allowed to water  
50 your crops, unfortunately the letter of the decision doesn't follow  
51 that common sense notion.

52  
53 I have had conversations with the Plaintiff in this case, with Mr.  
54 Amper. And I know that Mr. Amper says that irrigation and deer  
55 fencing were not intended to be prohibited by his lawsuit. And he  
56 says that he didn't feel that the judge's decision prohibited

1 those. But as you've heard from Mr. Nolan and from Long Island  
2 Farm Bureau, there is an interpretation of this decision that says  
3 that. You got to realize this is real estate, right? So we're  
4 talking about families' finances and decisions that farmers are  
5 making whether to -- whether to risk an ambiguity. And we all know  
6 farmers are risking -- taking risks with their finances is not  
7 something that farmers tend to do. We also know that at least one  
8 farmer who was in negotiation for the purchase of development  
9 rights has withdrawn that interest because of this decision.

10  
11 So that was sort of the purpose of the bill that we came up with,  
12 Rob, was to clarify in light of this decision what specifically is  
13 permissible and what specifically is not permissible, you know,  
14 once you have sold development rights. I think everyone agrees  
15 that farm is a verb. And that farmers need to be able to operate  
16 in order to preserve farmland. But that's not clear from the  
17 judge's decision and that's exactly what we are trying to get at  
18 with this resolution that's been introduced.

19  
20 **LEG. TROTТА:**

21 It seems to me that, you know, you take a little bit of ambiguity  
22 and then you're trying to open the door for developing, in some  
23 case, 14 or 15% of the property, which clearly was not the intent.

24  
25 **LEG. FLEMING:**

26 But you should be aware that the coverage limitations remain  
27 intact. So any kind of structures that would be authorized under a  
28 clarification in light of the decision, would still have to be  
29 undertaken within coverage to limitations which are specifically --  
30 they're pretty strict and they are defined in the bill that we  
31 drafted.

32  
33 **LEG. TROTТА:**

34 I know, which I considered way too much. And anything going  
35 forward, it seems odd to me that why don't you just carve out some  
36 piece of property that you wanted to develop and only --

37  
38 **LEG. FLEMING:**

39 Rob, if you're talking about watering row crops or protecting them  
40 from wildlife, that's not something that you can carve out.  
41 Farmland, these bucolic vistas that we hear about, are row crops.

42  
43 **LEG. TROTТА:**

44 No, what I'm saying --

45  
46 **LEG. FLEMING:**

47 They need to be watered and protected and tended with machines that  
48 need to be stored. So you can't -- it's not --

49  
50 **LEG. TROTТА:**

51 You're not listening. I'm saying if you're going to send -- want  
52 to preserve 50 acres and you have 55 and you want to build on that  
53 five in the future, just sell the 50 development rights and keep  
54 the five in the future.

10:16AM

10:17AM

1 **LEG. FLEMING:**

2 I appreciate your point, but the question of irrigation and fencing  
3 does not --

4  
5 **LEG. TROTTA:**

6 I don't think Dick Amper or anybody is going to file a lawsuit and  
7 to use that as "oh, this is what we have to do," is not what the  
8 people voted for. And if you want to do that, put up a referendum.  
9 Because the people spent lots of money for those vistas and for  
10 that open space and we spent I'm sure top dollar for this property.  
11 To go back and change the rules halfway through is not fair to the  
12 taxpayers.

13  
14 **LEG. FLEMING:**

15 If I may, through the Chair, the program itself won't survive if we  
16 do not clear up some of this ambiguity. And these vistas that we  
17 keep hearing about are farms. Farm is a verb. Farm is an action  
18 and an industry. And farmers need to be able to operate in a way  
19 that meets their bottom line if they're going to continue; if we're  
20 going to have those vistas. And if we don't have the farms, if we  
21 don't support the industry, then, we'll have residential  
22 development instead. And I don't think that's what any of the  
23 environmentalists or you yourself would like to see, Rob.

24  
25 **MS. ANSON:**

26 Can I say something?

27  
28 **CHAIRPERSON HAHN:**

29 Please add something.

30  
31 **MS. ANSON:**

32 At the original intent of the program specifically says to secure  
33 the future business of farming. So it is not going and classifying  
34 farming as Open Space Program. It's acknowledging that agriculture  
35 and farming preservation is a working lands program. And it needs  
36 to evolve and change. And it's not that this program is being  
37 changed halfway through, you know, the time it's been running;  
38 these are things that farmers have been allowed to do for the past  
39 45 years and now they have a judge telling them that they are no  
40 longer able to do those things.

41  
42 **CHAIRPERSON HAHN:**

43 Okay. So I allowed the back and forth discussion and now we have  
44 one more question. Legislator Krupski.

45  
46 **LEG. KRUPSKI:**

47 Thank you. So, Legislator Trotta said something that I think was  
48 important, that common sense should prevail. And I'm glad we had  
49 the legal discussion clarification from George Nolan. I appreciate  
50 that, George; and the fact that the lawsuit has been lost so  
51 legally we're in a place where it either has to be tried or sorted  
52 out or appealed. And many of us have been very strong in our  
53 support of an appeal to it.

54  
55 I think it's very important that the County has a strong opinion on  
56 what the lawsuit means in the course of appeal. Of course, there's

1 no guarantee that the appeal will be successful so it's a -- who  
 2 knew that the lawsuit would be successful. So you can't just  
 3 imagine that the appeal will be successful. You don't know what  
 4 could happen in the courts.

5  
 6 So I think it's very important that the -- the County's position is  
 7 really clear going forward because we've heard a lot today about  
 8 the program and how the lawsuit affected people who are in the  
 9 program. I've got a little bit different issue in that, you know,  
 10 I don't want to be the one who's sitting on my porch in 30 years  
 11 talking to my grandchildren, they're going to say, "hey, you know,  
 12 the County had this land preservation program. In 2017 it kind of  
 13 fell apart. There was a lot of farmland that was unprotected on  
 14 the east end and it was all converted over time to housing. And,  
 15 you know, we're kind of at that age we have to make a decision what  
 16 we're going to do with our lives. Maybe we don't want to stay on  
 17 eastern Long Island, you know, it's become developed to the point  
 18 where it's not really as attractive as it was." And everything's  
 19 well documented today of, you know, the natural beauty that still  
 20 exists in Suffolk County. And so I don't want to be the one who  
 21 sat here and said, "ah, you know, we lost the decision, oh, well,  
 22 we're going to doom all that unprotected farmland to track housing,  
 23 to strip malls, we're going to have more taxes. We're going to  
 24 have -- you know, we're going to have more traffic."

25  
 26 That's just not -- that's not a good place to be in. What we have  
 27 to do -- now you have concerns about lot coverage. So, you know, I  
 28 appreciate that. I think what we're looking for here is there's  
 29 legislation here that would try to help the program restore itself.  
 30 We're looking for comments. You know, your advocacy for having  
 31 reserve areas left out for development, you know, those -- that's  
 32 something that's not in the bill and it doesn't have to be. That's  
 33 a decision that the landowner's going to make because of his or her  
 34 future needs.

35  
 36 The thing that concerns me in the bill, and I'd like to get -- I'm  
 37 getting around to a question, Madam Chair, believe me --

38  
 39 **CHAIRPERSON HAHN:**

40 Thank you.

41  
 42 **LEG. KRUPSKI:**

43 The question I have is -- I have a concern I have on the bill is a  
 44 lot of it references Ag and Markets, which I don't have a problem  
 45 with. But a lot of it references Ag and Markets as maybe amended  
 46 in the future. Now do you think that's a term that -- to me that  
 47 term lends uncertainty to the future because if you hold an  
 48 agreement with the municipality that says it might change in the  
 49 future, do you think it might be better to have a more stable  
 50 program to say that the day that you sold your development rights,  
 51 even if you reference Ag and Markets, which is fine, say these are  
 52 my allowed uses, so that going forward those are my allowed uses,  
 53 period. Because then at least in however many years when that land  
 54 is -- that preserved land is passed on, you'll have surety to the  
 55 next owner, these are the things that you can do; and that no act  
 56 of any future Legislature can change either diminish them or



1 increase them.

2

3 **MS. ANSON:**

4 I definitely think that's a great point. And I think that when  
5 someone is passing their land onto a next generation and when land  
6 is being valued, having terminology about "as may be amended" lends  
7 to a lot of uncertainty. And sometimes things that a Legislator  
8 may enact may allow for more flexibility; but then on the other  
9 hand something may happen like a decision like this and it can have  
10 these long lasting impacts that now are devaluing land a lot. So  
11 if there is language that, you know, made the program more stable  
12 and stays as is, then maybe it would be easier to value land and  
13 understand what you can do going forward.

10:23AM

14  
15 **LEG. KRUPSKI:**

16 Thank you.

17

18 **CHAIRPERSON HAHN:**

19 Okay. Any other questions? Thank you.

10:24AM

20  
21 **MS. ANSON:**

22 Thank you.

23

24 **CHAIRPERSON HAHN:**

25 Next speaker is Jeff Rottkamp.

26

27 **MR. ROTTKAMP:**

28 Good morning. My name is Jeff Rottkamp and I'm a farmer on Sound  
29 Avenue in Baiting Hollow. And I am the person who got into the  
30 program, I wanted to preserve some farmland so I could purchase  
31 another parcel. And Mrs. Fleming referenced me as the person who  
32 backed away from the program because of the uncertainty of what we  
33 have at this time. It has caused a bit of a headache for me that  
34 this law was changed. And I would like to see the program restored  
35 maybe as Al had mentioned to a little more of a stable program. I  
36 have a family and I've been a farmer all my life.

10:24AM

37  
38 My family came from Germany in the early 1800s, landed in Astoria,  
39 Queens. From that point on we moved east and we really can't move  
40 anywhere else. So we kind of like where we are and we'd like to  
41 continue what we do. And I'm hopeful and I hope you folks can see  
42 what we need to do with this program. We need to improve it and we  
43 need to move forward and bring it back.

10:25AM

44  
45 **CHAIRPERSON HAHN:**

46 Thank you, thank you. We need you to continue to farm your land.  
47 It's very important to the future of Suffolk County. We do have  
48 some questions for you. Legislator Trotta.

49

50 **LEG. TROTTA:**

51 So you're in the program now? You bought some land, some  
52 development rights.

53

54 **MR. ROTTKAMP:**

55 Yes.

56

1 **LEG. TROTТА:**  
2 And now you wanted to buy some more land with it?

3  
4 **MR. ROTTKAMP:**  
5 Yes.

6  
7 **LEG. TROTТА:**  
8 What do you farm?

9  
10 **MR. ROTTKAMP:**  
11 Well, we start in the Spring with some asparagus and then we go  
12 into strawberries. And when the strawberries are finished, then we  
13 start with sweet corn, and green squash, yellow squash, cucumbers,  
14 sunflowers, string beans, tomatoes, some cantaloupe.

15  
16 **LEG. TROTТА:**  
17 How much more land do you want to buy?

18  
19 **MR. ROTTKAMP:**  
10:26AM 20 Well, there's 58 acres to the east of my house.

21  
22 **LEG. TROTТА:**  
23 Okay.

24  
25 **MR. ROTTKAMP:**  
26 Which is in the program. And I was going to sell some farmland to  
27 -- you know, sell the development rights to the farmland to be able  
28 to purchase the 58 acres east of my house. And then since this new  
29 ruling came about, I felt very uncertain. And it's put me in  
10:27AM 30 jeopardy as to --

31  
32 **LEG. TROTТА:**  
33 What part of it made you uncertain?

34  
35 **MR. ROTTKAMP:**  
36 Well, we won't be able to put up any buildings. If I want to put  
37 up a small greenhouse -- just the overall restrictions that --

38  
39 **LEG. TROTТА:**  
10:27AM 40 So if you were to buy 58 acres and you wanted to put it in the  
41 farmland program, and you're concerned about a greenhouse or  
42 another building, why only put 50 in it and cut five out? Or it's  
43 already in the program, the 50 --

44  
45 **MR. ROTTKAMP:**  
46 It's all done. The 58 acres that I was hoping to purchase is all  
47 preserved.

48  
49 **LEG. TROTТА:**  
10:27AM 50 Oh, already it's preserved.

51  
52 **MR. ROTTKAMP:**  
53 Yes, sir.

54  
55 **LEG. TROTТА:**  
56 Okay. So you want to buy it. Now you're concerned that in the --

1 because it's already in the program.

2

3 **MR. ROTTKAMP:**

4 Yes.

5

6 **LEG. TROTТА:**

7 And you're going to buy it from another farmer who sold it?

8

9 **MR. ROTTKAMP:**

10:28AM 10 I'm going to buy it from another landowner who is not a farmer  
11 but --

12

13 **LEG. TROTТА:**

14 Who we gave money to already.

15

16 **MR. ROTTKAMP:**

17 Yes, you have.

18

19 **LEG. TROTТА:**

10:28AM 20 So you're going to buy it at a reduced rate because we gave him a  
21 pile of money years ago for the 58 acres. Now the land you live on  
22 now, is it in the program?

23

24 **MR. ROTTKAMP:**

25 I do own some other land that is in the program.

26

27 **LEG. TROTТА:**

28 How much land do you own that's not in the program?

29

30 **MR. ROTTKAMP:**

31 Right at this time about 30 acres, 35 acres, something like that.

32

33 **LEG. TROTТА:**

34 Is it adjacent to this acreage?

35

36 **MR. ROTTKAMP:**

37 Yes, it is. Some of it is.

38

39 **LEG. TROTТА:**

10:28AM 40 Then this is a no-brainer. Why would you be concerned? Because if  
41 it's adjacent to it, you could just put the buildings you want on  
42 that land that's not in the program.

43

44 **MR. ROTTKAMP:**

45 Well, it's not always that easy. Okay.

46

47 **LEG. TROTТА:**

48 Are you concerned about not being able to put a deer fence up? Is  
49 that a concern?

10:28AM 50

51 **MR. ROTTKAMP:**

52 Well, I am. Because we have a huge deer problem.

53

54 **LEG. TROTТА:**

55 Okay. I mean, I can assure you -- I've been assured by the person  
56 who sued the County, he's not going to sue you for putting a deer

1 fence up or for putting in irrigation. However, the person -- the  
2 54 acres or whatever it is, that's in the program, the taxpayers of  
3 this County paid for and wanted it to be open space. So for us to  
4 go back and say -- you know, if you want to put a barn up, I don't  
5 think anybody's going to give you a hard time. I think the problem  
6 is if we want to put five acres of greenhouses there, that's the  
7 issue. That's not what -- you know, the taxpayers paid for that  
8 property so that didn't happen.

9  
10 **MR. ROTTKAMP:**

11 I understand. But then when you want to purchase something, you  
12 don't really need these unknown headaches that may come about. So  
13 I just wanted to clear --

14  
15 **LEG. TROTТА:**

16 You know what hysteria is? Hysteria is created by people in order  
17 to get what they want. I don't think anybody's going to give you a  
18 hard time about this.

19  
20 **CHAIRPERSON HAHN:**

21 Rob -- excuse me. Legislator Trotta, as rational and reasonable as  
22 you as think Mr. Amper is, we never know who else is out there that  
23 my want to challenge --

24  
25 **LEG. TROTТА:**

26 I'm aware of that. So then we should put a referendum up and let  
27 the taxpayers decided whether deer fences or irrigation -- I don't  
28 think you're going to have a problem passing that.

29  
30 **CHAIRPERSON HAHN:**

31 Legislator Krupski.

32  
33 **LEG. KRUPSKI:**

34 Thank you. So as far as -- so 1974 the County Legislature adopted  
35 a local law. And part of the legislative finding is to conserve  
36 and protect and to encourage the development and improvement of  
37 agricultural lands both for the production of food and the  
38 protection of such lands as valued natural and ecological  
39 resources. Not as open space, but as -- sure -- but as productive  
40 farmland. That should be developed as productive farmland.

41  
42 So what Mr. Rottkamp's talking about is different parcels. So  
43 today's -- you know, today's date is ownership of those certain  
44 parcels. But we're talking about a hundred years, 200 years from  
45 now, the ability of somebody -- a different person, certainly not  
46 Mr. Rottkamp who's standing before us in 200 years owning those  
47 parcels and being able to farm them. And you have to have the  
48 right and the ability to do what you need to do on those parcels.  
49 So while he might keep a reserve area out on a future sale, these  
50 parcels here are very limited. If you can't -- a future owner is  
51 going to own that 58 acres some time. They need the right to be  
52 able to either fence it, put up proper irrigation, put in a barn  
53 for storage for equipment, put up a greenhouse to start plants or  
54 extend the season. And without that right, then they just -- that  
55 is a big problem.

10:30AM

10:31AM

1 **LEG. TROTТА:**

2 I'm not arguing that point. The referendum -- it should be put out  
3 to the voters. This legislative body -- it was that important that  
4 we went to the voters for this. And I'm not arguing that they  
5 should put some -- be able to put some barn or greenhouse, but not  
6 to the extent where it could -- the vistas are extremely important.  
7 I don't want 50 acres with five acres of it greenhouses. That's  
8 not the intent of this. If you want to change the law, go to a  
9 referendum and let the voters decide.

10:32AM 10

11 **MR. NOLAN:**

12 Can I just clarify one thing; that the Farmland Program Chapter 8  
13 was never passed by a voter referendum. It was always by the act  
14 of the Legislature.

15  
16 **LEG. TROTТА:**

17 Say that again, please.

18  
19 **MR. NOLAN:**

10:32AM 20

21 The Farmland Program was not enacted by a voter referendum. From  
22 the outset, it was acts of the Legislature through resolution --

23 **LEG. TROTТА:**

24 But it's the taxpayers' money. And I think at this point if we're  
25 going to change this so drastically, it should be a referendum.

26  
27 **LEG. KRUPSKI:**

28 Just one more -- I have a question for Mr. Rottkamp. Do you serve  
29 on the Farmland Committee? Suffolk County --

10:32AM 30

31 **MR. ROTTKAMP:**

32 Yes.

33  
34 **LEG. KRUPSKI:**

35 Okay. So I think one thing that hasn't been talked about this  
36 morning was the importance of the role of the committee. There are  
37 certain rights when you own preserved land and there are also --  
38 there's always someone who's trying to do something different. And  
39 a good example of that is agriculture changing, while not great,  
40 but it's an example -- not a bad example. You have to put up deer  
41 fencing in order to grow anything in certain areas of the County  
42 because of the increase -- the very recent increase in the deer  
43 population. But there are other things that come up from time to  
44 time, other proposals for preserved land. So the question is does  
45 the committee play a good role in kind of monitoring and deciding  
46 what is bona fide agriculture or not; can you explain the role of  
47 the committee?

10:33AM 48

49 **MR. ROTTKAMP:**

50 Well, the committee is made up of some wonderful people from a  
51 broad spectrum of Long Island farmers and some other people. And  
52 the committee pretty much oversees what decisions are important to  
53 agriculture and we try in move forward that way. And it's a  
54 wonderful committee.

10:33AM 55

56

1 **LEG. KRUPSKI:**

2 But the role, do you ever see the committee disagreeing with  
3 something that someone comes in with? A proposal, do you think --  
4 have you ever seen the committee say no, that's not really  
5 agriculture and we're not going to recommend that.

6  
7 **MR. ROTTKAMP:**

8 Occasionally, but not very often.

9  
10 **LEG. KRUPSKI:**

11 Okay.

12  
13 **MR. ROTTKAMP:**

14 I just feel a little bit jeopardized with this problem we have.  
15 And it's uncertainty that I pull back from the program and  
16 hopefully it can be restored.

17  
18 **CHAIRPERSON HAHN:**

19 Well, Legislator Fleming's on the list. Legislator Fleming.

20  
21 **LEG. FLEMING:**

22 Thank you, sir. I realize you've been sort of caught in the  
23 spotlight here and it wasn't your choice to do that. So, I  
24 apologize for keeping you in the spotlight. But I do appreciate  
25 what you've contributed to the East End economy and what you intend  
26 to continue to contribute along with your family. And I can feel  
27 for you that this uncertainty has caught you in a bad place. I  
28 know we're talking about a lot of money when we talk about the  
29 purchase of these acres. And I appreciate your being willing to  
30 take a risk. And I hope we can get you back there to where you're  
31 not feeling uncertain, right? So I wanted to just ask you a little  
32 bit about the timing of this. So you had to rely on the 58 acres  
33 adjacent to you. Were you leasing it? Did you farm that land  
34 already?

35  
36 **MR. ROTTKAMP:**

37 Yes, for almost 45 years.

38  
39 **LEG. FLEMING:**

40 And now based on the uncertainty that you feel, and I certainly  
41 agree, that this decision lends real uncertainty to the program,  
42 you've decided to just hold back. Will you be able to farm the  
43 land this season?

44  
45 **MR. ROTTKAMP:**

46 Yes, I will be able to farm the land. I received a phone call the  
47 other day from the landlord and he assured me that the land is  
48 available to me to farm for another season.

49  
50 **LEG. FLEMING:**

51 And what role will the committee play in that, if any at all, in  
52 terms of what you can do on the land?

53  
54 **MR. ROTTKAMP:**

55 Well, if -- I'm contemplating getting back into the program because  
56 I heard a lot of positive input as to how you folks are going to go

1 forward and try and restore this and it sounds promising. So I  
2 would like to continue the program and get back in.

3  
4 **LEG. FLEMING:**

5 I'll tell you what I would like to see happen with this bill is  
6 clarifying the restrictions so that folks like you will know what  
7 you can do and what you can't do on your land. And I think -- my  
8 view from the law is that we would -- and my consultation with  
9 Counsel, I think, we would be able to do that by simply spelling it  
10 out. I think Mr. Trotta has said we're talking about changing this  
11 so drastically. And then on the other hand says that, you know,  
12 nobody intended to prohibit specific, you know, necessary and  
13 appropriate practices of farming. So I don't think it's a drastic  
14 change. I think we should be able to list -- you know, just list  
15 what is appropriate and necessary to keep an agricultural farm  
16 operation running.

17  
18 So could I just ask you in terms of what specifically -- obviously  
19 you were talking about the deer problem. Obviously if we can't  
20 protect the crops from wildlife, you're not going to make the  
21 investment in planting. Is that fair to say?

22  
23 **MR. ROTTKAMP:**

24 Then I would have to put up a fence.

25  
26 **LEG. FLEMING:**

27 Okay. So fencing is important. And what about irrigation, do you  
28 irrigate your fields?

29  
30 **MR. ROTTKAMP:**

31 Yes, we irrigate everything.

32  
33 **LEG. FLEMING:**

34 And what kind of irrigation do you use; what's the system?

35  
36 **MR. ROTTKAMP:**

37 We have the deep wells that go down into the ground maybe 80 feet.  
38 And that's where the water comes from for our crops.

39  
40 **LEG. FLEMING:**

41 And if you can talk just a little bit about greenhouses, my  
42 understanding -- I heard Mr. Krupski saying, you know, to start  
43 plants or to extend the growing season, obviously -- well, if you  
44 could just talk a little bit about what -- how greenhouses are used  
45 in your farm operation.

46  
47 **MR. ROTTKAMP:**

48 Well, in our farm operation, we have one for our own plants. And I  
49 start my own green squash, yellow squash, cucumbers, tomatoes,  
50 cantaloups, watermelon, I start my own plants so I know what I  
51 have. And then we plant them out on the field. And the greenhouse  
52 we use to put, you know, machinery once in awhile when we need to.

53  
54 **LEG. FLEMING:**

55 So starting the plants in the greenhouse is a quality control thing  
56 or cost thing or both?

1 **MR. ROTTKAMP:**

2 Well, it's both. You get the plants that you want. You can  
3 control your cost a little because you're growing them yourself,  
4 you grow the varieties that you like. And I have them available to  
5 me when I want them. Right? You know, like if I want to plant  
6 tomorrow, then I have the plants ready to go.

7  
8 **LEG. FLEMING:**

9 Great. And so would you say that they are a necessary -- that that  
10 greenhouse is a necessary part of your farm operation?

11  
12 **MR. ROTTKAMP:**

13 Absolutely. I can't do without it.

14  
15 **LEG. FLEMING:**

16 And then with regard to the timing of this, are you -- and I don't  
17 mean to intrude on your real estate deals, but where do you stand  
18 with regard to our figuring this out? How long do we have before  
19 you walk away from, you know, the possibility of buying preserved  
20 farmland? If you can't answer it, say you can't, but I would be  
21 interested to know.

22  
23 **MR. ROTTKAMP:**

24 I didn't really want to walk away. I just got into such an  
25 uncertain situation that, you know, what are you going to be able  
26 to do? And if you do something because you just feel like doing  
27 it, you'll be in violation. I don't need to be in violation. I  
28 want to do it right. And to do it right, then the law should be  
29 restored to what it was and then we can move on without violations  
30 and problems.

31  
32 **LEG. FLEMING:**

33 I appreciate that. I think it's unrealistic for us to think that  
34 assurances to you that you're not going to get sued are going to be  
35 enough for you to spend the kind of money you need to spend in  
36 order to purchase those acres. So I appreciate that. I mean, our  
37 goal -- and I think I hear your goal is not to allow development on  
38 farmland.

39  
40 **MR. ROTTKAMP:**

41 Correct.

42  
43 **LEG. FLEMING:**

44 It actually will prevent over development by allowing this  
45 preservation program to continue and to support our working farms  
46 such as yours.

47  
48 **MR. ROTTKAMP:**

49 That was the whole intent of the program back in '74 when it was --  
50 a large building boom on western Suffolk. And then builders were  
51 moving east. And the Talmadge family and John V. N. Klein who used  
52 to be the County Legislator -- County Executive, excuse me, decided  
53 to start this program which has been successful for more than four  
54 decades. And there are other states in other counties that are  
55 questioning what we do because they like it so much and they wanted  
56 to move forward. So that's how it all originally got started.



1 **LEG. FLEMING:**

2 Thank you. I appreciate your being in the spotlight and so  
3 articulate and I wish you the best of luck with your farm.

4  
5 **MR. ROTTKAMP:**

6 Thank you to everyone. And have a great day.

7  
8 **CHAIRPERSON HAHN:**

9 Thank you. I know -- Rob, did you have one more question?

10:41AM

10  
11 **LEG. TROTTA:**

12 The land he wants to buy is already preserved.

13  
14 **LEG. FLEMING:**

15 Right.

16  
17 **CHAIRPERSON HAHN:**

18 No, he was -- he was also selling his; that's what he stepped back  
19 from, right?

10:42AM

20  
21 **LEG. TROTTA:**

22 I am all for -- there's no one at this table more for preserving  
23 open space than me. I just want to make sure they're not building  
24 50 greenhouses and wreck the vistas that we talk about. And I'm  
25 not -- I have to educate myself more on this.

26  
27 **CHAIRPERSON HAHN:**

28 Yeah, I think we're probably all on the same page and it's good  
29 that we're asking questions. Okay. Anyone else in the audience  
30 who did not fill out a card that would like to speak? Seeing none,  
31 we will close the Public Portion.

10:42AM

32  
33 I just also wanted to mention that Legislator Muratore has an  
34 excused absence today.

35  
36 And now we'll have a presentation that was scheduled. John Pavacic  
37 from the Central Barrens Joint Planning and Policy Commission will  
38 provide the Committee with an overview of the Pine Barrens Act.  
39 Thank you so very much for being here today.

40  
41 **POWERPOINT PRESENTATION**

42  
43 **MR. PAVACIC:**

44 You're welcome. And thank you very much, Chairwoman Hahn and  
45 members of the Committee. So where are the Pine Barrens? The Pine  
46 Barrens are in central and eastern Suffolk County. They're parts  
47 of Brookhaven Town, Riverhead Town and western Southampton Town.  
48 I'm just showing you a map of the particular area showing its  
49 location in Long Island. It's one of a -- only a handful of Pine  
50 Barrens ecosystems found in the northeast. Ours is approximately  
51 105,000 acres. Others are found in New Jersey, Albany and Cape  
52 Cod. And this is just showing you a more regional perspective in  
53 the northeast showing the location of our particular Pine Barrens.

10:43AM

54  
55 Central Pine Barrens is a significant and rare ecosystem in and of  
56 itself, but one of the other interesting aspects is that it also

1 overlaps and intersects also major and prominent ecosystems  
 2 including the Peconic Estuary Reserve, the South Shore Estuary  
 3 Reserve and it's also part of the larger Pine Barrens Maritime  
 4 Reserve which preceded it. And this is just a map show you those  
 5 various overlaps and locations of those other ecosystems. This is  
 6 a diagram of the Long Island Pine Barrens Maritime Reserve, which  
 7 essentially extends from about County Road 83 out to the East End.  
 8 And it also includes the maritime and marine waters.

10:44AM 10 So how did it all start? First of all, in 1992 there was a New  
 11 York State Court of Appeals decision that started a legislative  
 12 process. And in 1993 the actual act, the Long Island Pine Barrens  
 13 Protection Act was enacted creating and establishing the Central  
 14 Pine Barrens.

16 The principal goals were to protect two things: Our water  
 17 resources and our ecological resources. Our sole source aquifer  
 18 including both our ground surface and drinking water and then a  
 19 threatened ecosystem and landscape which contains one of the  
 10:45AM 20 greatest concentrations of rare, endangered and threatened plants  
 21 and animals in New York State.

23 The act itself defines the geographic boundaries and divides the  
 24 Central Pine Barrens into two areas: The Core Preservation Area  
 25 and the Compatible Growth Area. It also established a five-member  
 26 commission that represents New York State, Suffolk County and the  
 27 towns of Brookhaven, Riverhead and Southampton. The act and the  
 28 plan also charged the commission with the combined duties of a  
 29 state agency, a planning board and a park commission. The  
 10:45AM 30 commission has joint land use review and regulation, permitting and  
 31 enforcement authority along with local municipalities. The law  
 32 also requires a Comprehensive Land Use Plan which was adopted  
 33 originally in 1995 and has been amended periodically since. It  
 34 also requires the establishment and operation of a Transferred  
 35 Development Rights and Conservation Easement Program known as the  
 36 Pine Barrens Credit Program and establishes stewardship and  
 37 protected land management and ecological management  
 38 responsibilities including coordination by the commission.

10:46AM 40 And this just shows the current composition of the commission. The  
 41 Governor has an appointee, Carrie Meek Gallagher, who also serves  
 42 as the Regional Director of DEC; the Suffolk County Executive and  
 43 the three elected town supervisors of Brookhaven, Riverhead and  
 44 Southampton. This is just a listing of the staff. We're located  
 45 in Westhampton Beach.

47 As I said before, the area is divided into two significant areas:  
 48 The Core Preservation Area and the Compatible Growth Area. The  
 49 core is comprised mostly of publically-owned protected and  
 10:46AM 50 preserved open space and parkland owned by New York State, Suffolk  
 51 County and the three towns. The subregion's primarily vegetated  
 52 and contains significant wildlife habitat. Nonroutine physical  
 53 activities such as construction and development and clearing of  
 54 trees are prohibited for the most part in this area. The  
 55 Compatible Growth Area is a -- comprised of a mix of developed  
 56 areas, private and developed land and some publically owned parkland

1 and open space. Development and other forms of nonroutine,  
 2 non-maintenance activities are allowed to occur in this area, but  
 3 only if they are in conformance with the Central Pine Barrens  
 4 standards and guidelines contained in the Land Use Plan and in each  
 5 of the town codes. And this is a map showing the current area.  
 6 The light green is the Compatible Growth Area where development is  
 7 allowed as long as it complies with the Comprehensive Land Use Plan  
 8 and the local town codes. And the dark green area is the Core  
 9 Preservation Area.

10  
 11 So preservation and management considerations in the Central Pine  
 12 Barrens: In the core the Long Island Pine Barrens Protection  
 13 states that development is to be redirected out of the core to both  
 14 the Compatible Growth Area and areas outside the Central Pine  
 15 Barrens. Preservation of existing vacant undeveloped land in the  
 16 core is a key goal. Development is prohibited in the core unless a  
 17 core property owner obtains a hardship waiver which is similar to a  
 18 variance granted by boards of zoning appeals.

19  
 10:48AM 20 In order to maintain the value of private undeveloped land in the  
 21 core, the Pine Barrens Credit Program was established to allow for  
 22 transfer and sale of development rights. State, County and three  
 23 towns all have an enduring obligation under the act to continue to  
 24 protect and preserve the Core Preservation Area. So this is  
 25 something that's continued from 1993 up until the present day; a  
 26 continuing obligation amongst all these entities to continue to  
 27 protect and preserve the core.

28  
 29 So in regard to open space preservation in the Central Pine  
 10:49AM 30 Barrens, it happens in a number of ways as this committee is aware.  
 31 In some cases certain existing government-owned property can be  
 32 designated as parkland and open space such as at Brookhaven  
 33 National Lab where a portion was designated a number of years ago  
 34 as an ecological and research reserve; also through acquisition,  
 35 through purchase of fee title; gifting by an individual property  
 36 owner and tax default; and then transfer government to government;  
 37 and finally through transfer of development rights including the  
 38 Pine Barrens Credit Program.

39  
 10:49AM 40 The Pine Barrens Credit Program commenced in 1995. The Central  
 41 Pine Barrens towns of Brookhaven, Riverhead and Southampton were  
 42 all required to establish receiving areas in the Compatible Growth  
 43 Area and other areas of each town to receive development  
 44 transferred from the core. Development rights have been  
 45 successfully transferred to these areas since the program was  
 46 conceived as well as into other non-Central Pine Barrens towns.  
 47 Under the credit program, more than 950 individual parcels of real  
 48 property totalling 2000 acres have been preserved. And the  
 49 constitutionality of the program has been upheld in federal court.

50  
 51 Core Preservation Area development, however, in spite of the  
 52 existence of the various avenues for preservation, core development  
 53 pressure still remain and core development proposals still occur.  
 54 In the last several years core hardship waiver applications for  
 55 development proposals have been received for individual parcels in  
 56 the core especially residential development proposals on parcels

1 comprising portions of all old file subdivision maps. In general  
2 these parcels are substantially below the 40,000 square foot  
3 minimum lot size required by the Suffolk County Department of  
4 Health Services as well as significantly below minimum lot size  
5 required by local zoning. Very often these parcels are well below  
6 a quarter of an acre and all usually propose the use of  
7 conventional sanitary systems involving a septic tank and  
8 cesspools.

10:51AM 10 Litigation has been commenced against the Central Pine Barrens  
11 Commission due to its denial of these projects. This is an area of  
12 -- showing an old file map known as Warbler Woods. This particular  
13 area is the map, I believe, of Flower City Park. The County owns  
14 the majority of land in this area. However, those yellow parcels  
15 are existing privately-owned out parcels, which have not been  
16 preserved at this point either through TDR Conservation Easement  
17 Program or through acquisition. And so, therefore, the individual  
18 property owners who own these lots could still submit an  
19 application for a core hardship preservation waiver if either of  
10:52AM 20 those other preservation programs are not successful.

21  
22 **LEG. KRUPSKI:**

23 John, what's the water body in that picture?

24  
25 **MR. PAVACIC:**

26 Let me just go back. The water body over here? Or over here?  
27 This is the Carmans River right here.

28  
29 **LEG. KRUPSKI:**

10:52AM 30 Thank you.

31  
32 **MR. PAVACIC:**

33 And this is County land over here, which is -- this is the large  
34 red maple swamp; also a pond over here that --

35  
36 **LEG. KRUPSKI:**

37 The water body on the left.

38  
39 **MR. PAVACIC:**

10:52AM 40 The water body on the left -- the lower -- the lower left-hand  
41 corner, that is the Carmans River. Just above that, just to the  
42 left of the yellow parcels is a large red maple swamp that feeds  
43 into that. And to the far right there's also a -- there's also a  
44 small pond. This area is dotted with wetlands throughout.

45  
46 **LEG. KRUPSKI:**

47 Thank you.

48  
49 **MR. PAVACIC:**

10:53AM 50 Including the area, I should point out, Warbler Woods, there's a  
51 number of significant ponds in that area.

52  
53 So there's also key management considerations that we have to  
54 consider for managing land in the -- particularly in the core.  
55 That includes wildfire management. As folks know, the area is  
56 prone to wildfires. We had a significant wildfire in 2012 in the

1 Ridge and Manorville areas; prior to that in 1995 we had  
2 significant wildfires that were in the Rocky Point area as well as  
3 in the Westhampton area. But there's quite a few brush fires that  
4 happened every year; you know, many of those don't always make it  
5 into -- you know, not covered by the media. But we have -- we  
6 usually have fires throughout the year.

7  
8 So wildfire management is an important consideration. And we  
9 conduct work to eliminate, reduce, mitigate or minimize the threat  
10 of wildfires including using prescribed fire, thinning, creating  
11 and maintaining fuel or firebreaks and access for fire department  
12 brush trucks, which are the primary apparatus local volunteer  
13 firefighters use to combat brush fires and wildfires. And  
14 controlling access during times of high fire danger; that means in  
15 cases where there's a great risk of wildfire. Then in some cases  
16 there have been restrictions placed on some properties such as  
17 restricting the use of campfires.

18  
19 Enforcement and access controls is another important consideration;  
20 the ability to prevent and apprehend as well as close off and block  
21 access by illegal dumpers, illegal ATV and four-wheel drive riders  
22 and vandals; and finally forest and ecological management. As this  
23 body is aware, we're combating a significant southern pine beetle  
24 infestation. You may have read recently in the press about the  
25 discovery unfortunately of a fungus that attacks oak trees, known  
26 as the oak wilt. We're still gearing up to respond to that. Also  
27 other considerations we undertake include invasive species control  
28 and then conducting research, establishing monitoring plots to  
29 ascertain short and long term trends enforced and ecological health  
30 and integrity.

31  
32 So why do we need to continue to try to preserve the remaining  
33 undeveloped, unprotected private land in the core? Well, first of  
34 all, development on the perimeter closest to existing development  
35 and to existing improved roads can allow for future creep --  
36 further into the interior, especially in these old file map  
37 situations where those papers streets can be improved and utilities  
38 extended. And then in a domino fashion, you have development  
39 moving further and further into the interior also resulting  
40 potentially in significant cumulative environmental impacts.  
41 Unprotected out parcels can interfere with, hinder and prevent  
42 appropriate land management, especially on a landscape scale. In  
43 the case of wildfire management, out parcels can complicate  
44 prescribed fire burn plan preparation and implementation. It can  
45 compromise the effectiveness of prescribed fire by leaving  
46 substantial unburned and unmitigated fuel; the fuel being the  
47 natural vegetation, detritus, leaves, branches and so forth that  
48 has accumulated on the ground that if not mitigated can lead to  
49 substantial wildfires.

50  
51 Parcels can weaken necessary fire lines for holding purposes by  
52 leaving vulnerable gaps. Parcels can also hinder access and escape  
53 routes. Parcels can also hinder wildfire prevention mitigation  
54 response efforts. It's difficult to impossible to conduct wildfire  
55 mitigation activities on out parcels such as thinning to create  
56 fuel breaks to protect adjacent developed areas and create fuel

1 fire breaks and access for fire department brush truck. There's,  
2 you know -- as you may be aware, there's significant permission and  
3 liability issues and prohibition also on using it for public funds  
4 on private land. There's also a need to provide access to private  
5 parcels even during times of high fire danger which can create  
6 opportunities for intentional or inadvertent fire starts in  
7 interior areas.

8  
9 Also, in regard to enforcement and access control, if we have to  
10 continue to provide access to private parcels that can also allow  
11 access for illegal dumping, illegal ATV and four-wheel drive  
12 operation and vandalism; often especially in the cases of open  
13 space within old file maps. There's also a lack of survey  
14 monuments and other discernable property boundary markers and  
15 landmarks which can hinder the apprehension of violators as is  
16 difficult to determine if a violator is on public or private land.

17  
18 And then finally with regard to forest and ecological management,  
19 particularly in the area of the southern pine beetle and oak wilt  
20 response and invasive specie control, if infestation such as these  
21 are on public property and extended to private property, it's  
22 difficult to obtain authorization for the private property owner to  
23 control. Also there are liability issues that would arise as well  
24 as prohibition, again, as I mentioned about the use of public funds  
25 on private lands.

26  
27 If infestations are present on private property but not public  
28 land, again, it is difficult to effectively address these before  
29 they affect the adjacent public land.

30  
31 And then finally in regard to research, maintaining the integrity  
32 of scientific research and monitoring plots can be -- can be  
33 hampered by the presence of out parcels. And this is just showing  
34 you a map of open space in the Flanders area. The road to the west  
35 is County Road 104. And County Road 105 is the area to the north.  
36 The green is state-owned land. That includes the Saranoff Preserve  
37 and the kind of brownish-purplish color is county land. The red  
38 arrows are pointing to various out parcels that are located  
39 throughout here. One of the things we've been working on with the  
40 county and the state is to work on both an ecological management  
41 and wildfire management plan here. And one of the challenges has  
42 been dealing with these privately-owned out parcels that dot these  
43 areas and trying to figure out how to work around them and develop  
44 an effective plan.

45  
46 And that's the end of my presentation. I'll be happy to take any  
47 questions.

48  
49 **CHAIRPERSON HAHN:**

50 Thank you. We do have several Legislators who are interested in  
51 asking questions. Legislator Krupski.

52  
53 **LEG. KRUPSKI:**

54 Thank you, Madam Chair. I've got a number of questions, John. Who  
55 enforces the access? You said that in times of fire danger, access  
56 would be limited. Who would enforce that? I mean, that's a big

1 area and a lot of access points.

2  
3 **MR. PAVACIC:**

4 It would be -- starting with the individual land managing agency;  
5 so if it was county land, county parks, county law enforcement. In  
6 the case of state -- state land, if it's DEC property, it would be  
7 forest rangers and environmental conservation police officers.  
8 But, you know, through our law enforcement council, we would -- we  
9 would seek the assistance of other law enforcement agencies,  
10 cooperating agencies to try to enforce those -- those restrictions.  
11 They have been put in place in years past when we had periods of  
12 high fire danger where signs would actually be posted in certain  
13 areas and to -- to restrict or eliminate access until the threat of  
14 the high fire danger had lessened. And also in campgrounds, there  
15 was coordination among the various land-owning agencies to ban the  
16 use of campfires temporarily until the threat of -- the wildfire  
17 threat had ceased.

18  
19 **LEG. KRUPSKI:**

20 And as far as, you know, the wildfire thing, which is very  
21 concerning, especially to adjacent property owners, what's your  
22 relationship with the adjacent property owners? Because obviously,  
23 you know, it's time of year you want to have a campfire. Is there  
24 outreach to them, too, to make them aware there's a dangerous time  
25 to have it or is it -- was it just kind of left to them to try to  
26 be protective of their -- basically their backyards.

27  
28 **MR. PAVACIC:**

29 So what we -- what we do is we do -- we try to do significant  
30 outreach, certainly through -- through social media, through the  
31 commission's website. We employ the services of the county fire  
32 rescue and emergency services. They're able to get out various  
33 types of e-mail blasts and other social media blasts in short  
34 order. And in addition, we do the individualized community  
35 outreach. You may be aware that in the Ridge, Manorville,  
36 Calverton area last year the commission and a number of the  
37 involved entities adopted a community wildfire protection plan for  
38 that area. And the community here was a big part of that. And, in  
39 fact, one of my staff people, Judy Jacobsen is going out right now  
40 and doing individual wildfire hazard assessments on individual  
41 private properties to help people determine what the threats are on  
42 their own properties and what measures they can undertake to make  
43 their homes and their properties more fireproof.

44  
45 **LEG. KRUPSKI:**

46 Thank you. This Peconic Maritime Preserve, what authority does the  
47 commission have over activities in that area? I mean, you're  
48 looking at -- you're looking at obviously the County's, you know,  
49 shellfish lease program, but you're also looking at private docks,  
50 you're looking at mooring areas.

51  
52 **MR. PAVACIC:**

53 The commission only has jurisdiction over the Central Pine Barrens,  
54 which is a subset of the Maritime Reserve. The Maritime Reserve  
55 was created first under Article 57 of the state Environmental  
56 Conservation Law that was created a year or two before the Long

1 Island Pine Barrens Protection Act. The Long Island Pine Barrens  
2 Protection Act then created the Central Pine Barrens and the  
3 commission and folded that into that. However, the commission does  
4 not have real -- a mandatory authority or jurisdiction over the  
5 Maritime Reserve.

6  
7 **LEG. KRUPSKI:**

8 How do you handle wildlife issues? I mean, you've got -- you've  
9 got challenges. So southern pine beetle is destroying a lot of the  
10 pine trees, the oak wilt destroys the oak trees. So what's left  
11 there -- what's going to happen to the whole -- the plant life  
12 infrastructure if those two species collapse? And what comes in to  
13 take their place? And how do you handle the wildlife? Because I  
14 know -- I've seen it in preserved lands where the deer population  
15 won't let any of the normal natural trees reestablish themselves  
16 because of the heavy deer population and the heavy browse. So how  
17 do you handle those issues?

18  
19 **MR. PAVACIC:**

11:04AM 20 Well, first of all, in regard to southern pine beetle, we've  
21 established a close working team. The team's headed up by DEC.  
22 The commission is a significant part of that. We also have Suffolk  
23 County, especially Suffolk County Parks involved; the three towns;  
24 and there's other entities involved as well. And we work in  
25 cooperative fashion to undertake a number of different measures.  
26 This includes suppression activity, which involves going out and  
27 actually cutting down infested trees. Right now unfortunately the  
28 only way to arrest or reduce the level of infestation is to  
29 actually -- actually fell the infested trees. There are no  
11:05AM 30 pesticides available, for example, that can -- on a landscape scale  
31 that can safely in an environmentally sensitive fashion control  
32 southern pine beetle. And so the most proven method which has been  
33 proven for over 30 years of management work from down south, which  
34 is where the beetle has originated, is to cut infested trees as  
35 quickly as possible to reduce the spread.

36  
37 But one of the things that has been found to be effective down  
38 south is thinning. If the square footage -- if you were able to  
39 cut -- take a cross section of all the tree trunks, say, on an acre  
11:06AM 40 of property, and if that -- if you added up the -- you took the  
41 diameters of the areas of all those trees -- of those trees  
42 combined, if that's greater than about 70 square feet, that's  
43 considered an overly-dense population so you want to reduce. By  
44 reducing that population density below that, the remaining trees  
45 become much more robust and they're able to -- they're able to  
46 repel -- much more readily repel an attack from southern pine  
47 beetle. The only way that the pine trees can repel an attack is by  
48 oozing out pine sap.

49  
11:07AM 50 However, if trees are more crowded together, they're competing for  
51 nutrients, for air, for space, for light and they're not able to  
52 pitch out as much. And also in times of drought, that really  
53 affects them as well because they need water to produce that sap.  
54 So by thinning out trees over time, the remaining trees have become  
55 more robust and able to pitch out. So that's something else that's  
56 being done. And, in fact, that kind of works hand in glove with



1 the fuel, the fire management that I mentioned. Because one of the  
2 things that's done there is to thin in areas adjacent to  
3 residential development, is to create what's called a fuel break  
4 where you're thinning out -- you're thinning out a certain number  
5 of the pine trees because of the more flammable. That also has the  
6 added benefit of also helping those areas withstand a future  
7 southern pine beetle attack.

8  
9 In regard to some of the other issues you mentioned with oak wilt,  
11:08AM 10 right now it's been found in a number of locations, I think, the  
11 Central Islip Great River area is one. It's been found, I think,  
12 out towards Orient and few places in between. So we don't -- we're  
13 just -- DEC's the primary entity that's involved with that. But  
14 there's not much known about it. It's a fungal disease. Again,  
15 unfortunately, similar to southern pine beetle, the most effective  
16 way of managing that is to cut down the infested trees to stop the  
17 spread or hinder the spread.

18  
19 In regard to wildlife management, yes, we've seen significant areas  
11:08AM 20 such as the Warbler Woods area that I showed before where deer  
21 population, deer browse has eliminated a lot of what we call  
22 recruitment, your future seedlings that grow up and replace the  
23 mature forest that you have there. So that is something that does  
24 need to be addressed. Wildlife management is not the commission's  
25 primary purview. It's really DEC; DEC and the federal government.  
26 So I know DEC has been involved with helping to increase hunting  
27 opportunities because hunting can help reduce deer population. And  
28 I know there have been other programs that have been attempted both  
29 in Fire Island and out east to try to effectively deal with the  
11:09AM 30 deer population.

31  
32 **LEG. KRUPSKI:**

33 Does the commission ever take a stand on that and advocate with the  
34 DEC towards, you know, more meaningful control of the deer  
35 population?

36  
37 **MR. PAVACIC:**

38 At this point, no, the commission has not -- has never -- you know,  
39 has not been asked to take a stand and has not indicated a position  
11:10AM 40 on that.

41  
42 **LEG. KRUPSKI:**

43 And I'm sorry, I do have one more question, Madam Chair. It's  
44 about -- you know, you're setting up legal challenges towards  
45 development in the core and in the Compatible Growth Area. How is  
46 that -- I mean, this is not a new law. So you got to have a lot of  
47 experience on this sort of thing. Where do you see this going in  
48 the future? I mean, if these legal challenges continue, is there a  
49 concern that you will eventually find a -- someone will find a  
11:10AM 50 judge who's going to be more sympathetic towards more development  
51 in these areas and less sympathetic towards the -- what's currently  
52 -- in protecting this area?

53  
54 **MR. PAVACIC:**

55 I think -- you know, that can always be a concern. As I said  
56 before, going back almost 20 years ago, the act was upheld in both

1 federal and state court in the constitutionality. But we've seen a  
2 number of new challenges more recently in the last few years. So,  
3 there is always a potential that a court could rule in favor of a  
4 particular project and -- you know, against the commission in these  
5 particular cases.

6  
7 **LEG. KRUPSKI:**

8 Do you have any leeway as far as -- you know, no development versus  
9 limiting development or limited development? Like, if there's --  
10 if it's in the core, is it very clear that there's no development  
11 allowed; and in the Compatible Growth Area, some development's  
12 allowed but under these conditions? And how much does the  
13 commission have authority over making those decisions?

14  
15 **MR. PAVACIC:**

16 The commission -- the commission is the ultimate arbiter of  
17 determining. It's a sole entity that can decide whether or not  
18 development can occur in the core. And the commission has in the  
19 past over the past several decades has allowed development in the  
20 core. And it includes such things is if you look at the American  
21 Physical Society located across from Brookhaven National Lab.  
22 Existing facility, they wanted to do an expansion and the  
23 commission granted them that approval. So, it depends on the  
24 circumstances of the -- of each particular individual case.

25  
26 A number of years ago, the act was actually amended to allow for  
27 certain road front parcels, existing single and separate parcels  
28 that were on existing paved improved roads, that those would be  
29 considered nondevelopment. And that was done -- that was well over  
30 ten years ago but there was a recognition there that those were  
31 areas where some development could be allowed.

32  
33 **LEG. KRUPSKI:**

34 Thank you.

35  
36 **MR. PAVACIC:**

37 You're welcome.

38  
39 **CHAIRPERSON HAHN:**

40 Legislator Flemming.

41  
42 **LEG. FLEMING:**

43 Thank you, Madam Chair. Good afternoon. Or good morning. Thank  
44 you for coming in. I wanted to just go back, if we could, to your  
45 slide that had Flanders -- I think, it was Hubbard Park? It's west  
46 of Sears Bellows.

47  
48 **MR. PAVACIC:**

49 West of Pleasure Drive?

50  
51 **LEG. FLEMING:**

52 Yes. I think it's your slide number 23 if I've got it right on my  
53 screen. We spoke -- you were speaking sort of theoretically about  
54 the Southern Pine Beetle Task Force. And I just wanted to maybe  
55 focus on this map and ask you a couple of specific questions.

1 **MR. PAVACIC:**

2 Sure.

3

4 **LEG. FLEMING:**

5 First of all, is this Hubbard Park?

6

7 **MR. PAVACIC:**

8 No, this is -- the green is, I guess -- that doesn't show it. But  
9 the green is Sarnoff Preserve, which is owned by DEC. The road to  
10 the left-most part of the screen is -- that's County Road 104. And  
11 you see that branches off at the top, it's -- County 104 continues  
12 off the screen and then 105 to the top there. And then to the  
13 south is Sunrise Highway and 104 as well. The easternmost part --  
14 easternmost boundary along where you see that yellow outline of the  
15 County property, that's Pleasure Drive.

11:14AM

16  
17 **LEG. FLEMING:**

18 So -- because I know that last -- this past summer, there was a  
19 great deal of concern about the southern pine beetle, was sort of  
20 marching its way across Hubbard Park and other areas in the Central  
21 Pine Barrens. Is this affected by it, the area that we're looking  
22 at here?

11:14AM

23  
24 **MR. PAVACIC:**

25 This particular area, thankfully, thus far, knock on wood, has not  
26 been significantly affected. To the east of this is Maple Swamp  
27 County Park. And just east of that is Sears Bellows. So Sears  
28 Bellows has been affected. And then north of Sears Bellows is  
29 Hubbard. So this area just south of State Route 24, Flanders Road,  
30 to the north of that is Hubbard. And Hubbard has been affected.  
31 But this area in particular thankfully has not been significantly  
32 affected yet by southern pine beetle.

11:15AM

33  
34 **LEG. FLEMING:**

35 Well, that's good to know. I think that inset in our map includes,  
36 if you look very closely, you can see Sears Bellows there, at least  
37 is demarcated. When we're talking about these out parcels, do  
38 those affected areas include the out parcels that are privately --  
39 some out parcels that are privately owned?

11:15AM

40  
41 **MR. PAVACIC:**

42 I'm sorry, can you repeat the question?

43

44 **LEG. FLEMING:**

45 Are there areas of the Central Pine Barrens -- my district includes  
46 Flanders. And I know that we -- you know, we're -- I think we're  
47 still facing a considerable threat from the infestation; is that  
48 correct?

49

50 **MR. PAVACIC:**

51 Yes, we still -- one of the main areas was the Munns Pond area and  
52 -- which is in Hampton Bays, so. And that's right adjacent to  
53 Flanders so it is one of the more significant areas of the  
54 infestation.

55

56

1 **LEG. FLEMING:**

2 I was interested to hear you say that to manage the infestation,  
3 really the only -- the only way to effectively combat it is to  
4 remove trees.

5  
6 **MR. PAVACIC:**

7 (Nodding head yes)

8  
9 **LEG. FLEMING:**

10 So I guess my question is, we're talking about these out parcels  
11 and how they're -- what I'm hearing is that the -- the fact that we  
12 don't have control over some of these privately-owned parcels,  
13 could interfere with our management of the Pine Barrens. And from  
14 my perspective, the management of the southern pine beetle  
15 infestation is particularly important because of the threat it  
16 poses. So is there -- are there instances where these out parcels  
17 that are privately owned could interfere with that management's  
18 effort?

19  
20 **MR. PAVACIC:**

21 Sure. If privately-owned out parcels have an infestation on them,  
22 government agencies can't just walk onto that property and start  
23 felling trees. They would need to first obtain the private  
24 property owner's permission; and then secondly there may be a  
25 question of liability and providing liability insurance as well.  
26 We've seen that in some cases, that some folks are not -- are not  
27 eager to allow that to occur. And it's also the speed at which you  
28 would be able to move. If it's publically-owned land, you can move  
29 very, very quickly without having to obtain permissions and so  
30 forth, you know, an infestation -- a very significant one can move  
31 very, very quickly. With these infestations, the trees die  
32 anywhere from two to four months. So they can move very, very  
33 quickly particularly in the warm months. In just a matter of  
34 weeks, they can be advancing sometimes as much as 50 feet a day.  
35 So time is always of the essence.

36  
37 **LEG. FLEMING:**

38 And what about contacting property owners? I know some of these  
39 parcels are very small; some of them, ownership goes back many  
40 decades. Are you aware of any obstacles with regard to getting  
41 permission? Are you aware of any obstacles with regard to locating  
42 property owners and getting that permission?

43  
44 **MR. PAVACIC:**

45 We in the East Quogue area over the prior year we were doing some  
46 -- what's called ground truthing. So one of the things that's  
47 first done when dealing with an infestation is to do aerial  
48 reconnoissance. And DEC will conduct over flights several times a  
49 year. And they're mapping what they view from the air as being  
50 potential infestations based on the presence of what appear to be  
51 browning, yellowing pitch pine trees. Those areas are GPSd and  
52 entered into GIS but you still need ground crews to go after those  
53 areas, locate them and confirm whether or not it's southern pine  
54 beetle. Some cases it may not be. It could be what's known as  
55 turpentine beetle or it could be some other issue. So we don't  
56 want to be wasting those resources and having folks going out to

1 combat an infestation that's not really present on a particular  
2 area.

3  
4 So in order to do that ground-truthing, we need to get permission.  
5 In most cases we're dealing with public properties so you don't  
6 have an issue. But in other cases we're dealing with private  
7 properties. So in the East Quogue area, we did have to reach out  
8 to a number of private property owners. It took a little time to  
9 obtain permission to go out there and get it, but they did grant  
10 the permission. However, we have not in that particular area as of  
11 yet done any suppression. Right now we're focussing on those other  
12 areas which are considered high priorities: Sears Bellows, Hubbard  
13 County Park, for example. And those are the areas that are being  
14 focussed on right now.

15  
16 **LEG. FLEMING:**

17 Can I ask you also about funding restrictions. So you're working  
18 with DEC and the task force. And where does the -- where is the  
19 funding primarily coming from for the task force?

20  
21 **MR. PAVACIC:**

22 So DEC has some funding that it had obtained from the federal  
23 government; its own funding that it had obtained over the last  
24 year. The state legislature appropriated some environmental  
25 protection fund money, EPF money. The commission also is working  
26 off a \$50,000 grant that we had gotten from the state legislature  
27 last year to assist with this effort. And the commission's using  
28 its own funding as well on top of that, which also comes from the  
29 environmental protection fund to aid in that particular effort.  
30 And then most recently you may have read that Suffolk County Parks  
31 and the towns of Brookhaven and Southampton all received municipal  
32 community grant funds to aid in dealing with southern pine beetle.  
33 So that funding is also coming from the Environmental Protection  
34 Fund.

35  
36 **LEG. FLEMING:**

37 And are you restricted in any way from using those public funds on  
38 private property if it turns out that you need to remove trees on  
39 private property to stop the beetles marching forward?

40  
41 **MR. PAVACIC:**

42 Yes. That's one of the issues with -- the funding is really meant  
43 for public property. And we're not unique to that issue here. New  
44 Jersey, which first experienced the southern pine beetle  
45 infestation being further south of us, they've been dealing with  
46 this issue as well, where they are constrained from using public  
47 funds on private property. And that's one of the questions we've  
48 wrestled with. We can provide input and advise the folks. But in  
49 terms of providing funding to private property owners, we're  
50 constrained from doing so; you know, for them to do their own --  
51 their own response work.

52  
53 **LEG. FLEMING:**

54 It sounds like there are a number of obstacles to a successful  
55 program to eradicate the southern pine beetle that are posed by the  
56 fact that we have these small scattered out parcels in -- you know,

1 sort of scattered within the public lands. It sounds as though if  
 2 we were able to acquire these parcels, it would make your job  
 3 easier and the job of the task force in terms of trying to save the  
 4 Pine Barrens and eradicate the southern pine beetle; is that an  
 5 exaggeration or do you think that's a correct statement?  
 6

7 **MR. PAVACIC:**

8 It certainly helps to have, you know, one property owner or just a  
 9 few public private owners. As I said, it does make things easier.  
 10 We can move quickly on those and you don't have to deal with the  
 11 liability issues and the permission issues that -- and also the  
 12 restrictions on funding as well.  
 13

14 **LEG. FLEMING:**

15 And do you happen to know, John, and I should know this as well,  
 16 but I'm just learning, my understanding is that folks who own  
 17 private property within the Pine Barrens have certain property  
 18 rights because of the Pine Barren -- I guess the Pine Barrens  
 19 Preservation Act, the restrictions on the use of that property.  
 20 Is there any obligation that you're aware of by government at any  
 21 level to acquire that property based on the -- you know, that --  
 22 what's sort have been a conversion of the private property into  
 23 preserved lands.  
 24

25 **MR. PAVACIC:**

26 Well, I think -- you know, as I said earlier in my presentation,  
 27 the Act is a continuing obligation for present and future elected  
 28 bodies be it at the town, county or state level. You know, the Act  
 29 -- the Central Pine Barrens were created to exist in perpetuity.  
 30 And until everything in the Core Preservation Area is spoken for  
 31 one way or the other, hopefully through preservation, you know,  
 32 that remains a continuing -- a continuing mandate. And not just  
 33 for preservation and acquisition, but also management of those  
 34 areas as well.  
 35

36 **LEG. FLEMING:**

37 But you're saying there's a continuing -- a continuing mandate on  
 38 government to acquire parcels? Is that what I'm hearing you  
 39 saying?  
 40

41 **MR. PAVACIC:**

42 Well, to preserve. So as I said before, there's different --  
 43 there's different avenues available for preservation including  
 44 transfer of development rights. There's acquisition fee title  
 45 where there's a purchase made of that. So there's -- as I said  
 46 before, if you look at the spirit and intent of the law, it calls  
 47 for -- there was a recognition by the state legislature back in  
 48 1993 that the core area was a most -- very, very significant and  
 49 environmentally sensitive area both from a water resources and  
 50 ecological resources perspective and the recognition there by the  
 51 state that that area should be protected and preserved. And  
 52 acquisition -- preservation of individual properties through  
 53 acquisition, through transfer of development rights, through other  
 54 means is something that fulfills that spirit.  
 55  
 56

1 **LEG. FLEMING:**

2 Thank you. It does sound as though proper stewardship of the Pine  
3 Barrens would include acquiring either fee title or preservation  
4 rights or development rights on these small parcels.

5  
6 **MR. PAVACIC:**

7 Right.

8  
9 **LEG. FLEMING:**

10 Thank you.

11  
12 **CHAIRPERSON HAHN:**

13 Legislator Anker.

14  
15 **LEG. ANKER:**

16 I want to also thank you for being here and giving this  
17 presentation. My two greatest concerns with the Pine Barrens, at  
18 least within my legislative district, number one is the pine  
19 beetle. You know, I have the RCA Rocky Point point property. And  
20 what I'm hearing is that the large senior communities are having to  
21 pay tens of thousands of dollars per year to remove the wood that  
22 these beetles -- the trees that they're destroying. So we wrote a  
23 letter and we're advocating to the state, to the Governor to  
24 provide public funding to help those communities. Because they  
25 were also in jeopardy during the wildfires. They came very close.  
26 And that's the Leisure Village -- Leisure Glen and Leisure Knoll  
27 and then, you know, at other communities and residents in that  
28 area.

29  
30 So as far as, again, with the pine beetles, I know they're doing a  
31 study, they're creating three separate areas and they're looking at  
32 which one works the best; you know, total devastation of taking out  
33 all the trees, then taking out some of the trees and then, I think,  
34 leaving the trees there that have died to see what the difference  
35 is. Do you have any information pertaining to that study?

36  
37 **MR. PAVACIC:**

38 That's on DEC property. So that's on public land. It's a  
39 demonstration project that DEC is undertaking. It's on the south  
40 side of Whiskey Road near the intersection of Wading River Hollow  
41 Road. So DEC is looking at different methodologies for dealing  
42 with southern pine beetle. So that includes keeping control plots,  
43 you know, what happens on parcels if you do nothing and monitoring  
44 those areas over a period of time.

45  
46 Then there's other plots where they'll be undertaking thinning;  
47 where they're thinning out trees to a certain density, as I've  
48 mentioned before. And seeing then how the remaining trees in that  
49 forest plot reacts should southern pine beetle attack there.

50  
51 And then the third is a combination of thinning followed by  
52 prescribed fire. As I found down south apparently that doing that  
53 is the optimum approach for strengthening forest to the areas from  
54 future attacks from southern pine beetle.

1 So DEC had obtained federal funding for that project. And they're  
2 undertaking it right now. And that's going to be going on over a  
3 period of several years. But I believe one of the things they are  
4 promoting as part of that is public access. There'll be signage;  
5 interpretive signage up there so you can see the progression over  
6 time as to how those different forest plots react to those  
7 different types of treatments.

8  
9 **LEG. ANKER:**

11:28AM 10 Right. And what's scary is that, you know, you think of the Pine  
11 Barrens, you know, these beetles, they're going after so many trees  
12 so quickly. And I mean -- I hate to even say this, but do you  
13 think this can be stopped?

14  
15 **MR. PAVACIC:**

16 The southern pine beetle's here to stay. It's not -- we'll never  
17 be able to eradicate it. It's like ticks. Ticks are endemic.  
18 They're an issue and unfortunately, you know, I don't know that  
19 we'll ever eradicate them. And all the experts we've spoken to  
11:29AM 20 have indicated that -- you're talking about something that's very,  
21 very tiny. It's the size of an uncooked grain of rice. So just  
22 controlling something that tall that's numbered in hundreds of  
23 thousands is something that we'll have to learn to live with. But  
24 by taking these more proactive approaches such as what DEC is doing  
25 on its demonstration plot, our hope is that we'll be able to  
26 maintain a lot of our forested area and we'll be able to withstand  
27 and respond favorably to southern pine beetle should southern pine  
28 beetle invade those particular areas.

29  
30 **LEG. ANKER:**

31 Does every tree that has a beetle on it, does that tree die?

32  
33 **MR. PAVACIC:**

34 For the most part, yes. The vast majority of trees they die in two  
35 to four months. What happens is the beetles even though they're  
36 tiny, they -- basically they swarm a tree by the hundreds of  
37 thousands. And what they do is they tunnel under the bark. And  
38 basically what ends up is the cambium layer, which is the living  
39 tissue layer of the tree; very thin layer just underneath the bark  
40 that provides nutrients throughout the tree and water, that gets  
41 girdled. That gets destroyed and the tree dies.

42  
43 We've seen in the case of white pine trees, white pines apparently  
44 maybe be a little bit more resistant. And then there's certain  
45 pitch pine trees if they're robust enough, they're not under a lot  
46 of stress, under a lot of competition. But unfortunately in most  
47 cases the trees die. There also seems to be a size component.  
48 Trees above a certain size seem to be the ones to get attacked  
49 because the younger trees don't have that mature -- that mature  
11:31AM 50 structure that the beetles like having a very thick bark.

51  
52 **LEG. ANKER:**

53 So you don't think we'll be totally wiped out?

54  
55 **MR. PAVACIC:**

56 That's my hope. That's my hope. I'm hoping that, you know, the



1 efforts that we're undertaking now, to really respond to the  
2 infestation will reap benefits in the future and that will continue  
3 to have, you know, substantial forested areas.

4  
5 **LEG. ANKER:**

6 Right. And I'm assuming climate warming has created this issue of  
7 a southern pine beetle ending up in New York. I mean you're  
8 talking to a southerner here.

9  
10 **MR. PAVACIC:**

11 Right.

12  
13 **LEG. ANKER:**

14 But, you know, this is -- you know, this is terrifying. This is  
15 really terrifying to think what could happen.

16  
17 **MR. PAVACIC:**

18 Right. You know, ten years ago it wasn't known in New Jersey; 10  
19 or 15 years ago. And then all of a sudden Jersey, their forest  
20 department suddenly discovered that trees are dying by the  
21 thousands. And they found out that it was because this beetle from  
22 down south had come up. One of the things that the beetle does not  
23 do well with is cold. And we unfortunately haven't had the -- I  
24 know a lot of folks complain about it, but having those very  
25 intense cold winters where you have sustained temperatures  
26 particularly where you have sustained temperatures in the 20s for  
27 days or weeks on end, that really helps to hinder the beetle. In  
28 fact, I think it's a temperature of minus eight degrees Fahrenheit  
29 is considered to be, you know, almost completely lethal to southern  
30 pine beetle. But you need very low temperatures in the teens or  
31 negative numbers that are sustained for a period of time to really  
32 keep them. We used to get that in some winters. You know, when I  
33 was a kid back in the '60s, you know, the Great South Bay would  
34 freeze over, we'd have temperatures in the 20s during the day, it's  
35 those kinds of temperatures that help to keep this beetle from  
36 moving further north.

37  
38 **LEG. ANKER:**

39 Right. And there's really no -- there's no pesticide or even the  
40 pheromone, they're looking into that, I hear.

41  
42 **MR. PAVACIC:**

43 There's experimentation with a pheromone, which is basically insect  
44 version of hormones called verbenone which the female beetles put  
45 out. But they -- there's still nothing that has come definitively  
46 out of that. In regard to pesticides, the only pesticides that are  
47 really available are ones that are applied to the bark. They have  
48 to be sprayed on the bark of a tree prior to an infestation  
49 occurring. Once the insect is in the tree that pesticide won't  
50 help. It has to be applied to the entire trunk of the tree from  
51 the base to the crown. It has to be reapplied several times during  
52 the season. So I know some of our arboretums have used that on  
53 individual trees to protect specimen trees and save them from being  
54 killed by the southern pine beetle. But it's very labor intensive.  
55 And, again, there's the environmental implications. And that's on  
56 individual trees. There's nothing that can't be done on a

1 landscape scale. You can't be doing that on tens of thousands of  
2 acres.

3  
4 **LEG. ANKER:**

5 Right. And no birds. The birds don't go after these beetles?  
6 Predators to try to keep them in check.

7  
8 **MR. PAVACIC:**

9 Well, first of all the main predator is actually another beetle, a  
10 native beetle called the clerid beetle. But they are -- they do  
11 increase in numbers when we have infestations but not to the point  
12 where they are -- you know, they are -- they're going to stop --  
13 stop the infestations from occurring.

14  
15 **LEG. ANKER:**

16 One last question for the pine beetle. Do you know if governments  
17 in the south that have successful programs that provide funding for  
18 private owners both individual residents and then the larger  
19 communities?

20  
21 **MR. PAVACIC:**

22 I'm not aware of what programs they have. Down south they're  
23 dealing more with lumber plots and assisting those who have these  
24 commercial plots, of say, yellow -- southern yellow pine. I'm not  
25 sure, though, what kind of assistance that they're providing in  
26 terms of actually providing money to these entities. In Jersey,  
27 for example, our closest neighbor, the only program they have is  
28 one where if you have a plot of vacant forest land privately-owned,  
29 you first have to hire a professional arborist who's certified on a  
30 state certified list to prepare a forest management plan for your  
31 plot. That plan has to be approved by the state. Once you have  
32 that in place, then the state will provide some financial  
33 resources.

34  
35 **LEG. ANKER:**

36 Yeah, but the problem with that is, you know, again, it just takes  
37 so long.

38  
39 **MR. PAVACIC:**

40 Well, it takes long. And you also have to pay for the professional  
41 arborist to -- which could be expensive to prepare such a plan.

42  
43 **LEG. ANKER:**

44 Well, again, this will be a continued conversation. Again, we  
45 appreciate you being here. We'll talk more about the illegal  
46 dumping. I know you know that we're working on that particular  
47 issue. Legislator Hahn has introduced some legislation as well as  
48 Presiding Officer Gregory. So thank you to much for coming here.

49  
50 **MR. PAVACIC:**

51 You're welcome.

52  
53 **CHAIRPERSON HAHN:**

54 Next was Legislator Trotta.

1 **LEG. TROTТА:**  
2 How many lawsuits do we have pending about development?

3  
4 **MR. PAVACIC:**  
5 At present time, I think, we have about a half dozen.

6  
7 **LEG. TROTТА:**  
8 Can you give me an overview what they're about?

9  
10 **MR. PAVACIC:**  
11 Individual developers who -- when the commission denied their  
12 hardship waiver approval, they then sued the -- sued the  
13 commission. And the State Attorney General's Office is  
14 representing us in the State Supreme Court.

15  
16 **LEG. TROTТА:**  
17 How big a parcel are you taking?

18  
19 **MR. PAVACIC:**  
11:37AM 20 A number of these are less than a quarter acre.

21  
22 **LEG. TROTТА:**  
23 Has any of them ever been successful?

24  
25 **MR. PAVACIC:**  
26 So far, no.

27  
28 **LEG. TROTТА:**  
29 Thank you.

11:37AM 30  
31 **CHAIRPERSON HAHN:**  
32 Legislator Krupski.

33  
34 **LEG. KRUPSKI:**  
35 Thank you. So, first I have a legal question. If in the Pine  
36 Barrens Core, the County takes a parcel for taxes, is there then a  
37 suspension of the normal redemption process so that -- normally if  
38 the County takes a parcel for taxes, there's a long drawn out  
39 redemption process so the person has an opportunity to redeem their  
11:38AM 40 property. If it's in the Core -- Pine Barren Core, does state law  
41 prohibit that process and is it automatically just kept within the  
42 municipality?

43  
44 **MR. PAVACIC:**  
45 I'm not aware of that having been -- there's an existing  
46 prohibition on that. I don't know that the County has amended the  
47 local law or municipalities amended their local laws to prevent  
48 that prohibition from occurring.

49  
50 **LEG. KRUPSKI:**  
51 Would you -- is there something like that in the state law, though?

52  
53 **MR. PAVACIC:**  
54 Well, the state law talks about development. So in Article 57,  
55 it's section 57-0107, there's a definition section. It defines  
56 what are known as development and nondevelopment. In the

1 commission's case its jurisdiction is over development; what  
2 constitutes development. And there's different categories of what  
3 constitutes development and nondevelopment. Development of a  
4 subdivision, for example, or a site plan. And then nondevelopment,  
5 you are -- I don't have the law in front of me, but, you know,  
6 there's a number of categories including things that were already  
7 underway when the act was being adopted.

8  
9 **LEG. KRUPSKI:**

11:39AM 10 And fire lanes, how does that -- keeping them clear, how is -- I  
11 know that's a great concern, how is that progressing, you know,  
12 with the local fire departments?  
13

14 **MR. PAVACIC:**

15 See DEC, for example, so the individual -- generally the individual  
16 land managing agency is responsible for maintaining fire roads,  
17 fire breaks and fire lanes. So we've worked with both county parks  
18 and DEC the primary landowners -- public landowners in the Pine  
19 Barrens. DEC I know is actively involved in maintaining and  
11:40AM 20 reestablishing fire breaks within the Rocky Point Preserve. And I  
21 know that, you know, we've worked with county parks on a number of  
22 other sites to establish fire roads on -- or reestablish what are  
23 used as fire roads on different public lands. And we work through  
24 our Wildfire Task Force to try to address those issues as they  
25 arise and meet with -- we've also met with individual fire  
26 departments and fire agencies to address those issues as well as  
27 with the different land managing agencies.  
28

29 **LEG. KRUPSKI:**

11:40AM 30 Thank you.  
31

32 **MR. PAVACIC:**

33 You're welcome.  
34

35 **CHAIRPERSON HAHN:**

36 Okay. Were there any other questions? Seeing none, thank you very  
37 much for being here today to go through this for us. It's very  
38 useful and we very much appreciate it.  
39

40 **MR. PAVACIC:**

41 You're welcome. My pleasure.  
42

#### 43 **INTRODUCTORY RESOLUTIONS**

44  
45 **CHAIRPERSON HAHN:**

46 Okay, back to the agenda, there are no Tabled Resolutions.  
47 Introductory Resolutions. Introductory Resolution **2123 of 2016,**  
48 **To reauthorize the Lake Ronkonkoma Advisory Board. (Kennedy)**  
49

50 **LEG. TROTТА:**

51 Motion to approve.  
52

53 **LEG. KRUPSKI:**

54 Second.  
55  
56

1 **CHAIRPERSON HAHN:**

2 All those in favor? Opposed? Abstentions? **2123 is approved.**  
3 **(VOTE: 5-0-0-1. LEGISLATOR MURATORE EXCUSED ABSENCE)**

4  
5 **Introductory Resolution 1003, Authorizing appraisal of land under**  
6 **the Suffolk County Drinking Water Protection Program, as amended by**  
7 **Local Law No. 24-2007, North Fork United Methodist Church Town of**  
8 **Southold (SCTM No. 1000-025.00-02.00-023.002). (Krupski)**

9  
10 **LEG. KRUPSKI:**

11 I'll make a motion to table. And I'll give an explanation if I get  
12 a second.

13  
14 **CHAIRPERSON HAHN:**

15 Motion to table by Legislator Krupski. I'll second.

16  
17 **LEG. KRUPSKI:**

18 This is a historic building and a piece of property on Village Lane  
19 in Orient. And we are trying to work out the mechanics of  
20 preserving the whole parcel and -- but not have the County have any  
21 responsibility for the structure. So that's the goal here.

22  
23 **CHAIRPERSON HAHN:**

24 Excellent. Thank you. So we have a motion to table and a second.  
25 All those in favor? Opposed? Abstentions? **1003 is tabled.**  
26 **(VOTE: 5-0-0-1. LEGISLATOR MURATORE EXCUSED ABSENCE)**

27  
28 **Introductory Resolution 1005, Making a SEQRA determination in**  
29 **connection with the proposed (CP 5048) Construction and**  
30 **Rehabilitation of Highway Maintenance Facilities; Centereach CR 97**  
31 **Facility Replacement, Town of Brookhaven. (Pres. Off.) I'll make a**  
32 **motion to approve.**

33  
34 **LEG. KRUPSKI:**

35 Second.

36  
37 **CHAIRPERSON HAHN:**

38 Second by Legislator Krupski. All those in favor? Opposed?  
39 Abstentions? **1005 is approved. (VOTE: 5-0-0-1. LEGISLATOR**  
40 **MURATORE EXCUSED ABSENCE)**

41  
42 **Introductory Resolution 1006, Adopting Local Law No. -2017, A Local**  
43 **Law establishing the Suffolk County Seaweed Cultivation Pilot**  
44 **Program in Peconic Bay and Gardiners Bay. (Co. Exec.)**

45  
46 **LEG. FLEMING:**

47 Motion.

48  
49 **CHAIRPERSON HAHN:**

50 I make a motion to table for public hearing; seconded by Legislator  
51 Fleming. All those in favor? Opposed? Abstentions? **1006 is**  
52 **tabled. (VOTE: 5-0-0-1. LEGISLATOR MURATORE EXCUSED ABSENCE)**

53  
54 **Introductory Resolution 1010, Accepting and authorizing a New York**  
55 **State Department of State Grant for the Wetland Restoration Project**  
56 **at Beaver Dam Creek and amending the 2017 Capital Budget and**

1 Program by appropriating said grant in the amount of \$275,000 and  
2 matching funds in the amount of \$85,000 in Fund 477 Funds in  
3 connection to Water Quality Protection and Restoration Program (CP  
4 8710). (Co. Exec.) I'll make a motion to approve.

5  
6 **LEG. KRUPSKI:**  
7 Second.

8  
9 **CHAIRPERSON HAHN:**  
10 Seconded by Legislator Krupski. Is there any discussion? All  
11 those in favor? Opposed? Abstentions? **1010 approved. (VOTE:**  
12 **5-0-0-1. LEGISLATOR MURATORE EXCUSED ABSENCE)**

13  
14 **Introductory Resolution 1011, Authorizing the County to negotiate**  
15 **and enter into an Agreement with the Post Morrow Foundation to**  
16 **allow for access through its property to access County-owned**  
17 **property in order to conduct a Wetlands Restoration Project. (Co.**  
18 **Exec.) I'll make a motion to approve.**

19  
20 **LEG. KRUPSKI:**  
21 I'll second it.

22  
23 **CHAIRPERSON HAHN:**  
24 Second by Legislator Krupski.

25  
26 **LEG. KRUPSKI:**  
27 On the motion.

28  
29 **CHAIRPERSON HAHN:**  
30 On the motion, Legislator Krupski.

31  
32 **LEG. KRUPSKI:**  
33 Yeah, what's the nature of that agreement? I couldn't quite -- I  
34 wasn't clear when I took a look at it.

35  
36 **CHAIRPERSON HAHN:**  
37 Well, we have our Parks Commissioner; Philip Berdolt is here.  
38 Welcome, Phil. Thank you for being here.

39  
40 **COMMISSIONER BERDOLT:**  
41 Absolutely. This is just through the easement to get to the actual  
42 project space. This farmland is right adjacent to the restoration  
43 area that we're looking to do, which is on the creek. And we're on  
44 the west side of the creek. And this will just allow us access to  
45 this one part of the parkland that we can't get to.

46  
47 **LEG. KRUPSKI:**  
48 Temporary easement or for a long term maintenance?

49  
50 **COMMISSIONER BERDOLT:**  
51 This is just a temporary, I believe.

52  
53 **LEG. KRUPSKI:**  
54 Thank you.

1 **CHAIRPERSON HAHN:**

2 Any other questions? All those in favor? Opposed? Abstentions?  
3 **1011 is approved. (VOTE: 5-0-0-1. LEGISLATOR MURATORE EXCUSED**  
4 **ABSENCE)**

5  
6 **Introductory Resolution 1022, Accepting and appropriating funds**  
7 **from the Empire State Development Grant Program, Water Quality**  
8 **Improvement Project Program in the amount of \$2,262,910, and**  
9 **amending the 2017 Capital Budget and Program for the Mud Creek**  
10 **Watershed Aquatic Ecosystem Restoration Project (CP 8736). (Co.**  
11 **Exec.) I'll make a motion to approve.**

12  
13 **LEG. KRUPSKI:**

14 Second.

15  
16 **CHAIRPERSON HAHN:**

17 Second by Legislator Krupski.

18  
19 **LEG. KRUPSKI:**

20 On the motion.

21  
22 **CHAIRPERSON HAHN:**

23 On the motion, Legislator Krupski.

24  
25 **LEG. KRUPSKI:**

26 I just had a question -- you know, I'm familiar with this project.  
27 It's been going through the process. What's the timeline?

28  
29 **COMMISSIONER BERDOLT:**

30 For the completion of it?

31  
32 **LEG. KRUPSKI:**

33 The beginning, the middle and the end, you know.

34  
35 **COMMISSIONER BERDOLT:**

36 I'll be working with Public Works and Vector Control on this. It  
37 depends. It depends on when -- once the funding's in place because  
38 Vector Control obviously in the summer is very busy. So they were  
39 hoping to get started on this sooner now. This one project isn't  
40 that much of an uplift. It's a smaller area and it's just to get  
41 rid of the dredge spoils that are in that area. It was cost  
42 prohibitive to actually remove the dredge spoils so we're looking  
43 to just pile them up in one area and make like small little mounds  
44 and bring the other property back down to the --

45  
46 **MS. HORST:**

47 Your question was on Mud Creek, correct?

48  
49 **LEG. KRUPSKI:**

50 Yes.

51  
52 **COMMISSIONER BERDOLT:**

53 Oh, wrong creek. My mistake, sorry.

54  
55 **LEG. KRUPSKI:**

56 You're talking about Beaver Dam? You can tell me about the

11:45AM

11:46AM

1 timeline for either of them, either of the projects. I mean, I  
2 think they're both good projects.

3

4 **COMMISSIONER BERDOLT:**

5 Right, I'm sorry. Yeah, I misspoke. This was on the Beaver Dam.

6

7 **LEG. KRUPSKI:**

8 Okay.

9

10 **COMMISSIONER BERDOLT:**

11 For the wetland restoration.

12

13 **LEG. KRUPSKI:**

14 Okay, good. So this year they're going to start?

15

16 **COMMISSIONER BERDOLT:**

17 Yes.

18

19 **LEG. KRUPSKI:**

11:47AM 20 They're going to finish this year?

21

22 **COMMISSIONER BERDOLT:**

23 It depends. It depends on how much material they think they can  
24 move with the equipment that we have and they don't have to rent  
25 more equipment. We're looking to use what we already have for  
26 Vector Control because you need the low impact on the wetlands; the  
27 low impact equipment. So we'll see. Let's hope. If not it'll get  
28 done probably in the Fall.

29

30 **LEG. KRUPSKI:**

31 Okay, thank you.

32

33 **COMMISSIONER BERDOLT:**

34 Mud Creek, right now we do have funding that we're looking to have.  
35 We do have in place and this will also -- we can use a lot of our  
36 requirements contracts to start some of the work. So we're looking  
37 to start immediately on some of the projects.

38

39 **LEG. KRUPSKI:**

11:47AM 40 That's a big job. Is that a one or a two-year job?

41

42 **COMMISSIONER BERDOLT:**

43 I don't know yet because we're looking to do some work in-house and  
44 the rest we're probably going to have to put out to a contract,  
45 which hasn't been done yet. But some of the drainage work we can  
46 do and also removal of some of the buildings, we can get down with  
47 our requirements contract that we already have in place without  
48 having to put that out to bid. So we can get started sooner. But  
49 as far as the total impact of the entire job, I'm not sure.

11:48AM 50

51 **LEG. KRUPSKI:**

52 Great. Thank you.

53

54 **CHAIRPERSON HAHN:**

55 DeWitt, did you want to add?

56



1 **MR. DAVIS:**

2 Yes, I just ask to come up and answer that question. It's a  
3 24-month project from beginning to end so it'll take about two  
4 years to complete.

5  
6 **LEG. KRUPSKI:**

7 Thank you.

8  
9 **CHAIRPERSON HAHN:**

10 Excellent. Okay, so we have a motion to approve and a second. All  
11 those in favor? Opposed? Abstentions? **1022 is approved. (VOTE:**  
12 **5-0-0-1. LEGISLATOR MURATORE EXCUSED ABSENCE)**

13  
14 **Introductory Resolution 1025, Adopting Local Law No. -2017, A Local**  
15 **Law to ensure continuity of farmland preservation and agricultural**  
16 **production in Suffolk County. (Co. Exec.) We need to make a motion**  
17 **to table due to public hearing. I'll make that motion; seconded by**  
18 **Legislator Fleming. All those in favor? Opposed? Abstentions?**  
19 **1025 is tabled. (VOTE: 5-0-0-1. LEGISLATOR MURATORE EXCUSED**  
20 **ABSENCE)**

21  
22 And seeing that we have no further business before the Committee,  
23 we are adjourned.

24  
25 **THE MEETING CONCLUDED AT 11:49 AM**  
26 **{ } DENOTES SPELLED PHONETICALLY**

11:48AM

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