

PUBLIC WORKS COMMITTEE
OF THE
SUFFOLK COUNTY LEGISLATURE
MINUTES

A meeting of the Public Works Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, 725 Veterans Memorial Highway, Smithtown, New York, on May 4, 2015.

Members Present:

Legislator Al Krupski - Chairman
Legislator Tom Muratore - Vice-Chair
Legislator Tom Barraga
Legislator Kate Browning
Legislator Steven Stern

Also In Attendance:

George Nolan - Counsel to the Legislature
Catherine Stark - Aide to Legislator Krupski
Robert Lipp - Director, Budget Review Office
Laura Halloran - Budget Review Office
Rick Brand - Newsday
All Other Interested Parties

Minutes Taken and Transcribed By:

Gabrielle Severs - Court Stenographer

*(*The meeting was called to order at 2:00 p.m. *)*

CHAIRMAN KRUPSKI:

Thank you for coming. We'll call the meeting to order. All rise for the Pledge of Allegiance led by Legislator Muratore.

(*Salutation*)

Welcome to the regular committee meeting of Public Works, Transportation, and Energy. We don't have any cards for public portion. If anyone would like to address the committee. Seeing none, we'll get right into the agenda.

Under "tabled resolutions," **IR 1101, Directing the Department of Public Works to develop bus shelter protocols (Krupski)**. I have spoken to the commissioner and his people about this numerous times. Most recently, though, we agreed to amend this and to move it forward, and I'll make a motion to approve.

LEG. MURATORE:

Second.

CHAIRMAN KRUPSKI:

Second by Legislator Muratore. We're going to amend it by 5:00 this evening, right?

COMMISSIONER ANDERSON:

Legislator, who's amending it?

CHAIRMAN KRUPSKI:

Well, I thought we were, but if you -- you thought we were, too, apparently.

COMMISSIONER ANDERSON:

I did. I thought you guys were.

CHAIRMAN KRUPSKI:

Motion and a second. All in favor? Opposed? Abstentions? So moved.

Approved (VOTE: 5-0-0-0)

IR 1157, Establishing a Green Roof Pilot Program (Hahn). This is a tabled resolution. I'm going to ask the commissioner before we vote on that, even, has there been any movement on this matter?

COMMISSIONER ANDERSON:

I spoke with Legislator Hahn about it, but I didn't get a real clear direction on how to proceed. As I stated, we are in process of doing a pilot program on these. We have a former -- we have an executive order to construct cool roofs of which the green roof is a subset, and we're hoping we can actually do a pilot program here at the legislative building when we do a roof.

CHAIRMAN KRUPSKI:

Could you give us -- so I will make a motion to table. Second. Same motion, same second. All in favor? Opposed? Abstentions? But on that, could you give us just a brief description on the difference between a green roof, a cool roof, and what we normally do?

COMMISSIONER ANDERSON:

A normal roof would be, obviously, your shingled asphalt roof. A cool roof is a roof that would reflect heat rather than absorbing it to basically provide that environmental benefit so you don't have to work as hard to cool the building down.

A green roof is a subset of a cool roof where you can actually, if the roof is structurally able to, build a -- put landscaping, plants, whatnot up on the roof. You can also make it so that people can go up on that roof if it's something that you want to do, but primarily the benefits of the rain would be absorbed by the plants. Joe can probably speak more on this than I can.

CHAIRMAN KRUPSKI:

I think the committee wants to know.

MR. SCHROEDER:

Well, we have --

CHAIRMAN KRUPSKI:

I'm sorry. Two things I think of interest are the lifespan of the roof and their functionality versus a convention tar beach roof and the safety as far as firefighting would go.

MR. SCHROEDER:

Well, we have in our list of living projects a plan to evaluate a green roof and a cool roof on this building here, and the life expectancy of the material that would go on the roof would be over a membrane made by the same manufacturer that would provide the green roof material because that's the way the industry is progressing. If you want to put a green roof material on your roof, you want to use the same membrane as that manufacturer; otherwise, it voids the warranty of the membrane.

We are, as yet, unsure of what the differences are between the benefits of a cool roof or a white roof versus the green roof technology. That's part of what we're going to be evaluating as part of the process. From a firefighting perspective, I can tell you that I have spoken with members of FDNY during my own training and have inquired about the possible hindrances of these materials in terms of firefighting, and I've been assured by people who have experience moving these systems out of the way that it's not an issue, so depending on the type of green roof material that's applied, the newer technologies are light trade technologies, and the trays can be dislodged very easily. In a less sophisticated technology, they spread soil on the roof and do plantings in the soil; that, obviously, is a little bit more restrictive.

CHAIRMAN KRUPSKI:

Thank you. Does any committee member have any other questions? All right. Thank you.

Another tabled resolution, **IR 1271, Approving form of proposition, establishment of Suffolk County Sewer District No. 26 - Melville Huntington (P.O. Gregory)**. Would you like to make a motion, Legislator Stern?

LEG. STERN:

Maybe we can hear from Mr. Brown first.

CHAIRMAN KRUPSKI:

Sure.

MR. BROWN:

Good afternoon, everybody. So, anyway, this is just an update from the meeting two weeks ago

with respect to the action that is being brought -- allegedly being brought by The Greens, the developer, pertaining to the proposition -- pertaining to the resolution about the proposition that would allow this matter to appear for a vote before the voters in November.

So in any event, as you know, as of that period of time two weeks ago, no summons and complaint, no petition was served on the county and still no petition has been served on the county, so there's no stay with respect to any court order for the committee to be able to act at the present time. There has been no judge assigned to this matter at least as of Friday. The papers were presented to at least three different judges, each of which recused him or herself at the time, so as of right now there is no legal impediment. There's no action that would stop your action on this piece of legislation.

CHAIRMAN KRUPSKI:

This has been through sewer agency quite a long time now. Commissioner, do you have any insight into this?

COMMISSIONER ANDERSON:

No. As you've mentioned, it went through the agency. The agency approved it. I haven't heard anything. Obviously, we don't have any insight into the law department, so I would defer to Dennis on that.

CHAIRMAN KRUPSKI:

Thank you.

LEG. STERN:

Mr. Chairman, last time there was a representative who had informed us that there would be an order to show cause that was filed with the courts. We were then asked to give that process some time to see how it might play out procedurally and then make a determination as to what, if anything, this committee and then the legislature would then do. So we are informed by the county attorney that, as of right now, anyway, there has been no order to show cause signed. There is no pending proceeding at this time. I guess my question to the county attorney is that at this point, there is no pending proceeding. Do we have any idea as to whether there is a likelihood of being a pending proceeding sooner rather than later, or do we have no indication at this point?

MR. BROWN:

No indication at this point. The papers have been presented to different judges. They've recused themselves. But I can't predict; the papers could be before somebody right now.

LEG. STERN:

But we do not know that at this time.

MR. BROWN:

No, no. At this point, I have no knowledge. My last communication was on Friday with the attorney representing the plaintiffs.

LEG. STERN:

So at this point, there is no legal impediment to going forward, and I guess I would ask the county attorney or maybe even our counsel, the importance of the resolution before us is to approve language that ultimately will go on a ballot as a part of a referendum. At some point, there has to be a time element there. What is your take on that?

MR. NOLAN:

I mean, I think we obviously still have plenty of time to establish the ballot question, but I would also say that even if the attorney for The Greens at some point gets the judge to sign the order to

show cause, I'm not sure it's going to have any impact on this resolution at all. I think, most likely, I would guess, we could go ahead with this resolution at any point, notwithstanding that legal action. I would be surprised if it was otherwise.

LEG. STERN:

Well, ultimately, the courts will guide how this ultimately goes. Either the order to show cause will be signed and there'll be a pending proceeding and depending on the outcome of that legal argument, there will be no referendum or there will be. Either way, it's ultimately going to be for a court to decide and not this legislature, so the question before us is one, then, really of procedure and one of timing, but either way it's going to be a court that decides whether it goes forward or not.

MR. NOLAN:

Whether we approve this today or not or at the next meeting or not, ultimately a judge, I guess, is going to decide whether or not this is going to be presented in the form of a referendum. If the court says, No, it can't go forward, that'll be the end of it. It won't matter if we adopted this is what I'm saying. We can adopt the question; it's not going to affect the court action and what they decide ultimately.

LEG. STERN:

Right.

MR. BROWN:

The only thing I would add is that if the bill was adopted and it was signed by the county executive and then at some future date there was an order to show cause that was signed by some judge with a stay, it would only stay proceedings, at least proceedings with respect to the Board of Elections until there was a resolution of that matter, and a resolution of that matter would -- you'd generally expect it to be prompt.

CHAIRMAN KRUPSKI:

And --

MR. BROWN:

And the only thing I would --

CHAIRMAN KRUPSKI:

Would you like to make a motion, Legislator Stern?

LEG. STERN:

Well, again, ultimately, it is not going to be within the hands of the legislature whether or not it goes forward. It is going to be in the hands of a court, if any --

MR. BROWN:

In fact, a resolution has already been adopted forming the district, and it was subject to a permissive referendum, so the petition was filed and so the matter as it stands right now will appear on the ballot in November. It's only if the petitioners are successful in their petition could it be not on the ballot but the district would still be formed.

LEG. STERN:

At this point, the determination has been made that there is a valid petition before us.

MR. BROWN:

Correct.

LEG. STERN:

And the question now is before the court as to whether for some reason there is not.

MR. BROWN:

Not the petition itself but whether or not a referendum is necessary. The plaintiffs, without getting too much into the legal detail, the plaintiffs are essentially making the argument that by virtue of the terms of the development agreement, a vote isn't necessary. We would take the position, if this lawsuit was ultimately consummated, we would take the position that we would just refer all questions of law to the court and we would abide by the court's decision. So if a court decided in plaintiff's favor, the district would be formed. If the court opposed the plaintiff's favor, the petitioner's favor, then the matter would go on to a vote in November.

LEG. STERN:

So it's really a question before the court. Are we saying, then, that the it is the position of the county that there is no position.

MR. BROWN:

That's correct. We would take a position as an interested participant -- disinterested participant. We would abide the event.

LEG. STERN:

Very good. All right. Make a motion to approve.

LEG. MURATORE:

Second.

CHAIRMAN KRUPSKI:

Motion by Legislator Stern. Is there a second? Second by Legislator Muratore. All in favor? Opposed? Abstentions? So moved. **Approved (VOTE: 5-0-0-0)**

All right. Introductory resolutions.

IR 1288, Authorizing the items listed below pursuant to the Bond Acts enacted in 1965, 1972 and 1996 and the Environmental Protection Fund, as well as federal grant awards available for such projects, in connection with stormwater improvements to the Northeast Branch of the Nissequogue River (CP 8710)(County Executive). Is there a motion?

LEG. BROWNING:

Motion.

LEG. MURATORE:

Second.

CHAIRMAN KRUPSKI:

Motion by Legislator. Second by Legislator Muratore. Anyone have any questions about the nature of the work? Hearing none, all in favor? Opposed? Abstentions? So moved. **Approved (VOTE: 5-0-0-0)**

IR 1291, Appropriating funds in connection with Roof Replacement on Various County Buildings (CP 1623)(County Executive). Same motion, same second. On the motion, anyone have any -- would you like to identify, Commissioner, which various building they are?

COMMISSIONER ANDERSON:

Yeah. The resolution before you requests \$600,000 in construction funds. We're looking to reroof this building as well as any others that may come to our attention. As noted before, one of the things we're looking at is this being a cool roof and then if, in fact, we can do this as a green roof.

CHAIRMAN KRUPSKI:

Excellent. Any other questions? All in favor? Opposed? Abstentions? So moved. **Approved (VOTE: 5-0-0-0)**

1292, Appropriating funds in connection with Replacement of Major Buildings Operations Equipment at Various County Facilities (CP 1737)(County Executive). Is there a motion? I'll make a motion. Is there a second? Second by Legislator Muratore. Commissioner.

COMMISSIONER ANDERSON:

Yes, thank you. This resolution requests the appropriation of \$400,000 for construction of the replacement of major building operations equipment, specifically this year we're looking at 400,000 to replace an emergency generator at FRES. The generator has been problematic over the years, especially during severe weather events. It has stopped functioning during snowstorm and during Sandy, and we have had to bring in additional generators.

CHAIRMAN KRUPSKI:

Thank you. All right. Any other questions? All in favor? Opposed? Abstentions? So moved. **Approved (VOTE: 5-0-0-0)**

IR 1293, Appropriating funds in connection with Elevator Controls and Safety Upgrading at Various County Facilities (CP 1760). Do I have a motion?

LEG. MURATORE:

Motion.

CHAIRMAN KRUPSKI:

Motion by Legislator Muratore. Is there a second? I'll second the motion. I think that's self-explanatory. If no one has any questions, all in favor? Opposed? Abstentions? So moved. **Approved (VOTE: 5-0-0-0)**

IR 1349, Authorizing execution of an amended agreement by the Administrative Head of SCSD No. 11 – Selden with Fairfield at Setauket (BR-1165.1)(County Executive). Motion by Legislator Muratore. Is there a second? I'll second the motion. Commissioner.

COMMISSIONER ANDERSON:

This resolution simply extends a connection agreement for sewer district 11, Selden, with Fairfield at Setauket.

CHAIRMAN KRUPSKI:

Thank you. If there's no other questions, all in favor? Opposed? Abstentions? So moved. **Approved (VOTE: 5-0-0-0)**

IR 1355, Appropriating funds in connection with the purchase of Public Works Highway Maintenance Equipment (CP 5047)(County Executive). Same motion, same second. On the motion.

LEG. MURATORE:

My question is this is \$2.75 million; is that correct?

COMMISSIONER ANDERSON:

Yes, sir.

LEG. MURATORE:

How come so much? I mean, we need it all at once?

COMMISSIONER ANDERSON:

The list of equipment that we're looking to purchase is primarily snow removal equipment, but it includes three six-wheel dump trucks, one 10-wheel dump truck, two light-duty dump trucks with plows and spreaders, two snowplows, a snow-blower, two sweepers, three mowers, one ride-on mower with a loader attachment, a dump trailer, eight used snow trucks, and then four SUV vehicles, so there's a significant amount of equipment there that we're looking to --

LEG. MURATORE:

Do you have enough personnel to run all this equipment?

COMMISSIONER ANDERSON:

Actually, yes, we do. Not at one time but a lot of times what happens is during a snowstorm, just like a baseball team, if a bat breaks, you've got to go grab another bat; essentially, it's almost that same theory.

LEG. MURATORE:

Okay. Thanks, Commissioner.

COMMISSIONER ANDERSON:

Thank you.

CHAIRMAN KRUPSKI:

What is a "used snow truck?"

COMMISSIONER ANDERSON:

These are trucks that in some cases served other communities as a sanitation truck, but the body and the main chassis are in good shape, so we refurb them for snow trucks, and, you know, they take a good pounding, and found them -- we've used them in the past, and we've been satisfied with them, so we're not only getting new trucks but we're also complementing our fleet with the used as well.

CHAIRMAN KRUPSKI:

You get them from the auction in the city?

COMMISSIONER ANDERSON:

I know that we procure them somehow. I don't know that we necessarily get them from the auction, but they are procured publicly.

CHAIRMAN KRUPSKI:

Who does the rehab?

COMMISSIONER ANDERSON:

Generally, there's a vendor. It's a local vendor that will do it whether it's TRIUS say or Long Island Sanitation or something.

CHAIRMAN KRUPSKI:

Okay. And the snowblower attachment, where does that go on?

COMMISSIONER ANDERSON:

I believe that goes onto one of the plows, so it essentially -- one of those ride-on plows would have a snowblower attachment that we'll put onto the actual tractors that mow -- that's what I mean, the tractors. So a lot of these tractors have double duty not only as lawn equipment but also to do small-area plowing: entrances, parking lots, things like that.

CHAIRMAN KRUPSKI:

It's got to be more than that for 225,000.

COMMISSIONER ANDERSON:

I can check into it.

CHAIRMAN KRUPSKI:

Any other questions? All right. All in favor? Opposed? Abstentions?

LEG. BARRAGA:

Opposed.

CHAIRMAN KRUPSKI:

So moved. **Approved (VOTE: 4-1-0-0, Opposed: Barraga)**

1357, Approving the conveyance of a certain portion of a parcel of real property having a Suffolk County Tax Map Identification Number of District 0900 Section 137.00 Block 01.00 Lot 032.000 to the Town of Southampton, Suffolk County, New York in exchange for a part of a parcel having a Suffolk County Tax Map Identification Number of District 0900 Section 118.00 Block 02.00 Lot 001.000 pursuant to Section 72-h of the General Municipal Law. Is there a motion? I'll make a motion. Is there a second?

LEG. BROWNING:

I'll second.

CHAIRMAN KRUPSKI:

Second by Legislator Browning. On the motion, could you describe the transfer here?

COMMISSIONER ANDERSON:

Yes. The traffic circle that's to the south and the east of the Riverhead County Center, we're in the process of reconfiguring that, and this will allow us to require a purchase or portion of land that will allow the reconfiguration of certain roads as they come into the circle.

CHAIRMAN KRUPSKI:

Is that --

COMMISSIONER ANDERSON:

That's where -- bear with me a second. I have to look away so I can read it. The intersection of County Road 51, 94, 63, and 104 and New York State 24. Just to the --

CHAIRMAN KRUPSKI:

The Flanders' traffic circle.

COMMISSIONER ANDERSON:

Correct.

CHAIRMAN KRUPSKI:

But is that -- I'm trying to figure out who's getting what from whom? I mean, what parcel -- are we buying something, or is it a swap with Southampton. This is conveyance. Is there money changing hands?

MR. NOLAN:

No.

COMMISSIONER ANDERSON:

There is no monetary land acquisitions costs. This is an exchange of parcels.

MR. NOLAN:

But it looks like from the resolution that we're actually getting something that was parkland. The state has given the town permission to discontinue this parkland, but we are giving them some land in exchange that will be dedicated as parkland as an offset.

COMMISSIONER ANDERSON:

Correct.

CHAIRMAN KRUPSKI:

On the northwest corner by the river?

COMMISSIONER ANDERSON:

That would be the logical one, but I can get you that information.

CHAIRMAN KRUPSKI:

Okay. Thank you. If there's no other questions, all in favor? Opposed? Abstentions? So moved.

Approved (VOTE: 6-0-0-0, P.O. Gregory voting)

Resolution 1359, Authorizing execution of agreement by the Administrative Head of Suffolk County Sewer District No. 14 - Parkland and Fairfield Broadway (IS-1603).

LEG. BROWNING:

Motion.

CHAIRMAN KRUPSKI:

Motion by Legislator Browning.

LEG. MURATORE:

Second.

CHAIRMAN KRUPSKI:

Second by Legislator Muratore. On the motion, Commissioner.

COMMISSIONER ANDERSON:

This is the execution of agreement between the Suffolk County Sewer District number 14 and Fairfield at Broadway. It will permit treatment of 28,950 gallons per day at the current rate of 30 gallons per day -- sorry -- at \$30 per gallon per day at a cost of -- connection cost of \$868,500.

CHAIRMAN KRUPSKI:

Thank you. Any questions from the committee?

MR. RICHBERG:

Can I just have the motion and the second again, please?

LEG. BROWNING:

I made the motion.

LEG. MURATORE:

I seconded it.

CHAIRMAN KRUPSKI:

Thank you. All in favor? Opposed? Abstentions? So moved. **Approved (VOTE: 6-0-0-0)**

IR 1360, Authorizing execution of agreement by the Administrative Head of Suffolk County Sewer District No. 14 - Parkland and Green Brook Apartments (IS-1677) (County Executive). Same motion, same second. Commissioner. Thank you.

COMMISSIONER ANDERSON:

This requests approval of an agreement between Suffolk County Sewer District number 14 parkland with the Green Brook Apartments. They will discharge 32,000 gallons per day with a connection fee of \$960,000.

CHAIRMAN KRUPSKI:

Thank you. If there's no discussion, all in favor? Opposed? Abstentions? So moved. **Approved (VOTE: 6-0-0-0).**

1361, Appropriating funds in connection with the replacement of Smith Point Bridge, Town of Brookhaven (CP 5813, PIN 075978) (County Executive).

LEG. BROWNING:

Motion.

LEG. MURATORE:

Second.

CHAIRMAN KRUPSKI:

Motion by Legislator Browning. Second by Legislator Muratore. Commissioner, we have some questions.

LEG. BROWNING:

I know this has been a long time coming, and just I'd like to know now that we're actually appropriating some money what the timeline you think is for a replacement and I -- I'm sorry -- I guess because some of the legislators probably don't know the history of this bridge and the reason why it needs to be replaced.

COMMISSIONER ANDERSON:

Right now, this resolution looks to appropriate \$2 million towards the planning and design of this project. We've been working for a number of years now, as you've mentioned, to get to this point. We've had previous projects that will carry us over a certain period. Recently -- what, two years ago, Bill? Three years ago, we spent 5 million to upgrade the bridge to last another 10 years. As this is a federally-funded project, there are mandated milestones that we have to meet, so we have to pass a resolution appropriating and approving this project moving forward by September 1 of this year; otherwise, the county could lose the funding that we've received to date.

Our plan right now is to go into construction probably within 2021 -- 2020 or 2021, given the extensiveness of the design and the need for federal funds. We can show, if it's of any benefit, we brought some pictures.

LEG. BROWNING:

I would like to. Because I know that the intent, too, was right now there's a need for the drawbridge, and I know you have times where there's community events, and you have to be careful of -- God forbid, you have to use the drawbridge, especially with the 5k races, but I believe the new bridge will not have a drawbridge, am I correct?

COMMISSIONER ANDERSON:

Correct. The current plan is standard span that would be raised high enough so it wouldn't need a vascular bridge.

CHAIRMAN KRUPSKI:

In what way is the bridge failing?

COMMISSIONER ANDERSON:

If you don't mind, we'll show you this brief presentation.

LEG. BROWNING:

I'm looking at Bill's face as you say that.

COMMISSIONER ANDERSON:

Bill will give a little bit of detail on this.

CHAIRMAN KRUPSKI:

Thank you.

MR. HILL:

Okay. So the bridge began construction in 1956. It opened in 1959, so it's 65, almost 70 years old at this point. It's really the end of its service life. This is just a peer scour, meaning that the peers are susceptible to scour due to the flow of the water adjacent to them.

Now we get into the meat of it. These are pictures of typical repairs on your right and some of the damage on your left of the concrete beams. You can see the extents of concrete spalling, and those are tendons is what they're called, the steel tendons. It's post-tensioned, the concrete, so those tendons actually help support structurally the bridge.

On the right, you see frozen bearings. Those bearing planes are meant to allow the bridge to expand and contract due to temperature. Because they're frozen, the ends of the beams are cracking, and the photo on left is just a picture of one of those beams. Every blue "X" is a cracked end beam: 166 of the 266 ends are cracked. That's 65 percent. The red are beams that have over three square feet of concrete spall and deterioration of the tendons. There are 22 of 128, which is 20 percent. Again, just additional photos. The Trunyon (ph) Tower, you can see the deterioration; that's the photo, top left. All the way at the top left of that photo, you'll see a hole in that Trunyon, the bascule girder on the bottom center, and the top flange bascule, it's just deteriorating, and this was after it was painted. This deterioration happened probably within a year after it was painted the last time. The top flange, top right photo, that top flange, we can't even get in there and paint because it's really just too tight.

This is called the "bascule pit," and it floods during normal high tides, so we have a steel structure that's getting flooded and inundated with saltwater; just a poor design and poor -- we have 1950's

electrical system operating the bascule portion of the bridge. We can't even get some of this. When we do have failures on this equipment, we've jury-rigged it. At times, our electrical contractor miraculously pulls stuff from vendors, but we're really holding it together from an electrical standpoint with a Band-Aid.

This is just a summary of all the different rehab projects that we've done. In 2013, the girder condition was a 4.3, which anything under a 5 starts to alert you of poor conditions. This would be a representation of the new bridge. As Legislator Browning indicated, there would be no bascule portion. It would be a fixed bridge going up and over. Another photo or rendering of the proposed bridge. That's it.

CHAIRMAN KRUPSKI:

Thank you. So the proposal includes the removal of the old bridge, just to be clear.

MR. HILLMAN:

Yes.

LEG. BROWNING:

Is there a timeline? Because I know this is a lot of federal funding, is there a timeline that we're required to use that?

COMMISSIONER ANDERSON:

Again, that would be within the period that we're anticipating, so I don't know the exact year, but we are comfortable that the 2020 timeline is doable and within the required timeline of the federal funding source.

LEG. BROWNING:

Okay. So when we build this bridge, because I can't see which way it's going, the other bridge will be in operation as you build the other one?

COMMISSIONER ANDERSON:

Correct.

LEG. BROWNING:

Just double checking.

CHAIRMAN KRUPSKI:

And just to double check, this bridge will be pedestrian or bicycle friendly?

COMMISSIONER ANDERSON:

Correct.

CHAIRMAN KRUPSKI:

Thank you. Any other questions?

LEG. BARRAGA:

So when you build a new bridge, you build it next to the old bridge? How does that work?

COMMISSIONER ANDERSON:

That's the current plan right now is to build it right next to it; this way, you can maintain the current traffic and as you eventually are ready to connect, it's, for lack of a better term --

LEG. BARRAGA:

Did you mention the total cost?

COMMISSIONER ANDERSON:

The total cost right now --

LEG. BARRAGA:

To replace the bridge.

COMMISSIONER ANDERSON:

Right now, the total cost is 53 million.

LEG. BARRAGA:

And how much of that is coming from some other level of government?

COMMISSIONER ANDERSON:

We're trying right now for 30 to 40 million of that, if I'm not mistaken. We're looking at the normal funding source through New York Metropolitan Transportation Council, probably 12 to 15 a year, so we're going to have to do multiple years.

LEG. BARRAGA:

What did you say the total cost was approximately?

COMMISSIONER ANDERSON:

About 50 million.

CHAIRMAN KRUPSKI:

So we have two options: one, we can rebuild this bridge completely, or two, just cut off access from the public to that park.

COMMISSIONER ANDERSON:

I mean, you could --

CHAIRMAN KRUPSKI:

It's an option.

COMMISSIONER ANDERSON:

Not much of one. I mean, up until the point where you had the breach after Sandy, that was a major access point to the Fire Island communities, so who's not to say that the breach is going to close in and that will again resume its access point, so the bridge is needed; there's no question about that.

LEG. BARRAGA:

One final question. How do you work the road system? When you build a bridge parallel to an existing one, there's a road system leading up to the bridge on both ends. Do you adjust the road system for the new bridge or do you -- you know, how's that work?

COMMISSIONER ANDERSON:

Correct. As you can see on the rendering there, we would construct a new road system in this particular case to the west of the existing one. On the north side, you have the current marina area, so there is -- between that and the road, we'd have to keep it in the right-of-way. If we had to take some of the park, we would have to alienate it which would add further years to it, so generally what will happen is we'll swing over, get on the new bridge and then kind of swing back.

LEG. BARRAGA:

Because the Tappansee, they're building, what, the new bridge right next to the old one?

COMMISSIONER ANDERSON:

I believe so, yeah.

LEG. BARRAGA:

You'd have to adjust the road systems on the Westchester side and the Bronx.

COMMISSIONER ANDERSON:

Yep.

LEG. BARRAGA:

I remember when they built the extension to the Captree Bridge, the overpass, they built it parallel, and then they had to make some adjustments in the road systems as well.

COMMISSIONER ANDERSON:

Yep, and then do a little bit of widening.

CHAIRMAN KRUPSKI:

All in favor? Opposed? Abstentions? So moved. **Approved (VOTE: 6-0-0-0)**

IR 1362, Authorizing the County of Suffolk to enter into a Memorandum of Understanding with the Town of Brookhaven concerning the disposal of waste (County Executive). Is there a motion? Motion by Legislator Muratore. I'll second the motion. Commissioner, what kind of waste are we understanding with Brookhaven?

COMMISSIONER ANDERSON:

Yeah, this is a symbiotic beneficial system for both the town and for us. We take their leachate and treat it at Bergen Point; they, in turn, take our street sweepings and other debris that we have at no charge. The leachate is -- we charge them for the leachate but because it is a significant impact to our system, but any street sweepings, any debris or brush found within the town of Brookhaven, they will take at no charge, and if there's other street sweepings, brush, et cetera outside of the town that we need to dispose of, they will charge us a very reasonable rate of \$18 a ton, and they will also accept other types of materials or wastes such as grit, materials that come from Vacalls, and those rates are within an agreement. This is an extension of an existing agreement. We're just looking to extend it.

CHAIRMAN KRUPSKI:

And the leachate, I would assume, tested by New York State DEC before we take custody?

COMMISSIONER ANDERSON:

I believe it's tested by the town, but it is overseen by DEC. There are certain limits that they have to hold.

CHAIRMAN KRUPSKI:

Any questions? All right. We have a motion and a second. All in favor? Opposed? Abstentions? So moved. **Approved (VOTE: 6-0-0-0)**

IR 1364, Appropriating funds for the Outfall - Suffolk County Sewer District No. 3 – Southwest (CP 8108)(County Executive). Motion by Legislator Browning. Second by Legislator Barraga. Would you like to enlighten us on this proposal here?

COMMISSIONER ANDERSON:

Yes. This another project that's been a long time coming. We're looking to appropriate \$207 million for the replacement of the outfall from Bergen Point out to the midpoint on Fire Island itself. We have potential grants of approximately 12.5 million, zero interest loans of 37.5 million, and then low interest loans of 157 million. As I'm sure you're all aware, the county became aware of the condition of the pipes between those two points, and Ben and John can give you more detail, but basically there's bands that hold steel that are surrounded by concrete. Those bands are failing and in certain areas of the United States where these pipes are under pressure, they've failed, causing significant disruption whether it's a water main -- basically, the pipe's blowing. We monitor these on a regular basis and they're still holding up, but it's a matter of time before something fails.

CHAIRMAN KRUPSKI:

Now, how exactly do you monitor that pipe?

COMMISSIONER ANDERSON:

Normally it's just really a dye test, and we'll send the dye through and then we just watch the bay to make sure there's nothing coming up through that. That's the primarily -- originally, when we became aware of this, two times when we undertook this, we did sound testing where we actually had microphones listening and you can hear the actual bands breaking or snapping, and that's how we became aware of it.

CHAIRMAN KRUPSKI:

Any questions?

LEG. BARRAGA:

What is the timeframe on this project?

COMMISSIONER ANDERSON:

I'm going to defer to John.

LEG. BARRAGA:

If these bands were splitting five, six, seven years ago --

COMMISSIONER ANDERSON:

Correct.

LEG. BARRAGA:

-- because we see the presentation there. And I guess the pipe's been in place, what, since 1979, 1980, that's about 34, 35 years. I'm sure its half-life has been reached or it's very close to it. What are we talking about in terms of actually replacing it timewise?

MR. DONOVAN:

Well, we're looking to start this project. The design is ongoing, and it should be completed by the end of this year, beginning of next year, so we're looking to put this out to bid sometime mid-2016. It's about a 3 - 3.5 year project. As far as the existing pipe, as the commissioner stated, we did testing of the bands, listening, sound monitoring, and there were wires breaking. We had three experts in the field give us opinions, and basically all three stated that we are doing okay right now even though the bands are breaking. It's a buried pipe, so the soil around it's helping us. As long as we keep the pressures low enough in the pipe, we should be okay until we can replace it. The pressure they recommended we keep below is about 25 PSI. We typically operate between five and ten. When we have high flows and whatnot, we do get up around 20, so we are getting close to that when we have high-flow situations, and that's one of the reasons that we're looking at we have to replace this now to make sure that we don't have big nightmare of a disaster.

LEG. BARRAGA:

So we're basically five years out to completion.

MR. DONOVAN:

Pretty much, yes.

LEG. BARRAGA:

Because if that pipe were to break, it would be catastrophic for Great South Bay.

MR. DONOVAN:

We did run a plan before DEC, New York State DEC, and they asked us until you replace it, if something happens, what are you going to do? What we came up is we bought some temporary replacement pipe. They're 20-foot sections by 6-foot diameter. We have those pipes stored at Bergen. We have about six pieces in different various connection pieces in case of we don't know what piece breaks, so basically we would have to do an emergency repair. We would have to hire an emergency dredging contractor to go out there and fix it as quick as possible.

LEG. BARRAGA:

Thank you.

CHAIRMAN KRUPSKI:

Go ahead, Mr. Presiding Officer.

P.O. GREGORY:

John, so how long is the pipe?

MR. DONOVAN:

From the mainland to the barrier island, where we're going to connect to the existing pipe, it's 14,000 feet, about 14,000 feet.

P.O. GREGORY:

You said it's buried?

MR. DONOVAN:

Right now, it's about eight to ten feet below the bottom of the bay.

P.O. GREGORY:

So when we put in the new pipe, we're just abandoning the old pipe, or do we capture that and take it out?

MR. DONOVAN:

Yeah. Basically, we will probably abandon it in place. The new pipe is going to be a tunnel, so we're going to put a shaft drilled down 80 feet on the mainland, drill a tunnel, 10-foot diameter underneath the bay, come up to another shaft on the barrier island and come up to connect into the existing pipe that goes out to the ocean, which is a different type of pipe and is not experiencing the same problems.

CHAIRMAN KRUPSKI:

The trolley runs on one side of the track.

COMMISSIONER ANDERSON:

I don't know if this helps anybody, if you can even see it, but this is the treatment plant right now, and then where John is at the end is Fire Island, where we'll be connecting to the existing line, and from that existing point, it will continue another three miles out into the ocean, so the only portion being replaced is within the Great South Bay.

P.O. GREGORY:

Okay.

LEG. BARRAGA:

So this is treated sewage?

COMMISSIONER ANDERSON:

Yes.

LEG. BARRAGA:

And what that's the height of the tunnel?

MR. DONOVAN:

Ten-foot diameter.

LEG. BARRAGA:

So you can get people down there if you have to?

COMMISSIONER ANDERSON:

No. Actually, once the tunnel's built and the -- the tunnel itself is going to be the pipe, so the likelihood that we'll be able to get anybody down there without, again, shutting down the entire system is pretty minimal.

LEG. BARRAGA:

And there's no problem (inaudible) and then going 80 feet under, I guess, the bay and coming up (inaudible) mainland?

MR. DONOVAN:

Correct. It's actually 80 starting at the mainland and then it goes to 60 feet at the barrier island, it's pitched back, just for draining purposes if we have to.

LEG. BARRAGA:

You feel you can do this for 50 million?

MR. DONOVAN:

No, this is 207 million.

LEG. BARRAGA:

Oh. I'm sorry.

COMMISSIONER ANDERSON:

Right, yeah, and actually it's done via tunnel boring machine. They're -- I don't want to say they're common, but they're used currently to do this type of construction, whether it's for an affluent pipe or a car tunnel or whatever, but it's an actual machine that will dig underneath the earth and place, generally, a concrete pipe as it goes, and that's really it.

P.O. GREGORY:

Can you explain -- I know a few years ago, it was about 150 million; now it's increased. Was that due to -- is it material, or was the increase in cost due to --

COMMISSIONER ANDERSON:

Again, the 150 million was the original cost, was a very preliminary cursory cost. As we've gotten into the actual development and planning, we found that the costs were more. The 150, I don't want to say was just thrown against wall, but it was a preliminary number, as I mentioned. As we got further into it, we found it was more. We had to also do the final effluent pump station, upgrade those pumps as well, so, you know, it's a lot bigger of a project than we originally thought.

LEG. BARRAGA:

Yeah, because I was looking at this, the 49 million, that's basically the money you expect from other levels of government, and I think you used the figure of 157 million for low interest loans to get you to that 206, 208 figure.

COMMISSIONER ANDERSON:

Correct. There's a grant of 12.5 million, a zero-interest loan of 57.5 million, and then a low interest at 157 million.

LEG. BARRAGA:

All right. It's just that these public projects have a habit of just increasing dramatically in cost as you move along. I remember the southwest sewer district was supposed to be maybe 100, 150 million. It was close to a billion; and Shoreham was 150 million, it was 5.5 billion. It's just that -- are there -- have you ever gone down that deep with a tunnel on Long Island?

COMMISSIONER ANDERSON:

On Long Island, no, I don't believe we have. We did actually get to go a couple years ago -- was it Passaic -- Meriden, New Jersey where they were building a similar tunnel using similar --

LEG. BARRAGA:

There's no problems geologically or?

COMMISSIONER ANDERSON:

No. Actually, the technology now allows them to freeze the sidewalls of those pits, and that acts -- it's really cool, I mean if you're an engineer. They actually freeze -- and the frozen ground becomes a retaining wall that holds everything up.

CHAIRMAN KRUPSKI:

Is the material that you remove compatible? Can we put that on the beach as beach restoration, or does it come out on the, for better term, the Bergen Point side?

COMMISSIONER ANDERSON:

It will come out the Bergen Point side. It's likely to be muck, not something that you would want to use on a beach.

CHAIRMAN KRUPSKI:

But I mean it would be considered something that seems rare these days, clean fill, so is this something that could be sold? You know, land fill capping material, anything like that?

COMMISSIONER ANDERSON:

Maybe for land capping, but again, it's -- from what it looked like, it was -- what is it here? Yeah, it's a mixture of everything, so you're going to have clays, looks like silts, regular medium-grade

sand, so the value of it is, I would think, most likely minimal.

CHAIRMAN KRUPSKI:

If we're selling it, I think you should revise that statement. Anyone else have any questions? And the financing of this, this comes out of the sewer district itself, and so it gets paid off by rate payers over what period of time?

COMMISSIONER ANDERSON:

Well, depending on the bonding, and I don't know the actual -- how long the bonds are good for or how long we have to pay them back, but they would be paid back through the Southwest Assessment Reserve Fund.

CHAIRMAN KRUPSKI:

Do they have enough money to pay all that back now? Or I mean there must be a financing plan -- you have to have a financing place in place for this.

MR. DONOVAN:

Well, yes. The money we would be getting for a low interest loan, or the zero-interest loan, whatever the debt service is on that could be paid out of the reserve of the Southwest Sewer District.

CHAIRMAN KRUPSKI:

I mean the principal.

MR. DONOVAN:

Yeah, the principal.

CHAIRMAN KRUPSKI:

What is that number on southwest reserve?

MR. DONOVAN:

I don't have that total number right now.

CHAIRMAN KRUPSKI:

Does Budget Review have that, maybe?

MR. DOERING:

I can look that up for you. I believe it's approximately 140 million, but I can confirm that.

CHAIRMAN KRUPSKI:

Thank you. That's good. Now would you take that money and use that right away, or would you -- I mean, how is that going to be balanced? You've got 140 million, and the project's 207, so who's going to say we should take all that money and use it and or else take the no-interest loan and pay that back over time. Someone must've given it some thought.

COMMISSIONER ANDERSON:

That's really a budget question. I would anticipate, you know, whoever is providing the bonding is going to want certain payback, and whether it's you're paying the \$157 million in low interest loans or the \$37.5 million in zero-interest loans, you know, I think that's a question that Budget, that they would have to answer.

CHAIRMAN KRUPSKI:

So we authorized this and then you go out to bid, so this is a ballpark number, then?

COMMISSIONER ANDERSON:

Correct. As any project, we have our engineers put together a cost estimate, but it's really based on going out to bid and having contractors bid on the project, so there should be some competition here to hopefully work in our favor, but it depends on how busy everybody is in that industry.

CHAIRMAN KRUPSKI:

How many companies are there that actually do this, and are they international or domestic?

COMMISSIONER ANDERSON:

Generally international. In Europe and in the far east, there's a lot of tunnel building going or at least when we first started this project, so we met with a number of companies that actually did the work. They were working, like I said, in the far east, they were working in Europe, they were doing work in the Bahrain area, things like that, so.

CHAIRMAN KRUPSKI:

Thank you. All right. All in favor. Opposed? Abstentions? So moved. **Approved (VOTE: 6-0-0-0)**

IR 1369, Improving communication between the public and the Department of Public Works (Cilmi). Motion by Legislator Muratore. Second by Legislator Barraga. Commissioner, what is the intention here?

LEG. BARRAGA:

I'm reading it here. I think the intent is to take -- IT would be directed to jointly develop an online form and a mobile application to allow the public to notify the county when maintenance and/or repair is required on a county road or facility.

CHAIRMAN KRUPSKI:

So what happens now? Somebody picks up the phone and calls either the Department of Public Works or their legislator?

LEG. BARRAGA:

Their legislator.

CHAIRMAN KRUPSKI:

Their favorite legislators and say --

LEG. BARRAGA:

Legislator wants to get out of it.

CHAIRMAN KRUPSKI:

Is that what that is, just cut out the middle man?

COMMISSIONER ANDERSON:

Well, I think the intent of the legislation is to have a place where somebody could go online, you know, and write in a complaint, and according to this, you wouldn't be necessarily put on notice for that complaint if it was a pothole. Generally, a pothole doesn't become an issue until after you've provided notice of it and then you can go out and, you know, fix it. That's really my only concern with this is that notice period; you know, are we biting our nose to spite our face? I think it's a pretty good idea if you could have somebody just, you know, go in on the website, identify a location, but, you know, there is a time, and by the time we get to look at it to get out there and make the repairs, I'm just a little concerned, and I'm uncertain as to this resolution as to where that

would lead.

CHAIRMAN KRUPSKI:

Are you referring to the guy on TV who's shouting, If you notify the county by the app that there was a pothole -- that guy?

COMMISSIONER ANDERSON:

Little bit worried about that.

CHAIRMAN KRUPSKI:

Mr. Braun, can you shed some light on our legal liability here?

MR. BRAUN:

Yes, I hope I can. We did some research and it turns out that the county's defect notice requirement requires that the county legislature, the clerk of the legislature, be notified specifically by certified or registered mail of the existence of these kind of defects, potholes or whatever else there may be, and we don't believe that filling out a form online gives the kind of notice that is required under the General Municipal Law or our own local laws. So in fact there are some court of appeals cases and appellate division cases in which one case, for example, where somebody had an ongoing conversation with the county executive's office, but because no such formal notification was sent to the legislature, that was not deemed to be good notice and so the county didn't incur any liability, even though it actually -- somebody in the county actually knew about it.

LEG. BARRAGA:

I think the intent of the bill is not -- I understand you're coming from the point of liability, but I think the intent of the bill is just to enable the average person, as it runs into a pothole, to be able to go on the web and contact the county and make them aware that this pothole exists and it's a problem, come out and fix it.

MR. BRAUN:

Right, absolutely, but we were concerned at first blush that this might give us the kind of notice that could be the predicate for a lawsuit against the county if someone were injured in that pothole or had property damage in that pothole, but now it seems, after doing the research, that this will not be that.

LEG. BARRAGA:

So we're on the same page.

MR. BRAUN:

Correct.

CHAIRMAN KRUPSKI:

Mr. Presiding Officer.

P.O. GREGORY:

Okay. Let me try to absorb what you told me. So when I worked for the town, I was a citizen's advocate. We handled all the complaints, and occasionally I would get called in for depositions because we were taking the complaints if there were a pothole, and the procedure there was you had to file a written notice to the town clerk within 90 days, but you also have to obviously give DPW opportunity to -- a reasonable time to respond.

MR. BRAUN:

Correct.

P.O. GREGORY:

So you're saying our process in the county is they have to write the clerk of the legislature?

MR. BRAUN:

That's right.

P.O. GREGORY:

Not the county clerk?

MR. BRAUN:

That's right, the clerk of the legislature, and then DPW or whatever agencies issue it has a reasonable time respond, and if no response is made within that reasonable time, whatever that might be, then that serves as the predicate for somebody suing for an injury which was caused by that defect.

P.O. GREGORY:

So the clerk is required, once they get the notice, to forward it to respective departments, DPW in this case, to respond in a reasonable manner, whatever that may be.

MR. BRAUN:

Yeah. Actually our statute requires that it goes to the clerk of the legislature and that the clerk then notify the county attorney, and the law doesn't go any further, but I assume that then the county attorney would pass it on to the right department. And what we were concerned about again is that filling out this form on the website, it could be, you know, hundreds of them showing up a day and how is DPW supposed to respond to that? But it turns out that that's not the kind of notice that can serve as the basis for a lawsuit.

CHAIRMAN KRUPSKI:

Legislator Stern.

LEG. STERN:

Well, two issues, then: one, if simply notifying the county through the use of technology, through the app or the website, whatever it may be, that does not give rise to liability necessarily, but it does put the county on notice that there is an issue that a constituent expects to be taken care of in some manner in a reasonable and timely way. The first question, then, is even though pursuant to current county law that might not give rise to liability, is there an expectation that we are creating for a constituent who is making this report that by making this report in this way that there will be the responsibility and perhaps the liability that gets created? Are we creating the perception where right now one does not exist?

MR. BRAUN:

Well, I would have thought so, but again having had the research done in our office, it seems as I said for example before where a constituent was having an ongoing correspondence and conversation with the county executive, the court of appeals decided that was not notice to the county.

LEG. STERN:

Right, but it took a court of appeals' argument to get to that point, and I'm sure the reason why it got to that point was because the constituent all along the way, including a couple of court decisions earlier than the court of appeals, had the expectation that there would be a liability.

MR. BRAUN:

I don't disagree with that, no, and again this is an issue that we were concerned about as well in county attorney's office.

LEG. STERN:

Does there need to be, then, some type of discussion or analysis as to if there is this infrastructure that's created that there also be -- there has to be messaging along with it that filling out the form does not in and of itself give rise to -- or does not constitute the kind of notice that would be required, and would it then also require putting up in instructions as to what the proper course would be that -- what would constitute actual notice and filing it with clerk of the legislature, et cetera, that that would be the proper procedure to go through to give rise to that, kind of, perhaps, liability going forward? And in doing so, are we going to be providing some kind of counsel?

MR. BRAUN:

I don't know that there's an affirmative obligation to do that. It would certainly be persuasive in an argument if we were required to make one that we advise the reporter in the first place that this wasn't the notice that 50G of the General Municipal Law requires, but there's nothing in any of the reported cases that shows that there's any affirmative obligation to do that.

LEG. STERN:

Right, but I would think that it would be fundamentally unfair for a constituent to fill out the form and send in notice with an expectation that it would be more meaningful than it is in terms of legal liability when that would not be the case. I would think that if we are -- if this is to move forward that there would have to be adequate notice given to constituents as to what the filling out of the complaint, per se -- -

MR. BRAUN:

The report.

LEG. STERN:

The report, what the report means and what it doesn't mean.

MR. BRAUN:

Again, there's nothing in any of the cases that requires that but certainly the legislature is free to either impose that requirement or to suggest it to whoever it is who's going to be designing this online site that such a disclaimer be put on the site.

LEG. STERN:

The legal analysis that's been done so far which is determining what the proper procedure is, with this discussion in mind on how best to deal with that issue, do you think that that requires additional analysis or at this point it is what it is and what you determine to put up on the site or not essentially speaks for itself, or does it really warrant further discussion?

COMMISSIONER ANDERSON:

If I may, if you don't mind, I mean from what I've read of this resolution, it's really just requiring IT and DPW to develop that software or that program, so certainly your suggestions and we would look to the county attorney and the final product to make sure that we're not setting ourselves up for failure.

LEG. STERN:

Well, that's my concern here. The two issues as I see them, one, are some of these legal issues that go along with it and what the report means and does not mean, and again meaningful information provided to a constituent so that there's a real understanding of what it means and what it doesn't

mean and perhaps what other process needs to be followed over and above just making this report. And then the other big issue is can our personnel handle the type of volume that's going to come in going through this platform because you are going to be getting the pictures and the reports on a basis that is going to be quite frequent, I believe. And so again, there is going to be an expectation, rightfully so, that upon receiving the report that there's going to be contemporaneous action to a constituent's satisfaction. I believe that a constituent who is going to take that time and the effort to make this type of a report should have every reasonable expectation that it's going to be acted upon promptly and to his or her satisfaction.

MR. BRAUN:

If I may, I think there's a distinction to be made between corrective action to be made on the basis of the report and legal notice that's required as a predicate for a lawsuit.

LEG. STERN:

I agree.

MR. BRAUN:

Whether DPW can handle the volume of reports that they will get is one issue and whether those reports should constitute or do constitute the predicate under 50G of the General Municipal Law is a different issue.

LEG. STERN:

I agree that they're two different issues, two distinct issues, but sitting on the side of a constituent, it can be one in the same and that is if someone is going to take the time and the effort to make a report, there is going to be not an unreasonable expectation that certain things are going to be handled in a particular way that's going to be timely and to their satisfaction and also have at least some expectation that that report means something. That is where my concern lies, and again as you go through the development with IT and DPW and everybody sits down, then that's something that should be considered to determine if this is feasible, but I would hope that that would be part of the initial conversation because that's something that really, I think, needs to be included in that.

LEG. BARRAGA:

You take a look at this past winter in terms of the thousands of potholes. I think what I've run into in my office is that people are frustrated. They want to report a pothole but they don't know who to go to and who to phone, and the very fact that this kind of form would be available that they could fill out, at least at the end of filling out the form, they would feel that, you know, they finally got to the right department, the right agency, something is on record and hopefully something will be done to correct the problem. Right now, there's a whole bunch of people out there that they just don't know where to turn. I mean, when we wind up getting the phone calls, we do the best to handle it, but this kind of a forum, I think at least it satisfies a majority of my constituents. They're not concerned about liability and suing someone.

And the other point that I wanted to make, is there anybody from the county executive's office here? It is my understanding that the administration is supporting this bill.

MS. HORST:

We did a call on Friday with Legislator Cilmi, DPW, and IT to work out some of the issues, and both departments are satisfied.

LEG. BARRAGA:

Thank you.

CHAIRMAN KRUPSKI:

I have a question. How would people -- and Legislator Stern and Legislator Muratore are patiently waiting. How do people know that there's that remedy? You said -- Legislator Barraga said nobody knows how to contact, but we get contacted all the time, and I know the local highway departments get contacted all the time. So how are you going to like -- how do you know that you should use your phone to contact someone and fill out a form?

LEG. BARRAGA:

Well, if somebody phones in -- if this form is online and someone phones into the office, we can at least tell them they can use the form to register their complaint if they wish to. Otherwise, they can leave it with us, and we'll take care of it.

CHAIRMAN KRUPSKI:

That's what they do, anyway.

LEG. BARRAGA:

Well, it makes it a little easier for us and for them to get their message across in terms of wherever the pothole is, wherever the damage is. At least if they take the time and fill out the form, there's some satisfaction that at some point, somebody will do something in the future hopefully.

CHAIRMAN KRUPSKI:

Well, there's -- no, it makes it harder for them because they have to fill out the form, makes it easier for us because we can say, No, go fill out a form.

LEG. BARRAGA:

I don't agree. I disagree with you. I think the ones who have called, if I said to them, Look, you've got a number of options, we could take care of it or you can go online and there's a form you could fill out, it's going to get to right party and some action will be taken in the future. It's two options. There are some people that are so adamant, for example, and they'll fill out the form.

CHAIRMAN KRUPSKI:

So they have to call first, though.

LEG. BARRAGA:

Well, unless there's some sort of a marketing means of getting this message out, you know, like in November or December before you get into a winter scenario where you have all these potholes because of weather damage, you know, it's a problem. It'll always be a problem, Al; it's just a question of, you know, offering alternatives for possible solutions other than just calling your legislator.

CHAIRMAN KRUPSKI:

That's what happens now.

LEG. BARRAGA:

Well, I want to change that a bit.

CHAIRMAN KRUPSKI:

But you're saying they still have to call, and then we have to tell them to fill out a form.

LEG. BARRAGA:

Unless somebody comes up with a marketing program that wants to take -- you know, put it in the newspapers or whatever it may, try to get the message out there that you can call someone else other than your legislator, and I don't have any problem with people calling us. The volume gets

rather high when you have severe weather, but I'd like to give them a number of options, and right now I don't. Right now, our staff has to take care of it, do the best we can.

CHAIRMAN KRUPSKI:

Sure.

COMMISSIONER ANDERSON:

If I may, one of the things I would like to see if possible when this is done is some means of identifying, in the case of potholes, what actually are county roadways and what are town roadways, because we have continual battle with people calling in about town roadways. So there could be, you know, as we're getting into this, the people who are tech-savvy that'll go onto this, they could -- it could be more than just a means of addressing the complaint but also making them aware that this is not necessarily a county issue; it's a town issue or state issue or, you know, whatever.

CHAIRMAN KRUPSKI:

Could that be part of the legislation that this tech-savvy approach would have a number of your local highway department to call or the state DOT to call so they can lodge their complaint with them.

COMMISSIONER ANDERSON:

Well, again, the legislation looks to develop this program. It's not really getting into the minutia of it. If I'm involved in this, I will certainly be looking to have that as part of it.

CHAIRMAN KRUPSKI:

But if there's a pothole and someone magically knows that they should fill out the form and they fill out the form and it goes to your department and you say, you know, it's a state road, then what happens?

COMMISSIONER ANDERSON:

Well, okay, in my mind, what I'm seeing is a click-down menu. You click on a road name, and it comes down, and you're looking for the specific road. If you don't see the specific county highway, then there's got to be some other way of directing you to a town listing, and, again, maybe this is something we wind up developing with towns as well where they're identified if it winds up being a local road, so then that complaint goes to the local superintendent of highways or, you know, the town clerk.

CHAIRMAN KRUPSKI:

Thank you. Legislator Muratore.

LEG. MURATORE:

Thank you. My first question -- and it's been answered. Legislator Barraga answered it, about where the county exec sits on it, so that's good. But again we're going to be developing this. It's moving forward. It's using new technology that, you know, a lot of us maybe don't use right now, but the younger generations are going to be using it, so they're going to be tech-savvy, so it's a way to get a jump on it and get the earlier generations starting on streamlining government, taking the burden off our overburdened staff as it is, reducing their workload a little bit. You know, it's a game of telephone, one to the other to the other, then it kind of changes. This way, it goes directly in through the website and it's worked from there, and I'm sure the commissioner of public works has some great ideas there and work that together and work with the towns and streamline this. Thank you.

CHAIRMAN KRUPSKI:

Legislator Stern.

LEG. STERN:

Yeah. Just going back to one of my earlier points, if it's something that is going to be done, it would have to be done in a way where when you really take the time and all of the available technology and expertise to provide a system that provides, you know, truly outstanding constituent service, so. And I think that was going to one of my questions was in distinguishing between the different roads and the different levels of government, it might not necessarily be county responsibility. I mean, you would really have to develop a system where, first of all, you identify the fact that it might not be a county road and to do that in an easy-to-understand way but then not to simply say, Well, because it's not a county road, it's not within our jurisdiction, then that's it. I mean, there would have to be a next step and a step after that to make sure that a constituent is directed specifically to the right department within the right municipality with the right contact information so that we continue to provide that outstanding constituent service even if it's not within the purview of Suffolk County Government, and so if you develop this system, that would really have to be a part of it because I would have to believe that that would be the expectation of any constituent that's accessing this service.

CHAIRMAN KRUPSKI:

Thank you. Legislator Browning.

LEG. BROWNING:

Tom, I agree on the burden and the workload; however, we just approved something to provide more maintenance equipment for DPW, and I think the comment was made, Well, when do you want to use it and how many people at what time at the same time. I would be curious -- I mean, I think this is a good idea to do this. Like you said, technology is making it much easier for people to report things. Maybe you can explain to me, let's say, for example, this comes into effect. I make a report today and at some time tomorrow, someone else damages their vehicle, you know, they hit a pothole, they damage their rim, their tire, everything. What's our liability if it's within a 24-hour period, a 48-hour period if it's not fixed?

MR. BRAUN:

Again, our research, our legal research says that this is not the kind of notification that provides the basis for which the county is considered to have been notified and makes us legally liable for the situation. A report, certified mail, registered mail to clerk of the legislature is required in order to give the county liability for that, and it's unlikely that the person reporting the defect is the one who's going to have the damages because they're aware of the situation. Presumably, they're going to avoid that pothole, but for there to be legal liability under the General Municipal Law and under the county's own laws, there has to be that specific report to the clerk of the legislature.

LEG. BROWNING:

Right, but if I made a report today and a totally different individual has damage in a 24-hour, 48-hour period and they decide to put in a claim against the county for that damage, are we going to be liable, or is it because of that process that through the clerk and whatnot that's it's going to say, Well, you didn't really -- that's not sufficient.

MR. BRAUN:

Even if the clerk had the correct legal notice, I don't think 24 or 48 hours is a reasonable time within which we would have been required to correct the condition. I don't know what the reasonable time is, but it would be significantly more than that. If we approve this, and I certainly think that we should be getting a report from DPW, what this is doing to you, how this is affecting you as far as your staff is concerned because you know, I know how many people are working between Nicolls Road and William Floyd Parkway. We are seriously understaffed in comparison to state and town employees. I've heard it many times, you know, how many, you know, employees per square miles, and we are definitely seriously under what they are. So, you know, I think it would be good to

include a report from DPW at some point when this is done as to how this is affecting your workload and your employees. So could we get that, or should we have that added, or is that something we should do separate?

COMMISSIONER ANDERSON:

Again, this legislation -- I think that could certainly be incorporated into that and could be a good end product as we move forward in this and depending -- we're going to have to look at -- and maybe the trick is at the end of this, once it's developed, we bring it back before the committee or the full legislature to show what we're doing and then annually come up with a report based on those complaints. I think most of the complaints for the most part are going to be seasonal, you know, potholes are seasonal; we all know that. We get potholes coming in, and we get everybody, whether it's us, the town, the state, everybody's scrambling to fill them as best as they can, as quickly as they can. There's nothing like an actual call to our radio room, you know, that there's an emergency situation, and I would hope that people would understand not to identify a website as something to, you know, alert us of an emergency. But again that would be something that we probably advise the public as we roll this out, and I'm fine with coming back with a report and advising y'all. My concerns were answered by the county attorney's office, so I'm fine with this.

LEG. BROWNING:

Okay.

CHAIRMAN KRUPSKI:

As far as answering -- a pothole is a pothole, and then someone has to fill out no matter whose jurisdiction it's in. What about the condition of the road? You know, we had the road buckle up between Mattituck and East Cutchogue this year, the county road, and I mean it's like a washboard and so we received a lot of complaints, you know, and we passed them on to you, but it's not like you can send a guy out with a loaded patch and patch it. It's the condition of the entire road which is not scheduled to be resurfaced, and I mean we answered them and you give gave us the answer to answer the constituents, but what would happen in this scenario where, really, would there be like a canned answer for that stretch of road, "We'll get to it sometime," or how would that be incorporated into the system?

COMMISSIONER ANDERSON:

That's a good question. I would anticipate that if you had enough concern about a specific roadway, we would have to -- we monitor our roads on a daily basis so we know the roads and where we're having issues and how they're aging, and certainly, like this winter was an unusually extreme one, so we're aware of the conditions. How you respond back to the constituents for those type of complaints, it may be something in there as this is developed that there's a response that -- and, again, I defer to the county attorney on this, but is there going to be more of a -- is it just a place to place a complaint or is there going to be a response as part of that?

CHAIRMAN KRUPSKI:

I mean, that's the important part, I think, is that the constituent gets an answer. They expect to have, if it's a pothole, they expect, you know, a reasonable amount of time to have someone fill it. If the condition of the road is in bad shape, the whole road, I think you need to have a response to them saying that there's a capital project or there's not or that something is going to happen and not just say, Thank you for registering your complaint, blank page.

COMMISSIONER ANDERSON:

And again, I don't know how -- that would be, I would envision somehow -- I would envision that is developed as we develop the website. There's got to be some type of response, similar to my earlier statement where Town of Babylon has us on one of their information pages as "Any complaints..." It's just a misreading of the way they wrote it, but we get a lot of complaints from the Town of

Babylon about their roads, so we constantly tell them, I'm sorry, you have to call this number, and it's frustrating for people, so it might be something worthwhile to be able to have a response as you're mentioning.

CHAIRMAN KRUPSKI:

So how many -- what's the opportunity cost here? I mean, you're going to have to not only set it up but then obviously manage it because the conditions are going to change, the roads are going to change. If you're going to give -- the public deserves a response. On a pothole, the response would be to fill it. On a road condition or drainage issue, which I -- down lamb (ph), I think this would cover a lot of deer in the road. There's a lot of things where they could use this to report problems on the road. How do you -- who's going to manage it and say, Oh, man, we've got two complaints here about a drainage problem here, or 20 complaints? What happens then?

COMMISSIONER ANDERSON:

Again, I would envision that's something we would do or get to or answer as we develop this program. I mean, just sitting here, we're coming up with all different types of ideas and we're going to have to, you know, address them as we develop this program.

CHAIRMAN KRUPSKI:

Legislator Barraga.

LEG. BARRAGA:

Gil, the legislation enables to you to reach out to local colleges and universities to help develop that form, to get some ideas from them in terms of how the form should be laid and then the content of the form, right?

COMMISSIONER ANDERSON:

Correct.

LEG. BARRAGA:

That's all on a volunteer basis?

COMMISSIONER ANDERSON:

Correct.

LEG. BARRAGA:

Like Cilmi is calling for some sort of a contest between colleges and universities to help DPW to design the form.

COMMISSIONER ANDERSON:

There is -- there are enough apps being developed on a daily basis. If you go on your phone and you want a map app, there's hundreds of map apps out there, and so all these individuals developers, I'm sure, would be interested. Same with the bus apps, the bus times, MTA has their app, but then there's quite a few other little apps that have been developed by other independent developers who are looking to not only get a name but maybe even get some revenue out of it.

CHAIRMAN KRUPSKI:

Anyone else?

LEG. MURATORE:

Just to go over it again, I mean the resolution says to jointly develop, so that's all we're asking to do here. It seems like we're developing it for you now. We're giving you all of these ideas which maybe we ought to sit with you, whoever wants to come in and discuss his or her ideas. We talked

about it saving the constituents' time and money, too, because, I mean, today a registered letter is \$3.45. If you want to send a certified letter, it's \$3.45. If you want a return receipt requested, it's \$6.48. So how much are we going to be saving the taxpayers of Suffolk County by putting this into play. I mean, how many -- do you have any idea how many complaints you get or how many notifications you get: thousands, hundreds?

COMMISSIONER ANDERSON:

I would anticipate thousands over the course of a year.

LEG. MURATORE:

So that's probably over \$100,000 a year we'll save the taxpayers.

CHAIRMAN KRUPSKI:

How many complaints come in by certified mail?

COMMISSIONER ANDERSON:

Probably none that I can recall. They wouldn't come to me. They would probably go right to the county attorney's office rather than to us. We get them via phone. You know, people who are tech-savvy are going to look to their phones, but for a different thing, not just to call us but to look for an app.

CHAIRMAN KRUPSKI:

Did we ever get a cost estimate on this?

COMMISSIONER ANDERSON:

No, we didn't. I think the intent was to look to have individual app developers do it for free or at least work with us.

LEG. BARRAGA:

That's the intent.

COMMISSIONER ANDERSON:

Yes.

LEG. BARRAGA:

Get volunteers to work and develop this particular program.

COMMISSIONER ANDERSON:

Correct.

LEG. BARRAGA:

The other question that came up, and I think Kate Browning brought it up, it's been my experience because I've had several of these where people come into the office and, boy, they're not exactly in the greatest mood, taking their word for it, when they destroy the tire on their rim and they're looking for a reimbursement from the county, and as Mr. Braun has pointed out that unless there's proper notification of the clerk on that particular pothole, you call up and they'll say, Well, we've got nothing on file, no liability on part of the county. So once they do file, Kate, you know, there's a period of time that goes by. I don't know what that is. I'm not sure Mr. Braun, if he really knew, but at some point the county would be liable. If I was the second person who ran over the pothole and you filed properly, then there is liability on the part of the county, but, you know, that doesn't happen too often. And those people went home very unhappy.

CHAIRMAN KRUPSKI:

All right. I don't know if we have a motion on this, do we, Jason?

MR. RICHBERG:

We have a motion and a second.

CHAIRMAN KRUPSKI:

All right. All in favor? Opposed? Abstentions? So moved. **Approved (VOTE: 6-0-0-0)**

IR 1371, Amending Resolution No. 936-2014, which accepted and appropriated a grant in the amount of \$1,500,000 from the New York State Energy Research and Development Authority. Motion by Legislator Muratore. Second by Legislature Browning. On the motion.

COMMISSIONER ANDERSON:

This simply corrects the math error in the original resolution. Rather than the county's in-kind cost share of 350,000. It's actually \$375,000.

CHAIRMAN KRUPSKI:

What's the money going to be used for?

COMMISSIONER ANDERSON:

The 1.5 million is for planning, design, and construction in conjunction with the Bus Rapid Transit Program on Nicolls Road. Purpose of the appropriation is to fund planning, design, and capital requirements for this project which will include project reporting, marketing for the BRT service, construction of the BRT stations and shelters, pedestrian/cycle access infrastructure improvements, and implementation of a transit priority mechanisms including traffic signal modifications, and where appropriate, queue jumps or other roadway modifications.

CHAIRMAN KRUPSKI:

Thank you. Any questions? We have a motion and a second. All in favor? Opposed? Abstentions? So moved. **Approved (VOTE: 6-0-0-0)**

IR 1381, Approving Determination and Findings made pursuant to Section 204 of the Eminent Domain Procedure Law and directing the Commissioner of Suffolk County Department of Public Works to prepare and file with the Clerk of the Suffolk County Legislature acquisition maps in accordance with the acquisition of lands in connection with the acquisition of properties for the reconstruction of the Fire Island Barrier Beach and Dune Network, from the Fire Island inlet to Moriches inlet, Towns of Brookhaven and Islip, Suffolk County, New York (CP 5382). Is there a motion?

LEG. BARRAGA:

Motion.

CHAIRMAN KRUPSKI:

Motion by Legislator Barraga. Second by Legislator Muratore. On the motion, Commissioner.

COMMISSIONER ANDERSON:

This is part of the eminent domain procedure for the Fire Island to Moriches Inlet Project. We had public hearings to actually -- findings were developed and answered, and essentially this is part of the process that we will be looking to do in case we cannot reach an agreed fee on the lands and the easements.

CHAIRMAN KRUPSKI:

One scenario would be we cannot agree to it and then we have to go into eminent domain in order to complete the project.

COMMISSIONER ANDERSON:

Yes, we would have to go into eminent domain to develop a cost for the easements and for the land.

CHAIRMAN KRUPSKI:

So in that scenario, what's the county's liability as far as doing the work to get there and then paying the price and then doing the work to clear the property so that the FIMI project can proceed, what's the county's role in all those things?

COMMISSIONER ANDERSON:

The county's role, and if Bob's still here, he could probably speak a little bit clearer to it --

MR. BRAUN:

I'm still here.

COMMISSIONER ANDERSON:

-- but our role is to obtain the agreements for the easements and for the land acquisition where we need to do that and in order to prepare the lands to be ready for the placement of the dunes. The county's liability is any moneys or any costs above the appraised values and of those funds, 70 percent of those funds are paid by the state, 30 percent by the county.

CHAIRMAN KRUPSKI:

How many appraised parcels?

MR. BRAUN:

There will be approximately 440 easements and fee acquisitions. The commissioner has been working incredibly hard to try to figure out ways not to take things in fee but merely to relocate properties on their own lots so that we can take easements instead of buying the whole house. We're having appraisals done on all of those properties and then we are offering the land owner, either the fee value in the case we do have to take the house or the value of the easement in the case where we don't. If they accept that, then we'll go to contract with them and purchase those things. If they don't want to accept it, because we can't allow the project to slow down as a result, it's our intention to try to ask the court for a vesting order in each of those individual instances and to take ownership of either the entire property or the easement by eminent domain, and if the land owner is still unhappy with what we've agreed to pay them, then they have the remedy of filing a claim in court for what they believe is the right amount, and then we have to litigate those claims.

CHAIRMAN KRUPSKI:

That's the county's role, is pretty much the administration of all that?

MR. BRAUN:

Yes, that's right. And the DEC, as well, the DEC is reviewing all the surveys, the DEC is reviewing all the appraisals, and they're all going up to the Army Corp. of Engineer for approval by them, and then they come back to us and then we deal with the landowners.

CHAIRMAN KRUPSKI:

What's the time schedule on all this?

MR. BRAUN:

Well, we had hoped, we had thought initially that we would be able to begin placing sand before the

window for the summer season, for the piping plover season closed on April 1. We haven't because of various scheduling issues, the availability of the army's contractor, and some other reasons, that hasn't happened, but we hope that when the window reopens in October that we will be in a position to start, and it's our intention to work west to east, so we'll be starting with Kismet and working east towards Davis Park.

CHAIRMAN KRUPSKI:

How is this going? I mean you've been in the middle of acquiring easements and parcels and whatnot for quite some time.

MR. BRAUN:

Well, we have some people who have voluntarily donated the easements to the county without requesting payment. We have some other people who are agreeing to go to contract to sell for the amount of the -- that we've offered them, which is based on the appraisal, but we're not that far along with the whole process yet. We're still pretty much toward the west in terms of getting voluntary transfers or contracts and we don't want to vest any easements in the county at this point because we want to make sure that everything is in place before we do that. There's no point in us taking an easement from somebody and then we find out that there's a legal issue that stops us from finishing up next door.

CHAIRMAN KRUPSKI:

I understand it's very complicated, but you seem to be very optimistic that everything will be clear by October.

MR. BRAUN:

We think we can -- we think we can get it done.

CHAIRMAN KRUPSKI:

I mean, you're going to mobilize a pretty big piece of equipment and a lot of manpower to (indiscernible) the pumps in.

MR. BRAUN:

That's the responsibility of the Corp. The Army Corp. of Engineers has to mobilize the equipment and get the contractors in place and so forth.

CHAIRMAN KRUPSKI:

They can't do that -- they can't start moving sand until you --

MR. BRAUN:

Correct.

CHAIRMAN KRUPSKI:

-- have a place to put it.

MR. BRAUN:

That's right. So it's our responsibility to, what we've been calling, acquire the real estate interests along the way. The Army who has, again, as I said, will be working from Kismet and going east from there, and so as long as we stay ahead of them, we should be okay. The schedule -- and believe me, we work on a timeline on this. Every week, we go over the timeline over and over again, and we think we can do this by the time we need to have it done.

COMMISSIONER ANDERSON:

It's expected that the contract will be broken into individual contracts, so we're trying to get as big

of an area as we can include into this coming fall, if you will. What we can't do, we'll try to get towards the end of the winter, and similarly what we can't do, we'll shoot towards next year.

CHAIRMAN KRUPSKI:

So you'll segment the project?

COMMISSIONER ANDERSON:

If we have to, yeah.

CHAIRMAN KRUPSKI:

Are these perpetual easements for doing restorations and beach renourishment?

MR. BRAUN:

Yes, they are perpetual.

CHAIRMAN KRUPSKI:

Well, I mean, most people, when the county dredges, most people are pretty happy to get sand. Put it bluntly, accretion is a good thing when you live on the beach.

MR. BRAUN:

Yes.

COMMISSIONER ANDERSON:

As I think most of the people here are.

CHAIRMAN KRUPSKI:

Now what's the county liability towards maintenance. The project -- the Army Corp. -- say everything's smooth with the easements and the property acquisition, the project is planted -- pumped and planted; is that it? We're done here or is there liability towards maintenance?

MR. BRAUN:

Most of the county's liability is a matter of inspection and reporting on a regular basis to the Army, and if there's another significant event like Superstorm Sandy, which takes out a portion of what's being constructed, the Army, because it's a perpetual easement, regardless of how far into the future that is, the Army will have the ability to come back and renourish -- it's more than renourishment -- repair that.

CHAIRMAN KRUPSKI:

So, I mean, you could get a decent nor'easter that could do a lot of damage and reduce your beach elevation. Are there parameters set, certain elevation diminished that would trigger the Army to have to come in to move sand again?

MR. BRAUN:

Maybe the commissioner has a different understanding than I do, but it's my understanding that it's not so much the degree of damage as it is the severity of the event that caused it.

COMMISSIONER ANDERSON:

I agree. It's really the ability of the perpetual easement will allow congress to, if they so desire, come back in and rebuild the dunes and the beach based on that easement. In most cases, if there's minimal damage or just erosion or annual degradation, we just keep track of it, but if a storm comes in that wipes it out, now the -- congress has the ability to give money and the Corp. can just come in and rebuild it. At this point, there's no real -- if it goes five feet, then they're going to come back in. There's just more or less -- the verbiage is that there is just an event of another

extreme storm event would they come back in.

CHAIRMAN KRUPSKI:

And how do you monitor it? Do you survey it or do you just do a --

COMMISSIONER ANDERSON:

Yes, it would be surveyed both by walkthrough and by LIDAR.

CHAIRMAN KRUPSKI:

Okay. Thank you. Any other questions?

P.O. GREGORY:

Maybe it was answered. So what -- we, through the eminent domain process, are there going to be -- so we're administrating this process. Are there any costs -- are all our costs going to be absorbed by the state or the feds?

COMMISSIONER ANDERSON:

Everything under this project is 100 percent federally funded; however, if when we get to eminent domain and it goes before a court, then the court makes a decision. Anything -- that delta between what was the appraised value and what was the final court decision value is paid by the county and the State of New York, 70 percent coming from the state, 30 percent coming from the county.

P.O. GREGORY:

And why was that written in the law?

MR. BRAUN:

The Army will only live with the appraisal value that they approve at the beginning irrespective of what the local court, the New York State court may find. And so in order to have the project done at all, the county and the New York State DEC agreed that any costs in excess of that appraised value, plus the cost of getting there, of course, you know the staff costs and the other administrative costs and so forth, but anything above the appraised value that's awarded to a landowner is going to be at the county's and the state's expense and not the federal government.

P.O. GREGORY:

So what was their appraisal based off? Was it pre-storm value, post-storm value?

COMMISSIONER ANDERSON:

It's post-storm. It's actual realtime, what it's valued right now.

MR. BRAUN:

It's valued on the day it's appraised.

P.O. GREGORY:

Okay. So the delta between their appraisal and the court's final appraisal -- hopefully that'll be the same, probably won't be -- is covered at 70/30, state/us, but any other extraneous costs, staff costs, all that, do we pay that or the feds reimburse us for that?

COMMISSIONER ANDERSON:

Feds reimburse us for that.

P.O. GREGORY:

So it's only the appraisal -- the difference in appraisal?

COMMISSIONER ANDERSON:

Anything to do with the appraisal and the land acquisition. They're 100 percent federally funded.

P.O. GREGORY:

All right. Thank you.

CHAIRMAN KRUPSKI:

You know, last year, this legislature approved a maintenance agreement with Army Corp. and New York State in Montauk, and it was a shoreline hardening project to protect private property in Montauk, but it put the -- and the Army Corp. report did not reference the county, but somehow the county is responsible for the maintenance of that project, and that's why I asked the question are we responsible for any of the maintenance, and I think you cleared that up. We're only responsible for monitoring the amount of sand loss or created.

COMMISSIONER ANDERSON:

Correct.

CHAIRMAN KRUPSKI:

I just wanted to be clear on that because that other action put the county at a tremendous financial liability, and now there's a lawsuit with the Montauk project. Has that stopped that project, and could a lawsuit stop this project from going forward?

COMMISSIONER ANDERSON:

I'm not sure about the Montauk project. I believe there is a lawsuit in place, but I'm not 100 percent sure. For us, certainly a lawsuit, and it has happened with the Audubon Society filed against the Army Corp. and, you know, that stopped it, but the court through the case out because Audubon could not provide enough of a case that they felt could even be argued in court. Certainly somebody can, you know, take this project to court. It's up to the -- and, again, I'll defer to Bob on these questions, but I would anticipate that again we would have the same results at some point. There is a public purpose, and the purpose is to protect the mainland via this dune, which, you know, would supplement the barrier beach, and it would be a pretty tough case, but I would defer to Bob as the county attorney.

MR. DOERING:

There's actually two things that the county may need to show on a preliminary basis, and the clock on that starts running now when will this report was filed with the legislature and presumably will be adopted or confirmed by the legislature. Somebody can claim that there's no public purpose to this, that for some other reason, the county is undertaking this eminent domain process. If it turns out that the court agrees that there's no public purpose, then the whole thing is over.

The other thing could be that somebody alleges that we didn't follow the proper procedures in getting this report before you, and if that's the case, it may be that we have to redo some procedures, but it wouldn't necessarily end the project. It certainly would interfere with the timeline. Once we get past that -- and there's a very short window; I believe it's 45 days from approximately now that somebody would have to bring that lawsuit -- then we have to deal with the individual claims that people may make for their own compensation but not with whether the project as a whole will allow us to vest the ownership that we need either in an easement or in an absolute fee taking of the property.

CHAIRMAN KRUPSKI:

Legislator Barraga, did you have a comment?

LEG. BARRAGA:

As far as individual claims, are there any homeowners out there that are ready to litigate based on feeling that they should be receiving more than you're offering? I do recall, Gil, I think 68 million was appropriated to purchase 41 homes at one time. Are you aware of anybody that's going to contest in court or try to contest what you're offering them?

MR. DOERING:

We are aware of a number of lawyers who practice in the eminent domain area, each of who has a number of clients, so we assume that in their cases, there's a strong likelihood that people will contest the amount of our appraisals. That's why we're being so careful with reviewing the appraisals on the county level at the DEC, by the Army Corp. of Engineers, and we don't offer a number based on a give and take as you would in an ordinary negotiation between a buyer and seller. We offer what's called "just compensation," which is the full amount of the appraisal, so those will people will have to convince the court that there's something fundamentally wrong with the appraisal and that we missed something.

LEG. BARRAGA:

I find it interesting because in all previous storms, hurricanes, the only thing you could really count on was your federal fund insurance. You know, that sort of limits you to a maximum, I think, of \$250,000. Here now because of the machinations associated with this storm, these people are getting a million dollars or better than a million dollars for their homes, far in excess of what they would normally get in any other hurricane, and yet they're unhappy.

MR. BRAUN:

We've had a number of meetings with members of communities. We've been going into Manhattan for these meetings, and people are very emotionally attached to their summer homes in Fire Island. We hear people that, My father bought this in 1950, and I expected my grandchildren --

LEG. BARRAGA:

Correct me if I'm wrong many of those homes are damaged.

MR. BRAUN:

But, again, they're being --

LEG. BARRAGA:

The very fact that you're giving them a million dollars for a pile of stick and wood that's heavily damaged, I find it amazing they're unhappy. In normal times, the best they could do is \$250,000 and they'd have to spend hundreds of thousands of dollars to try to rebuild their home.

MR. DOERING:

Well, they're getting the value of the appraisal as of now, not what it was before the storm but today's value. Presumably, if they have flood --

LEG. BARRAGA:

That's something the United States government has made a decision to do. Normally, that's not done.

MR. BRAUN:

That's correct. You're right.

LEG. BARRAGA:

They're winding up probably at least 750,000 to the good. If the old rules were in place, the best they could do was 250,000.

MR. DOERING:

But there are many of these homes that aren't damaged, though, that were in the process of either trying to relocate on their own lots or taking them, and those houses have current retail value of, you know, the appraisal amounts, so that's what our offers are based on. You're absolutely right that for damaged homes, they're probably doing much better than they might have done.

LEG. BARRAGA:

I mean, just from the standpoint of the United States taxpayers, believe me, he or she is being overly generous in those instances all for what these people are getting.

MR. BRAUN:

You know, we do what we're required to do, so here we are.

CHAIRMAN KRUPSKI:

I have a motion and a second. All in favor? Opposed? Abstentions? So moved. **Approved**
(VOTE: 6-0-0-0)

There's no other -- yes, sir.

MR. DOERING:

Mr. Chair, you had requested the fund balance for fund 405. I had an opportunity to look that up, and the 2015 recommended year-end fund balance is 116.9 million. I had misspoken previously.

CHAIRMAN KRUPSKI:

Thank you. Anyone else? Any comment? We are adjourned.

(*The meeting was adjourned at 3:49 p.m.*)