

COUNTY OF SUFFOLK



STEVE LEVY
SUFFOLK COUNTY EXECUTIVE

DEPARTMENT OF PLANNING
COUNCIL ON ENVIRONMENTAL QUALITY

R. Lawrence Swanson
CHAIRPERSON

James Bagg
CHIEF ENVIRONMENTAL ANALYST

NOTICE OF PUBLIC MEETING

Notice is hereby given that the Council of Environmental Quality will convene a regular public meeting at 9:30 a.m. on Wednesday, December 9th, 2009 at the Timber Point Country Club, 398 Great River Road, Great River, New York 11739. Pursuant to the Citizens Public Participation Act, all citizens are invited to submit testimony, either orally or in writing at the meeting. Written comments can also be submitted prior to the meeting to the attention of:

**James Bagg, Chief Environmental Analyst
Council on Environmental Quality
Suffolk County Planning Department
P.O. Box 6100
Hauppauge, NY 11788**

**Council of Environmental Quality
R. Lawrence Swanson, Chairperson**

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AGENDA

MEETING NOTIFICATION

Wednesday, December 9th, 2009 9:30 a.m.
Timber Point Country Club
398 Great River Road
Great River, New York
631-581-0022

Call to Order:

Minutes - check the web at

<http://www.co.suffolk.ny.us/departments/planning/minutes.aspx#ceq>

September and October minutes are pending at this time

2010 CEQ Meeting Schedule

Correspondence:

Letter from various Civic Associations regarding Carmans River and Legacy Village

Letter from Seatuck Environmental Association regarding Legacy Village

Letter from Coalition to Save the Yaphank Lakes regarding Legacy Village

Memo from Regina Seltzer, Esq. to CEQ regarding IR 1922

Public Portion:

Comments deferred to individual project sections

Written copy of comments to be given desirable

Historic Trust Docket:

Director's Report:

Updates on Housing Program for Historic Trust Sites

Updates on Historic Trust Custodial Agreements

Other Business:

CAC Concerns:

Project Review:

Recommended TYPE II Actions:

- A. Ratification of Recommendations for Legislative Resolutions Laid on the Table for December 1, 2009.

Project Review:

Recommended Unlisted Actions:

- A. Proposed Acquisition for Open Space Preservation Purposes Known as the Reeves Bay – Rubenstein Property. Town of Southampton.
- B. Proposed Acquisition for Open Space Preservation Purposes Known as the Scout Trail County Park Addition – Spring Meadow Enterprises, LLC Property. Town of Brookhaven.
- C. Improvements to CR 19, Patchogue-Holbrook Road, from Long Island Expressway North Service Road to CR 16, Portion Road, in the Town of Brookhaven. CP 3302.

Project Review:

Recommended Type I Actions:

- A. Proposed Adoption of a Local Law Declaring as Surplus and Authorizing the Execution of a Contract for the Sale of 255± acres in Yaphank to Legacy Village Real Estate Group, LLC for Mixed Use Development. Town of Brookhaven.

*****CAC MEMBERS:** The above information has been forwarded to your local Legislators, Supervisors and DEC personnel. Please check with them prior to the meeting to see if they have any comments or concerns regarding these projects that they would like brought to the CEQ's attention.

*****MEMBERS – PLEASE NOTIFY THIS OFFICE AS SOON AS POSSIBLE IF YOU WILL BE UNABLE TO ATTEND.**

*****ALSO FOLLOWING THE MEETING PLEASE LEAVE BEHIND ALL MATERIALS OF PROJECTS THAT YOU DO NOT WANT OR NEED AS WE CAN RECYCLE THESE MATERIALS LATER ON.**

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SUFFOLK COUNTY DEPARTMENT OF PLANNING
COUNCIL ON ENVIRONMENTAL QUALITY

Timber Point Country Club
Great River, New York 11788

December 9, 2009
9:40 a.m.

MEMBERS PRESENT:

- R. LAWRENCE SWANSON, Chairman
- MICHAEL KAUFMAN, Vice Chairman
- HON. JAY H. SCHNEIDERMAN
- EVA GROWNEY
- RICHARD MACHTAY
- THOMAS GULBRANSEN
- GLORIA G. RUSSO
- MARY ANN SPENCER

ALSO PRESENT:

- RICHARD MARTIN, Historic Society
- JAMES BAGG, Chief Environmental Analyst

1 THE CHAIRMAN: I'd like to call the meeting
2 to order. This is the December meeting of the Suffolk
3 County CEQ. I believe we can dispense with reviewing
4 minutes because the September and October minutes have
5 not been posted as of yet. In your packet, there was a
6 schedule for the 2010 CEQ meetings. We need to adopt
7 this, so that we can post it.

8 MS. SPENCER: So move.

9 THE CHAIRMAN: Motion to adopt the proposed
10 meeting schedules by Ms. Spencer.

11 MR. KAUFMAN: Second.

12 THE CHAIRMAN: Any discussion? All in
13 favor? Aye. Opposed? Schedule is adopted.

14 Jim, do you want to tell us about correspondence?

15 MR. BAGG: Basically, we received several
16 letters. Letter from the various civic associations
17 regarding Carmans River and Legacy Village. Letter from
18 Seatuck Environmental Association regarding Legacy
19 Village. Letter from the Coalition to Save Yaphank
20 Lakes regarding Legacy Village. Memo from Regina
21 Saltzer, Esquire to CEQ regarding IR-1922.

22 In addition, we received another opinion from
23 Regina Saltzer, Esquire regarding the SEQRA issue, which
24 is in everybody's folder. And also we received a memo

1 from Christine Malafi, the county attorney, regarding a
2 legal opinion concerning the project in the SEQRA
3 review. That is also in everybody's folder as well.

4 THE CHAIRMAN: Any questions of Jim?

5 (No response)

6 THE CHAIRMAN: Just a reminder to the public,
7 that you're certainly encouraged to speak, but will do
8 so on a project by project basis. So if you are here
9 specifically to talk about Legacy Village, that will be
10 towards the end of the program this morning. Rich, do
11 you have --

12 MS. SPENCER: I'm commenting.

13 THE CHAIRMAN: Okay.

14 MS. SPENCER: There is nothing to report this
15 morning.

16 THE CHAIRMAN: Very good. Nothing for the
17 historic Trust, Historic Trust project reviews. Jim,
18 anything you want to point out with the Type 2 actions?

19 MR. BAGG: No, nothing of consequence.
20 Everything, either SEQRA has been completed for Type 2
21 actions. That is also in your folder, the
22 recommendations.

23 THE CHAIRMAN: Do we have a motion to adopt
24 staff recommendations?

1 MR. KAUFMAN: Motion.

2 MS. RUSSO: Second.

3 THE CHAIRMAN: Any discussion? All in
4 favor? Aye. Opposed? Motion carries. Project review.
5 Proposed aquisition for open space preservation purposes
6 known as Reeves Bay.

7 MS. FISCHER: Loretta Fischer, Principal
8 Environmental Analyst, Suffolk County Department of
9 Planning.

10 The first proposed aquisition before you is
11 the Rubinstein property in Reeves Bay. This is a
12 property of approximately one point five acres in size,
13 immediately adjacent to a stream creek that flows into
14 Reeves Bay, and it's part of a compendium of properties
15 that we're looking to acquire within this complex that
16 feeds into Reeves Bay, which then flows into Flanders
17 Bay, which is part of the Peconic Bay complex.

18 So, this property has some fringe wetland along the
19 shoreline as well as upland woodland. We are looking to
20 not only acquire this property, but also the properties
21 identified on your map that are in the hatched black
22 lines.

23 I would like to start our aquistions in this
24 area. This will be one of a number of parcels that we

1 will be bringing before you for acquisition.

2 THE CHAIRMAN: Any questions?

3 MR. MACHTAY: Yes. The county doesn't own
4 any other properties here right now?

5 MS. FISCHER: Not at this point, no, but we do
6 have a number of ones immediately adjacent that will be
7 coming to you shortly.

8 MR. MACHTAY: There is a quite a bit in
9 hatched lines. Those will be future purchases?

10 MS. FISCHER: Yes.

11 MR. MACHTAY: How many acres altogether in
12 that area?

13 MS. FISCHER: It's about twenty or so acres.

14 MR. MACHTAY: Looks like a lot more than
15 that, especially on the other side.

16 MS. FISCHER: Which side are you speaking of?

17 MR. MACHTAY: Both sides. The side opposite.

18 MS. FISCHER: Because there is a substantial
19 amount of property that is owned by the Town of
20 Southampton to the west. And we do own properties,
21 actually, to the west and east here, but it's not
22 showing up on this immediate area.

23 MR. MACHTAY: I'll make a motion unlisted
24 action, Neg Dec.

1 MR. KAUFMAN: Second that.

2 THE CHAIRMAN: Any further discussion? All
3 in favor? Aye.

4 MR. KAUFMAN: Quickly to the members, we
5 don't have microphones except for Larry right now. You
6 may just have to speak up just a little bit so the
7 stenographer can hear you, and also some of the members
8 on this side can hear.

9 MR. ISLES: Mr. Kaufman, we do have two
10 microphones available and long cords, if you want to
11 share the microphones. We can also increase the volume
12 of the amplifier.

13 THE CHAIRMAN: Okay. We have a motion, and
14 we voted, yes.

15 MR. BAGG: Unanimous.

16 THE CHAIRMAN: Motion carries. Proposed
17 aquisition of open space known as Scout Trail County
18 Park Addition, Spring Meadow Enterprises.

19 MS. FISCHER: This is a fifty-nine point three
20 five acre parcel in the Hamlet of Wading River, in the
21 Town of Brookhaven, but it's basically very close to the
22 border between the Towns of Brookhaven and Riverhead.
23 This is a large parcel that will add to our holdings in
24 this area. Not only county holdings, but town holdings

1 as well state of New York holdings that exist to the
2 east -- west and south of the property.

3 This is kind of one of our last pieces of the
4 puzzle in this area. This property in and of itself was
5 disturbed; there was some manipulation of the property,
6 possibly was farmed at some point in time. It's gone
7 back and reverted into an old field successional woods
8 with some dirt trails that exist. There has been some
9 dumping in the area, but those articles will be disposed
10 of and removed from the property before we acquire it.

11 We are looking to apply this under our Drinking
12 Water Protection Program for the protection of the
13 groundwater, special groundwater protection area.

14 THE CHAIRMAN: When you say "dumping," I
15 presume you mean trash and non-hazardous waste?

16 MS.FISCHER.: Construction debris and some
17 tires, articles like that. Nothing that was identified
18 by the Phase 1 consultant as being any kind of hazardous
19 material.

20 THE CHAIRMAN: Any other questions?

21 MR. GULBRANSEN: Loretta, are these trails
22 motor cross trails? They seem to be traveled on.

23 MS.FISCHER: They have been informally used
24 that way. We saw the tracks in there. That is going to

1 have to be monitored and watched carefully. Our use for
2 the property is for passive recreational use.

3 MR. KAUFMAN: From personal knowledge, I have
4 seen packs of dirt bikers going over there. A friend of
5 my mine lives nearby and he has seen them. It's been an
6 enforcement problem in the past.

7 MS.FISCHER: We are aware of that.

8 MR. KAUFMAN: Motion, Unlisted Negative
9 Declaration.

10 MR. MACHTAY: Second.

11 THE CHAIRMAN: All in favor? Opposed?
12 Motion carries.

13 MS.FISCHER: Thank you.

14 THE CHAIRMAN: Improvements to County Road
15 19, Patchogue-Holbrook Road. Please introduce
16 yourself.

17 MR. NORMANDIN: My name is Steve Normandin
18 from the RBA Group on behalf of the Suffolk County
19 Department of Public Works. This is a roadway
20 improvement project which has started as a highway
21 corridor safety study, which the county had conducted,
22 and out of that study, it has identified safety and
23 traffic concerns on the corridor, which is one point one
24 miles, starting from the North Service Road of the Long

1 Island Expressway, Exit 61, Patchogue-Holbrook Road, and
2 heads north up to County Road 16, Portion Road.

3 As you may know, there is a significant S-curve
4 through the corridor, which has become a safety concern.
5 That is how the study had been initiated from the get
6 go. What we are proposing out of the study is traffic
7 calming and safety improvements specifically, as there
8 is a highway rate of speed running through the corridor.
9 There is the Hiawatha Elementary School in dead center
10 of the corridor itself, which is a safety concern for
11 the pedestrians crossing at Richard Place, which is in
12 the center of the project area. Speeds are clocked at
13 in excess of fifty miles per hour through that zone.
14 The two sharp S-curves, as you see on the map which I
15 show over here, are twenty-five to thirty miles per hour
16 curves, which on a number of occasions cars have run off
17 the road and hit guard rails and trees.

18 The goal of the county is to forge forward with
19 what is a safety and traffic calming, meaning we want to
20 slow down the vehicles and reduce the incidents of
21 accidents and speeding. What we are proposing, it's a
22 two lane roadway with ten foot wide shoulders and a
23 center median, fifty-four feet of roadway, very vast,
24 very conducive to speeding, very expansive in terms of

1 the pavement area for the two lane roadway.

2 What we would like to do is on the southern end of
3 the job where we come in from the Expressway, to about
4 halfway through the project area, we are looking to
5 narrow the travel lanes. Actually, the entire lane will
6 be narrowed from a twelve to eleven foot lane to
7 physically narrow the travel lanes, which is one of the
8 effective traffic calming techniques.

9 In addition to that, we are proposing a raised
10 median in the center, like a traffic island, which would
11 physically and visually reduce the effective pavement
12 width, making it less conducive for drivers to just
13 speed down the roadway. Particularly at the S-curves,
14 which also has a problem with head-on collisions where
15 vehicles start to stray into the center lane as they
16 come around the curve as they take it a little sharper
17 with the high rate of speed.

18 The median itself will separate the traffic, it
19 will slow them down by forcing them and narrowing the
20 roadway, making it less conducive for speeds and run off
21 the road accidents. In the northern end of the job will
22 be similar. There will be a raised median in front of
23 the school to narrow that section down. And at the
24 school itself, at Richard Place, we will have bulb-outs,

1 which will bring in the curbs closer towards the center
2 of the roadway, which is really like a choke point which
3 narrows them down through the school zone.

4 In addition, we have this wide ten foot or so
5 shoulder what we will do with that is make a designated
6 bike lane through the entire length of the project area
7 which will utilize that shoulder, which is a four or six
8 inch stripe now, which looks and feels like the road is
9 wider, and people use it for coming around the sharp
10 curves and using the shoulder. What the bike lane will
11 do, it will be a four foot wide bike lane. There will
12 be a buffer on the southern end of the job, a four foot
13 buffer between the travel lane and bike lane.

14 Where we come up through the school where it's more
15 residential and on street parking is utilized, we will
16 switch, and the bike lane will be adjacent to or next to
17 the travel lane and will provide on street parking with
18 a seven foot wide parking lane for the northern limits
19 of the job. We are taking this fifty-four foot roadway,
20 incorporating bike lanes with striping, hatching buffers
21 and adding a center median, to narrow the effective
22 width of the travel lane, and improving the overall
23 safety and thereby hopefully reducing speeds and
24 accident occurrences along the corridor.

1 In addition, we are installing pedestrian countdown
2 timers at the intersection of Richard Place to
3 accommodate pedestrians back and forth crossing County
4 Road 19, in addition to decorative crosswalks at
5 specific locations where there are crossing guards now.
6 That is the project. Eight hundred thousand dollars to
7 construct these improvements. In addition, the county
8 is looking to resurface the roadway at the same time to
9 provide a smoother ride and surface for both the bikes
10 and shoulders, as well as improving skid resistance and
11 infrastructure of the roadway.

12 MR. KAUFMAN: I like the idea of traffic
13 calming on the road. That is a policy judgment; I'll
14 make it anyway. I think it's important. I have
15 traveled on that road before. Basically, you're
16 narrowing the lanes down. What are the lane widths
17 now?

18 MR. NORMANDIN: The two through lanes are
19 twelve foot wide, dropping down to eleven, which are
20 still standard for this type of --

21 MR. KAUFMAN: I was going to say if you drop
22 it down too much, this road does have a tendency towards
23 high speed usage. Narrow lanes, if they're
24 unaccompanied by anything else, can be even more

1 dangerous. I show you, for example, the BQE versus the
2 Grand Central, where the lanes drop down on the BQE,
3 drop down to like a foot and a half. Without other
4 traffic calming, that will promote accidents. Have you
5 considered that issue?

6 MR. NORMANDIN: The shoulders will still be
7 there. It will just be stripes. It will be a visual
8 narrowing on the outside lane. The shoulder basically
9 turns into a ten foot wide bike lane. It's basically
10 paint on the outside to make the driver think he's
11 driving on narrower. The median is within the confines
12 of the existing flush taking down.

13 MR. KAUFMAN: So you're using a visual cue to
14 try and slow things down.

15 MR. NORMANDIN: Right, and the median we're
16 installing is within the existing confines of the flush
17 median now.

18 MR. KAUFMAN: No takings or anything like
19 that?

20 MR. NORMANDIN: Right.

21 MR. KAUFMAN: You mention inside one place, I
22 believe by a school, that the bike lane might start
23 moving closer to the travel lane.

24 MR. NORMANDIN: We have two difficult

1 sections in this area. The southern end of the job,
2 it's nonresidential. It's the LIPA right-of-way runs
3 through there. There are no houses. It's the backs of
4 houses; that is why people are speeding. In the
5 beginning there are no ins and outs, no side streets.
6 It's a straight run through there.

7 We have a buffer between the travel lane and bike
8 lane. Where we come up to the north there are
9 driveways, people's homes, the school where drop off
10 takes place on the west side of the road.

11 MR. KAUFMAN: It's unavoidable to start
12 narrower.

13 MR. NORMANDIN: You have to maintain the
14 on-street parking. In doing so, the bike lane moves
15 from the curb side between the parking lane and travel
16 lane, which is more of a downtown urban way, to put the
17 bike lane.

18 MR. KAUFMAN: The way you're describing
19 doesn't appear to be a safety issue.

20 MR. NORMANDIN: The parking is not all day
21 long there. It's during certain hours of the day. The
22 fact that you have a car parked and a bike and car
23 running through there at the same time, it's rare. It
24 is a standard typical section for a bike lane.

1 MR. KAUFMAN: You don't see any compromise
2 for safety?

3 MR. NORMANDIN: No.

4 MR. PICHNEY: Is there busing in the school
5 district?

6 MR. NORMANDIN: Yes.

7 MR. PICHNEY: There isn't a real issue of
8 parents, stressed mothers coming through in the morning
9 sort of the clogging the area in front of the school and
10 creating a traffic hazard just by their presence?

11 MR. NORMANDIN: It does happen. The beauty
12 of the bike lane being on the inside or between, you
13 will have the on-street parking where the drop-off takes
14 place. The mothers with the cars doors opening up,
15 they're into a four foot buffer. Whether they do it
16 illegally, which is what they're doing now, now you have
17 a hatched buffer it's really defined. Right now they
18 just park in a ten foot area.

19 By defining the parking, you will bring it closer
20 to the curb and make it safer for these conditions.

21 MR. PICHNEY: I have several questions. To
22 my knowledge, this is the first time in Suffolk County,
23 perhaps Long Island, that these kinds of traffic calming
24 measures have been applied to a road of this type, in

1 terms of its configuration, its geometrics and present
2 speed limit; is that true?

3 MR. NORMANDIN: That is not true.

4 MR. PICHNEY: On Long Island.

5 MR. NORMANDIN: Town of Brookhaven, Islip,
6 Suffolk County themselves. All we're talking about is a
7 raised median and bike lanes. Bike lanes are becoming
8 the norm. Anywhere we can introduce them is only
9 better.

10 MR. PICHNEY: I'm concerned that when these
11 type of traffic measures were first introduced,
12 particularly the narrowing of the lanes and bulb-outs,
13 they were applied primarily to residential streets,
14 where the speed limit was much lower to begin with. The
15 City of West Palm Beach led the country in the use of
16 traffic calming. Their bulb-outs and so forth and speed
17 bumps, are used primarily on residential streets, you
18 know. Different methods are applied to roads of
19 generally higher speed than more or less service as
20 connector routes.

21 So, I'm concerned that with a road where people so
22 used to traveling very fast, particularly with the
23 bulb-outs, that you have crazy teenagers that will play
24 chicken with each other and lead to head-on collisions.

1 MR. NORMANDIN: One thing I didn't mention,
2 is that the speed limit is forty miles per hour. We're
3 bringing down to thirty-five miles per hour. It is
4 residential and there is a school. The character of the
5 roadway has actually changed from when the roadway was
6 put in. It is used as a drag racing strip.

7 By having intermittent medians and bulb-outs which
8 are outside of the travel lane at the appropriate
9 distance, lateral clearance from the travel lane to the
10 center median or to the curb, bulb-outs are standard.
11 The lane widths are standard eleven foot lanes that are
12 in the manual that the county has used, and before they
13 have even gone down to ten for traffic calming. On
14 more rural roads, ten foot has been used for traffic
15 calming; we would not do that on this roadway.

16 Like I said earlier, it's eleven foot stripe it has
17 another one foot to the median and another ten foot out
18 to the curb.

19 MR. PICHNEY: Do you know if the county has
20 made a commitment to have an added police presence after
21 construction is done, just to make sure that the people
22 understand what is going on and get them used to it?

23 MR. NORMANDIN: That is the police
24 enforcement. That is an enforcement issue separate from

1 the Department of Public Works. The Department of
2 Public Works will most likely do an after study, taking
3 similar speed data and accident data and do a before and
4 after study. That is typical of traffic calming areas,
5 to see the effectiveness of it. There are measures, but
6 they have to be implemented properly and you can't pull
7 one off the shelf, think it's automatically going to
8 work. You have to follow-up after and see if the safety
9 has improved.

10 MR. PICHNEY: It's a little too late after
11 the accidents happened, particularly with fatalities.
12 It's somebody's life that is at risk here. Thank you
13 very much.

14 THE CHAIRMAN: Can you talk a little bit what
15 you're doing with regard to drainage?

16 MR. NORMANDIN: Drainage is okay on the
17 roadway. What we are doing with the median happens to
18 block some drainage. It will come around the curve like
19 a banked curb, like the Indy 500. The roadway does bank
20 in one direction.

21 With these medians, we will be collecting against
22 that curb into the traffic island curb. We will add new
23 basins to pipe it into the existing positive drainage
24 system. There is a recharge basin right along the

1 project area. It's an easy tie-in to take it from the
2 median to the recharge basin.

3 MS. RUSSO: I'm looking at the photos and you
4 have an example of what this bulb-out looks like. I see
5 the actual parking lane, the car that is shown in the
6 picture. The pedestrians standing in the picture, it
7 looks like they're so far out projecting into the road
8 surface.

9 Let's say someone is waiting to make a left-hand
10 turn, and he's waiting for traffic to clear. Someone
11 comes behind them and as you said, a young driver, and
12 they're speeding, and they decide to pass on the right.
13 It looks like they will plow right over the bulb and
14 hitting the people. Would it be possible to put little
15 bollards behind it?

16 MR. NORMANDIN: Specifically at the bulb-outs
17 you will see there is some proposed signs on the figure.
18 There is usually a sign there. There is a pedestrian
19 with a down arrow that kind of delineates it there.
20 There is a physical sign with a vertical. You could put
21 flexible delineators around them as a measure.

22 As you look on the map there, you're in the
23 shoulder area, they're at Richard Place; there is a left
24 turn lane, so there wouldn't be this overtaking, meaning

1 they will go into the shoulder to pass anybody. There
2 is a designated left turn lane along the entire lane.

3 MS. GROWNEY: I'm going to bring that point
4 up again. Often times schools people are erratic in
5 their behavior. Kids are jumping out of cars, mothers
6 are driving by; there is a lot of activity that is a
7 distraction. A bollard is a very significant impact.
8 People pay attention to them. People don't pay
9 attention to signs, not on purpose, but we don't want to
10 look at them.

11 Something which obstructs the potential of an
12 actual car passing or car jumping the curb is a valid
13 thing to consider. I would say at least two or three of
14 them right there.

15 MR. NORMANDIN: That is a good point. We
16 would consider that.

17 MR. GULBRANSEN: With regard to drainage, we
18 heard from the county, as MS-4 coordinator and other
19 MS-4 parties, the need to cooperate and check back and
20 forth for this project. Did you have occasion to do
21 that? Did you check with other municipalities to see if
22 the drainage measures are compounding or complimentary?

23 MR. NORMANDIN: The entire corridor drains
24 into the recharge basin, which then all drains in. With

1 this particular project, with the funding limits, it's a
2 traffic safety project specifically, so it's not
3 infrastructure. Just to resurface the roadway we have
4 to get additional funds from Maintenance to get that
5 roadway resurfaced.

6 MR. KAUFMAN: Question for you on the
7 bollards. What would be the cost factor if we were to
8 ask for bollards placed at each location?

9 MR. NORMANDIN: Two hundred dollars. It
10 depends on the type. There is a flexible bollard that
11 the county uses at splitter islands, at roundabouts or
12 raised force turn islands. Specifically Nichol's Road
13 there are a couple of force turnouts that were just
14 installed at the community college. They're yellow
15 delineates.

16 MR. KAUFMAN: If the bollards are going to
17 contribute to safety and they're not an incredibly large
18 cost factor compared to eight hundred dollars on it,
19 it's entirely doable this if council recommends that
20 there be a little jump in the cost, even in these hard
21 economic times, to put in a couple of bollards?

22 MR. NORMANDIN: There are bollards and
23 delineators. The delineator post is what I'm talking
24 about. If someone hits it, it's not going to be an

1 actual fixed object. What I'm trying to propose, a
2 physical delineator, when someone hits it, it can go
3 down and not bring a fixed object closer to our
4 traffic.

5 MR. KAUFMAN: Like what they have in some of
6 the tunnels going into New York City?

7 MR. NORMANDIN: Toll plazas and things like
8 that.

9 MR. MACHTAY: What will be the median?

10 MR. NORMANDIN: Stamped concrete.

11 MR. MACHTAY: It will be paved, no
12 landscaping?

13 MR. NORMANDIN: Exactly.

14 MR. MACHTAY: Will it have a guard rail?

15 MR. NORMANDIN: It will not have a guard
16 rail, no. It is ten foot wide mountable curb, stamped
17 concrete. No maintenance. We don't want to install any
18 trees. Aesthetically, it's nice, but from a safety
19 standpoint it's not, and maintenance standpoint it's
20 not.

21 MR. MACHTAY: Will it have turnouts at the
22 intersection?

23 MR. NORMANDIN: Yes, we actually stop them
24 before the intersections and left turn lanes.

1 MS. GROWNEY: How much are the solid bollards
2 versus the flexible ones?

3 MR. NORMANDIN: A thousand dollars per. I'm
4 not sure that the DPW would like a fixed; it's like
5 putting a telephone pole two feet off the roadway.

6 THE CHAIRMAN: Any other comments? Motion?

7 MS. RUSSO: I make a motion. Type II Neg Dec
8 and also include the flexible reflective type -- I'm
9 sorry, unlisted Neg Dec and the flexible markers.

10 MR. KAUFMAN: I'll second that motion.

11 THE CHAIRMAN: We have a motion and second.
12 Any other discussion? All in favor? Motion carries.
13 Thank you.

14 Motion to adopt local law declaring as surplus and
15 authorizing the execution of a contract for the sale of
16 two hundred fifty-five acres in Yaphank, Legacy Village
17 Real Estate Corporation, for mixed use development, Town
18 of Brookhaven.

19 Mr. Isles, thank you very much for coming for this
20 issue.

21 MR. ISLES: Thank you very much,
22 Mr. Chairman, and members of the Council on
23 Environmental Quality. My name is Tom Isles. I'm the
24 Director of Planning for Suffolk County. I'm here today

1 on the matter that was called by the Chair. As far as
2 the logistics of this facility, certainly if any of the
3 member of the public cannot hear me, or any member of
4 the council, holler or stand up and I'll do my best to
5 speak louder or speak closer to the microphone.

6 Thank you for the opportunity to appear today.
7 What I would like to do is provide to you a description
8 of the matter before you, which here again, as described
9 in the call of the meeting, is to consider the issue of
10 SEQRA compliance relative to Introductory Resolution
11 1922-2009, which is defined as a local law to consider
12 approving a local law declaring surplus certain
13 properties, and authorizing the county to enter into a
14 contract of sale.

15 Let me begin by noting the geography. The subject
16 property is located in the Town of Brookhaven, Hamlet of
17 Yaphank. We do have an aerial photograph provided for
18 your viewing. We have handouts of a similar map as
19 well. Property is about twelve miles from Hauppauge,
20 about twelve miles from Riverhead. It's the midpoint
21 from the two other county centers. It is located along
22 the south side of Long Island Expressway at the
23 intersection with County Road 21, which is Yaphank
24 Avenue.

1 The map before you does indicate the property
2 boundaries, which are approximately nine hundred acres
3 of land, and the areas in question that are subject to
4 the resolution before the legislature are outlined with
5 the pink or fuchsia color indicated on map. Obviously,
6 I will talk about that a little bit later on.

7 Let me also point out to give you a sense of the
8 scale of the aerial before you. If we are going from
9 the railroad tracks, which is the main line of the Long
10 Island Railroad extends through the county property,
11 there is a train station adjacent to the county
12 property. If we go from the railroad tracks down to
13 Horseblock Road, that scale is one point four miles to
14 give you a sense of the size of the property and
15 relative distances to other property facilities and
16 features and so forth.

17 Let me also point out this map does include a
18 broader perspective. It includes the surrounding area,
19 including the Carmans River area. County ownership is
20 identified in blue, federal ownership in greenish color
21 and town ownership and so forth.

22 The county's aquisition of property in this area
23 began 1870. I have the deed. When the county acquired
24 the property to construct a county farm, county alms

1 house that would provide a facility for indigent
2 residents of Suffolk County in time of need, the county
3 farm was developed at that point. There is a building
4 on the property that is on the National Register of
5 Historic Places. That is not a facility proposed to be
6 included in the resolution today. The county farm is in
7 a protected status by virtue of a resolution by the
8 county legislature in 2003. Over the years, more
9 recently in the 1960's and 1970's, the county expanded
10 their holdings considerably.

11 As I indicated, the current acreage is about nine
12 hundred acres. I looked back in terms of trying to
13 understand why the county did what it did in the '60's;
14 and '70's. As we do know, the county center at this
15 location is developed at this time as part of those
16 properties extensively with the county facilities,
17 including police headquarters, Department of Public
18 Works, Board of Elections, skilled nursing facility,
19 county correctional facility, Probation, Fire Rescue,
20 Emergency Services and so forth. We actually completed
21 an inventory of the facilities, which is in the package
22 included with the EAF submitted to this body.

23 One of the things I do note when the county was
24 doing these acquisitions back in the '60's and '70's,

1 the county's estimated population was substantially
2 higher than what it is today and what it's expect to be
3 in the future. In 1962, the county's population was
4 estimated to be, at build out, three point four million
5 people. Right now, our population is about one and a
6 half million. We estimate, in County Planning, we
7 probably have a seventeen to twenty percent build out
8 factor. We could end up with maybe one point eight
9 million residents.

10 We also note too, that this part of the county at
11 the time, back in the '60's with the population
12 expansion, the zoning was much higher density zoning.
13 The Pine Barrens wasn't understood as the significance
14 of that as a groundwater and habitat feature. A lot has
15 changed in terms of zoning and land protection. That
16 population, is not going to be here for the extent
17 anticipated. This is only my read back; whether it's
18 accurate or not, I don't know. Certainly, in terms of
19 anticipated population for need for facilities, we are
20 at approximately half of the population anticipated.

21 I will point out when the county acquired the
22 subject properties, they were acquired for general
23 municipal purposes for the development of county
24 facilities. They were never on an open space list that

1 I have able to observe. The county has been doing open
2 space planning since a 1964 study identifying own space
3 acquisitions and priorities during that time. And there
4 have been others over the years. That is not to say the
5 question, should this be preserved, is an invalid
6 question at this time.

7 In terms of looking back on why was it purchased,
8 it was purchased for the development of county
9 facilities. Was it ever on an open space list? Not
10 that we have able to determine going up to this point in
11 time. Let me point out two other factors in the history
12 of the subject properties. Of the nine hundred acres,
13 those total about two hundred fifty-five acres as
14 expressed in the resolution.

15 There were two legislative actions I would like to
16 bring to your attention. One was the county legislature
17 did authorize the county executive to approve a fifty
18 acre land sale along Horseblock Road back in the late
19 '90's. That was a tax lien property sold at auction at
20 that time.

21 Secondly, the county did consider the development
22 of two golf courses, a driving range, other recreational
23 facilities, clubhouse and parking back in 1998. The
24 legislature at that time considered the SEQRA action.

1 CEQ was involved at that time. That involved three
2 hundred eighty-four acres, of which two hundred
3 eighty-four acres was supposed to be cleared. The
4 legislature did conclude the SEQRA process with the
5 finding of no environmental significance with the
6 mitigating measures and findings adopted by the
7 legislature. Let me point out that the legislature did
8 not go any further. The county did not obviously
9 proceed with that proposal just in terms of giving you
10 backgrounds on prior actions.

11 Let me turn to the surplus determination part of
12 the resolution before you. This was initiated by an
13 executive order from the county executive back in 2005.
14 What he asked at that point of the County Planning
15 Department, working with the Department of Public Works
16 and other departments, was inventory all county
17 facilities located in this area. We completed that
18 assignment, extensively using the services of Public
19 Works. We identified a hundred fifteen buildings and
20 structures -- there are a couple of radio towers --
21 totaling over a million square feet of existing county
22 buildings.

23 We were asked to review capital projects, identify
24 vacant land, instructed or directed to hold at least

1 three public hearings. And we produced a report at that
2 time that summarized the findings in terms of laying out
3 how much land was dedicated to the county farm, how much
4 was used by county municipal facilities, how much was in
5 a special category. There is a cemetery on the property
6 that was excluded. There is a recreation area behind
7 police headquarters that was excluded.

8 The executive order then specified of the
9 identified vacant land, one-third should be set aside
10 for future county uses and two thirds for possible other
11 uses and possible disposition of the property. So we
12 did that, and the numbers are approximately four hundred
13 thirty-seven, four hundred forty acres of vacant land
14 identified requiring a hundred forty-five acres to be
15 retained by the county for future county uses and
16 approximately two hundred ninety-two acres potentially
17 available for surplus designation. That is what
18 happened in terms of getting to that point.

19 Obviously, this is a matter before the legislature
20 in terms of that surplus determination and their
21 consideration of that, which we certainly fully respect
22 their review of that and we're the main lead. The
23 legislature convened a committee to assist in looking at
24 the goals for a possible RFP on the property to provide

1 guidance and help coordinate public outreach. There
2 were three public hearings held in 2005. They were
3 attended by about two thousand people.

4 Let me point out many of the people were motor
5 sports enthusiasts. There was a strong interest at that
6 time in perhaps doing a NASCAR like facility. Residents
7 of the community were also present. I don't want to
8 mislead and say two thousand people from the community
9 were there. It was a broad constituency there, many of
10 which were motor sports enthusiasts. There was a
11 significant effort to engage public comment at that
12 time.

13 From that, a Request for Expression of Interest was
14 issued. Even though we were given the option to do an
15 RFP, Request for Proposals, or RFVI, the decision was
16 made to do a Request for Expression of Interest to see
17 what is out there in a nonbinding manner. That resulted
18 in a submission of eleven proposals, eleven ideas that
19 came forward.

20 There was then a second legislative committee
21 created, and the purpose of that committee was to look
22 at the RFVI submissions to evaluate the submissions and
23 bring forward recommendations that can go into an RFP.
24 The submissions included horse racing track, gambling in

1 terms of video lottery terminals as well as the motor
2 sports proposal. There was a submission of residential,
3 there was a submission of commercial. There was quite a
4 gamut of proposals.

5 The committee held an open house at Longwood High
6 School June of 2006 in the gymnasium and provided an
7 opportunity for everyone to go through and see what the
8 proposals entailed and provided an opportunity for
9 everyone to provide comments individually to a steno.
10 The committee completed its work in September 2006 and
11 issued a report, which is also part of the package
12 before you today. The committee made thirty-four
13 primary recommendations; here again, a response to the
14 RFVI submission requesting or asking the county to
15 consider putting these considerations into the RFP.

16 A lot dealt with issues of land use; no, this is
17 really not the site for a motor sports track. They
18 dealt with proximity of residential. Several proposals
19 included residential down by Horseblock Road that is a
20 more industrial area, and the zoning is industrial in
21 the Town of Brookhaven. Therefore, the committee
22 suggested that the residential be moved to the north end
23 of the property.

24 There are thirty-four recommendations. All the

1 recommendations were factored into the RFP. We provided
2 a report to the legislature in September this year in
3 terms of our review in identifying each of the
4 recommendations and what happened to that as far as the
5 RFP. The committee helped shape the concept of what
6 should go out there. Let me point out, it was not the
7 job of the committee to endorse the project, it was to
8 provide the guidance. We are not suggesting that they
9 gave a green stamp of approval. It was a process. It
10 was not conclusion.

11 An RFP was issued January 2007, that included a
12 description of obviously, the intention of the county as
13 expressed through the county executive at that time. It
14 included the description of the four areas. We will
15 probably have some extensive discussion to those today.
16 There are four areas on the property. Area A is on the
17 northeast corner of the property. Then there are areas
18 B, C and D on the west side of the property. In each of
19 those areas, in the RFP there was a section dealing with
20 land use concepts, and it provided a general description
21 of what the county was soliciting -- was seeking in
22 terms of ideas as far as the RFP.

23 From this process, which was issued January 2007,
24 the RFP's were received on April 30, 2007. Then began a

1 very lengthy process for the review of the RFP
2 proposals. Two proposals were received by the county.
3 That process was indeed extensive, detailed, and in the
4 midst of the process, September 2008, there was a
5 radical change in the financial climate of the world, a
6 recession; certainly there was a lot of due diligence
7 and review, multiple review of financial information.

8 From that very exhaustive process, a selected
9 developer was identified July 2009. That became a
10 milestone in terms of up until now it's been an
11 ambiguous thing as to who is proposing what, what is
12 going to happen here. We now have a developer who has
13 been identified through the process, and that is part of
14 the consideration in the resolution as being considered
15 by the resolution as to whether or not the county should
16 move forward with the contract with this developer.
17 Certainly that is a key point.

18 Let me now talk more specifically about the action
19 and the matter specifically before CEQ. As indicated,
20 the resolution speaks as follows: It's the approval of
21 a local law declaring surplus and authorizing the county
22 to enter into a contract of sale for Legacy Village Real
23 Estate group L.L.C. for mixed use development. An
24 Environmental Assessment Form has been completed, Parts

1 1, 2 and 3 of the form, and supplied that part to the
2 commission to the county legislature.

3 The area is divided into four areas, A, B, C and
4 D. To talk about the current conditions, what I'm doing
5 at this point is providing a very brief overview of the
6 content of the EAF. Obviously, you have received that
7 and certainly we will certainly understand that you will
8 be reviewing that very closely. I'm not intending to
9 say everything, but I just want to provide an
10 overview.

11 In terms of current conditions of the property,
12 most of the property is currently undeveloped. Most of
13 the property is currently wooded. In terms of the
14 eighty-eight percent of the site is B, C and D on the
15 west side, which is the brunt of the land is pinewood
16 land. There is a small portion of it which is pitch
17 pine and new colonization of new vegetation type. For
18 areas B, C and D, they're significantly wooded at this
19 point. There are some fire roads cut through that.
20 Essentially, that is the condition of area of that
21 property.

22 Area A is the area by the Expressway and Yaphank
23 Avenue that is partially developed. Contains a county
24 Department of Public Works highway yard and includes

1 buildings used in conjunction with the highway yard,
2 including garages, storage buildings and also two salt
3 storage domes, parking, outside storage of materials
4 that are used by the highway division of the Department
5 of Public Works, those related facilities.

6 There is also a parking lot for the Board of
7 Elections with about ninety parking places, servicing
8 the Board of Elections building, which is not part of
9 the surplus, but the parking is there. A small, what is
10 called a doctor's cottage which is a small residential
11 structure that is within the area subject to the matter
12 before you that has been used for various county office
13 use over the years. It's a modest structure of less
14 than two thousand square feet. There is also a storage
15 building next to that.

16 The area -- fourteen acres is cleared for
17 buildings. Area A is about thirty-four acres. Just get
18 a relative sense of the sizes involved with that. Area
19 B, which is behind police headquarters and recreation
20 fields used by the Mastic Youth Sports League, part of a
21 hundred twenty-two acres. That is part of resolution.

22 Area C is not included in the resolution, and is
23 about twenty-nine to thirty acres proposed for
24 recreational development. Proposed to be retained

1 ownership of Suffolk County. However, the developer if
2 this moves forward, would be required to complete the
3 improvements, but it's not part of the land to be
4 proposed to be transferred or declared surplus.

5 The last area is Area D, to the south end of the
6 property. That area is proposed for industrial research
7 and development type uses. That totals approximately
8 ninety-five acres. Obviously, all the acreages are
9 subject to the survey to confirm.

10 Let me point out too, that the current zoning of
11 the four areas that we're talking about, based on Town
12 of Brookhaven zoning, which has zoning authority, is
13 predominantly L-1 zoning, which incorporates
14 approximately a hundred eighty-seven acres of the area
15 we're talking about on the west side of the property. A
16 portion of Area B, which is closer to the soccer fields
17 is A-1 residential, and all of area A is A-1
18 residential.

19 The EAF provides information, in terms of a number
20 of other factors which I will highlight. As indicated,
21 the property is in the vicinity of the Carmans River
22 corridor. We have indicated the setback distances.
23 Area A, we estimate a setback distance of seven hundred
24 fifty feet. Area B, we estimate a distance of six

1 thousand six hundred fifty feet. Area C and D, we
2 estimate a distance of nine thousand eight thousand
3 eighty feet.

4 We also describe soils found in the property based
5 on U.S. soils records. Topography is generally flat to
6 moderately sloping with slopes of zero to ten percent.
7 Groundwater is a consideration. Depth to groundwater is
8 estimated to be greater than sixteen feet for most of
9 the subject property. It's in the watershed of the
10 Carmans River. Certainly Area A is and probably the
11 remaining areas, but for groundwater purposes, it is to
12 be considered in the watershed.

13 The property is not in the Pine Barrens. Pine
14 Barrens exists to the north of the Expressway and within
15 Southaven County Park, but the subject properties before
16 you are not. They're not within special groundwater
17 protection area or critical environmental area or flood
18 plain. This is not to diminish the significance of the
19 Carmans River where the county actively preserved land
20 and understands the importance of the Carmans River.

21 As far as SEQRA, it's our opinion that the action
22 before the legislature is a Type I. It's a sale of
23 property that would exceed one hundred acres, just on
24 one threshold of SEQRA. There are other thresholds as

1 well.

2 We do believe in this case, a Negative Declaration
3 warrants consideration, and we would like to explain the
4 reasons for that. This matter is a multi-phase process.
5 We are dealing with an action before the legislature
6 right now to declare the property surplus and authorize
7 a contract. It is, however, subject to a process with
8 the Town of Brookhaven, as the Town of Brookhaven is the
9 authority with land use and land development control
10 authority.

11 Other agencies potentially involved down the road,
12 Department of Health, Public Works, New York State DEC,
13 and New York State DOT and perhaps other agencies. In
14 terms of the lead authority, we believe that it would
15 rest most appropriately with the Town of Brookhaven in
16 terms of SEQRA review.

17 The contract subordinates itself to review for all
18 zoning, all subdivisions, site plan variances are all
19 subject to whatever agencies have those authorities.
20 I'll point out that the county and developing county
21 facilities is not subject to local zoning. When the
22 county considers development at this location, such as a
23 skilled nursing facility, the county is the final
24 declaration. Obviously, in this case, we believe that

1 the town has zoning authority and here again, the
2 contract subordinates itself to that.

3 Another point too, is that when the actual plans
4 are prepared and submitted to the town, it will be
5 necessary and appropriate to conduct a comprehensive and
6 environmental review of all impacts. One of the things
7 you will note in the contract, which is part of the
8 package before you, is that the contract anticipates the
9 possibility of changes. I think that is probably an
10 understatement. It talks about the idea of a
11 pre-application meeting process with the Town of
12 Brookhaven about the land use and decision making
13 authority with the town. It talks about in the event
14 they say no, there is an option to come back and make
15 changes and somehow address that, obviously with
16 appropriate approvals and so forth.

17 Even before the pre-application process there is a
18 clause in the contract about the developer going out and
19 talking to the community and doing research if that
20 results in changes, not to mention once there is a
21 formal application made to the Town of Brookhaven, here
22 again, the contract provides comment and direction that
23 changes happen in that process. So the town actions are
24 independent of the county actions.

1 We have a situation, then, where we believe that
2 falls under the authority of the Town of Brookhaven, as
3 far as the primary actions that will result in the
4 physical authorization of the site to determine the
5 outcome of the physical aspects of the site, but the
6 prior action in terms of consideration by the county for
7 the prior buildings in terms of IR-1922 also need to be
8 done.

9 Therefore, we think that the case exists and SEQRA
10 provides for, in appropriate circumstances, permissible
11 segmentation. We know it's not an easy thing to accept,
12 and that is why we wanted to provide as much information
13 to you as possible. But we think it's a case where it's
14 clearly demonstrated that this would be the most
15 appropriate way of handling this, that this would be no
16 less protective of the environment, described further in
17 Part 3 that is before you.

18 I would like to make a couple of examples in terms
19 of we look at some other complex projects that have gone
20 on in Long Island. I have been involved with a couple
21 directly, others indirectly. Thinking back to several
22 parcels that the State of New York sold, one being the
23 Central Islip Psychiatric Center where the states sold
24 off several hundreds of acres of land back in the early

1 '80's, and the level of environmental review at that
2 point, going back to 1982 and '83 was rather minimal, if
3 at all. I won't speak directly to what they did; I was
4 Commissioner of Islip at that time.

5 In '86 or '87, we received an application for
6 development based on that sale of property from New York
7 State to New York Institute of Technology. It was in
8 contract to sell to a developer. We then required a
9 Master Plan for the property. We then required a
10 Generic Environmental Impact Statement, and that is when
11 the full environmental review happened. It encompassed
12 eight hundred acres.

13 Similarly, I'm looking at Pilgrim State Hospital,
14 where the state actually did a plan for surplus
15 properties in 1995 and '96. As Planning Commissioner of
16 Islip, I sat on the committee. We completed a plan that
17 talked about the development of three million square
18 feet of facilities, and detailed what those facilities
19 would be, residential, sports entertainment center and
20 so forth. The state then proceeded to sell the
21 property. It actually took three times to sell it.
22 They did sell it to an entity principally owned by Jerry
23 Wolkoff, Heartland, and the Town of Islip is now
24 conducting an environmental review.

1 It's not a situation where the state completed
2 SEQRA from the information that I have, and closed the
3 SEQRA process and the town is now adopting findings or
4 the town is now doing a supplemental. The town is doing
5 a Draft and Final Impact Statement process. I believe
6 that the town is correct, or the state is correct in
7 this circumstance of Central Islip and Pilgrim. Here
8 again, the local agency controls what happens to that
9 property.

10 Other examples would be LIDC. Once again, the
11 state sold land, went to the Town of Huntington.
12 Huntington was then the lead agency and conducted the
13 environmental review. A fourth example would be
14 Gabreski Airport in Westhampton Beach, which is a county
15 owned facility. There has been a long debate for years
16 as to who should be lead agency. The two agencies were
17 locking horns for years. When the current county
18 executive came into office, he looked at it and said why
19 isn't something happening; it's been talked about for
20 years. Let's build an industrial park here.

21 County executive sat down with the supervisor of
22 the town and said you want to be lead agency, then be
23 lead agency here. That's how it got resolved. The
24 county said yes, we will defer to the town for Master

1 Plan, for lead agency status, and the town had
2 intentions for building an industrial park here. It
3 wasn't some unknown or vague plan out in Mars or
4 something. In that case and others, the town, who
5 controlled the land use, conducted that and completed
6 SEQRA. The legislature subsequently adopted a finding
7 statement and granted lead authorization and so forth.

8 I would like to make another point. I believe the
9 county can do a more than adequate handling of the SEQRA
10 review, if that were the case, and Final Environmental
11 Impact Statement. I'll make note of two cases. One is
12 Epcal, where the town of Riverhead owns the land, is
13 selling land and is lead agency on the environmental
14 review. I don't take this point, but some people say
15 why should the town be the lead agency if they're doing
16 the review. I'm sure the town will do a more than
17 adequate review, but a question was raised. I don't
18 know, but I understand the point.

19 Similarly, with Caithness, which is not too far
20 from here, LIPA was the lead agency in the environmental
21 review. I have no reason to believe they didn't do a
22 thorough job. I'm sure they did, but the argument can be
23 made, should they be doing when they're benefiting;
24 they're in contract to purchase the power.

1 The point is a significant point. We defer to your
2 judgement. We have highest respect for the board. We
3 think there is a valid path to be taken that we think
4 provides for the best method of analysis. In this case,
5 we are respectful of other opinions that may exist.

6 Let me close by saying we have here today for
7 additional information. We know that you're getting a
8 lot of information today. We are here to assist in that
9 effort as much as we can. We have here with us a
10 representative from the County Attorney, Robert **Braun** ,
11 Chief Deputy County Executive, Chris Kent, who I believe
12 is here with us today. **Carrie Meek-Gallagher**, Commissioner
13 for Environmental Energy and Ben Wright, Chief Engineer
14 for the Suffolk County Department of Public Works in
15 charge of wastewater and sewers, and Jim Bagg, certainly
16 a name known to you.

17 MR. KAUFMAN: Never heard of him.

18 MR. ISLES: Jim Bagg was involved in the
19 preparation of the environmental assessment. We stand
20 prepared to address whatever questions you have to the
21 extent that we can.

22 THE CHAIRMAN: Tom, what I think I will do is
23 give our stenographer a five minute break. Then I have
24 a number of questions and issues that I would like to go

1 over with you, if you don't mind.

2 (The hearing was recessed at 10:50 a.m. and
3 resumed at 11:00 a.m.)

4 THE CHAIRMAN: Tom, this project, I think
5 has many merits. As you know, we're here today really
6 to discuss the hot bottom of environmental issues. I
7 don't think any of us will be talking about the overall
8 merits of the project because certainly there is a lot
9 of things that we know that the county wants to do and
10 this project addresses. Those are very important, but
11 we have to focus on the environmental aspect.

12 MR. ISLES: Understood.

13 THE CHAIRMAN: I would like to go through,
14 just to provide a little structure. A number of things
15 have come up with regard to our review of the project.
16 I will introduce them and probably others on the board
17 will speak to them as we go through them.

18 My first question for you is on Page 14 of the RFP
19 dated January 2007. It says the county will prepare A
20 Generic Environmental Statement, GEIS, end quote. You
21 say in that paragraph that it's because of the scope of
22 the project. I am wondering why you are backing away
23 from that now.

24 MR. ISLES: There is a subsequent addendum

1 the RFP that presented a question to changing that and
2 having the developer conduct or complete SEQRA, with the
3 Town of Brookhaven. The feeling on that was that it
4 would be a better way of handling it as we got further
5 into this. Here again, going back to some of the
6 comments I said before, the town's role, controlling the
7 development of the property, also based upon similar
8 experiences with other larger projects, as I mentioned
9 as well.

10 THE CHAIRMAN: I guess, as you already know,
11 my concerns stem from the fact that the county has
12 specified what the development of the two hundred
13 fifty-five acres is going to be. It then says that even
14 though this is what the county wants, Town of Brookhaven
15 is free to do what they need to do with zoning.
16 Nevertheless, I don't think there is any question, but
17 sort of the top down guidance is this will be shoehorned
18 in; in fact, it will be shoehorned into the -- if the
19 developer doesn't get pretty much what he wants, he can
20 back away from it.

21 It seems to me, in this issue of segmentation, that
22 because the county has specified what, in fact, the
23 project is to be, at least in very broad terms, that it
24 can't be segmented. That issue really bothers me. I

1 know you have addressed it.

2 MR. ISLES: Right.

3 THE CHAIRMAN: I think that is where I'm hung
4 up and apparently other members of the board that are
5 concerned as well.

6 MR. ISLES: Although I do understand the
7 concern, I do understand the points. We believe that
8 the intent on specifying or describing some of the
9 concepts, determining the RFP's land use concepts, was
10 that the county, I don't believe when it wanted to look
11 at any possible use under the sun, such as a drag strip
12 or race track or gambling, the county wanted to somewhat
13 narrow down the possibilities, provide guidance to the
14 responders in the RFP in terms of this is generally what
15 we have in mind and we would like to hear back from you,
16 but making this very clear that this is particularly
17 subject to the lead agency and legislative bodies and
18 bodies that control land use.

19 There are a number of paths along the way whereby
20 there are opportunities for project modification to
21 address community concerns, environmental concerns, and
22 indeed there is a failure option that the contract can
23 be terminated. The whole proposal collapses. Here
24 again, for the reasons addressed in the documents we

1 have provided to you, we believe this is a case where we
2 believe perhaps segmentation does make sense, here
3 again, by the fact there are two primary authorities,
4 the county legislature and Town of Brookhaven.

5 Certainly I'll defer to some of my colleagues if
6 there is additional information they want to provide
7 either now or later on, but that is our feeling on it.

8 THE CHAIRMAN: Any other board members have
9 questions on segmentation?

10 MR. GULBRANSEN: Following Chairman Swanson's
11 comment about the RFP, on Page 14 the paragraph
12 following that statement, to do a DEIS, the next comment
13 talks about wastewater disposal and jurisdiction of the
14 Suffolk County Department of Wastewater Services, county
15 sewer treatment and county authority, and on Page 43,
16 the conditions associated with the sale, which in fact
17 continue, if you turn to contract terms, subject to.
18 There are words that essentially reiterate Part Number
19 3, which says here that all uses connect to the sewage
20 treatment plan and that the plant be expanded as
21 needed.

22 Is there a new thinking or different thinking about
23 what level of government is responsible for the
24 wastewater disposal and determination for "as needed?"

1 Is that something that you feel is appropriate to
2 subordinate to a subsequent, SEQRA by a different level
3 of government.

4 MR. ISLES: Yes, the reason for that answer,
5 this all hinges on the Town of Brookhaven. It doesn't
6 get to Brookhaven if the county doesn't move it forward.
7 The question of impacts, alternatives, will be dependent
8 on the Town of Brookhaven, what the exercise of their
9 zoning authority chooses to do. If they go with the
10 proposal as put forward, there is impact to wastewater
11 treatment and trash and so on. If they feel another
12 alternative is the preferred alternative, that changes
13 all the other aspects, the mitigation impact and so
14 forth.

15 I believe it's correct, if the matter of being
16 subordinate to the Town of Brookhaven, the home use,
17 with not wanting to go around the permitting, obviously,
18 the zoning process is one which by law requires public
19 notice, public participation, public hearings as well
20 SEQRA. All of that would happen at that time. Here
21 again, the iterative process in terms of gathering
22 information, being able to then hopefully make the best
23 decisions --

24 MR. GULBRANSEN: If I can follow up with a

1 comment. As I understand the planning forum, mitigation
2 of wastewater, yes, the town will have that
3 consideration to make. The facility that I believe is
4 being indicated as available to be hooked up is issued a
5 state permit, and in that watershed, unfortunately,
6 there isn't yet a Master Plan with regard to the
7 groundwater. Other watersheds, many levels of
8 government have agreed to allocations, how much load of
9 nitrogen can come from this part of the watershed. Once
10 those loads have been allocated, then within the
11 watershed there is plenty of chance to trade. If you
12 want to do more, I'll do less.

13 This watershed hadn't gotten, to my knowledge, this
14 Master Plan set yet. It feels like we're missing a
15 chance to do it right on a watershed scale if we drop it
16 down to the site level to say what does it take to
17 handle the load coming from that one site.

18 In fact, what is needed really, it turns into a
19 functional analysis, there are people that are going to
20 come. They're going to eat. It's their nutrition that
21 turns into nutrients that turns into waste. That is
22 going to happen. That waste is a new load into the
23 area.

24 Treatment can actually remove it and it can be

1 released from the system as gas or exited as solid, or
2 it can just be treated a little bit and sent along its
3 way down the nitrogen cascade to the water body. The as
4 needed treatment, some of us feel, is better done on a
5 watershed scale, not a site scale, through a zoning
6 decision on the town level.

7 MR. ISLES: Couple of responses. Number one,
8 both CEC as well as County Health Department as well as
9 Department of Public Works would be involved agencies if
10 the Town of Brookhaven were the lead agency. They would
11 be involved agencies. They would be expected to
12 participate in the SEQRA process. In fact, there is
13 language to that in part of the documents that we
14 provided to you.

15 Secondly, as part of this process, as information
16 is brought forward in terms of what is the impact in
17 terms of wastewater, how much are we talking about in
18 terms of volumes in there is then the opportunity to
19 measure to assess, and to look at alternatives and
20 mitigation measures, such as is the conventional
21 treatment method tertiary level treatment that that
22 plant currently provides. Is that adequate. If it's
23 not adequate, to what extent is it not adequate.

24 What impacts would there be further east. Carmans

1 River are there alternatives, that perhaps has no
2 development. Is there an alternative such as a
3 relocation of the groundwater discharge plant to a
4 location where it's not impacting the Carmans River
5 watershed. I don't know.

6 Is there also an alternative for a higher level of
7 treatment that would remove or reduce further the parts
8 per million. That is something typically part of the
9 process. Certainly, if there is comment and suggestions
10 that CEQ wants to pass along on this that has been as
11 needed material is not satisfactory, we would certainly
12 be open to that.

13 As far as the watershed, there is no diminishment
14 of that issue. The county going back to the 2008 study,
15 groundwater is the first sole source aquifer in the
16 United States declared in Suffolk County. That is a
17 paramount issue. That is one of the natural resources
18 that we are blessed with. Our groundwater supply is
19 critical to us; we all know that. Certainly
20 understanding, too, its impact to coastal water bodies
21 and streams and so forth, there have been extensive --
22 certainly the 208 study and special groundwater
23 protection plan that have sought to protect the
24 resources, we are cognizant, and Suffolk County is

1 participating in an effort to look at the watershed in a
2 macro sense.

3 I believe that my understanding is that a zoning
4 process with Brookhaven would be a lengthy process, and
5 certainly, as information becomes available that
6 informs, I would expect that that would be put into the
7 process.

8 THE CHAIRMAN: Just to follow up, I want to
9 follow up on this a little bit. As I understand it,
10 you're asking for about one thousand seventy-two housing
11 units.

12 MR. ISLES: What the RFP provided for was the
13 suggested amount of a thousand units. Residential
14 units, with the RFP responses, we received two
15 responses, they provided two alternatives, one with
16 approximately a thousand units and one with two thousand
17 units. We felt that was too much.

18 To more directly answer your question, Mr. Chair,
19 the project, in terms of the proposal that was put forth
20 in the RFP, provides for seventy one bedroom units in
21 Area A, one thousand units in Area B. Two hundred
22 fifteen of those units would have an accessory
23 apartment, a thousand -- two hundred fifteen accessory
24 apartments co-joined with a townhouse on owner occupied

1 units, and seventy apartments.

2 THE CHAIRMAN: As I mentioned to you
3 yesterday, my concern is that I, as the professional, I
4 feel that the county is built out in terms of its
5 ability to handle, have the environment handle sewage.
6 If I go to try not to have new plants, to consolidate
7 new plants, if this were to move forward and Brookhaven
8 would approve it, it would be tied into the county plant
9 and the county plant would be expanded accordingly. We
10 don't know for certain, because we are not there, but
11 that is what we believe would happen.

12 We believe it's a highly important issue and would
13 be part of the review process if it were to move
14 forward.

15 MR. KAUFMAN: Your response to testimony
16 really shows a regional imperative exists, not just the
17 Town of Brookhaven controlling things, if there is going
18 to be a regional impact upon the watershed. While I
19 have great respect for the Town of Brookhaven, it
20 concerns me, if you will, that the county in this
21 particular area, with all of the county facilities,
22 county parks, et cetera, being in this area, it worries
23 me that essentially there is a passing on of the
24 responsibilities. That is just a comment.

1 If you want to have a negative declaration on this
2 if you want the segmentation argument to stick, we have
3 to be very protective of the environment. How can we
4 been no less protective of the environment, as SEQRA
5 requires, if the documents, the contract and RFP that we
6 are asked to bless as having no negative impact, that
7 they are loaded with imperatives? It's a road map in
8 there, goes from fifteen to fifty-seven million dollars.
9 The contract that we're asked to say has no possible
10 impact has a road map. How can we say it's no less
11 protective?

12 If you want us to ignore the contract's intent,
13 even with the possible EIS at the town's level, how can
14 the contract be protected when the contract itself has
15 the road map? Admittedly, it has variations in it as to
16 how much development can occur. How can the document
17 that you want us to review and say it's protected when
18 within the document itself there are these factors?

19 MR. ISLES: Number one, we're not denying
20 it's in the document. From day one, when the county
21 executive spoke on this, he spoke of his vision. The
22 county was concerned about the idea of selling it with
23 the idea of having no idea of what was going to happen
24 here, and wanted to provide at least some direction.

1 Your judgment is your judgment. If you feel this
2 is a case where it should be Pos Dec'd, I certainly
3 respect that. I understand that. We believe that given
4 the town involvement, this is not a case where the
5 county is going to decide to build a county works
6 building. There is a chicken and egg situation here.
7 The fact that the contract talks about consideration of
8 the range of fifteen million to fifty-seven million,
9 this gives you an idea of how open-ended this is.

10 I respect your point. Whatever the board decides,
11 it decides. We do feel this is a circumstance where
12 segmentation can be done in an appropriate matter.

13 MR. KAUFMAN: Just let me finish. To really
14 get to it Neg Dec though, you have to really show and
15 make a specific showing that is what SEQRA requires, and
16 your own documentation requires that it is somehow no
17 less protective, and that is where I get hung up in that
18 we are dealing with a contract. We talked about this
19 yesterday with the attorneys, and it's an open-ended
20 issue. As you were just saying, it's a chicken and egg
21 situation, but it is what it is right now. We are
22 sitting here judging a county action, not a Town of
23 Brookhaven action. I understand that you want to pass
24 it onto the town.

1 MR. ISLES: I'm not arguing with you at that
2 point. It's your decision, based on the action before
3 you.

4 MR. GULBRANSEN: I'll try to get back to the
5 segmentation issue. Segmentation, at least in my
6 experience, is dealt with in making sure that full
7 cumulative impacts are looked at, so you're not
8 segmenting sections of the project that might not meet
9 the threshold of cumulative impacts. Should this make a
10 case where we should further segment in a strange way.

11 We are seeing the county component, which is
12 basically to transfer the land, is being done in one
13 action. The Brookhaven piece is another. This, to me,
14 should be two actions as well. You're asking us, not
15 you per se, but the county executive is asking us to
16 declare it surplus, which to me is based on a
17 determination that the county population is less than at
18 the time that the land was set aside; that we have
19 adequate space for the facilities. That has its own set
20 of considerations to look at in declaring something
21 surplus.

22 Then you are asking us, in one jump, or the county
23 executive is, to also authorize the contract of sale to
24 the development for purposes that currently aren't zoned

1 on the property for more intensive use than it's
2 currently zoned. That, to me, is a separate action. If
3 it were declared surplus, that land would sit there.
4 Land being held for municipal purposes for land that the
5 county decided is not needed for municipal purposes.
6 Selling the land on an open market to an individual
7 would currently have to be developed according to local
8 zoning. That would have to go through the town planning
9 process, I imagine a very careful environmental
10 analysis.

11 This contract is a little different because it
12 contemplates, or really requires the development beyond
13 what is locally zoned for higher density. To me, that
14 complicates this quite a bit in terms of its SEQRA. It
15 would be almost impossible for me to say this is not
16 going to have an environmental impact. May not have
17 strong environmental impacts when we are authorizing --
18 seem to be approving an action for development beyond
19 what it's ever been contemplated.

20 This hadn't been through the legislature. This is
21 entirely the county executive. We haven't had a chance
22 to review.

23 After you declare something surplus, you look at
24 the highest and best uses compatible with the community

1 and make a decision based on that. We seem to be
2 circumventing that and jumping right to a sale, and that
3 makes it difficult in terms of analysis.

4 MR. ISLES: In terms of not having any, I
5 think you said something to the effect this proposal may
6 have more intensity or more development than what is
7 currently allowed. The county is exempt from zoning. I
8 don't know what the county is going to do in the future
9 with the property. It was purchased for the purpose of
10 county purposes. In terms of local zoning,
11 approximately a hundred seventy-one acres is zoned L
12 Industrial. Is that more or less? I don't know. The
13 FAR is about three five for industrial. The max would
14 be two point eight million feet of industrial there. Is
15 that more or less? I don't know.

16 As far as the question of the two step process
17 hearing, that is not for me to comment on. I think the
18 issue from it county executive perspective I'm not going
19 to speak for him -- he has a representative here
20 today -- to go to the legislature. I think he felt to
21 have it associated with what do you have in mind, who
22 would buy it. That is my understanding.

23 MR. SCHNEIDERMAN: Declaring it surplus, I
24 could see that being a Type II action on the SEQRA.

1 MR. ISLES: Yes.

2 MR. SCHNEIDERMAN: We know authorizing a
3 sale, it's automatically a Type I. You have clearly two
4 different elements; one is Type 2 and one is Type I, and
5 they are being combined.

6 MR. ISLES: I understand the point. I was
7 adding information in terms of my understanding of why
8 it's presented that way. I'm not disagreeing that it
9 can't be presented a different way.

10 MR. SCHNEIDERMAN: It would make our job
11 simpler if it were divided into two different actions.

12 MR. ISLES: Understood.

13 MR. PICHNEY: Is there a representative from
14 Brookhaven Town that could speak on behalf of the town?

15 MR. ISLES: Not to my knowledge. They were
16 given notice of this meeting.

17 MR. PICHNEY: Has the Town of Brookhaven
18 publicly come out and said that they are willing to
19 participate in this process? You mentioned Gabreski
20 Airport where the town was fighting with the county
21 regarding who would take the lead. I simply don't see
22 that here. Brookhaven has been absent from this
23 process. I don't expect you to comment on that. Just
24 to address that.

1 Secondly, it's unclear to me whether the subject
2 property is within the watershed. We received letters
3 from various civic groups and environmental groups that
4 assumed up front that it was in the watershed. Only one
5 letter, I believe from a consortium of civic groups and
6 environmental groups, said that hadn't been determined
7 yet. In your documentation, your studies, you said it
8 was outside of the watershed, and in your comments a few
9 minutes ago, you kind of glossed that over.

10 Can it been made clear what is in the watershed and
11 what is not in the watershed?

12 MR. ISLES: I apologize. There is a
13 topographic watershed for water runoff and watershed in
14 terms of groundwater shed. There has been information
15 from the Suffolk County of Health Services.

16 MR. MACHTAY: The watershed from the Carmans
17 River. This property is not principally -- not
18 completely within the watershed. Groundwater surface
19 watershed is in the watershed. We are not arguing that
20 we provided distances to the actual Carmans River for
21 your information as well.

22 MR. PICHNEY: The aspect of the regional
23 issues have been brought up in terms of the Carmans
24 River watershed. The subject parcels are bounded on

1 three sides by county roads. They most certainly would
2 need to be improved as a result of this. In the
3 economic climate, we don't know whether there is money
4 available to do that. Certainly with the federal funds
5 used with the TIP process, if this were approved today,
6 it would take ten years before the roads could be
7 improved.

8 MR. ISLES: The RFP did indicate that the
9 developer would be responsible for improvements as a
10 result of development. Project necessary improvements
11 would include traffic improvement. The contract also
12 speaks to that they are required to assess those
13 impacts, whatever they may be, and conduct mitigation of
14 that.

15 MR. PICHNEY: We may be talking millions of
16 dollars of improvements, perhaps more than the developer
17 pays for the property.

18 MR. ISLES: In which case, I guess they
19 wouldn't go forward with the development. That is
20 something the EIS would address.

21 MR. PICHNEY: Worker housing. We talked
22 about where that could go county-wide, and even the jobs
23 issue in this economic climate, both for construction
24 workers and afterwards and in terms of the light

1 industrial uses. Certainly jobs are a regional issue as
2 well. It seems that it would require examining the
3 entire corridor in terms of all these various impacts;
4 to a lesser extent, in terms of kind of moving things
5 around, if it would be possible, to your knowledge, to
6 develop the out parcel in terms of being the one closest
7 to the river.

8 Having worked in that area for fifteen years, that
9 is certainly the nicest strand of trees around,
10 certainly a different character from the rest of the
11 properties. To preserve that would provide a nice
12 buffer off the Expressway and to the people living in
13 the village area.

14 Secondly, placing a stadium there would have a
15 tremendous traffic impact on the Expressway, and I
16 believe a stadium would be above the tree line and
17 visible from the Historic District. If a stadium could
18 be relocated to Parcel D where it could spread out the
19 traffic a little better and closer to, in terms of the
20 other uses there, the composting facility, former Grucci
21 property, it would have less impact, would be less
22 visible and less impact on residential properties.

23 MR. ISLES: In terms of is it possible to
24 remove Area A, my understanding of the contract, there

1 are numerous points where there is flexibility designed
2 into it. My understanding is once this starts, the
3 process, in terms of land use aspects of it, things of
4 that nature could be discussed. Whether that would
5 happen, I don't know, but I believe the contract allows
6 for that.

7 MR. PICHNEY: In terms of properties that did
8 not belong to the county, thinking specifically of the
9 existing farmland that is at the intersection of Gerard
10 and Yaphank Avenue, I believe that is a hundred fifty
11 acres. Is that proposed for senior housing?

12 MR. ISLES: Not to my knowledge. This is a
13 farm located on the east side of Yaphank Avenue. I
14 thought it was fifty acres. I could be incorrect. It
15 was recommended by the legislature. We don't have an
16 interested seller. Last time I was aware of it, I'm not
17 aware of any applications to the Town of Brookhaven for
18 development. I could be mistaken.

19 MR. PICHNEY: I think you would agree it's
20 private property. That purchase of the development
21 rights would go a long way to maintaining some of the
22 rural character there, even if some of the development
23 were to go through.

24 MR. ISLES: That was in the RFP, the

1 examination of ways of preserving the farm through
2 transfer rights. That would be something considered at
3 the town level. It is out there. Whether it's going to
4 happen, I don't know, but it is something that the RFP
5 review committee brought forward to us, and it was
6 included in the RFP.

7 MR. MACHTAY: First I'd like to say Tom, you
8 did an excellent job of presenting; your answers are
9 very concise and very good.

10 MR. ISLES: Thank you.

11 MR. MACHTAY: Just because New York State
12 chooses to ignore the state law, and school districts
13 chose to ignore state law and various towns and villages
14 chose to do that, doesn't mean that Suffolk County in
15 this particular instance should do that. I'm not
16 suggesting that, you know, anybody is trying to finagle
17 anything, it's just fact, are you right, New York State
18 just ignores the laws of the land. You and I have
19 discussed that.

20 MR. ISLES: As former director, yes.

21 MR. MACHTAY: One planning director to
22 another planning director, yes. It always falls on the
23 shoulders of the town. The town usually being that
24 agency that has the most interest in what is going to

1 happen with the property.

2 The county has a number of things going on here.
3 As Mike Kaufman tried to point out, you put out an RFP.
4 You put out a plan that you would like to see executed
5 for the property. Whether the town will approve it or
6 not is another thing. Many of the things that this
7 gentlemen sitting next to me was talking about would be
8 addressed in an impact statement. If you think about
9 the location of things, eliminating a piece of property,
10 all the alternatives would be addressed in an impact
11 statement.

12 Any impact statement, if the county gave it a
13 positive declaration, I think the resolution would have
14 to explain to the town, if they don't quite understand,
15 that they only get one bite of the apple with SEQRA;
16 that is to say, they will not have the opportunity to do
17 another SEQRA review if the county does it.

18 THE FLOOR: That's not true.

19 MR. MACHTAY: They would have to make their
20 concerns known to the applicant. When he prepares the
21 Draft Environmental Impact Statement for the county, it
22 would have to also address the town's issue. SEQRA is
23 convoluted enough, but that is something that has been
24 debated in the courts and decided.

1 Also, the town doesn't have an application in front
2 of it to be an involved agency or to be a co-lead
3 agency. There have been instances of both. I know, as
4 director of planning for the Town of Huntington, we were
5 designated by the commissioner in Albany, commissioner
6 of the State DEC to be lead agency on something that we
7 had no application for, and had freshwater wetlands
8 needed permits from the state, needed permits from the
9 DOT. Yet we were going to be lead agency.

10 I said, what do we review? We have nothing here.
11 How do we do that? Well, in this particular case, there
12 is something. That is the RFP. And it sort of lays out
13 what the county, if everything was a perfect world, what
14 the county would like to see there. Affordable housing,
15 protecting groundwater, traffic, roads, and so on and so
16 forth.

17 There are other issues, though, and those other
18 issues go back to the social, economic, and concerns of
19 the county, and they are county regional issues. Jobs;
20 is this the right place for those jobs? Is this the
21 right place for the industry? You know, there are parks
22 in the neighborhood. Can the parks take a greater
23 population? Will they get trampled down and misused?
24 If you put in a thousand homes, how many children will

1 there be. That number, we can juggle that number around
2 all you want and come up with different numbers.
3 Sometimes it makes sense and sometimes it doesn't.

4 So I think that there are far more issues than will
5 it pollute groundwater, will it hurt the river, and
6 things like that. When he talks about a stadium being
7 too visible from the Expressway, being visible from the
8 Historic District, okay, maybe there is another place on
9 the property where a stadium can be put. I don't know;
10 that is what you do an impact statement for, to decide
11 all these things and see where it can go, and if it
12 can't fit, it's eliminated and something else goes.

13 So I think to rush to judgment and say, it's okay
14 to segment it and it's okay to do a Neg Dec on the
15 county's part and let's flip it over to the town, it
16 kind of is not taking responsibility for what we ought
17 to be taking. I say we, in a very broad sense because
18 we as the CEQ, we all live here in Suffolk County and we
19 are all concerned about what happens. And the people
20 that work for you, live here, that are on the
21 legislature, live here. And we want to see the right
22 thing done.

23 So now, that I have grandstanded a little bit, I
24 just want to make those points.

1 MR. SCHNEIDERMAN: Picking up on that
2 discussion, sounds like there is a possibility that this
3 could be done as a two stage process with two separate
4 EIS's. That may sound very complicated, but the first
5 EIS on a Positive Declaration about declaring it surplus
6 and selling it to whoever the private sector would be,
7 such an EIS, clearly the scope would be very different,
8 very similar to the kinds of considerations that were
9 just discussed. Since it would be the county's action,
10 the county would obviously have to do that EIS.

11 If it got past that stage, and yes, it was declared
12 surplus, permitted to be sold to the private sector,
13 then it seems like the Town of Brookhaven would have to
14 do, based on the scale of development, a separate EIS
15 done by the developer in this case, paid for by the
16 developer on the actual development of the property. It
17 sounds like there may be two things happening here, even
18 of which rises to the threshold of requiring an
19 Environmental Impact Statement, but requiring two
20 separate entities.

21 MR. MACHTAY: That is exactly opposite of
22 what SEQRA is meant for. It's to make it all happen in
23 a shorter period of time in a condensed way so that you
24 are not doing multiple impact statements all over the

1 place. Brookhaven is not going to get a second bite of
2 the apple if the county does an impact statement and
3 Brookhaven does not participate.

4 MR. SCHNEIDERMAN: There are two things going
5 on here. From a SEQRA perspective, this is kind of
6 murky.

7 MR. MACHTAY: It's a nightmare. By the same
8 token, you have to assess the alternatives in SEQRA;
9 that is what it's for. For the county to do the impact
10 statement, I'll tell you what the impact statement will
11 say. The impact statement will say exactly what we're
12 saying right now, declaring it surplus and selling the
13 property is no impact because the county is not
14 developing it, so we will flip it to the town to do the
15 impact statement.

16 Doing that has an inherent reasoning that something
17 is going to happen, something is going to get developed
18 on land that right now is not developable except by the
19 county in some vague way. And it should be one impact
20 statement. It's a project.

21 MS. GROWNEY: Tom, thank you for your
22 descriptions. To me, this whole thing hinges on the
23 regional impact and environment. That being said, let
24 me say I applaud the intent of the project in terms of

1 what it's trying to address regionally. The workforce
2 housing is really paramount. I don't know if this
3 location is the primary spot for it. The technology
4 park is real critical to Long Island on many levels;
5 that I applaud tremendously.

6 Bringing that interest point up makes me move on to
7 something else. If you're going to include some sort of
8 technology park on the property, every aspect of the
9 development should be very safely consulted so it
10 includes every aspect of energy technology available.
11 If there is an issue with the wastewater management
12 program, it be reutilized in an energy conscious way.

13 Every aspect of the ballpark, for example. There
14 is a lot of light pollution, noise pollution with
15 ballparks. If something of that scale and type is going
16 to be considered, then is there a very definite clear
17 look that has to be made towards mitigating those
18 issues. I'm not going to say you should or should not
19 have it, I'm saying this is a big thing.

20 There is another major factor to that; that is the
21 maintenance aspect of all these things, not just how
22 it's going to be designed going forward. You have to
23 think about the maintenance factors, the traffic
24 factors.

1 The other key issue, I think, has to do again with
2 environmental issues, the site plume that is here.
3 There is no mention about that. There are factors that
4 are well known amongst people, in many municipalities
5 are aware of it, that needs to be addressed in terms of
6 its size, its direction, how much, how far down, where
7 is it in relation to the water aquifer, et cetera, et
8 cetera.

9 Those are key environmental issues that we are
10 dealing were in terms of the big picture. I understand
11 the separation is going on here. These are factors that
12 are very paramount that need to be addressed.

13 MR. ISLES: This is proposed as zero energy
14 development.

15 MS. GROWNEY: When you talk about the
16 wastewater management, there was nothing really
17 discussed about it.

18 THE CHAIRMAN: Just to follow up on that, I
19 think one of the concerns that I have was you used
20 things like zero energy and green buildings as a sort of
21 a selling point. But the fact remains that once this is
22 turned over to private hands, what is to guarantee that
23 the green buildings are going to remain green? The
24 real problem with green buildings is in the maintenance

1 of them as green buildings; that is typically ignored.
2 We also have to be concerned about the energy facility
3 as well, who is going to be responsible for that.

4 MR. ISLES: It's in the impact that if this
5 were to move forward, this facility would have to be
6 developed. There has been discussion of methane
7 recovery. I'm not sure if that is going to go or not.
8 Solar voltaic systems and so forth; that would have to
9 be part of the development of the property, as well as
10 lead standards for the commercial buildings.

11 THE CHAIRMAN: That's one reason why the
12 private package sewage treatment plants don't work.
13 They usually devolve because of poor maintenance,
14 getting people that don't know how to run them,
15 operating them for the government entity that set it up
16 is relieved of duties and responsibilities.

17 MR. ISLES: That is why a lot initial
18 decisions are important. It's not as if there is no
19 discussion of energy consumption at all, not as if there
20 is no discussion of wastewater treatment. There is
21 specific language that they must incorporate these
22 features. After the fact, it becomes an issue in terms
23 of monitoring. We kind of get back to the chicken and
24 egg again because we don't know what the project is

1 going to be, if at all, and what that should be.

2 I understand your point and I'm making note of your
3 points.

4 MR. KAUFMAN: I would like to speak to a
5 point Mr. Machtay brought up a moment ago about SEQRA
6 and how we might handle things. I recognize that the
7 Town of Brookhaven really controls the build-out out
8 here and that the town will have the most impact of
9 density and land use. I'm aware of that. I'm also
10 aware of the possible county obligations or regional
11 impacts, if you will, that have been discussed around
12 the table. These issues have been brought up around the
13 table.

14 The difficulty is in melding these two concepts
15 together. We're handed a difficult situation here. As
16 Jay pointed out, we have several actions going on here,
17 each one which theoretically could be Neg Dec if they
18 were separated. They could be Pos Dec. The point is,
19 if we go Pos Dec, if we say that the county should do an
20 EIS, the EIS to some degree on a county level would have
21 to be limited in certain ways.

22 I pointed out to some of the CEQ members as I
23 talked to them over the last few weeks, Suffolk County
24 can only go so far. There is a lot of meat for the

1 county to dig into the regional impact. The watershed
2 analysis, there are impacts that only the town can
3 analyze if they're properly split up, and the county
4 action, it can only go so far. It's almost as if the
5 town does a generic and the county does supplemental
6 issues.

7 We don't step on the town's jurisdiction, which I'm
8 very cognizant of, but it gets the county issues out
9 there without necessarily having them lost in the
10 clutter of a different level of review. It gets the
11 county issues examined, but it does not foreclose the
12 town. That is just one road map that could be done. I
13 hesitate to say we have to do two SEQRA's. The case law
14 really frowns on that. We did a vector control, we did
15 a generic analysis for the county and anything else that
16 came up site specific, there was going to be a site
17 specific supplemental.

18 There are ways out there, of doing it out there. I
19 wanted to point that out to you and see what you
20 thought.

21 MR. MACHTAY: I'm not an attorney. Right off
22 the bat, let's get that straight. Section 617.7, this
23 is something many people don't consider when they're
24 trying to figure out whether something should be a Neg

1 Dec or Pos Dec, lays out the criterion for or criteria
2 for issuing a positive declaration. There are twelve
3 different issues. Any one of them crossing any one of
4 the thresholds does require an impact statement.

5 Substantial change in the use or intensity of use
6 of land, including agricultural, open space or
7 recreational or capacity to support existing uses. The
8 exchanging or attracting a large number of people to a
9 place or places for more than a few days, which
10 certainly, your plan RFP does. The creation of a
11 material demand for other actions that would result in
12 one or more of the above consequences. Changes in two
13 or more elements of the environmental, no one of which
14 has a significant impact, but both together may.

15 Triggering any one of these would require an impact
16 statement. I think you trigger at least three, if not
17 four of them.

18 MR. ISLES: But, we believe, however, SEQRA
19 Part 617 in the DEC handbook does talk about the issue
20 of segmentation. All the issues you mentioned, if this
21 were to go forward, if the town were to approve
22 something, there would be physical alteration to the
23 site. People would be going to the site. There would
24 be impacts to water and so forth.

1 We think segmentation, if you were considering and
2 working with the town on the full review, not to repeat
3 what we said before --

4 THE CHAIRMAN: Tom, I thank you for your
5 patience. I think we want to move onto the public
6 portion of the meeting, and is Legislator Vivian
7 Viloria-Fisher here?

8 LEG. VILORIA-FISHER: Thank you, Mr. Chair.
9 If you recall, I called to ask if this could be on the
10 agenda first because I'm on the Ways and Means Committee
11 and I chose to be here rather than at that because I
12 think this is so critically important.

13 Listening to your questions I think it's important
14 that I be here. I have to tell you this resolution was
15 approved out of the Ways and Means Committee this
16 morning. I believe that that underscores some of the
17 issues that you have raised here, which is the
18 complexity of this particular action. It is in two
19 committees. It's in the Ways and Means Committee and
20 Environment Committee.

21 The question I have, in fact many of the questions
22 I have had have been asked and were asked already. But,
23 Tom Mr. Isles, when you were speaking about the
24 permissible segmentation, I asked Mr. Kent about this

1 several times. I know that is a notion that really
2 sticks in most people's craw. When you look at
3 segmentation and you look at the issue that we, the
4 legislature, is asked to vote on something which
5 although in itself doesn't have a specific plan, it
6 contemplates a very complex impact on this property. So
7 the contemplation of that is part of what we are looking
8 at, I believe.

9 When you mentioned permissive segmentation or
10 permissible segmentation, I thought that when you said
11 you had examples of these, that were you going to give
12 us examples of segmentation, but you gave us examples of
13 surplus. Are there examples of permissible
14 segmentation that we have seen in Suffolk County of land
15 that has been deemed surplus and then developed?

16 MR. ISLES: Can't answer that question
17 without doing some research on it the examples that I
18 cited there was another agency, where there was
19 consideration of a matter, as in the sales of the state
20 facilities they proceeded to sell land and the
21 localities then conducted the SEQRA Review.

22 LEG. VILORIA-FISHER: That wasn't
23 segmentation.

24 MR. ISLES: May have been; I don't know for a

1 fact in terms of what happened in 1983. My observations
2 then in terms of the cases I was involved in, 1996, when
3 the local facility task force was done with it.
4 Pilgrims; I checked with two of my colleagues. We were
5 never notified. There was no coordinated review. The
6 state sold the land.

7 In terms of process, I'll tell this from my own
8 personal professional experience, being the lead person
9 reviewing Central Islip Industrial Development, to me,
10 it worked very well. I'm not saying this is identically
11 similar here. It would have been ridiculous for the
12 town not to be doing the SEQRA reviews.

13 That was the only purpose in illustration. Whether
14 those are comparable to the facts here is a judgment to
15 be made, and I respect that judgment.

16 LEG. VILORIA-FISHER: My primary concern is
17 the notion of kicking the can down the road. My
18 responsibility as a legislator is to make a judgment on
19 what is before me. Although Mr. Kent hadn't spoken, we
20 have had this conversation.

21 I'm still confused about something. With the
22 segmentation, we have the industrial piece and the
23 residential and arena piece, and are separated in their
24 proposals. In the contract, we have -- the contract

1 addresses our closing of the sale of the industrial
2 parcel. And I believe that you represented at the
3 legislature and at other conversations, that once this
4 goes to the Town of Brookhaven, and the likelihood is
5 that the industrial or the commercial piece of this
6 would be getting its permits and approvals first because
7 there are no zone changes needed, we can go ahead and
8 close, and that developer can move forward before the
9 rest of the project.

10 Can you just explain that to me again because I'm
11 very confused on SEQRA with regard to the two different
12 projects, what kind of flexibility the county would have
13 in its commitment to it developer. Where would the
14 title be on the properties? It's just so complex that I
15 really want all of that to be clarified again.

16 The people that sit on CEQ probably have a better
17 grasp on some of it and probably can ask better
18 questions on it. I'm not a lawyer, so I don't know the
19 answers to my questions before I ask them, and I'm
20 really confused and have questions about this because I
21 don't know what our contractual obligations would be and
22 how title would be carried and where we would be left if
23 all of this is tied up for years and years in the Town
24 of Brookhaven with the permits and zoning issues, and

1 probably legal challenges.

2 If you could address some of these issues. I know
3 that the purview of CEQ is to look at the environmental
4 impact, but I believe this is tied to the types of
5 issues that you address, inasmuch as the process that we
6 will have to undergo once, if we did kick the can down
7 the road and pushed onto Brookhaven Town. I think this
8 is pertinent to the kind of issue that you address.
9 Thank you.

10 MR. KENT: First of all, I will respond to
11 Legislator Viloría-Fisher's question. This property,
12 which is identified as Area 12, is currently zoned
13 industrial. The uses proposed and contemplated under
14 the contract are permitted under the current zoning.
15 This is an industrial piece already in use. There is a
16 plan for this parcel here currently pending before the
17 Town of Brookhaven for industrial use. This is an
18 industrially utilized piece.

19 The proposed uses on this site all meet current
20 zoning. I have spoken to the legislature before,
21 individual legislators. We could convey title to this
22 piece sometime in the future, and it won't be developed
23 until the entire piece completes the SEQRA process
24 through the town. But transfer of ownership could go

1 forward to sell this piece. That is how I
2 differentiated the two. I didn't talk about
3 development, I talked about transfer of ownership.

4 The contract, if you read it carefully, provides
5 for -- requires, not provides for, requires transfer of
6 ownership of this piece for the contract vendee to take
7 ownership in August 2011, and to pay us the value in the
8 contract, twelve million dollars for this piece of
9 property. That is the answer to her question. It does
10 not allow them to go forward with the development.
11 Their development application will still be pending with
12 town, but since there is an existing zoned industrial
13 parcel with existing boundaries, we believe that piece
14 could be transferred without allowing them to go forward
15 with the development until the SEQRA process is
16 complete.

17 MR. KAUFMAN: They would be incurring
18 carrying costs if they did that.

19 MR. KENT: Of course. They have agreed to
20 it. It's also beneficial to them. They believe once
21 they take ownership of the ninety-five acre parcel, they
22 have the ability to finance other portions, other
23 aspects of the job because not only will they be
24 carrying costs, the costs associated with continuing the

1 application before the town may require financing. They
2 believe, in their judgment as developers, that there is
3 a benefit for them to take title of the piece from the
4 county for the value that we already put in there. It
5 could allow for them to not only have an ongoing
6 application, but also an interest in property that is
7 zoned for the uses that they're proposing on the site.

8 MR. KAUFMAN: I understand that, but that is
9 not before us today, that bifurcation.

10 MR. KENT: It's not a bifurcation, it's a
11 proposal to take title. It is before you because it's
12 in the contract. I don't know the exact section. It's
13 in one of the forty-four pages of the contract.

14 MR. KAUFMAN: I'll take your word for it.

15 MR. KENT: There are some other issues. I
16 don't know if you want me to take them up now.

17 MR. KAUFMAN: Please.

18 MR. KENT: Because I was taking notes, I can
19 respond to them individually. First of all, I can
20 generally speak, the whole concept behind there was to
21 meet certain regional issues that could be identified,
22 not only by elected officials and by housing officials,
23 industry officials. We are looking at our young people,
24 people that need to take on the next career path, the

1 next generation of professionals are leaving Long
2 Island. This has been identified in a series of
3 economic reports, industry reports, housing reports,
4 from parents who say their children go away to college
5 or go away to the service and don't come back because
6 there are better places to go that cost less and provide
7 better opportunities for jobs.

8 In 2005, it was identified as a government that we
9 have to give these young people an opportunity to remain
10 here, come back here. We only do that by developing
11 emerging technology, developing as an industry,
12 development of alternative energy coupled with those
13 career path type employment opportunities. We need
14 housing opportunities that meets the needs of this
15 population.

16 In addition to that, we need some type of
17 activities. Many young people said in surveys that they
18 want to live someplace where there is also activities,
19 some type of destination center. That is why downtowns
20 are becoming more popular for active recreation.

21 We came up with this proposal back in 2005 as a
22 concept, as government, we should design something on
23 land that we might have -- we own that could be declared
24 surplus to meet those needs, those critical needs that

1 have been identified in a series of reports, and many
2 elected officials have run on that platform for the last
3 two elections. You hear it endlessly said, some of
4 those officials.

5 Nobody here present, by the way, are arguing
6 against this when they have been arguing that we need to
7 develop this kind of critical use, yet when we put up
8 this type of proposal, it meets opposition. The
9 contract is a limiting document. It's not an
10 approval. The proposals that Tom spoke about, the
11 responses that we got, one proposal was twenty-three
12 hundred residential units. We said no, that is too
13 many.

14 We are limiting it to a thousand, subject to what
15 the town will approve. We are not saying build a
16 thousand units. We understand that there is local home
17 rule from the town that controls zoning and land use.
18 It will be their decision to make, how many housing
19 units can be placed upon that much.

20 As far as wastewater, it's very clear in the
21 contract, although the RFP might have talked about a
22 package plan, the contract requires them to improve
23 wastewater infrastructure to the extent required by the
24 approvals granted by the town. If they're granted the

1 eight hundred units, they will have to approve the
2 existing sewage treatment plant to service eight hundred
3 units. If they're granted a thousand, a thousand
4 whatever the wastewater flow would be a day. That is
5 what they have to improve, the wastewater infrastructure
6 to that extent.

7 MR. GULBRANSEN: The flow is part of what the
8 plant deals with. The stuff in the flow and the removal
9 is part of what is needed. I don't know if the town is
10 the body that sets those limits.

11 MR. KENT: I know what you're saying. The
12 sewage treatment plant itself will have to be improved
13 to handle the amount of removal of the nutrients,
14 nitrogen that has to be removed prior to discharge. We
15 understand. Then, of course, will be subject to a SPDES
16 application to the DEC that allows an increased amount
17 of treatment at the sewage treatment plant. Now it's
18 two hundred fifty gallons a day that is approved.

19 THE CHAIRMAN: Two hundred fifty thousand.

20 MR. KENT: Two hundred fifty thousand gallons
21 a day is the current permit; is that correct?

22 THE FLOOR: Yes.

23 MS. GROWNEY: How is that utilized in the
24 capacity? It's not just how you're dealing with the

1 treatment of it, it's how you take what that treatment
2 presents to you and reuse it for energy purposes.

3 MR. KENT: You're saying possibly take the
4 waste and create energy?

5 MS. GROWNEY: Absolutely. The energy
6 technology part is so paramount, that every aspect of
7 what the development does needs to show that it's taking
8 the usual end result and transforming into an --

9 MR. KENT: I'm not that familiar with the
10 technology, but I'm sure there will be some sort of
11 minimum requirement of the amount of waste matter that
12 you're handling. I don't know if the amount of four or
13 five hundred thousand gallons a day -- maybe Ben would
14 know better. I don't know what the minimum thresholds
15 are for the amount of flow required to make it
16 economically feasible to develop a wastewater to energy
17 proposal. Someone said they're not a lawyer. I'm a
18 lawyer, not an engineer.

19 MS. GROWNEY: When would the --

20 THE CHAIRMAN: Let Mr. Kent continue.

21 MR. KENT: Mr. Machtay had a question.

22 MR. MACHTAY: Your goals are laudable. I,
23 for one, have two sons that are starting their careers,
24 both professionals, and I would love them to be able to

1 stay right here on Long Island, preferably near where I
2 live. Talking about a Positive Declaration and county
3 doing an impact statement is not opposing the project.

4 THE FLOOR: Thank you.

5 MR. MACHTAY: The way you broached it, it was
6 as if we opposed the project because we asked the
7 questions. It's not opposing the project, it's wanting
8 to ferret out what needs to be ferreted out. If it's
9 going to move ahead, move ahead environmentally sound
10 and regionally sound and all the good things that we
11 want to happen. So, I guess you touched a nerve with me
12 when we talked about that we might be opposing it. I'm
13 not opposing it.

14 MR. KENT: Not at all. I was speaking of
15 other elected officials who have spoken both of the need
16 to develop it and against the project. You are not who
17 I was referring to at all. I'm familiar with the
18 process. My roots come out of town government. I was a
19 town attorney, so I understand the need to do a
20 review.

21 I was clarifying because somebody said this would
22 shoehorn the approval onto the town, that this would be
23 a thousand units. We placed a limit in the RFP, the RFP
24 and contract.

1 THE CHAIRMAN: Can you summarize so we can
2 get to the public?

3 MR. KENT: I had other issues that I wanted
4 to go into. I can go into them at the end. I want to
5 hear the other issues.

6 THE CHAIRMAN: Let's take a short break
7 before we go to the public portion.

8 (The hearing was recessed at 12:15 p.m. and
9 resumed at 12:20 p.m.)

10 THE CHAIRMAN: Our first speaker is Tom
11 Williams.

12 MR. WILLIAMS: My name is Tom Williams. I
13 live on Beaver Dam Road in Brookhaven. I want to speak
14 about the Carmans River. Today is an excellent day to
15 think about groundwater and watersheds and runoff and
16 rivers.

17 The Carmans River is a beautiful sacred river.
18 I've lived along it and kayaked and sailed and canoed on
19 it. I ask you to take it into consideration, and I know
20 from your questions that you have already done that. We
21 request that you not approve this going forward at this
22 point until a full Environmental Impact Statement is
23 made on the proposed surplus.

24 We would also like to see the Carmans River

1 Groundwater Watershed Preservation Plan, which we
2 proposed to the Pine Barrens Commission and Town of
3 Brookhaven, to go forward and be completed. As
4 Mr. Gulbransen said, the idea of having a full watershed
5 impact statement we think is important here. I
6 forwarded a copy of that proposal to you through Jim.

7 We are concerned about nitrogen levels. We
8 understand that there have been at least fifty
9 violations of the Clean Water Act SPDES permit by the
10 existing sewage treatment plant in this area between
11 2004 and 2008. The standard of drinking water is ten
12 parts per million. The ecological standard is lower;
13 it's two parts per million. Both Beaver Dam Creek to
14 the west and Forge River to the east are impacted and
15 environmentally critical, and we don't want to see that
16 happen to the Carmans River.

17 Cashen Associates reported that the water quality
18 is generally good, but it deteriorates over time.
19 Proposed development within the watershed through
20 applications for a change of zone land applications,
21 preliminary subdivision and road improvements is over
22 four thousand nine hundred acres, so regionally in this
23 river there is a tremendous number of applications to
24 change things, to do things differently and to increase

1 development. We're concerned about that.

2 We do not feel an additional degradation to this
3 land is helpful, so I would ask you to think of this
4 beautiful river, think of this fall when we went out
5 there, we saw robins feasting on the pepperidge trees,
6 and we would like to make sure that that river continues
7 to be a beautiful and protected river.

8 I'm also concerned about if this transfer occurs,
9 we feel the Town of Brookhaven will lose many options to
10 figure out what to do with this property. If this
11 transfer occurs to a developer, the idea of preserving
12 the two hundred fifty acres is off the table, and we
13 feel that should be a definite consideration before any
14 such transfer occurs. It is important.

15 The county has spent millions of dollars along the
16 river. The federal government owns Wertheim Wildlife
17 Preserve, which is twenty-one hundred acres. The county
18 owns Cathedral Park, Southaven Park, Robinson's Duck
19 Farm and Prosser Pines Park. A total of four thousand
20 seven hundred twenty-two acres have been purchased at a
21 cost of thirty-three million dollars by the county and
22 federal governments in this watershed. We hope that you
23 will not pass on this matter.

24 THE CHAIRMAN: Marty Van Lith.

1 MR. VAN LITH: I'm a member of the Brookhaven
2 Village Association and board member of the Open Space
3 Council. I would like to give you a little background,
4 as I see it, for this river, going back twelve thousand
5 years. It is the only river on Long Island that is
6 actually created as tunnel valley. This is Professor
7 Gulbransen's research from Stony Brook University. This
8 river is twelve miles long. It is very unique and one
9 of the greatest rivers on Long Island and most
10 productive in terms of freshwater feed to the estuary.

11 The history of the river. The first settlement in
12 Setauket three hundred fifty years ago. It was quickly
13 realized that was the best that nature had to offer and
14 quickly created what is today's Old Town Road to connect
15 with the salt marshes and Carmans River valley region
16 along the bay. From there, as the colonial period
17 evolved, and in the post-revolution, the area was known
18 for its wildlife and for its greatest natural resources
19 in the New York area, and only the richest men in the
20 nation would own it, most prominent men in the nation.
21 Among them presidents, would belong to clubs along the
22 Carmans River.

23 One such person realized the importance of this,
24 and in 1947 donated seventeen hundred acres to the

1 people of America. Suffolk County realized the
2 importance of the river and acquired twelve hundred
3 acres from Mr. Kenny Hart in 1960's. This became the
4 first Suffolk County park, Southaven Park.

5 In 1970, students working in Bellport High School
6 biology class came about to study the river for their
7 project, and in turn they submitted an application to
8 New York State to become the first scenic recreational
9 river in New York State. This prompted a whole new
10 awareness about the river.

11 We have aged and grown wiser. We have seen the
12 relationship in the web of life. We have seen the whole
13 food chain beginning in these wetlands and marshes and
14 in this river, which is very pure. Yet of the four
15 great rivers that we have here in Suffolk County, this
16 is the least protected of all rivers. Since then, we
17 have spent two hundred million dollars plus acquiring
18 land along the river, and the county has shelled out the
19 lion's share of the money. This has continued. The
20 land that is being surplused is exactly the kind of
21 marshland that is being acquired. If this is truly
22 surplus land, make this part of the Southaven Park.
23 Thank you.

24 MR. NARDONE: Enrico Nardone, Director of the

1 Seatuck Environmental Association, a not-for-profit
2 organization dedicated to promoting the conservation of
3 Long Island wildlife. I'm also an environmental
4 attorney, although I'm not sure if I should be admitting
5 that today, and I'm a former member of the council. I
6 resigned from CEQ more than two years ago and I am
7 returning to testify. My concern is prompted by the
8 health of the Carmans River, one of the shining stars of
9 Long Island's tributaries, and a true gem in Suffolk
10 County's crown.

11 As detailed in the November 2009 letter to the
12 county legislature, Carmans River is one of the largest,
13 healthiest and most well protected tributaries on Long
14 Island. It supports a viable population of native brook
15 trout and harbors the South Shore's only major alewife
16 run. It is an exceptional river with a unique chemistry
17 and valuable attributes. Small changes in water quality
18 or other features could disrupt the viability of many of
19 the species that are currently thriving in the river.
20 In this regard, we are concerned about the potential for
21 the Legacy Village project to adversely impact the
22 river.

23 Suffolk County has been an integral and important
24 partner in the efforts to restore and protect the

1 Carmans River. The county deserves a great deal of
2 credit for its pursuit of open space acquisitions within
3 the river corridor and its support of conservation
4 projects, especially the installation of a fish ladder
5 at Southaven county park. Every effort should be made
6 to ensure that these substantial gains are not
7 undermined by threats to upstream habitat or water
8 quality.

9 I'm here to urge the council to take a broad view
10 of its role in considering the proposed Legacy Village
11 land sale. You cannot view the proposed sale of the
12 surplus land as a simple benign real estate transfer,
13 you cannot view the proposed sale in a vacuum, but
14 rather must consider the full implications of the
15 action, especially where the intention to develop the
16 property has been made so explicit.

17 In deciding how to proceed, the council must also
18 consider the extent to which the sale will let the horse
19 out of the barn, so to speak. If the sale will
20 essentially preclude options available to the Town of
21 Brookhaven and all but ensure that some development of
22 the property takes place, then the council must consider
23 such effects when assessing the action's potential
24 environmental impact.

1 While it may be technically true that approval of
2 the proposed action will not authorize development of
3 the property or commit another agency to act, it is not
4 clear that the ability to protect the environment will
5 remain unchanged. To the contrary, the sale of the
6 property and the transfer of environmental review
7 responsibilities to the Town of Brookhaven will likely
8 eliminate the most protective option that is currently
9 on the table, which is preservation of the property.

10 The county's sale of the property for mixed use
11 development may give Legacy Village Real Estate Group
12 reasonable and legally significant investment backed
13 expectations of developing the property. While the town
14 may hypothetically still retain the authority to
15 prohibit the development of the site, doing so at that
16 point would be extremely difficult and could subject it
17 to potential risk. The council must take these legal
18 considerations into account in analyzing the proposed
19 action.

20 In closing, while we appreciate the county's
21 economic development and affordable housing goals, we
22 urge that all actions within the Carmans River Watershed
23 proceed as cautiously as possible. If I may, I'd like
24 to invite the council to hold one of its meetings at our

1 school.

2 THE CHAIRMAN: The next speaker is Ellen
3 Williams.

4 MS. WILLIAMS: Ellen Williams. I'm a
5 resident of Brookhaven Hamlet. I raised all my children
6 less than a half a mile from the river. I'm not a
7 public speaker. I also sit currently on the Historic
8 Trust Committee, which is a subcommittee of this body.
9 But I'm here today just in the capacity of a resident of
10 Brookhaven.

11 I would like to ask you that you recommend that an
12 Environmental Impact Statement be done by the county
13 before the county decides to vote on whether to declare
14 that land surplus or whether to sell the land. I'm not
15 a lawyer. I'm not a professional environmentalist, but
16 I'm speaking from my heart.

17 I would like to make a couple of points. I think
18 we are running more quickly every single day. There is
19 not such thing as surplus land. Second, I think as we
20 try to teach our children, there are consequences to all
21 human actions and of our actions and decisions. This
22 imperils not just local streams and rivers, but the
23 entire planet. I would like to say let's learn from the
24 past.

1 I believe you all know in your hearts one thousand
2 units of housing, shopping and sports arena will have an
3 impact. I respectfully suggest that the legacy they're
4 speaking of for our children and grandchildren will be
5 another ruined river and another blow to the planet.

6 Thank you for letting me speak.

7 THE CHAIRMAN: Richard Amper.

8 MR. AMPER: I have not been before the CEQ before.
9 I have been impressed with the kinds of questions that
10 you're asking, the thoroughness that you're asking them.
11 It is appreciated by the community.

12 We have several things that you have raised. I
13 would like to summarize. Type 1 requires a Pos Dec, and
14 what the criteria are. You touched on them. The
15 action, specifically the action of the surplus land sale
16 to approve the contract specifically covered there, is
17 not mentioned at all in the eight part text under SEQRA
18 for segmentation. I think that applies here to be the
19 same.

20 We have a different situation with Brookhaven.
21 There is the surplus and contract later we will get to,
22 but we're going to preclude the option of Brookhaven to
23 do its zoning role if we include certain things that,
24 for example, Tom William said if we approve the contract

1 and the land is sold, no action alternative,
2 preservation alternative of the property is not an
3 option available any more because we don't have the
4 resources to do it; the county owns the land now.

5 It's buying land responsibly in this corridor. We
6 have had people do a watershed study in this area. A
7 lot of these impacts are occurring right here with the
8 county's action. In due course we will deal with the
9 authority. No one wants to usurp the authority of the
10 town. The key, I think, is important whether you think
11 that the way we keep a thousand people on the Island is
12 done by asking them to go -- these people like yours to
13 go out and live next to the county farm. I don't know
14 what it costs in the Longwood School District. There
15 are complicated issues in front of you.

16 I have a slightly different perspective. The
17 project approval is complicated; your decision is not.
18 I say that because the sheer volume of impacts that it
19 may have -- remember, that is the requirement under
20 SEQRA. What you have done historically is not get
21 involved on policy stuff, but focus on what the law
22 says.

23 In this case, there are so many potential adverse
24 impacts that may be had by surplusizing the property,

1 signing the contract, doing the zoning, all these things
2 or so many of them that would have an adverse
3 environmental impact that Pos Dec is required.

4 EIS should be prepared and segmentation has to be
5 avoided. To do that, you have to start the process that
6 says, look before you leap. Thank you very much for
7 what you have done, but I think you have the framework
8 under SEQRA to say whether we like the project or we
9 don't, we have an obligation to up hold it and make it
10 work as it's supposed to, and I hope that is what you
11 will do. Thank you very much.

12 (Applause)

13 MR. MACHTAY: Just one point. I have been
14 involved in a number of lawsuits concerning SEQRA. I
15 was the Director of Planning for the Town of
16 Huntington. The no action alternative would be to sell
17 the property and develop it at the existing zoning, no
18 action. Declaring it open space and/or parkland so that
19 it can't be developed would take a resolution and would
20 be a SEQRA'able action.

21 MR. AMPER: It would be available.

22 MR. MACHTAY: Understand what no action
23 means. It's a little tricky when you boil it down to
24 the bottom line, seeing it dedicated as open space.

1 MR. AMPER: Then use any of a dozen or two
2 dozen other things that will not be available in the
3 SEQRA process by the time it gets to the town, if it has
4 already been foreclosed by the action that the county
5 didn't take at this juncture. That was the only example
6 that I'm trying to make. If you don't like that one,
7 there are twenty more behind it.

8 THE CHAIRMAN: Peter Quinn.

9 MR. QUINN: Good morning, members of the
10 commission. I'm Peter Quinn, long time energy and
11 environment education transportation critic and
12 activist. I'd like to say that some things have been
13 addressed, but several have not. I wanted to point out
14 clearly that the county has the responsibility for
15 liquid waste and the town has the responsibility for
16 solid waste, for the edification of anyone who doesn't
17 know that.

18 But my concern is that not enough has been
19 presented, or -- my question is to the representatives
20 who are dealing with the issue about the aquifer, and
21 the impact that any project of this size would have on
22 the aquifer. We already know from the Suffolk County
23 Water Authority that there are pollutants galore, and
24 many of them get tested maybe twice a year. Some don't

1 get tested at all. Account for me why we have cesium
2 137, lead 210, strontium in our water supply, most of
3 which is found in Brookhaven Town? That is something
4 not addressed, even though breast cancer and autism --
5 people are concerned about what is causing their
6 problems; that is not being addressed.

7 I can understand jurisdictional disputes where the
8 town wants the responsibility for land use. But the
9 county has the responsibility for the sewer plants, and
10 you know they can go ahead and say they're going to
11 build clarifiers at the plants to increase their
12 capacity. Question is, what is their maximum capacity
13 level? And if you are approaching that level, then you
14 have to expand or otherwise not build. So I appreciate
15 that.

16 But I'm concerned about the level of pollution that
17 occurs in our aquifer. I read the reports by the
18 Suffolk County Water Authority. I met with Steve Jones
19 and others to discuss those issues. I have gone to the
20 legislature and been critical of what has taken place.
21 I don't think the Health Department has done an adequate
22 job and they need to address those concerns. I thank
23 you very much.

24 THE CHAIRMAN: Thank you. Mary Ann

1 Johnson.

2 MS. JOHNSON: Good morning. This is my first
3 time before the CEQ. Like Mr. Amper, I am enormously
4 impressed of the depth of understanding and questions
5 that you have asked about what you have been presented
6 with. I have two maps that I would like to give you.
7 One shows depth to groundwater and elevation, Carmans
8 River and in the corridor. There is absolutely no
9 question that this project lies in the middle of the
10 Carmans River corridor. That we are working
11 aggressively, as president of the Affiliated Brookhaven
12 Civic Organizations, which represent some forty civic
13 groups in Brookhaven, as part of the coalition
14 advocating for a full environmental impact.

15 We ask only that you do what the law requires. The
16 law requires that when you have a Type I action, and the
17 threshold that there may be at least one negative
18 environmental impact, you do a full Environmental Impact
19 Statement. That is what the law requires. There is no
20 provision in the law to punt to Brookhaven Town.

21 As far as the Suffolk County Sewer Authority, I
22 would like to remind you that they approved a package
23 plant at the headwaters of the Forge River without
24 regard, without regard to the status of that imperiled

1 river. They did not care. A groundwater discharge
2 sewer plant for a senior project that would release
3 pharmaceuticals into the river, probably the only
4 pollutant we don't find in the Forge, so I'm not really
5 confident in the other agencies doing that.

6 The county certainly is not precluded from making
7 the Town of Brookhaven an interested party to any SEQRA
8 Review, but to leave the Town of Brookhaven with a plan
9 that frankly, I get confused here, this is presented as
10 a concept, but as I reminded the legislature, the
11 contract picks out the vendor for the artificial turf on
12 the playing fields.

13 That seems to be a little bit specific to be a
14 concept. In one breath you're told it's a concept,
15 don't worry about it, let the Town of Brookhaven deal
16 with it. In the other breath, you're told don't pay any
17 attention to the man behind the curtain; that is not
18 your job. Your job is to follow the law and the law
19 requires an environmental assessment on this project.

20 It's presented let's surplus the land and sell it
21 to the developer for their specific purpose. That is
22 the choice you're being asked to make, and that is the
23 choice that we are asking you to clearly take the hard
24 look that the law requires. The law requires the hard

1 look, and if you don't do it, we can assure you that we
2 will. Thank you.

3 THE CHAIRMAN: Regina Seltzer.

4 MS. SELTZER: Good afternoon. My name is
5 Regina Seltzer. I'm an attorney. I will limit myself,
6 I have submitted to you a Memorandum of Law and I know
7 you have all read it, so I'm not going to repeat
8 everything. I'm just going to express one thing. That
9 is, that even though it is complicated, even though it
10 is confusing, it's a situation that has occurred
11 before. It happened in Orange County.

12 We had an almost analogous case to what you're
13 being asked to do right now. In Orange County, the
14 county legislature, at the insistence of the county
15 executive, passed a resolution that surplused one
16 hundred acres of land, and then had it used for a
17 development. One of the legislators filed a challenge
18 to it and it went all the way up to the Court of
19 Appeals. The Court of Appeals said that there was no
20 question that this required a SEQRA, that this required
21 an impact statement and the words they used was as early
22 as possible in the formulation.

23 Therefore, there is no question, because this is
24 law. The Court of Appeals is as high as you go in the

1 State of New York. It says quite clearly, after
2 reading, the facts are almost exactly alike. It makes
3 it quite clear. That the law requires the county
4 legislature to review this before they pass the
5 resolution. They cannot do it after they pass the
6 resolution. They cannot pass it along to the Town of
7 Brookhaven. It is simple, it's straightforward, it
8 doesn't require a lot of thinking on your part. It just
9 requires you and the county legislature to follow the
10 law, and I hope you do. Thank you so much.

11 THE CHAIRMAN: George Costa.

12 MR. COSTA: May I approach the table? It's
13 just to show you one of the things that we're all
14 here -- one of the things we're fighting over concerning
15 the Carmans River. I've been here on Long Island.
16 Those of who you may not know, Trout Unlimited is a
17 national organization of about a hundred fifty thousand
18 members concerned mainly with the preservation of
19 natural fish throughout the country. I have about two
20 hundred seventy-five members in the chapter that we
21 have. The state has a little bit more than four
22 thousand members. Throughout the United States, about
23 three hundred fifty thousand members.

24 I'm not as technical as many of the people that

1 talked today. I'm going to speak from the heart about
2 what this river has really all been. I'm here again to
3 relay to you as to what to what a jewel of the artery
4 this river is, and how much of a lifeblood this river is
5 from its start to where it empties out in Bellport Bay.
6 This river sustains many things. It sustains the health
7 of this river, and unfortunately with some of the
8 actions that may be taken today or in the future, it
9 will become an inhospitable river.

10 What I have placed in front of you, I have an
11 accurate model of one of the jewels of the Carmans
12 River, a brook trout. I talked to the legislature a
13 couple of weeks ago. In 1884, Daniel Webster was
14 supposed to have caught a brook trout in the Carmans
15 River, if you can picture a trout bigger than this one.
16 Brook trout are native to Long Island, native to the
17 entire eastern seaboard, basically from Virginia all the
18 way to Maine. They're still common and a good size up
19 in the Canadian waters. They have been here on the
20 island since the Ice Age, it's the only native trout
21 that we have here in the eastern seaboard.

22 Many of you may not know that it's considered --
23 this is a freshwater fish. If you like saltwater
24 fishing, there are saltwater fish. Brook trout require

1 pure and cold water and may be referred to as the canary
2 in the coal mine. That means if there is something
3 wrong in the water, one of the first things to disappear
4 will be the brook trout. It's been reduced to about a
5 fraction, maybe twenty-five percent or less of its
6 native waters that it used to be here on the eastern
7 seaboard.

8 A few months ago I went with the DEC to Beaver Dam
9 Creek to ascertain whether there were any brook trout
10 still there. We only found brook trout in roughly a
11 hundred yards of it. If you go to the other sections
12 you will find they can't inhabit it either because of
13 temperature or because of pollutants in there. The
14 Carmans River has the largest population left here on
15 Long Island throughout recorded history. The once
16 seemingly endless natural resources of the newly
17 discovered lands have disappeared to a mere fraction of
18 what the existence was at one time.

19 I would like to say there is more to the river than
20 just a fish. There is more to the river than -- just
21 take the time to go out there and observe and see what
22 is in there.

23 (Applause)

24 THE CHAIRMAN: Tom Talbot.

1 THE FLOOR: Tom had to leave early.

2 THE CHAIRMAN: I hope I can pronounce this
3 right. Chad Trusnovec.

4 MR. TRUSNOVEC: Chad T-R-U-S-N-O-V-E-C. I'm
5 a lifelong resident of Yaphank. My family has lived in
6 the same spot in the historic Main Street on the Carmans
7 River for over two centuries.

8 Throughout the years here on Long Island, we have
9 read and heard about some incidents of pollution,
10 underground plume from Brookhaven landfill, Forge River
11 terribly contaminated. Shellfish in the bay has
12 declined. Time and time again, we come to realize that
13 our past progress in property and industry in regards to
14 the environment have come back to haunt us.

15 Years ago we didn't have the information and
16 technology we have today. Some of the problems were
17 unforeseen and unintended. Some was blatant disregard,
18 let the next generation handle it. Today there is no
19 excuse for either. To allow any project, especially one
20 of this magnitude this close to a river, to go forward
21 without an environmental study would amount to the
22 blatant disregard that we were guilty of decades ago. A
23 homeowner on Carmans River.

24 Just the chemicals that are put on the lawns will

1 affect the groundwater. The water table is very high
2 in the area. It will be affected. I know; I live
3 there. You are one of the gate keepers of the
4 environment. Future generations will be looking back
5 on the decisions made today. I implore you to see that
6 this project gets the full environmental study it
7 desperately needs so that our children and their
8 children won't be faced with the problems that we have
9 today.

10 That's the end of my statement. If I have any time.

11 THE CHAIRMAN: You have a minute.

12 MR. TRUSNOVEC: I am new to the process.
13 Listening to the comments, I'm seeing that the scope of
14 it actually goes a bit further, and I'm glad to here.
15 That for example, one of the comments is about the
16 height of the stadium and can it been seen. Obviously,
17 it is a huge impact on the area. For those of you who
18 don't know about Yaphank, it's a small town.

19 A thousand homes; it's actually thirteen hundred,
20 if you add the two hundred fifteen accessory apartments
21 and the other whatever; I don't remember what they were
22 are. That is twenty-six hundred people right in the
23 middle of Yaphank. That doesn't even talk about kids.
24 That is twenty-six hundred people. That will destroy

1 the town, any rural characteristic that we have. It
2 will destroy it. If I wanted to live in Queens, I would
3 move to Queens. It is a terrible idea. I hope it
4 doesn't see the light of day.

5 I'm opposed to the project for numerous reasons.
6 I'm trying to stay focused on the environment because I
7 think it will have such a devastating impact on the
8 environment.

9 THE CHAIRMAN: Michael Hamilton.

10 MR. HAMILTON: I'm a resident of Yaphank. I
11 came here today, I wasn't going to speak, but listening
12 to everybody go on and on -- my thoughts are twofold.
13 One extreme, I'm a resident of Yaphank. I don't want to
14 see what is going on. Chad talked about the amount of
15 people and how it's going to affect our quality of life.
16 The other is regionally. I'm talking about businesses.

17 Unfortunately today, it's foggy, you can't look out
18 on the bay. In the '70's you probably had two, three,
19 four hundred people making a living out of the bay. At
20 the same time, building built up and came east. As
21 building came east, more and more smog pollution,
22 density. Look at the Connetquot River, the
23 bulkheading.

24 Patchogue River, Carmans River, Forge River, all

1 polluted. All the nutrients. You talked about nitrogen
2 levels, all these things impact all the rivers. You had
3 brown tide. It came along, it blocked out the sunlight
4 to the eel grass. Blue points went up to Connecticut
5 because you can't grow a clam here. Newsday last year
6 spoke about how the bay is coming back. I wear many
7 hats. One of my hats is I go out on the bay and clam.
8 You can't make what you used to make, families can't
9 survive.

10 Ironically, one of the businesses pushing for the
11 development is the construction trades. Construction
12 trades, back in the '70's when interest rates were
13 sixteen percent, what did they do? They turned to the
14 bay for the living. They can't do that now, so they're
15 driving for more and more development. I understand
16 that they need to work too.

17 When taxpayers decided to tax themselves to buy
18 open space, make this open space. You talk about open
19 spaces for families to walk. You have to Patchogue and
20 Northport. Then you put in the outlet stores that drew
21 people away from these places. One lady said you need
22 to revitalize and rebuild. By revitalizing and
23 rebuilding the downtown areas, you will have exactly
24 what Mr. Levy is looking for. You recall we have those

1 communities, but we have gone away from those
2 communities.

3 My son graduated college last year from Oneonta.
4 He took a teaching job in Utica. He bought a house.
5 It's costing less than a thousand dollars a month. I
6 said, will you come back here. He said you have
7 congestion. There is quality of life issues here. By
8 putting more density more building, you're putting more
9 congestion and impacting your quality of life. I could
10 go on and on.

11 THE CHAIRMAN: Don Schubert.

12 MR. SCHUBERT: Good afternoon. My name is
13 Don Schubert, part of the civic association and part of
14 the Overton Preserve. I'm usually all over the place
15 when I speak because I'm not that organized. Obviously,
16 the questions that you people have brought up have
17 showed that all the questions here are all over the
18 place. It's an absurdity that you're even here, but I
19 appreciate the questions that you asked.

20 If you went to the mall down the road and asked
21 somebody to read a paragraph in SEQRA, that they would
22 been saying it's a Type I action and you should be doing
23 an environmental impact. There is no sense to it. I
24 think that split personality in the fragile area that

1 it's in. It is a split personality. I mean, we have a
2 beautiful Carmans River and the area and Pine Barrens
3 and parts of the core area and compatible area around it
4 and recharge area, that has been forgotten.

5 Around it we have the other side of the coin,
6 landfill, power plant, Grucci, the transfer stations are
7 there. You don't know what they're transferring at all.
8 Private transfer stations come into that area. I live
9 in Medford, the center of the garbage. That is all in
10 the contribution areas to this place.

11 I think it's a very fragile line that you're
12 crossing. I think the idea is to save that land out
13 there for public purpose. The public purpose in 1960,
14 we didn't realize the population. Did we realize the
15 number of cars, that there would be more cars than
16 people? People talked about a green area, that there is
17 about eight hundred, at least, acres of
18 industrial-commercial land just to the west that we in
19 Medford like to see that in a green area. Then open up
20 another area that we would have all the transfer
21 stations.

22 We have an apartment complex that has about twelve
23 hundred units. That is about twenty-five percent un
24 unoccupied. There is many different things. The

1 segmentation of it is absurd. The whole area needs to
2 be looked at. It was supposed to, three or four years
3 ago, to redefine Zone 1, Zone 2, Zone 3. We had an
4 ashfill site. It was denied because it was in Zone 3.
5 Caithness power plant is in that same spot. You know
6 those lines were politically drawn as well as
7 environmentally drawn.

8 I think you have a lot of to do. I think there are
9 twenty thousand gallons of ammonia at the sewage
10 plant. I think the first line on the SEQRA would tell
11 you to deny it.

12 One other point about the educational. As a
13 teacher, I brought many classes to Yaphank. Yaphank is
14 a naturally looking rural area. We don't need nine
15 hundred or a thousand plasticville houses to contribute
16 to the rural affair. Why shouldn't the Island not have
17 that same atmosphere and environment?

18 THE CHAIRMAN: Kevin McAllister.

19 MR. McALLISTER: I'm the Peconic Baykeeper.
20 I would like to focus my comments on the wastewater
21 stream. I think it was acknowledged today that the
22 project in its entirety is within the Carmans River
23 watershed. What is quite nebulous to a lot of people is
24 the groundwater flows. It's very slow moving. It will

1 take years, as the crow flies, maybe years away from
2 entering the streams, but inevitably it will.

3 With reference to sanitary waste, Mr. Swanson, you
4 pointed out at least a rough calculation of two hundred
5 seventy thousand gallons a day, but that has to be
6 obviously defined. There is a gross disconnect from
7 protecting surface waters relative to the New York State
8 and Suffolk County Sanitary Code of ten parts per
9 million. It is substantially lower than that.

10 One of your colleagues, Chris Goldberg, in some of
11 his work on Forge River as well as Peconic River, has
12 substantiated. Relative to, I guess the big picture in
13 protecting the integrity of the river is the watershed
14 and large water contributing area. Mr. Gulbransen, you
15 were asking a question about the load allocation
16 relative to New York State. We refer to it as total
17 maximum daily load. It would be bacterial or nitrogen,
18 depending on the pollutant.

19 In terms of what they try to define is a pie chart.
20 Ultimately, what they try to ensure is that said
21 pollutant can be effectively assimilated into the
22 river. As watershed management proceeds, I think we
23 have to define what the load allocations are and what
24 the river can, in fact, assimilate.

1 I'll resonate some points from prior speakers. I
2 was impressed by the lines of questioning from the
3 committee. I think you really get it. I think we have
4 a long way to go in the process. I encourage you to
5 issue that Positive Declaration. Let's try and bring
6 Brookhaven Town into the process early.

7 Ultimately, I guess I'll translate that. Often
8 times when I'm addressing development issues where a
9 permitting agency punches the ticket, and in fact that
10 applicant goes to New York State, it makes it very
11 difficulty for denial. In a way, approval on the county
12 here would be a de facto permit saying okay, now deal
13 with Brookhaven Town.

14 You put them in a tenuous position. I think with
15 that in mind, this coordinating with Brookhaven Town
16 with what their specific interests are is important.
17 I'm sure you will do the right thing.

18 THE CHAIRMAN: Anybody else in the audience,
19 yes? State your name.

20 MR. McCONNELL: Good Afternoon. John Mc
21 C-O-N-N-E-L-L. I live in Yaphank, South Yaphank Civic.
22 My wife and I moved to Yaphank about eight years ago for
23 its rural character. We had the farm, all kinds of open
24 space. With the county owned land we figured no

1 development, right? Now we're having this mega city
2 being developed here, drastically changed forever. It
3 will never be the same.

4 What some of us mentioned before, twenty-seven
5 hundred people more. There is only less than five
6 thousand people in Yaphank, by the way. It's over five
7 thousand if you count the jail. We don't need this
8 here.

9 I want to touch on real quick because my wife said
10 I have to get out of here. Peter Quinn was up here
11 talking about the water. Suffolk County Water only
12 tests forty percent of its wells. It doesn't test all
13 the wells. We believe -- a friend of mine does a lot of
14 research on this. There is a serious problem with a lot
15 of the wells; they're contaminated. They put charcoal
16 filters on them.

17 Who overseas the water? You think you're getting
18 Suffolk County water is debatable. They blend with the
19 power plant using all kinds of water. They build this
20 year, all the impact on the groundwater, you have to
21 seriously give this a hard look, an honest look. Thank
22 you.

23 THE CHAIRMAN: Last call.

24 MR. KENT: Can I clear up a couple of

1 issues?

2 THE CHAIRMAN: Yes.

3 MR. KENT: Just a couple of issues. I don't
4 know if it's even worthwhile. I want to go through a
5 couple of things that was said by a couple of speakers.
6 The 1983 case that went to the Court of Appeals that
7 references the transfer of land done by a county where
8 no SEQRA was done. No SEQRA determination was made. We
9 are not proposing that here. We are proposing to
10 complete SEQRA. That is what the case says; it was
11 referred back for SEQRA. I wanted to cover that.

12 As far as transferring the property and whether it
13 could go back to the county and be preserved, other than
14 the industrial property, ninety-five acres is located
15 between two industrially developed sites. The balance
16 of the property will not be transferred unless the town
17 approves the change of zone.

18 The PDD, there will be no transfer of the ownership
19 of the property without approval. There will be no need
20 to try to get the land back because we will not have
21 transferred it without approvals.

22 Industrial piece, we have an option. There is an
23 option to even recover the industrial parcel by just
24 giving them back the money they paid. There are options

1 available. We know that will be fully studied.

2 There is no getting around the need for a study;
3 it's just at what point is it studied. There is a
4 memorandum that was produced and distributed to all of
5 you. The only action before you is the declaration of
6 surplus and right to go forward with the contract. The
7 development itself, the proposal to do the full
8 development will be fully studied and we will be an
9 involved agency, so thank you.

10 THE CHAIRMAN: I want to thank all of our
11 speakers today. It's extremely important, as citizens,
12 that you get out and let us know what your thoughts
13 are. We all appreciate hearing from you as well.

14 Let me just review what the action is. As Mr. Kent
15 said, the only thing we're doing is looking at the
16 proposed adoption of a local law declaring as surplus
17 and authorizing the execution of a contract for the sale
18 of two hundred fifty-five acres in Yaphank to Legacy
19 Village Real Estate Group, and that is the only thing
20 that we really are needing to do. Open the discussion.
21 Move forward. Go ahead, Mr. Kaufman.

22 MR. KAUFMAN: One of the things that I think
23 needs to be brought out right now is that we need to go
24 through what we normally go through, which is the proper

1 SEQRA analysis. We try to identify the impacts that
2 have been described to us that we may know exist or that
3 we want to bring up and match it against the SEQRA
4 criteria. That is what Rich has been talking about, the
5 standards of decision for this board to make.

6 Generally under Type I, if it's over a hundred acre
7 sale, it carries a presumption of a significant impact.
8 That is for us to decide. Under Type 1 of the criteria,
9 if an action is taken that might have significant
10 impacts on the environment, the critical standard is
11 placement.

12 SEQRA also says we're supposed to consider whether
13 an action may cause consequences, and we can look at
14 reasonably related long and short-term impacts,
15 including subsequent actions likely to be taken. That
16 is one of the other decision standards that I think is
17 important.

18 We have to also frankly look at the segmentation
19 issue, and if we do allow segmentation to occur as part
20 of our recommendation, we have to make a demonstration
21 that the review is no less protective of the
22 environment.

23 We also have to look at some of the other issues
24 that had been raised here today, everything from the

1 regional on down. Groundwater was raised, et cetera.
2 That is our standard of decision. That is what should
3 guide us in how we look at everything.

4 It's my opinion, I'll defer to the Chair on this,
5 that we should start talking amongst ourselves out in
6 the open, because this is a public hearing, as to what
7 we think the impacts are, and start comparing them to
8 the SEQRA standards so we can arrive at some sort of a
9 conclusion. Does that sound good?

10 MR. GULBRANSEN: I have a question about
11 process. Have we made an implicit decision about the
12 lead agency status? I haven't heard enough discussion
13 about a scenario where there could be a co-lead. SEQRA
14 is silent, but there are cases where it has been
15 accomplished.

16 A lot of discussion seemed to refer to coordination
17 and smart growth study that the county looks forward to
18 coordination. Did we get past that?

19 MR. KAUFMAN: We haven't been at that point.

20 MR. GULBRANSEN: What point should we, as a
21 group, address that?

22 MR. KAUFMAN: Right now we're considering the
23 county action. That is all we are officially looking
24 at, how we design -- if we go a Pos Dec, which is a big

1 if, that is one of the charges we have to do today, is
2 figure out exactly what the Pos Dec consists of, how far
3 it can go and the technical detail you're talking
4 about. I'll defer to Rich on the other aspects.

5 MR. MACHTAY: Coming from town government,
6 town planning, first question I really have, does
7 anybody really know whether Brookhaven has a
8 comprehensive plan that includes this area,
9 comprehensive plan for development?

10 THE FLOOR: No.

11 MR. KAUFMAN: I was involved with hamlet
12 studies a while back in the Town of Brookhaven, and I do
13 not recall that this was a subject of a specific hamlet
14 study in this particular area.

15 MR. MACHTAY: Without a comprehensive plan,
16 anything is possible. Comprehensive plan adopted
17 pursuant to SEQRA gives you some leverage to know what
18 the town wants to see there. We have no idea where the
19 town stands on any of this.

20 I did give a case to one of the county attorneys
21 yesterday, of co-leadership. That is the project down
22 in Brooklyn where they want to move the Mets, where the
23 railroad tracks are.

24 THE FLOOR: Atlantic yards.

1 MR. MACHTAY: They did co-lead agencies in
2 there. That is possible also.

3 MR. KAUFMAN: That is not before us.

4 MR. MACHTAY: Without having Brookhaven at
5 the table. I think the real issues here, I think there
6 are criterion triggers that makes the county take a hard
7 look at what they're doing, and the way you take a hard
8 look is with an impact statement. I don't know what
9 anybody else on this committee thinks or would like. I
10 think that is where you have to start, is with some kind
11 of recommendation to the legislature that an impact
12 statement has to be done.

13 (Applause)

14 MR. KAUFMAN: Do you think the triggers are
15 there?

16 MR. MACHTAY: I think the triggers are there.
17 I guess the thing that stops me from going all the way
18 is that an EAF Part 2 and EAF Part 3 were prepared and
19 they both state that there will be no impacts from the
20 sale of this property. We would have to review those
21 statements in those documents and see where they run
22 contrary to the criteria in SEQRA from issuing a Pos
23 Dec.

24 MR. KAUFMAN: Looking at findings in the

1 back.

2 MR. MACHTAY: It says it will not have an
3 impact. Some of those you have to go through them one
4 at a time and change them, and say yes, they will have
5 an impact because you are going to move people, you are
6 going to use more energy, you are going to have many
7 more people attracted to the area than are otherwise
8 attracted; so on and so forth.

9 If you want to change those with the general
10 statement that this tabled as part of your resolution,
11 that is one thing. Otherwise, you have to go through
12 them one by one.

13 MR. KAUFMAN: Are you saying do it here today
14 now?

15 MR. MACHTAY: There are fifteen at the end.
16 And some of them may or may not be so. The fact of the
17 matter is, if only one of them is wrong.

18 MR. KAUFMAN: Then we Pos Dec it.

19 MR. MACHTAY: Then a Pos Dec is required.

20 THE CHAIRMAN: Let's review them.

21 MR. KAUFMAN: The back of the first one is
22 that the action before the legislature consists solely
23 of the declaration of surplus and contract for sale of
24 two hundred fifty-five acres. Accordingly, no solid

1 waste will be generated as part of the action. Will not
2 adversely impact solid waste management practices.

3 THE CHAIRMAN: If the project goes forward
4 there, just from the housing development alone, that
5 means on the order of twenty thousand pounds per day.

6 MR. KAUFMAN: You're looking at this as a
7 reasonably related long term impact, that subsequent
8 impact that is contemplated as part of what we're seeing.

9 THE CHAIRMAN: Yes. I would further say that
10 with regard to the Town of Brookhaven, who is
11 responsible for managing the waste, if they have no
12 means of actually managing the waste within the town,
13 that they have to ship it off site other to places to
14 get rid of it, so there is air pollution raised as part
15 of the solid waste.

16 Does anyone else have any comments on the board as
17 to solid waste issues? This is Page 26, the first
18 finding.

19 MR. KAUFMAN: I have received advice that we
20 should go through the form, since I never argue with Jim
21 Bagg. It's still the EAF. It starts around --

22 THE FLOOR: Mr. Bagg prepared this EAF.
23 Point of order. I think you have to excluded yourself
24 from this discussion.

1 THE CHAIRMAN: He's not a voting member.

2 MR. MACHTAY: If you move down to Number 12
3 from --

4 MR. KAUFMAN: Describe the wildlife on the
5 site, Page 7.

6 MR. MACHTAY: Page 27.

7 MR. KAUFMAN: We're doing the Part 2.

8 MR. BAGG: That starts on Page 11.

9 MR. KAUFMAN: Part, 2 Page 11. Impact on
10 land. Right now it says that there will be no impact
11 upon the land, and the categories as you see them over
12 here. Basically there will be a physical change to the
13 project site. Again, the criteria basically is there
14 something reasonably related, is this criteria
15 reasonably related to what we are being asked to judge
16 today? Is there going to be an impact on the land? Is
17 there going to be construction on the land?

18 THE CHAIRMAN: Yes.

19 MR. SCHNEIDERMAN: Subsequently yes, not by
20 this action alone.

21 MR. KAUFMAN: SEQRA says, as one of the
22 criteria, two of them under Type I, if an action taken
23 may have a significant impact, that is the first
24 trigger. The second one is an action may cause

1 consequences and there exists reasonably related long
2 term impacts, including subsequent actions likely to be
3 taken. That is straight out of SEQRA. That is the
4 criteria, as far as I see it.

5 MR. SCHNEIDERMAN: Declaring it surplus and
6 selling it will lead to the private development.

7 MR. KAUFMAN: And signing the contract. I
8 think that is reasonably related to what is going on.

9 MR. BAGG: What are you checking off on the
10 box?

11 MR. KAUFMAN: Larry thinks it's a yes.

12 MR. BAGG: What gets triggered here?

13 MR. KAUFMAN: Construction that will continue
14 for more than a year or involve more than one phase.
15 Possible excavation, parking area.

16 MR. GULBRANSEN: Can project be mitigated by
17 project change?

18 MR. KAUFMAN: On this one I tend to doubt it.
19 It's an impact on the land. If you build something,
20 there will be an impact. Other categories may provide
21 for mitigation, in my opinion. I believe potential,
22 then we have to look at the categories, small, moderate
23 potential, large. I believe they exist.

24 MR. SCHNEIDERMAN: Arena alone would be

1 certainly. Housing is certainly. More than a thousand
2 car parking lot, you lose impervious surfaces. Seems to
3 me that would be a potential large impact on the
4 environment.

5 MR. KAUFMAN: I think for ease of analysis,
6 rather than trying to classify it and saying under these
7 categories of 1, 2 or 3, if we find there is going to be
8 impact and we think it should be yes instead of no,
9 leave it at that now, for economy.

10 MR. GULBRANSEN: Within the section, Impact
11 on Land, of those criteria, we are asked to examine the
12 third one regarding construction of paved areas for a
13 thousand or more vehicles. We think that will have an
14 impact. We are not deciding whether it's small or
15 potentially large. We are saying something about that
16 criteria that is active.

17 MS. GROWNEY: We're just identifying where
18 there is impact.

19 MR. GULBRANSEN: That is the only one in the
20 land category.

21 MS. GROWNEY: No.

22 MR. SCHNEIDERMAN: It would make it a yes.

23 MR. BAGG: Point of order. States here that
24 if threshold impact equals or exceeds any example

1 provided, which is a thousand vehicles, you have to
2 check Column 2.

3 MR. SCHNEIDERMAN: It would have to be
4 potentially large impact.

5 MR. KAUFMAN: Construction that will continue
6 for more than a year, most likely will involve more than
7 one phase or stage, possible excavation.

8 THE FLOOR: Excuse me?

9 MR. KAUFMAN: This is our discussion.

10 MR. MACHTAY: If I could, Page 15,
11 introduction of proposed land uses, projects or project
12 components obviously different or in contrast to current
13 surrounding land use patterns or existing man-made
14 additions to the landscape. Two, the permanent
15 foreclosure of future recreational opportunities.

16 MR. KAUFMAN: What page?

17 MR. MACHTAY: Page 16, Page 17.

18 MS. GROWNEY: Go slower. You're jumping
19 around.

20 MR. MACHTAY: I'm eliminating the ones that
21 don't apply.

22 THE CHAIRMAN: Michael is taking us through
23 the impact on land. Let's do it one at a time.

24 MR. KAUFMAN: We acknowledge, I think, around

1 the table, for purposes of discussion and
2 identification, there will be an impact upon the
3 land. Looking at Number 2, any affect to any unique or
4 unusual land forms found on the site itself, cliffs,
5 dunes, et cetera.

6 I have been part of the EIS team that looked at the
7 golf course proposal for those lands that are formerly
8 involved with the golf course. We did not find any
9 features like that. There is nothing unique or highly
10 unusual on B, C or D. A, I don't really see that much.

11 Three, will proposed action affect any water body
12 designated as developable area. Does not contain a
13 developable water body. We will not have dredging, no
14 electrical wires. No construction in the freshwater or
15 tidal wetland, but it's possible that there will be
16 other impacts on Carmans, which I think is the way a lot
17 of people have been telling us in terms of groundwater
18 impacts. I think the map said twenty-five years for
19 migration.

20 MR. BAGG: Is Number 3 a yes or we don't know
21 yet?

22 MR. KAUFMAN: Don't know yet.

23 MR. GULBRANSEN: Suffolk County Department
24 Website shows a map that shows the watershed estuary

1 reserve. This land is part of that delineation. It has
2 issues that pertain to the impacts that this active
3 development could occur.

4 MR. KAUFMAN: Three, that is impact on
5 water. Any other comments on this one? Let's try 4,
6 will proposed action affect any non-protected existing
7 or new body of water.

8 MR. SCHNEIDERMAN: Any ponds on this
9 property?

10 MR. BAGG: No.

11 MR. KAUFMAN: I don't think this one applies.
12 Number 5, will proposed action affect surface or
13 groundwater quality. We are hearing a lot of
14 information on this one. Is there is a general yes on
15 this one? It will require SPDES.

16 MR. SCHNEIDERMAN: It will require a
17 discharge permit, for sure.

18 MR. MACHTAY: I think you can say it may.

19 THE CHAIRMAN: Sewage treatment plant.

20 MR. KAUFMAN: And there is a commercial
21 component to this.

22 THE CHAIRMAN: It does require permits.

23 MR. MACHTAY: The operative word is "may"
24 rises to an impact statement.

1 MR. KAUFMAN: Proposed action requires source
2 of water. I don't think that applies. Water supply
3 from wells greater than forty-five minute pumping
4 capacity, probably going to be true. Does anyone know
5 if there are any wells in the Suffolk County Water
6 Authority?

7 THE FLOOR: There is a huge well to the west
8 by Caithness.

9 MR. ISLES: West and south a little bit.

10 MR. KAUFMAN: I think that will require more
11 than forty-five thousand gallons for the project. Page
12 13, still on impact. Contamination of public water
13 supply.

14 THE CHAIRMAN: Yes. Construction or
15 operation causing any contamination of a public water
16 supply system.

17 MR. MACHTAY: What is the potential for
18 contamination?

19 MR. KAUFMAN: Actually, if there are no
20 wells in the area.

21 MR. SCHNEIDERMAN: If the well is
22 downstream.

23 MS. GROWNEY: We don't know, I guess.

24 MR. KAUFMAN: Let's not touch that one.

1 Potential adverse impact on groundwater.

2 MS. GROWNEY: Yes.

3 MR. KAUFMAN: Liquid effluent will be
4 conveyed off site of the facility, which presently does
5 not exist.

6 MS. GROWNEY: We don't know.

7 MR. KAUFMAN: Facility will use greater than
8 excess of twenty thousand gallons a day. That is a
9 yes. Will it cause situation of discharge into an
10 existing body of water.

11 MS. SPENCER: It may.

12 MR. KAUFMAN: There are no streams directly
13 running into the Carmans over there, except for Section
14 A. I don't necessarily see heavy siltation coming.

15 MS. GROWNEY: Was any of this filled?

16 MR. KAUFMAN: I don't think so. Source of
17 storage of petroleum products.

18 MR. PICHNEY: It is relevant that the county
19 already stores fuel for the police station that is
20 there.

21 MR. KAUFMAN: I don't know that we can answer
22 that one. Has a potential. Proposed action will allow
23 residential uses in areas without water and/or sewage
24 services. Contract provides for STP.

1 THE CHAIRMAN: That is a no.

2 MR. KAUFMAN: Proposed action locates
3 commercial land and/or industrial uses and/or storage
4 facility.

5 THE CHAIRMAN: Yes.

6 MR. KAUFMAN: Any other impacts on water?

7 THE CHAIRMAN: That's enough.

8 MR. MACHTAY: You're saying yes, but like
9 Michael, which column is the "yes" going?

10 THE CHAIRMAN: Two.

11 MR. KAUFMAN: Will the proposed action alter
12 drainage flow, runoff.

13 THE CHAIRMAN: Yes, put a street in, it does
14 that.

15 MR. KAUFMAN: Even if it's mitigated with
16 sewers?

17 THE CHAIRMAN: Absolutely.

18 MR. SCHNEIDERMAN: Assuming we're reviewing
19 the project itself, that is the subsequent action of
20 approving this action.

21 MR. KAUFMAN: Going through, assuming that we
22 are looking at some development activity which is in
23 here, impede water flows. I'm still in 6. We have a
24 general yes in there. Flood water flows, substantial

1 erosion. I don't think it will do much erosion.
2 Compatible with existing drain patterns. It's not in a
3 designated flood way. This stuff is all in the list of
4 other impacts. Every one okay so far?

5 MS. GROWNEY: Yes.

6 MR. KAUFMAN: 7, impact on the air.

7 MR. BAGG: You said yes on Number 6; what
8 triggered?

9 THE CHAIRMAN: Impede flood water flow.

10 MR. KAUFMAN: Impact on the air. Reduce one
11 thousand or more vehicle trips in an hour.

12 MS. GROWNEY: Yes, it will have an impact.

13 MR. KAUFMAN: The potential is there.

14 MR. SCHNEIDERMAN: Certainly the stadium will
15 do that.

16 MR. KAUFMAN: Result in the incineration of
17 more than a ton of refuse in an hour. I think that is a
18 no.

19 MS. GROWNEY: We don't know the answer.

20 MR. KAUFMAN: Emission rate of all
21 contaminants. We don't know the answer to that.
22 Increasing amount of land committed to industrial use.
23 It's Zoned L-I right now for the majority to have. If
24 the county proposal goes forward, it might be a

1 reduction. I think that is a no.

2 Proposed action will allow an increase in the
3 density of industrial development in existing industrial
4 areas. I think that this is a yes in there. We are
5 talking about L-I zoned and probable green zone and
6 industrial use.

7 MS. GROWNEY: Plants and animals.

8 MR. KAUFMAN: The proposed action threatened
9 any endangered species. County workers.

10 MS. GROWNEY: Yes, it's possible.

11 MR. PICHNEY: The brook trout.

12 MR. MACHTAY: The only way you will know
13 that is doing some kind of biological study, and we
14 don't have that. All you have to do is find lady
15 slippers or something like that; immediately it's on the
16 list.

17 THE FLOOR: There is a shrub pine community
18 there.

19 MR. KAUFMAN: That is not endangered in any
20 way. Removal of any portion of a critical wildlife
21 habitat. Don't know. I can tell you throughout EIS
22 with the golf course, that we did not identify that for
23 the western portions. I can't tell you about Zone A.

24 MR. BAGG: None of the habitats that you read

1 in the study and what you read in there in S-3 and S-4
2 is not considered critical habitat, pursuant to state
3 DEC.

4 MR. KAUFMAN: Application of pesticides or
5 herbicides more than twice a year.

6 THE CHAIRMAN: Yes.

7 MR. KAUFMAN: 9, Will proposed action
8 substantially affect non threatened or endangered
9 species?

10 MS. SPENCER: Yes, the trout.

11 MR. MACHTAY: Also migratory birds.

12 MR. KAUFMAN: Removal of the forest over a
13 hundred years.

14 MR. PICHNEY: Possibly. Section A, there are
15 some substantial trees in there.

16 MR. KAUFMAN: With the EIS for the golf
17 course, that area had been cut over several times
18 through the years. It's not a climax community at this
19 point in time. It's basically regrowth. Some is pine,
20 some pine pitch, some mixed oak and pine. I'm not sure
21 it's necessarily mature.

22 THE FLOOR: It's pretty well overgrown with
23 hundred year old trees.

24 MR. KAUFMAN: Impact on agricultural land

1 resources. That is pretty much a no, from what I'm
2 seeing. Going onto eleven, impact on aesthetic
3 resources or community character.

4 THE CHAIRMAN: Yes.

5 MS. GROWNEY: Yes, big time.

6 MR. KAUFMAN: Introduction of proposed land
7 uses, projects or project components in sharp contrast
8 to current surrounding land use. Yes. Potential.

9 THE CHAIRMAN: Yes.

10 MR. KAUFMAN: Introduction of proposed land
11 uses for projects or project components, aesthetic
12 resources. Dan?

13 MR. PICHNEY: Yes.

14 MS. GROWNEY: Yes.

15 MR. KAUFMAN: Introduction of project
16 components that will result in the elimination or
17 significant screening of scenic views known to be
18 important to the area.

19 MS. GROWNEY: Yes.

20 THE CHAIRMAN: What is the scenic view?

21 MR. KAUFMAN: The LIE.

22 THE CHAIRMAN: I'd say no.

23 MS. GROWNEY: The forest.

24 MR. KAUFMAN: I don't know that I can go on

1 that one. We have a disagreement. I sort of am not
2 worried about that.

3 Impact on historic and archeological. On the golf
4 course nothing is identified.

5 MS. SPENCER: There is a graveyard and I
6 think you should ask Richard whether or not it was in
7 this area.

8 MR. KAUFMAN: Mr. Martin?

9 MR. MARTIN: If I can comment on the map, and
10 Tom referred to this in his explanation of the outline.
11 Top right above A, you see it's cut out, the cemetery.
12 It's right near the entrance ramp to the Expressway.
13 It's not within this.

14 MS. GROWNEY: It's out of the site.

15 MR. KAUFMAN: Okay. It's cut out.

16 MR. MARTIN: Next to it, but --

17 MS. SPENCER: Sits surrounded by this. Yes.

18 MR. KENT: On two sides.

19 MS. SPENCER: Because that cemetery is
20 completely surrounded, and the proposed development is
21 contiguous to the cemetery, there is a potential
22 impact.

23 MR. KAUFMAN: I think that goes to the next
24 category, impact on historic.

1 MS. SPENCER: That is where I am.

2 MR. KAUFMAN: Twelve.

3 MS. GROWNEY: She covered it.

4 MR. KAUFMAN: Possible impact. That is all
5 that is required. Sensitive for archeological sites.
6 The golf course did not have anything archeologic on
7 it.

8 THE FLOOR: What golf course?

9 MS. SPENCER: Same parcel as previous
10 application, years ago.

11 MR. KAUFMAN: The graveyard for the alms
12 house, I guess is under the other impacts on this
13 particular category, Category 13, impact on open space
14 and recreation.

15 MS. GROWNEY: Yes.

16 THE CHAIRMAN: What?

17 MS. GROWNEY: Future recreational
18 opportunities.

19 MR. KAUFMAN: Major reduction of open spaces
20 important to the community.

21 MS. GROWNEY: Yes.

22 MR. KAUFMAN: Anything on that one? Impact
23 on CEA. That is not in a CEA; that much I know.
24 Category 15, impact on transportation. Will there be an

1 effect to the existing transportation system?

2 MS. GROWNEY: Yes.

3 MR. KAUFMAN: Pattern, movement. Severe
4 traffic problems.

5 MS. MACHTAY: Alteration of present pattern
6 of movement of people. You will be attracting more
7 people to the area.

8 MR. KAUFMAN: We have impacts, impact on
9 energy. Will it effect the community's sources of fuel
10 or energy supply to the extent there is a four megawatt
11 plant proposed? Yes, there will be an impact.
12 Hopefully a good one.

13 Will there be a five percent or more increase in
14 percent of energy used? Even if it's compensated for by
15 the energy plant.

16 MR. BAGG: I don't think it's five percent.

17 MR. KAUFMAN: Is that the category?

18 THE CHAIRMAN: We don't have any knowledge of
19 that.

20 MR. KAUFMAN: No knowledge of what the build
21 out is. That is answered in the EIS. It requires the
22 creation of extension of an energy transmission or
23 supply system. Yes, it will require.

24 17, objectionable odors, noises, vibration,

1 electrical disturbances as a result of the proposed
2 action.

3 THE CHAIRMAN: Yes, arena lights, notices.

4 MR. KAUFMAN: They talk about odors will
5 occur.

6 MR. GULBRANSEN: Is it exceeding the ambient
7 local notices level?

8 MS. GROWNEY: Of course it will.

9 MR. KAUFMAN: We have impact there. Impact
10 on public health and hazards, safety or public health
11 and safety. It will impact health and safety. Risk of
12 explosion or release of hazardous substances in the
13 event of an accident.

14 MR. ISLES: Are we are still on the impact on
15 public health, release of hazardous substances?

16 THE CHAIRMAN: Pesticides on lawns.

17 MS. GROWNEY: Yes, definitely chemicals.

18 MR. KAUFMAN: Result in the burial of
19 hazardous wastes toxic poisonous. Hopefully, non.

20 MR. MACHTAY: Can we just stop and back up
21 for a minute. These questions are very specific and
22 they're very pointed. They're saying "will it," not is
23 it possible. The sale of the property only makes it
24 possible. It doesn't mean that it will.

1 MR. SCHNEIDERMAN: It will cause a risk.

2 MR. MACHTAY: I think we're trying to do
3 something here that we're looking at it and reading into
4 it, different than what it says. Read the language.

5 MR. KAUFMAN: If you look at Page 11,
6 responsibility of lead agency. The reviewer should be
7 guided by the question are these reasonable. You look
8 at potentially large does not necessarily mean
9 significant. You have to evaluate and look at the stuff
10 wherever possible, and threshold of magnitudes, the
11 language of saying well, in my opinion it says. These
12 examples have been offered as guidelines, does not
13 constitute an exhaustive list of impacts.

14 MS. GROWNEY: More than likely.

15 MR. KAUFMAN: More than likely -- we know
16 there is something going on. Involvement with a
17 permanent facility, right now, no farming going on, it's
18 L-I. Replace or eliminate existing facility or
19 structures or areas of historic importance to the
20 community.

21 MS. GROWNEY: Areas, environmental areas, the
22 whole wooded.

23 MR. BAGG: It says "historic importance."

24 MR. SCHNEIDERMAN: Of historic importance.

1 MR. BAGG: It has to be historic importance.
2 This is no.

3 MR. KAUFMAN: Area will result in influx of
4 population with special needs. That is what this is
5 oriented for.

6 MS. SPENCER: No.

7 MR. KAUFMAN: We have some disagreement. We
8 will go on that one. Important precedent will be set an
9 important precedent for future projects.

10 MS. GROWNEY: Yes, absolutely.

11 THE CHAIRMAN: Yes.

12 MR. KAUFMAN: Relocate fifteen or more
13 employees and more than one business.

14 MS. GROWNEY: More than likely.

15 MR. MACHTAY: Back to it maybe issue.

16 MR. KAUFMAN: Is there public controversy
17 related to potential impact. We have a yes already.

18 MR. BAGG: You have to determine what it is.

19 MR. KAUFMAN: We have generalized.

20 MS. SPENCER: I would like to amend the
21 public input from small to large. Do you see that under
22 public input, 20; Part 3. That is under small to
23 moderate. I think it's potentially large. I think it's
24 all been demonstrably large.

1 THE CHAIRMAN: What is demonstrable, twenty
2 people speaking?

3 MS. SPENCER: Plus letters.

4 MS. GROWNEY: This is just the beginning.

5 MR. MACHTAY: Then start on Page 26, from one
6 to fifteen. Segmentation, talks about basically, I
7 think it best qualified or best described a sort of a
8 finding statement, if I'm not mistaken.

9 MR. MACHTAY: It's Part 3 of the EAF.

10 MR. KAUFMAN: We're in Part 3. I think that
11 was the best way to categorize it. Proposed declaration
12 of surplus of sale of two hundred fifty-five acres;
13 accordingly, no solid waste will be generated. Will not
14 adversely impact environment. I believe we --

15 MR. GULBRANSEN: Point of order. Is it our
16 intention as a body to revise and edit the content of
17 this Part 3?

18 MR. KAUFMAN: I wasn't exactly anticipating
19 going through this. I think this is the way to
20 crystalize what our concerns have been.

21 MR. GULBRANSEN: I'm uncomfortable zooming in
22 on certain sentences which make the record look like we
23 are skipping over other portions. My suggestion is if
24 we are looking for a trigger to reach a determination,

1 we can search for a trigger, but I don't think it's a
2 productive exercise to try and wordsmith.

3 MR. KAUFMAN: If you want to swing that way,
4 then we do the standard type analysis and see what we
5 have under SEQRA.

6 THE CHAIRMAN: Determine whether a proposed
7 Type 1 is elicited. The impacts may be reasonably
8 expected to result from the proposed action and here are
9 the criteria.

10 MR. KAUFMAN: Reading from SEQRA, we have
11 gone through the criteria. They're talking about
12 impairment of quality of character, changes in quantity
13 and use of energy. Going through some of these --

14 MR. BAGG: You have to read them.

15 MR. SCHNEIDERMAN: I don't think we can be
16 expected to rewrite the EAF today. It's not our
17 document. It's prepared for us by Planning.

18 MR. KAUFMAN: Should it be rewritten?
19 Maybe that would create a table situation. Have we
20 received enough information here today to say that there
21 are significant adverse impacts that may exist and go
22 through SEQRA and say Pos Dec.

23 MR. SCHNEIDERMAN: How can you Pos Dec it on
24 an EAF? That was consistent with that Pos Dec. If

1 you're going to Pos Dec it, I'm not a lawyer either, but
2 I would feel more comfortable if that Pos Dec was made
3 pursuant to an EAF that identified those things. We are
4 identifying them as a group, but the document itself has
5 never been changed.

6 MR. KAUFMAN: CEQ generally through the years
7 has looked at EAF's, gone one of two ways. We have
8 either directed the staff to change the EAF. That
9 institutes a table right now, but because we have to
10 change it, we are not going to rewrite it today.
11 Occasionally, we have simply said that we don't agree
12 with the EAF, pointed toward a Neg Dec. We have said
13 Pos Dec in that situation.

14 THE CHAIRMAN: We have done where we said
15 that there is pos dec and EAF is incorrect, and it
16 should be corrected, we can go right forward, whatever
17 the sense the forward is. I think we can say we have
18 identified problems, staff has to correct it, and let
19 them do it.

20 MR. KAUFMAN: That goes table then?

21 THE CHAIRMAN: I think he can Pos Dec it and
22 instruct the staff to correct the EAF.

23 MS. GROWNEY: As a comfort level for myself I
24 do like the fact that we're going through it and

1 identifying it because we are seeing there is a lot more
2 really honing in now that we see needs to be evaluated
3 rather than one or two things. I find that helpful.

4 THE CHAIRMAN: We have done this in a very
5 broad sense. A lot of this stuff needs a lot more
6 thought than what we are going to be able to do here
7 today. We're quickly going to go through the criteria
8 for significance.

9 Substantial adverse change in existing air quality,
10 ground or surface water quality or traffic or noise
11 levels, substantial increase in solid waste production,
12 a substantial increase in potential for erosion,
13 flooding, leaching or drainage problems, yes or no.
14 Yes.

15 Two. Removal or destruction of large quantities of
16 vegetation or fauna. Substantial interference with the
17 movement of any resident or migratory fish or wildlife
18 species. Impacts on significant habitat area.
19 Substantial impacts on threatened or endangered species
20 of animal or plant, or the habitat of such a species, or
21 other significant adverse impacts to natural resources.
22 Yes or no.

23 MR. MACHTAY: Maybe.

24 THE CHAIRMAN: Three. Impairment of

1 environmental characteristics of a critical
2 environmental area as designated, pursuant to
3 subdivision 617.14(g) of this part. No.

4 Four. The creation of a material conflict with a
5 community's current plans or goals as officially
6 approved or adopted.

7 MR. KAUFMAN: Unknown.

8 MR. MACHTAY: Unknown. We don't know if
9 there is a comprehensive plan; we only know what the
10 zoning is.

11 THE CHAIRMAN: Impairment of character or
12 quality of important historical, archeological or
13 aesthetic resources or of existing community or
14 neighborhood character. Yes.

15 MR. MACHTAY: Community character.

16 THE CHAIRMAN: Six. Major change in the use
17 of either the quantity or type of energy.

18 MR. KAUFMAN: Yes.

19 THE CHAIRMAN: Seven. Creation of a hazard
20 to human health.

21 MS. GROWNEY: Potentially.

22 THE CHAIRMAN: Maybe groundwater.

23 MS. GROWNEY: Exactly.

24 THE CHAIRMAN: Eight. Substantial change in

1 the use or intensity of use of land, including
2 agricultural, open space, recreational resources or in
3 its capacity to support existing uses.

4 MS. GROWNEY: Yes.

5 THE CHAIRMAN: Nine. Encouraging or
6 attracting of large number of people to a place or
7 places for more than a few days, compared to the number
8 of people who were coming to such a place absent the
9 action. Yes.

10 Ten. Creation of material demand for other actions
11 that would result in one of the above consequences.

12 MS. GROWNEY: Yes, everything we just went
13 through.

14 THE CHAIRMAN: We agreed, yes.

15 Eleven. Changes in two or more elements of the
16 environment, no one of which has a significant impact on
17 the environment, but when considered together result in
18 a substantial adverse impact on the environment.

19 MS. GROWNEY: Yes.

20 THE CHAIRMAN: Or twelve. Two or more
21 related actions undertaken, funded or approved by an
22 agency, none of which has or would have a significant
23 impact on the environment, but when considered
24 cumulatively, would meet one or more of the criteria in

1 this subdivision.

2 THE CHAIRMAN: Yes.

3 MR. GULBRANSEN: No. The way I heard you
4 read it, taken singularly would not, but cumulatively it
5 would. I'm not going to say that those things would
6 singularly have an impact. I think you were reversing
7 the English.

8 THE CHAIRMAN: Are we going to say no?

9 MR. GULBRANSEN: Maybe I heard the reading --

10 THE CHAIRMAN: Two or more related actions
11 undertaken, funded or approved by an agency, none of
12 which has or would have a significant impact on the
13 environment, but when considered cumulatively, would
14 meet one or more of the criteria in this subdivision.

15 It seems to me it's a combination of Suffolk County
16 and Brookhaven triggers this.

17 MR. KAUFMAN: I actually agree with Tom on
18 that one. I don't think it's applicable.

19 MR. MACHTAY: I think no.

20 MR. KAUFMAN: This section is talking about
21 two or more, which individually does not identify
22 anything.

23 MS. GROWNEY: The actual sale itself in and
24 of itself does not. With everything else it does.

1 MR. KAUFMAN: To the extent that we have been
2 looking at everything as reasonably related, looking at
3 the actual action, a surplus sale plus a contract, vying
4 with the RFP, looking at paperwork, those things may.

5 THE CHAIRMAN: Plus changing of zone.

6 MR. KAUFMAN: Those things might actually hit
7 this particular criteria where they would not apply to
8 the physical impact that we have described above. They
9 might just fit the criteria of related actions, none of
10 which ordinarily would have a significant impact on the
11 environment.

12 For example, surplus as a designation would not,
13 but when you consider them together with the sale and
14 contract would meet the other criteria over here. I
15 think that actually is a yes when you look at it that
16 way.

17 MR. MACHTAY: Would it make you happy, yes?

18 MR. KAUFMAN: This isn't bargaining, Rich.

19 THE CHAIRMAN: It seems to me that we
20 determined that all sorts of triggers are set in this.
21 So I would propose that we should have a motion.

22 MR. MACHTAY: I'll make a motion.

23 THE CHAIRMAN: What is your motion?

24 MR. MACHTAY: My motion is this is a Type I

1 action. And my motion is that it is a Positive
2 Declaration. And that the EAF Part 3 should be amended
3 by the Planning staff to then be consistent with the
4 amendments that we just made to the EAF Part 2.

5 THE CHAIRMAN: Do we have a second?

6 MS. GROWNEY: I'll second it.

7 MR. MACHTAY: The other addendum on there is
8 that the Town of Brookhaven should, by resolution, be
9 informed that they are very much a part of this review
10 and they have to be coordinated properly, and pursuant
11 to SEQRA, and that they be made a part of this whole
12 thing.

13 MS. GROWNEY: Second it.

14 THE CHAIRMAN: It has to be noted it's a Pos
15 Dec, as the criteria that we have gone through have been
16 exceeded.

17 MR. PICHNEY: In addition to the comments
18 made about the Town of Brookhaven, could there be words
19 to the effect that there be -- that we receive a vote of
20 the sense of the town council regarding their
21 participation?

22 MR. BAGG: You can't do that. You Pos Dec
23 this thing and that will proceed accordingly.

24 MS. GROWNEY: The invitation is there; that's

1 enough.

2 THE CHAIRMAN: We have a motion on the floor,
3 we have a second. Any further discussion?

4 MR. GULBRANSEN: I think I need to understand
5 more clearly what the second amendment does with regard
6 to the Town of Brookhaven involvement in the Pos Dec,
7 too. Now does that deem them as an involved agency,
8 co-lead agency?

9 MR. MACHTAY: It would make them an involved
10 agency by coordinating it. If they want to be co-lead
11 agency, they would have to negotiate that with the
12 county.

13 MR. GULBRANSEN: Is that part of your
14 amendment, that we are open to that?

15 MR. MACHTAY: If you want to make it part of
16 the amendment, sure. Our recommendation about co-lead
17 agency would be salubrious.

18 THE CHAIRMAN: It's a recommendation now as
19 opposed to an absolute part of the motion.

20 MS. GROWNEY: I still second it.

21 THE CHAIRMAN: The amendment is a
22 recommendation. Any other discussion? I'm going to
23 call the vote. All in favor? Aye? Opposed?
24 Abstentions? Motion carries.

1 (Applause)

2 MR. MACHTAY: I'd like to make another
3 motion. The other motion is I wish everybody happy
4 holidays. I'll see you all in the new year. That is a
5 motion to adjourn.

6 (Time noted: 2:15 p.m.)

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CERTIFICATION

STATE OF NEW YORK)

)

ss:

COUNTY OF SUFFOLK)

I, JUDI GALLOP, a Stenotype Reporter
and Notary Public for the State of New
York, do hereby certify:

THAT this is a true and accurate transcription
of the Suffolk County Council on Environmental
Quality Board meeting held on December 9, 2009.

I further certify that I am not related,
either by blood or marriage, to any of the parties
in this action; and

I am in no way interested in the
outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my
hand this 2nd day of January, 2010.

Judi Gallop

JUDI GALLOP