

COUNTY OF SUFFOLK



STEVE LEVY
SUFFOLK COUNTY EXECUTIVE

DEPARTMENT OF PLANNING
COUNCIL ON ENVIRONMENTAL QUALITY

R. Lawrence Swanson
CHAIRPERSON

Michael Mulé
SENIOR PLANNER

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, January 19th, 2011 in the Rose Caracappa Legislative Auditorium, William Rogers Legislature Building, Veterans Memorial Highway, Smithtown, NY 11787. 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:

**Michael Mulé, Senior Planner
Council on Environmental Quality
Suffolk County Planning Department
PO Box 6100
Hauppauge, NY 11788**

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

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REVISED AGENDA

MEETING NOTIFICATION

Wednesday, January 19, 2011 9:30 a.m.

**Legislative Auditorium
North County Complex
Veterans Memorial Highway, Hauppauge**

Call to Order:

Minutes: check the web at

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

October, November and December minutes available for review on the website above

December minute summary sent to CEQ members

IR-2256-10 Charter Law to Eliminate Requirement for Verbatim Minutes

Correspondence:

Preliminary Draft Generic Environmental Impact Statement Declaration as surplus and subsequent sale of 255± acres of County owned land in Yaphank for mixed use development purposes. (For discussion only. Action to be presented at February 16th, 2011 meeting).

Public Portion:

Historic Trust Docket:

Director's Report:

Updates on Housing Program for Historic Trust Sites

Updates on Historic Trust Custodial Agreements

LOCATION
H. LEE DENNISON BLDG. - 4TH FLOOR
100 VETERANS MEMORIAL HIGHWAY

MAILING ADDRESS
P.O. BOX 6100
HAUPPAUGE, NY 11788-0099

(631) 853-5191
fax (631) 853-4044

Project Review:

Recommended TYPE I Actions:

- A. Technical Correction to Proposed Acquisition for Open Space Preservation Purposes Known as the Three Mile Harbor County Park Addition – Boys and Girls Harbor, Inc. Property, in the Town of East Hampton.
- B. Proposed Approval of a Resolution declaring as surplus approximately 221 acres of land in Yaphank and authorizing the auction sale of the property by the Director of Real Property Acquisition and Management, in the Town of Brookhaven.

Recommended TYPE II Actions:

- A. Ratification of Recommendations for Legislative Resolutions Laid on the Table December 21, 2010 and January 3, 2011.
- B. Proposed Stormwater Remediation Improvements to Meschutt Beach County Park, in the Town of Southampton.

Other Business:

- A. Term Endings – Explanation of process
2011 Term endings: Larry Swanson 3-23-11
MaryAnn Spencer 5-16-11
Eva Growney 6-27-11
- B. Election of Officers

CAC Concerns:

***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.

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

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

-----X

DEPARTMENT OF PLANNING
COUNCIL ON ENVIRONMENTAL QUALITY

-----X

January 19, 2011

9:30 a.m.

William Rogers Legislative Building
725 Veterans Memorial Highway
Hauppauge, New York 11788

90. PLANNING DEPT
2011 FEB 16 PM 12:12

B E F O R E:

R. Lawrence Swanson, Chairperson

Michael Kaufman, Vice Chairperson

Reported by,
Melissa Powell

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1 A P P E A R A N C E S

2 James Bagg, Council Member

3 Gloria R. Russo, Council Member

4 Mary Ann Spencer, Council Member

5 Thomas Gulbransen, Council Member

6 Eva Growney, Council Member

7 Richard Machtay, Council Member

8 Vivian Viloría-Fisher, Legislator, Council Member

9 Thomas A. Isles, Director S.C. Department of Planning

10 Michael Mulé, S.C. Department of Planning

11 Richard Martin, Director, S.C. Department of Historic Services

12 Thomas Young, S.C. Assistant Attorney

13 Michael Pitcher, Legislative Aide for Presiding Officer

14 Kara Hahn, Director, S.C. Department of Communications

15 Joy Squires, CAC Town of Huntington

16

17 A L S O P R E S E N T

18 George Nolan, Legislative Counsel

19 William Lindsay, S.C. Legislature, Presiding Officer

20 Christopher Kent, S.C. Chief Deputy County Executive

21 Eric Bergey, P.E. Civil Engineer, S.C. Dept. of Public Works

1 (Time Noted: 9:30 a.m.)

2 CHAIRMANS SWANSON: I would like to
3 call the first meeting of 2011 to order.
4 I have a couple of announcements I'd
5 like to make.

6 First of all, congratulations to
7 Michael Kaufmann. Michael was the
8 Environmental Person of the Year in the
9 Village of St. James -- quite an honor.
10 I also would like to say congratulations
11 to Legislator Vivian Vilorio-Fisher who
12 was the Politician of the Year in the
13 Three Village area. Congratulations to
14 the both of you.

15 Also, I would like to say, with
16 regret, but I know there is some reward
17 in this, but Tom Isles has told me that
18 he is going to retire. Tom has been a
19 tremendous help to all of us here at
20 CEQ, and very helpful with a number of
21 very difficult projects over the last
22 decade. The most recent thing he did
23 that was so wonderful was providing us
24 with a real smooth transition between
25 Jim Bagg's retirement and Michael Mule

1 replacing him.

2 Tom, we all wish you the very best
3 and thank you for everything you have
4 done to help us.

5 MR. ISLES: You're very welcome.

6 CHAIRMAN SWANSON: Let's move on
7 and review the Minutes.

8 We have Minutes from October,
9 November, and December. There were some
10 comments submitted to Christine in your
11 packets. Please take a look at those.
12 There were comments from Maryann and
13 from Rich Machtay.

14 I have a comment that I think is
15 appropriate and that is from the
16 December Minutes. On Page 16, Dominick
17 Ninivaggi is speaking on Line 11. The
18 text says, "We can get to a total
19 elimination of pesticides." I believe
20 that it should actually say, "We can't
21 get to a total elimination of
22 pesticides."

23 With that, if anybody has any
24 additional comments, we will start with
25 the October Minutes.

1 MR. MACHTAY: The comments that I
2 made on the October and November
3 Minutes, I will move those two sets of
4 minutes to accept them. I was not here
5 for December, therefore, I will have to
6 abstain from December.

7 MR. SWANSON: We have a motion for
8 accepting the October and November
9 Minutes.

10 Do we have a second?

11 MR. KAUFMAN: I will second.

12 CHAIRMAN SWANSON: We have a second
13 by Michael Kaufman.

14 Any further discussions?

15 (WHEREUPON, there was no response
16 from the Council.)

17 CHAIRMAN SWANSON: All in favor?

18 (WHEREUPON, the Council voted.)

19 CHAIRMAN SWANSON: Opposed?

20 (WHEREUPON, there was no response.)

21 CHAIRMAN SWANSON: Motion carries.

22 MR. BAGG: I am abstaining from
23 October. I was not here.

24 CHAIRMAN SWANSON: Mr. Bagg has
25 abstained from the October Minutes.

1 Do we have a motion for December?

2 MR. BAGG: I will second.

3 CHAIRMAN SWANSON: Maryann moved
4 that they be accepted and Jim Bagg
5 seconded them.

6 Any further discussions?

7 (WHEREUPON, there was no response.)

8 CHAIRMAN SWANSON: All in favor?

9 (WHEREUPON, the Council voted.)

10 CHAIRMAN SWANSON: Motion carries.

11 We have one abstention; right?

12 MR. MACHTAY: Yes.

13 CHAIRMAN SWANSON: Rich Machtay has
14 abstained.

15 Mike, did you want to talk about
16 the potential changes in the way we take
17 the Minutes?

18 MR. MULE: Well, starting at the
19 December meeting, we started to do a
20 meeting summary in addition to the
21 verbatim minutes. I know Legislator
22 Fisher submitted a bill that was laid on
23 the table in December to eliminate the
24 verbatim minutes requirement, and we're
25 still waiting on the vote on that.

1 CHAIRMAN SWANSON: Thank you.

2 Any other correspondence?

3 MR. MULE: Yes. We received the
4 preliminary Draft Generic Environmental
5 Impact Statement for the Yaphank
6 Development project.

7 At our last meeting, I believe, or
8 possibly our November meeting, we set up
9 a subcommittee of the Council to review
10 the preliminary draft. It was agreed on
11 that Michael, Larry, Eva, Vivian, and
12 Gloria were on the subcommittee. If
13 you're still interested in being on the
14 subcommittee, Christine has disks with
15 the files for it. We were thinking we
16 will give you guys some time to review
17 the documents and come up with comments
18 and then meet sometime between now and
19 February's meeting to discuss the
20 comments with the consultant to make any
21 adjustments that you feel are necessary
22 and present the finalized draft at the
23 February CEQ meeting and hopefully come
24 to a decision.

25 CHAIRMAN SWANSON: Rich?

1 MR. MACHTAY: Am I right or am I
2 wrong? In the packet there is a
3 resolution from Mr. Lindsay's Office
4 that disavows any interest at all in the
5 Legacy Village?

6 MR. MULE: Correct. It is on the
7 agenda for today's meeting.

8 MR. MACHTAY: It looks to do
9 something else?

10 MR. MULE: Correct.

11 MR. MACHTAY: If that is adopted by
12 the Legislature, then --

13 MR. MULE: Then it dies.

14 MR. MACHTAY: Then Legacy dies?

15 MR. MULE: Correct.

16 MR. MACHTAY: When will that be
17 taken up by the Legislature?

18 MR. MULE: Once the CEQ hears it,
19 then it goes to the EPA, and then in the
20 next coming weeks and months, it will
21 move through the process. It all
22 depends on how smoothly it goes through
23 the Legislative process.

24 MR. MACHTAY: Thank you.

25 CHAIRMAN SWANSON: Any other

1 comments on this particular issue?

2 Tom?

3 MR. GULBRANSEN: I am not on the
4 committee, but is it possible that those
5 same documents will provide feedback to
6 the committee?

7 CHAIRMAN SWANSON: Absolutely. I
8 look forward to reading the thousands of
9 pages or whatever it is.

10 MR. KAUFMAN: 2500 pages.

11 CHAIRMAN SWANSON: So, this is a
12 reminder that this is a public meeting.
13 If there is anybody here in the audience
14 that chooses to speak on a particular
15 issue, we would be glad to hear it.
16 Ordinarily, we wait until the topics are
17 brought up as laid out on the agenda.

18 (WHEREUPON, there was no response
19 from the Public to speak on any such
20 issue.)

21 CHAIRMAN SWANSON: Moving on to
22 Historic Trust/Director's Report.

23 Before you begin, I want to thank
24 you for the meeting that we had in
25 December at the Sagtikos Manor. I

1 think, based on conversations I had with
2 a few people, everybody thoroughly
3 enjoyed it and got a real education from
4 having the opportunity to visit it.

5 MR. MARTIN: Glad you had a good
6 time, and I hope we get to visit other
7 historic sites.

8 CHAIRMAN SWANSON: Well, now that
9 you brought it up, maybe it's time to
10 start to thinking about what we might
11 do, say in April or May, if the
12 opportunity arises.

13 MR. MARTIN: I will discuss it with
14 Maryann and come up with something.

15 LEGISLATOR FISHER: I'd also like
16 to congratulate you, Rich, because I was
17 so impressed by the international
18 Christmas that I called a friend of
19 mine, who is a teacher, and mentioned it
20 to her and she couldn't get a ticket.
21 It was sold out.

22 MR. MARTIN: It was very
23 successful, and I was trying to prompt
24 them to add another weekend, but they
25 had trouble getting volunteers.

1 Just to give a brief report on the
2 housing situation within the Suffolk
3 County Parks Department. We did have a
4 meeting with the committee that
5 supervises the rent and about the
6 situation we have with the two houses in
7 Huntington by not being able to rent
8 them. However, we took a serious look
9 at these two houses and their
10 conditions.

11 They're both very early 1900
12 Century homes dating back to 1820. They
13 have heating problems and insulation
14 problems. We tried to adjust the rent
15 to acknowledge that fact and the high
16 cost of heating and maintaining those
17 two houses. The committee did agree to
18 adjust the rent downward, and these will
19 soon be posted and sent out to all
20 County employees to see if we can get
21 someone interested in renting them.
22 Since that meeting, we have not had
23 anyone come forward to rent them.

24 We did get two new tenants; one at
25 Black Duck Lodge which is out at

1 Flanders which is very important because
2 it is an isolated building within the
3 County Parks and to not have somebody
4 there is a real problem. We just did an
5 exterior restoration, so we really want
6 to keep that occupied.

7 At the Scully Estate, there has
8 been some extreme vandalism. After the
9 County purchased it, the Town had moved
10 out and we did get someone to move in
11 immediately; so that building is secured
12 with a tenant.

13 To report on the contract with our
14 historic group. The contract for the
15 Long Island Chapter of U.S. Lighthouse
16 Society at Cedar Point Lighthouse has
17 been completed. The County Parks
18 Department has transferred the
19 organization and their lawyers are
20 reviewing the contacts. They're
21 actively raising funds for that project.
22 They're looking to replace the roof as
23 their first project hopefully this year
24 in the Fall.

25 MS. GROWNEY: Rich, I just want to

1 thank you for all your efforts at Black
2 Duck Lodge and the Cedar Point
3 Lighthouse. You brought the attention
4 to both those two projects to the East
5 End and it kind of livened things. I
6 would like to thank you for your
7 commitment and for your efforts.

8 MR. MARTIN: Thank you.

9 Also, I would just want to add an
10 update to my report today.

11 The situation with the restoration
12 at the Coindre Hall boathouse. We just
13 had a construction meeting on the site
14 there yesterday. That project did start
15 this Fall. We have found a severe
16 situation with the steel framing element
17 on both the tower and support system of
18 the two large chimneys to the building.
19 They're now recommending reconstruction
20 of the tower and reconstruction of the
21 chimneys which are elaborate decorative
22 features to the building. I have
23 requested that the Department of Public
24 Works to please put a concept plan going
25 forward that we can bring to the

1 Historic Trust at next months meeting.
2 We're not planning to do any demolition
3 as part of the job. We're just going to
4 restore the building as it was, but with
5 these extreme framing problems, they're
6 recommending partial demolition of the
7 tower and the chimney.

8 I just wanted to bring that to your
9 attention. We will be reviewing that at
10 next months meeting.

11 CHAIRMAN SWANSON: Michael?

12 MR. KAUFMAN: Rich, just as a
13 guesstimate, what are you thinking the
14 cost factor might be increased by for
15 that particular boathouse?

16 MR. MARTIN: We're under Phase 1,
17 of a three or four phase project. We
18 are going to have redo it in a sense --
19 under the work of a contractor who is --
20 who will be able to do the work. He
21 will be coming up with new cost
22 estimates and will be removing some
23 elements from the project in order to do
24 this work. This is a priority to get
25 these items stabilized.

1 MR. KAUFMAN: The other question I
2 have was the Stimson House, which I am
3 familiar with, but has there been any
4 effort given to updating that facility
5 in terms of insulation and possibly a
6 small rebuild of it? I know there are
7 plaster walls in there, and I know the
8 window structures are very, very
9 historic. Given the fact that it is an
10 energy home and it is almost impossible
11 to heat, keeping it in the program
12 sometimes worries me because no matter
13 what happens, you're going to have
14 someone in there, even at a reduced
15 rent, but they're still going to be
16 freezing inside there because in many
17 ways, it is an unreasonable house. Is
18 there anyway to reconstruct that without
19 destroying the historical integrity of
20 the building?

21 MR. MARTIN: We can't reconstruct
22 the building, but there are other
23 avenues as part of having completed
24 them. One, the committee did -- we
25 discussed with the committee and

1 recommended to the maintenance division
2 that a new furnace -- a new heating
3 efficient furnace be placed in the
4 building which the Department has not
5 done yet, but they're planning to do.
6 Also, some insulation could be placed in
7 the attic, as well as storm windows
8 being added to the building. So, all
9 the things that can be done, the Parks
10 Department hasn't done yet, but as for
11 the reconstruction aspect, I would
12 recommend that.

13 MR. KAUFMAN: In terms of the
14 windows, I believe they're single paned
15 right now, if I am not mistaken; can
16 those be swapped out with storm windows
17 like you're saying or double paned?

18 MR. MARTIN: No. You would not
19 remove the historic windows, but you can
20 definitely add storm windows to the
21 exterior. Since it is not a museum
22 building, what we can do economically,
23 is place aluminum windows that would
24 look okay instead of the museum quality
25 wood frame storm windows like we do at

1 other locations.

2 MS. GROWNEY: May I just suggest
3 that you might want to explore a plastic
4 version of storm windows because with
5 aluminum, there may be an energy issue
6 with that. Just something to keep in
7 mind.

8 MR. MARTIN: We will take a look at
9 that.

10 CHAIRMAN SWANSON: Any other
11 questions for Rich?

12 (WHEREUPON, there was no response
13 from the Council.)

14 CHAIRMAN SWANSON: Rich, thank you
15 very much.

16 Moving on to Type One Actions.
17 There's a technical correction to
18 Proposed Acquisition Open Space
19 Preservation known as the Three Mile
20 Harbor County Park Addition of the Boys
21 and Girls Harbor Property in the Town of
22 East Hampton.

23 Mike, do you want to explain the
24 issue?

25 MR. MULE: Yes. It was a

1 mistakenly classified as an Unlisted
2 Negative Declaration where it should
3 have been a Type One because it was
4 involved with physical alterations of
5 greater two and-a-half acres adjacent to
6 the County parkland. We just need a
7 motion to reclassify it as a Type One.

8 MS. GROWNEY: I will make the
9 motion.

10 CHAIRMAN SWANSON: Eva made the
11 motion to make the correction.

12 Second?

13 MR. MACHTAY: I will second.

14 CHAIRMAN SWANSON: We have a second
15 from Rich Machtay.

16 Any other questions?

17 (WHEREUPON, there was no response
18 from the Council.)

19 CHAIRMAN SWANSON: All in favor?

20 (WHEREUPON, the Council voted.)

21 CHAIRMAN SWANSON: Motion carries.

22 Next is the Proposed Approval of a
23 Resolution declaring as surplus
24 approximately 221 acres of land in
25 Yaphank and authorizing the auction sale

1 of the property by the Director of Real
2 Property Acquisition and Management in
3 the Town of Brookhaven.

4 Is there somebody here to speak to
5 that?

6 Please identify yourself for the
7 Stenographer.

8 MR. NOLAN: I am George Nolan,
9 Counsel for the Suffolk County
10 Legislature.

11 I prepared this resolution at the
12 request of the presiding officer. The
13 presiding officer is in the building.
14 If you have any questions for him about
15 the resolution, he can come in.

16 Basically, the resolution does what
17 the title suggests which is it declares
18 221 acres surplus which the Legislature
19 has to do and then authorizes our
20 division of real property acquisition of
21 management to auction the sale of that
22 property.

23 Also, in the body of the
24 resolution, it does state that the
25 Legacy Village project that's proposed

1 by the County Executive is rejected.

2 CHAIRMAN SWANSON: Thank you.

3 Rich, this is a question that you
4 raised previously. Do you have any
5 questions for Mr. Nolan?

6 MR. MACHTAY: I think the
7 resolution is prepared very well. There
8 is no mention of zoning in it. It was
9 prepared very well and congratulations
10 on that. There's no mention of zoning
11 in it, and there is no mention of
12 development in it. As a Type One
13 Action, you have to coordinate it -- it
14 is required to be coordinate with other
15 agencies that have approval in the
16 process. In this particular resolution,
17 the way it's written, no other agencies
18 have approval down the line or now, and
19 I think that you did a good job.

20 MR. NOLAN: Thank you.

21 CHAIRMAN SWANSON: Any other
22 questions for Mr. Nolan?

23 Tom?

24 MR. GULBRANSEN: Mr. Nolan, I have
25 a question about the sixth resolved

1 paragraph in the resolution. Just so I
2 understand the scope of what we are
3 being asked to do, do I understand that
4 the resolution calls for the allowance
5 of a subdivision to maximize the return
6 to the County? So, might there be way
7 to stop that subdivision by also
8 allowing for the County to take care of
9 the planning and stewardship
10 responsibilities in the area?

11 MR. NOLAN: I am not sure I
12 understand the question.

13 MR. GULBRANSEN: I am not sure I
14 understand how to propose the question.

15 (WHEREUPON, there was laughter.)

16 MR. GULBRANSEN: As it's read here,
17 it authorizes the subdivision of surplus
18 property to maximize the County return
19 and that subdivision might result in
20 many component uses. Sometimes
21 subdividing causes each little piece to
22 be reviewed on its own, and we miss the
23 opportunity to do a collective plan. Is
24 there anyway to accommodate that or to
25 provide some kind of stewardship

1 opportunity in contrast to allow it to
2 be divided up into little parcels that
3 would run in their own respective
4 direction?

5 MR. NOLAN: I am not sure I know
6 the answer to that question. I do know
7 the reason that the resolved clause was
8 put in the resolution is because the
9 presiding officer is very interested in
10 maximizing the return to the County.
11 The idea was to give the division of
12 real estate some flexibility to
13 determine what was the best way to do
14 that in terms of selling it in one,
15 selling it all together, or selling it
16 in pieces. That was the idea behind all
17 of that.

18 CHAIRMAN SWANSON: Michael?

19 MR. MULE: I also believe it was
20 because the parcel themselves don't
21 exist as separate lots. It's now part
22 of the larger County contract to be
23 subdivided out.

24 CHAIRMAN SWANSON: Rich?

25 MR. MACHTAY: My next question is,

1 do you have to go to the Town for that
2 subdivision, or can you the County
3 parcel it out and file deeds?

4 MR. NOLAN: I honestly don't know
5 the answer to that question. I would
6 assume you would have to go to the --

7 MR. MACHTAY: As soon as you
8 involve the Town in the process, they
9 have to be coordinated with. When you
10 have a Type One Action, you have to
11 coordinate it and give it a negative
12 declaration and they have to live by
13 that negative declaration further down
14 the line. Do you know what I mean?

15 MR. NOLAN: Yes.

16 MR. MACHTAY: You really don't want
17 that to happen. You have to go through
18 the entire process for development to do
19 an impact statement.

20 MR NOLAN: This is not my area of
21 expertise. I do understand what you're
22 saying. I think the intention always
23 was that there would be an environmental
24 review down the road. The County is
25 just looking to --

1 MR. MACHTAY: But if the
2 environmental review goes away, and if
3 you coordinate it with the Town, and
4 they give it a negative declaration --
5 the County gives it a negative
6 declaration, then the Town has to live
7 by that negative declaration. They
8 can't come back and say we don't like
9 that negative declaration, therefore,
10 we're going to give it a positive
11 declaration. That is in the SEQRA
12 regulations.

13 Mr. Bagg, do you care to comment on
14 that?

15 MR. BAGG: Yes. I think that
16 people are thinking of subdivisions as
17 per a residential subdivision or
18 industrial which is being proposed to
19 the current Legacy Village site. I
20 think, in this instance, the County will
21 be talking about a minor subdivision
22 into these two or three parcels possibly
23 based on the underlining zoning in order
24 to maximize the yield.

25 MR. MACHTAY: I don't want to

1 mention zoning in the resolution because
2 that would get you tangled up in ways
3 you don't want to be.

4 MR. BAGG: Right, but that's what
5 they're saying that possibly real estate
6 would look into that to find out what
7 would be the optimum price the County
8 could receive for the property. I think
9 that everybody knows that once the
10 property is sold and whoever purchases
11 it and wants to ultimately develop it,
12 they have to go the Town for that.

13 MR. MACHTAY: We don't want to put
14 the Town in a position where they have
15 to live by the County giving it a
16 negative declaration.

17 MR. BAGG: It would only depend
18 upon -- you know, the property as a
19 parcel and the sale of the property.
20 They wouldn't have to live on approving
21 any type of subsequent subdivision later
22 on. It wouldn't apply at that point.
23 The Town could place a positive
24 declaration on the subdivision down the
25 line.

1 CHAIRMAN SWANSON: Michael?

2 MR. KAUFMAN: I think we're missing
3 a couple of points here.

4 One, the village itself as it's
5 drafted, is only making a declaration
6 that this County land for County
7 purposes is being declared surplus.
8 That's the primary purpose. The
9 negative declaration that you're talking
10 about, Rich, really only applies to, in
11 my opinion, declaring the surplus. A
12 declaration of surplus by any
13 municipality refers only to that
14 municipality and that negative
15 declaration would be limited only to
16 that municipality. I don't think it
17 involves the Town of Brookhaven at this
18 point. The sale, possibly later,
19 subject to zoning and things like that
20 would involve the coordinated review
21 that you're talking about and the
22 reviews that I think Tom was also
23 talking about. Right now, we're only
24 dealing with the title over the
25 declaration of surplus. There's other

1 language in here about subdivisions and
2 auctions. I think that's really
3 focusing still upon the declaration of
4 surplus and, again, that's only for
5 County purposes. So that's the first
6 part of where I think we're going on
7 this one.

8 The second part is "subdivision"
9 may be the inappropriate word of art at
10 this point in time. It's really
11 partition more than anything else --
12 land that is presently owned by the
13 County. The County is trying to
14 organize it into lots. As far as I
15 understand under municipal law, when a
16 -- if you will, a superior municipality
17 begins to do certain types of land use,
18 it can divide its land one of two ways.
19 You can go through the formal
20 subdivision process with the township
21 that is involved, and I think that's
22 what the County right now is doing with
23 the Legacy Village plan and the
24 subdivision and the EIS. There is
25 another way of doing it where it

1 internally reorganizes the property that
2 it owns and that's really more of a
3 partition not a subdivision. A
4 partition often is done by specifying
5 the meets and bounds within the
6 municipality ownership, if you will. As
7 such, that's where I see the struggle
8 again. Again, the word "subdivide"
9 worries me a little bit, whereas the
10 word "partition" would be better.

11 MR. MACHTAY: That's why I asked
12 the question, can the County just split
13 the property on its own? I didn't use
14 the word "subdivision." I did not use
15 the word "partition." Do they create
16 the lots or a lot by just simply filling
17 a deed with the County Clerk?

18 MR. KAUFMAN: That's previous
19 information that we didn't receive in
20 the past and that's the way the
21 Legislature --

22 MR. MACHTAY: That's the way it
23 could happen and not involve the Town.

24 MR. KAUFMAN: Correct. The actual
25 sale, if it goes out eventually, also

1 would not necessarily involve the Town
2 because that's just a sale of the land.
3 I think where SEQRA kicks in, in terms
4 of review, they have the option -- SEQRA
5 would kick in at that time with
6 Brookhaven. Right now, I don't see a
7 coordinating review as being an issue
8 when you're just dealing with title and
9 just dealing with partition even if
10 there is a possible technical issue with
11 the way the language is being put forth.

12 CHAIRMAN SWANSON: Tom?

13 MR. GULBRANSEN: Mr. Nolan, in the
14 second resolved paragraph, it calls for
15 the County Department and office and
16 agencies and officials not to take any
17 action to advance the Legislature or any
18 variation thereof. Is it conceivable
19 that Legacy Village has residential or
20 industrial -- I am not sure what the
21 variation of thereof is but the CEQ was
22 concerned that the County and the waste
23 water treatment facility be ready and
24 available to the upgraded or adjusted to
25 accommodate these actions that we're

1 going to have with the watershed. Does
2 that second paragraph resolve preclude
3 treatment plans for being upgrade or
4 something like a variation of the Legacy
5 Village?

6 MR. NOLAN: I don't think it was
7 the intent to stop that type of
8 activity. It's to -- I believe earlier
9 in the process Legislator Kennedy had a
10 resolution where he wanted to propose
11 the sale of a piece of the Legacy
12 Village property, but he did not address
13 Legacy Village in terms of saying that
14 the County Legislature does not support
15 it. There was a concern raised by
16 Legislator Kennedy by this body that
17 you're running into a SEQRA issue in
18 terms of segmentation. We wanted to
19 address Legacy Village directly in this
20 particular resolution to state the
21 development proposed as part of the
22 County Executive's Legacy Village
23 proposal is rejected the Legislature. I
24 don't believe that would stop other type
25 of planning -- waste water plan and

1 those types of things from going
2 forward. It's just development as
3 proposed in the resolution by the County
4 Executive.

5 MR. GULBRANSEN: Then that would be
6 my reaction to the word "any variation
7 thereof." It seems pretty inclusive and
8 if you're going to be that broad in
9 asking that agency not to accommodate
10 that, that sounds like it would be
11 causing them not to mitigate for
12 something that might not be necessary in
13 the future.

14 MR. NOLAN: We certainly can look
15 at that language and clarify it.

16 CHAIRMAN SWANSON: Legislator
17 Viloría-Fisher?

18 LEGISLATOR FISHER: Tom, when we
19 discussed this -- I know I have had many
20 discussions with Bill about this bill.
21 He wanted to try to move as quickly as
22 we can because of the financial issue
23 that the County is facing. We have
24 valuable properties sitting there that
25 we would like to see sold. In order to,

1 I guess, extricate ourselves from having
2 to go through the whole process that has
3 begun by this Legacy Village proposal,
4 we wanted to dismiss that completely and
5 reject that by the Legislature so that
6 we wouldn't have to wait for the EIS
7 process to be completed and work within
8 that because we wanted to just reject
9 Legacy Village so that we can go ahead
10 with the surplus the property so we can
11 get some revenue from the sale of the
12 property. I think that's why there is
13 very broad language because they were
14 rejecting it in its entirety and
15 separate ourselves from it. We did have
16 that problem when Legislator Kennedy had
17 one parcel that actually winded up not
18 being a parcel. We had also looked at
19 investment apportion of this and it was
20 a partition rather than a subdivision.
21 It wasn't really a legal subdivision,
22 but that piece of Legacy Village that
23 was zoned industrial was that we were
24 looking at the entire boundaries and it
25 wasn't involved in the residential

1 portion of the program and that could
2 not be done because of the review; so we
3 just wiped the slate clean and surplus
4 the property without any encumbrances.

5 MR. KAUFMAN: This would be
6 directed to Mr. Mule.

7 I've walked the property several
8 times over the last decade. I also
9 participated in the EIS and that looked
10 at more than just the northern portion
11 of the property. Mike, you have seen
12 the draft of the EIS and apparently have
13 read it several times -- at least at
14 this point in time, but do you see any
15 environmental constraints within this
16 particular project that would prevent
17 surplus?

18 MR. MULE: Not in the areas that we
19 discussed for this project. Area A of
20 Legacy Village seems to be the most
21 environmental sensitive of all of these.

22 MR. KAUFMAN: The rankings that
23 were presented in the EAF, those do not
24 seem to propose any problems or
25 anything?

1 MR. MULE: No.

2 CHAIRMAN SWANSON: Any other

3 comments?

4 (WHEREUPON, there was no response
5 from the Council.)

6 CHAIRMAN SWANSON: Legislature
7 Viloría-Fisher, would you tell us what
8 the timing is of this going forward?

9 LEGISLATOR FISHER: George, if I am
10 not mistaken, it will be at committee
11 next week; am I right?

12 MR. NOLAN: The bill has been laid
13 on the table. It could be voted out on
14 by the committee next week and be
15 eligible for vote by the Legislature by
16 February 1st.

17 LEGISLATOR FISHER: That's Tuesday.

18 CHAIRMAN SWANSON: Mr. Isles?

19 MR. ISLES: I just wanted to make
20 the point that Chief County Executive
21 Christopher Kent wanted to be here
22 today. I believe he on his way, and I
23 wanted to make you aware of that. I
24 think he wanted to express some points
25 about the fact that the County has

1 embarked the EIS process and have
2 completed those document as a draft of
3 2500 pages. I also wanted to make the
4 point that the Legislature has approved
5 the scope that included looking at
6 alternatives including open space. So I
7 don't want to speak for him today, but I
8 believe he would like the opportunity to
9 speak to you, and I understand that the
10 meeting has to advance, but I wanted to
11 let you know he is interested in
12 addressing you today.

13 CHAIRMAN SWANSON: Thank you.

14 LEGISLATOR FISHER: I have a
15 question as to what Mr. Isles just said.

16 When we look at the scope and the
17 alternatives, would this particular
18 resolution preclude us from preserving
19 any of the properties? This only give
20 us the ability to declare it surplus. I
21 don't believe it would preclude us from
22 preserving it?

23 MR. ISLES: I can't really directly
24 speak to that. It seems there would
25 have to be subsequent action to the

1 actual sale -- I assume. I would defer
2 to Counsel on that one. I just wanted
3 to make the point, and I think Mr. Kent
4 wanted to make the point that what CEQ
5 had requested in the scope was that if
6 there is possibly transfer to private
7 public ownership that a number of
8 alternatives be examined. One, being
9 the development under existing zoning
10 and one being retained in the County
11 municipal -- County Building Department.
12 Third, being for open space. I just
13 wanted to make you aware of that. I
14 don't want to speak for him and answer
15 your questions. I believe it would
16 require a second action approving the
17 transfer as it happens with the County
18 auction. These specific transactions
19 come back to the Legislature, but that
20 is just my personal understanding.

21 LEGISLATOR FISHER: Maybe I am not
22 understanding the response completely.

23 What I am saying is that, if we
24 pass this resolution, we have to able to
25 sell off the property?

1 MR. ISLES: Right.

2 LEGISLATOR FISHER: But we are not
3 required to sell off all the property
4 and then each sale will come before the
5 Legislature; so, in fact, those pieces
6 of property that we don't sell, can
7 still be County property and at some
8 point we could submit a resolution into
9 the parkland to declare it as park, in
10 other words, preserved land. So, the
11 recommendation as an alternative, and
12 declaring it surplus are not mutually
13 tied? We can still pass this and
14 preserve some of the land; correct?

15 MR. ISLES: It is not my intention
16 to take a point contrary to that. It is
17 just to make the point --

18 LEGISLATOR FISHER: I am not trying
19 to debate you. I am just trying to
20 clarify.

21 MR. ISLES: It was an important
22 issue with the Legacy Village proposal
23 that was made at the CEQ meeting in
24 December of 2009. I would say it was a
25 positive declaration and that, that

1 action then move it to a potential
2 private sector and should be retained
3 under public ownership and that option
4 is considered. So, ultimately, the
5 scope did not include that. You're
6 right with respect to the action.
7 Whether this is -- here again, I am not
8 speaking for Mr. Kent but whether this
9 can advance to the point where we
10 further potentially foreclose that
11 option and maybe we do and maybe we
12 don't. Here again, the fact that
13 Legislature adopted the scope that
14 included that alternative, but in this
15 case, the authorization to declare
16 surplus of the sale of 220 acres without
17 having that option evaluated as part of
18 this process is more than option to make
19 known to you.

20 CHAIRMAN SWANSON: Officer Lindsay?

21 MR. LINDSAY: I was just sitting
22 here listening to all the conversations,
23 and I felt compelled to come to the
24 microphone to explain why I offered this
25 resolution.

1 When Legacy Village was originally
2 announced, I guess, it was probably five
3 years ago now, I was a supporter of it
4 because I thought that there was an
5 absolute need for affordable housing in
6 our County. The market conditions, I
7 don't have to tell anybody, has changed
8 dramatically in the last five years.
9 We're in a whole different world. As of
10 December 9th, there was 4200 homes in
11 Suffolk County for less than \$200,000.
12 There was another more than 6,000 homes
13 for less than \$300,000. The builders
14 concept of Legacy Village, at least the
15 housing portion, was that it would be
16 affordable around the number of
17 \$300,000. But now, because of the
18 backlog of inventory, I don't think the
19 primary purpose of Legacy Village is
20 needed anymore.

21 I did not introduce this resolution
22 to preserve this property. I introduced
23 this resolution to sell the property
24 because we need the money. I don't know
25 how else to put. The County is in

1 desperate fiscal shape. There is a
2 strong debate going around the horseshoe
3 now on whether we should sell our
4 nursing home -- sell the building and I
5 don't really want to sell any County
6 assets, but I am afraid we're going to
7 have to. If I have to sell something, I
8 would rather sell vacant land than sell
9 a facility that serves the public.
10 That's my position. I don't know
11 whether that would be the Legislative
12 position, and what I am trying to do is
13 move this resolution to the full body so
14 that they have a choice and that's why I
15 supported the original EIS for Legacy
16 Village because I don't want to fight
17 for that. I want that to come forward,
18 and I want a conscious choice made by
19 the Legislature on which way they want
20 to go.

21 The other factor here and this is
22 something that's been weighing on me a
23 lot lately is that I don't like the
24 finances of the Legacy Village deal.
25 It's very convoluted. We sell this

1 industrial parcel for \$12,000,000 and it
2 is about 95 acres. I am not sure if
3 we're getting full value on that piece.
4 If you look at all the other components
5 of the housing, the park, the solar
6 field, the arena and the give backs,
7 back and forth, we don't get much more
8 revenue from it. So, in total, the deal
9 was like 255 County acres and we would
10 only get about \$12,000,000 to
11 \$15,000,000 for it. We cannot afford in
12 this horrible, horrible economy to make
13 that kind of deal.

14 I don't know whether in the open
15 market what it would bring today. I am
16 not suggesting that it should all be
17 sold at once. All I am saying is we do
18 not belong in the land development
19 business. I think that's an issue for
20 our towns to decide what should we
21 develop and where. But if we're going
22 to excess the property, I want to excess
23 it for as much value as we can get for
24 it.

25 CHAIRMAN SWANSON: Thank you very

1 much.

2 Michael?

3 MR. KAUFMAN: Other bills that have
4 passed in the County in the past
5 regarding the sale of surplus land and
6 partition of those lands or subdivision
7 or however you want to call, if you
8 remember, how are they titled? Were
9 they partitioned? Were they
10 subdivisions? Was there a legal
11 difference that you saw that came
12 across?

13 MR. BAGG: Well, I think that in
14 one instance that, that might apply here
15 would be when the Council reviewed the
16 sale of the nursing home facility. That
17 included not only the sale of the
18 facility of this kind, but the partition
19 of the site and the overall County
20 holdings and the Council recommended a
21 negative declaration on that.

22 MR. KAUFMAN: That's where that
23 partition issue came up that I was
24 talking about a couple of minutes ago
25 where the County is at the superior form

1 of government and ignoring the Monroe --
2 City of Rochester -- Rochester Monroe
3 decision and ignoring that aspect of it
4 that a Superior form of government can
5 subdivide or partition out as individual
6 lots. They can create them by a certain
7 processes and they need to go to the
8 town for subdivision or go do it
9 themselves. So, in one situation, with
10 the nursing home, we recommended a
11 partition and that's why it was
12 presented to us and the word subdivision
13 just gives me -- I don't think it is
14 necessarily fable to the bill given the
15 fact that it's a meets and bound in
16 there. I am just sort of raising the
17 issue because it just presented
18 curiously for the Council's
19 clarification. When you have a meets
20 and bounds description presented by a
21 land transfer in certain ways, it's like
22 a deed of authorization. In certain
23 ways it is more of partition. It is not
24 exactly a subdivision. So by citing the
25 language of a partition, I think it will

1 probably would overwhelm a processes of
2 a subdivision. Again, I am just
3 bringing that up. I personally think it
4 probably should just stay as a partition
5 and not worry about.

6 CHAIRMAN SWANSON: Mr. Kent, I
7 understand you want to make a comment?

8 MR. KENT: Christopher Kent, Chief
9 Deputy Executive, Suffolk County.

10 In reviewing the proposed
11 resolution as an action under SEQRA, it
12 is clearly a Type One Action as a
13 proposal to declare a surplus selling
14 and transferring 100 or more acres of
15 land by a government agency. As such,
16 under SEQRA, it carries with it a
17 presumption that it is likely to have a
18 significant adverse impact on the
19 environment and may require an EIS.

20 I know this Council could consider
21 granting a negative declaration, but
22 should give every consideration to the
23 following facts:

24 This Council already recommended to
25 the Suffolk County Legislature adopted a

1 scope of issues for DGEIS on proposed
2 declaration of surplus and transfer for
3 development of this same County owned
4 land at Yaphank. This 221 acres
5 described is apportioned of the land
6 being studied under the DGEIS that has
7 been underway for over ten months and
8 the DGEIS has been delivered to the
9 Council today for your consideration.

10 The proposal before you today
11 contemplates a declaration of surplus
12 and the sale and transfer of land for
13 private development on the same property
14 being studied under the DGEIS and that's
15 been given to you today.

16 A generic study prepared at great
17 time and expense that contains all the
18 relevant information for making a
19 determination on the disposition of the
20 same property that is the subject of
21 this resolution.

22 The completion of the DGEIS process
23 will protect the County's decision
24 making, whatever decision the County
25 makes. The GEIS will lead to findings

1 and determinations and the establishment
2 of thresholds that will become the
3 foundation and framework for all future
4 action on this site.

5 Short circuiting the GEIS process
6 will expose the County unnecessarily to
7 potential litigation that will only
8 delay the County's ability to sell and
9 transfer the property in the future and
10 will prolong the time it takes to
11 realize any revenue from the sale.

12 The sole purpose of the proposed
13 resolution is to generate revenue as it
14 is stated right in the resolution.
15 Right now, there are multiple studies
16 going on. In addition to the GEIS,
17 there's a Carman's River water study
18 being done by the Town of Brookhaven,
19 and there is a consideration to up zone
20 much of this very land that is the
21 subject of this resolution. That up
22 zoning will not effect the County owned
23 land as long as it is County owned.
24 Once it's sold to a private developer,
25 the property could be zoned -- could be

1 up zoned. The resolution contemplates
2 selling it under current zoning. It
3 contemplates an auction of a property
4 without any conditions purposes, or
5 proposed uses in the parcels that don't
6 even exist.

7 We have the map here. (Indicating.)
8 You can't see it from where you are. It
9 proposes to sell by its meets and bounds
10 description properties that are multiple
11 zone. On this map here, the purple
12 property is zoned purple. The golden
13 rod or yellow is zoned residential. The
14 221 acres described by meets and bounds
15 cross over zoning districts and the Town
16 is considering including some of these
17 lands in their Carman's River watershed
18 identification which will require an up
19 zone.

20 Again, like I said, it will not
21 effect County owned land while it's
22 County owned, but once it becomes
23 privately owned, the property could up
24 zoned under the current contemplation of
25 the Town which is an up zoned property.

1 There has to be an application to
2 the Town to create these lots whether it
3 is by modification an application to
4 modify tax lots or submission of meets
5 and bounds description to the Town. I
6 think the only way the County should
7 proceed in its best interest and the
8 best way to protect the environment with
9 the multiple studies that are going on
10 would be to complete the GEIS process
11 regardless of what the Legislature
12 ultimately decides. It will be their
13 findings and their determinations and
14 the establishment of thresholds and
15 guidelines will be put in place as to
16 the conditions for the development of
17 this site. Doing it sooner than the
18 completion of the GEIS process will only
19 open the County to litigation, and I
20 don't think it will be in the best
21 interest of protecting the environment.

22 CHAIRMAN SWANSON: Thank you, Mr.
23 Kent.

24 Any comments?

25 MR. KAUFMAN: Yes, this would be

1 directed to Rich and to Jim.

2 Is there a presumption in SEQRA
3 that properties over 100 acres which
4 become Type One action, is there a
5 higher presumption or need for an EIS
6 spelled out in SEQRA?

7 MR. MACHTAY: It's just under Type
8 One action because it tell us that the
9 Type One Action presumption is that it
10 may be a significant impact on the
11 environment, and it requires an impact
12 statement. "May" is the operative word.

13 MR. BAGG: It is more than likely
14 possible having a significant impact on
15 the environment; however, I think if you
16 go throughout the State and take all of
17 the Type One Actions, probably 85 to 95
18 percent of them get a negative
19 declaration. It's not clear. It's
20 ambiguous in the law.

21 MR. KAUFMAN: Second part of the
22 question is, I had distributed a memo to
23 the members a while back saying that we
24 consider only individual bills and only
25 that bill. Not necessarily the water

1 impact even if it does conflict with
2 other bills and policies of the
3 Legislature or the Executive. We are
4 faced, essentially, with a plea, if you
5 will, from Mr. Kent to stick with an EIS
6 that's currently underway. At the same
7 time, it is an individual bill and
8 that's really what we're supposed to
9 look at. If there are no errors in that
10 bill, it's obviously a Type One but if
11 there's no errors in the bill and
12 nothing is foreclosed, then I can't see
13 how we can necessarily say no to it and
14 that's the dilemma that we're facing
15 right now.

16 CHAIRMAN SWANSON: Tom?

17 MR. GULBRANSEN: My question is
18 about whether this action does, in fact,
19 bind or unbind the County from
20 considering a finding of DGEIS. It has
21 had action and alternatives actions that
22 are being considered which might
23 actually be executed after this
24 transaction; so I don't understand right
25 now how our current matters will or will

1 not be influenced by the future DGEIS
2 plan.

3 MR. KENT: Under the resolution
4 itself, the third resolve clause --
5 excuse me, the second resolve clause, I
6 apologize. It does state that if this
7 is adopted, it is resolved that no
8 county department, office, agency, or
9 official take any action to advance the
10 Legacy Village project or any variation
11 thereof.

12 The problem we might have with that
13 language in the resolution, is that we
14 would have to stop the DGEIS process.
15 The DGEIS process would be discontinued
16 because the DGEIS is undertaken in
17 furtherance of advancing the Legacy
18 Village Project. So, I think, it would
19 be stopping the DGEIS process that's
20 already in a draft form which has been
21 budgeted for over \$400,000 of
22 expenditure and is ten months into
23 completion. That would be my
24 interpretation. I would offer that for
25 your consideration.

1 MR. GULBRANSEN: I can understand
2 that, that would cause a short
3 circuiting that you referred to earlier
4 about the DGEIS.

5 My question is maybe in the inverse
6 of that. If, in fact, the DGEIS were
7 continuing to be public and embedded,
8 would it's findings necessarily be
9 accessible to anything that happened in
10 the subsequent sale or auctions or uses
11 of partitioning these pieces of the
12 property?

13 CHAIRMAN SWANSON: Would it not be
14 information in the public domain or
15 maybe the findings of that be totally
16 complete? Yes, a lot of the information
17 will be available for review and
18 consideration under any decisions that
19 made either by Executive Branch or the
20 Legislative Branch.

21 MS. RUSSO: I will direct this to
22 Rich Machtay, Jim Bagg, and Michael
23 Mule.

24 I would like to have clarification
25 on this entire process for what of

1 declaring land as surplus especially
2 because it is over 100 acres as a Type
3 One. If we go ahead and look at just as
4 that alone, and look at it as, "Okay, we
5 declare land surplus face value," then
6 we have to say, it's a negative
7 declaration because we are just
8 declaring surplus. We're not doing
9 anything with it. So are we going to
10 look at this that way? Look at it, at
11 space value? How can we otherwise look
12 at it because if we finally sell it,
13 then I think it would have to have a
14 coordinated review from the Town of
15 Brookhaven because, ultimately, they
16 have the power and control to zone it.
17 I think it is a very sticky issue. I
18 think initially when it first went out,
19 it went out improperly and it should
20 have gone out differently. I think
21 that, that's what's putting us in such a
22 bind. I also feel that we really have
23 to look at this at face value -- what it
24 is that we're doing than just declaring
25 the land surplus and based on that

1 alone, if we decide it is a positive
2 negative declaration. Ultimately, we
3 want to protect the environment so I
4 need clarification over here with the
5 language so I can rap my head around
6 this issue.

7 CHAIRMAN SWANSON: The question was
8 addressed to Rich, Mike, and Jim?

9 MR. BAGG: Well, I think, basically
10 the way it is drafted it is simply
11 declaring the land surplus for possible
12 sale which then we would transfer title.
13 Whether or not the property ever gets
14 developed, we don't know. I mean, I
15 assume someone is going to spend the
16 money in order to potentially develop it
17 in the future, but knowing what the Town
18 is going to do with respect to these
19 parcel in terms of zoning -- I mean Mr.
20 Kent did mention that they wanted to up
21 zone the property which means decrease
22 the density possibly on the property,
23 but that's really up to the Town. The
24 town has jurisdiction over zoning so
25 this current action and the way it

1 stands, it is simply a declaration of
2 surplus and ultimately a sale which is
3 transfer of title. It has know
4 development associated with it
5 whatsoever.

6 CHAIRMAN SWANSON: Legislator
7 Fisher?

8 LEGISLATOR FISHER: Did you --

9 MS. RUSSO: No.

10 LEGISLATOR FISHER: Thank,
11 Mr. Chairman.

12 Yes, the more we talk, the more
13 confusing it gets because looking at the
14 issue of the short circuiting of the
15 DGEIS, I think Tom brought that up and
16 possibly Mr. Kent did, as well, but
17 Mr. Chairman, you said -- Larry, you
18 said that the information that has been
19 gathered and adopted is public domain
20 and we can have that before us as a
21 guideline. However, getting back to Mr.
22 Kent, assertion that we would be opening
23 up exposure because of the DGEIS is not
24 being completed and presented and that
25 there might be a potential for

1 litigation on whatever we do with the
2 project.

3 Although there is information
4 that's in the public domain at this
5 point, I guess, I will go to Mr. Mule
6 and ask, are we exposing ourselves to
7 litigation by the surplus action if the
8 DGEIS hasn't been completed and
9 presented as a complete project? Is
10 this sufficient that we have the
11 information already available to
12 Council? I know you're not an attorney
13 and I would forward this to Counsel if
14 you --

15 MR. MULE: I would have to forward
16 that to Counsel.

17 MR. YOUNG: I think the correct
18 answer simply is you have a document
19 that's being prepared to give us this
20 information. We're short circuiting
21 that. Whether or not it can open us to
22 liability is always a question, but it
23 is certainly a read flag that I think
24 could be seized upon just for that
25 reason.

1 LEGISLATOR FISHER: Does Rich have
2 a different answer?

3 MR. MACHTAY: I was just going to
4 say that the document is on something
5 very different then what we're proposing
6 in the resolution now. The document is
7 on a full development of the property in
8 several different ways.

9 LEGISLATOR FISHER: That was my
10 assumption of the resolution.

11 MR. MACHTAY: They're declaring it
12 surplus and possibly auctioning it off.
13 It is two different things. Now the
14 other question that somebody --

15 LEGISLATOR FISHER: Rich, just to
16 interrupt you for a second. That was my
17 position in support of this particular
18 resolution -- Presiding Officer's
19 resolution. Mr. Kent just brought up
20 the issue of it being -- you know,
21 exposing us to litigation if we short
22 circuit at this point by supporting
23 Presiding Officer's resolution. What
24 you're saying is you're seeing this as
25 -- I see it as two separate actions to

1 declare this surplus in rejection of the
2 Legacy Village Project is a very
3 separate distinct action.

4 MR. MACHTAY: As long as there is
5 lawyers, there's always going to be
6 lawsuits. Somebody will figure out
7 something and these gentlemen are
8 lawyers -- Mr. Nolan and --

9 LEGISLATOR FISHER: I think my
10 lawyer wanted to answer my questions.

11 MR. MACHTAY: Mr. Young can give
12 you the best advice. They have to give
13 advice to the Legislature regardless of
14 what we do today.

15 MR. NOLAN: Your comments were
16 going to be my comments which is the
17 environmental impact statement making
18 the connection with a huge development
19 project and proposal. We're doing a
20 SEQRA review on a resolution to surplus
21 property and make it eligible for an
22 auction sale which is completely
23 different. If the SEQRA review is done
24 properly on this particular resolution
25 and what it seeks to do, then I am not

1 afraid of any legal exposure.

2 LEGISLATOR FISHER: My second
3 question, Michael, is that -- and I am
4 not going to go on about this but this
5 is not a legal question.

6 We have a DGEIS that's being
7 prepared and concurrently the Town of
8 Brookhaven Watershed Project. Any
9 decision that we make with regard to the
10 sale of property or potential buyer
11 would be subject to very different
12 tracks and then they may have some
13 points of --

14 MR. MULE: Yes.

15 LEGISLATOR FISHER: (Continuing) --
16 agreement or not, so we don't really
17 know what is going on out there.

18 MR. MULE: What I can tell you is
19 that the consultant preparing the impact
20 statement incorporated various local
21 reports and studies going on to the
22 greatest extent. This was in the
23 process of the Brookhaven Town -- when
24 they were in the process of the
25 preparation of the DGEIS, and I know as

1 more information becomes available, it
2 could be included in the document
3 possibly during the public comment
4 period. At sometime the report will be
5 finalized and adopted and that would be
6 incorporated in the final impact
7 statement and then brought into the
8 final -- so as this information becomes
9 available, it can be incorporated.
10 Plus, when a developer finally gets to
11 the development process, they would have
12 to go through the Town at that point and
13 be subject to a report study.

14 CHAIRMAN SWANSON: Legislator
15 Fisher?

16 LEGISLATOR FISHER: With all of
17 that being said, and with all due
18 respect to Mr. Kent's comments, I feel
19 very, very comfortable in moving forward
20 with the resolution -- Presiding
21 Officer's resolution and the comments of
22 Council George Nolan. They were very
23 clear in drafting the resolution that we
24 separate that action from the Legacy
25 action. With these difficult economic

1 times, we want to be able to bring
2 revenue to the County. It was a very,
3 very difficult budget to work on. I
4 hope that we can move forward with the
5 sale of that declaring surplus.

6 CHAIRMAN SWANSON: Would you like
7 to put it into a motion?

8 LEGISLATOR FISHER: What would the
9 motion be? It would be a -- I will make
10 a motion as a Type One Action Negative
11 Declaration.

12 CHAIRMAN SWANSON: Do we have a
13 second?

14 MR. MACHTAY: I would second that,
15 but I would like to say something.

16 If you recall, the first discussion
17 of Legacy Village, I think it was
18 Mr. Kaufmann both said and I think even
19 Jim said that the proposal had not had
20 an RFP plan. This is what we want to
21 see done. There is a stadium. There
22 are many homes so on and so forth that
23 would probably be under a negative
24 declaration right off the bat and that
25 was the discussion that we talked about.

1 Now we have a plan that has no proposal
2 with it. It just has surplus and a
3 possible auction.

4 I would second Ms. Fisher's
5 resolution.

6 CHAIRMAN SWANSON: Mr. Kaufmann?

7 MR. KAUFMAN: Just to clear up a
8 couple of points here.

9 I had written three memos to the
10 group and I don't think anyone remembers
11 any of that.

12 They have all specified exactly
13 what has been going on and where the
14 plans come in and how it effects SEQRA
15 and things like that. The most recent
16 one that I wrote to the group stated:

17 "You have to consider each one of
18 the actions as a separate action even if
19 there is a distinction in policy that
20 may come up. We're not the
21 policymakers. That is for the
22 Legislature to vote on. We are advising
23 them on single built that is coming up
24 before us. I checked that out on a
25 number of areas, and that's the way you

1 consider them. If the Legislature wants
2 to change its policy, they can. That's
3 its job. Our job is to analyze this
4 under SEQRA. In my opinion, this is a
5 separate bill.

6 Second, I researched surplus
7 declaration. This is the way a surplus
8 declaration is done. You declare
9 surplus. Surplus has some interesting
10 meanings under the law, but it is very,
11 very clear that it is surplus to the
12 County need. This is the way I have
13 seen it in statutory policies and other
14 statutory acts as to how you actually do
15 it inside a bill.

16 So, we're faced with an individual
17 bill calling it surplus. The gray area
18 that I think everyone's sort of
19 stumbling over is how this integrates
20 with the existing EIS and the gray area
21 is -- I discussed this with Rich in the
22 past at CEQ and, personally, I have not
23 seen anything within this geographical
24 area an EIS ever get ended midstream.
25 When people have tried, in the past, it

1 has been seen segmentation. That is not
2 the issue before us today. This is not
3 a segmentation issue. Sometimes
4 developers in the past have tried to
5 stop an EIS because they want to do this
6 or that and municipalities generally say
7 no to it. This is terra incognita. It
8 is a gray area. Nonetheless, having
9 researched it, there is prohibition
10 against stopping an EIS if the
11 Legislature wants to go along with it.
12 We're faced today with a bill that says
13 that's what we want to do. You have to
14 accept it on a SEQRA impact. All that
15 is going on right now, as it has been
16 pointed out several times, is we're
17 talking about setting up an auction
18 procedure and declaring it surplus and
19 changing title at a later time. That's
20 when a lot of the battle will occur.

21 Larry is very correct in saying
22 there is documentation out there.
23 Lawsuits are possible on this one. Does
24 anyone have a statutory lawsuit on this?
25 No. Will people sue on this? As I

1 think we are all aware, there's a lot of
2 different opinions on this. Some people
3 want to see it developed and others want
4 to see it stopped at all costs.
5 Somebody is going to sue on this.
6 That's not our concern.

7 However, our concern is the bill
8 before us. What happens with the EIS if
9 the Legislature wants to stop the EIS
10 midstream. That's their prerogative.
11 It could be subject to a lawsuit and a
12 lot of the information out there might
13 be utilized by those people. That's why
14 I asked Mr. Mule a couple of minutes ago
15 if there was anything inside the
16 document because he had seen it, and I
17 have not. It looked like it was
18 precluded development and his answer was
19 he did not see anything specific.

20 Wrapping this particular issue up,
21 it's a properly drawn bill in terms of
22 surplus. It's a separate action which
23 we have to assess separately. Even
24 though there may be sentiment around
25 this table to continue the EIS, that's

1 the Legislature's call, not ours. The
2 gray area as to what happens when the
3 EIS is ended, I don't think that is our
4 call. Again, there may be sentiment
5 around this table to continue the EIS.

6 Vivian's motion to have this a Type
7 One Negative Declaration is, in my
8 opinion, a proper motion. I don't see
9 technical difficulties with the bill the
10 way it is set out. I see more of a
11 partition than anything else. Given
12 what we're looking at and given the
13 constraints of each of these bills, to
14 me, it is a separate bill. I think
15 that's the way we have to look at it.
16 We have to look at the bill
17 individually, and I think that's our
18 charge at this point in time.

19 CHAIRMAN SWANSON: Tom?

20 MR. GULBRANSEN: With all due
21 respect, Mr. Kaufmann, we do recall the
22 memo that you wrote, and I am pretty
23 confident we remember what you wrote was
24 beneficial. We appreciate you agreeing
25 with all of us on the only factor to be

1 considered.

2 One other concern that I have is I
3 am still not sure how it is going to
4 work out. There is this draft -- the
5 DGEIS that has been put together. It
6 might stop and if it stops, the next
7 wave of consideration with regard to
8 things like watershed and nitrogen and
9 water quality -- I think the next wave
10 of consideration would be to get back to
11 the Town level. There would be a parcel
12 level and there would be a smaller and
13 more localize level and a more
14 individual level. That's the way it
15 needs to be because that's what it is
16 calling for.

17 What I am concerned about is that
18 we, as a body, know, learned, and heard
19 about -- the memos went out about how
20 there is already a condition in our
21 water which is impaired -- not Carman's
22 river necessarily, but the water that's
23 coming through and those waters are
24 currently receiving too much nutrients
25 and can't handle it. So, my mind thinks

1 any further development is likely to
2 exacerbate that condition and that makes
3 me feel like the negative declaration
4 isn't so automatic. It probably isn't
5 going to help with the existing and
6 exceeding capacity. I am not quick to
7 want to leave that opportunity to learn
8 from those DEIS findings because there
9 going to more than just the facts of
10 what is out there. There is no mention
11 of how to mitigate and enable
12 development that occurs in a way that
13 allows for development and also to
14 protect it cumulatively. I would like
15 to see that preserved somehow. I can't
16 figure out how to get there from here.

17 CHAIRMAN SWANSON: Gloria?

18 MS. RUSSO: Vivian, I would like to
19 direct this to you.

20 This DGEIS process is pretty far
21 along -- ten months and we have our
22 draft document here. I am assuming the
23 County paid 80 percent of the price or
24 negotiated to do that. How far -- how
25 much have we paid for it so far?

1 MR. ISLES: I would say we are past
2 the halfway point.

3 MS. RUSSO: My proposal is that
4 because it is so far along -- that we
5 have paid out so much, we should just
6 continue with the finishing documents
7 for information for future decisions of
8 whatever happens to the parcel of land.
9 I just wanted to throw that out there.

10 CHAIRMAN SWANSON: Any other
11 comments?

12 LEGISLATOR FISHER: Tom, I recently
13 sat with Mr. Tulio' from Brookhaven Town
14 who is working on the Carman's River
15 Watershed Study. I believe you and he
16 are on the same page with attempting to
17 look more holistically at the language
18 and the impact on the environment. That
19 also seems to be the way that Brookhaven
20 Town is looking at that. I know people
21 think the information that we have been
22 gathering in our environmental impact
23 statement and the scoping of all of the
24 studies we have done and I know that the
25 Town of Brookhaven is looking for facts

1 and information and recommendations in
2 that study and we will continue to look
3 at that.

4 I feel very confident that this
5 area, which is one of the most rapidly
6 growing areas in Suffolk County --
7 eastern Brookhaven Town, the Town is
8 looking very, very careful at all the
9 other impacts on the wetlands.

10 MR. MACHTAY: I don't know whether
11 Mr. Kent or Mr. Nolan had said the Town
12 was in the process of rezoning this
13 property. If so, maybe a lesser density
14 then it is now, but that makes it less
15 valuable. Consequently, we may not see
16 the money that we're expecting to get
17 out of this if the Town pulls the rug
18 out from everything. So it's not a sure
19 thing no matter what you do. The Town
20 would have to look at one small parcel
21 of development and they would have look
22 at the possible cumulative effects on
23 the entire area if it was so developed.

24 Once again, it's not a sure thing
25 as to how it would developed or what

1 would happen and certainly the effect on
2 the groundwater issue. I don't think it
3 is as simple as black and white.

4 CHAIRMAN SWANSON: Mr. Kaufman ?

5 MR. KAUFMAN: Couple of months ago,
6 Rich, you brought up one interesting
7 thing under SEQRA which was the fact
8 that you have look at the ultimate
9 impact of what's going to be happening.
10 If this land is declared surplus, and
11 it's put out for auction and for sale to
12 a potential developer and without
13 density occurring, are we looking at
14 potential impacts significant enough to
15 warrant a positive declaration under
16 this? I mean how far do we look
17 forward? I mean the action before us
18 right now officially is a declaration of
19 surplus and this is the way it is
20 classically done but do we look forward
21 beyond that?

22 MR. MACHTAY: I don't think we can
23 because you don't know what the
24 development process will be. Somebody
25 could buy ten acres and put one house on

1 it.

2 MR. KAUFMAN: Basically, you're
3 saying then -- if I am understanding you
4 correctly, that means back to a negative
5 declaration as opposed to putting any
6 necessary conditions that we put on it
7 today?

8 MR. MACHTAY: Yes, I would say
9 that.

10 CHAIRMAN SWANSON: Eva?

11 MS. GROWNEY: The only comment I
12 really want to make has to do with
13 zoning -- reference to zoning -- up
14 zoning.

15 Up zoning, when they change the
16 zone, it doesn't necessarily mean it's
17 going to be of less value. It depends
18 on content and the characteristic of the
19 plan -- the entire plan and it can be of
20 anything. It could change -- it could
21 mean get rid of the industrial -- all
22 kinds of things.

23 In terms of planning, we're not
24 every going to know what kind of plan is
25 going to work there or what the

1 developer wants to do and in some way,
2 it isn't our business. At the moment,
3 the bigger scope is really important, of
4 course, but I think with the local
5 municipality jumping in, it is going to
6 review this very diligently.

7 CHAIRMAN SWANSON: Thank you.

8 We have had a pretty **healthy**
9 discussion on this.

10 We have a motion on the table and a
11 second.

12 All in favor?

13 (WHEREUPON, the Council voted.)

14 CHAIRMAN SWANSON: Opposed?

15 (WHEREUPON, there was no response.)

16 CHAIRMAN SWANSON: Motion carries.

17 Proposes Recommended Type Two
18 Action, Ratification Recommendation
19 Resolution laid on the table.

20 Do you have any comments?

21 MR. MULE: It's pretty much a Type
22 Two Action. The one notable deviation
23 was of Legislator Fisher and the IR-2256
24 regarding the verbatim minutes laid on
25 the table.

1 LEGISLATOR FISHER: It was laid on
2 the table and it is coming to Committee
3 next week.

4 CHAIRMAN SWANSON: Thank you.

5 Do we have a motion to accept
6 staff's recommendations?

7 LEGISLATOR FISHER: Second.

8 CHAIRMAN SWANSON: Vivian seconded
9 it.

10 Any other questions?

11 (WHEREUPON, there was no response
12 from the Council.)

13 CHAIRMAN SWANSON: All in favor?

14 (WHEREUPON, the Council voted.)

15 CHAIRMAN SWANSON: Motion carries.

16 Proposes Stormwater and Remediation
17 improvements to Meschutt Beach County
18 Park in the Town of Southampton.

19 MR. BERGEY: Good morning, Council.

20 My name Eric Bergey. I am a Senior
21 Civil Engineer With the Department of
22 Environmental Energy. We measure the
23 water quality improvement.

24 I would like start off by thanking
25 the Council for their attention to this

1 matter and I will get right into it.

2 First, we're looking at a
3 topographic map of the area -- project
4 area and highlighted in red. It's just
5 east of the Shinnecock Canal adjacent to
6 the Peconic. There's an area photograph
7 of the existing parking lot. You can
8 see it is kind of divided into two
9 distinct parking lots to the west and to
10 the east. The west being,
11 approximately, 60 feet wide -- sorry --
12 120 feet wide by 500 feet long and the
13 east being 60 feet wide with 700 feet
14 long.

15 Here is a photograph of the
16 existing conditions. As you can see,
17 there are pretty substantial erosion
18 issues occurring. This is on the
19 eastern lot in the southeast corner. We
20 plan to do part of the proposal to
21 address these issues. All along the
22 south edge of which is -- I guess on the
23 left hand side of the photograph as
24 you're looking at it, there's existing
25 land that looks well vegetated. It is

1 leading a quite substantial amount of
2 sand into the park area that frequently
3 needs to be removed. So we plan to regrade
4 that area and regrade that area and
5 stabilize it with geostone which I will
6 touch on that again later.

7 There's just one access point to
8 the beach which is north of the parking
9 area. This is kind of where the problem
10 exists now. The entire parking lot is
11 graded to the north and that sheet flows
12 stormwater which ends up exiting the
13 parking lot and onto the beach via the
14 beach access. The proposal is
15 essentially to regrade both parking lots
16 to the center and add some DEC approved
17 remediation practices in the center of
18 the west parking lot and apportion some
19 of the land that is currently being used
20 for campground -- I guess a makeshift
21 campground and the Parks Department
22 plans to expand the use of the adjacent
23 area for an official campground.

24 We took that into account when we
25 designed the parking lot, and here's

1 just some of the existing and the
2 problems therein. It's approximately
3 3.7 acres of which is 2.4 acres is
4 asphalt pavement. The goal is to remove
5 quite a bit of this existing pavement
6 and resurface. Erosion is a primary
7 concern here in addition to the water
8 pollution. Here is just a little
9 illustration of what is currently
10 happening and how the sheet flows off
11 the driveway area and the sheet flows to
12 the north into both parking lots and
13 then onto the beach.

14 Here is what we plan to do. We
15 plan to regrade to the center and
16 collect a few different water treatment
17 practices. In the west lot, we plan on
18 installing what we call a stormwater
19 treatment median. It is somewhat
20 adapted from something that Washington
21 State is using which New York State DEC
22 has also decided to adopt. It consists
23 of a riffraff porter. It is heavy stone
24 that are three, four, or five inched in
25 diameter. Basically, they slow down the

1 flow of water and prevent erosion and
2 then the water will enter a filtration
3 system, which in this case, it's a
4 native beach soil grass but it is pretty
5 much the only species that you can get
6 to grow efficiently in that kind of
7 soil.

8 In the center we have what's called
9 an ecology make which consists of -- I
10 have the exact specification, if you're
11 interested but it is made of perlite,
12 dolite, and gypsy with background gravel
13 underneath a two foot layer underneath.

14 In the east lot since we're a
15 little bit more limited by space. It is
16 only 60 feet wide and to accommodate all
17 the existing parking and not loose any
18 space in the proposes lot. We have
19 asphalt pavement which will be layed
20 underneath by two feet of gravel. We
21 also have a few -- I don't know if you
22 can see in it -- we do have a few
23 leeching catch basins.

24 Along the southeast edge of the --
25 I am sorry south eastern parking lot, I

1 touched on the slope stabilization that
2 we're going to include in the
3 construction and here is an illustration
4 of that.

5 Essentially, it is an expandable
6 and plastic HDPE cells that you pin down
7 to the soil -- the native soil after
8 regrading it and fill it with more
9 native soil and plants -- native
10 species. Essentially it will rise to a
11 nice stabilization to the slope as
12 opposed to what is happening now which
13 is pretty severe erosion especially when
14 we have severe wind and rainstorm.

15 So, at this time, I would conclude
16 my presentation and I will open the
17 floor to any questions.

18 CHAIRMAN SWANSON: Thank you very
19 much for your description of this very
20 ambitious project.

21 On your last diagram where you
22 talked about the HDPE cells, I am just
23 curious about that. One of the big
24 issues with that is, of course, all the
25 plastic that is out on the beach. Is

1 there any experience of these cells that
2 you can cite where they have worked and
3 not deteriorated due to -- you know, sun
4 causing them to degrade and break apart?

5 MR. BERGEY: After completion of
6 the project, they will not be exposed to
7 the elements. It is completely covered
8 by soil and vegetations.

9 CHAIRMAN SWANSON: We hope.

10 MR. BERGEY. We hope too. Research
11 has shown that plants once they
12 establish in these cells, the roots are
13 really able to tie everything together
14 and they're designed as such.

15 CHAIRMAN SWANSON: Have you used
16 them successfully in the County?

17 MR. BERGEY: We have not. It was
18 sort of a pilot usage of that material.

19 CHAIRMAN SWANSON: Eva?

20 MS. GROWNEY: Is there any other
21 material being used for those
22 structures?

23 MR. BERGEY: For the slope
24 stabilization?

25 MS. GROWNEY: Yes.

1 MR. BERGEY: Yes. You can kind of
2 see from the drawing that's pinned down
3 from the HDPE stakes and there is
4 geo-tech fabric underneath them.

5 MS. GROWNEY: Is there something
6 that you can utilize that is not
7 plastic?

8 MR. BERGEY: Not plastic?

9 MS. GROWNEY: Yes, that's my point.

10 MR. BERGEY: I don't believe so. It
11 is the nature of how they're designed.
12 The need to be flexible.

13 MS. GROWNEY: Then I want you to
14 give us a brief history and on what kind
15 of erosion is happening there. In
16 particular, is there any ice
17 development? You have a channel very
18 close by, so I am sure there is a fair
19 amount of water activity but has there
20 ever been any kind of intrusion -- any
21 major pipes that has caused the
22 undermining possibilities?

23 MR. BERGEY: In the dune area?

24 MS. GROWNEY: Well, on the beach.

25 I mean a couple of years ago, we saw ice

1 down at Black Duck Lodge. There were
2 other locations on many of these beaches
3 in the bay areas. Sometimes ice would
4 build up and I was just wondering how
5 that might impact this project, if at
6 all? If it does exist. I don't know if
7 it exists. That's why I was asking for
8 a brief history.

9 MR. BERGEY: I am not aware of
10 anything. I know there has been -- the
11 County was finding -- I am not sure if
12 it was successful or not from FEMA to
13 actually rehabilitate the beach due to
14 some severe erosion during a nor'easter
15 storm back in 2009.

16 I am not aware of anything on the
17 landward side of the parking lot which
18 is where the dune is. I don't know if I
19 made that clear that this is actually on
20 the landward side of the parking lot and
21 not on the SEQRA.

22 MS. GROWNEY: Maybe I didn't
23 understand that.

24 MR. BERGEY: I will jump back to
25 the picture where you can see the

1 existing dune. On the left I have a
2 picture here of the landward side of the
3 parking area.

4 MS. GROWNEY: And the parking lot
5 itself hasn't had any undermining of
6 ice?

7 MR. BERGEY: I don't think so but
8 Nick Gibbons from the Parks Department
9 may have some more information on the
10 history of the parking lots.

11 CHAIRMAN SWANSON: Gloria?

12 MS. RUSSO: If you could look at
13 Sheet 3 of 8 of the drawing.

14 I am trying to understand the
15 actual physical mechanics of this new
16 design. The left corner on the bottom,
17 it doesn't really say what section it
18 is. They all say, " New high
19 groundwater water is 2.8 feet." When you
20 look at the dimensions especially on the
21 left line, it is showing an accumulation
22 of like five feet from the ground verses
23 down to the water table. What really is
24 the groundwater depth from the surface
25 of the parking lot to the groundwater

1 level?

2 MR. BERGEY: Well, it does vary
3 because of the surface of the existing
4 parking lot which has a slope to it.
5 The groundwater is considered to be
6 relatively flat and not having a slope.

7 MS. RUSSO: It is showing the
8 groundwater to be 2.8 feet,
9 approximately, equal to the high tide.
10 When you look the dimensions of the
11 depth of the geo-cell of everything, I
12 am seeing that the water level of the
13 groundwater on the dotted is a foot and
14 a half or two feet and among other
15 things. So my questions is, is this
16 unit really sitting in the groundwater?

17 MR. BERGEY: Yes. It is
18 approximately six and-a-half feet from
19 the surface of the existing parking lot
20 to groundwater.

21 MS. RUSSO: So then these drawings
22 are showing where the groundwater runs
23 through is incorrect? If they're
24 dumping and sitting right in the
25 groundwater, are you accomplishing what

1 you wanted with this whole project?

2 MR. BERGEY: I disagree with that
3 statement. The existing surface
4 elevation of the parking lot is around
5 nine feet. The existing groundwater
6 elevation is approximately two feet --
7 2.8 feet.

8 MS. RUSSO: That's what it says,
9 2.8?

10 MR. BERGEY: So if you do the
11 subtraction, you will end up with about
12 six and-a-half feet.

13 MS. RUSSO: What I was trying to
14 understand, was that was it really is
15 going to be sitting in the groundwater?

16 MR. BERGEY: The structure itself
17 will not be sitting in the groundwater
18 and this was approved by DEC. That
19 structure is essentially a backup
20 structure. The water is not going to be
21 directly put into that catch basin.
22 It's going to be shooting flow into the
23 porus asphalt which will begin as
24 infiltration at the surface. In a
25 severe condition, that structure may see

1 a significant amount of water, but it is
2 not the intent to have that be the
3 primary source of discharge for
4 stormwater.

5 MS. RUSSO: Thank you.

6 CHAIRMAN SWANSON: Mike, you wanted
7 to make a comment about the DEC
8 reaction.

9 MR. MULE: I just wanted to mention
10 that this is listed as a Type Two Action
11 as maintenance or repair and it kind of
12 looks at the same footprints of the
13 existing parking lot. It also falls
14 under as part of the maintenance and the
15 landscaping which is consistent with the
16 DEC permit that was issued.

17 CHAIRMAN SWANSON: Thank you.

18 Any other comments?

19 (WHEREUPON, there was no response
20 from the Council.)

21 CHAIRMAN SWANSON: Do we have a
22 motion?

23 MR. BAGG: Motion as a Type Two
24 Action.

25 MS. GROWNEY: Second.

1 CHAIRMAN SWANSON: We have a motion
2 and a second.

3 Any further discussions?

4 (WHEREUPON, there was no response
5 from the Council.)

6 CHAIRMAN SWANSON: All in favor?

7 (WHEREUPON, the Council voted.)

8 CHAIRMAN SWANSON: Opposed?

9 (WHEREUPON, there was no response
10 from the Council.)

11 CHAIRMAN SWANSON: Motion carries.

12 Moving onto other business.

13 Christine, Michael had put in the agenda
14 the fact that the three of us are having
15 our terms expiring this month. I think
16 Michael Kaufmann has spoken to staff at
17 Legislator Fisher's office and Mike, do
18 you want to tell us what those staff
19 members informed you of?

20 MR. KAUFMAN: Well, basically,
21 starting about a month ago, I asked Mike
22 Mule who was up -- whose term was up and
23 that information is what you're seeing
24 on there. Proper procedure, as it has
25 been in the past, is to have the

1 individual members contact their
2 appointing Legislator and talk to them.
3 Also, it was to contact the Chair of the
4 EPA who happens to be at the table right
5 now. I told them to talk to that
6 officer and eventually resolutions are
7 prepared and assuming everything goes
8 forward, then present that to their
9 Legislator. I have talked to several
10 members previously. I just called up
11 Legislator Fisher's office and talked to
12 her and her staff for a moment and
13 informed them of the names that were
14 going to be coming up. I just wanted to
15 let them know that reappointment was
16 coming. That's where we are at, at this
17 point in time.

18 CHAIRMAN SWANSON: My question,
19 Vivian, is -- I am a little confused,
20 but are we all now supposed to
21 independently go visit our appointing
22 legislator's or is your staff handling
23 it?

24 LEGISLATOR FISHER: Generally, the
25 Council let's us know when you need to

1 do a reappointment; for example, Gloria
2 is coming up pretty soon. Her term
3 expires in March. So, the Council will
4 let us know when there are terms that
5 are coming up. Obviously, you're my
6 contingent, so I would be introducing
7 the resolution for your reappointment
8 and Maryann is my contingent. Eva, I
9 don't know who your legislator is.

10 MS. GROWNEY: Jay Schneiderman.

11 LEGISLATOR FISHER: As your term
12 comes up, I think it would be a good
13 idea to give him a call and let him know
14 in case there hasn't been that
15 communication between him and the
16 Council. I don't think this warrants a
17 visit to the Legislative office unless
18 you just want to go visit your
19 legislator. Generally, the legislator
20 who sponsors the resolution checks with
21 CEQ and assures that the person is
22 showing up at the meeting and is an
23 active member of the body. That is
24 usually -- we're all a great group of
25 people who give that kind of time. So

1 we're happy to put in a resolution.

2 CHAIRMAN SWANSON: Before you came
3 in today, I mentioned that you had been
4 selected as the Political Person of the
5 Year in the Three Village area. I just
6 wanted to once again reiterate a
7 congratulations.

8 Also, congratulations and
9 condolence on your reappointment to CEQ
10 as our Legislative representative.
11 We're all happy to have you here.

12 Just, in general, all of you
13 legislator's, we appreciate your service
14 and after what has happened recently,
15 take care of yourselves.

16 We are going to have election of
17 officers. Let's call for nominations.

18 Maryann?

19 MS. SPENCER: I would like nominate
20 Larry Swanson for Chairman and Gloria
21 Russo for Vice Chairman.

22 CHAIRMAN SWANSON: Do we have a
23 second?

24 MR. BAGG: I will second.

25 CHAIRMAN SWANSON: Second from

1 Mr. Bagg.

2 Do we have any other nominations?

3 (WHEREUPON, there was no response.)

4 CHAIRMAN SWANSON: If not, then I
5 will call for a vote.

6 All in favor?

7 (WHEREUPON, the Council voted.)

8 CHAIRMAN SWANSON: Opposed.

9 (WHEREUPON, there was no response.)

10 CHAIRMAN SWANSON: Motion carries.

11 CAC concerns?

12 LEGISLATOR FISHER: Sorry. Can I
13 go back to the nominations?

14 As you all know, I am term limited.
15 This is my last year in the Legislature.
16 I am particularly pleased that Gloria is
17 Vice Chairman because it's unlikely
18 that -- well, not necessarily -- I don't
19 know if the next person from the
20 Legislature would be chairing the
21 Environment Committee and if that person
22 would be a woman. It seems to me that
23 we don't have enough women around this
24 table. It is certainly not 50 percent
25 which is what our population should be,

1 but it is good to see a women in a
2 leadership position.

3 CHAIRMAN SWANSON: Thank you.

4 LEGISLATOR FISHER: I also want to
5 thank Michael Kaufmann for his service
6 and all his hard work.

7 MR. KAUFMANN: Thank you.

8 MR. BAGG: Yes, agreed.

9 LEGISLATOR FISHER: By the way, he
10 was named as Person of Year for the
11 Environment named in the court records.

12 MR. KAUFMAN: The place has been
13 surplus and sold.

14 (WHEREUPON, there was laughter.)

15 CHAIRMAN SWANSON: CAC concerns?

16 (WHEREUPON, there was no response.)

17 CHAIRMAN SWANSON: Nothing.

18 Do we have a motion to adjourn?

19 MR. MULE: I just wanted to remind
20 the members of Legacy Village
21 subcommittee that you can pick up your
22 EIS disks from Christine.

23 CHAIRMAN SWANSON: Do we have a
24 motion to adjourn?

25 MS. GROWNEY: I will make the

1 motion.

2 CHAIRMAN SWANSON: Motion by Eva.

3 MS. RUSSO: Second.

4 CHAIRMAN SWANSON: All in favor?

5 (WHEREUPON, the Council voted to
6 adjourn this meeting.)

7 CHAIRMAN SWANSON: No objections.

8 Motion carries.

9 (WHEREUPON, this meeting of January
10 19th, 2011, was adjourned at 11:15 a.m.)

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C E R T I F I C A T I O N

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STATE OF NEW YORK)

:ss

COUNTY OF SUFFOLK)

I, MELISSA POWELL, a Shorthand Reporter and
Notary Public of the State of New York, do hereby
certify:

That the within transcript was prepared by me and is
a true and accurate record of this hearing, to the best
of my ability.

I further certify that I am not related to any of the
parties to this action by blood or by marriage and that
I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this
14 day of February 2011.

Melissa Powell

MELISSA POWELL