

## COUNCIL ON ENVIRONMENTAL QUALITY

### MINUTES

A regular meeting of the Suffolk County Council on Environmental Quality was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, 725 Veterans Memorial Highway, Smithtown, New York on Wednesday, March 16, 2005.

#### **MEMBERS PRESENT:**

Theresa Elkowitz, Chairperson  
Thomas Cramer  
Michael Kaufman  
Adrienne Esposito  
Lance Mallamo  
John Finkenbergl  
Nancy Manfredonia

#### **ALSO IN ATTENDANCE:**

James Bagg, Chief Environmental Analyst/Department of Planning  
Penny Kohler, Department of Planning  
Richard Martin, Historic Services  
Joy Squires, CAC of Huntington  
Steve Brown, CAC of Brookhaven  
Ralph Borkowski, Department of Public Works  
Paul McMahan, Department of Public Works  
Bob Steele, McLean & Associates  
Ray DiBiase, McLean & Associates  
Timothy Quinn, Nelson & Pope  
Margo Myles, Town of Huntington  
Eric McFerran, Nelson & Pope  
Ryland Gaines, Aide to Leg. Montano  
Thomas Isles, Director of Department of Planning  
Charles Bender, PO Aide  
Rich Schneider, McLean & Associates  
Andy Freleng, Principal Planner, Department of Planning  
Kim Kennedy, Aide to Leg. Caracciolo  
Kevin LaValle, Aide to Leg. Losquadro

#### **MINUTES TAKEN AND TRANSCRIBED BY:**

Diana Kraus - Court Stenographer

**(THE COUNCIL CONVENED AT 9:35 AM)**

**CHAIRPERSON ELKOWITZ:**

Good morning. I'm going to call the March 16, 2005 meeting of the CEQ to order. I don't have minutes to review. The only correspondence that I have relates to a project that we're going to be reviewing today.

So, we'll go directly to ratification of staff recommendations for legislative resolutions laid on the table March 15. Jim, is there anything you'd like to call to the Council's attention?

**MR. BAGG:**

Yes. There are three things on the agenda. There is introductory resolution number 1186. It's authorizing the acquisition under Suffolk County Multifaceted Land Preservation Program Elwood Greenlawn Woods Property, Town of Huntington. That needs an EAF to be submitted to CEQ. There is resolution number 1284 approving acquisition under Suffolk County Multifaceted Land Preservation Program Third Creek Woods Property, Town of Shelter Island. That needs an EAF to be submitted to CEQ. And the last resolution number 1321, it's appropriating funds in connection with storm water remediation construction improvements at the southeast intersection of Lake Shore Drive and Lake Terrace in Lake Ronkonkoma. That also needs an EAF to be submitted to CEQ.

**CHAIRPERSON ELKOWITZ:**

Any questions for Jim?

**MR. KAUFMAN:**

No. I'll make a motion to accept staff recommendations.

**CHAIRPERSON ELKOWITZ:**

I have a motion. Do I have a second?

**MS. MANFREDONIA:**

Second.

**CHAIRPERSON ELKOWITZ:**

Second by Ms. Manfredonia. All those in favor? Opposed? Abstentions? Carried.

Next. Proposed improvements to Armed Forces Plaza, CP 1756, Front of H. Lee Dennison Building, Veterans Memorial Highway, Hauppauge. Good morning.

**MR. BORKOWSKI:**

Good morning.

**CHAIRPERSON ELKOWITZ:**

How are you, Ralph?

**MR. BORKOWSKI:**

Good.

**CHAIRPERSON ELKOWITZ:**

I have a memo in front of me dated -- a letter in front of me dated March 1st, 2005 addressed to me. And it states "the Department," which is the Department of Public Works, "is proceeding with the construction of the above referenced project. The project provides for the restoration of

the existing Armed Forces Plaza monument. The work involves refurbishing existing granite panels and repaving work. The Department considers this a Type II Action under SEQRA in accordance with the provisions 6NYCRR 6.175 (c) (1) and (2) as it involves maintenance or repair involving no substantial changes to an existing structure and rehabilitation of a facility inkind."

Anybody have any questions for Mr. Borkowski while I just check the citation?

**MR. KAUFMAN:**

Yes. Ralph, what exactly is going on over here?

**MR. BORKOWSKI:**

It's a straight forward restoration of the existing granite monument. There's a lot of broken panels and deterioration over the last approximately ten years. We just want to restore it to the way it was. Pretty much as inkind. There's no expansion. We're asking for construction appropriation funding. Big panels have to be replaced. They're cracked. Settling.

**MR. KAUFMAN:**

Weathering and use is basically what's causing it?

**MR. BORKOWSKI:**

Yes.

**CHAIRPERSON ELKOWITZ:**

And I would suggest that the citation would only be 617.5 (c) (1).

**MR. KAUFMAN:**

As amended by our Chairman, I would make a motion this is a Type II Action.

**CHAIRPERSON ELKOWITZ:**

I have a motion. Do I have a second?

**MS. ESPOSITO:**

Second.

**CHAIRPERSON ELKOWITZ:**

Second by Ms. Esposito. All those in favor? Opposed? Abstentions? Carried.

**MR. BORKOWSKI:**

Thank you.

**CHAIRPERSON ELKOWITZ:**

Thank you, Ralph.

Item number 2, proposed intersection improvements on CR 97 Nicholls Road at Lower Sheep Pasture Road, CF 5137, Stony Brook, Town of Brookhaven. Good morning.

**MR. McMAHON:**

Good morning.

**CHAIRPERSON ELKOWITZ:**

Good morning. Just identify yourself for the stenographer.

**MR. McMAHON:**

Good morning, Council. My name is Paul McMahon. I'm a Senior Civil Engineer with DPW. I'm here to present a couple of projects so bear with me today.

The first project is CR 97 at Lower Sheep Pasture Road. This is located up by the north end of the Stony Brook campus. The basic concept of this project is to realign the current intersection. Right now it's an offset intersection, which the current problems are poor site distance and hazardous sub-standard highway geometry. It's difficult for cars to make the proper turning movements. You know, they're kind of offset from each other. So, you're creating a little bit more of a head-on situation. There's been 30 accidents since 2004. No. 2000 to 2004 there's been a total 30 accidents.

The proposal -- the main objective is to realign the intersection and lengthen the left-turn lanes to take turning vehicles out of the through lanes on 97. This will improve the capacity of the intersection and also address the safety issues. Environmentally there's very minimal impacts. We're just going to be increasing some of the pavement on the north -- the north end at Lower Sheep Pasture Road. Pretty much right in this area. And then on the south end, that pavement area is going to be removed. And it'll be grass. It'll be planted with grass.

**MR. KAUFMAN:**

Are you sure that it's going to be environmentally okay? DEC is located 200 yards away.

**MR. McMAHON:**

I don't think we're disturbing any groundwater or any issues like that.

**MR. KAUFMAN:**

Just be sure.

**CHAIRPERSON ELKOWITZ:**

He's just telling you that headquarters --

**MR. McMAHON:**

No, I know they have a tendency to inquire.

**CHAIRPERSON ELKOWITZ:**

It's really okay.

**MR. McMAHON:**

That being said with DEC, we are going to replant any trees that might be relocated particularly the ones within viewing distance of their facility.

**MR. KAUFMAN:**

Just to let you know I've almost had several near accidents on that intersection. I use it very heavily. And also the fact that you're putting in the turn lanes over there is going to be very helpful. 25A as it pulls into Nicolls over there is a definite problem. I'm glad you're doing it.

**MR. McMAHON:**

Right. Right. And then increasing the turning lanes on -- for Sheep Pasture Road. It's just going to take them out of the intersection.

**MR. CRAMER:**

Where you're moving the pavement and putting in grass, can you put in trees and shrubs?

**MR. McMAHON:**

We're going to replace any trees that we -- there's a couple of scrub oaks that we're going to replace.

**MR. CRAMER:**

On the other side.

**MR. McMAHON:**

So, we'll compensate on the opposite side.

**MR. CRAMER:**

I make a motion unlisted neg dec.

**MR. KAUFMAN:**

Second.

**CHAIRPERSON ELKOWITZ:**

I have a motion by Mr. Cramer. I have a second by Mr. Kaufman. All those in favor? Opposed? Abstentions? Carried. Thank you.

Item 3, proposed program to administer -- you know what? I'm going to move this around. You have the next few of these; right? So, then, you know what? I'm just going to hold number three and let's just stay on a DPW roll for a while.

We'll go to 4. Proposed reconstruction of CR7 Wicks Road from CR 67 Motor Parkway to CR 13 Crooked Hill Road, phases I and II, CP 5040, Towns of Islip and Smithtown.

**MR. McMAHON:**

Before I get started with this one, I'd like to introduce Mr. Tim Quinn from the highly respected firm of Nelson & Pope, who is on part of our design team for this project.

I'd like to begin this by just mentioning that this project extends from County Road 67 Motor Parkway all the way down to County Road 13. That's Crooked Hill Road. Some very densely populated, highly developed area. So, we're going -- we're not really going through any pristine areas at this location. The problems encountered on this project are poor levels of service, hazardous conditions at intersections, poor pavement conditions. And then the lack of adequate drainage facilities is causing roadway water to remain on the road; therefore, creating hazardous driving conditions as well as compounded with the traffic problems. You have a pretty hazardous situation. So, we plan to not necessarily widen this road, but there's going to be some major intersection improvements where there will be some minimal strip takings required. What we're going to do with these intersections are add some traffic signals where they're required, modify some existing traffic signals. And then add turning lanes to take turning vehicles out of the intersection.

The drainage situation is going to be addressed by -- right now currently it's isolated leaching systems. And then there's a small positive system on the north end which discharges into a town -- which utilizes some town systems. But for the most part it's strictly isolated leaching basins, which are not nearly sufficient to accommodate the storm water compounded with poor pavement conditions; you know, the water is penetrating into the pavement and causing the pavement to deteriorate. So, this project proposes to eliminate the drainage problems by constructing a positive system from Chaple Hill Road located around the school. And it's going to utilize a Town of Islip recharge basin. We've already had positive coordination going on with Commissioner \\_Petito's\\_ office and the Town Engineer Steve Rizzo. What the Department proposes to do is increase the capacity of their basin in salt perimeter plantings, black PVC fencing; and then also beautify the -- you know, the surrounding perimeter of the area while it will also, you know, increase the capacity of the basin and resurface their road, improving their road as we're disturbing it.

**CHAIRPERSON ELKOWITZ:**

So, you're going to be working on a basin which is basically the --

**MR. McMAHON:**

This is an existing basin --

**CHAIRPERSON ELKOWITZ:**  
Right.

**MR. McMAHON:**  
-- on our town-owned parcel.

**CHAIRPERSON ELKOWITZ:**  
Which backs the backyards of four peoples' homes. So, what you're saying is you're going to improve the aesthetic conditions there when you're done as well.

**MR. McMAHON:**  
Right. We're going to replace the existing fence. It's a run-down hurricane chain link fence. The black PVC, you really can't see that. And then with the perimeter plantings around the exterior plus the interior, we're going to increase the area. But we are -- we're also going to increase the capacity of the basin. This is in lieu of trying to acquire property and constructing our own basin. Bottom line, we have to get the water off the road. And the leaching basins, we'd have to install --

**CHAIRPERSON ELKOWITZ:**  
Well, it certainly make sense to use a town basin.

**MR. McMAHON:**  
Probably over a hundred --

**CHAIRPERSON ELKOWITZ:**  
A town recharge basin.

**MR. McMAHON:**  
That's correct. The thing -- the County probably -- the thing that's going to make this work is the DPW taking over maintenance of the basin.

**CHAIRPERSON ELKOWITZ:**  
Okay.

**MR. McMAHON:**  
We've already drafted -- the Commissioner's drafting correspondence to Commissioner \\_Petito\\_ on this. Also, we've had public information meetings. And then civic group meetings that were sponsored by the Legislator in the area. One of the big concerns is safety around the school area. Brentwood Middle School. They've requested a traffic signal, sidewalk in the area. We're adding sidewalk on both sides of the road. This area has a lot of pedestrian traffic. And right now there's intermitted sidewalk, broken sections of sidewalk. All that's going to be upgraded and replaced.

**CHAIRPERSON ELKOWITZ:**  
Does anybody have any questions?

**MR. KAUFMAN:**  
Yeah. How much storm water run-off are you going to be picking up generally?

**MR. McMAHON:**  
We're going to go for the ten-year design storm. So, that's going to be approximately five inches. That's a benefit of being able to utilize a positive system. We could accommodate the minimum of a ten-year storm. That's currently our policy.

**CHAIRPERSON ELKOWITZ:**

Jim, you had a question?

**MR. BAGG:**

I don't have a question but I had a phone call from Gene Murphy in the Town of Islip. And he said to put into the record that the Town of Islip supports this project as well as the next project that's going to be before the Council.

**CHAIRPERSON ELKOWITZ:**

Okay.

**MR. CRAMER:**

Motion unlisted neg dec.

**MR. KAUFMAN:**

Second.

**CHAIRPERSON ELKOWITZ:**

I have a motion by Mr. Cramer. I have a second by Mr. Kaufman.

**MR. FINKENBERG:**

I was curious about the creek that goes under that road. It kind of borders between Babylon and Islip? I think it's Sumpwams Creek?

**CHAIRPERSON ELKOWITZ:**

Not here.

**MR. McMAHON:**

That's on Bay Shore Road.

**CHAIRPERSON ELKOWITZ:**

That's not here.

**MR. FINKENBERG:**

This isn't Bay Shore Road?

**MR. McMAHON:**

No, this is County Road 7 and pretty much in Brentwood.

**MR. FINKENBERG:**

This is Thursday; right?

**CHAIRPERSON ELKOWITZ:**

It's not here.

**MR. FINKENBERG:**

Okay. Sorry about that. I thought it was Bay Shore Road.

**MR. KAUFMAN:**

Hold the question.

**MR. McMAHON:**

Hold the question and I'm confident I'm going to have an answer for you on Sumpwams Creek.

**MR. FINKENBERG:**

I can go back to sleep now?

**CHAIRPERSON ELKOWITZ:**

That's the next one.

**MS. ESPOSITO:**

He's just ahead of everybody else.

**MR. McMAHON:**

That's good. He wants to move these projects along.

**CHAIRPERSON ELKOWITZ:**

I have a motion and I have a second. Do I have any other questions? If not, I'll call the question. All those in favor? Opposed? Abstentions? Carried. Okay. We'll keep going.

**MR. KAUFMAN:**

We're on a roll.

**CHAIRPERSON ELKOWITZ:**

Yes, we are.

**MR. McMAHON:**

I just need a minute to change the plans up here.

**CHAIRPERSON ELKOWITZ:**

Sure, no problem.

**MR. KAUFMAN:**

By the way, to just emphasize, I do like the fact that you're designing for the ten-year storm and the five inches. That's very, very good.

**MR. McMAHON:**

Thank you.

**CHAIRPERSON ELKOWITZ:**

Hello again.

**MR. McMAHON:**

CR 57, Bay Shore Road. This project begins -- commences at Route 231 in North Babylon, continues in a southeasterly direction to Sunrise Highway in Bay Shore. I'd like to begin by introducing Mr. Ray DiBiase from the highly respected firm of Louis McLean. Thank you, Ray. I would also like to submit for the record, I have a letter from the New York State Parks Office, the Chief Engineer Scott Fish in support of this project. We have a pretty interesting feature here which is going to utilize some parklands, which I'll get into during the description.

**CHAIRPERSON ELKOWITZ:**

Okay. Great.

**MR. McMAHON:**

This project is very similar in nature to the County Road 7 project. It's located in Islip. It's also traversing through a very densely, populated, developed area. Pretty much Babylon, Bay Shore corridor. The problems are very similar on this one. Traffic congestion, hazardous conditions at many intersections. A lot of these accidents rates are more than two times the state average, which is one of the primary goals we want to alleviate with this project. And also the congestion delays are also contributing to this condition. Some of the infrastructure problems we have here



are insufficient pavement. The pavement's falling apart. Similar to County Road 7. And poor drainage facilities. A lot of this throughout most of this corridor. The drainage is in pretty bad shape, which is also leading to the deteriorated pavement and curb treatments. And then again a lot of pedestrian traffic in the area. So, we're going to be reconstructing the sidewalk, adding some pedestrian features as well. Also increasing the width of the pavement. Everything's, you know, compatible for shared use throughout most of the corridor. So, the alternative primarily proposes to provide adequate pavement, adequate drainage, improving the drainage. We're going to have positive drainage systems here. And then I'll get into Sumpwams Creek in a moment. We'll be resurfacing full bed pavement repair, curbs throughout the project corridor. Pretty much continuous sidewalk throughout most of the length of the project.

We've had public information meetings. And the Chief Engineer at the time, Bill Shannon, has met with the Legislature and numerous civic groups along with the head of traffic. So, we've incorporated comments, input from the public into the development of this project. One of the features will be -- incorporated is a pedestrian refuge at the church over here. A lot of crosswalk people park across the street. They don't really have a safe haven while they're waiting for gaps in the cars.

So, to get to the drainage situation, there's four water sheds on this project. The north west section, we actually have a recharge basin. The County maintained a non-facility just a little further north going up Commack Road. Hydraulically it's going to work. We're just going to tie into that system. So, no need for any right-of-way acquisitions for this project -- for this watershed, I mean.

Heading further to the south, we encounter Sumpwams Creek. Currently there's no drainage there. It's direct discharge right into the creek. What we propose to do here, we're not going to be able to construct the recharge basin to accommodate the ten year design storm. However, we're going to construct an environmental settling basin that's going to accommodate the DEC required storm water quality volume. It's approximately an inch and a half, which is just more than a one year storm. This is what DEC requests for us. In the past, we would try and do this by installing enough leaching basins on a project to maybe store a half inch of water. We're going to be, you know, storing that capacity three times. This system also -- it's going to have the ability to settle out the suspended solids and filter out the road storm water run-off pollutants prior to the discharge. So, it will be able to store storm water quality volume. Subsequent to that, it will discharge, you know, the filtered water back into the stream.

**MS. ESPOSITO:**

Can you just point out where this will be? And how big will it be? So, it'll be right there by the creek.

**MR. McMAHON:**

The exact area, I'm going to defer that question to Ray DiBiase. He has the specifics of it. So, maybe at the conclusion anything specific pertaining to the parcel -- so, that's going to settle watershed number two.

Watershed number three originally -- our original concept -- one of these side streets around Udall Road, we were going to acquire two full parcels due to the damage -- we wanted to take partial parcels, but it would have involved taking almost entire backyards. So, with the right-of-way acquisition process, it's going to cost us the same to take the two parcels. So, we would have had to acquire two parcels, have a relocation process. We came up with the solution to that, which is going to eliminate the two parcels. We've been coordinating with the New York State Parks and DOT to utilize some additional land around Southern State Parkway. So, after numerous meetings and alternatives, we've come up with a proposal that's going to -- we had approval to realign Howells Road at the Southern State Parkway ramp. That's going to greatly help out the traffic conditions in that area. It's a high accident location. So, we had approval from DOT and the State Parks to realign this road. In this area, this land that's already

located around the ramp, the old ramp area is going to be replaced with a recharge basin, which is going to eliminate -- which is going to be able to store the storm water. That's more hydraulically efficient than the location of the road, which would have required two full residences. Of course, the plant around that recharge basin, we're going to have to follow the directives of FHWA and the New York DOT. So, we'll have all the required plantings, dress it up aesthetically, you know, that'll have to be incorporated in the plan because this is going to be approved by DOT prior to anything getting released.

Last watershed heads to the south. It's towards Sunrise Highway. Right now we're coordinating with DOT to utilize a Sunrise Highway recharge basin, which is designed for a hundred year storm. We are going to -- right now it's just we have to submit to them the preliminary plan and the watershed calculations. Generally if our contribution does not cause the basin any overflow problems, it's generally something that they approve. We don't anticipate any problem with that.

Also, with this project, it's a federally funded project. So, it's going to be subject to the New York State DOT and FHWA review process. All trees, all areas that are disturbed by construction will be revegetated and landscaped. You know, the plans will also be designed by a registered landscape architect. And they'll incorporate indigenous species to the area into the plans. So, at this point in time, I'd like to welcome any questions.

**CHAIRPERSON ELKOWITZ:**

Have you, especially with regard to the settlement basin that you're proposing on Wicks and Bay Shore Road, have you had any intersection with the DEC? I know that -- you've handed me a letter from the New York State Office of Parks and Recreation and Historic Preservation, which I'll put in. It's dated February 10th, 2005. It's addressed to Mr. William Hillman, PE Chief Engineer, County of Suffolk, DPW. "Dear Mr. Hillman, State Parks has reviewed the proposal for the reconstruction of County Road 57 and Bay Shore Road adjacent to the Southern State Parkway. Parks finds that there will be no negative impact from the proposed drainage basin being located on the Southern State Parkway. Parks requests that the landscape plan around the drainage basin will require final review and approval. Very truly yours, Scott Fish, PE, Director of Engineering."

But have you had interactions with DEC regarding the other basin?

**MR. McMAHON:**

Right. At this point in time for the settling basin --

**CHAIRPERSON ELKOWITZ:**

Yes.

**MR. McMAHON:**

-- we're developing -- we're going through the paper work, the application process. So, we will be acquiring the DEC permit and plans. We're developing preliminary plans to transmit over to them.

**CHAIRPERSON ELKOWITZ:**

Okay.

**MR. McMAHON:**

So, I'm sure we're going to have a meeting with them soon.

**MR. CRAMER:**

Have you met with them?

**MR. McMAHON:**

Not currently. We're still in preliminary engineer stage I through IV in the federal aid process.

**MR. CRAMER:**

Did they determine the wetlands line?

**MR. McMAHON:**

That will be incorporated into the plans. That's been picked up.

**CHAIRPERSON ELKOWITZ:**

Why don't you have him come up, identify himself and then --

**MR. McMAHON:**

I'd like to introduce Bob Steele from McLean.

**MR. STEELE:**

Regarding the settlement basin, it's actually designed to be a surface sand filter. And we had the DEC come in and delineate the wetlands. And as we went into the field, they also -- we showed them the plans of the surface sand filter. And he seemed to be in favor of it. We haven't formally submitted for approval, yet, though.

**CHAIRPERSON ELKOWITZ:**

But you submitted for wetland delineation? They came out. They met you on the site?

**MR. STEELE:**

Yes. The wetlands -- the wetlands shown on the plan are the official DEC wetlands.

**CHAIRPERSON ELKOWITZ:**

Tom, had a question.

**MR. CRAMER:**

And they did review the plan when they were out on site? So, they're aware of what's going on?

**MR. STEELE:**

Yes.

**MR. CRAMER:**

And they had no suggestions to it or comments?

**MR. STEELE:**

He seemed to feel that was the best solution for the site. There's not many other solutions that can fit on-site besides one of the vortex structures or one of the smaller mechanical type solutions.

**MR. CRAMER:**

Most likely -- vortex solution would probably be too small for the volume that we're talking about here.

**MR. STEELE:**

Right.

**MR. CRAMER:**

Did they like this idea; this general concept?

**MR. STEELE:**

I believe they did. The concept is taken from the New York State storm water model. It's an accepted BMP.

**CHAIRPERSON ELKOWITZ:**

From the design manual?

**MR. STEELE:**

That is designed to remove 80% total suspended solids. I think 40% TP particular.

**MR. CRAMER:**

What did the wetlands guys -- they liked the concept?

**MR. STEELE:**

Yes.

**MR. CRAMER:**

Okay.

**CHAIRPERSON ELKOWITZ:**

Mike, you had a question?

**MR. KAUFMAN:**

Yeah. Given the fact that there's relatively shallow ground water in this area, it says that it's being designed not to have standing water. And I'm concerned about it from an insect control situation. How fast do you think the water that would be penetrating in there would be handled? I mean is it going to stand more than 72 hours?

**MR. STEEL:**

That's one of the reasons we selected the surface sand filter, is that the water will leach through the system. I did a calculation. I can't remember, but I think it was about two days if it fills up.

**MR. KAUFMAN:**

Because 72 hours is around the danger point for insect infestation.

**CHAIRPERSON ELKOWITZ:**

But you're saying 48. You've designed a sand filter for 48 hour percolation?

**MR. STEELE:**

Yes.

**MR. CRAMER:**

Just out of curiosity, what type of maintenance would this require assuming that eventually the filter fabric would have to be cleaned, removed, replaced?

**MR. STEELE:**

Yes. I think over -- obviously the forbay collects the sediment and that would have to be annually maintained and the sediment removed. As far as the filter fabric, most of the water coming into the secondary basin is cleaner type water, which is coming through. But I don't know the exact years it takes before you have to change the sand and the filter fabric.

**MR. CRAMER:**

DPW is --

**CHAIRPERSON ELKOWITZ:**

Use the mike.

**MR. McMAHON:**

I would just like to interject that the DPW maintenance staff would be assuming the responsibility, you know, labor and costs, you know, through our operating budget.

**CHAIRPERSON ELKOWITZ:**

Lance, you had a question?

**MR: MALLAMO:**

I have a few questions concerning the CR 57 Bay Shore Road/Howell's Road intersection map and sheet 1122, I guess it is, concerning the parkway. Am I reading this correctly? Currently Howell's Road has an entrance to the Parkway, which is going to be removed. That's at the bottom of the photograph on the left? Is that the current entrance?

**MR. STEELE:**

That's the entrance for the southbound vehicles on Howell's Road.

**MR. MALLAMO:**

Right. So that's going to be realigned. And the new entrance is going to be off Howell's Road?

**MR. STEELE:**

Correct.

**MR. MALLAMO:**

Now, the drawing on the right shows that the separation between the exit from Southern State and the new entrance is going to be paved and striped. And yet the map appears that there'll be a median. Doesn't show any break, you know. I guess my question is, is this divider, is it paved or is it grass?

**MR. STEELE:**

The median in between the accesses?

**MR. MALLAMO:**

Yes, at the exit and the entrance.

**MR. STEELE:**

I believe it's two small to be grassed.

**MR. MALLAMO:**

It's too small to be grassed.

**(INAUDIBLE - OFF THE RECORD DISCUSSION)**

**MR. MALLAMO:**

Yeah. No, I understand that. But, you know, the letter from State Parks notwithstanding, I know it's not a big deal, it's a small aspect, but, you know, there are a group of us that feels that the Parkway system is a historic feature of the County. And when these changes take place, little by little, it really begins to change the character. Adding the recharge basin in there -- you know the view on the left really shows in a heavily developed suburbanized area, a little oasis of rural character. Howells Road is not -- it looks like it's going from a two lane to a four lane roadway, with a whole new intersection. Even though the one portion is taken out, you know, if the existing entry were to be kept, you could probably take one of those lanes out.

**MR. McMAHON:**

Could I interject something, Lance?

**MR. MALLAMO:**

Yes.

**MR. McMAHON:**

First and foremost, I'd like to reiterate, before we even started with these concepts, we've met with the DOT traffic engineers, their permit and maintenance engineers. Also, their environmental group, Cory \\_Sorby\\_ , the landscape architect to go over the concept of this. We are under strict review from New York DOT. And then in addition to that, even if they sign off on it, the New York State Parks and Historic Preservation Office also has to sign off on it. The reason for realigning Howell's Road, it's probably one of the worse intersections on this project, on this corridor. It has very poor levels of service. And it has, you know, one of the higher accident rates.

**MR. MALLAMO:**

Well --

**MR. McMAHON:**

So, in terms of --

**MR. MALLAMO:**

I think that by leaving this median, again, it's a small issue. But leaving that just a paved striped area, to me looks like you're encouraging an unsafe situation with the potential of a head-on collision that someone -- you know, people aren't used to exit and entrance ramps being in the same paved area. So, if I were coming down this roadway, you have a chance where somebody's going to turn in thinking they're going in one-way traffic. And you've got somebody coming off that ramp coming right at them.

**MR. McMAHON:**

But, Lance, another thing on this, we are in preliminary engineering. We're not in final design yet. We have to obtain SEQRA approval. Then, we follow through with the DOT and FHWA, NEPA review process.

**CHAIRPERSON ELKOWITZ:**

The NEPA review, right.

**MR. McMAHON:**

So, after that point, we get design conceptual approval. That allows us to go to final design. Once we're at final design, all these issues are going to be hammered out with DOT and the Parks Office.

**CHAIRPERSON ELKOWITZ:**

Well, I don't think that Lance is trying to give you a hard time. I think what Lance is saying -- I think -- is that he -- from his perspective -- and he had been County Historian for years and years and years -- is saying from the historic character of this, in his opinion, the striped median is a problem. And I think what he's asking you, is there any way that we could make this striped median a landscaped median because that would help to address the concerns that he's expressing.

**MR. MALLAMO:**

Yeah, both the historic and the safety concerns.

**MR. McMAHON:**

That could be done. I mean, if based on the width, we could adjust the widths of the median to

make it more acceptable for -- I agree.

**CHAIRPERSON ELKOWITZ:**

I mean, I don't know that it's everybody's --

**MR. McMAHON:**

We want to wholeheartedly maintain --

**CHAIRPERSON ELKOWITZ:**

I don't know that it's everybody's consensus, but I think Lance is asking you is it possible for you to do it. If that's what the CEQ and the Legislature ultimately asked you.

**MR. McMAHON:**

Yes, it's definitely possible. Actually, I don't see why it couldn't be done. I mean, these are just preliminary plans in nature. So, when we're doing -- when we're putting these preliminary plans together, we might borrow from a feature that we used on the LIE. And, you know, we definitely -- it's our main intent to maintain the integrity.

**CHAIRPERSON ELKOWITZ:**

Okay. And I think that's all that he's really asking.

**MR. MALLAMO:**

What is to the north of where the new ramp is going to be? Is that also state property?

**MR. McMAHON:**

To the north of where the new ramps are going to be, that's -- there is a buffer. There's a wooded buffer which we don't want to touch. This is all open land. So, that's why this location was selected. And then it's also residential backyards.

**CHAIRPERSON ELKOWITZ:**

Is it part of a right-of-way, the open land? Do you know what it is?

**MR. McMAHON:**

All this land is part of the right-of-way.

**CHAIRPERSON ELKOWITZ:**

The Parkway right-of-way. Okay.

**MR. MALLAMO:**

I think if you could eek out a few more feet for a grassed median, maybe even with a few trees planted in the center of it, that would make me feel better about this.

**MR. McMAHON:**

I think Scott Fish would feel better about this, too.

**CHAIRPERSON ELKOWITZ:**

Well, it may become unanimous soon.

**MR. McMAHON:**

Again, this is also preliminary.

**CHAIRPERSON ELKOWITZ:**

Right. But I think you know that we try to work with you. And if you had some engineering reason that this absolutely couldn't be done, we'd want to hear it. But if there isn't, it may be a

way to address the concerns that Lance is raising.

**MR. STEELE:**

Stay as far away from the residents to the north.

**CHAIRPERSON ELKOWITZ:**

Right. But I don't know that we're talking about a whole lot of area that we're going to add to this.

**MR. McMAHON:**

You're probably talking a couple of feet.

**CHAIRPERSON ELKOWITZ:**

Okay. Before I go back --

**MR. McMAHON:**

So, I think we can incorporate this.

**CHAIRPERSON ELKOWITZ:**

Okay. Do you have anything else? I think Nancy had something; and then Tom.

**MS. MANFREDONIA:**

I agree with Lance, but I have a question. I am concerned because it's my understanding that this land is actually parkland. So, I want to be sure. I know you have a letter from the Parks Department. But even though the DOT is involved, it's the Parks Department's call here. And I think what Lance is saying, too, is that you really are changing the visual character here. And I would like to make sure that the Director of the Long Island State Parks Commission is notified of this, too. And I think because that this is parkland, we really have to make an extra effort here to keep the visual character. I don't know if you're doing anything special with the sump, but, you know, when you look at the before and after, it's truly a big change. And I am concerned about this from a precedent setting situation with parkland.

**MR. McMAHON:**

Okay. First of all -- but we agree, we want to maintain the integrity of the Parkway. Also, Scott Fish is the Chief Engineer for the Parks Office. They work in coordination with DOT. DOT does not grant the approval. It's the Parks Office. We have concept approval from them at this time. And, of course, we're going to be working with their staff to make the landscape plant -- we're going to be required to address the landscape issues.

**MR. MALLAMO:**

Could we ask that the final design plans for this area be brought back here?

**CHAIRPERSON ELKOWITZ:**

Sure, we can.

**MR. McMAHON:**

Absolutely. I'm just going to mention the final design plans. We can come up with a more detailed concept for this in the not distant future. But the final design plans --

**CHAIRPERSON ELKOWITZ:**

I don't think we're asking you that. I think what -- I mean -- I haven't heard from everybody yet --

**MR. McMAHON:**



Absolutely.

**CHAIRPERSON ELKOWITZ:**

I think right now what we're asking you is that if we were inclined to give you a SEQRA recommendation, it would be with your concurrence that that median would be widened and planted in a suitable way. And it would also be with the request that you do come back with the final design plans for everybody to take a look at. I don't think that anybody's asking you to go fiddle with these plans now because I think those of us who do some of this for a living know how long it takes to get through the ultimate process. So, I don't know that anybody -- as long as we're going to have your commitment, it's going to be in the SEQRA recommendation. I don't think that anybody's trying to hold you up.

**MR. McMAHON:**

The answer is yes to that question.

**CHAIRPERSON ELKOWITZ:**

Okay. Any other questions?

**MR. KAUFMAN:**

Yeah, I've got one question.

**CHAIRPERSON ELKOWITZ:**

Sure.

**MR. KAUFMAN:**

There's going to be approximately 1.2 acres taken. It says approximately thirty residential and twenty commercial properties. Is there any concentrated areas where the takings are going to be occurring?

**MR. McMAHON:**

That's going to be at the major intersection improvements. Now, based on a public information meeting, it was requested that we reduce the typical section to -- our previous alternative had over a 100 acquisitions. We've reduced that, those strip-takings. They were valuable strip-makings to about maybe two to three feet, but still it's a taking. So, they're going to be isolated at the major intersections.

**MR. KAUFMAN:**

So, there's not going to be any major takings or any -- somebody's back yard leaving or something like?

**MR. McMAHON:**

Not any more.

**MR. KAUFMAN:**

Okay. Good.

**MS. MANFREDONIA:**

I just want to make a comment, then; and to thank you and the consultants for the efforts on behalf of pedestrians on both of these projects because I think that's so important. And we lose track of that. And the sidewalk situation in Suffolk County is pretty bad. So, thank you for incorporating that thought.

**MR. McMAHON:**

Well, this is all part of the public outreach process. We really like to make -- we may intense efforts to reach out to the public, you know, after we identify the problems. And we'd like to have them become a part of the design process. And I think it really makes a big difference.

**MS. MANFREDONIA:**

I think so, too. Thank you.

**CHAIRPERSON ELKOWITZ:**

I have a question for Jim if no one has any other technical question. You have one. Feel free. And then we're going to talk about a SEQRA classification.

**MR. FINKENBERG:**

The sand filter at Sumpwams Creek that's going to be put in there, what's there now? I'm going through my head what --

**CHAIRPERSON ELKOWITZ:**

Nothing is there.

**MR. FINKENBERG:**

Is it woodland?

**MR. McMAHON:**

I'm going to pass this to Bob. It's woodland with direct discharge. I think you have a leaching basin with a pipe going right into the stream untreated water.

**MR. FINKENBERG:**

You're telling me a sand filter replacing woodland is an improvement?

**MR. CRAMER:**

It's not replacing wetlands. What's happening right now is there's a direct discharge --

**MR. FINKENBERG:**

-- just going right into the creek.

**CHAIRPERSON ELKOWITZ:**

Right.

**MR. FINKENBERG:**

Yeah. That creek is a mess. All kinds of -- you know those shopping carts that are in there and 55 gallon drums and -- it's a real --

**MR. CRAMER:**

Toxic waste.

**MS. ESPOSITO:**

So, along those lines it's just worth noting that this is in conformity with the South Shore Estuary Comprehensive Plan. So, this improves the creek water quality, which, of course, improves the estuary water quality. So, from that vantage point although you do remove some woodlands, you are trading it off for improved estuary quality water.

**MR. KAUFMAN:**

Good point.

**CHAIRPERSON ELKOWITZ:**

I have a question regarding the classification because my question -- obviously this is an unlisted action unless it's affecting actual parkland. Now, I actually have done work on the parkways and it's always been through State Parks. But I don't know if they actually classify it

as parkland. I know it's parks property and it's under their jurisdiction. But I just don't know the answer to whether or not it's parkland.

**MR. McMAHON:**

It's New York State right-of-way.

**CHAIRPERSON ELKOWITZ:**

Right.

**MR. McMAHON:**

But it's not designated -- it would be designated for parkland purposes. What Scott Fish's office did was research what the use was. If it was for park purposes, we'd probably be coming back with the residential alternative.

**CHAIRPERSON ELKOWITZ:**

Right. I just don't know the answer for classification purposes.

**MR. CRAMER:**

It's managed by the park system.

**CHAIRPERSON ELKOWITZ:**

But they don't consider it park.

**MR. CRAMER:**

But it's not owned as parkland.

**MR. MALLAMO:**

I'm not sure of that because the parkways originally were part of the state park system. And they were maintained by the Long Island State Park Commission.

**MS. MANFREDONIA:**

Right.

**MR. MALLAMO:**

The maintenance was turned over to DOT, but, I believe, they're still involved because there's some underlying --

**MR. CRAMER:**

So, it would really be a difference whether it's an unlisted or a Type I Action.

**CHAIRPERSON ELKOWITZ:**

-- for a Type I. Because it clearly would become a Type I Action; not that it would do anything to you except hold up the SEQRA determination because you have to do Coordinated Review.

**MR. BAGG:**

Well, the question that comes in is, what is the size of the, you know, recharge basin at the Southern State Park. I mean, what is that size?

**CHAIRPERSON ELKOWITZ:**

Do you know? Because that actually would make a difference.

**MR. BAGG:**

I mean how much property are we talking about here? To trigger a Type I Action, it would have to be more than 2.5 acres of parkland.

**CHAIRPERSON ELKOWITZ:**

Right. Are you going to disturb more than 2.5 acres of parkway right-of-way for this project? Because if Jim's right, if the answer's no, then, it's an unlisted action. It doesn't make a big deal. It really doesn't.

**MR. CRAMER:**

So, it's just that one recharge basin.

**CHAIRPERSON ELKOWITZ:**

And whatever disturbance they have right there.

**MR. CRAMER:**

In that area.

**MR. McMAHON:**

Rich Schneider from McLean would like to interject.

**CHAIRPERSON ELKOWITZ:**

Sure.

**MR. McMAHON:**

He's also worked for New York DOT for 30 years. So, he might have some insight.

**MR. SCHNEIDER:**

I was just going to talk about the designation of the parkway.

**CHAIRPERSON ELKOWITZ:**

Sure.

**MR. SCHNEIDER:**

That would be designated, but for highway purposes.

**CHAIRPERSON ELKOWITZ:**

Right.

**MR. SCHNEIDER:**

So, anything we're doing here, that right-of-way is not really for a park --

**CHAIRPERSON ELKOWITZ:**

No, that's not the question.

**MR. SCHNEIDER:**

-- per say. But as a highway purposes.

**CHAIRPERSON ELKOWITZ:**

No, I understand that. And we all -- exactly. You see, we're just trying to classify it as an unlisted or a Type I Action. And there's a provision in here that says what makes something a Type I Action. "Any unlisted action that exceeds 25% of any threshold in this section" -- I'll tell you the threshold in a minute. "Occurring wholly or partially within or substantially contiguous to any publically owned or operated parkland, recreation area or designated open space, including any site on the landmark." So, the threshold is 25% of any project that involves the physical alteration of ten acres. So, it would be if this project would alter 2.5 acres or more of parkway right-of-way for the recharge basin or any other disturbance and this was parkland, it

would be a Type I Action. It doesn't -- it's not going to change, I don't believe, in any way the recommendation that we're going to make. The only thing that would have to happen is pursuant to state law, we'd have to do a Coordinated Review with all involved agencies and then make the SEQRA recommendation. So, you know.

**MR. SCHNEIDER:**

It's not park purposes. It's for highway purposes. That's the designation of the parkway.

**CHAIRPERSON ELKOWITZ:**

Right. No, I understand. I understand. Does it matter -- Paul, does it kill you if we do Coordinated Review for 30 days and then you get your SEQRA recommendation next month? How does it affect your schedule, if at all?

**MR. McMAHON:**

Well, we're hoping to have a public -- we want to get right-of-way money obligated for early -- late summer, early fall.

**CHAIRPERSON ELKOWITZ:**

Okay.

**MR. McMAHON:**

So we need to have a public hearing.

**CHAIRPERSON ELKOWITZ:**

Right.

**MR. McMAHON:**

And then the public hearing is generally 60 days after. We have to have a public hearing.

**CHAIRPERSON ELKOWITZ:**

But you could probably -- how would this hold up your public hearing? All you would do is come back next month for us to vote.

**MR. BAGG:**

Terry, I mean this is going to be federally funded. And it needs approval from New York State DOT. So, basically New York State DOT and the feds, I think, have other -- you know, under federal NEPA laws --

**CHAIRPERSON ELKOWITZ:**

They have to do NEPA. But that doesn't change --

**MR. BAGG:**

But they might not be able to do an approval --

**CHAIRPERSON ELKOWITZ:**

-- do anything.

**MR. BAGG:**

-- until, you know, that's complete.

**CHAIRPERSON ELKOWITZ:**

But they're not going to do it in 30 days anyway.

**MR. BAGG:**

Unless SEQRA's complete.

**CHAIRPERSON ELKOWITZ:**

You have a full set? We'll scale it. Do you have a full size set?

**MR. CRAMER:**

That's to scale? Measure it out.

**CHAIRPERSON ELKOWITZ:**

Yes, just see how many acres you'd be disturbing. If it's less than two-and-a-half, then, I'm comfortable.

**MR. MALLAMO:**

Terry, just to get back to the issue of the -- if the parkway's right-of-way is not for park purposes, why do we have input from the State Parks Office?

**CHAIRPERSON ELKOWITZ:**

They could be managing it. But it may not be designated parkland. It was some screwy thing because I did work on Ocean Parkway. And they were very, very involved. But we never got to whether or not it was actually a park.

**MS. MANFREDONIA:**

I've been dealing with this issue a long time and as far as I know it's parkland.

**CHAIRPERSON ELKOWITZ:**

I just don't want to make a mistake.

**MR. MALLAMO:**

Yeah. I thought that the road bed was --

**CHAIRPERSON ELKOWITZ:**

I don't know, Lance. I really don't.

**MR. MALLAMO:**

Land on either side was still parkland.

**CHAIRPERSON ELKOWITZ:**

If it's less than two-and-a-half acres, we don't have to care. If it is, then, we're going to make it a Type I Action. We're going to do the Coordinated Review. We're going to give you the same vote we'd give you, but we're going to give it to you next month. Isn't that what we're doing?

**MR. CRAMER:**

Yes.

**MR. McMAHON:**

We scaled out the area, the disturbed area, the recharge basin area. We scaled out the area. It totals approximately 90 thousand square feet, which is less than two-and-a half acres.

**CHAIRPERSON ELKOWITZ:**

All right. Well, with that representation, I'll entertain a motion.

**MR. CRAMER:**

Make a motion unlisted neg dec.

**CHAIRPERSON ELKOWITZ:**

I have a motion. Do I have a second?

**MR. KAUFMAN:**

Second.

**CHAIRPERSON ELKOWITZ:**

I have a second. Do I have a question? Well, you have a motion, but you have a couple things that you want to say about that motion.

**MR. CRAMER:**

I want to add to that, that we would like to -- we want to see the median widened and landscaped through the -- between the entrance and the exit ramps where it connects to Howell Road.

**MR. McMAHON:**

I don't think we'll have a problem providing you with that preliminary drawings showing those requested improvements.

**CHAIRPERSON ELKOWITZ:**

But within the two-and-a-half -- less than two-and-a-half acres of disturbance.

**MR. CRAMER:**

Right.

**CHAIRPERSON ELKOWITZ:**

Okay. Keep going.

**MR. CRAMER:**

And also that we see that section of the plan come back before us.

**CHAIRPERSON ELKOWITZ:**

A final design.

**MR. CRAMER:**

Final design.

**MR. McMAHON:**

Okay.

**CHAIRPERSON ELKOWITZ:**

I have an amended motion. I have an amended second. All those in favor? Opposed? Abstentions? Carried. You've had a pretty easy day.

**MR. CRAMER:**

Yeah, you're three for three. That's pretty good.

**CHAIRPERSON ELKOWITZ:**

Okay. Let's see. We'll give you guys a couple seconds to take that stuff down and then we'll go to item three, the proposed program to administer and implement a Transfer of Development Right Program in conjunction with the Save Open Space Bond Act, Suffolk County.

I have one piece of correspondence that I'd like to read into the record before Commissioner Isles speaks to us. It's a memo to Jim Bagg from Vito Minei, Director of the Division of Environmental Quality, Suffolk County Department of Health Services dated March 15, 2005. "Thank you for your memorandum of March 8th concerning the above-referenced program. Please be advised that Suffolk County Department of Health Services worked closely with the Suffolk County Department of Planning, the County Attorney and the County Executive's Office

in drafting of the proposed program. As such, it is consistent with Suffolk County Sanitary Code requirement. Hope this information is helpful to you. If you have any questions or comments, please do not hesitate to contact me."

Hello, Mr. Isles.

**MR. ISLES:**

Good morning. And thank you for the opportunity to appear today. Joining me is Andy Freleng, who is a Principal Planner in the Planning Department. Andy heads up the zoning and subdivision section. In addition, is also the Vice-Chairman of the Credit Clearing House of the Pine Barrens and has excellent knowledge on TDR programs in general.

I'd like to make this as brief and concise as possible. Although it's a little bit of a complicated subject, we've actually been working on this since November. And the report was initially issued in February. But just to give you a little bit of background, the Legislature -- the Suffolk County Legislature approved a bill with the support of the County Executive to create a Save Open Space Bond Act that went before the voters this past November, was approved by a large amount. But what was unique about the program is that it included three components. It was a \$75 million bond act; \$30 million of which was for open space acquisitions, ten million for hamlet parks and active recreation type uses and 35 million for farmland development rights purchase.

Here, again, that was approved by the voters on November 2nd. But one unique aspect of the program is that it did include in the authorizing legislation and actually in the ballot that did appear before the voters a new proposal dealing with transfer of development rights for County open space acquisitions. And what it specifically did is it provided in a permissive sense the ability of the County of Suffolk to pull credits, which I'll define a little bit further in a moment, pull credits off of properties that the County acquires for open space or for passive hamlet park purposes. And then enables the County to store those credits. And then ultimately to use those for approved workforce housing, affordable housing, developments. So, this was rather unique. And as part of that legislation specifically the Legislature directed the County Planning Department to draft the implementation program for this, which is what's before you today.

The report before you is a suggested Administrative Procedures and Policies. It is not a project. It is not a development. It is a way of instituting this program.

The program can be broken down into three components. First component is to collect the credits to obtain them as the County acquires open space. The second component is to store the credits in a bank or some other device to hold them. And then the third is to actually apply them to specific sites.

Let me begin with the first part of this, which is to actually create the credits. It is detailed in this report. And there is a flow chart in the appendix of the report if you'd like to refer to that. But essentially in the first part is that as the County is considering the acquisition of open space, one of the tasks that would then be delegated would be to the Planning Department as part of that whole process of assessing the open space, of getting appraisals, doing negotiations with the property owners and so forth. A component of that would also be to County Planning Department doing an estimate of the yield on that property.

That's enumerated a little bit further in the report specifically, but let me state that the reference to transfer of development rights is specifically made in reference to sanitary credits as far as County Health Department standards are concerned. The reference is not to zoning, municipal zoning powers in any way, shape or form. It is separate and distinct from that. Obviously they're related when you talk about land development. So, when we talk about the term transfer of development rights, it is specifically in reference to this report for sanitary waste water credits only.



Many of you know that the benefit of transferring development rights is that under Suffolk County Article Six of the Suffolk County Sanitary Code, there are limitations on the density of development for untreated waste water disposal. And typically that's broken into the County in a number of different groundwater management zones that permit either 600 gallons per acre per day of untreated waste water disposal or 300 gallons per day. A Transfer of Development Rights Program enables an increase in density by moving density from one parcel to another parcel. It's something, I'm sure many of you are familiar with -- with certainly the Pine Barrens Program which is limited to that geographic area, but as part of a multi-tooled program to preserve the core of the Pine Barrens. Public acquisition was one alternative but another alternative was to enable the purchase of credits so that parcels within the core are sterilized, cannot be developed. And those credits are then moved out of the core. That's one example. And that's been in effect now for about ten years.

So, in this case, then, what we're looking at, then, is the possibility of the doubling of density on receiving sites, which here, again, I'll get into further. But just so we know the context of TDR that it provides a redistribution of development. But here, again, having a maximum that we're not going to get 30 units to an acre if -- on a transfer of development rights. It would only be double density of whatever the underlying Health Department yield would allow.

As part of the process of determining yield, here, again, that's delegated to County Planning Department. We would actually prepare a sketch yield map on the property and work with the County Health Department in terms of verifying yield.

One of the basic principals that's enumerated in the report is that there is no net increase in density. And what I mean by that is that there are instances whereby the County's Health Department standards are more permissive -- allow more density than local zoning allows. So, there are, for example, zones -- for example in Southampton that have five acre minimum zoning whereas County Health Department would allow two houses per acre.

One of the basic principals is that this is no net increase. So, therefore, the more restrictive aspect would then take hold. So, as part of our yield analysis, we would look at County Health Department's standards, we would look at local land development regulation, zoning, subdivision, wetlands, steep slopes and so forth. The more restrictive would then apply. We would then develop a determination in terms of what that yield -- the yield of that property should be. And then refer that back to the Legislature.

The Legislature then in considering and authorizing resolution to actually acquire property would then have that information in terms of the estimated yield of the property in consideration of local zoning requirements and would then include in their resolution to purchase property a determination of the number of yields. So, let's say five credits are then determined. They would actually memorialize that in the resolution at that time.

That process in terms of determining yield is one here, again, that would be done by the County Planning Department. Certainly it would be headed up by the zoning and subdivision section in terms of doing their analysis based on their expertise. Certainly I would expect that they would have consultation with the municipalities as necessary to get accurate information.

The next step in the process is to actually store the credits. And what is proposed in here is to create a credit bank. We are suggesting a tracking system that would be on a data base. We want to have a cradle to create tracking of all the credits so we know where they came from, where they exist; and then how they're actually used in the latter part of the program. So, every credit will have an identification to it; can be easily tracked and kept note of.

Related to that, let me just make one point just for clarification and getting a sense of the scale of this. There is a reference in this report to the fact that the County Executive proposed, the Legislature approved, a master list of open space acquisition sites last year. There were 3800

acres of open space contained within that. Another 1200 or so of farmland. But the -- in terms of how many credits do we think are going to come out of this program, when we look at the yield and so forth, it's hard to say in a specific sense because we don't know how many acres we're actually going to buy, how many acres will actually yield how many credits and so forth. But just to give you a perspective, if we're talking about the \$30 million in the Open Space Program, and then up to ten million in the Hamlet Parks only if it's passive park purposes, so, the maximum amount would be \$40 million. If we're to simply say an acre of land costs a hundred thousand dollars, that's 400 potential credits in that sense. But then you have to start deducting for roads, drainage, wetlands and so forth.

So, just to give you some sense, I don't anybody to think that we're going to have thousands of credits coming out of this program. We may have a few hundred, a couple hundred, something to that effect. But each one is looked at specifically and there will be records kept in terms of those yields and obviously subject to legislative approval. So, the storage of the credits, then, would be the second part of the program.

The third part of the program, the final part of the program, is the actual dispensation or dispensing part of the credits to particular development projects. The process is here again spelled out in more detail within the report. It would be initiated by an application to the Director of Affordable Housing through the Department of Economic Development and Workforce Housing in Suffolk County government. And essentially when a community, a municipality or potentially a private developer typically working with the community is proposing a development that needs additional Health Department yield, hypothetically then they could come in and ask for the award of credits for a particular site.

I will point out that this is actually something that has been happening already in Suffolk County government, although not in a program as targeted as this. But I'll just give you an example of one that was out in the Town of Riverhead, which is known as Millbrook Gables, which was a development that fell right at the edge of the Riverhead sewage treatment district. And the expectation was that it would tie into the district and unfortunately after a lot of ups and downs, there was no capacity and ability to tie in even though it was right at the end of the line. So, then alternatives were looked at including a substantial reduction in density. But it became a need in terms of doing an affordable workforce housing project in a location that would also prompt neighborhood revitalization and improvement; and a development that would be consistent with the density and nature and character of the area and a development that would be consistent with the zoning as determined by the Town of Riverhead.

Well, the solution became the County of Suffolk was able to transfer to the Town of Riverhead vacant land that we owned under 72H of General Municipal Law. So, what we did is we identified properties in Riverhead that were not needed for any County purpose; transferred those to the Town of Riverhead. They then went to the Board of Review of the Health Department, sterilized those properties in perpetuity and agreed to manage those properties. And that yield was then placed on the Millbrook Gables property. And, in fact, on April 4th, they're having their official ribbon cutting for that. The project is a success. So, that's an example where it happened. Unfortunately, it took extraordinary effort to actually make it happen. And, so the intent on this is to create a system whereby it can function a little bit more smoothly; that there's a bank that here, again, tracks the credits. And so if there is a development that's deemed appropriate in meeting the guidelines of the program, that the credits could then be awarded.

In terms of the credits, I will point out that, number one, the award of the credits is subject to legislative approval. So, the Legislature must approve the determination of yield coming out of the property as the open space is purchased. The Planning Department then maintains the bank and holds it. And, then, secondly the Legislature must approve the award of credit. So, there are -- there is substantial oversight of this program and obviously plenty of opportunity for public input and participation in this process. There is a committee process as well.

I would like to point out that in the designation of receiving sites, there are a number of what we call fatal flaws. And these are, basically, the first test -- the first bar that would be -- have to be overcome by any applicant, municipality and so forth. And I'll just highlight those very quickly. Is that first and foremost these credits can only be used for affordable workforce housing development. They cannot be used for strip shopping centers and factories and so forth. It is specifically for the purpose of housing.

Secondly, the -- yeah, the maximum purchase price of the properties cannot \$250 thousand. We would hope that it would be less than that certainly by a substantial amount or otherwise comply with Article 36 of the County administrative code in terms of the rental rates and so forth. In other words, they must be affordable, obviously.

The third point is that the -- if it's a private developer, the developer must agree to limit profits in accordance with New York State Affordable Housing Unit Guidelines, which is typically 10%.

The fourth item, which is very important, is that a receiving site cannot be designated if it's on any open space list including a County open space, state list, town list. So, if it's on a list and somebody comes in and says I want to do affordable housing here, that's a fatal flaw that then terminates the application and the permissibility of it.

And, then, lastly I'd like to point out that number six on the list of the fatal flaws is that the -- this is to advance groundwater management principals and standards. It is intended through this program that the credits will be used within groundwater management zones and within political jurisdictions, municipal jurisdictions. So, the intent of this program, then, is that as open space is acquired within the jurisdiction, the groundwater management zone and a municipality, those credits will then be used within that jurisdiction as well.

We do acknowledge there is a possibility subject to legislative approval that a credit may be sought outside of the political jurisdiction. Our opinion on that from the County Planning Department perspective is that that should be done not commonly and it should only be done with the consent of both jurisdictions. So, we don't see it happening very often. But we do see as a possibility that a municipality, a village may say, well, we have no room for affordable housing or we have no desire because we have enough of it already. And they may be accumulating credits. And the adjacent municipality may say, well, we'd like to use those credits in our community. We have a need for it. If there's consent on those two municipalities, obviously subject to legislative authorization. We wouldn't see harm to that. But primarily we feel it should be within those jurisdictions as mentioned.

So, that essentially sums up the program. It is in one sense new in the sense that the County has not done this in open space in the past. In the other sense it's not new in the sense that TDR's have been used for many, many years certainly in the nation. The Grand Central Station is one we all learned in school in terms of the preservation of that building upheld by the Supreme Court. It is a useful planning tool. In this case what we've been trying to do is to accommodate a balance between using these funds to fuel the protection of open space of smart growth in terms of protecting important lands. But also recognizing the need whereby in an appropriate manner, sanitary credits can be used to appropriate sites.

So, once again, I'll just emphasize that the report itself is a administrative policies and procedures. Obviously any specific development proposal would have to come before the appropriate agencies -- all appropriate agencies and would require specifically for the award of credits legislative approval.

That's about it in terms of the summary of the program. And certainly any questions you have, I'll do my best to try to address those. Thank you.

**CHAIRPERSON ELKOWITZ:**

Sure.

**MS. ESPOSITO:**

Hi, Tom. Question for clarity for my sake on the issue of jurisdiction and also sanitary credits. So, as an example, if there was an area in northern Town of Brookhaven that was preserved as farmland, you would take those credits. Could those credits then go into the Village of Patchogue even though it's the same township but a different municipal jurisdiction; and then what happens if that does occur? How does the issue of the sewage treatment capacity fit in? Because obviously that sewage treatment empties into the Patchogue River. And if that capacity or there's problems with the plant -- just give me -- how would that work or not work?

**MR. ISLES:**

First off is that the program does not permit the removal of credits from farmland. So, \$35 million of the bond act is farmland. So, farmland is considered land that's used that obviously generates fertilizer inputs and so forth. So, this would only apply to open space. But going back to your question in terms of the hypothetical, let's say an open space purchase in northern Brookhaven, if the intent is to use those credits in the Village of Patchogue in that one example, that would require the consent of both municipalities to transfer those.

In terms of more specifically than the issue of the sewage treatment plant, pretty much if we're dealing with the project that is hooked up to the sewage treatment plant, it's not going to be subject to the TDR. This is basically an on-site disposal without treatment. And here, again, under Article Six right now there is provision to do that up to double density. But, here again, there has to be a compensating equal amount of land so that the net density is not changed. It's just moved from one location to another. But here, again, it does have a cap of double density. You can't put four times density, ten times density on a parcel, number one. And number two, if it is tied into a plant, there are other issues with that certainly that are important issues. But that would not apply in this case. It would not be a project that would apply for the credits.

**MR. CRAMER:**

Tom?

**MR. ISLES:**

Yes?

**MR. CRAMER:**

Well, right now the Health Department allows TDR as a matter of right from Pine Barrens credits. And going before the Board of Review for other types of TDR's with the exception of approved plants, under this proposal, this plan, would they still have to go before Board of Review or would it be a matter of rights just like the Pine Barrens credits?

**MR. ISLES:**

It would still require an application through the Board of Review. We do make because it's -- the Board of Review, the health code does have a provision for if there's an approved plan, such as a Pine Barrens plan, and that's approved by the Commissioner of the Department of Health, then, it could be done administratively. This is not -- this would not qualify as an approved plan. But I'll give you an example. If a town said, well, you know what, we're going to do our own plan for how these credits are used and similar to, let's say, the Pine Barrens plan but they do their own plan locally. And they come up with a plan saying we have our plan to preserve this open space, we have our plan to allow development in these locations, they could bring what's known in Health Department lingo as a sub-regional plan. They could bring that to the Health Department and seek approval of that plan. If that were the case, then, at that point they could do as of right. It wouldn't have to go to the Board of Review at that point.

Let me just point out also that the Health Department, as I'm sure you know, is going to begin this year an update of the Comprehensive Water Resources Management Plan. And as part of that, they will be doing, I think, the last I heard they were going to do ten sub-regional plans. They were actually going to provide money and assistance to actually take ten demonstration projects throughout the County and actually do that kind of detailed work to get those locations eligible for adoption by the Health Commissioner here, again, in concert with the community so that then it could be done -- TDR's could be done as of right within those communities. But here, again, there is that whole process. Absent that process, that review and that approval, then, it's a case by case with the Board of Review.

**MR. CRAMER:**

Because, I think, that's one of the reasons why the Pine Barrens TDR program was so successful because it is a matter of right where people could come in and they know when they buy a Pine Barrens credit, they can just walk into the Health Department. The whole TDR program other than that is kind of nebulous and a lot of people don't want to take that extra time or effort or expense to go through when they're just not sure.

**MR. ISLES:**

Yeah, that's true. The only advantage, I think, in particular this provides is that the credits will be sitting in a bank. And so, at least it won't be searching for a site and getting the approvals on that and so forth. It'll be basically going to the Board of Review and say we have gone through the County, the Legislature has authorized the use of ten credits for this. We'd like an approval on this one. So, it is that step. Here, again, it doesn't close the door. If the town or village says, you know what, we want to do our own sub-regional plan, they certainly can do that. And that would make it easier within those municipalities.

**MR. CRAMER:**

Another question with regard to establishing the yield. You said that the lowest -- the most restrictive would apply. So, I'm assuming that you're talking about the difference between town zoning and Article Six where, say, town zoning is multi-family, we ought to give them a piece of property. Article Six says, you know, you have one unit per acre. It would be the one unit per acre you'd be developing the yield on?

**MR. ISLES:**

Yes.

**MR. CRAMER:**

Okay.

**MS. ESPOSITO:**

Do the credits in the bank ever expire? Is there a time frame in which they then expire and are no long usable?

**MR. ISLES:**

That's a very good question. At this point they don't expire. But what we did do is -- we were concerned, too, that -- let's say a municipality comes forth with the development, they say we're going to build these units, we need ten credits. The County gives them or reserves the ten credits. We do think there should be an expiration on that. The project never goes forward. We think the credits should come back and be available for another suitable project. But otherwise, no, the credits don't expire.

The SOS program does expire the end of 2007. So, it's a three-year program. All funds have to be expended by that point. So, the collection of credits will occur over the next -- less than three years. But then they can be dispensed after that.

**MR. KAUFMAN:**

I've got a couple of questions regarding SEQRA. I'm looking at the underlying legislation. And it says all developments where these credits are assigned will undergo separate SEQRA review and finalization. Prior to construction it will be in conformance with all State, County and local standards. In other words, the towns will -- if I'm interpreting this correctly -- will be allowed to undergo or undertake SEQRA themselves. Okay. But SEQRA does require a hard look analysis up front. And right now we're designating receiving areas with sort of a preference in there. I'm looking at page 14 of the report. "Priority shall be given to projects that are within certain downtown areas designated -- ", etcetera. It's logical to do it that way. But simply designating these receiving areas in a general sense, with receiving areas maybe to be set up more particularly at a later time, I don't know if we're doing the hard look that we need to up front. I understand, again, that this is sort of -- that this can be looked at as if it's setting up a basic plan; a basic bank at this point in time. And that may be just an initial planning activity, if you will. But I mean it does have further consequences. Can you maybe comment on that?

**MR. ISLES:**

Yes. It's a good point in terms of -- I would just disagree that we're setting up receiving areas. Because I don't believe we are. I think what we -- because quite frankly we don't know the geography of where these credits are going to land at this point. We are suggesting some standards in terms of where they should be going, the types of developments. Such things as it shouldn't be on parcels that aren't on an open space list and things like that. Encouraging downtown location, redevelopments, smart growth and so forth. So, to the extent that we try to guide and suggest where the credits should be used, that is done in this report. To the extent of actually pinpointing locations, that is not done in this report nor is that information known at this point quite frankly. We don't know where these are going to be used. We have not received any applications at this point in time to use the credits. And so we really can't make that connect at this point.

**MR. KAUFMAN:**

Well, that leads me into the following problem, then. I'm not sure that we can necessarily assess the environmental impacts on the receiving areas yet since we don't know what we're doing or where they might be going.

**MR. ISLES:**

We're not going to know for -- it could be years from now until we know.

**MR. KAUFMAN:**

I mean, again, the provision in the legislation allowing for SEQRA analysis at a later time by the local municipality may cover that particular aspect of it, but I mean --

**MR. ISLES:**

But the other point I'd like to make, too, is that here again one of the principals of the report is there's no net increase in development yield. So, the enactment of this program, the procedures and policies, will not increase development -- develop density of units in Suffolk County as a result of this.

**CHAIRPERSON ELKOWITZ:**

Right. But I think just -- I don't know where I fallout on this. I want to kind of talk about it a little bit. But that doesn't address, I think, what Mike's issue is, because whenever you transfer, although there's going to be no net change in density, that doesn't mean that the density you're moving from here to here won't have an impact. And the question is when do you know what it is and when is it suitable to assess? But let me -- Jack had something to say. I know Tom had something to say. And then we can go back. And I don't know if Adrienne did. We can go back and revisit it. Let's go to Jack, and then Tom.

**MR. FINKENBERG:**

I was looking at the flow chart there and I didn't see any real opportunity for public input. Is that one that finally comes before the Legislature for their approval? Is that when the public has an opportunity to comment?

**MR. ISLES:**

Well, I think there are a number of opportunities for public comment. Certainly when it comes before the Legislature, there is a committee process. There is a general legislative meeting process. But let me just make an example with the existing County Affordable Housing Program whereby the County of Suffolk provides money to municipalities and even private developers to buy land. And that's an approved program currently in Article 36 of the County Administrative Code. And in that case we didn't know when that program was formed where those developments were going to come. What does happen is that we have had several projects that have come in. Municipalities have made those projects. And at that time there's a specific plan. There's a specific parcel identified. And there is a specific SEQRA process that then is required to be followed that has its own public hearings for subdivision zoning, site plan approval and so forth. So, typically what happens, we end up being dovetailed in with them. Millbrook Gables is another one.

So, my comment in terms of the opportunities for public input, certainly they're built into the legislative process right now. Certainly by law they're built into the local municipal process for state law requirements for public hearings and so forth. And at that time, then, there's more known in terms of what the project is and more specifically, as the Chairman's indicated, assessing on that site, the impacts of that development, you know, certainly can be done in a thorough and complete manner at that time.

**CHAIRPERSON ELKOWITZ:**

Tom.

**MR. CRAMER:**

It's not necessarily environmentally related but just out of curiosity, how would the costs of the credits going to be determined?

**MR. ISLES:**

The report at this point does not recommend charging for credit cost. At this point in time the -- we were anticipating is that there would be an application to the Affordable Housing Director. It would go through that review internally and then be presented to the Legislature. We just think it's kind of contrary to -- you know, if we're trying to make the housing more affordable than to go back and charge for it. I think what we would be looking for, and specifically the Director of Affordable Housing, is that the credit obviously does have value. And that there would be a compensating benefit of affordable housing. So, it has to be shown, then, to the Affordable Housing Director that, yes, the County is giving three credits to this property, those are worth two hundred, three hundred thousand dollars, whatever the amount is. Show us that you're giving that value back in a public benefit. And by the way, I'm not sure if I made this point, too, but another part of that principal is that these are affordable in perpetuity, too. So, we avoided in this case a) what we think is conflicting public policy to charge for something we're trying to make affordable. And then, secondly, dealing with the issues of valuing credits and then getting the credit back in terms of windfalls and so forth, you know, getting appraisals, what is this credit worth at this point in time and so forth. So, we'd like to keep it without a charge for strict public benefit for bona fide workforce housing with covenants and so forth. That's what our proposal is.

**CHAIRPERSON ELKOWITZ:**

Lance?

**MR. MALLAMO:**

Yes, Tom, I have several questions. I was actually discussing this with several people last

week. And a few items came up that I just didn't know the answer to. So, maybe I'd take this opportunity to ask it. I'd also like to compliment you on the cover. That says it all. I've had discussions with people that just don't get it and have an immediate objection to TDR. And this really is a perfect graphic.

Is there a procedure here -- I know we're talking about smart growth and downtown revitalization, but to utilize existing buildings rather than encouraging new construction? Is that part of this? The adaptive reuse of buildings that may not be housing now?

**MR. ISLES:**

It certainly could be a part of this. And that certainly could come up in certain downtown locations. We've been dealing a lot in particular with some of the east end towns where they don't have sewer access. A number of the west end downtowns do. But a lot of the east end ones don't. They want to put apartments above stores in their existing downtowns, often in existing buildings. You can't do it in many cases because you're above County Health Department standards. So, yes, the application would be allowed. It's just a simply matter of waste water flow. So, whether it's in a new development or an existing development, we try in the rating sheet that we've suggested here to encourage good planning principals here. So, redevelopment in downtown is one of those aspects.

**MR. MALLAMO:**

I think particularly with historic buildings, I know that there -- and I'm not familiar with all the details, but there's a tax credit program for rehabilitation of historic buildings for commercial use, which rental housing is considered. So, you could get a double bang for your buck for the developer to encourage them to do that kind of thing.

The other issue that I'm interested in, and you talked about you're going to create a file for the sending and the receiving areas. And that's great. But what's the procedure to enforce or have oversight? And I'll give you a couple of test cases. We had an incident in my own town where there was a scenic view shed. The developer was allowed to increase his yield in return for putting a 100 foot restrictive covenant buffer. The houses were built. The restrictive covenant was never filed and the town neglected to oversee that that happened. The houses were sold. And everybody went in and cut the 100 feet down. I know in New York there was a developer that got ten more floors on his office building and built 15. So, how do we address those issues so we're sure that the intent of the program is maintained?

**MR. ISLES:**

We've had extensive -- that's a topic I've dealt with a lot, the buffer clearing in my prior life. And it's a perfectly valid one because, you know, in a half an hour the damage could be done that a covenant failed to protect.

**MR. MALLAMO:**

And then you have a negative connotation with the whole program, you know.

**MR. ISLES:**

No question about it. I think we have a little less risk of that in terms of the Saturday afternoon hit where the damage is done instantly like that is not likely, but in the point of --

**MR. MALLAMO:**

It wasn't Saturday that it was done. When the Court's were closed.

**MR. ISLES:**

Or Sunday morning, something like that. But the County is giving a very strong public benefit by saying we're going to give you these credits that we took off the open space that we purchased with the County funds. We want them to be used correctly. So, in the event we were to have a case whereby this housing that was built was supposed to be maintained, you know, in



perpetuity as affordable and it's not, then, the recourse then is the County is placing covenants on that property giving it a permanent right to go back and enforce that. And we actually had meetings -- we had three County Attorneys present at the meeting on the drafting of this report. And on a number of those issues including specifically the enforcement. We had a couple major legal issues, one of which is, you know, when do we actually hand over these credits because we don't want to give them until we actually know we have a project happening. So, we talked about that extensively. And then as you pointed out the enforcement part of it. So, the only answer I can give you at this point is that what's suggested in the this report on advice of the County Attorney is that instruments be recorded, deed covenants and restrictions on the receiving property as well as on the sending property, by the way, sterilizing it, but also on the receiving property. And then in the event of a violation of that covenant, then, it would be enforceable by the County of Suffolk. And we would have the ability to do that.

**MR. MALLAMO:**

So, the County's actually going to file the covenant?

**MR. ISLES:**

Yes.

**MR. MALLAMO:**

I would feel a lot better with that. The limit that you mention here, the 250 thousand, is there a procedure for addressing that for inflation over time?

**MR. ISLES:**

It would be by legislative action. So, at this point in time that is suggested for consideration by the Legislator. They can adopt or not adopt this report. They can do -- you know, obviously it's their call. We are suggesting that cap at this point on discussion with the Office of the Department of Economic Development and Workforce Housing in the County. We think it's a solid number at this point and a good number. It is, by the way, the net sale price of the house. So, if there are other, you know, affordable housing grants coming in that get it below that 250, it still qualifies. But fundamentally and to answer your question, the market continues to go crazy. It jumps 50% next year. The whole equation -- everybody's making more money, and whatever. The whole equation changes. The way to change it is a resolution to the County Legislature. Give the reasons and it can happen. We don't want to make it too easy, though.

**CHAIRPERSON ELKOWITZ:**

Joy.

**MS. SQUIRES:**

I'm aware that this is for a SEQRA determination. But I just wanted to comment that I did not receive this until Monday. And if any municipality was going to comment, there's no way that you could do it that quickly. I happen to have had a Conservation Board meeting last night. We talked about it. But in terms of the SEQRA determination, I think, we have to look at a Coordinated Review so that municipalities --

**CHAIRPERSON ELKOWITZ:**

You can have Coordinated Review, but nobody has jurisdiction over it other than the County.

**MS. SQUIRES:**

Yes, I understand that.

**CHAIRPERSON ELKOWITZ:**

So, from a SEQRA perspective, there is no -- the County is coordinating with itself because nobody has any jurisdiction over it but the County.

**MS. SQUIRES:**

Okay.

**CHAIRPERSON ELKOWITZ:**

But you're going to have legislative hearings on this; right? This is only for us to make it --

**MS. SQUIRES:**

Yes, I understand that. But I'm just saying that really this is the first thing. The other question I also wanted to raise is, I believe, Tom, when you look from your receiving districts to your sending districts, you're staying within the town and within the school district unless -- you didn't address the school district?

**MR. ISLES:**

No, I didn't address the school district. At this point we have -- just within the towns; within the municipal jurisdictions.

**CHAIRPERSON ELKOWITZ:**

I've been quiet about this. But you probably know I sit on the Workforce Housing Commission, although I don't go to meetings very frequently because they're at incredibly inconvenient times for me. But, Tom has been making presentations to the Workforce Housing Commission. And that Commission has some very diverse interests on it. There are builders on it and there are people that head environmental groups on it. And from my perspective, what the County Executive staff and -- what staff of the County has been trying to do is get some sort of a TDR program out there. But I think that all of us who work in the industry know that the only way any of these TDR's are ever going to be used is if the towns in which someone is proposing to use them allows them. And I also think that any of us -- you don't even have to work in this industry to know that if you have a school district that is going to approach the town board and say to them using two more of these TDR's -- and, of course, I'm giving a ridiculous example -- is going to overburden the school district such that, you know we're going on triple session, I think that is a cognizance, and there has to be a cognizance, of the political realities of Long Island. The County doesn't have housing power. The County doesn't have zoning power. So, I think, what the County Executive's Office is trying to do is to create a tool. Whether this tool will ever be used anywhere is anybody's guess. I mean let's be real. It's a wonderful tool to have because I happen to have personal knowledge because the Long Island Housing Partnership is a Millbrook Gables project. And it was the most ridiculous exercise I've witnessed in the 20 years of doing this; because it was the Town of Riverhead that asked for the project, it was the Town of Riverhead that held up the approval, it was the Town of Riverhead that made sure they couldn't get into the sewer district. And then finally when the Town of Riverhead was getting embarrassed, the Town of Riverhead decided we better do something and the County came and gave some credits. But without political will on the part of the town, its never going to happen. So, I think the County's trying to do the best it can to create a tool to foster affordable housing or workforce housing or whatever we call it this week. But the reality of it is, it only happens if the towns approve it.

**MR. CRAMER:**

But, again, that's political and not necessarily environmental.

**CHAIRPERSON ELKOWITZ:**

Right. And I just want to get to that because I actually have to leave in a couple of minutes. And I want to -- just because I knew this question was going to come up because I had it myself. So, I took out the handy-dandy SEQRA handbook. I looked a little bit of case law and I looked at the regs. The question is, is this segmentation because is it a whole action, are we looking at it the earliest possible time, are we looking at everything. And if it is segmentation, is it acceptable segmentation. So, there are eight tests for segmentation. I'm going to go through them real quick.

One is purpose. Is there a common purpose or goal for each segment? I don't think that

anybody can argue that there isn't a common purpose. If somebody wants to do it in a town or in the County, the purpose is the same; it's to provide workforce housing.

Time. Is there a common reason for each segment being completed at or about the same time? I think the answer is no because we can create this today and they may not be used -- the credits may not be used in my lifetime.

Location. Is there a common geographic location involved? I guess the answer is yes if you look at all of Suffolk County as a common geographic location.

Impacts. Do any of the activities being considered for segmentation, which is the development of this program --

**MS. ESPOSITO:**

Wait. Could we just back up to the last one? The answer also could be no if we looked at the hydrology of --

**CHAIRPERSON ELKOWITZ:**

Right. Absolutely.

Do any of the activities being considered for segmentation while not necessarily significant by themselves contribute towards significant cumulative or synergistic impacts? I honestly don't know the answer to that question. I really don't. Because you're creating a program. If there were going to be some adverse impact from some individual project, did this contribute to it? I don't know.

Ownership. Are the different segments under the same ownership or control? I think that's an unequivocal no for all the reasons that I stated before. The County can create it, but the County can't make it happen.

Planning. Is a given segment a component of an identifiable overall plan. I think the answer is yes.

Utility. Can any of inter-related phases of various projects be considered functionally dependent? I think yes, because if you had a workforce housing program that was going to use this, it would be functionally dependent.

The last one. Does the approval of one phase or segment -- this segment -- commit the agency to approval of other phases? Well, the agency doesn't have anything to approve. Now, the Legislature has to approve individual use of these credits, but creating this program doesn't commit the Legislature to do that. And it doesn't commit any town to do anything.

So, now, I think, we got four yes's and -- three yes's and four no's and a maybe. So, I don't know the answer. But let's assume for argument sake that it is segmentation. And, Jim, we're going to have to get all this into whatever SEQRA determination we make, especially if it's a neg deg. Is segmented review ever acceptable under SEQRA? Yes. The regulations recognize that there may be special circumstances where segmented review may be justified. However, such justification must be clearly noted in the determination of significance and in any subsequent EAF, if there is one, by providing supporting reasons and demonstrating that such review will be no less protective of the environment. For example, the following circumstances when considered together may warrant segmentation when a project has several phases. The first one is information on future phases is too speculative.

I don't think that there's anybody here that can say that the use of this in the future is not speculative. It's clearly speculative. And it's not under the control of the County.

Future phases may not occur. I think that's reasonable. And future phases or functionally independent of current phases. I think that that's reasonable also. So, at least in my opinion, for what it's worth, if this is segmentation, and I can't tell you whether it is or isn't, I think it would be permissible segmentation.

**MR. KAUFMAN:**

It's all set up in a structural way to be segmentation because the town's review at a later period of time.

**CHAIRPERSON ELKOWITZ:**

And I think that's actually the most important point. Because if this were to be segmentation, it were to be viewed as permissible segmentation, it's clearly no less protective of the environment because you could never use these without a SEQRA review on the project that's sought.

**MR. KAUFMAN:**

And, again, the legislation itself specifically states that.

**CHAIRPERSON ELKOWITZ:**

And it's required by state law. Jim.

**MR. BAGG:**

If I might add something, when the County acquires the land and comes up with a report for the credits, that is also required for review under SEQRA, which requires an EAF which would be submitted to the CEQ at that time.

**CHAIRPERSON ELKOWITZ:**

Right.

**MR. BAGG:**

As well as the Legislature.

**CHAIRPERSON ELKOWITZ:**

Right. But even then, you wouldn't know where the credits are going.

**MR. BAGG:**

You're absolutely right. But I'm saying that --

**CHAIRPERSON ELKOWITZ:**

So, we would have a segmentation on top of a segmentation on top of who knows if it's ever going to be --

**MR. BAGG:**

This is a multi-phase review here in terms of the environmental --

**CHAIRPERSON ELKOWITZ:**

Exactly. Exactly. So, it kind of seems to fall into that.

**MR. KAUFMAN:**

I don't have a problem with this in terms of segmentation. I see it as a structurally segmented response, which, I think, is -- since it's being recognized is perfectly fine.

I do want to note two things, though. One, under the town law 261 (a) of New York State, you have to have a GEIS when a town is doing this kind of stuff. So, I'm curious as whether that would impact the County.

**CHAIRPERSON ELKOWITZ:**

Well, New York State town law doesn't apply to the County.

**MR. KAUFMAN:**

Yeah, I understand that. I also have -- was speaking with Town of Smithtown yesterday. And they asked me to enter a couple of things into the record. They do not particularly like this program at this point.

**MS. ESPOSITO:**

Oh, that's a shock.

**MR. KAUFMAN:**

Yeah, I know. I'm just the messenger on this one.

**CHAIRPERSON ELKOWITZ:**

Yes, but can I ask you a question, though? Because this actually bothers me. They. Who are they?

**MR. KAUFMAN:**

Okay.

**CHAIRPERSON ELKOWITZ:**

I mean somebody from the Town of Smithtown called you. Who is it? And do they have authority to speak on behalf of the Town of Smithtown?

**MS. ESPOSITO:**

Was this a town board vote?

**CHAIRPERSON ELKOWITZ:**

I'm sorry. You know, I'm wondering if it's even a town board member.

**MR. KAUFMAN:**

No, it is not a town board member.

**CHAIRPERSON ELKOWITZ:**

All right. So, that person, then, is speaking to you without authority and saying raise my personal opinion that the Town of Smithtown doesn't advocate this.

**MS. ESPOSITO:**

Which is already well established.

**MR. KAUFMAN:**

I'm actually right now at this point in time waiting for a letter which should have been delivered already regarding that.

**CHAIRPERSON ELKOWITZ:**

But you want to know something? Whether they like it or they don't like it, I don't think it has a darn thing to do with the SEQRA review. And unless that letter tells me something about segmentation or SEQRA regs, it should go to the Legislature.

**MR. KAUFMAN:**

Okay. Fine. In which case I have one other point to make. Right now on page 14 of the document, it talks about the receiving areas being intra-town. Okay? But at the same time it does say that this could become at a later period of time inter-town.

**CHAIRPERSON ELKOWITZ:**

Right.

**MR. KAUFMAN:**

I'm worried about that a little bit in terms of the precision of the language. I would be personally happier if it was to be intra-town at this point at this point in time so that we wouldn't have these jurisdictional issues.

**CHAIRPERSON ELKOWITZ:**

But it's not a jurisdictional issue because as Mr. Isles said that you need the consent of municipality A and the consent of municipality B. And let's give a really silly example. The Village of Patchogue, which is a bad example, because it has a sewage treatment plant, but it's a good example because the Mayor has been working so incredibly diligently to develop an Affordable Housing program there, lets assume that the Village of Bellport had some credits. And the Village of Bellport had no intention of using them. Why would we have a problem if the Village of Bellport wanted to give them and the Village of Patchogue wanted to take them? I don't think that that would a problem.

**MR. KAUFMAN:**

To the extent that the receiving area would have to agree, I understand what you're saying.

**CHAIRPERSON ELKOWITZ:**

Right.

**MR. KAUFMAN:**

Okay. One of the concerns I have, though, is whether the receiving area -- withdrawn. Never mind.

**MS. ESPOSITO:**

This is like an opt-in program. So, if there was a town board that for some reason didn't like the program, they don't necessarily have to opt in.

**CHAIRPERSON ELKOWITZ:**

Right.

**MR. MALLAMO:**

Right. I think you need to keep the flexibility of the program.

**CHAIRPERSON ELKOWITZ:**

Because sometimes we regulate against things that are silly. And then in the end you end up tying your hands and you can't do anything.

**MS. ESPOSITO:**

This just allows them to do it if they so choose. That's all this does.

**CHAIRPERSON ELKOWITZ:**

Exactly.

**MR. CRAMER:**

I think you put it very -- possibly before talking about this being a tool, an opportunity, if the need arises, if everything falls into place, it's a good tool to be able to use. I personally think that it could be considered segmentation. I think we have very good justification for segmentation in this case. And I'd like to make a motion for -- it would be a Type I neg dec.

**CHAIRPERSON ELKOWITZ:**

With all of the discussion about the segmentation that we had because it must go in the determination --

**MR. CRAMER:**

-- included in it, yeah. I don't want to go back through it again. But, yes.

**MR. MALLAMO:**

I second that.

**CHAIRPERSON ELKOWITZ:**

I have a motion and I have a second. I'd actually like to see it before it becomes final.

**MR. BAGG:**

Who seconded it?

**CHAIRPERSON ELKOWITZ:**

Mr. Mallamo. Okay? But I'd like to see the language before we actually edit it. I have a motion, I have a second. All those in favor? I think we might to count. All those in favor? Opposed? Abstention?

**MR. KAUFMAN:**

Abstain.

**MR. BROWN:**

Abstain.

**CHAIRPERSON ELKOWITZ:**

I have two abstentions. Carried. Unfortunately -- thank you.

**MR. ISLES:**

Thank you very much.

**CHAIRPERSON ELKOWITZ:**

Unfortunately, I'm going to ask Mr. Mallamo to just go over -- Mr. Schneiderman is not -- actually I'll do this if it's quick. Mr. Schneiderman is not here today.

**MS. ESPOSITO:**

The bill was tabled last night. It's going to go under revisions. We don't need to do anything.

**CHAIRPERSON ELKOWITZ:**

Is that so? It's being revised?

**MR. BAGG:**

Again?

**MS. ESPOSITO:**

Well, it was tabled and it seemed like there would be more discussion.

**CHAIRPERSON ELKOWITZ:**

Let's do this. Since we haven't been officially told that, do we have a problem making a SEQRA recommendation on this? Because this is substantively the same thing that we looked at last time. We just asked him to bring it to us in final form. So, now this is in final form. And we asked Legislator Schneiderman a whole host of questions last time that he responded to. So, do we have a problem making a SEQRA recommendation on this? If it got modified -- if it gets modified substantially, it has to come back.

**MR. KAUFMAN:**

I still have a lot of problems with the language on this bill.

**CHAIRPERSON ELKOWITZ:**

I know you have problems with the language. Does it have anything to do with SEQRA?

**MR. KAUFMAN:**

At this point in time, yeah.

**CHAIRPERSON ELKOWITZ:**

What is it?

**MR. KAUFMAN:**

The definition of law chemicals, I brought this up to Mea Knapp a couple of days ago. Her office, rather. The way land chemicals on page three of this document -- mine is dated revisions as of 3/7, right now it needs to have a couple words in there. Lawn chemicals apply to lawns. Lawn chemicals right now, the way it's defined, it means they're outlawing every pesticide there is out there.

**CHAIRPERSON ELKOWITZ:**

Well, would you pos dec it if it was one way and neg dec it if it was a different way?

**MR. KAUFMAN:**

Because of the language, yes. If it specifically referred to lawns, which is what the bill is trying to do, I would have a neg dec on this. But right now this is banning, for example, chemicals that are used to deal with vector issues.

**CHAIRPERSON ELKOWITZ:**

I don't read it that way.

**MS. ESPOSITO:**

No, no, no, it's not.

**CHAIRPERSON ELKOWITZ:**

I don't read it that way at all.

**MS. ESPOSITO:**

It's for aesthetic use only.

**CHAIRPERSON ELKOWITZ:**

Right.

**MR. KAUFMAN:**

No, no, no. If you --

**MS. ESPOSITO:**

This is an aesthetic bill.

**MR. KAUFMAN:**

I'm seeing it differently as an attorney.

**MS. ESPOSITO:**

Well, I'm not an attorney.



**CHAIRPERSON ELKOWITZ:**

I'm not either but I'm reading it.

**MR. BAGG:**

Terry. In addition, I think, the bill says that such chemicals can only be applied with a certified pesticide applicator. And the County, that's all they use. They're not allowed to apply anything unless they have a certified pesticide applicator.

**MS. ESPOSITO:**

That's exactly right. And the County's already phasing out the vast majorities of these. Frankly, for the County, this doesn't really necessarily even apply. I mean, I have to look at it a little more closely, but we're phasing out the first top three toxicity level pesticides on all County-owned property already. It's done. And there are exceptions that have been made with the waiver that was granted. But for County-owned property --

**MR. KAUFMAN:**

Adrienne, I understand the intent of the bill. And I think the intent is very, very good. And I do think that it won't have any, you know, probable environmental impacts. I think a neg dec probably should be given. When the question gets called, though, I'm not going to --

**CHAIRPERSON ELKOWITZ:**

If the County even has the right to regulate, which is another question.

**MS. ESPOSITO:**

Well, that's the huge -- that's the question.

**CHAIRPERSON ELKOWITZ:**

And that is the question. And I think that's the overriding legal question, is whether or not the County has the right to regulate it at all.

**MR. KAUFMAN:**

Well, we're not going to get into that one.

**CHAIRPERSON ELKOWITZ:**

That's right. That's my point.

**MR. MALLAMO:**

Someone like to make a motion?

**CHAIRPERSON ELKOWITZ:**

You know what? Oh, I can't make a motion.

**MR. KAUFMAN:**

Why? You're not here.

**CHAIRPERSON ELKOWITZ:**

Chairman can't make a motion.

**MS. ESPOSITO:**

I'll make a motion for a neg dec Type I Action.

**MS. MANFREDONIA:**

Second.

**CHAIRPERSON ELKOWITZ:**

All those in favor? Seven. Opposed? Abstentions?

**MR. KAUFMAN:**  
Abstain.

**CHAIRPERSON ELKOWITZ:**  
One. Carried. I have to turn the meeting over to Lance because I have a meeting to go to.

**MR. MALLAMO:**  
Okay. We'll get to the item of other business. Does anyone have other business on the agenda? No other business. Being none, Historic Services, Rich Martin.

**MR. MARTIN:**  
Okay. Just a few items. Just for everyone's knowledge, the New York State National Review Board recommended the multiple property listing of the architecture of Isaac Henry Green. And what this does -- it doesn't list all his properties, but it allows additional properties to be placed on the national register and put into context of his work in Suffolk County. So, this will bring a lot of notice to his work in Suffolk County and help with the national register listings in the future.

And another building of his, the Congregational Church in Sayville, was reviewed and passed by the Review Board this past meeting. That was work of Isaac Green.

**MR. MALLAMO:**  
That's great news, Richard. I'm going to tell my Pastor this. They already ripped down our rectory, which was designed by Isaac Green.

**MR. MARTIN:**  
Right.

**MR. MALLAMO:**  
Maybe I can save the church.

**MR. MARTIN:**  
Well, this listing would have definitely helped you in support of that because the State is already saying that's eligible, you know, before the application even goes in. That's giving pre-eligibility review for these different sites.

**MR. MALLAMO:**  
And this should help West Sayville.

**MR. MARTIN:**  
Yes, it'll help the West Sayville -- headquarters of the Parks Department is designed by Isaac Green. That would be eligible under this. And, also, the Brookside property in Sayville, which was actually Isaac Green's own personal estate. And when they're viewed in context of his -- the broad work that he did in Suffolk County, you know, these are pieces to the puzzle. So, they're more apt to list things when they're telling a full story now to show his work in Suffolk County.

**MR. MALLAMO:**  
That's great. That should help Suffolk County get more grants for these properties as well.

**MR. MARTIN:**  
Yes.

**MR. MALLAMO:**  
Terrific news.

**MR. MARTIN:**

Okay. And just to give recognition to Sayville historian, Connie Curry has worked on this, I would say, probably over twenty years, the research on this. And she was the one that submitted this to New York State. Okay.

Just a couple of calendar items. We have an activity at Sagtikos Manor this Saturday, the 19th, the Long Island Arboricultural Association in cooperation with the State Senator Owen Johnson's Office. And the Sagtikos Manor Historic Society and the Bay Shore Chamber of Commerce and the Suffolk County Parks Department is doing a Arbor Day cleanup of the ten acre site. This will entail trimming the dead limbs out of the trees on the property, taking down dead trees and clearing the brush on site. And this will be a four-hour event in the morning with about 80 people participating from this organization. And they've gone around Long Island. This is all volunteer time. And they do it in the early spring so they can have the time to do it. And it's the first time they've done it in Suffolk County Parks.

**MR. MALLAMO:**

That's great.

**MR. MARTIN:**

Okay. And then just to announce, the next Historic Trust Committee meeting is April 5th. And I plan to have this one at the Police Museum in Yaphank. That's the corner of Main Street and Yaphank Avenue. And then we will be reviewing the different buildings that are used for housing in the Southaven Park area.

**MR. MALLAMO:**

Just to make a notation, I was supposed to write Commissioner Foley a letter asking him to come to the CEQ meeting, which, of course, I remembered when I got my packet a couple days ago. But Rich did speak to him. He has it on his agenda for next time, but I will get a letter into Jim for Terry's signature.

**MR. MARTIN:**

He will be able to attend next month's meeting.

**MR. MALLAMO:**

That would be great. Thank you. And I apologize for that. Is that all, Rich?

**MR. MARTIN:**

Yes.

**MS. SQUIRES:**

I had a question.

**MR. MALLAMO:**

Yes.

**MS. SQUIRES:**

Has anything additional happened with the issue that you and Nancy brought up regarding the properties and, you know, the things that we found so upsetting?

**MR. MALLAMO:**

Not that I am aware of.

**MR. MARTIN:**

I explained the concerns to the Commissioner after the last meeting. And he's ready to explain what he plans to do about them. The new hires within the maintenance department, as far as I

know at this point, have not been hired yet, which was part of this. So I'm hoping he can explain that further, when that will happen.

**MR. MALLAMO:**

Great. Okay. CAC concerns. Was that your concern, Joy, or do you have other concerns today?

**MS. SQUIRES:**

No.

**MR. MALLAMO:**

Wonderful. Okay.

**MR. CRAMER:**

Motion to adjourn.

**MS. ESPOSITO:**

Second.

**MR. MALLAMO:**

See you next month. Thank you.

**(THE MEETING CONCLUDED AT 11:26 AM)**