

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 October 19, 2005.

MEMBERS PRESENT:

Theresa Elkowitz, Chairperson
Larry Swanson, Vice-Chairperson
Michael Kaufman
Lance Mallamo
John Matthew Wagner
John E. Potente
Jay H. Schneiderman, Second District

ALSO IN ATTENDANCE:

James Bagg, Chief Environmental Analyst/Department of Planning
Penny Kohler, Department of Planning
Chrissy Einemann, Department of Planning
Richard Martin, Historic Services
Steve Brown, CAC of Brookhaven
Joy S. Squires, CAC of Huntington
Lauretta Fischer, Principal Planner
Charles Bender, PO's Office
Nick Gibbons, Parks Department
Dominick Ninivaggi, SC Vector Control
Ralph Borkowski, SC Department of Public Works
Bill Dieck, SC Vanderbilt Museum
James Ingenito, SCDPW
Leslie Mitchel, Deputy Commissioner, SCDPW
David Tonjes, Cashin Associates
Kelly Roper, Parks Department
Mary Dempsey, SCDPW
Kevin LaValle, Aide to Legislator Losquadro
Christopher Jeffreys Assistant County Attorney
Kevin McAllister, Peconic Baykeeper
Matthew Atkinson, Counsel for Peconic Baykeeper
Walter Dawydiak, Health Department
Jenny Kohn, Assistant County Attorney
Kim Shaw, SC Department of Health Services
Phil DeBlasi, SCDHS

MINUTES TAKEN AND TRANSCRIBED BY:

Diana Kraus - Court Stenographer

(THE MEETING WAS CONVENED AT 9:36 AM)

CHAIRPERSON ELKOWITZ:

Good morning. I'm going to call the meeting of the October 19th, 2006 CEQ to order and ask that the members review the minutes, if they haven't already, of the June 15th and the September 21st. Does anybody have any comments on the June 15th? Okay. Anybody have any comments on the September 21st.

MR. KAUFMAN:

Yes, Madam Chairman, I do.

CHAIRPERSON ELKOWITZ:

Go ahead.

MR. KAUFMAN:

On the project reviews number one, ratification of staff recommendations, the second paragraph, it says that I mention that I have problems with modifying CEQ membership to include activists. What I believe I said was I had problems with modifying CEQ membership to include activists to the extent that this disparages the rest of the CEQ members and to the extent the activists may not have technical expertise and would be solely activists. That's my recollection of where I was going. And I'd like to --

CHAIRPERSON ELKOWITZ:

We can make the modification.

MR. KAUFMAN:

Thank you.

CHAIRPERSON ELKOWITZ:

Any other? Dr. Potente?

DR. POTENTE:

Yes. On project review number one, ratification of staff recommendations for legislative resolutions laid on the table, on the second paragraph it says motion by Mr. Wagner, Mr. Potente that a letter be sent to the Legislature stating that functions of CEQ and that all members are environmentalists. I did not say that all members are environmentalists. I said all members should be environmentalists.

CHAIRPERSON ELKOWITZ:

Anything else? If not, I'll entertain a motion to approve with the modifications.

MR. KAUFMAN:

I'll make a motion.

CHAIRPERSON ELKOWITZ:

I have a motion, a second by Dr. Potente. All those in favor? Opposed? Abstentions? Carried.

Okay. Correspondence. October 3rd, 2005 memorandum from the Department of Economical Development and Workforce Housing concerning the SEQRA process in the Airport Lease Screening Committee. I have that memorandum. I'm not going to read it into the record. I've spoken to Jim Bagg about it. The sum and substance of it for those who've been on the Council as long as I have, you may recall that in the past we did review the potential leases and lease

renewals and we did make SEQRA recommendations. There was a change in that policy. Now the County wants to go back to that policy. So, I think it's an informational thing for the Council. I don't think there's any action that has to be taken. Does anybody have any questions or comments regarding it?

LEG. SCHNEIDERMAN:

I have a comment.

CHAIRPERSON ELKOWITZ:

Okay. Legislator Schneiderman.

LEG. SCHNEIDERMAN:

This is not a formal policy shift. The Airport Lease Screening Committee has requested because of the complicated nature of some of the applications pending that CEQ, which is constituted to provide advisory SEQRA opinions be given the opportunity to advise in this case, not the Legislature but the Airport Lease Screening Committee and potentially the Legislature should it go to the Legislature --

CHAIRPERSON ELKOWITZ:

And that's what was done years ago. And it kind of changed. They just changed the way they work. And now I guess we're going back to what we did years ago.

LEG. SCHNEIDERMAN:

So, these were very specific requests to send these applications here and not -- not necessarily mean in the future that every application will come here. I just wanted to clarify that.

CHAIRPERSON ELKOWITZ:

Whatever they need, that's fine. We're happy to help.

The next relates to the 2006 Vector Control Annual Plan of Work. And I'm going to defer that until we actually talk to that item.

Recommended Type II Actions ratification of staff recommendations for Legislative resolutions laid on the table September 27 and October 6. Jim, is there anything you'd like to call to the Council's attention?

MR. BAGG:

Yes. There are a number of resolutions. I just want to point out for interest introductory resolution 2101 is a nature preserving dedication 90 acres in Smithtown. We haven't had a lot of nature preserve designations.

Resolution IR 2110 is creating a stabilization fund for historic structures which the Council has called for repeatedly in the past.

And resolution number IR 2126 deals with the Scully property Environmental Education Center Funding. The Legislature voted to have the Scully estate be the Environmental Education Center. And I believe they're transferring the \$2 million for rehabilitation and bringing that up to speed for an environmental education center.

MR. KAUFMAN:

Terry?

CHAIRPERSON ELKOWITZ:

Yes.

MR. KAUFMAN:

Jim, the 90 acres in Smithtown, what property is that?

CHAIRPERSON ELKOWITZ:
It says something -- Lilly Pond.

MR. BAGG:
It's Lilly Pond.

CHAIRPERSON ELKOWITZ:
Lilly Pond Path. Park.

MR. KAUFMAN:
Where is that?

MR. BAGG:
I can give you the resolution.

MR. KAUFMAN:
For the Council's edification, also, I'm looking at number 2060, a local law implementing a historic property tax exemption for Suffolk County residents. I believe some of the impetus for that came out of CEQ and came with Legislator Schneiderman. I remember giving him some of the laws from the Town of Smithtown regarding this. And I hope it's the same bill, but I think it's very important that that is up there, that we get some sort of a property tax break to people who are trying to keep historic houses; otherwise basically they can be knocked down very, very easily.

CHAIRPERSON ELKOWITZ:
Anything else?

MR. KAUFMAN:
Yeah. I'm going to have to recuse on 2021.

CHAIRPERSON ELKOWITZ:
Okay. Anything else? I'll entertain a motion to accept staff recommendation?

DR. SWANSON:
Motion.

CHAIRPERSON ELKOWITZ:
I have a motion. Do I have a second?

MR. WAGNER:
Second.

CHAIRPERSON ELKOWITZ:
Second by Mr. Wagner. All those in favor? Opposed? Abstentions? Carries.

Next item. Proposed appropriation of funds for the renovation of Southaven stables, CP 7032, Southaven County Park, Yaphank, Town of Brookhaven. I have a letter here dated October 3rd. "Dear Ms. Elkowitz, Suffolk County parks seeks to remove and reconstruct our stables at Southaven County Park. To that end we are requesting the appropriation of funding for capital project 7032 renovation of Southaven Stables. This request is only for appropriations. Parks will return to CEQ with a proposed design once plans are completed. I believe this to be a Type II Action under SEQRA," blah, blah, blah. I don't, actually. I believe in my opinion it's classic segmentation. They're asking us to

appropriate money for renovation of reconstruction without any plans in front of us. And I don't have that's a Type II Action unless you're telling me this is solely planning money. Well, then --

MR. GIBBONS:

It's not.

CHAIRPERSON ELKOWITZ:

-- I don't see how we can -- this is classic segmentation. And personally I don't know see how we can do it. I don't know if anybody feels any differently.

MR. GIBBONS:

I'll just offer an explanation. I think it's pretty obvious what it is to begin with. But just for the record with the year winding down, we're trying to lock up our capital funding. And in the absence of a plan, this was an attempt to secure the funding without a plan with a commitment to come back to the Council for what it's worth.

CHAIRPERSON ELKOWITZ:

Anybody have any comments? So, I guess there will be tabled indefinitely. I'll entertain a motion to table.

MR. KAUFMAN:

Motion to table.

CHAIRPERSON ELKOWITZ:

I have a motion to table. Do I have a second?

DR. SWANSON:

Second.

LEG. SCHNEIDERMAN:

Subject to call?

CHAIRPERSON ELKOWITZ:

Well, we'll just table it. It'll never come back because it'll have to -- they're going to have to do an EAF. You can't do it this way. Do I have a second?

DR. SWANSON:

Yes.

CHAIRPERSON ELKOWITZ:

I have a second by Dr. Swanson. All those in favor? Opposed? Abstentions? Carried. Sorry.

MR. GIBBONS:

It's okay.

CHAIRPERSON ELKOWITZ:

Proposed construction of handicap ramp at Cupsogue Beach County Park, East Moriches, CP 7009, Town of Brookhaven. I have correspondence dated September 23rd, 2005. "Suffolk County Parks seeks to construct a 615 square foot ramp west of the already existing access point for beach patrons at Cupsogue Beach County Park. The purpose of this project is to efficiently accommodate beach patrons who are handicapped and give them suitable access to the beach front. This project will occur on previously cleared area. See attached photos and will be ADA compliant. I believe this to be a Type Two Action under SEQRA, Title 6 NYCRR 617.5 (c) (7) construction or expansion of a primary or accessory pertinent non-residential or facility involving less than 4,000 square feet of gross floor area and not involving a change in zone or use variance and consistent with local land use controls but not radio communication or

microwave transmission facilities. I request this project be considered at the October 2005 meeting of the Council on Environmental Quality. A copy of a plan will be available for your review at that time." Anybody have any questions?

DR. SWANSON:

Yes.

CHAIRPERSON ELKOWITZ:

Dr. Swanson.

DR. SWANSON:

Are you going to use recycled materials to construct the ramp?

MR. GIBBONS:

No. My understanding is we're going to use -- well, these plans indicate CCA but we'll be using ACQ. The decking itself, whether or not that's Trex -- IPE decking.

MR. KAUFMAN:

The Brazilian wood.

MR. GIBBONS:

I think that's the tropical IPE wood.

DR. SWANSON:

Is there any reason why you can use recycled materials instead of cutting down tropical rain forests?

MR. GIBBONS:

Well, for what it's worth, we get commitments from the provider that they come from renewable resources. But you and I both know that that's ambiguous at best. The follow-up to that, I couldn't -- you know, I couldn't commit to you that that's, in fact, the case. We can investigate that. And to the best of our ability include some recycling materials.

DR. SWANSON:

I would appreciate that.

MR. GIBBONS:

I look into that, Larry.

LEG. SCHNEIDERMAN:

And there's no beach grass in the area of this walkway?

MR. GIBBONS:

No, there's not. It's immediately adjacent and connected to the existing walkways. It takes people to the ocean. We have a handicap beach chair, but it's not of much use. It takes four guys to carry it down the staircase. So, the idea is to get people actually onto the beach.

LEG. SCHNEIDERMAN:

Sounds like a good project.

CHAIRPERSON ELKOWITZ:

In my opinion it's clearly a Type Two. It's less than 4,000 square feet, so I'll entertain a motion.

MR. KAUFMAN:

Motion Type II.

CHAIRPERSON ELKOWITZ:

I have a motion. Do I have a second?

MR. WAGNER:

Second.

CHAIRPERSON ELKOWITZ:

I have a second by Mr. Wagner. All those in favor? Opposed? Abstentions? Carried.

One (d), proposed expansion of parking area and configuration of toll booths at Cupsogue County Park, East Moriches, CP 7080, Town of Brookhaven. I have a letter dated September 30th, 2005. "Suffolk County Parks seeks to construct 3900 square feet of additional parking areas to the west of the already existing parking lot and to reconfigure the toll booths at Cupsogue County Park. See location map. The purpose of this project is to efficiently accommodate additional beach patrons as well as facilitate these accommodations for staff present. The existing toll booth structure is inadequate to serve staff needs for office space. See attached photo. The area to be cleared is previously disturbed. New York DEC will be consulted to determine proximity to regulated tidal wetland. I believe this to be a Type II Action under SEQRA Six NYC 617.5 (c) (7) construction or expansion of a primary accessory or pertinent non-residential structure of facility involving less than 4,000 square feet of gross floor area." Etc.

I have a question for you. You're constructing 3900 square feet of additional parking area. And you're refiguring the toll booths. The toll booths are going to be just moved around? What are you actually doing with them?

MR. GIBBONS:

Right. If you look at the, I guess, it's the third page of photos --

CHAIRPERSON ELKOWITZ:

Yep.

MR. GIBBONS:

The last page, they're not the most sophisticated facilities in terms of taking in revenue, etcetera.

CHAIRPERSON ELKOWITZ:

Right.

MR. GIBBONS:

They're going to be moved side by side as opposed to front to back to try and get -- we process two different types of applications there. One is people who don't have a green key, don't have a parking permit. We want to get them off to the side so we can keep processing and getting people through the village.

CHAIRPERSON ELKOWITZ:

But you're not expanding, then?

MR. GIBBONS:

No.

CHAIRPERSON ELKOWITZ:

You're just going to be clearly with configuring.

MR. GIBBONS:

Right.

CHAIRPERSON ELKOWITZ:

Does anybody have any question? Dr. Swanson.

DR. SWANSON:

Yeah. There's nothing in here mentioning how you're going to handle drainage. And it also does appear that from photograph number two you intend to clear some marsh grasses or upland grasses. I don't know what it is but --

MR. GIBBONS:

The entire site is almost colonized by fragmities. It's true. But it isn't necessarily indicative of a tidal wetland so much as it is a disturbed area -- previously disturb.

DR. SWANSON:

But even if it's fragmities, you have to get a DEC permit.

MR. GIBBONS:

We will be going for a DEC permit. I think I indicated that.

CHAIRPERSON ELKOWITZ:

You said you'll be consulting with them.

MR. KAUFMAN:

Larry had the same question I was going to be asking. Is this going to be impervious surface?

MR. GIBBONS:

I'm sorry? Impervious. It'll be asphalt. Same as the parking lot.

MR. KAUFMAN:

So, you will have to provide some sort of drainage in there. I mean obviously it's going to be sitting on a beach so it's relatively to drain but nonetheless --

CHAIRPERSON ELKOWITZ:

Are you pitching it toward -- do you have existing drainage in the parking lot?

MR. GIBBONS:

No.

CHAIRPERSON ELKOWITZ:

There's no drainage in the parking lot?

MR. GIBBONS:

No.

CHAIRPERSON ELKOWITZ:

That's interesting.

DR. SWANSON:

Doesn't it require drainage? Otherwise you're just going -- you're going to tear this out and you're just going to encourage probably fragmities to grow anyway.

MR. GIBBONS:

I don't think we can encourage it anymore than it already is. But the idea for lack of any other better planning is for this additional 4,000 square feet, 3,900 square feet to be pitched toward the

Bay.

LEG. SCHNEIDERMAN:

To the Bay or to the ocean?

MR. GIBBONS:

Towards the Bay. This is on the bay side.

LEG. SCHNEIDERMAN:

Right. But I just would think in terms of fragility, that's where you want to --

MR. GIBBONS:

Well, that too would be subject and within the purview of the DEC permit as well. And they may require drainage just for this section just because it's new. But the previous parking lot where we have this 7 or 800 parking spaces --

DR. SWANSON:

The new EPA storm water run-off would require that you have drainage.

CHAIRPERSON ELKOWITZ:

It's less than an acre. They have less than an acre of disturbance. It may not require that. Steve?

MR. GIBBONS:

I wanted to preface this just by saying the purpose of this is to help, if at all possible, and alleviate the traffic problem we currently face at Cupsogue which is when the beach is full, it's full. And then we go one for one where one vehicle leaves the beach and we have to -- they line through the village and we let another one in. So that's what we're trying to address here.

MR. BROWN:

The road actually separates the parking lot from the bay; correct.

MR. GIBBONS:

The road --

MR. BROWN:

Is there a road separating the parking lot right now from the Bay?

MR. GIBBONS:

The parking area basically extends to the southern boundary of the tidal wetland for the whole length of the back end of the parking lot.

MR. BROWN:

Okay. Is the possibility that because we don't have drainage is the reasons why you have the fragilities growing in that area.

MR. GIBBONS:

It's probably because of -- that doesn't help. Also the wetland is ditched for mosquito purposes.

MR. BROWN:

Is there a possibility that we'd be putting drainage in the existing as well as the new parking field?

MR. GIBBONS:

There are no plans for that. But if it's requested that Council wants us to investigate that, we can

do that.

CHAIRPERSON ELKOWITZ:

I would. I would make that recommendation.

MR. KAUFMAN:

Also it worries me about the statement that you made that you were going to be pitching it towards the wetlands. That may not be the wisest thing to do. I mean we got a fragmities invasion apparently in the area already. And we're basically putting down impervious --

MR. BROWN:

The drainage would handle that.

MR. KAUFMAN:

Yeah.

MR. GIBBONS:

Nothing we could do could exacerbate the fragmities situation we have at the park. I'm confident in that. That's not to say we couldn't do a better job with handling our water. We could.

CHAIRPERSON ELKOWITZ:

Well, I think that this is a Type II Action assuming that you're really going to stay at 3900 square feet. But I feel pretty strongly that if we're going to be adding impervious area along the shoreline that we should be handling drainage.

MR. GIBBONS:

Within --

CHAIRPERSON ELKOWITZ:

At least within.

MR. GIBBONS:

Within the -- right.

CHAIRPERSON ELKOWITZ:

Absolutely.

MR. GIBBONS:

I agree with you. But I'm not going to tell you that that was --

CHAIRPERSON ELKOWITZ:

Oh, I understand but -- it is within our purview to make the recommendation to the Commissioner.

MR. GIBBONS:

Yes.

MR. BROWN:

Yeah. And we can make that recommendation based on right now that they include drainage in the existing as well as the --

CHAIRPERSON ELKOWITZ:

We can absolutely. I mean whether or not this is a Type II Action is kind of black and white. But certainly we should be making recommendations to improve the situation. Is there a motion?

DR. SWANSON:

I'll make a motion.

CHAIRPERSON ELKOWITZ:
I have a motion for a Type II.

DR. SWANSON:
Type II.

LEG. SCHNEIDERMAN:
Second.

CHAIRPERSON ELKOWITZ:
Well, a motion for a Type II with the recommendation, I think, that we recommend to the Commissioner the drainage be included in the new parking lot and that be -- either it be sufficient to handle drainage from the existing park lot or that drainage be added to the existing parking lot.

MR. GIBBONS:
Understood.

CHAIRPERSON ELKOWITZ:
And now I have a second. Who seconded it?

LEG. SCHNEIDERMAN:
I did.

CHAIRPERSON ELKOWITZ:
Legislator Schneiderman.

DR. SWANSON:
That will you report back to us on what you decide to do?

MR. GIBBONS:
Yes. But understand I'm the messenger here. It's not up to me to actually see these things through.

CHAIRPERSON ELKOWITZ:
I think we understand that.

MR. GIBBONS:
I'm happy to make those recommendations and I'll let you know what become of them.

CHAIRPERSON ELKOWITZ:
And it's going to be transmitted in the documents that are prepared by CEQ staff as well. I have a motion. I have second. Is there any further discussion?

MR. BROWN:
I have a question.

CHAIRPERSON ELKOWITZ:
Sure.

MR. BROWN:
If in fact that there is storm water running off into the Bay, it wouldn't be a Type II Action; is that correct?

CHAIRPERSON ELKOWITZ:

A Type II -- it is a Type II Action because a Type II Action or actions that are defined as Type II and presumably when the New York State Legislature and the Governor determine that these regulations were acceptable, they considered the impacts associated with those actions and they determined that they were not significant.

MR. KAUFMAN:

I think I understand Steve's question in a different way. I don't think that the storm water regulations really change the way we look at Type I versus Type II. They may be an additional factor to consider but it doesn't change the SEQRA classification.

CHAIRPERSON ELKOWITZ:

Right. Because they're codified what it is. I'll call the vote. All those in favor? Opposed? Abstentions?

MR. KAUFMAN:

I'm going to abstain.

CHAIRPERSON ELKOWITZ:

Carried.

Next. One (e), proposed adaptive reuse of the GATR facility, T. Roosevelt County Park, County Park CP 7173 Montauk Town of East Hampton. I have correspondence dated October 5th, 2005. "Parks is pursuing the rehabilitation of the former ground to air transmit and receive GATR site to serve as our maintenance facility located in the north west section of the park. This site is removed from park activities has have two buildings suitable for our needs including office space, storage and equipment repair. An environmental investigation performed by Public Works confirm Parks suspicion that the site has asbestos containing materials, lead paint and at least one underground storage tank. A copy of the report is included for your review. Parks is obligated to remediate all of these conditions. In addition we anticipate the need to resurface existing roads and to remove some if not all of the utility poles on the site an artifact of the site's former use. I consider this to be a Type II Action under SEQRA NYCRR Part 617.5 (c) (2) replacing, rehabilitation or reconstruction of a structure of facility in kind on the same site including upgrading buildings to meet building or fire codes unless such action meets or exceeds any of the thresholds in section 617.4 of this part. Please include this project on the October 19th agenda." Tell me a little bit more about what you're proposing to do.

MR. GIBBONS:

Parks originally came to the Council about two months ago, I believe, just to discuss the idea that we were considering rehabilitating the GATR facility to accommodate our maintenance. Our maintenance activities are currently divided into three different buildings including the GATR facility, Third House itself and storages in various accessory buildings around Third House.

With the pending renovation of Third House, we need a more permanent solution to our maintenance needs. And the original idea was to construct a new building entirely. Three different sites were considered. I didn't bring that original package back to the Council today, but we went over those sites that were considered and how we came to find the GATR as best suiting our needs.

At the time there was some discussion from the Council in terms of the historical significance of the buildings and what it was we planned to do to adaptably reuse them. We took those suggestions and considerations from the CEQ at that time. We requested of DPW to do an environmental investigation of the property which they did. Those results were brought back to us. That's the document attached here dated July 2005. There are no real surprises in that. Just established and confirmed what we had suspected.

Now the idea is there are two buildings there. One would accommodate both office and storage; another would be storage and maintenance of equipment. And we think that can all be included in the existing footprints of the two buildings so we don't see any need for additional construction on the site.

LEG. SCHNEIDERMAN:

Terry.

CHAIRPERSON ELKOWITZ:

Legislator Schneiderman.

LEG. SCHNEIDERMAN:

In your letter which was just read, it mentions the removal of utility poles. This is the first I'm hearing of something that might change the structures that are there from an external perspective. You might think in general utility poles are ugly. But these poles were used in conjunction with a military communications facility. And they may be historic and worthy of preservation.

MR. GIBBONS:

It's not for aesthetic purposes so much as it is for safety concerns in terms of the structural integrity of having the poles up. I know they're a local landmark and people have made several suggestions in terms of how we might keep some. But I wanted to include upfront the potential for removing them all so that the Council -- any comments or concerns you would have pertaining to that we heard now.

CHAIRPERSON ELKOWITZ:

I also don't know that removal of poles is a Type II action as ridiculous as that may sound. I've been sitting here looking at 617.5. And I don't see under which category the removal of those poles becomes a Type II Action. I know it sounds absurd.

LEG. SCHNEIDERMAN:

These are not ordinary poles.

CHAIRPERSON ELKOWITZ:

But even if they were --

LEG. SCHNEIDERMAN:

These may be historic military structures.

CHAIRPERSON ELKOWITZ:

I have a question for Richard. Is the entire park on the national register?

MR. MARTIN:

Well, the park has been declared eligible. The entire park has been declared eligible. But it's not listed formally.

CHAIRPERSON ELKOWITZ:

All right.

MR. KAUFMAN:

I'm not sure these are considered as Jay is saying that these are considered necessarily utility poles in the way you think of electrical. They were part of a radar system a longtime ago. The RCA station, for example, a longtime ago in the Central Pine Barrens area had a giant race track configuration like that. That's the way they used to broadcast short wave and things like that.

So this more part of the part radio accessory to it.

MR. MALLAMO:

But what I think Legislator Schneiderman is correctly bringing up is a whole proposal now for Cold War Historic Trail.

CHAIRPERSON ELKOWITZ:

Right.

LEG. SCHNEIDERMAN:

Yes.

MR. MALLAMO:

Linking the structures and sites from the post World War II period across Long Island. And I probably twenty years ago would have advocated taking these down --

CHAIRPERSON ELKOWITZ:

We live and learn, don't we?

MR. MALLAMO:

-- but I would say I've had a change of heart myself. So, I think that should be looked into a little bit more carefully.

LEG. SCHNEIDERMAN:

Which, you know, also ties into another question about public access to this part of the facility as it becomes a maintenance facility, these buildings. I don't want to deny the public access to one of the most incredible scenic vistas up there on top of that hill as well as the potential to view this military structure that still exists.

CHAIRPERSON ELKOWITZ:

And shame on me but you've brought up something that I didn't think of. This is a change in the use of this building. So, it's not really just a renovation to reuse it in kind. So, I don't know that this is a Type II Action.

LEG. SCHNEIDERMAN:

Well, it's been used for a longtime as a storage facility.

CHAIRPERSON ELKOWITZ:

Right.

MR. MALLAMO:

So, I don't know whether --

CHAIRPERSON ELKOWITZ:

But it probably didn't require any approval for anybody. From anybody.

LEG. SCHNEIDERMAN:

No. I mean it was a formerly a military structure; and then it become through the years, it kind of dilapidated but Parks Department used it for storage. And now they're proposing what I think is a good use of the building. I just wish they weren't asking for the removal of the poles because to me that complicates this application.

CHAIRPERSON ELKOWITZ:

Well, I still can't find in the regs where removal of poles falls under Type II as ridiculous as it may seem. You know, as I said before, it's black and white if it's a Type II or not. It's not something that, you know -- it has an impact so we'd like to make it more than that. A Type II is a Type II.

LEG. SCHNEIDERMAN:

These poles have weathered quite a number of hurricanes. Has there been a determination that it's an unsafe condition?

MR. GIBBONS:

No. And I'm not committed to removing them. I wanted to bring it up here. Obviously there's some interest in them. I didn't want to have to come back after the fact. I wanted to have everything up front.

CHAIRPERSON ELKOWITZ:

Well you may -- if they're part of the -- excuse me. If they're part of this project, you have to come back with an EAF because in my opinion, I don't know if anybody else has looked at the regs, but in my opinion removing the poles isn't a Type II action based upon the regulations I'm reading.

MR. KAUFMAN:

It may also have an additional problem in that this park may be eligible for historic status. Is the structure itself a historic status?

CHAIRPERSON ELKOWITZ:

Well, that doesn't -- I looked at the regs, Mike. It doesn't -- it has to be to make it a Type I, which is what you're looking at, it's any unlisted action unless the action is designed for preservation occurring wholly or partially within or substantially contiguous to any historic building, structure, facility, site or district or pre historic site that is listed. It doesn't say eligible. Okay? On the National Register.

MR. KAUFMAN:

That is listed. Okay. I was inquiring as to the actual structure.

CHAIRPERSON ELKOWITZ:

Or where there has been a recommendation to the State Historic Preservation Office for nomination for inclusion. Eligible doesn't necessarily mean that happened. You'd actually have to check.

LEG. SCHNEIDERMAN:

Can I ask, at the last meeting apparently with the observatory application, you guys determined that to be a Type I Action. It's the same park which is not listed --

CHAIRPERSON ELKOWITZ:

Yeah, but a -- this is Type II because he's alleging that they are just -- the Type II that he's alleging it is replacement, rehabilitation or reconstruction of a structure or facility in kind on the same site.

LEG. SCHNEIDERMAN:

Okay.

CHAIRPERSON ELKOWITZ:

So, he's --

LEG. SCHNEIDERMAN:

So, you're saying construction of a new building?

CHAIRPERSON ELKOWITZ:

Is different.

LEG. SCHNEIDERMAN:
However small it might be.

CHAIRPERSON ELKOWITZ:
Right. Did not fight into the Type II bailiwick. Okay.

MR. KAUFMAN:
Technical question. Would we also have to do a vote as Historic Trust?

CHAIRPERSON ELKOWITZ:
Well, is it in the Historic --

MR. MALLAMO:
I believe it is in the historic trust area.

CHAIRPERSON ELKOWITZ:
All right.

MR. KAUFMAN:
So then it's two votes, then.

CHAIRPERSON ELKOWITZ:
What is the -- what is the Council's pleasure here? And then we'll --

MR. MALLAMO:
Can I just ask Nick one other question?

CHAIRPERSON ELKOWITZ:
Sure.

MR. GIBBONS:
I'm losing my chance here.

MR. MALLAMO:
Nick, by moving -- is it your intent with this project to move all the maintenance activities out of Third House?

MR. GIBBONS:
We're going to have to keep some type of satellite office, some presence, park presence in the building.

MR. MALLAMO:
But I mean on the lower level?

MR. GIBBONS:
Yes.

MR. MALLAMO:
I know that lower level. Is all of that going out?

MR. GIBBONS:
That's the idea.

MR. MALLAMO:

That would be a great asset to Third House to have that -- those activities go out of that building.

MR. GIBBONS:

It is not our choice to be in there. We just have no other option at this point.

MR. MALLAMO:

Yeah. But I've always felt that those activities there were actually a threat to the building with storage of equipment and --

MR. GIBBONS:

Well, they are. Obviously you're familiar enough with the condition of the building. We're looking to get all that inappropriate activity out of the building.

CHAIRPERSON ELKOWITZ:

I would believe it's a Type II Action if the poles stay.

MR. GIBBONS:

The poles are staying.

CHAIRPERSON ELKOWITZ:

Okay. So, we are eliminating the removal of these poles from this project; right?

MR. GIBBONS:

By all means.

LEG. SCHNEIDERMAN:

Thank you.

CHAIRPERSON ELKOWITZ:

Okay. I'll entertain a motion, Legislator Schneiderman?

LEG. SCHNEIDERMAN:

Sure.

CHAIRPERSON ELKOWITZ:

Do I have a second?

MR. KAUFMAN:

Second.

LEG. SCHNEIDERMAN:

As amended, yes.

CHAIRPERSON ELKOWITZ:

As amended, yes. All those in favor? Opposed? Abstentions? Carried.

MR. BAGG:

Who was the second?

CHAIRPERSON ELKOWITZ:

Mike.

Proposed modification for compliance with the Americans with Disabilities Act, Vanderbilt Museum. How are you, Ralph?

MR. BORKOWSKI:

Good morning. Ralph Borkowski, Suffolk County Public Works.

CHAIRPERSON ELKOWITZ:

Did you want to give a little presentation, Ralph?

MR. BORKOWSKI:

Well, one of the components of this project is to renovate an existing bathroom facility at the entrance to the museum.

CHAIRPERSON ELKOWITZ:

Right.

MR. BORKOWSKI:

It's pretty straight forward. In the men's side of the bathroom we're eliminating a urinal, moving the existing partition over to widen the stall to make it handicap accessible. So, I have pictures here if you want to see.

CHAIRPERSON ELKOWITZ:

We have photos. I don't know they're different --

MR. BORKOWSKI:

Oh, you do?

CHAIRPERSON ELKOWITZ:

Yes. So it's a renovation of the restrooms at the security booth.

MR. BORKOWSKI:

Correct.

CHAIRPERSON ELKOWITZ:

Replacement of concrete steps walkway and brick ramp with railings at the Curator's cottage.

MR. BORKOWSKI:

That's correct.

CHAIRPERSON ELKOWITZ:

Acquisition of ADA transport vehicles, installation of ADA signage, telephones, drinking fountains and assisted listening devices at museum's facility. Yes?

MR. BORKOWSKI:

That's all correct.

CHAIRPERSON ELKOWITZ:

Okay. Anybody have any questions?

MR. KAUFMAN:

Lance, does this impact the historical integrity of the facility in any way, shape or form?

MR. MALLAMO:

No. The security booth is not a historic facility. The curator's cottage, the walkway that is being replaced there was put in about ten years ago. But it is a listed National Register site.

CHAIRPERSON ELKOWITZ:

Right. So, this is a Type I action by definition. Okay.

MR. MALLAMO:

Right. And I'll be recusing myself from the vote here.

CHAIRPERSON ELKOWITZ:

Okay. I'll entertain a motion.

MR. MALLAMO:

There is a video available if you'd like to see it.

MR. KAUFMAN:

Do we really need to see it? Motion Type I, neg dec.

CHAIRPERSON ELKOWITZ:

I have a motion for a Type I neg dec. Do I have a second?

DR. SWANSON:

Second.

CHAIRPERSON ELKOWITZ:

Second by Dr. Swanson. All those in favor? Opposed? Abstentions? Carried.

MS. SQUIRES:

Terry, would you note my vote in concurrence?

CHAIRPERSON ELKOWITZ:

Yes.

Proposed acquisition of land for open space preservation purposes known as the Champlin Creek DiLeo property in the Town of Islip. Hello, Laretta.

MS. FISCHER:

Good morning.

CHAIRPERSON ELKOWITZ:

How are you?

MS. FISCHER:

Okay. How are you?

CHAIRPERSON ELKOWITZ:

Good.

MS. FISCHER:

The first resolution before you is a small piece of property approximately one acre north of Southern State Parkway in Central Islip along Champlin Creek. This is part of a watershed that -- a stream watershed that we're -- this is one parcel as part of a long stream of parcels that either the County's in the process of acquiring or we have acquired and or the Town of Islip has acquired. So, we would like to acquire this under the old Drinking Water 12 (3) program for open space.

CHAIRPERSON ELKOWITZ:

Any questions? I'll entertain a motion.

MR. KAUFMAN:

These are unlisted. I'll make a motion unlisted neg dec.

CHAIRPERSON ELKOWITZ:

I have a motion for an unlisted neg dec. I have a second by Legislator Schneiderman. All those in favor? Opposed? Abstentions? Carried.

MS. FISCHER:

Thank you.

CHAIRPERSON ELKOWITZ:

Next one. Proposed acquisition of land for open space preservation proposes known as the Mastic Shirley Conservation Area Chustckie property in the Town of Brookhaven.

MS. FISCHER:

This is a small parcel. Very small, point one four acres in our Mastic Shirley Conservation Area. And as you can see on the map it's very close to Narrow Bay in an area very low-lying wetland area. Adjacent to it is actually an old dredge spoil area that -- we're trying to acquire actually all of those parcels. We have in the past acquired a number of these through tax liens. And we're now trying to acquire those that we don't own in this area that are vacant. And this would be through the New Drinking Water Protection Program for open space purposes.

CHAIRPERSON ELKOWITZ:

Any question for Laurretta? Dr. Swanson.

DR. SWANSON:

Since it's dredge material, are you --

MS. FISCHER:

This piece is not. It's adjacent to an area that does have dredge spoil.

DR. SWANSON:

Okay. Have you checked to see whether, in fact, there were any toxic materials coming from the dredge material site over into this site?

MS. FISCHER:

No.

DR. SWANSON:

So that we're not purchasing a hazardous waste site?

MS. FISCHER:

No.

DR. SWANSON:

You haven't checked?

CHAIRPERSON ELKOWITZ:

Can I ask a question. Doesn't the County -- the County as part of every acquisition does --

MS. FISCHER:

Yes. We'll do an environmental audit of the parcel.

LEG. SCHNEIDERMAN:

Before taking title.

MS. FISCHER:

Yeah. But we haven't done it to date.

CHAIRPERSON ELKOWITZ:

Right. But that's a condition, precedent to the --

MS. FISCHER:

Correct. Of all our acquisitions.

MR. BROWN:

I'd just like to say something. That's also part of what we're calling a greenbelt trail that we're trying to develop with the County and the Town of Brookhaven from the south shore to the north shore. So, in that area the Town is also looking at parcels that we're picking up rapidly. So, anything the County can do to help that process would be appreciated.

CHAIRPERSON ELKOWITZ:

Any other questions for Lauretta? I'll entertain a motion.

MR. KAUFMAN:

Motion unlisted neg dec.

CHAIRPERSON ELKOWITZ:

Motion. Do I have a second? Second by Legislator Schneiderman. All those in favor? Opposed? Abstentions? Carried.

Item number five. Proposed acquisition of a conservation easement with the Town of Shelter Island for open space preservation purposes known as Westmoreland property, Town of Shelter Island. Lauretta.

MS. FISCHER:

Yes. This a 43.7 acre acquisition on Shelter Island of which --

CHAIRPERSON ELKOWITZ:

Acquisition of a conservation easement.

MS. FISCHER:

Yes. Of which 30 acres will be a conservation easement under the Multifaceted Land Preservation Program Partnership with the Town of Shelter Island. The remaining farmland portion of 13.7 acres is also going to be acquired. The development rights will be acquired under the SOS but it's not part of this. But I just wanted to give you a full view of what we're trying to accomplish here.

This is -- we are only buying the conservation easement of it. And this is going to be acquired hopefully under Multifaceted program for open space.

CHAIRPERSON ELKOWITZ:

Any questions? Dr. Swanson.

DR. SWANSON:

If it already has a conservation easement, what do we gain by buying it?

MS. FISCHER:

We don't have -- that's what we're buying. The conservation easement. There is no easement on it at this time.

DR. SWANSON:

Okay.

CHAIRPERSON ELKOWITZ:

Any other questions?

MR. WAGNER:

I'm going to recuse myself on this one.

CHAIRPERSON ELKOWITZ:

Okay. I'll entertain a motion.

MR. KAUFMAN:

Motion unlisted neg dec.

CHAIRPERSON ELKOWITZ:

I have a motion. Do I have a second? Second by Dr. Potente. All those in favor? Opposed? I have one abstention. Carried.

MS. FISCHER:

Thank you.

CHAIRPERSON ELKOWITZ:

We're going to go to item six. And I am going to recuse myself because Mr. _Mafar_ is a client of mine. Larry, would you mind doing this?

DR. SWANSON:

Okay. This is the proposed acquisition of land for open space preservation purposes known as the Overton Preserve, Jacsi property, Town of Brookhaven.

MS. FISCHER:

This is a 20 acre site located on the eastern portion of a 400 acre area that is known as Overton Preserve that we're in the process of acquiring. This is one of the larger parcels of this area. And we're attempting to acquire this under Multifaceted open space preservation.

DR. SWANSON:

So, again is the same kind of question I had before. This is a preserve already?

MS. FISCHER:

No, it is not. It's just informally called a preserve. And we're trying to acquire the properties within this area at this time, which encompasses in total approximately 400 acres.

DR. SWANSON:

Okay. Thank you. Any other questions? Do I have a motion?

MR. KAUFMAN:

Motion neg dec. Unlisted neg dec.

DR. SWANSON:

Have a second?

DR. POTENTE:

I'll second.

DR. SWANSON:

Second. All in favor?

MR. WAGNER:

I abstain.

DR. SWANSON:

Okay. And Ms. Elkowitz abstains. Opposed? Motion carries.

MS. FISCHER:

Thank you.

CHAIRPERSON ELKOWITZ:

Proposed Vector Control 2006 Plan of Work. I have correspondence actually from the Town of Southold which I'll read into the record dated October 17th, 2005 addressed to Mr. Bagg. "Dear Mr. Bagg, the Board of Trustees has just received the Suffolk County Department of Public Works Division of Vector Control 2006 Annual Plan of Work. The board has not yet reviewed the document, will not be able to comment by Wednesday's CEQ public hearing. The board will be reviewing the document and sending in comments. Very truly yours, Heather Kusak, Environmental Technician."

Good morning.

MS. MITCHEL:

Good morning.

CHAIRPERSON ELKOWITZ:

Good morning.

MS. MITCHEL:

Do you want me to introduce everybody at the table?

CHAIRPERSON ELKOWITZ:

Sure.

MS. MITCHEL:

I'll start on the left. Walt Dawydiak from the Health Department, Dominick Ninivaggi who's a Vector Control Superintendent. I'm Leslie Mitchel, Deputy Commissioner at DPW. Jenny Kohn and Chris Jeffreys from the County Attorney's Office.

Do you want me to give you a quick overview or would you rather just that I open it up to questions?

CHAIRPERSON ELKOWITZ:

Why don't you just give a quick overview; then you'll open it up to CEQ questions and we'll take comments from the public.

MS. MITCHEL:

You got it. Well, we are back again. What you should have already reviewed and have before you is our proposed 2006 Plan of Work, which is an interim conservative bare bones plan which will remain in effect until such time as the long-term plan is approved which we would anticipate sometime in the spring.

CHAIRPERSON ELKOWITZ:

I know that CEQ's position on this last year was to take -- to make no recommendation and to send it to the Legislature. The Legislature, my recollection is, subsequently classified it as a Type I action and issued a negative declaration. So, my question to you would be what are the differences, if any, between the 2005 and the 2006 Plan of Work?

MS. MITCHEL:

Very minimal. What we have done is we have -- we anticipate the use of the Adapgo Wing Man Air Spray System, which will help us to more accurately pinpoint our spray and minimize any potential drift into non-target areas.

We have further reduced the maximum of hand maintenance of existing ditches. It had previously been 400,000 linear feet. This Plan of Work does not allow us to exceed 200,000 linear feet. We continue the policy of no new ditching. The water -- the machine ditching will be limited to just existing structures such as culverts and pipes. And basically everything else remains the same. All of the protective set backs remain in effect. Toxicity class one and two pesticides continue to be eliminated.

CHAIRPERSON ELKOWITZ:

Any questions?

LEG. SCHNEIDERMAN:

That last comment, toxicity class one and two pesticides continue to be eliminated, last year there were some or there were not some?

MS. MITCHEL:

No.

LEG. SCHNEIDERMAN:

There were not.

MS. MITCHEL:

It was eliminated in last year's Plan of Work. And we continue that policy.

CHAIRPERSON ELKOWITZ:

Any other questions by the Council members before I open it up to the public? Yes.

MR. KAUFMAN:

I've been heavily involved with the Technical Advisory Committee in development of the Environmental Impact Statement and the work plan that hopefully will be coming out in the near future.

MS. MITCHEL:

The long term plan.

MR. KAUFMAN:

Yeah. And I do know that there have been some ideas in there that have been heavily discussed with DEC, the Department of State and other department -- and the County also specifically open water marsh management and preservation of marsh health.

I've read through this annual work plan. My basic comment in relation to the annual plan and what I was just talking about is I just hope that the Department when it does go in to do maintenance work inside the ditches does look at the ditch maintenance partially from the perspective of Open Water Marsh Management and trying to preserve marsh health. I know that the document is filled with that kind of commentary in there. But I just want to make sure that you guys are looking at it from that perspective when you're going in to do things. Maybe that's best addressed to Dominick.

MR. NINIVAGGI:

Well, in terms of the machine work that's in the plan this year, basically what that is is to make sure if a culvert fails, pipes clog, things like that that are going to impact marsh health by preventing tidal flow that we have the ability to go in and repair and then fix that.

MR. KAUFMAN:

And try and preserve the marsh.

MR. NINIVAGGI:

And that's the idea. The idea is that, you know, for us to say we're not going to do any machine work could actually be bad for the wetlands because --

MR. KAUFMAN:

I'm not trying to draw that distinction, though.

MR. NINIVAGGI:

-- we're going to be -- could be necessary to maintain the tidal character of the marsh.

MS. MITCHEL:

Just to add one other thing to make it clear that any of the machine water management work is conducted under an individual permit issued by the New York State DEC for each site.

CHAIRPERSON ELKOWITZ:

Dr. Swanson, you had a question.

DR. SWANSON:

Just a follow-up to Mike's. I have a little bit of concern with his suggestion. While I'm sure there are many wonderful ideas in the long term plan, in fact, we have not discussed them, we have not reviewed them and it has not been subject to open -- to public debate. And so I think that there's probably a little bit of concern that we not jump too rapidly into just saying we're going to start doing what's in the long term plan.

CHAIRPERSON ELKOWITZ:

And at the moment it's not before us anyway. What's before us is the 2006 work plan. And I do not want this discussion to go beyond what is before us.

MR. KAUFMAN:

I fully acknowledge what Larry was saying. I was just looking at it from the perspective. That was my exact words.

CHAIRPERSON ELKOWITZ:

Dr. Potente.

DR. POTENTE:

Yes. You mention that each site will be -- a permit will be sought for specifically?

MS. MITCHEL:

Yes. For the machine work?

DR. POTENTE:

Yes.

MS. MITCHEL:

Yes. Any culvert repair, any pipe repair work.

DR. POTENTE:

Now, who are you getting these permits from?

MS. MITCHEL:

The New York State DEC.

DR. POTENTE:

Okay. In the packet that Public Works sent to me, there's a letter here from New York State DEC stating this permit was requested by the County in order to continue its current water management practices. A general permit as opposed to a site specific permit was requested in order to expedite New York State Department of Environmental Conservation Review. And that was by Susan Ackerman, Environmental Analyst. And then there was --

MR. NINIVAGGI:

Yeah, that's right. That was a permit that was issued to us for 2004 and was not renewed in 2005. And the main reason I put that -- those letters in your packet there is because, as you can see, DEC points out that sometimes maintaining some of our structures is necessary to maintain wetlands values. So, it's not just us saying that we need to sometimes maintain these structures. It's the DEC saying that.

MS. MITCHEL:

But the answer to your question is that we do not have a general permit from the DEC and operationally we will require individual permits for this type of work.

DR. POTENTE:

So this was for 2004. So for 2006 each site will get a specific permit.

MS. MITCHEL:

That's correct.

CHAIRPERSON ELKOWITZ:

Steve.

MR. BROWN:

Based on last year's plan, the difference here is that you're going to reduce ditching by 200,000 square feet or 200,000 linear feet I should say?

MS. MITCHEL:

That's the hand maintenance work in the existing systems, yes.

MR. BROWN:

And the other thing is that you have a better spraying system than you did last year?

MS. MITCHEL:

That's correct. For the aduaticide which obviously as you know is our last resort. But this takes the -- the Adapgo Wind System takes into account real time, weather; all of that. And uses a GPS system. Calculates everything and helps us to minimize that potential drift.

MR. BROWN:

And based on last year's performance, did you have to utilize the aduaticide?

MR. NINIVAGGI:

Yeah, we did aduaticiding last year. We didn't have the wingman system operation -- well, we had it operational. And then the season ended before we had a chance to actually use it. But we did aduaticiding in 2005.

CHAIRPERSON ELKOWITZ:

Legislator Schneiderman.

LEG. SCHNEIDERMAN:

Some of your aduaticides, the resmethrin and the sumithrin -- what's the other one you're using --

malathion, they, as far as I understand, are still labeled as toxic in marine types of environments; are they not?

MR. NINIVAGGI:

Well, they are toxic in the same way that the caffeine in your coffee is toxic. The fact that it's toxic is not as important as what are its effects in the real world when used appropriately.

LEG. SCHNEIDERMAN:

And tell me or describe to me the threshold by which you determine their use. When you say okay, we're going to use these chemicals, what has to happen prior to that?

MR. NINIVAGGI:

Well, primarily what we look at is there are two situations. One when we haven't yet detected virus when we'll look at the raw -- the numbers of mosquitos that you see in our traps, we'll look and see whether we're getting complaints at the office that people are being bitten. And we don't have a numerical threshold. But what we look at is are the numbers higher than normal, you know, are you people being impacted than we would do in an adulticide treatment in an area. If there's a large area and it's clear that it's not going to abate on its own, for virus response, we look at the numbers and species of mosquito present. We also look any indicators of virus activity such as virus in birds, virus in mosquitos.

MS. MITCHEL:

And we work with the Health Department.

LEG. SCHNEIDERMAN:

Okay. Now, are task is to determine if there may be any adverse environmental impacts. What you're saying is the concentrations are low enough that it's below a certain threshold. But what I'm also hearing is you can't determine how many times or the accumulative impacts because you don't know how many times these chemicals are going to be used within that marine environment because that's all going to be based on what happens out in the field.

MR. NINIVAGGI:

Yeah, well, of course -- it's good -- it's proper mosquito control to use these materials only when surveillance indicates you need to do it. The issue of repeat applications is not a significant one for these products because these products are extremely rapid break down materials. They don't accumulate in the environment.

LEG. SCHNEIDERMAN:

Okay. It might be in the same water body, but in a different location?

MR. NINIVAGGI:

Well, they don't accumulate because they break down. There are in any given year you usually find one or two areas that tend to crop up and be problems for that season. There are certain areas such as the Mastic/Shirley area that nearly every season requires some level of adulticiding. And it varies tremendously from year to year.

LEG. SCHNEIDERMAN:

Thank you.

MR. WAGNER:

When you say rapid break down, what time period are you talking about? Weeks, months?

MR. NINIVAGGI:

Minutes to hours.

CHAIRPERSON ELKOWITZ:

Rapid. Mike?

MR. KAUFMAN:

Dominick, the aduIticides that you're using, you are making your best efforts to try and keep them off of the green environment as much as possible?

MR. NINIVAGGI:

If we don't have virus activity, we have a set back of 150 feet for fresh water wetlands, 100 feet from open water bodies. In the case of virus response, we can't observe those set backs because it's a public health response and we need to get the full level of ethicacy.

MR. KAUFMAN:

And that's a public health emergency in that situation?

MR. NINIVAGGI:

Yes. But even then techniques that we use are designed to minimize the amount of material that's deposited in the water or on land, which is a key way that you prevent aquatic impacts.

LEG. SCHNEIDERMAN:

In a public health emergency if such a determination were made, it's my understanding that you would be able to apply those chemicals even without -- even if this was a -- this work plan weren't approved, that you'd have that ability to suspend SEQRA to address a public health emergency; is that not correct?

MR. NINIVAGGI:

That's my understanding of the law, that emergency actions are not subject to SEQRA. And in the case that we need to do an emergency application, what we do is we provide the information to DEC on why we think an emergency application is needed. They review that material and our proposed plan and they will either agree or disagree with us that it's an emergency application and they'll send us back a letter to that effect and -- agreeing with us or -- assuming they do. And what that does is it suspends SEQRA requirements. The other thing it does is that it eliminates the need for a fresh water wetlands permit for the aduIticiding.

CHAIRPERSON ELKOWITZ:

Legislation Schneiderman, there's a specific provision in the Type II Actions meaning they're exempt. You don't require-- "emergency actions that are immediately necessary on a limited and temporary basis for the protection of preservation of life, health, property or natural resources provided that such actions are directly related to the emergency and are performed to cause the least change or disturbance practicable under the circumstances to the environment. Any decision to fund, approve or directly undertake other activities after the emergency has expired is fully subject to the review procedures of this part" so that's why --

LEG. SCHNEIDERMAN:

But in essence, what I -- I question some of the chemicals obviously that are harmful to marine environments if they're not being used for emergency purposes. And if they're being used for emergency purposes, they can use them anyway under the SEQRA exemptions.

MR. KAUFMAN:

Yeah, but the plan clearly says, and the past practice has been, to use the least -- to use the chemicals with the least potential chemical impact on there and basically reserve the big guns, if you will, malathion, etcetera for the public health emergencies. I mean that's basically been there --

LEG. SCHNEIDERMAN:

That's not what the plan says.

MR. KAUFMAN:

I would disagree with you on that.

LEG. SCHNEIDERMAN:

It does not say that these chemicals will only be used in the case of public health emergencies.

MR. KAUFMAN:

But the preference is there. That's what I said. The preference is there. They don't try and use the big guns unless they have to.

MS. MITCHEL:

It is clearly a last resort.

LEG. SCHNEIDERMAN:

Right. And how do you define a last resort?

MS. MITCHEL:

When the public's health is at risk and all other methods have been employed and are not suitable or appropriate.

MR. NINIVAGGI:

The program operates in a hierarchical manner. And what we try to do is we try to do the preventative type activities to the maximum amount so that we minimize the amount of control of adult biting mosquitos at the end of the day. Primarily what we'd like to do is to do source reduction such as maintaining these water control structures. We do larval control. The idea is to prevent biting mosquitos. Because once you have biting mosquitos, the only thing you have left to do is to use adulticides. So, the program is primarily oriented towards the preventive aspect.

LEG. SCHNEIDERMAN:

Right. But in reading it, a portion of it talks about, you know, a determination by your department of a serious health threat. But another part of that section deals with the use to just basically treat a pest. You know, if people are complaining a lot about getting bit, you might use the adulticides, too. Yes, it's certainly a nuisance to be -- you know, to have a large mosquito population. But when you make the determination that certain chemicals that could potentially be harmful to that estuary environment or marine environment, marsh land, whatever it might be, get used -- it seems to me that there must be other ways of treating a pest. Mosquito magnets or some kind of non-harmful, non-evasive kind of procedure rather than using, you know, the heavier guns in that case.

MR. NINIVAGGI:

Well, yes, there are. The important thing to do is try to prevent the situation from getting to the point where of the adult mosquitos are biting. And the ways to do that are with proper wetlands management, with larviciding. Unfortunately we can't always do as much of that as we would like or everywhere we would like to do that. When you get to the point of a large area with large numbers of a adulticides -- of adult mosquitos biting people, there is no technology for large areas other than mosquito adulticides that is going to solve the problem. And I think the other thing to keep in mind is that all of our pest mosquitos, the ones that bite people, are also potential vectors of disease. And at the time that the people are being bitten, you don't know whether virus is present or not. Because you might be taking samples and they're going to come back from the lab a week or two later. So, you might say to people, okay, yeah, you're being bitten a lot and I know that, but don't worry, you're not going to get sick. You can't say that. Because those mosquitos that are biting the people may, in fact, be infected. You just don't know it yet.

CHAIRPERSON ELKOWITZ:

Steve.

MR. BROWN:

Actually I respect your concern with the health issues, you know, within the County. Last year when we did this we had talked about doing some different types of methods of mosquito control, purple martin houses, and correcting some structures. And I'm talking road structures where we were having water that was running off into the bays and the harbors, to the areas which you're spraying. Can you identify any of those jobs that you may have done over that past year?

MR. NINIVAGGI:

In the past year we've probably done hand maintenance on -- I haven't seen the final figures yet, but we typically do in the order of -- by this time in the order of a hundred thousand feet of hand clearing of these upland and fresh water ditches. I know we've repaired several culvert pipes. Again, because of the lack of a general permit, that that slows us down in terms of the -- of maintaining the structures. And we have been asked to do the minimal amount of that work. And that, in fact, is what we've done.

MR. BROWN:

Actually what I'm talking about right now is we had talked about identifying areas that were a problem. And I'm not talking about a structure that may be existing today. I'm talking about an area where we have storm water running directly into a bay or a harbor that's creating a problem with mosquitos. And we had talked about that last year before we were doing this maintenance program as well as putting in purple martin houses or some natural way of handling mosquitos. Has the County looked into doing any of that last year?

MR. NINIVAGGI:

Well, purple martins do not eat significant numbers of mosquitos. Neither do bats. That's a commonly held belief that just has no scientific basis. Again, what we try to do is we try to do those things that we know that work.

MR. BROWN:

So, basically we haven't attempted to put anything in terms of a natural type of eradication of these mosquitos?

MR. NINIVAGGI:

The primary means -- we do some stocking of mosquito fish in certain areas where it's suitable to do that. But it's very limited because those can only be put in areas that are not natural water bodies. When you clean out the ditches in an area, you are allowing the natural predators to get in there.

MS. MITCHEL:

Steve --

CHAIRPERSON ELKOWITZ:

At the risk of breaking my own rule, I've had the -- because I sit on the Vector Control Steering Committee, I have read some of the documentation. And as part of the long term plan, they have investigated some of the natural areas. So, I just want to remind everybody that what's before you now is the 2006 Work Plan. We're going to get into later on today the long term plan. And I think you will hear if they're going to give a similar presentation than we got to the Steering Committee, you're going to hear some of the things they've investigated.

MS. MITCHEL:

Right. We have two independent --

CHAIRPERSON ELKOWITZ:

And unfortunately they're very easy to mix together. Because they relate.

MS. MITCHEL:

Right. But some of what you're questioning and requesting has been looked at and Walt will be able to speak to that a little bit later.

CHAIRPERSON ELKOWITZ:

Larry.

DR. SWANSON:

Could you describe how you determine that there's a public health emergency and who does it? Do you do it?

MS. MITCHEL:

The Health Department.

MR. NINIVAGGI:

During the course of the season virus surveillance is done by Vector Control and Health Services. The Arthropod-Borne Disease Lab, or ABDL, once virus is detected, our Health Commissioner sends a request to the State Health Commissioner to declare a public health threat. The State Health Commissioner then would concur and declare a public health threat. At that point that changes the rules and certain reimbursement. And then the next step would be to see whether we need to do any emergency actions under that.

CHAIRPERSON ELKOWITZ:

Mr. Kaufman.

MR. KAUFMAN:

A couple of minutes ago we were talking about a hierarchical approach on the types of pesticides that you were going to be using. And at page 17 of your document, you say that the primary adult control in Suffolk is resmethrin, which I think is a class four. Then it goes to limited usage of Anvil. Then it goes malathion will be limited even more so. And also suspend sc, which is a class two, seems to be limited even more so. In other words, you're trying to do -- your adulticiding program is -- right now set up to be class four's; chemicals with the least impact. And then reserving, again, the big guns as I classified them earlier for certain situations only if you can't --

MR. NINIVAGGI:

Yes, especially the idea that sumithrin and resmethrin are class three pyrethroids. They're a rapid break down materials. And the other thing is that they're applied with this ultra low volume aerosol, which is again a method of targeting the adult flying mosquitos while minimizing any kind of deposition. Malathion has not been necessary for the last few years. We keep that in our tool kit for certain unique situations. Like, we're looking at things like tire piles or other areas where you might want to use a thermal fog where that would work better than the ULV aerosol. Suspend sc is a vegetation treatment or a barrier treatment where you would spray the vegetation to kill resting mosquitos. Again, that's a very special purpose, again, for things like eradicating and infestation of an exotic species.

MR. KAUFMAN:

So, what it boils down to for me aside from the establishing this approach that you're trying to do, you also -- it seems to indicate that, again, the big guns, the class two's, the malathions, etcetera will probably not be applied to wetlands very often if at all.

MR. NINIVAGGI:

No. We don't have a need to apply malathion in our trucks or by aerial application, at least not at this point. Suspend sc, deltamethrine, that's a persistent pyrethroid that you put on vegetation.

So, you would use that in very limited areas where you need a persistent product. But generally we want to avoid persistent products for environmental reasons.

MS. MITCHEL:

But the classification is three?

MR. NINIVAGGI:

Three.

CHAIRPERSON ELKOWITZ:

I have a technical SEQRA question. This is a Type I Action. And has a coordinated review been done? Have coordination letters gone out? Lead agency coordination letters?

MS. MITCHEL:

Yes.

MR. NINIVAGGI:

I've sent out lead agency coordination letters to the New York State Department of Health, New York DEC and our Department of Health Services.

CHAIRPERSON ELKOWITZ:

When did they go out?

MR. NINIVAGGI:

They went out last week.

CHAIRPERSON ELKOWITZ:

So, we are within the time -- the 30 days, right?

MR. NINIVAGGI:

Yeah, we're still within the 30 days.

CHAIRPERSON ELKOWITZ:

The 30 days has not expired yet for the County?

MR. NINIVAGGI:

I have asked them to respond sooner than that, but I can't make --

MS. MITCHEL:

Well, we did hear back -- who did we hear back from?

MR. NINIVAGGI:

I've heard verbally back from our Health Services, but I haven't gotten a letter from them that they basically in our case it's -- within the County --

MS. MITCHEL:

Didn't we get an e-mail from DEC?

MR. NINIVAGGI:

I haven't heard from DEC. The Health Services I've heard verbally from them.

CHAIRPERSON ELKOWITZ:

Well, it doesn't matter. Because if the 30 days hasn't expired or if the other involved agencies haven't consented, nothing is going to happen until after the expiration of the coordination period. You know that.

MR. KAUFMAN:

Realistically this pushes it into November for any votes up or down.

CHAIRPERSON ELKOWITZ:

I would think.

MS. MITCHEL:

Well, does that impact your recommendation? Or just the Legislature's ability to approve the plan?

CHAIRPERSON ELKOWITZ:

Well, I'm going to --

LEG. SCHNEIDERMAN:

We could once again leave it for the Legislature to make the determination.

CHAIRPERSON ELKOWITZ:

Well, that may be what happens because quite honestly the practice --

LEG. SCHNEIDERMAN:

We're back in December --

CHAIRPERSON ELKOWITZ:

Right. While you may be technically correct, I would not be comfortable not getting comments from involved agencies, you know, before that. Has anybody had any commentary, any interaction with the Town of Southold?

MR. NINIVAGGI:

I talked to Heather Kusak yesterday. I guess her question was, you know, apparently the package went to the Town of Southold and it didn't go independently to the Trustees. So, it took a little while to get from the Town to the Trustees. And all I could do was apologize for that, but that's kind of out of my control.

CHAIRPERSON ELKOWITZ:

Okay. Dr. Potente first. Then --

DR. POTENTE:

I'm fine.

CHAIRPERSON ELKOWITZ:

You're okay? Legislator Schneiderman.

LEG. SCHNEIDERMAN:

When we did this last year for the 2005 plan, it was in the context of you doing the larger EIS on the full program. But there was some litigation involved, I think, Southampton Town or the Trustees as well as Peconic Baykeeper. Where do we stand? I don't know if you can answer this. With that?

MR. NINIVAGGI:

Why we bring lawyers.

MS. MITCHEL:

I'm going to let the County Attorney's Office --

LEG. SCHNEIDERMAN:

Can we even approve a plan when -- what have the courts told us at this point?

MR. JEFFREYS:

Legislator Schneiderman, as you know, I'm one of the principal attorneys at the County Attorney's Office that is involved with all of the litigation involving vector control. We have some updates on the litigation that has gone on since last year. I'll bring this panel up to date on that litigation. There have been challenges to the 2002 through 2005 vector control plans. The 2002 plan went to the appellate division. And a decision was rendered on April 4th, 2005 finding the Peconic Baykeeper's challenge to the plan as being moot. His petition was dismissed with cost to the County.

The 2003 plan also went to the appellate division. Was decided simultaneously with the 2002 plan. The appellate division again dismissed the Peconic Baykeeper's petition as moot; awarded costs to the County. And significantly in that decision the court was specifically presented with whether the 2005 plan was sufficiently different from 2002 and 2003. In order to avoid a mootness type argument, the appellate division decided that the 2005 plan is sufficiently different from 2002 and 2003. So, they said that was a new plan to be considered new and fresh.

On the 2004 plan Judge Baisley issued a two-page memorandum decision because he had issued a decision on 2003. And there were certain procedural issues on the 2003 plan with the manner in which the challenge was raised by the Peconic Baykeeper. Judge Baisley determined that before the appellate division rendered its decision invalidating the Baykeeper's challenge, he felt compelled to file his own decision. And he said I don't know what the appellate division was going to do with the 2003 plan, but I'm sticking to my guns.

The County did file an appeal from the 2004 when he invalidated the plan. Our brief was submitted months ago. The Baykeeper's brief was submitted months ago. I can't predict nor would I predict anything that the appellate division is going to do. But since the same argument was presented in 2003 and the 2003 plan was extended into 2004, I'm fairly confident as I sit here on behalf of the County Attorney that we should not have a problem getting that challenge invalidated also.

The 2005 plan has been subject to two different decisions. Again, from Judge Baisley. The first decision concerned the Baykeeper's attempt for a temporary restraining order preventing the County from implementing the 2005 Vector Control Plan. In a decision rendered by Judge Baisley, which I believe I've supplied to everybody at CEQ, his initial decision is dated May 2nd, 2005. In that decision Judge Baisley made the initial determination that there will be no likelihood of success for the Peconic Baykeeper on the challenge to the vector control plan for 2005.

Significantly, however, in a memorandum decision that was issued August 9, 2005 which is still subject to several pending judgements, Judge Baisley invalidated the 2005 plan even though he had previously indicated that there are no likelihood of success on the merits. We are waiting for a judgement to come down on that so the County can file its appeal.

It should be noted that the County does have pending in front of the appellate division an appeal on the denial of its request for sanctions against the Peconic Baykeeper and their Council. The County requested \$10,000 of sanctions individually against the Peconic Baykeeper, all of the petitioners and their Council in 2005 for filing a frivolous proceeding as defined under the New York regulations. The County will be perfecting that appeal once a final judgement comes down.

LEG. SCHNEIDERMAN:

Can I ask on that, in the invalidation of the 2005 plan --

MR. JEFFREYS:

Yes.

LEG. SCHNEIDERMAN:

-- does that mean that right now the Health Department is operating without a plan or cannot execute the plan?

MR. JEFFREYS:

Well, there are two issues there. There's no final judgement that's been executed by Judge Baisley. There was a judgement proposed by the Peconic Baykeeper's Council. There was a judgement proposed by the County Attorney's Office. Neither has been executed as we're sitting here today. But right now we're still operating under a public health threat that was declared by the New York State Health Department on August 2nd, which requires the County to respond to all vector control activities in accordance with the New York State West Nile Virus Response Plan. And that's how we're responding to issues now. Since there's a public health threat declaration, we have to operate --

LEG. SCHNEIDERMAN:

Through the emergency provisions suspending SEQRA basically.

MR. JEFFREYS:

Correct. But it also changes the manner in which we respond; that we respond under the New York State West Nile Virus Response Plan, a direction of the State.

LEG. SCHNEIDERMAN:

Okay.

MR. JEFFREYS:

There are two other pieces of litigation that the panel should know about. On the Southampton litigation, I believe that has been terminated and discontinued by mutual agreement between the parties. There is one other piece of litigation. The Peconic Baykeeper's commenced a lawsuit in federal court against the County claiming that its Vector Control Plan violates the Clean Water Act. That is subject presently to the County's request for a motion for summary judgement because in the County Attorney's opinion, the Clean Water Act is not implicated by vector control activities. That is the position taken by New York State DEC and the EPA. The Peconic Baykeeper's differs with that. And they have submitted opposition to our request for dismissal in that case.

LEG. SCHNEIDERMAN:

Can I ask what the -- the dismissal as you described it with the Southampton lawsuit, was there an agreement between the County and the Town of Southampton in term of changes to its practices in terms of vector control. And if so, are they only specific to the Town of Southampton and are they reflected in your work plan?

MR. JEFFREYS:

For that particular piece of litigation, that was mutually discontinued. I don't know what the final negotiated settlement, if there was a negotiated settlement, was with the Town of Southampton. As long as that matter is not confidential, I can have it forwarded to this panel. I don't know any specifics that were arranged between Southampton and the County in the resolution of that lawsuit.

LEG. SCHNEIDERMAN:

Okay. Thank you.

CHAIRPERSON ELKOWITZ:

I'm going to open it up to the floor if anybody would like to address --

LEG. SCHNEIDERMAN:

Leslie had something to say.

MS. MITCHEL:

Well, I just wanted to let you know that with respect to that, it was really just an agreement to better coordinate and communicate. That was pretty much it. And everybody seems to be happy right now.

LEG. SCHNEIDERMAN:

Wasn't there some agreements to eliminate some of the ditching; the mechanical ditching, some other aspects of the --

MR. NINIVAGGI:

There wasn't an agreement between the Town and the County to -- for any particular activity that we would not do. Basically the two parties agreed that we should work together. The two parties agreed that mosquitos are a problem that needs to be addressed. And that we would work together on this issue.

CHAIRPERSON ELKOWITZ:

Is there anybody that would like to address the Council on this matter?

MR. WAGNER:

I just have a question for a moment.

CHAIRPERSON ELKOWITZ:

Sure.

MR. WAGNER:

With respect to the August decision of Justice Baisley that invalidated the 2005, can you summarize briefly what the grounds for that invalidation were according to the court?

MR. JEFFREYS:

Sure. The decision itself the court did exactly what Ms. Elkowitz said really shouldn't be done. They did not view the individual 2005 plan as a self-sustaining plan, a plan that begins January 1st and ends December 31st of its enactment year. The court went back and they asked the parties after the submission of all papers to submit additional documentation including the long-term plan which was intentionally not before this panel, intentionally not before the Legislature because the long-term plan, as we know, is still speculative until such time as it's finally approved. So, it has been our position that the long-term plan is not necessarily a part of what's going on although we know that everyone's working towards the long-term plan.

So, for the first six pages of Judge Baisley's decision, he reiterates some history. He notes that this body discharged without recommendation last year for the Legislature to make its final determination as the lead agency. There were some discussion concerning segmentation and the court's concern that this could constitute segmentation. There was no final determination on that although it is noted in dicta as Judge Baisley as in each and every year that he's rendered a decision on this that this could be segmentation in the appropriate scenario.

The court framed the issue as following. On page 12 of his decision, "none the less the issue here is not whether the activities proposed by the division for 2005 actually prevent the spread of mosquito borne disease like West Nile or other such activities will harm the environment. The issue is whether the Suffolk County Legislature satisfied the substantive obligation under SEQRA before issuing a negative declaration for a Type I Action." That was the issue framed by the court.

Now, on appeal, we will argue that that's not the appropriate issue because needless to say environmental and health issues are part of SEQRA. They are two of the considerations in making a SEQRA determination. So, when the judge said I'm not considering it because they're not a part, it's our belief that is just simply incorrect.

The Judge does note that there is no permit requirement for the ordinary maintenance and repair not involved in the expansion or substantive restoration, reconstruction or modification of the mosquito control ditches. He accepts many of the arguments. The base of what his objection was is that the Suffolk County Legislature failed to consider the potential long-term or cumulative impacts of these related mosquito control activities as foreseen in its long-term plan. That's the court's major problem; that the Legislature in enacting an annual plan didn't consider a long-term plan that was not yet approved and was not yet before the Legislature. I would respectfully submit that Judge Baisley is wrong.

Legislator Schneiderman will remember on Hanukkah on the day that we presented it, Legislator Vioria-Fisher actually spent quite a bit of time asking about what happens with the long term plan, what's going on with the long-term plan. But I believe all of the members of the Legislature acknowledged that the long-term plan was not before them and they did not want to rule on the speculative issue just like this panel doesn't want to rule on a speculative issue until there's public comment on the long-term plan.

CHAIRPERSON ELKOWITZ:

And I also don't think that we can forget the history of this. I mean the County decided -- my recollection, the County embarked on this long-term plan to get rid of this process, this on-going process. Now, I think that all of us who have been involved in this painstaking exercise with litigation will be really happy when we wrap up the long-term plan, we go through the series of litigation which, of course, I believe, will occur and we move on with our lives. But until then we're stuck with what we have like it or not. We don't have too many other choices.

MR. JEFFREYS:

Correct.

CHAIRPERSON ELKOWITZ:

With that I'm going to open it up to public comment should there be any. Mr. McAllister, yes. Just one second, we're going to change paper, but you can come forward.

MR. McALLISTER:

Good morning, Kevin McAllister.

CHAIRPERSON ELKOWITZ:

Just one second. We're changing paper.

MR. McALLISTER:

I'm sorry.

CHAIRPERSON ELKOWITZ:

You've also -- I just note because Mr. Bagg gave me a copy -- you've also delivered a letter dated October 19th to Mr. Bagg which we'll make part of the record. But feel free to make your comments.

MR. McALLISTER:

Kevin, McAllister, Peconic Baykeeper. I'm President and Baykeeper for Peconic Bay. I guess your head may be spinning from the chronology on litigation. Kind of an Abbott and Costello skit, if you will, who's on first. But I also look forward to the day we can move forward and move on from that.

I will be speaking to the 2006 work plan specifically.

CHAIRPERSON ELKOWITZ:

Thank you.

MR. McALLISTER:

I want to talk regards to methoprene. Okay. That's one of the larvicides that's routinely applied by helicopter over salt marshes. Obviously this is intended to get into the water. It affects the larvae stages of -- is this on? I want everyone to hear me.

Again, the application is normally by helicopter over salt marshes. The intent is to get this product into the water. It affects the larval stages of mosquitos. I want to provide to the Council a material safety data sheet by one of the manufacturers. This is an Australian manufacturer. It is the same formula. I've checked it with respect to some manufacturers within the states. Harmful, dangerous for the environment. Toxic to aquatic organisms may cause long-term adverse effects in the aquatic environment. Again, this is directly from the manufacturer on the product itself.

I shared with the Council last year and provided you several studies on this product. One University of Minnesota. That was a paper that was looking at multi-year applications in wetlands. And again the findings of that study spoke to highly significant reduction in several insect groups. So, again it has the potential cause long term impacts obviously as described within the safety data sheet and supported by the study.

Further, if you recall I also provided this Council with some work that's being done by Dr. Michael Horst, Mercy University in Georgia. He was one of the principal investigators looking at the Long Island Sound lobster die-off. Some of his work is pretty compelling. Looking again at lobsters and blue crabs. And I want to provide to you -- cite some information. And, again, looking at both lobster, crustaceans, they go through larval stages. And here's some of the -- based on three papers that he is has published some of his findings. 30% mortalities of stage two larvae at one part per billion. 86% mortality at ten parts per billion. Increased molting at 5 parts per billion. Bioaccumulation in adults. And again this goes on and on. The general application rates, I believe, are ten parts per billion for methoprene.

CHAIRPERSON ELKOWITZ:

Can I ask you a question? I'm going to break my rule again. Have you submitted this information to the County for consideration as part of the long-term plan in the EIS?

MR. McALLISTER:

That was pointed out to the County in a technical advisory meeting.

CHAIRPERSON ELKOWITZ:

I just want to make sure that --

MR. McALLISTER:

Yes.

CHAIRPERSON ELKOWITZ:

-- it's incorporated and it's addressed because I believe that we should be incorporating it and addressing it.

MR. McALLISTER:

This would be the two papers. There are sixteen other published papers that speak to the impacts.

CHAIRPERSON ELKOWITZ:

I just want to make sure they're being considered in the long-term plan.

LEG. SCHNEIDERMAN:

Kevin, can I interrupt?

MR. McALLISTER:

Sure.

LEG. SCHNEIDERMAN:

Methoprene, I'm trying to find it in the work plan.

MR. KAUFMAN:

Larvicide.

MR. McALLISTER:

It's a larvicide.

LEG. SCHNEIDERMAN:

It's a larvicide. I'm looking at controlled mosquito larvae. Does it go by another name?

MR. McALLISTER:

Alticide is its trade name. Again, certainly looking at the literature, the good work of Dr. Horst, you know, there's certainly no question in my mind that there is some serious concerns with the use of methoprene. And I want to point out both New York City as well as Westchester in recognition of these impacts in the aquatic environment restricts its use to storm drains. Again with recognition that if it enters estuarian environment there could be problems.

Moving on to the adulticides, and I know Mr. Schneiderman you had asked about breakdown times. And there is a little, I guess, difference of opinion relative to what publications we're looking at. And I know Mr. Ninivaggi as well myself rely on _extocnet_ . That's a collaboration of a number of universities. I believe what he has submitted in the package references Cornell. We have looked at Oregon State publications. I will say I believe the Cornell work is dated relative to Oregon State.

But to give you an example of the disparity, we talked about breakdown times. I know Mr. Ninivaggi has often represented in a matter of minutes. In the Oregon State publication they look at break down half life in water for scourge as 28 days. And obviously what will have an impact on that is sunlight. That would be -- trigger more rapid degradation. So, there is some disparity again in the representations. And, you know, I think that requires some close examination.

LEG. SCHNEIDERMAN:

Kevin, can I ask, would you know when it breaks down, does it volatilize or does it break down into other components that are toxic or not toxic? What happens to it?

MR. McALLISTER:

That I don't know. I don't know what the derivatives would be. But certainly -- and again if you look at pyrethroids and the publications on that product, that would be scourge and resmethrin, it does have the potential to bio-accumulate. It is classified as very highly toxic to fish and invertebrates. So, I mean, it certainly has the lethal as well as sub-lethal effects. And --

LEG. SCHNEIDERMAN:

Kevin, I have a question.

CHAIRPERSON ELKOWITZ:

Wait a minute.

LEG. SCHNEIDERMAN:

I'll wait until the presentation is over.

CHAIRPERSON ELKOWITZ:

Exactly. Let's let him finish.

LEG. SCHNEIDERMAN:

Okay. We'll hold off.

CHAIRPERSON ELKOWITZ:

We'll hold all questions until the end. Go ahead. Keep going, Kev.

MR. McALLISTER:

Okay. Again, speaking to the adulticides, and this was a point of discussion as well, we really feel strongly that under no circumstances should this product enter waters. Again, the representations made by the label from the manufacturers, certainly a great deal of body of work looking at the pyrethroids in the aquatic environment, you know, that's unquestionable. I do, again, feel even under emergency circumstances we have to restrict the use of all these adulticides. They cannot enter our receiving waters, our surface waters. And unfortunately again the 2006 plan does not provide that assurance. And as certainly Mr. Ninivaggi, I guess, resonated that fact in his discussion. Okay. Thank you.

CHAIRPERSON ELKOWITZ:

Okay. Dr. Potente, did you have a question?

DR. POTENTE:

Yeah, just one quick one. You mentioned a breakdown period of 28 days.

MR. McALLISTER:

That's represented by _extocnet_ in --

DR. POTENTE:

For which compound is this?

MR. McALLISTER:

That was scourge, resmethrin.

DR. POTENTE:

Now, that breakdown, that's usually given in half life.

MR. McALLISTER:

That was a half life of 28 days.

DR. POTENTE:

Half of it is broken down in 28 days, but there's still a half left.

MR. McALLISTER:

Correct.

DR. POTENTE:

Thank you.

CHAIRPERSON ELKOWITZ:

Mr. Kaufman.

MR. KAUFMAN:

Kevin, what alternatives do you offer to larviciding? I mean essentially it looks as if --

CHAIRPERSON ELKOWITZ:

Mr. Kaufman, why is that relevant to the 2006 work plan?

MR. KAUFMAN:

He's brought it up as part of the public comment. But I'll withdraw the comment. Okay.

CHAIRPERSON ELKOWITZ:

Go ahead, Kevin, answer it.

MR. KAUFMAN:

Let me answer that because I represented this last year when we were again before the Council trying to find some common ground what's acceptable. And certainly BTI, a biological product that's within the suite of pesticides, if you will, you know, the research I've seen appears to be a benign product. So, we don't take issue with the use of BTI. It is a larvicide. Again, I resonate and emphasize the recognition from New York City as well as Westchester. You know, this is not a product that should be in use and certainly the impacts in the aquatic environment.

MR. KAUFMAN:

So, your objection is to just one chemical? That's all you're -- you're just objecting in the larvicide area to one particular chemical.

MR. McALLISTER:

Yes.

MR. KAUFMAN:

Okay. Thank you.

LEG. SCHNEIDERMAN:

Are you objecting to the _vectorlex_? It's another biological.

MR. McALLISTER:

Yes.

LEG. SCHNEIDERMAN:

Okay.

CHAIRPERSON ELKOWITZ:

I also want to correct something that I said. We do have a letter from the Peconic Baykeeper but it was signed by Mr. Atkinson, not Mr. McAllister. So, I apologize for the error. And we're entering it into the record. Is there anyone else that would like to address the Council?

MR. McALLISTER:

Thank you for your consideration.

CHAIRPERSON ELKOWITZ:

Thank you, Mr. McAllister. Mr. Atkinson.

MR. ATKINSON;

Yes, good morning. I did submit the letter, but since -- you obviously couldn't have had a chance to read it. I would like to speak to essentially what's covered in it with the caveat that I have not

really had a lot of time to look at this program and to really distinguish between the '05 and '06 plan. And I will probably supplement my statements later.

This has been characterized as different from the 2005 plan in the adapgo system and also that there would be no mechanized ditching. I would be very pleased about that ditching issue, but it doesn't seem to be consistent with what was submitted to the Council. And I urge you to look at it carefully. It says, just on the cover memorandum for example, machine work will be limited to repair or replacement of culverts, pipes and other structures needed to maintain water flow for mosquito control and to maintain wetland values. Other structures are otherwise defined in this as including ditches. And so although the maintenance figure has been reduced by say 200,000 linear feet, there's actually no limitation within this plan of work on mechanized ditching. And we would be very happy to see one.

The adapgo system is a great system. And I really, you know, commend Vector Control for their technical improvements. And this can be used more carefully. Indeed it can be used to keep it out of the wetlands and out of surface marine waters which hither to has not really been the practice of vector control, hasn't been required by DEC. Whether that's a good thing or not is a matter of some discussion as indeed are all of these aspects. In fact, all of these questions have been raised at numerous hearings. And this is really the reason why an EIS is being prepared is because we all know that there's a potential for significant adverse impacts from this program.

The advantage of the EIS, and I just want to underscore this although I realize it's slightly off the topic, is that what happens is there become a full, hopefully unbiased and fair scientific basis for the policy makers of Suffolk County to decide on what's best public policy. Right now we have a program that's driven by an agency that's charged with doing its job, that believes in its job. But you are relying on them to tell you whether there are any adverse impacts or not. It's already been determined that there may be adverse impacts. And that full record should be developed.

Just on the legal issues, I just -- obviously Mr. Jeffreys is, you know, arguing in favor of the approval of this particular plan of work. I'd like to point out that in the judicial decision annulling the 2004 plan of work, at the time that decision was made in October of 2004 there was no 2005 plan of work to consider. It wasn't a question of mootness. It was a determination of a Plan of Work during this calendar year that that Plan of Work was in effect.

Secondly, the 2005 Plan of Work, which was also annulled by the court specifically says that it should -- it warrants a pos dec on its own. It specifically says that there has been no analysis of long-term impacts from this program; nor is there an analysis of longer term impacts within this EAF or Plan of Work. It's treated again as a separate, you know, little plan. It also found illegal segmentation. If you do not have that decision, I'd like to provide it.

CHAIRPERSON ELKOWITZ:

You can provide it.

MR. ATKINSON;

You can read it for yourself and come to your own conclusions.

In terms of coordinated review, you'll notice in the EAF that the Army Corps of Engineers is listed as an involved agency. They should be provided a copy. This wasn't mentioned by Mr. Ninivaggi. That may have been an oversight, but certainly it should go to him. It also runs to the question of the Clean Water Act case which is why would the Army Corps be an involved agency unless it had some authority. And, of course, it does. It has authority under section 404 of the Clean Water Act.

I just want to address these narrative restrictions on the machine ditching even though there are no numeric ones. These are of the general and vague kinds which are again being analyzed in the EIS. That is to say when is it valuable to do machine ditching for wetland values, you know,

restoration, rotting vegetation. These are all wetlands restoration measures that were being considered under the Environmental Impact Statement. And the mere assertion that they need to be done at this point is premature. And I'll leave it at that unless you have any other questions. Thank you.

CHAIRPERSON ELKOWITZ:

Thank you. Anyone else wish to address the Council?

LEG. SCHNEIDERMAN:

I just ask that decision, the judge's decision be copied so that we all see it.

CHAIRPERSON ELKOWITZ:

Yes. And also there was a reference that other decisions were provided to us. They were provided to CEQ a couple of days ago. The individual members haven't gotten them yet, but they'll all be distributed from what I understand.

LEG. SCHNEIDERMAN:

And that's being appealed right now, that decision? By the County?

MR. ATKINSON;

As Mr. Jeffreys correctly points out, it has not yet been rendered into a judgement, which is the appealable paper. But the decision has been issued, which does indeed annul the 2005 plan.

LEG. SCHNEIDERMAN:

And it specifically -- I haven't seen it yet. It specifically says that the 2005 work plan should have received a positive declaration on the SEQRA?

MR. ATKINSON;

That's correct. What it's saying is it was the accumulative impacts of a multi-year plan; that it has to have the benefit of an Environmental Impact Statement.

LEG. SCHNEIDERMAN:

Mr. Jeffreys wanted to comment on that.

MR. JEFFREYS:

Legislator Schneiderman, I'll leave the ultimate determination what the decision says to this panel. But the conclusion of the court and the sole decision that was before the court was whether the Legislature acted arbitrarily or capriciously in its determination that this was a Type I Action with a neg dec. And the court concluded that it did. There was -- anything other than that, you know, I'll leave for this panel to decide. But after the determination of this panel last year, the Health Committee and the Environmental Committee and the Legislative hearings and the hours that we spent doing it, I'll leave it for this panel to decide and the appellate court to decide whether all of those actions combined was something that could rise to the level of arbitrary or capricious or whether it was a reasonable determination.

MR. ATKINSON;

If I may make one final comment. I realize that this isn't a court of law; nonetheless you are charged with applying the regulations as you see them to this set of facts that are before you. The argument that Mr. Jeffreys is making, he's trying to get out the reasoning of the court. And the argument that this is not segmentation is basically because there's no long-term plan. The court rejected that for the very good reason that if you pos dec any action and require an EIS then say the action doesn't exist, there's is nothing to prevent you from moving forward with it. Thus there could be no segmentation and it's being written out of the regulations and I would say unlawfully.

CHAIRPERSON ELKOWITZ:

Thank you. Are there any other CEQ comment or concerns? Dr. Potente.

DR. POTENTE:

Just one quick one. Dominick, in terms of the spraying that you do inland and in the marshlands, can you give a ballpark figure on how much is devoted to spraying in the marsh land as opposed to the fresh water?

MR. NINIVAGGI:

Most of our larviciding is in salt marshes because that's the application that we do by air. It's by far the largest acreage. About 90% plus of our larviciding is in salt marshes. For adulticiding that's an inland because of our various set backs. So most of that is inland except for our West Nile Virus Response, in which case we'll be treating the residential areas. And if there are wetlands adjacent to it, it will be treating the adjacent wetland.

DR. POTENTE:

Okay. And when you get a medical emergency for whatever criteria which we still are unsure of what that criteria is -- but what perimeter do you spray or do you treat when you get a medical emergency? Is it the entire County?

MR. NINIVAGGI:

It's a case by case decision based on what our virus findings are, where for instance we found positive mosquitos, where we might have found positive birds, the geography of the area, the presence of wetlands, the presence of mosquitos areas. And that basically -- that's how the division of Vector Control in consultation with the Health Department decides to spray boundaries. And depending upon the situation, it could either be rather small or it could be extensive.

DR. POTENTE:

So, it varies from situation to situation. Okay.

MR. NINIVAGGI:

Yeah. It varies according to what the surveillance is telling us.

CHAIRPERSON ELKOWITZ:

Any other questions?

LEG. SCHNEIDERMAN:

Again, on the larval stage of your program, in reading or trying to figure out when you make your decision to go in and do the larvicide spraying and listening to some of this and reading it as well, is there a public health determination? It talks about -- larval control is most often employed when water management has not been able to completely prevent mosquito breeding. Because it just seems to me, you know, mosquitos, I don't know, maybe there's some ecological benefit of mosquitos. Maybe Walter is best suited to answer this question. But if we're going to just completely eradicate a species of insect, is there nothing that feeds off of it? Is there no benefit to the food chain in some way that -- is there some kind of ecological determination that this is not beneficial in any way having mosquitos in areas?

MR. NINIVAGGI:

Well, I think that's a question for the long term plan. But just to go back to why we larvicide a particular area, most of our larviciding is in areas where we historically have identified a problem. Over the years, we've historically identified an area that breeds significant numbers of mosquitos; that if they were to emerge would be a significant problem for the people in the area. And what we do is we go out and do surveillance. We go out and look and see, well, yeah, this is a problem area. Is it breeding this week? And if so, and it looks like the area's not going to

dry out or other things that would wash the mosquitos away, then, we will treat it.

LEG. SCHNEIDERMAN:

So, it's a concentration?

MR. NINIVAGGI:

It's --

LEG. SCHNEIDERMAN:

It's an expected large number.

MR. NINIVAGGI:

It's generally not -- it's generally done on a presence and absence basis because of historical nature of the sites that we're looking at. But we do our larvicide treatments according to surveillance based on whether there's a need or not.

LEG. SCHNEIDERMAN:

And do they knock down the population or do they eliminate the population?

MR. NINIVAGGI:

Larviciding is highly effective. It never completely eliminates the mosquitos. Nothing we do is ever going to completely eliminate the mosquitos. That probably is not desirable; certainly from a job security stand point. But also from the point of view of an ecological -- everybody I think -- this program was originally called the Suffolk County Mosquito Extermination Commission. And then it was realized that that really wasn't a good name because we're not exterminating mosquitos. All we're doing is controlling them. And what this project is designed to do is to keep mosquitos to manageable numbers in the areas where they cause a problem.

There are many places where we pretty much ignore the mosquitos because there aren't a lot of people around; there's not a reason to control them. What we try to do is concentrate our efforts on where there are a lot of mosquitos and where they're going to cause problems for a lot of people.

LEG. SCHNEIDERMAN:

Okay. And just once again because some of these chemicals, you know, there's some arguments about what the environmental impacts of the chemicals themselves are. But, you know, maybe Walter could address -- and maybe -- I guess you're doing this as you say in the long term plan, but I think the ecological -- because sometimes we find out later on that, you know, our shellfish populations are down because of some reason or our fish populations are down because we've impacted one element of that food web or food chain that influences and affects so many other things. Walter, do you have any comments on that? Is this something that you guys have studied?

MR. DAWYDIK:

Yeah, it was certainly part of the literature review and the monitoring program for the long term plan. Dave Tonjes, from Cash and Associates, is our PhD consultant here who's been managing all of our sub-consultants who can speak to this in greater detail. I think the short answer is that there's nothing in the literature which has found that targeted mosquito control de-stabilizes an eco system. That's the short answer. And I'll leave the expounding for Dave who will do that in much greater length, I'm sure.

LEG. SCHNEIDERMAN:

Okay. It doesn't have to happen today. If you're doing it, you know, if it's an ongoing study, I would at some point like to see that. I think it's an important question to have addressed before we move forward in any permanent fashion.

MR. NINIVAGGI:

I think the other thing to keep in mind, it's not just Vector Control sitting here saying that these materials are appropriate for their use. These products are registered by the USCPA. And I've even included facts sheet from the EPA that say that when these materials are used properly, there should be no significant adverse impacts on the environment.

They are also registered by the New York DEC who looks at us very closely. There's regular inspections for our larvicides such as methoprene. We actually have to get a permit from the DEC that specifies where we can and can't use different products. So, again, that has to be approved by them even above and beyond the registration of the pesticide. Just because methoprene is registered in New York doesn't mean we get to use it. We have to go to DEC Region One and they make a decision. So, there are a lot of overlapping levels of control here. We don't just come to these things on our own. There's a lot going on behind the scenes.

LEG. SCHNEIDERMAN:

Thank you.

CHAIRPERSON ELKOWITZ:

Anything further? I think we have two options here. The coordination period isn't over. So, we could table it 'til next month to make a recommendation to the Legislature because at least my recollection, and Jim can correct me if I'm wrong, is that we don't normally make a recommendation if the coordination period is not over and we haven't heard from, you know, received whatever comments we need to receive. The other option is that we can send it to the Legislature and advise them that we took no action; and that the coordination period was not before us. And if we wanted to make some commentary regarding impacts, we could feel free to do so. So, I'm going to open it up to the Council's pleasure. Mike?

MR. KAUFMAN:

Is there any impact if we do wait until the end of the comment period and do a vote at our next CEQ meeting?

CHAIRPERSON ELKOWITZ:

I don't know. Is there an impact?

MS. MITCHEL:

When's the next CEQ meeting?

CHAIRPERSON ELKOWITZ:

The third Wednesday in November which I think is the 16th?

LEG. SCHNEIDERMAN:

17th, I think.

CHAIRPERSON ELKOWITZ:

When is it? 16th.

MS. MITCHEL:

So, then it would go before the Legislature with the recommendation the beginning of December. There are two meetings in December? That first has to go to committee -- to legislative committee.

CHAIRPERSON ELKOWITZ:

So, your answer is it would be a problem?

MS. MITCHEL:

I believe it becomes very tight.

CHAIRPERSON ELKOWITZ:

I mean, I don't have a personal preference, which is why I'm asking the members of the Council.

MS. MITCHEL:

The Legislature would not be in a position to be acting on this prior to the conclusion of the comment period, which I know doesn't address your concerns.

CHAIRPERSON ELKOWITZ:

No. The conclusion of the coordination period. The lead agency -- the County -- and it should be the County Legislature, I would assume, cannot technically be lead agency until the coordination period is properly completed.

LEG. SCHNEIDERMAN:

Can I ask if the County does not approve in a timely fashion the 2006 Work Plan, does the 2005 Work Plan continue to be the document that's in place; and then we have a complication since that's been suspended?

MS. MITCHEL:

No. No. What happens, and this has happened unfortunately in the past, come January 1, if there is no approved Plan of Work in place, vector control activities cease.

LEG. SCHNEIDERMAN:

But you have no plan in place right now because it's been suspended so you're working under New York State --

MS. MITCHEL:

Well, we're still operating under the New York State West Nile Virus Response Plan.

LEG. SCHNEIDERMAN:

Right. So, that's what will continue to happen then? As of 2006?

MS. MITCHEL:

No. That expires also on December 31st. So, right now in the absence of an approved '06 Plan of Work, we have no vector control activities come January 1.

LEG. SCHNEIDERMAN:

Are there vector control activities typically in January? Or is it too cold?

MS. MITCHEL:

Water management activities.

LEG. SCHNEIDERMAN:

Water management activities. But there would be no spraying of any pesticide during that period; right? The mosquitos aren't active.

MS. MITCHEL:

No. But we do have our water management activities.

LEG. SCHNEIDERMAN:

Would they be prohibited?

MS. MITCHEL:

Yes.

CHAIRPERSON ELKOWITZ:

Jim, you had a question?

MR. BAGG:

Yeah, I have a question. When's the Legislature meeting? I know in November -- I believe the EPA Committee doesn't meet until after CEQ meets the next time; is that correct, Charles?

MR. BENDER:

I don't believe so.

MR. BAGG:

So, in essence if it gets tabled now, CEQ could still review it and have comments received -- sent immediately to the EPA Committee for their review in November.

CHAIRPERSON ELKOWITZ:

Well, then let's get to the heart of the matter because I do not want to hold this over until November, have somebody offer a resolution that says let's kick it to the Legislature with no recommendation. So, if that's going to happen, my feeling is do it today. Because I don't want to go through the exercise again in November. So, with that said I'm going to poll the members.

LEG. SCHNEIDERMAN:

Do what today? I'm sorry.

MR. KAUFMAN:

Take a vote.

LEG. SCHNEIDERMAN:

We can't take a vote because it hasn't been --

CHAIRPERSON ELKOWITZ:

No.

LEG. SCHNEIDERMAN:

It's been routed but we haven't closed the response window.

CHAIRPERSON ELKOWITZ:

Right. If we're going to -- if this Council's disposition is to kick it to the Legislature next time or not kick it to the Legislature today and just dispose of it --

LEG. SCHNEIDERMAN:

Okay.

CHAIRPERSON ELKOWITZ:

Because I can't see waiting another month, having it on the agenda another month to do what some people may be wanting to do sitting here now. So, if some people are wanting -- you know what? I'm going to ask somebody to make a motion to send it to the Legislature without recommendation because the coordination period -- even if it fails, I just want to take a vote. And then we'll see what everybody's disposition is.

MR. MALLAMO:

I'll make the motion.

CHAIRPERSON ELKOWITZ:

I have a motion to send it to the Legislature without recommendation because the lead agency coordination period is not over. Will somebody second it?

MR. WAGNER:

I'll second it.

CHAIRPERSON ELKOWITZ:

I have a second.

LEG. SCHNEIDERMAN:

On the motion.

CHAIRPERSON ELKOWITZ:

Go ahead.

LEG. SCHNEIDERMAN:

I think it makes sense to send it to the Legislature anyway because it is subject to litigation and because there are complexities here that, I think, the Legislature ought to hear a full presentation on this matter; not just a simple recommendation of CEQ in light of the litigation. So, I think it makes sense for that regard not only because the window is not closed.

CHAIRPERSON ELKOWITZ:

Okay. Does anybody else have any comments that they'd like to make with regard to this? Yes, Dr. Swanson.

DR. SWANSON:

I certainly think your reasoning is rational. But I'm also concerned, though, that you don't have the sense of the CEQ.

CHAIRPERSON ELKOWITZ:

There is nothing that will constrain us from providing dicta, for lack of a better word, in our resolution to the Legislature. Because nothing we send them is binding anyway. I'm serious. We make recommendations. They consider our recommendations. But we're not the decision making body.

DR. SWANSON:

I understand that.

LEG. SCHNEIDERMAN:

The Legislature -- and this could really hold it up -- but the Legislature could kick it back to CEQ and say we want a recommendation --

CHAIRPERSON ELKOWITZ:

You can. And if you do that --

LEG. SCHNEIDERMAN:

-- from our experts.

CHAIRPERSON ELKOWITZ:

But I think you may get some dicta in this resolution. I'm not certain of it, but I think you might.

MR. KAUFMAN:

That's if we go that way. The ultimate resolution would be to neg dec it or pos dec it. I'm sorry.

CHAIRPERSON ELKOWITZ:

You can't do that today.

LEG. SCHNEIDERMAN:

You can't do it today.

MR. KAUFMAN:

You can't do it today.

CHAIRPERSON ELKOWITZ:

Because the County is not even lead agency. So, you can't do that today.

MR. KAUFMAN:

Because that's not been determined.

CHAIRPERSON ELKOWITZ:

That's right.

MR. KAUFMAN:

Okay.

CHAIRPERSON ELKOWITZ:

Anything further on this motion? Okay. I'm going to call the question. All those in favor? Opposed? Abstention? Are you opposed or abstaining?

DR. POTENTE:

Abstaining.

CHAIRPERSON ELKOWITZ:

I have one abstention. Carries. It goes to the Legislature.

LEG. SCHNEIDERMAN:

It goes to the Legislature.

CHAIRPERSON ELKOWITZ:

Yep.

MS. MITCHEL:

Thank you.

CHAIRPERSON ELKOWITZ:

Thank you.

MS. MITCHEL:

And we will be prepared to make a presentation.

CHAIRPERSON ELKOWITZ:

Okay.

LEG. SCHNEIDERMAN:

This was good training for that discussion. Thank you.

CHAIRPERSON ELKOWITZ:

We're going to take a five-minute break for the stenographer.

(RECESS - OFF THE RECORD)

CHAIRPERSON ELKOWITZ:

The next item on the agenda is a tabled project, the proposes revitalization of William and Mollie Rogers Waterfront at Suffolk County Vanderbilt Museum CP 7427 Town of Huntington.

There were questions last time that were raised regarding the potential significance of this issue. And I believe that Ralph Borkowski is here to address some of these. And I know Lance has to recuse himself. But he's certainly -- he is the project sponsor so Lance is here for questions as well.

MR. BORKOWSKI:

Yes. Tom Cramer and Joy have met out at the site, walked the site with us.

MR. MALLAMO:

Richard Martin as well.

MR. BORKOWSKI:

Richard Martin. Tom had some comments at the last meeting. We had made revisions to our proposal and address all those comments and complied to them.

CHAIRPERSON ELKOWITZ:

Why don't you just give us a very brief synopsis for the record of the changes that you made. I know that we're talking about making the one end of the walkway level with the ground. Just talk about the changes.

MR. BORKOWSKI:

Yes. So, I'll go through each one. The modifications were the boardwalk width, we previously had at, I believe, was 8 feet. We reduced that to six feet.

CHAIRPERSON ELKOWITZ:

Right.

MR. BORKOWSKI:

The elevation of the boardwalk on the upside of the slope, we have reduced that now to 30 inches.

CHAIRPERSON ELKOWITZ:

Correct.

MR. BORKOWSKI:

I have one foot on here but it is 30 inches. So, in lieu of using pressure treated lumber for the structural members, the department is considering using either locusts piles or timber guard, which is a product which is a _polimer_ protected wood. And we will show those to you in detail a little later.

CHAIRPERSON ELKOWITZ:

Okay.

MR. BORKOWSKI:

After the boardwalk's construction, removal of the existing chain line link fence along the seawall will occur. So, we will take down that unsightly chain link fence.

Replanting of native vegetation such as mountain laurel will be completed after the boardwalk construction. And removal of any vegetation will only occur around the pilings; not in between them. Justify enough to install them. So we will try to maintain as much existing vegetation on the slope as we can.

The railing that will be used will be the same railing as exists on the other seawall. So, we will be consistent in the design. It will be black in color to it'll tend to disappear in the landscape. It won't stand out as much.

CHAIRPERSON ELKOWITZ:

Okay.

MR. BORKOWSKI:

And those are the changes at this point that we've made.

LEG. SCHNEIDERMAN:

What is black?

CHAIRPERSON ELKOWITZ:

The railing.

LEG. SCHNEIDERMAN:

The railing's black.

MR. BORKOWSKI:

The railing along -- on top of the boardwalk.

CHAIRPERSON ELKOWITZ:

On the sea wall. Yes.

MR. KAUFMAN:

This would be directed towards Ralph and also towards Lance. Looking at the location of the actual boardwalk or walk or whatever you want to call it, has this area been previously disturbed? Somebody I know mentioned to me that there had been plantings placed in there in some regular fashion or something like that.

MR. MALLAMO:

Well, there was a walkway in this area even while the Vanderbilts lived there. At the boathouse side it actually connects with the staircase. But I think in going back and looking at this project, I know when we walked it out, I know there was some concern with the vegetation on the hill side, which in the immediate area of this walkway there are mountain laurel. No laurel that I know of right where the walkway is. They're kind of on either side. But we also noticed up hill and further down hill extensive plantings of Rhododendrons. And some of the mountain laurel are in rows.

And I've been looking at other hill sides on the Vanderbilt property. It really looks like Mr. Vanderbilt brought in a lot of plantings that were not original to the site. Probably when he built the seawall originally he had to restabilize this.

MR. KAUFMAN:

So, this is a previously disturbed site is what you're basically saying?

MR. MALLAMO:

Yeah. There's really very, very little vegetation right where this is.

CHAIRPERSON ELKOWITZ:

Now Joy and Tom there. So, I'd like to hear -- I know Tom's on vacation, but I'd like to hear what Joy has to say.

MS. SQUIRES:

We walked the site. And it is exceedingly steep. It is steep enough with little enough vegetation

so that there were areas that Tom had to hold onto me. I'm hoping that it was because I had smaller feet than the other three gentlemen. And he dragged me because there is not enough vegetation to hold on this way as you go along. It's exceedingly steep. At one point, and this made Lance and Richard laugh, I went on my bottom. You know, I scrunched sideways on my bottom.

Dr. Potente, you had a question regarding the shoreline; was it a natural pristine shore line.

MS. MAHONEY:

You have to use the microphone.

MS. SQUIRE:

Oh. Because I stood up. I'm so sorry. I stood up. I will use the microphone.

We have two pictures from Huntington files. It's a 2001 aerial that I thought you would be interested in. I'll just pass it along. It is definitely disturbed. There are two seawalls that exist that are there. So that it is not a pristine shoreline. And as this is built, the chain link or whatever that fencing is will come down. It will definitely be an asset to the museum. It will be an asset to anybody who is handicapped.

By cutting this down to 6 feet, you can get a wheelchair moving in either direction. And the laurel is not where the walkway is. The laurel is uphill from it. It's really quite empty and probably was as Lance said an existing walkway that was there before. It would certainly be an asset to the use of the museum. And the seaplane hanger which has some -- as Lance had told you interesting potential for development that he has grants for. This is a way of making use of both of these sites.

MR. KAUFMAN:

By the way, Joy, I have to admire your real dedication to CEQ that you went to those lengths along with Tom.

CHAIRPERSON ELKOWITZ:

Dr. Potente.

DR. POTENTE:

I want to thank your bottom for actually cooperating with all of this.

CHAIRPERSON ELKOWITZ:

Not the rest of you, though.

MR. BORKOWSKI:

No poison ivy, either; right?

DR. POTENTE:

I can certainly appreciate the fact that this would be of use. My initial concerns here were that once again Northport Harbor has very little environmentally aesthetic areas where you can actually look at not just a person or water fowl, passerbying birds to establish themselves or be comfortable in an area like this, my concern was that it really is an environmentally aesthetic concern. I understand the part about the use and it would make it easier actually for one person to get from one place to the next.

But in addition I also had the concern that -- I don't know, is this historic?

MR. MARTIN:

Yes.

DR. POTENTE:

This is historic. So sometimes I think back how did -- when Vanderbilt set this up, what was his intent on his views and his vistas and he wanted land treated. And nobody can really answer that question.

MS. SQUIRES:

I can't really answer the historical significance, but I must tell you that you would not be able to see this walkway. I am quite certain you will not be able to see it from the water.

DR. POTENTE:

Will there be tree trimming going on in order to aid in people walking to see --

MS. SQUIRES:

I would guess from what Ralph just said, this will be simply where the poles go in. But you're not going to put heavy machinery in -- this is very human labor intensive. You're not getting any big things in there.

MR. BORKOWSKI:

Yeah. To install this, there won't be any machinery on this whole side. It's manual labor.

DR. POTENTE:

Are the gazebos still in the plans?

MR. BORKOWSKI:

Both gazebos are still in the plan, yes.

DR. POTENTE:

And these --

MR. BORKOWSKI:

Those will be areas to congregate, for educational purposes when classes are brought in.

MS. SQUIRES:

If you look on the plans -- on the aerial that I sent along, there are two sites on either side of the property. There is a property that is a community association on one side to the north. And then there's a house on the other end. So, there are structures that extend out that are already there.

MR. KAUFMAN:

Yeah, I can confirm that. I went there by boat a couple of days ago. And I don't think this is really going to be visually obtrusive.

DR. POTENTE:

Well, it's not just the -- to us, the humans. I'm just thinking in terms of wildlife as well. Wildlife has been so shortchanged in Northport Harbor for quiet areas just to be; to sit. And one of the things that I heard initially was that there was going to be an increase in traffic. And this would just expedite the traffic in this area.

If you look at this aerial, I mean this is a pretty large block, you know, okay, it's been disturbed, there's been some plantings, but basically, I mean in the scheme of things --

CHAIRPERSON ELKOWITZ:

There was a walkway, too; right? Not just plantings. There was a walkway.

MR. MALLAMO:

Yes. Yes, there was a walkway.

LEG. SCHNEIDERMAN:

Terry, put me down on the list. I don't know if there's a list.

MR. BORKOWSKI:

Is it a trail or a walkway?

DR. POTENTE:

It looks like a trail.

MR. BORKOWSKI:

Trail.

DR. POTENTE:

I don't need to belabor the point. It's just a personal aesthetic preference and just a concern for the wildlife.

CHAIRPERSON ELKOWITZ:

Before I go to Legislator Schneiderman and then Mr. Kaufman, I think what we have to focus on is that, yes, we're the Historic Trust. But for a minute as the CEQ, we are making a recommendation as to whether or not the impacts rise to the level of being significant and adverse, thereby warranting the issuance of the pos dec's.

DR. POTENTE:

And this may be one of those areas that falls into a gray area.

CHAIRPERSON ELKOWITZ:

Okay. Legislator Schneiderman.

LEG. SCHNEIDERMAN:

I don't think it warrants a pos dec. I mean, I've walked this area. I'm familiar with it. I think with the overriding -- overarching concerns here, it should be the aesthetic concerns and make sure it's compatible with this facility so that your overall experience when you're going to Vanderbilt Museum and walking along this boardwalk or promenade is that you feel that it always -- it could have always been there. That it's compatible with the other things that surround it, it doesn't feel out of place, that Vanderbilt himself might have constructed this walkway. And I wasn't here for the meeting where the width got reduced. That actually affects your experience as you're walking down and how much people can walk down and the type of volume it can hold. It's a big difference between a promenade and a trail. A trail you expect to be narrow. A boardwalk or promenade, that width allows for a certain fluidity of movement to relax a little bit, you know, to move slower because you're taking in the scenic resources. And it's part of the general feeling you have when you go to a site like this.

So, I think what we really should be looking at is architecturally, aesthetically how this blends in with the site and what the experience of the person from a landscape architecture perspective, what that experience is going to be. I think that's really important in a project like this.

CHAIRPERSON ELKOWITZ:

Well, I do know, and I'm going to let Mike speak and then Larry, but I do know that that was one of the reasons that we sent and we asked Joy and specifically Tom Cramer because Tom Cramer's the landscape architect. And there was this issue about the vegetation; keeping vegetation alive, making it aesthetically attractive. The issue -- I believe that the boardwalk was specifically reduced because there was a member here last time who isn't here today who actually took the position that -- and it's not a position that I agree with -- but he was taking the position that the width of the walkway would cause such a significant adverse impact on the

vegetation below it, that it warranted a pos dec.

LEG. SCHNEIDERMAN:

I'm not sure which member it was, but how did he arrive at that conclusion?

CHAIRPERSON ELKOWITZ:

I can't speak to that because --

LEG. SCHNEIDERMAN:

Was there a survey done?

MR. BORKOWSKI:

Well, I believe they thought that it would block out any light and the shade would not allow anything to grow; therefore, the slope of the hill side is in jeopardy of eroding.

CHAIRPERSON ELKOWITZ:

Right. And I think without being --

LEG. SCHNEIDERMAN:

It's a bulkheaded area, right?

MR. BORKOWSKI:

Stone wall?

MR. MALLAMO:

Seawall.

MR. BORKOWSKI:

Seawall. Yeah, there's a seawall down the lower --

CHAIRPERSON ELKOWITZ:

But, Legislator Schneiderman, while I don't --

LEG. SCHNEIDERMAN:

It doesn't make it to a pos dec.

CHAIRPERSON ELKOWITZ:

Well, me either. Okay. But the sponsor, you know, was trying to address those concerns. There was some issue with regard to some vegetation. That's why Tom and Joy went out there. But just as an aside, not for this one, that's why the DEC's major concerns when it grants walkway permits is, you know, is it so wide that the vegetation won't get sunlight beneath it and all of that. But I also agree that it didn't rise to the level of significance.

LEG. SCHNEIDERMAN:

And I'm familiar with that. But, you know, as -- I chaired the ZBA for a long time.

CHAIRPERSON ELKOWITZ:

Right.

LEG. SCHNEIDERMAN:

And we often did walkways to the beach. But they were for private houses. This is a public park. And I think the public use consideration ought to be paramount.

CHAIRPERSON ELKOWITZ:

Well, I'm going to ask Lance a question and then --

LEG. SCHNEIDERMAN:

And we can make a terrible mistake and make this skinny little thing that detracts from this incredible historic site.

CHAIRPERSON ELKOWITZ:

I'm not arguing with you.

LEG. SCHNEIDERMAN:

Okay.

CHAIRPERSON ELKOWITZ:

What do you think about the width of this? Of the way it's been redesigned? Because there's nothing that says depending on the Council's disposition that it can't be wider. I think that you were trying to address a concern of a member. And I think that many of the members were trying to be respectful of that member's concern. But does this width inhibit you substantially?

LEG. SCHNEIDERMAN:

Can I ask on that, too, is it just an access point from one building to another or is it a boardwalk? Because those two serve different purposes.

CHAIRPERSON ELKOWITZ:

Yes.

MR. MALLAMO:

It's actually both. It's an access point and it's an educational experience. This is not just to get people from point A to point B. We're using this as a learning platform combining the waterfront and flora and fauna and geological issues at this Vanderbilt Museum in a way that we've never been able to do because we can't even get people to view the waterfront except from the manicured lawns behind the mansion, which, you know, some people say, oh, why don't you put it up there? We don't want it in the view of the shade of the mansion. It really doesn't belong there. This area was selected because it could provide access between the two buildings. It could be hidden. And it could provide a learning experience.

Now at the last meetings I think we had submitted it at eight feet. Then it was suggested we reduce it to six feet. And then someone even said four feet. At three o'clock in the morning the next day, I said, you know, I have to get two wheel chairs to pass. I can't have a situation where I get two people in a wheelchair in the middle and something's got to give.

And even more important from our perspective, I mean we have days probably the lowest day education wise we have at the museum, we handle over 75,000 school kids a year. We are the largest museum educator of Long Island school children. There are days we have over 1,000 kids. A typical day would be 300. These come in -- a school usually doesn't send one class; they send two. So, I have 60 students. Now, if I have a four-foot wide boardwalk with 60 kids on it, the first ten feet are going to hear something and rest of them aren't. They've got to be grouped up which is the whole point of the two gazebos; that you can get a group together.

LEG. SCHNEIDERMAN:

Well, you tend to move faster through a narrow corridor than you do a wider one.

MR. MALLAMO:

Right. Now, let's put the school kids aside. One of our goals here along this waterfront are to put interpretive panels so that when, you know, just you and I come to the museum, you're going to learn something. And you're going to stop and you're going to read that panel and you're going to take in the view. And if you have, you know, a family behind you, they're going to be pushing you to move on so they can get past you. So, I would have preferred the wider one.

LEG. SCHNEIDERMAN:

It's a more leisurely experience. I agree with that.

CHAIRPERSON ELKOWITZ:

Yes.

MR. KAUFMAN:

Quickly. I've seen some boardwalks like what Lance is proposing. There's one at the Avalon Preserve in Stony Brook. And I think six feet is an appropriate width. Anything narrower I think would be a problem. Eight feet, I think, frankly would be too wide. And also I'm looking at it in terms of the slope. I think six feet would be better in fitting in on that particular slope. I've seen Avalon where it has some -- a similar slope factor. And I don't think eight feet worked over there. So, that's it on the width of it.

Regarding the habitat in the area, and this is addressed to John, I have some clients up there. And I know the area fairly well. It's basically one acre zoning for the most part. And it's a fair amount of large lots. You're not really going to be losing any habitat over here. You're not going to have the shore birds running away. The shore birds are still going to be able to be below the seawall that's over there. You're not destroy anything. Again, look at the location of this thing. It's up on a slope and it's up a fair amount. There's nothing really nesting over there. So, I don't really see any impacts on the habitat. And looking at in a wider sense, I don't really see destruction of the habitat being a potential.

MS. SQUIRE:

I'd like to comment first on habitat; and second to Mr. Schneiderman's comment regarding the education. There was surprisingly as we were moving along, there was surprisingly little vegetation. In fact, very little poison ivy indicating the level of sunlight that was coming in. There was really very little. So that there is not a huge amount of vegetation where the walkway is planned.

And in terms of the gazebos, I am a teacher who has used the Vanderbilt Museum with classes, Jay. And, in fact, kids are very frustrated because you cannot see the water. There is no way to do any terms of environmental education regarding the waterfront and what Mr. Vanderbilt might in deed have been thinking as he collected and he brought things in from the seaplane hangar, etcetera. So that the idea of having a place where a teacher can stand and, in fact, teach without bothering people who are walking by is very desirable.

CHAIRPERSON ELKOWITZ:

Does six feet do it?

LEG. SCHNEIDERMAN:

Six feet or eight feet?

CHAIRPERSON ELKOWITZ:

That's what I'm asking. I don't know the answer. Does six feet do it or do you need -- I'm actually asking the applicant.

MR. MALLAMO:

The eight foot would be our preferred method because we can accommodate groups in a larger format. The six foot, when I talked about the wheelchair, you need 34 inches for a wheelchair, Ralph?

MR. BORKOWSKI:

Yes.

MR. MALLAMO:

We get a tremendous number of handicapped individuals to the museum, which as wonderful as that is, it's such a challenge for them because the site is so hilly.

CHAIRPERSON ELKOWITZ:

I'm going to jump ahead a little bit. Assuming that the project changed to eight feet, does anybody think that this makes it rise to a pos dec?

DR. SWANSON:

Yes.

CHAIRPERSON ELKOWITZ:

You do?

LEG. SCHNEIDERMAN:

You have one.

CHAIRPERSON ELKOWITZ:

Okay. Well, Dr. Swanson thinks it does. I'd like to hear from him.

DR. SWANSON:

Well, first of all, I think you addressed all the issues that were raised last time. This was presumably going to be the satisfactory solution. But with regard to the walkway I think some of the thinking was that perhaps there should be no path at all; that there should be no walkway at all given the steep slope and so forth. And so all the suggestions that were made, in fact, you've accommodated were to provide a compromise between what Vanderbilt wanted for the educational and what a number of the members of the board that were there last time thought was important in order to try to preserve the best way possible the ecological significance of the area.

CHAIRPERSON ELKOWITZ:

Okay. Legislator Schneiderman.

LEG. SCHNEIDERMAN:

Obviously Vanderbilt built things on a grand scale. And somebody said something before about, well, we don't know what Vanderbilt would have done. Certainly we can walk the grounds and look at some of the walkways that are present on the grounds and see what the width is. You know, when you we talk about guys like (Frederick Homestead), there are certainly tons of scholars who could tell you what is similar to his type of designs. You know, I think -- you know, my guess is that the eight foot walkway would make more sense on a property like this than a six feet. And to give the board members, if you need it, any kind of perspective, if you look above us, those tiles are two foot tiles. So three of them is six feet and four of them would be eight foot. And if you can imagine with handrails as well, you get a sense of the difference; not a major difference. But I think it would allow for a little bit more flow and a little bit of a different experience that's more compatible with the grounds at Vanderbilt. And I'm not as familiar obviously as some of you, including Lance in particular, with what would be compatible there. But that is -- I think that by shrinking it down to six, we create something that may not blend in well.

MR. KAUFMAN:

I would differ with you in that respect, again. I have the example of Avalon in my own neighborhood. And I think those are eight feet and ten feet wide path. And I think you do lose a little bit of perspective if you make them too wide, if you will. I mean it's basically a grand promenade.

Now the funny thing is we have two votes here. One's a historic trust vote and one's a CEQ

vote.

CHAIRPERSON ELKOWITZ:

And we have to do the CEQ vote first.

MR. KAUFMAN:

Okay. I'm identifying that there are two votes.

MR. BORKOWSKI:

Well, having an eight foot path might allow you to put some benches along the walkway and still have room for people to get by. This way people can chose to sit and enjoy the space. They have somewhere -- I don't know if Lance would want to do that. But eight feet would enable you to do that. Six foot you couldn't even get away with adding a bench in there.

MR. KAUFMAN:

I don't think it rises to a pos dec either way. But if we're making design choices at this point in time which I think as the Historic Trust we're allowed to do, that's where I start having problems.

MR. BORKOWSKI:

I'm just throwing out another idea.

CHAIRPERSON ELKOWITZ:

Well, I guess we're not going to resolve it unless somebody makes -- well, what's before us at the moment, I think, is six feet? Somebody make a motion. The motion's easy because if there are people here that like eight feet, then six feet has to be Type I, neg dec, I would think.

MR. KAUFMAN:

Yeah.

CHAIRPERSON ELKOWITZ:

There can be two motions, but let's deal with one of them.

MR. KAUFMAN:

All right. I'll a motion just for the purposes of getting this thing going Type I neg dec at six feet.

CHAIRPERSON ELKOWITZ:

Okay. Do I have a second?

DR. SWANSON:

Second.

LEG. SCHNEIDERMAN:

Wait a second. This is a confusing motion because I would neg dec it at six feet. I would also neg dec at eight feet.

CHAIRPERSON ELKOWITZ:

So then somebody make the motion for eight feet. I don't really care.

LEG. SCHNEIDERMAN:

You know, I think this is a -- I think that the width of it ought to be -- we ought to discuss this as the Historic Trust.

MR. KAUFMAN:

Yes.

LEG. SCHNEIDERMAN:

So, I think -- I would make it a motion to neg dec either six or eight as one motion. And then make a decision --

CHAIRPERSON ELKOWITZ:

You know me, I'm a cut to the chase kind of person. Who would not vote for a neg dec if it was eight feet?

DR. SWANSON:

(Motioning)

CHAIRPERSON ELKOWITZ:

One. One. So as far as I'm concerned, if somebody's interested -- if the applicant's interested in making this eight feet and he only has one vote against the neg dec, I suggest you amend it to eight feet and have somebody make a motion to take a vote.

LEG. SCHNEIDERMAN:

I'll make a motion up to eight feet.

CHAIRPERSON ELKOWITZ:

Type I neg dec for eight feet.

MR. MALLAMO:

So amended.

CHAIRPERSON ELKOWITZ:

Okay. So the plan is going to get amended. I have a motion. Do I have a second? If people are going to vote for it, there has to be a second.

MR. WAGNER:

Can I just interject?

CHAIRPERSON ELKOWITZ:

No, I need a second before we can interject.

LEG. SCHNEIDERMAN:

Second on the motion to neg dec the eight foot.

CHAIRPERSON ELKOWITZ:

I need a second on the motion to neg dec before we can discuss.

LEG. SCHNEIDERMAN:

I made the motion; right?

CHAIRPERSON ELKOWITZ:

You made the motion. I need a second before we can discuss it.

DR. SWANSON:

Second.

CHAIRPERSON ELKOWITZ:

We have a second by Dr. Swanson. Thank you. Somebody read Roberts Rules. Mr. Wagner, you had something to say?

MR. WAGNER:

Yeah. I think we're getting upset with the width of this walkway. I just want to point out there's one other aspect that's changed since the last time. And that has to do with the ramp removal. And we didn't talk about that at all last time or today. I'm just curious what the structure of that ramp is, how it's anchored into the bottom land.

MR. BORKOWSKI:

I'm going to defer to Jim Ingenito, the project manager to discuss that.

MR. INGENITO:

Yes. We were hoping to remove that ramp and its timbers which are now dangerous on the site. I'm not actually sure how they're anchored in. They have been -- they were piles. I would assume they were just driven into the sand and that's that. They are rotted and decrepit. At this time we're going to remove them. And we are not going to replace that ramp area.

MR. WAGNER:

You're removing the piles also; right?

MR. INGENITO:

Yes. We are going to remove that so people -- if they are on that beach, they can continue across without walking over that debris. And we were going to eventually restore the area in front of this seaplane hangar; only that portion, not the ramp.

And the other change, which I have to bring your attention to is the portion that leads up the traffic circle, that's the asphalt, that small portion will be as an alternate or done at a later time with another project.

MR. WAGNER:

All right. Now going back to the width issue, I was one of the people that brought that up the last time. And my concern was that by putting the ramp in, you were going to have light blocked off and, therefore, there might be some die off of vegetation which would destabilize that slope. What I'm hearing from Joy is that there's not much vegetation there to begin with.

MS. SQUIRE:

Along the -- I mean --

MR. WAGNER:

On the pathway.

MS. SQUIRE:

Along the pathway there is minimal vegetation. Where we walked the vegetation is upslope. The laurel is further up. And I believe the laurel will not be disturbed particularly in the way that the piles will be driven because you can't do it any other way.

MR. WAGNER:

What happens here is that the width of the walkway is really not going to have any effect because there's nothing there to be killed anyway of any significance. That's stabilizing the slope. So, I don't really see the difference between six or eight feet.

LEG. SCHNEIDERMAN:

Things will grow underneath anyway if it's elevated enough. But I think you guys wanted it lowered down, too; right?

MR. KAUFMAN:

At eight feet it will be elevated.

LEG. SCHNEIDERMAN:

That's okay.

CHAIRPERSON ELKOWITZ:

All right. So, I have a motion, I have a second. I'm calling the question.

LEG. SCHNEIDERMAN:

Can we do it either way so that when we have the Historic Trust discussion we have an approval no matter what?

CHAIRPERSON ELKOWITZ:

No. The motion is on eight feet. We got to re-do it.

DR. SWANSON:

I think when we talked about this, there are gathering places for students, whatever, about every hundred feet along this walkway. And that was one of the things that was considered in the overall design when we were discussing narrowing it. It's not -- our intrusion probably should be kept to a minimum. And there have been provisions at both ends and two places in the middle to accommodate crowds.

LEG. SCHNEIDERMAN:

Lance, have you measured any of the other walkways about the grounds to determine what typically the walkways are?

MR. MALLAMO:

They range from six to eight feet across the property. But really depending on the geography, I think, too, when, you know, we talk about -- let's say -- we talked about an eight foot. The wood -- I'm assuming and I'm not the contractor but, Ralph, correct me if I'm wrong, the contractor's going to buy the wood in eight foot lengths. Then when you install the handrails, the handrails typically are going to be in four to six-inches on either side. They're going to have to be bolted to that. So the width is now -- in fact I think you put in this you needed six feet between the handrails.

MR. BORKOWSKI:

Correct.

MR. MALLAMO:

So the actual physical structure's probably going to be a minimum of seven.

MR. BORKOWSKI:

Right. Usually there's some overhang from the railing six inches on either side.

CHAIRPERSON ELKOWITZ:

This is getting silly.

MR. MALLAMO:

Well, you know, it means the contractor's going to buy the eight foot and cut a foot off of each piece.

MR. BORKOWSKI:

Well, lumber comes in different lengths. He doesn't necessarily have to buy eight foot. He can buy ten or 12 and have more waste, which he'll bid higher.

LEG. SCHNEIDERMAN:

Just call it.

MR. MALLAMO:

But I think the point was to get six feet between the rails, it's -- the deck itself has to be a minimum of seven, I would assume.

MR. BORKOWSKI:

Yeah. Usually the railing is set in. That's true.

CHAIRPERSON ELKOWITZ:

I'm going to call the question. I have a motion for a Type I neg dec for an eight foot walkway and all the other parameters of this project. I have a motion. I have a second. All those in favor? So we have 1, 2, 3, 4. All those opposed? 1, 2. And we have one abstention. Motions carries.

MR. MALLAMO:

Abstain.

CHAIRPERSON ELKOWITZ:

Okay. Now, we're going to do a Historic Trust question. I don't know what there is really to discuss beyond what we discussed.

LEG. SCHNEIDERMAN:

I think there's some discussion. I would love to hear -- maybe the architects just from an architectural historian perspective --

CHAIRPERSON ELKOWITZ:

Well, I'd look to Richard.

MR. MARTIN:

Lance, I would rather -- Lance, have you discussed the historic landscapes study and the other walkways that are in this area that Vanderbilt had installed?

MR. MALLAMO:

No.

MR. MARTIN:

Because these aren't on the plans. There are walkways that go down on diagonal from the main house to these buildings through this area. And there was also a plan that showed additional walkways to the woodland here.

MR. MALLAMO:

We talked about that at the last meeting, Legislator Schneiderman. I forgot --

MR. MARTIN:

And we did see those when we made -- I made the site visit also. So that was interesting to see that this was not a pristine woodland in that sense that he had access to this when he had this as a private residence and he did, you know, walk through all these areas.

CHAIRPERSON ELKOWITZ:

Does six or eight feet affect the historic integrity from your perspective?

MR. MARTIN:

I don't think it does, no.

LEG. SCHNEIDERMAN:

And let's bear in mind, too, that what we're creating here is not just a walkway, but a boardwalk, a promenade.

CHAIRPERSON ELKOWITZ:

Right.

LEG. SCHNEIDERMAN:

And so to achieve that you need a certain minimum width, I would think, otherwise it becomes more like a trail.

MR. MARTIN:

The difference here, I guess, is the public access needs -- and of course with the handicap access compared to a private residence and what they -- they can do what they wanted. These are dirt walkways that have rail road ties kind of thing to change the elevation to create steps throughout this area. And they are cleared and even landscaped. There's privet hedge along these walkways at some point.

LEG. SCHNEIDERMAN:

Can I ask architecturally about the design of the walkway, the handrails, the gazebos areas, even down to like the roof shingles. Are they all compatible with the type of work and the types of buildings that are at that site?

MR. INGENITO:

Well, they will be. We kind of -- of course at the promenade areas put similar roofing if we have to; put the clay tiles. We could. I'd prefer a metal roof which could fit in historically if it was done correctly. Could even be copper.

LEG. SCHNEIDERMAN:

Even the slope and the design of those gazebos ought to match something that's there.

MR. INGENITO:

Yes, they could.

MR. BORKOWSKI:

I think that makes sense.

MR. INGENITO:

There's no reason they couldn't.

MR. MARTIN:

I think to match but also -- a lot of comments here that this would just blend in with the existing woodland. So use materials that allow that to happen. There is a fence line to the -- I guess it would be to the west lands of the seaplane hangar from the seawall that was installed? It's not on this plan completely.

MR. MALLAMO:

It's actually on the south.

MR. MARTIN:

Okay. That would be the south side. I'm sorry. I meant to say east. But it would be the south side. And that is a black enameled metal, Lance, the fencing there?

MR. MALLAMO:

Yeah. It's black aluminum.

MR. MARTIN:

Aluminum. And you also have a lot of additional fencing. You've replaced the chain fencing on site with black? Is that also black aluminum?

MR. MALLAMO:

Actually Vanderbilt had a black wrought iron fence where there is now chain link. We're taking the chain link down.

MR. MARTIN:

Is that what you're proposing on the seawall?

MR. MALLAMO:

We're proposing to take that fence totally down because we won't need that fence.

LEG. SCHNEIDERMAN:

Is this going to be wrought iron railings or wood railings or --

MR. MALLAMO:

It would be -- they'd be aluminum but they'd be black. But they'd look wrought iron.

MR. MARTIN:

Is that what you're planning on this?

MR. MALLAMO:

Yes.

MR. MARTIN:

And being at that site, that almost disappears, that material.

MR. BORKOWSKI:

Black tends to disappear in the landscape.

MR. MARTIN:

Exactly.

MR. BORKOWSKI:

And that's one of the reasons why we've chosen that.

MR. MARTIN:

Right. Walking around the site even up the parking lot, the chain link's been replaced with this design. And it does open up the views because it disappears.

MR. KAUFMAN:

I can again emphasize you're not going to see anything from the water. It'll blend in quite nicely.

MR. MARTIN:

All right. And the other fencing does -- that seawall is a pretty substantial seawall, but the fencing itself blends into the tree line and you don't notice it as much.

LEG. SCHNEIDERMAN:

You have competing considerations here. On the one hand we want to make it disappear, but then, you know, Vanderbilt, you know, had a flair for the opulent. And you want it to have a sense of the period about the luxury and the comfort.

MR. KAUFMAN:

That really is the question. And again I point out the third time, I think, now to Avalon Preserve where we've got wide walkways. And I don't think that they necessarily fit into the ambience of an otherwise forested and wooded area.

LEG. SCHNEIDERMAN:

That's a different site.

MR. KAUFMAN:

Admittedly but it's also --

LEG. SCHNEIDERMAN:

One's more of a nature preserve. I would not be recommending an eight feet wide walkway in a nature preserve. This is a very different type of park.

MR. KAUFMAN:

But this is also almost outside of the park in the sense that this is on the steep slope area. It's really not all that visible. That's why I keep on advocating a somewhat narrower walkway.

LEG. SCHNEIDERMAN:

The goal that has been presented was to create a boardwalk in this area. Not a nature trail. So, I'm trying to match the goal. Now if there's a different goal here or competing goal, I need to know about it.

MR. MALLAMO:

I think it can be done. Ralph didn't get too much into the specifics. Let's take the gazebo. I mean if you see in the drawing it's a very nice design, but maybe -- I would recommend we don't do the columns in white columns, but maybe do them in a dark brown that's going to fit in with the trees that mimics the wood work on the mansions itself, which is dark brown. That's fine. Maybe the terra cotta roofs would stand out too much. A deep brown metal roof, a wood shingled roof that was allowed to weather the color of the trees would blend in much better.

MR. BORKOWSKI:

I think tying in with like the boathouse would probably be more appropriate in this area because the boathouse is very --

MR. MALLAMO:

The boat house has a slate roof.

MR. BORKOWSKI:

Oh, it does?

MR. MALLAMO:

Yes. That's a slate roof.

LEG. SCHNEIDERMAN:

Maybe we're not the right body for this, but, you know, I think this is an important decision. I really do. This is an important park. It's an important part of the County's resources and County's holdings. I would love to see some drawings of what the thing would look like in the landscape. Some architectural renderings of, you know, different alternatives and different, you know, design alternatives. You know, we're just kind of guessing. It would be helpful for whatever body ultimately makes that decision.

MR. BORKOWSKI:

Well, I think our initial approach was to not have it obscured and stand out. We wanted it to kind of blend into the natural landscape. If you want to take the other point of view of Vanderbilt did everything extravagant and having it stand out, then we'd have to go back and re-look at the design. It depends which way you want to go with this.

LEG. SCHNEIDERMAN:

There ought to be professionals making that decision. You know, maybe it's the museum board.

MR. BORKOWSKI:

We had originally made that decision to try to blend it into the natural landscape.

MR. KAUFMAN:

Jay, you've got to RLA's right here.

CHAIRPERSON ELKOWITZ:

Well, and we also have --

MR. BORKOWSKI:

And that was our approach to this.

CHAIRPERSON ELKOWITZ:

But as far as the historic goes, we have Richard and we have Lance. Now, believe me, of all things I will not profess to be expert in is historic architecture. But I would think that in this location we would want it to blend. And my feeling -- the reason --

LEG. SCHNEIDERMAN:

With the environment or with the buildings?

CHAIRPERSON ELKOWITZ:

With the buildings.

MR. KAUFMAN:

We've already determined that it's not going to be an impact on the environment.

LEG. SCHNEIDERMAN:

It would be nice to feel that, you know, for the casual observer coming to the park that it was always there; that maybe Vanderbilt had built it himself.

CHAIRPERSON ELKOWITZ:

So for it to blend, Lance, what should it be?

MR. MALLAMO:

I'm going to even go one step further. And this is just coming to me at this moment because I'm trying to think what would Vanderbilt do. We do have one small gazebo on the property that he used as an aviary, which is --

MR. INGENITO:

That has a wood roof, right?

MR. MALLAMO:

No, it has a metal roof actually. Has a black metal roof. The difference with the roof is it's a curved shape. It's not -- it doesn't go straight up. It curves a little bit. So, I think if we emulated that gazebo, try to copy that, most of that structure is black or brown so it would go with the hand rail. We want this to blend in as well. And I think that would be totally invisible.

CHAIRPERSON ELKOWITZ:

From a historic trust perspective I think that that make sense. Given that there's an already --

MR. MALLAMO:

As the model.

CHAIRPERSON ELKOWITZ:

Yeah. Do you have a problem with that, Jay?

LEG. SCHNEIDERMAN:

No, that's exactly the type of thing I'm looking for. And even if it costs a little bit more to do the project, I think it's important that we don't detract from the site. It's an important site.

CHAIRPERSON ELKOWITZ:

All right. So, do we have an historic trust recommendation that the -- these gazebos will emulate the gazebo that already exists?

MR. MALLAMO:

Right.

LEG. SCHNEIDERMAN:

Is there a way, Theresa, for us to say we would like to see renderings before the project is moves forward?

CHAIRPERSON ELKOWITZ:

Yeah, we can say that. Absolutely.

MR. MALLAMO:

We'd be happy to because what I think what we've approved today is the plan for the boardwalk. And we can come back with the --

CHAIRPERSON ELKOWITZ:

With gazebos and the general location --

MR. BORKOWSKI:

What about the preparation of the money that --

CHAIRPERSON ELKOWITZ:

You have your neg dec for this.

MR. BORKOWSKI:

Okay.

CHAIRPERSON ELKOWITZ:

So you can go ahead with your SEQRA routine. But what I think that Legislator Schneiderman is asking for is as a member of the Historic Trust -- forget about environmental significance -- he wants to have more to say about the architecture. And I think that that's a reasonable request. So, I don't know -- do we need to have a motion for that? The CEQ is just asking you to come back with those drawings so that we can give you -- the Historic Trust is asking you to come back with those drawings so that we can give you a final approval on the design of the gazebos. Okay.

MR. BORKOWSKI:

Will do.

MR. INGENITO:

Thank you.

CHAIRPERSON ELKOWITZ:

Okay? All right.

The next item is the Vector Control long-term plan. But I just want to take something very quick out of order, which is the public hearing on the DEIS for the Suffolk County Correctional Facility expansion. It's going to be on November 1st at two o'clock right we're sitting. And I don't know that there needs to be any more discussion regarding this. Notice is completely drafted. The

documents went out. I know a complete set was delivered to my office. I'm assuming, maybe I shouldn't, that everybody else has complete sets delivered to their respective locations?

MR. KAUFMAN:

Do we go to jail if we don't approve it?

CHAIRPERSON ELKOWITZ:

You have to ask the County Executive on that. So, we are sure that we will have a quorum at that meeting?

LEG. SCHNEIDERMAN:

What's the date?

CHAIRPERSON ELKOWITZ:

November 1st at two o'clock here.

MR. KAUFMAN:

I'll try to be here.

CHAIRPERSON ELKOWITZ:

But, Jim, you checked? Right? You have a commitment for at least five people?

MR. BAGG:

We have five people.

MR. MALLAMO:

I'll be there, Terry, but I have another commitment. I'm speaking in an hour at another conference.

CHAIRPERSON ELKOWITZ:

I know. As long as Legislator Schneiderman is staying, we have five. We can still continue.

LEG. SCHNEIDERMAN:

Okay, I'll stay.

CHAIRPERSON ELKOWITZ:

Fine. Gentlemen?

MR. DAWYDIAK:

Thank you, Madam Chair, members of the Council. Walter Dawydiak, Chief Engineer for the Health Department joined by Dave Tonjes, the lead consultant project manager for Cashin Associates on the long-term plan. With your permission I'm going to take about five minutes or less to give you a little bit on time line and background and turn it over to Dave for approximately 20 minutes of presentation.

If I could just take one quick moment to express the Health Department's support of the proposed '06 Annual Plan of Work. We thought it was important to get on the record. Nobody asked us. And we never actually made the statement. That '06 plan is indeed substantially similar to the prior plan of work except that it's more restrictive.

Also I wanted to make a couple of quick clarifications about statements that were made again just to get on the record, if I could. Last year's plan Plan of Work and its predecessors did allow for routine ditch maintenance and water management that up to 5 to 10% of the grid ditch network could have been maintained. There was a question about whether there really was a meaningful reduction in this annual Plan of Work. There's a major reduction in the ability to do ditch maintenance. Extremely limited situations to restore tidal flow. And I also want to

emphasize that there continues to be a memorandum of understanding between the Health Department and Public Works so this is not only an issue of DEC jurisdiction. It's an issue of Health Department coordination water management which has been substantially limited and made more restrictive.

I wanted to make a quick note to clarify some of the confusion that may be going on about pesticides. Two big issues seem to be water management and pesticides. Dominick stated this in the context of caffeine. I'd like to state it a little bit differently.

These pesticides are used in extremely low dosages in accordance with label requirements. The larvicides and the adulticides are indeed permitted by the state and the federal government. They're presumptively okay to use in the manner in which they are applied. But that wasn't good enough for us. We've unleashed some of the finest minds on the planet -- you'll be hearing about this in a moment -- to do a series of studies, measuring these chemicals and air water sediment and biota down to a part per trillion, research level a state of the art unprecedented over a 100 times lower in concentration than they've been measured before.

All of the data that you heard about was considered and is being considered about the long term plan. I wanted to assuage your concerns that this is not new or different data. We do have a comprehensive risk assessment which goes above and beyond the work that was done in labeling these pesticides. The EPA _aquitox_ model is the art of the state model that is used to determine that the chemicals commonly used by Vector Control including resmethrin, sumithrin and methoprene, indeed, have no aquatic impacts which was very good news to us. The cage fish study is another piece of work you'll hear about to monitor these chemicals as well as observe their impacts on organisms.

So, again, I just wanted to state that new and different information which has been put out there between the last Plan of Work and this Plan of Work shows, if anything, that the impacts are even less than were previously thought. And again this Plan of Work is substantially similar except that it's more restrictive.

As quick note on the hand outs that we have given you. The first one is a brief project update. And I just basically wanted to put into context that what you have before you today is the long-term plan which was finalized in September and issued. It's already undergone technical advisory committee discussion. It'll be going through much discussion in the coming months.

The action that we'll be asking you to work with is accepting the draft generic environmental impact statement as complete that will first be before you next month. It'll be mailed to you shortly. It's being completed and should be sent to you around the end of this month. I'll also be going to the Long-term Plan's Advisory Committee.

The document that was mailed to you, the two volumes that have the long-term plan, we got a little feedback that a shorter, more program oriented executive summary might be helpful. I think it was about 15 pages. It was a good overview. It was true to the document, but what you have before you is a shorter three-page executive summary, which addresses a bit more of the background and the process as a whole. Again, exhaustive field work, early demonstration projects. We're proud of the work that was done at Wertheim, the National Wildlife Refuge, the pioneer of open marsh water management which has never been done before in this area, and which will hopefully break the log jam for future open marsh water management.

Basically we see this environmental impact statement process as most helpful in the context of a very ambitious water management approach. The integrated pest management will be enhanced, we hope, to improve surveillance which is already excellent. You'll be hearing about some of these things. But the major, major change in direction will be in the context of wetland management.

17 thousand acres have been identified, have been characterized already. We were looking at 4,000 acres to be restored and 4,000 to undergo processes of natural erosion with the rest to be assessed and managed over a 12-year period. We hope that the GEIS will set a context and time frame for actually implementing this very, very meaningful change of direction county-wide.

Next hand-out is the GEIS time frame. This time frame is a hypothetical and it assumes that this body accepts the GEIS as complete next month in November. Again, once we deliver the GEIS to you, we recognize it is completely out of our control and up to you as well as the public, the advisory committees and the Legislature; but we just wanted to lay out all the steps of how we got here and where we're headed for your convenience. We know there are some new members of this Council.

Quickly, August 2002 is when the process was formally adopted by the Legislature adopting a positive declaration. We really didn't get started until November of 2003 when the contract was executed and the funding was appropriated. So, really the consultant has done a tremendous job doing all of this work in really just about two years rather than the three years which we had hoped that we would have at the outset of this process.

The final graphic that I have in your package is a time line which lays out where we are and where we're headed. Again, the green here shows a milestone of the October, November break where we deliver all our documents and everything is up to you. We assume there will be a public hearing in December. We assume that January would be the very earliest juncture at which materials could be provided to the Legislature for action on the GEIS and record of public comment. So, it's a minimum three month review and comment period that this will be out on the street. We recognize that the entire process will last substantially long.

If there are any questions about background, how we got here, where we're headed, I'd be happy to answer them. But at this point I'm going to turn it over to Dave for the details on the plan.

CHAIRPERSON ELKOWITZ:

Hello, Dave.

MR. TONJES:

Thank you, Walter. Am I close enough?

THE STENOGRAPHER:

State your name.

MR. TONJES:

My name is David Tonjes. I'm with Cashin Associates. We're the lead consultants on the long-term plan development.

Walter is too kind when he says I'm going to go through the details of the plan. What we're actually going to do is give you an overview, a pointed overview and try to keep it to a reasonable length.

The plan is an integrated pest management plan to control mosquitos and address wetlands issue in the County. The focus of the plan is on scientific surveillance to determine exactly where mosquitos are and whether they present a problem. And then treatment will concentrate on water management. And by water management we intend to do progressive water management, move away from the old maintenance of the existing grid ditch system.

The plan, as you know, we started with scoping approximately two years ago in this very room. Since then we've undergone extensive research. We've conducted demonstration projects and gotten extensive public input to help develop a plan. This isn't an environmental impact

statement on a pre-determined course of action but rather an organically developed course drawn from literature and expertise and with input from the public.

Over the course of the past two years I think we've done a great many things. We're going to deliver all of our work to you in great detail. But I'd like to focus your attention particularly on the Wertheim Open Water Marsh Management Project that was conducted in conjunction with US Fish and Wildlife Service. Approximately 40 acres of salt marsh were re-engineered to encourage both natural resource elements that Fish and wildlife Service wanted to see emphasized such as bird habitat; and also to encourage killifish production in the salt marsh in the areas where mosquitos breed so the killifish will consume the larvi.

So far after six months of construction this project has been extremely successful and met both organizations' goals. I'd also like to point out in terms of the major plan elements, the literature search which was really quite extensive and then resulted in approximately 1300 pages of background information that support the plan as well as the comprehensive quantitative risk assessment which evaluated some of the choices regarding pesticides that were made.

To restate the obvious this is an integrated pest management program. And what we're going to do is we're going to walk through these various elements of integrated pest management and show how the plan is going to accord with it. From the outset the goals were to increase environmental quality county-wide while at the same time protecting public health by reducing public health risk.

So, those were the goals. We were going to approach them by looking at the various treatment possibilities available to the County and making choices that would increase one while decreasing the other.

There seems to be a strong basis for mosquito control in the County. We did a first order look at the potential impacts of diseases in the County. And we looked hard, for example, at West Nile Virus. In areas in the country where there were not established and well run mosquito control programs, for example, in Douglaston when the virus first erupted in Cleveland, Ohio in 2002 and up in the vicinity of Toronto, there were significant illnesses and deaths that were associated with it. When you compare that to the exposure in Suffolk County where there was a significant mosquito control program in place over time, you see that the relative impacts are much less here.

Eastern Equine Encephalitis while we have not yet had any human cases in Suffolk County, we have all of the elements that could lead to human cases. If Eastern Equine Encephalitis did occur here, it's 33 to 75% fatal in its results. I mean that's a significant disease. We also know that there will be novel mosquito born diseases introduced to the County. The question is just when.

In addition to fatal and near fatal diseases that can be passed along by mosquitos, there are other impacts. Mosquito bite multiple organisms. This means that they'll pass blood and other tissues from organism to organism. And as we're hearing more and more about after Avian Flu, we know that the sharing of biological issues among different types of organisms is a great public health concern. That's one of the reasons why mosquito control as it afflicts people is worthy of concern even if it doesn't rise to the level of a confirmed illness.

On the other hand mosquito borne disease seem to have very little environmental impact associated with them. There are some potential impacts to economic and social values associated with mosquito control but that's -- or the lack thereof, but that's difficult to quantify.

And as we hope to justify to you over the next month or so, the control impacts associated that we're proposing will have negligible to manageable impacts.

The focus of our integrated pest management plan is on scientific surveillance to support treatment. And the treatment we want to focus on is progressive water management. What this means is improving water quality in the marsh and providing shelter for killifish from predators so that they can consume the larvi that try to develop into adults. If we can prevent the production of adults, we prevent human problems. And so that's going to be the focus of the plan. And our work at Wertheim as well as studies of efforts elsewhere in the northeast of the US shows us that these kinds of progressive water management approaches can be indeed very effective at controlling mosquito production.

The first element of our plan is to do public education. We want to improve the level of outreach that the County has right now to the public. One is by generating more information for that presentation to the public in generating a little bit better information so that the public can be persuaded that what the County does to control mosquitos is justified and effective.

We also want to continue the County's current outreach efforts to persuade people that personal control methods can be a very effective way of reducing any potential mosquito impacts.

The support for any action to control mosquitos is scientific surveillance. And currently the County has what has been recognized as a really first rate surveillance program. We think it can be improved in some ways that will make it even better. These will include greater support for adulticiding decisions and also greater surveillance in terms of finding larvi in water management structures. We're going to improve the quality and quantity of information that the County has to make its decision and, therefore, hopefully make better quality of decisions regarding treatment.

One of the basic ways of controlling mosquitos is to remove the types of environments that support their growth. And so what this means is around people's houses, around businesses you can remove standing water that allows mosquitos to breed. It's becoming very clear that storm water control systems need to be better managed in order to reduce mosquito breeding. A stopgap measure can be to treat these structures with larvicides to eliminate mosquitos are breeding there. But the research that we've conducted indicates that a well maintained storm water system breeds many fewer mosquitos than a poorly maintained system. So, that's going to be a strong focus.

Water management, though, is key. And what we're going to do is we're going to move away from a system of maintaining the legacy ditch system from the 20's and 30's to changing the wetlands where it's prudent to do so. The basic strategy is going to be a reversion because if you don't need to do something that's obviously the best thing to do environmentally -- whenever you try to manage a complex system like a salt marsh, you always run the risk of doing it incorrectly and making mistakes. So, the default always is going to be to leave it alone; however, if there are mosquito breeding problems, if not doing anything in a system seems to be having negative consequences as is the case in some settings, then the County is going to employ a system of progressive water management options which are going to lead to reduction of breeding by mosquitos by using natural processes such as water flows, removal of environment and support for the killifish because these have been shown to be effective means of treating it elsewhere. And in our small efforts here in the County recently have been shown to work here. The intent is to reduce the application of aerial larvicides by about three quarters over the implementation of the water management procedures.

Our findings about the salt marshes is, though, that there's no cookie cutter approach. And that's sort of a good news and a bad news report because the good news is, is this mean each marsh will be required to be treated individually and with care and consideration so that our chances of employing things in this slapdash manner that might lead to negative consequences are reduced.

The bad news is, is that means you can't just simply take one technique and apply it over and over and over again in a series of environments. This is going to require delicacy and technical

expertise to employ properly.

Another important element is to work with DEC to reconsider the current DEC prevention of water management in fresh water environments. Water management clearly is the most effective way of reducing mosquito problems. The question is whether the natural resource elements of associated with the fresh water wetlands would be excessively harmed if water management were to be conducted in the wetlands. And that's just for consideration.

As Walter mentioned, we have preliminary evaluated the marshes throughout the County. 4,000 acres of the County's marshes are currently aerially larvicided. And these are candidates for action so that they no longer need larviciding.

4,000 acres of salt marsh of no current interest to the County in terms of mosquito control. And so these would be candidates for leaving alone. And then that leaves 9,000 acres which need to be carefully evaluated in terms of what the best management practices should be.

We looked at bio-controls. A question came up in discussing the 2006 Plan of Work as to whether purple martins or bats might be an effective means of controlling mosquitos. We seem to think not. *Gambusia* can be an effective measure, but we'd prefer to use more local fish, fish that are established locally in these fresh water environments to reduce the chances of environmental impacts.

Water management, although, very effective in other jurisdictions is not going to prove to be 100% effective overnight. It will never entirely be effective. There will still be a need for control of organisms that manage to grow and present the potential for a mosquito problem. In those instances the plan proposes to continue to use BTI *bisulfericus* and methoprene as larval controls.

Field work conducted here in the County both retrospective analyses of marshes to look for impacts and actual experiments on applications and retrospective analyses of benthic organisms in areas that were treated with larvicides all found no impacts from the use of these chemicals. And our quantitative risk assessment also found that there will be no impacts to human health or the environment from these chemicals as applied at the concentrations we're proposing to use them at.

The literature is -- does contain information that shows that specific concentrations. Methoprene in particular can cause environmental impacts; however, for mosquito control purposes those concentrations are not reached. Therefore, the environmental impacts are not realized.

There is a potential impact associated with aerial larviciding. That has to do with the -- using helicopters to apply the material, flying at low heights and startling birds. The literature is contradictory on how big an impact this is and what the consequences of it are. But it will be mitigated at the least by reducing the amount of aerial larviciding.

I want to stress that the long term plan is not a pesticide program; however there may be a place for adult controls. And this is where a problem failed to be addressed through source control and through larval. And we were asked to look carefully and determine if we could distinguish between adult control for quality of life purposes and adult control for the basis of human health protection. And because the adult mosquitos that would be controlled under quality of life enhancement, also have the capability of transmitting diseases. We couldn't find a bright line separation between the two. Any treatment which is focussed on improving the quality of life for the residents of the County will reduce the risk of disease.

And we think that's one of the reasons why, for example in 1999 and 2000 when we weren't a disease, we weren't oriented on stopping disease in our or mosquito control program. We still

had much lower incidents of disease than other areas. And this is because by controlling the so called nuisance mosquitos, what you do is you also reduce the chance of vectors. And so we'd prefer to move away from the talk of nuisance control to actually calling vector control.

For disease suppression when you reduce the incidents of mosquitos that can pass along disease, you also reduce quality of life impacts to residents. And so it's really a continuum between control strictly for quality of life and controls strictly for disease. No one application falls on either end but they all fall rather somewhere in the middle.

The chemicals we're proposing to use are resmethrin and sumithrin primarily. We also believe that the County should have the option of using permethrin, natural pyrethrin and malathion for very reasons which we discussed through the long-term plan.

We have proposed making some technical improvements to the adultciding program. But I'd like to focus on the fact that we've really tried to codify the decision making process for adultciding. We've made extensive lists of the factors that need to be considered. There's no one -- there's no one parameter that you can point to and say if this parameter reaches this level, adultciding must occur.

On the other hand there are a great many parameters that you can look at that you can say if surveillance shows that this parameter does not rise to this level adultciding should not occur. So there are a great many factors that allow you to make a negative decision. And they all have to align to allow for some sort of an adulticide treatment to actually occur. And we distinguish between those applications made for Vector Control purposes, those that occur on Fire Island, which is its own little situation and those were made in the cases of health emergency.

Potential impacts associated with the use of adulticides were for human health according to the risk assessment, according to the literature research. We found no clear opportunity for any impact to human health from the use of these chemicals in the way we're proposing to use them at the concentrations they will be applied.

When we looked at environment impacts both in terms of field work that we did and in terms of the quantitative risk assessment, we found that there was the potential for impact associated with flying insects in the air when an application occurred. This was basically a result coming out of the risk assessment. Literature research and practical experiences of others seem to find that this impact is rarely, if ever, experienced. If it does occur, and there was one study in California that seemed to potentially find this, that this did occur, recovery is very quick on the order of a couple of days to a week for the flying insects.

For aquatic invertebrates which has been a focus of interest, there were no impacts found either with field work with resmethrin or with the literature search and the quantitative risk assessment looking at resmethrin and sumithrin. When we look closely at permethrin and malathion, the potential for impacts to aquatic invertebrates was found. When permethrin was followed with a very sophisticated eco system model, it was found that the impacts were of short on the order of a couple of weeks to a month. This is partially because the chemical does not accumulate and does not bio accumulate. And so what happens is that the organisms replace themselves very quickly either through migration or the development of eggs and other larvi. And the system comes back to normal conditions by spraying following a fall application at the latest.

Therefore we feel confident in looking at our goals which were to decrease public health risk and improve environmental quality and say that we think that this plan is going to meet it and meet it to your satisfaction.

In addition to the overall impact assessment we're going to deliver to you a separate environmental impact on Fire Island National Seashore to help in meeting our NEPA requirements. There are also additional analyses and management structures and various other

appurtenances. And we have delivered to you a very separate and very detailed wetlands management plan which is key to the long-term plan.

It's necessary under SEQRA to consider alternatives and so I just want to assure you that we looked at some alternatives very, very carefully. One of the primary alternatives we considered was what would happen if there were absolutely no organized vector control in the County. We looked at the impacts associated with the current program and we also looked at some variations from the preferred program including using mosquito magnets as an alternative to adulticides on Fire Island eliminating the use of larvicides and fresh water wetlands and eliminating methoprene use; adulticiding only in the case of human health emergencies or after human illnesses or not adulticiding whatsoever. And since I'm telling you about the long-term plan we selected, we found these to be deficient one way or another.

It's important to understand that the very public process that led to the development of this plan is going to continue after the plan is adopted. This are going to be a great many reports published on this plan and we hope to continue to have extensive public input and participation in aspects of the program. And as I mentioned originally when talking about public education we think that an enhanced outreach to the general public in the County is necessary to persuade them that what the County is doing about mosquitos is necessary and effective and is actually leading to improvements in their life and the environment. Thank you.

CHAIRPERSON ELKOWITZ:

Thank you. We appreciate the update. I think we're probably going to hold any kind of technical question or whatever until the GEIS is before us. But if there is anything in general anybody has about the procedure, I'd be happy to talk about it. Thanks very much gentlemen. Now, Walt, you've been called a gentleman twice in one day.

MR. DAWYDIAK:

Three times.

CHAIRPERSON ELKOWITZ:

Three times. Take care.

Next item on the agenda was the Historic Services report. I know Richard had some place that he had to be. He just wanted me to report that they had an Historic Trust Committee meeting at West Hills. The next meeting has not been scheduled yet. But the Parks Commissioner will be present to talk about the variety of issues that the sub-committee as well as the Historic Trust itself has been raising.

CAC concerns?

MS. SQUIRE:

I just had a comment on the Historic Trust meeting. I did attend because it was in Huntington. And it was an excellent meeting and an excellent tour. And I think it's something that people should make use of in their locale. It really was very helpful and a good meeting.

CHAIRPERSON ELKOWITZ:

Anything else? I wanted just to raise something. I want to raise something, not that we're necessarily going to decide it today. I have a feeling, though, that the discussion on the GEIS for Vector Control whenever it actually happens is going to be an extensive discussion. And if it's going to happen on a meeting day where we have a very long agenda, I don't know that that's going to be a prudent choice. So maybe we're not going to decide this today, but I know for my own perspective it's tough for me to spend an entire day here. So we should think about when we get the GEIS maybe we can all communicate by e-mail or something and see if maybe we shouldn't hold a separate meeting just to discuss that issue. Because I have a feeling it's go to be lengthy and involved and technical. I don't know how people feel about that.

MR. KAUFMAN:

I agree, Terry. I agree, Terry. I think it's the best thing to do.

CHAIRPERSON ELKOWITZ:

All right. So, when we get the GEIS, we'll take a look at it and we'll try to pick a date that's convenient for the majority of the CEQ. And we'll hold a separate -- obviously it's a public meeting -- but a separate public meeting just to discuss that. That way the agenda doesn't end up going on until five o'clock at night. Motion to adjourn. Yes, sir? Other business.

LEG. SCHNEIDERMAN:

I was not at the last meeting. And one of the projects that I'm sponsoring on the Legislature came before you. And this was to have a license agreement or use agreement with the County to construct an observatory building out at the Third House, Theodore Roosevelt Park out in Montauk. And I understand that a -- not a pos dec but a Type -- it was determined that it was a Type I Action. I just wanted to first make sure the Board is aware that there are no -- there's no plumbing, no bathrooms. It's just basically a shell to house a telescope in a small building. And it's not anywhere near where the historic buildings are. It's near where the bathroom facility is.

CHAIRPERSON ELKOWITZ:

Right. The thing is I think it just wasn't -- it didn't fall into the category of a Type II Action. And because it adjoins a building on the National Register, just by legal definition it becomes a Type I Action. That's it. It's not that -- I don't think that anybody was concerned, and I maybe wrong so somebody jump up if I'm wrong.

LEG. SCHNEIDERMAN:

Okay. I have to now go complete the long --

CHAIRPERSON ELKOWITZ:

Only because the law requires it. Not because anybody had any --

LEG. SCHNEIDERMAN:

I just want to make sure that it was the proper determination.

CHAIRPERSON ELKOWITZ:

Well, I believe I asked the question whether or not it was greater than 4,000 square feet and the answer was yes.

LEG. SCHNEIDERMAN:

The building itself --

CHAIRPERSON ELKOWITZ:

But it's freestanding; right? It's not accessory --

LEG. SCHNEIDERMAN:

I don't believe the building is anywhere near 4,000 square feet.

CHAIRPERSON ELKOWITZ:

Jim, what was the -- I don't remember.

LEG. SCHNEIDERMAN:

It's about a 16 foot --

MR. BAGG:

The resolution doesn't specify the size of the building but because it is next to the Roosevelt House which is, you know, historic and --

LEG. SCHNEIDERMAN:

It's not next to the house either.

CHAIRPERSON ELKOWITZ:

Right. But it would have to be -- well, let's look at something. It has to be an unlisted action that's next to it.

MR. BAGG:

Right.

CHAIRPERSON ELKOWITZ:

So if it was by definition Type II -- but I don't think it was. I think that there was some issue with it.

MR. BAGG:

Well, we don't know what the specifics are. That's the problem. The resolution does not state exactly what the plan is or the specifics are.

LEG. SCHNEIDERMAN:

I'm going to try to calculate the area.

CHAIRPERSON ELKOWITZ:

But let me just show you. The only one that would apply, Jay, is -- I'll give you the citation -- it's 617.5 (c) (7). Construction or expansion of a primary or accessory appurtenant, non-residential structure or facility involving less than 4,000 square feet of gross floor area.

LEG. SCHNEIDERMAN:

It will be far less than that.

CHAIRPERSON ELKOWITZ:

So, if it's that, then it would by definition be a Type II Action but there was no way for staff to determine it. That was the problem.

LEG. SCHNEIDERMAN:

Okay. So, I'm not in a hurry for it but why don't we bring it up at the next --

CHAIRPERSON ELKOWITZ:

All you have to do is a letter. Just do a letter saying that we're proposing -- actually Jim will help you with the letter because it's similar to the letter Ralph writes; that you're proposing this building, it's less than 4,000 square feet --

LEG. SCHNEIDERMAN:

It's less than a thousand. It's a couple hundred square feet.

CHAIRPERSON ELKOWITZ:

Fine. And that under that section you believe it's a Type II Action because the thing that makes it a Type I is if it's an unlisted action to begin with. And it clearly says it. Any unlisted action occurring wholly or partially within a substantially contiguous any historic building. So if it's a Type II by definition it doesn't become Type I.

LEG. SCHNEIDERMAN:

I mean I would like to have the -- when we have the design discussion as the Historic Trust I think there'll be an important discussion like we had here today with the Vanderbilt.

CHAIRPERSON ELKOWITZ:

Right.

LEG. SCHNEIDERMAN:

In terms of how we design it.

CHAIRPERSON ELKOWITZ:

Right. But that's not required for a Type II Action for SEQRA determination but Jim had something to say.

MR. BAGG:

I mean, since this is going into a park, I would suggest that you work with Nick Gibbons in the Parks Department to transmit that to CEQ.

CHAIRPERSON ELKOWITZ:

Just do the letter? Fine. Nick does the letters all the time.

MR. KAUFMAN:

That's what I recall. There was some discussion as to the location in terms of historic impact and things like that which brings it into a different category.

LEG. SCHNEIDERMAN:

Right. The location was chosen specifically to keep it as far as from the historic building as possible. In fact, there's some non-historic buildings. There's a pavilion and a comfort station at that park which are hundreds of feet away from those historic buildings. And it's actually Little League behind it.

CHAIRPERSON ELKOWITZ:

Are you going to be here next time?

LEG. SCHNEIDERMAN:

That we're considering --

MR. KAUFMAN:

Well, we can check the record. And if you're going to be here next time, you know, we can figure it out.

LEG. SCHNEIDERMAN:

Yeah. I will try. Theresa, what do I need to do? Send a letter?

CHAIRPERSON ELKOWITZ:

Have Nick Gibbons send a letter which is similar to the letters that we looked at today saying that the Parks Department or Legislator Schneiderman, whomever it is, is proposing this thing. And that it's, you know, 862 square feet. And you believe it to be a Type II Action under 617.5 (c) (7).

LEG. SCHNEIDERMAN:

Okay. Can I just send a letter simply to CEQ saying that please reconsider this application? I believe an error was made based on --

CHAIRPERSON ELKOWITZ:

Because it's this size, right.

MR. BAGG:

Also, the location should be included, something in terms of project background because the resolution doesn't have anything with it.

LEG. SCHNEIDERMAN:

Yes.

CHAIRPERSON ELKOWITZ:

Okay. There you go.

Motion to adjourn?

MR. KAUFMAN:

Motion.

CHAIRPERSON ELKOWITZ:

Second?

LEG. SCHNEIDERMAN:

Second.

CHAIRPERSON ELKOWITZ:

Okay. See you next month.

(THE MEETING CONCLUDED AT 1:00 PM)
_ Denotes spelled phonetically_