

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, Veterans Memorial Highway, Smithtown, New York on February 15, 2006.

MEMBERS PRESENT:

Larry Swanson - Chairman
Theresa Elkowitz
Michael Kaufman
Tom Cramer
John Potente
John Wagner

ALSO IN ATTENDANCE:

Joy Squires
Richard Martin
Steve Brown
Lee Snead
Jim Bagg - Planning Department
Ralph Borkowski - SC DPW
Penny Kohler - Planning Department

MINUTES TAKEN AND TRANSCRIBED BY:

Donna Catalano - Court Stenographer

(*THE MEETING WAS CALLED TO ORDER AT 9:40 A.M.*)

CHAIRMAN SWANSON:

We'll call the meeting to order. Before we begin, I think it's appropriate that we say thank you to Terry for all her years of service as Chair of this organization. I know the leadership was great. And you put a lot of time and effort into it. On behalf of the entire Council, I would just like to say thank you.

MS. ELKOWITZ:

Thank you, Larry, I appreciate it.

CHAIRMAN SWANSON:

We have two sets of minutes to review, I believe -- three. Okay. We have July 20th.

MR. KAUFMAN:

Mr. Chairman.

CHAIRMAN SWANSON:

Yes.

MR. KAUFMAN:

May I comment on the July 20th minutes? On Page 16, I'm quoted as saying something about the dark side. While I am an attorney, I was not saying dark side, I was saying dark skies. That would be the fourth line on Page 16. And also, on Page 29 and 30, there's some misspelling of Barbara Van Liew's name in regard to her memorial service. And her name is properly spelled V-a-n and then the next word L-i-e-w as I remember. That correction is on Page 30 and 31. She was a member for a long time of CEQ, and I think we should try and get her name right for the last time since we were talking about memorial services.

CHAIRMAN SWANSON:

Okay. Any other comments on July 20th minutes? Do I have a motion to accept with amendments?

MR. CRAMER:

Motion to accept with amendments.

CHAIRMAN SWANSON:

Second?

MR. KAUFMAN:

Second.

CHAIRMAN SWANSON:

All in favor? Motion passes. And what is the next set?

MS. ELKOWITZ:

November 16th.

CHAIRMAN SWANSON:

November 16th. Any comments on November 16th?

MS. ELKOWITZ:

I'll make a motion to accept.

MR. CRAMER:

Second.

CHAIRMAN SWANSON:

All in favor? Opposed? Motion passes. December 14th, any comments?

MR. CRAMER:

Motion to accept.

MR. WAGNER:

Second.

CHAIRMAN SWANSON:

All in favor? Opposed? Motion passes. I have a couple of pieces of correspondence that I would like to read into the record. The first is from New York State Department of State, and it's addressed to the Commissioner of Suffolk County Department of Health Services. And it is with regard to the Vector Control Plan.

"The Department of State is a member of the Suffolk County Vector Control and Wetlands Management Long Term Plan Steering Committee, and in our role as Chair of the South Shore Estuary Reserve Council, appreciates the opportunity to provide the following general comments on the preliminary Suffolk County Vector Control and Wetlands Management Long Term Plan and Draft Generic Environmental Impact Statement. We understand the Council on Environmental Quality will take these comments into account as they decide on whether the current draft plan is complete. The Department applauds the County's efforts to develop a long term plan incorporating ecological values in the Vector Control."

"However, the preliminary draft plan lacks adequate detail, justification in its wetlands restoration section. For example, it is unclear in the report how 4000 acres of wetlands were identified as degraded and what evaluative criteria were used or considered to identify wetlands requiring restoration. Similarly, there's no detail on how an additional 9000 acres of wetlands will be accessed. At a minimum, these issues should be addressed and articulated in the text and maps should be included depicting the locations of wetlands needing restoration as elements of Vector Control activities."

"We agree that Open Marsh Water Management, OMWM, has the potential to reduce the applications of pesticides, but there are a number of references to OMWM activities including filling potholes and larger areas of stagnant water, which are not adequately explained in a manner allowing for assessment of their ecosystem impacts. The department is not ready to concur with these suggested practices given the absence of baseline data and lack of understanding of the process that will be used to select sites, determine the scale of the project, select methodology and determine monitoring requirements."

"The ecological risk of selecting sites for various aspects of OMWM need initial consideration and should be discussed in greater detail. We recommend that prior to considering the plan complete, the preliminary draft plan be augmented to include information that addresses the proceeding comments and includes more specifics indicating how conclusions in the plan are reached. We look forward to reviewing the draft final plan." Signed, Fred Anders. So I presume, Jim, that Mr. Dawydiak has received a copy of this.

MR. BAGG:

That's correct. As soon as we get the comments we send them to the Health Department for their review and analysis as well as to CEQ.

CHAIRMAN SWANSON:

And we should attach this to perhaps the comments that we will be discussing a little later.

MR. BAGG:

Right.

MR. CRAMER:

Larry, the letter sounds like its more the comments on the DEIS rather than the scope and adequacy, which is the point we're at right now. These comments probably would be more appropriate to be included in the comments on the document itself than in the scope and adequacy of it. I don't think they -- they haven't mentioned in there that hasn't been included in the document itself at this point. And I think the letter should be more appropriately done as part of the comment period.

MS. ELKOWITZ:

I agree with Tom. It's not a completeness issue.

CHAIRMAN SWANSON:

All right. Any other comments? The second piece or correspondence we have is from the Coalition Against Airport Pollution. "Dear Council, your Council is the environmental gateway for applicants who in the course going business at Gabreski bring pollutants to Suffolk County Airport in the form of fuel farms, industrial waste, waste water runoff, deicing chemicals to mention only a few of the hazards. We are, therefore, stunned at your negative declaration decision which clears the way for Long Island Jet to expand the operations at the Suffolk County Airport with no further environmental impact review, particularly because this action was taken without public consultation."

"The Coalition Against Airport Pollution strenuously objects and requests that your decision be withdrawn for reconsideration. Since its inception in 1998, CAAP's primary goal has been to put the County facility on a financially sound footing, to retain the 106th Air National Guard Unit and to clean up the County Airport environmentally and rehabilitate it cosmetically so as to attract high paying non aviation tenants to the 58 acre industrial park."

Further runway related development would be unnecessary financially. Had cleanup been completed in a timely fashion, Suffolk County would have had no need to deal with tenants such as Long Island Jet, a firm that has cost the taxpayers thousands in court costs attended upon rent collection. It is important to point out a contradiction in your determination regarding Long Island Jet. According to your minutes, the purpose of this project is to provide adequate services needs for expanding aircraft usage. Then your next sentence begins, the project will not add air traffic. This is not merely illogical, it is a conflict with environmental laws specifically designed to protect citizens in the communities we represent and it presents a threat to the entire population of Long Island which depends upon a sole source aquifer and is endangered by further pollution at Gabreski Airport."

"Moreover, the entire airport is within the Pine Barrens. That fact alone makes

your negative declaration impermissible as we understand the laws governing critical environmental areas under State Environment Quality Review Act. Left unchanged, your decision allows Long Island Jet to excavate underground fuel storage to construct a fuel farm, three jet hangars and 7-T hangars to enlarge the terminal and to nearly double their acreage. Your decision allows this expansion to proceed with virtually no further environmental review. Simple logic dictates that such a project needs closed supervision and evaluation of its impact by experts."

"By our calculations, there may be as many as a dozen or more other aviation leasees headed your way. Under SEQRA, segmentation of such applications is expressly prohibited. As SEQRA states, you must consider reasonably related long-term, short-term, direct and indirect cumulative impacts. There are at least three jet management companies seeking fuel farms in terminals and at least 80 T hangars to be built in clusters by several different companies. These quantities added to the two master plans for aviation and non aviation currently in development necessitates an overall environmental review. This is even more urgent because of the many recognized unresolved pollution sites already at Gabreski."

"By this letter, CAAP requests that you notify us and the public when these leases are before the Council on Environment Quality and that no further negative declarations be issued without a thorough public airing of the issues. We ask that the public hearings of CEQ take place in County facilities at Riverhead with adequate advanced notice to neighbors at Gabreski Airport. We look forward to your speedy reply." Mr. Isles here? Would you like to make a few comments with regard to this letter?

DIRECTOR ISLES:

Sure. The Planning Department obviously provides a service to CEQ in terms of furnishing information if you have any specific questions regarding the letter. This was a matter that appeared before CEQ, I believe earlier last year in the summer. CEQ obviously has a role to issue recommendations to the Legislature. That role and that information is based upon the information by the sending department by the facts of a particular case. Mr. Bagg, Chief Environmental Analyst with the department, is also available today for any detailed questions.

But what I would be a little bit cautious on is obviously there are strong feelings in this case, there's concerns about the environmental impact of Gabreski Airport specifically to the Pine Barrens and to the SGPA at that location, but on the other hand, the review by CEQ I know is very careful and deliberate. The criteria that you apply in terms of State Environmental Quality Review Act, your nec dec recommendation is based upon those criteria.

I do note too that there is an in-place master plan for the airport approved in the early '90s. It was our belief that this was consistent with the master plan in terms of the fixed-based operator use of this property. The requirement for compliance with the Health Department codes, Article 6, Article 7, and Article 12, and so the area proposed for this use is within an area essentially development. It does have some lawn areas, it does have some paved areas. Based upon all of that information, here again, I'm just giving a very brief synopsis of how CEQ had made their determination, the Legislature has the full authority to accept or reject that based on it.

But I think one point that is important to be made here is that, here again, understanding the deep emotional feelings, the concern for the environment by

the group that wrote this letter, there's almost a feeling as if nothing happened, that there was no consideration of the impact to the environment. And that absolutely is not the case. There was an environmental assessment form completed, there was review of the master plan. This is within a CEA, a Critical Environmental Area. That too is also considered as part of this -- as your deliberations and our consultation with you on that. So not to get into necessarily nitpicking on issues, we understand their concerns, there has been an oversight process put into place by the County Executive to improve communication between community and the County as well as with aviation interests, and that will be an ongoing process. So unless there are any other specific questions, certainly we understand their concerns.

CHAIRMAN SWANSON:

Thank you. Is there anybody here that -- yes. Please come forward, state your name.

MR. RIGANO:

My name is James Rigano. I'm an attorney with the Law firm of Certilman-Balin. And I'm here on behalf of the authors of the letter you had just read, the Coalition Against Airport Pollution. Jamie Siegel, one of the members and leaders of the coalition is here also.

As you probably know, the Coalition is a group of residents from the area around Gabreski Airport. And there are really three items just briefly that I wanted to bring to your attention. First, I understand that CEQ concluded this was unlisted action. I really do think it's a Type I Action under SEQRA based on -- and let me give you my reference -- 6-17.4 B-6 based on really two factors under that provision. One, this is an expansion of a nonresidential industrial development by more than 50%, it will be on more than ten acres, and therefore, is a Type I. Second, under that provision it's substantially contiguous to state open space, the core area of the Pine Barrens, and therefore, a Type I.

Based on it being a Type I, you must coordinate with other agencies, including the Central Pine Barrens Commission, DEC and others and obtain their input on whether a neg dec is appropriate. And really the key to the fact that it's a Type I is based on that it's more than a 50% expansion on ten acres, I think it's 10.2 acres, and also based on the fact it's more, I think, the threshold would be 2.5 acres because it's contiguous to state open space.

Second point I wanted to bring to your attention was at least based on our review of the documents that we have available to us, which is principally the environmental assessment form, it doesn't answer the questions of whether the standards of the Central Pine Barrens are exceeded. One questions is what happens to stormwater recharge? Petroleum and other chemicals are used by Long Island Jet. Also, we assume that they will be using deicing chemicals. Both of those types of chemicals, the petroleum and other chemicals and the deicing chemicals can be picked up by stormwater, and what happens to the stormwater recharge.

Under 5.3.3.5.1 of the Pine Barrens plan, stormwater must be recharged on-site unless there's available off-site recharge. It's our understanding that this whole issue was not addressed. Could be wrong about that, I don't know that we have all the documents, but at least based on the environment assessment form it was not addressed.

Second concern regarding the Pine Barrens standards is compliance with federal,

state and local laws, especially with regard to the underground storage tanks. They are proposing new significant capacity for underground storage tanks for jet fuel and gas. There is a question regarding design and operation requirements, especially compliance with the very strict and detailed federal EPA retirements. And also, there's a question of what about existing contamination from the existing tanks. It's our understanding they've been there quite some time, and there is the potential and the question regarding contamination and the impact to the groundwater.

Finally, a third point that I wanted to raise and perhaps the most important is the concern regarding cumulative impacts. We understand there are several other proposed leases and used for the airport property. Those other uses, it's our understanding, have not been considered in one environmental review. And as I'm sure many of you know, cumulative impacts must be considered as part of the SEQRA and environmental impact statement process. Also related to that would be the need for a master plan or other -- some type of document where these cumulative impacts would be evaluated as part of an EIS process. Thank you very much.

CHAIRMAN SWANSON:

Thank you. Anybody have any comments?

MS. ELKOWITZ:

I do actually.

CHAIRMAN SWANSON:

Okay. Ms. Elkowitz.

MS. ELKOWITZ:

Mr. Rigano, I think -- I think that you cited to us 617.4 B-6 little i, is that what you -- is that what you cited as making it a Type I Action?

MR. RIGANO:

Little i and -- I'm sorry. The second provision would be 617.4 B-10.

MS. ELKOWITZ:

Well, 617.4 B-10 I'd have to look at, because quite honestly I don't have my file with me. So I'll go back and look, but with regard to 6 little i, I'm reading from the regulations, and it says, a project or action that involves the physical alteration of ten acres, and whether you cut that in half or whether you make it 2.5 acres, my recollection is that this project is not going to involve a physical alteration of 2.5 acres or five acres. It doesn't say a project that's taking place on ten acres or five acres or 2.5 acres, it says, and I'm quoting, A project or action that involves the physical alteration of ten acres, which either modified by the 50% or the 25%. Now my recollection, I don't know if anybody's other recollection is different, and I don't have the documentation in front of you me, but this was nowhere near 2.5 acres of alteration.

MR. CRAMER:

I believe you are correct, Terry.

MS. ELKOWITZ:

And with regard to the other things -- and of course, I'm doing this by memory, I don't have the minutes in front of me, I don't have the EAF in front of me -- but my recollection is that this property, the property that's involved in this, is all cleared and is predominantly building, asphalt and some weedy grassy area. So it's

recollection, and as I say, recollection, because we do hundreds and hundreds of projects here, that there was no nature vegetation being disturbed as part of this. It's also my recollection that we discussed Pine Barrens compliance and compliance with Article 6, 7 and 12.

So although I can't go down this letter point by point, I seem to remember discussing this, because I think you know, and I don't know that you have been to this Council before, but I think you know sensitized we are with regard to issues relating to the Pine Barrens and groundwater protection and compliance with the master plan. So while I'm happy to have staff, if the Chairman would allow, have staff look at this and provide you with the background documentation to ensure your file is complete. My recollection is that we did address all of these issues.

MR. RIGANO:

With regard to the three points you raised, the ten acres of vegetation in compliance with local laws, I didn't say anything about the vegetation. It's my understanding that the vegetation on this property is not an issue, although I was wondering about the reference to the clearing of 6.7 acres, it says mostly grass area. I was wondering what was on the other side of the mostly, was it freed or something else?

MS. ELKOWITZ:

Well, as I said, I don't have the documents in front of me.

MR. RIGANO:

But anyway, I'm not raising the vegetation issue, because my impression, not my absolute knowledge, but my impression that it will not be a Pine Barrens habitat that will be cleared as part of that, but I'm not sure of that frankly. And it's a question, because the environmental assessment form doesn't speak to that, it just says mostly grass area would be cleared. I was wondering what was, you know, other than -- other than mostly grass area, was it paved or was it -- - was it freed?

But with regard to compliance with Article 12, etcetera, the Pine Barrens standards require compliance with federal, state and local, and I'm quite sure that the installation of 24,000 gallons plus of jet fuel and other petroleum storage would have to comply with federal EPA requirements, which are somewhat different than County requirements. And the question is will they be in compliance? And that doesn't -- that's certainly not addressed in this document.

You know, a related question is what about stormwater and associated chemicals that could be in the runoff associated with the stormwater, how is that being handled, are there any protective measures? We're especially concerned about petroleum chemicals that may be released on the property just incidental to the operation of the aircraft's. But perhaps more importantly, the deicing chemicals, which are commonly used at airports as a safety matter. And we're not suggesting they -- they should not be using deicing chemicals for safety reasons, it's our understanding they have to, but how will those chemicals be controlled and how is stormwater that might pick up these chemicals going to be handled?

And finally, on the ten acre issue and whether this is a Type I or not, there's really, you know, two issues there. One is under 617 4-10, which says if it is substantially contiguous to public open space, ie, the Pine Barrens Core area. Then you really just need 2.5 acres of development. And based on this document, the environment assessment form, it says acreage development, now 4.7 acres; developed acreage at completion, 10.2 acres; acres of vegetation or cover to be

removed, 6.7 acres.

CHAIRMAN SWANSON:

Jim.

MR. RIGANO:

It also says how many acres of vegetation -- how many acres of vegetation will be removed from site, 6.7 acres. Based on all that, it's pretty clear at least from the environmental assessment form that more than 2.5 acres, which is the threshold for being substantially contiguous to open space, which triggers a Type I and, therefore, coordinated review. And then there's a second provision also if it's more than a 50% expansion of industrial that will result in the development of ten acres triggers Type I. So I think there's two basis there to get to a Type I, which really just means one thing, that you have to coordinate with other agencies. And beyond that, I think it's just a good idea to coordinate given the public interest in this and get the input, especially from the Pine Barrens Commission, given that this is in the Pine Barrens.

CHAIRMAN SWANSON:

Jim, you want to --

MR. BAGG:

I think first off, number one, the project location is -- the operator, long Island Jet, is currently operating out of this area. It's completely surrounded by aviation uses. People state that it's within the Core, however, there are areas in the airport that are in the Core, however, they are currently owned by the airport and Suffolk County. They're not considered parkland, they are considered a Core area, nondevelopable, and those areas are probably, you know, 1000 feet away. So this proposed lease area is in a currently developed portion of the airport previously used for aviation. It's not adjacent to a specific area, you know, that is the Core per se.

When speaking with conformance with EPA standards for fuel storage, I don't know, but I think Suffolk County rules and regulations in the Health Department are more stringent than the EPA in terms of storage of fuels in a deep aquifer recharge area. Those tanks have to be above ground, they have double-lined, and they have to have a capacity for containment, if there are any breaches for complete storage, not allowing it to reach the groundwater surrounding areas. So in those particular instances, I think that the Council did review it, did discuss it.

In terms of the Core area, I mean, this area is probably three-quarters of asphalt and cement and one-quarter on a grass -- scrubby-grassed area, as Ms. Elkowitz point out, that are on filled soils, disturbed. I mean, this airport was in operation prior to 1930. The FAA gave it to the County with covenants stating that this has to be operated as an airport and that the current Long Island Jet operation is a fixed-based operator, and they are currently serving the aircraft that come in there. They're not promoting new trips, they're not promoting, you know -- you know, expansion. They are proposing, you know, facilities to handle what is coming into that airport at this particular time. I mean, I don't know if they currently deice aircraft, I don't think the usage in the winter months is way down, however, if they do, that is an ongoing operation.

MS. ELKOWITZ:

Mr. Chairman, I think that Mr. Rigano is raising individual points. And I don't have the file in front of me, because we did this some time in the summer, I think, and I don't have the minutes either. So what I would suggest if you don't have an

objection is that Mr. Bagg put together a file and send it off to Mr. Rigano and then maybe his answers -- maybe his questions will be answered. And if he has any additional questions, I'm sure that staff can answer them.

CHAIRMAN SWANSON:

Certainly the letter requires a response. Mr. Cramer.

MR. CRAMER:

Yeah, I just have one thing following up what Jim said. The Core area is not necessarily public open space, although quite a bit of it may be. It also includes a lot of privately owned land and not in parks, not in open space designation. The Core is an area that includes a large number of private holdings. Again, without having the file in front of us to be able to address your comments specifically, but as Jim said, most of the sections of the airport that is in Core area is part of the airport ownership, it's not part of parks or public open space.

And I think if Jim could put together package and then also provide us with some comments down the line as far as the responses to this so that we would be able to better really -- better prepare a letter in response to this.

CHAIRMAN SWANSON:

Thank you. Any other comments?

MR. POTENTE:

I have a comment, Mr. Chairman. Regarding the allegation of segmentation that's at the end of the letter, SEQRA prohibits the segmentation of a single action for purposes of review. It doesn't talk about applications, which the letter refers to. Unless those applications are part of a consolidated action or they're -- they have some degree of relationship where they would meet the criteria under the case law for related actions requiring cumulative impact assessment, segmentation has nothing to do with the issue. Individual leases that are separately funded and separately applied for, if they are considered separately would not -- that would not be segmentation in my understanding.

And the other thing is it's very important when considering cumulative impacts that there actually be a plan proposed or currently pending. There's a reference in here to things might be headed our way, but there's nothing concrete that's in the pipeline, at least that's indicated by this letter. So I don't think it's either a segmentation or a cumulative impact issue at this point. Unless there's a consolidated action that's being broken down to component parts to make it something smaller, the segmentation issue doesn't arise.

CHAIRMAN SWANSON:

Mr. Kaufman.

MR. KAUFMAN:

Yeah. Mr. Isles mentioned a 1991 Master Plan for the airport. I have read that plan in the past. It might be helpful, Jim, if you were to refer to that also in any comments or documentation that you're going to be dealing with. I believe that that's some of the authorizing legislation and authorizing -- authorizing our actions.

CHAIRMAN SWANSON:

Thank you very much.

MR. RIGANO:

Thank you.

CHAIRMAN SWANSON:

You will be hearing from us. Jim, anything on recommended Type II Actions?

MR. BAGG:

Yeah. There's a couple of things I wanted to point out to the Council that may be of interest. One is Introductory Resolution 1155-2006, it's to establish an ecology and technological park in Suffolk County. So -- and it's setting up a premise. They want to allow exhibits within one of the County Parks at some point in time to show energy efficiency and educate the public as to that.

The next one is Resolution -- Introductory Resolution Number 1217-2006. It's to evaluate the feasibility of establishing cogeneration for County facilities in Yaphank and the North County Complex. So the County Legislature at this point in time is moving forward with initiatives to conserve energy in light of the recent crises.

Another resolution is 1219. It's adopting a Local Law of 2006, a Charter Law to amend the membership of the Council on Environmental Quality. This resolution was introduced by Legislator Nowick, and she is proposing to make the Chairperson of the Environment, Energy and Agriculture Committee as the representative to CEQ rather than the Park's Chair. That would be Legislator Fisher at this particular time.

And the last resolution is 1240-2006. This is appropriating funds in connection with a Rocky Point tower site for a police microwave antenna. And they are saying it's a Type II Action, however, SEQRA precludes that microwave facilities cannot be considered expansions, and therefore, they cannot be considered Type II Actions. So it would become an unlisted action and have to have an EAF submitted to CEQ.

CHAIRMAN SWANSON:

Thank you. Any comments?

MR. CRAMER:

Motion to accept staff recommendations.

MS. ELKOWITZ:

Second.

CHAIRMAN SWANSON:

Ms. Elkowitz seconds. All in favor? Opposed? Motion passes.

Next thing is proposed Charter Law creating a County Department of Environment and Energy. Is there anybody here to speak about that? We were hoping to have Mr. Deering, but I think he had a ten o'clock meeting, so he is not here. Do you want to discuss this at all, or do you prefer to table it until Mr. Deering can be present?

MS. ELKOWITZ:

Does he intend to come today at all?

CHAIRMAN SWANSON:

He had a meeting at ten, so I don't think he will be here today. But if he shows up, we can go back to it.

MR. KAUFMAN:

I would say table it.

CHAIRMAN SWANSON:

Okay. So we will table this. Proposed Rabies Oral Immunization Program, Suffolk County. Do we have anybody here to speak to that?

DR. DILLON:

Good morning. I'm Dr. Dillion, I'm with Suffolk County Department of Public Health. I don't think the overhead is working, so I'm going to do without the slides I had made for you. We have a problem in our adjoining county. Nassau County now has 45 rabid raccoons. And fortunately, Suffolk County for the last 50 years has been very fortunate that we have not had terrestrial rabies in our County. We would like to keep that way. Can anyone here raise their hand if they have a raccoon or have seen one in their backyard? It's really interesting in that if I told you that we have done some studies -- I can actually quote Nassau County -- as to how many raccoons there are per square mile. And I'm going to ask somebody to guess, and I'll give you a hint. In the Canadian-Upstate border, there's two raccoons per square mile. We're a little higher. Can anyone just throw a number out?

MR. KAUFMAN:

Fifty.

DR. DILLION:

There you go. Higher? Actually, in Nassau county, we found 120 per square mile. A couple of problems. We don't hunt or eat raccoons here, we have bears, we have no predators, there are no coyotes that attack raccoons. There's nothing to keep them in tact as a population. And on top of that, we all feed every day with our garbage cans. So that's one of the problems.

Now, when raccoon rabies does hit the Island, it's going to be a significant problem, because raccoons do interact with all of the wildlife here. They interact with our cats, our dogs, our own pets as well as the other wildlife we do have. One of the things that's actually in favor of controlling raccoon rabies on the Island is we're a peninsula. So it's not like in the Ohio River Valley area where they had a problem where the animals would just basically leave the area, not eat the bait, not get protected.

So what we would like to do in Suffolk County, is we would like to protect the area from raccoon rabies. The way to do that is to actually vaccinate the raccoons. Now, it's impossible to trap and vaccinate 150 raccoons per square mile, but what we can do is offer them an oral bait. And I'm actually going to give you a sample here so you can see what it looks like. What I'm passing around is -- you're welcome to open the Ziploc bag if you want, but it smells. It smells like fish. And so what this is is you can see it's an outer coating of fish polymer bait. And on the inner side -- I have a second one in there you can see -- there's actually a little -- there's a little wax cube. And company that actually makes it is -- I don't know if you remember when were all kids, we used to buy the Coca Cola bottle-shaped things that had the Kool-Ade in it? The raccoons love chewing on that.

And then once they chew through that, they actually break into the pink portion, which is actually the vaccine. And the vaccine is very similar to the oral Polio vaccine they gave us all as kids. Do you remember? I think most of us here are about the same age. They put the drop of the Polio on a sugar cube and make

you swallow it. What this does for the raccoon is it actually coats the lining of the mouth and the tonsils. And the tonsils are very important because they will pick up that this is something that the raccoon now needs to form antibodies to.

So now, six months, a year, three years from now, the raccoon get into a fight with a rabid animal, this raccoon will not pick up the rabies. They will be able to fight it, they will not become rabid. I have a document going to give you which they have done extensive research, they, meaning the Federal Government, looking at this bait. And it does not impact water or ground. It will not contaminate anything. I think the biggest concern people have is well, gee, what if a child eats it? Well, you're welcome to smell that bag. I don't know of any child that would ever put that near their mouth for more than a second. The outer coating has a consistency of like a raw hide bone. So I think you could chew on it for several hours, you and I with our teeth would never get through it. It's actually intended for raccoons and coyotes who have the point incisor teeth and they enjoy chewing on things like that. Dogs can also pick it up. And it's actually harmless to dogs, because now your dog is also going to be vaccinated. Hopefully most of us have vaccinated our dogs through an injection at the vet's office. They have had -- several million of these have been dropped in US with no untoward events. There is no chance that an animal will become rabid from the pellet.

What Nassau County has been doing with the USDA has been controlling their rabid raccoons by a couple of methods. When they discover a rabid raccoon, they've actually gone around that area and trapped and euthanized the raccoons that they could find, because the thought is that that raccoon has been interacting with his colleagues, he's going to infect them with the virus. And then what they do further out is they actually lay this bait. Now, in this bait there's also Tetracycline, an antibiotic. Not that raccoons need that, but when you ingest Tetracycline, it actually forms a ring in the root of the tooth. So now what they do is about six weeks later, they go back and they randomly trap raccoons in a humane way, and then they anesthetize them, they pull one of the teeth from the raccoons, draw some blood from him, and now they vaccinate them again to make sure -- this time they vaccinate them with -- you know something in the hip of the raccoon, send him on his way.

And what they are able to do is to test the efficacy; how many of the raccoons are they able to protect. And the way we know if a raccoon is protected is two ways; if there's a Tetracycline marker in his -- in his root of his tooth, then we know that he chewed on the outer coating, and then we test the blood to see, did he gain antibodies to the rabies virus. And I see some puzzled looks. You have a question, sir?

MR. POTENTE:

Just wondering. Which vaccine is this, is this an attenuated vaccine, do you know?

DR. DILLION:

It's an oral rabies, and it's an attenuated -- actually, completely synthetic. So it's not the rabies virus. And the -- it's a polymer -- actually, I'm going to give you my handouts for this one. Okay. It's actually the only vaccine that's licensed for wildlife use.

MR. POTENTE:

Is this a veterinary different from a human strain vaccine?

DR. DILLION:

No. It's not the same. The question he asked me is is this the same as what a veterinarian would use. No. A veterinarian would use a vaccine that's injected into the animal. This is actually an attenuated vaccine that is attached to a pox virus. So what that does is the pox virus attaches to mucosal membranes, and then that lets the body know that, gee, I need to pay attention to this, what is it. And then it's designed to look like the rabies virus, but it is not.

And so in all of the cases that they have had of human exposures in the United States, they had one woman who actually was pregnant. She had a very poorly behaved dog and she started wrestling with her dog who had a hold of this, the dog apparently bit her two or three times on the forearm. And she did not wash her arm right away, and she did develop a skin lesion, but she did not develop any other illness. The baby was born fine as well.

MR. WAGNER:

I have a couple of questions about this, Doctor. It seems that from what I read that the program is designed to provide a corridor of protection along the County line. Do we know for certain that no raccoons have actually the County yet?

DR. DILLION:

No. I can never say for sure that we've never had a rabid animal in our County yet. We have not found any. We are watching for them. And we've changed a lot of what we do as far as policy goes. When exterminators trap an animal, they're not allowed to move it anywhere. We've asked if anyone identifies an animal that's behaving oddly, we do try to test them. We've tested a few more this year at the State Lab than usual, but so far we have tested negative for all of our animals, our terrestrial animals.

MR. WAGNER:

Should you find infected animals further east of the corridor, is there any plan to expand the program to include vaccination of those areas?

DR. DILLION:

Absolutely. In fact, the plan that you see is a 35 mile corridor that we'd like to create as -- I like to look at it as a DMZ zone between us and Nassau County, but that may be further out. And we actually are working with consultants from Cornell who have a lot of expertise and the USDA. They've been running the Canadian Program and the Mexican Border Program. And so they need to actually first do some trapping here to see how dense our population of raccoons. And then maybe it would make sense to do all of Long Island or maybe only that 35 mile corridor or maybe even a smaller corridor, but put them in a more dense fashion so that we can make sure we protect enough of the raccoon population.

MR. WAGNER:

The last question I have is regarding the plastics that are used. As anyone who has pets probably knows, the animals will be attracted by the scent and will probably consume some of these. There is a reference in the US Department of Agriculture documents to incidences dogs consuming multiple doses of this -- of this stuff. And although the overdosing doesn't seem to have an adverse affect, there have been instances where the plastic has been ingested and then vomited up. I don't think -- I wasn't convincing reading this that they've really studied what the affects are on these animals of having that happen, and some of these animals may not pass this material properly and get sick or die as a result. Is there any additional information that you can give us on that, and are there any other alternatives to this type of plastic that might breakdown in a friendly way within the animal and not cause an adverse affect?

DR. DILLION:

You're asking very good questions. If you can look at the package I've been sending around, you'll see how small that little plastic thing is. I would think in order to obstruct the bowel of a dog, maybe if you had a little Chihuahua and it ate, I would guess it would take at least 15 of them, which I can't imagine, you know, that they would consume. A normal dog that would have intestines my size could eat a good 40 of them, and they would not obstruct the bowel. So I don't know if that really answered your question. And, no, I don't believe they have really looked at this.

CHAIRMAN SWANSON:

Mike?

MR. KAUFMAN:

I've got several questions. One, is the efficacy rate in Nassau County where they've previously been trying this barrier control?

MR. DILLON:

It's interesting, because they've got -- they've ranged from -- I wanted to say -- 30% to 40%, which is pretty good. When you say efficacy, meaning we're looking at antibody tests of the animals. A lot of the tests are not back yet from what they've finished last summer. And nationwide, they've -- here's the other problem is some animals you can vaccinate over and over and over again and they won't form a measurable antibody. But if you challenge them and actually try to give them rabies, they are protected. So we would guess that about 30 to 40% right now of the area that they have impacted is protected. It depends also on when they lay the bait. If they lay the bait in the spring, the babies are too small, they're not going to eat it. And so the only ones that are going to eat that bait are going to be the older raccoons.

MR. KAUFMAN:

Are you're going to try and deal with that particular situation in terms of the feeding pattern?

DR. DILLION:

Yeah. We've actually looked at that. If we become a rabid territory, then we just immediately will start doing what Nassau County did, just right away laying bait. We'd probably do it in the spring and the fall. If we are able to remain terrestrial rabies-free, we would probably wait and just put down a fall baiting, because that way, we would get a greater proportion of the raccoons. And then next spring we would have a new issue when new babies are born that would not be protected. But it would be better, we think, to do it in the fall.

MR. KAUFMAN:

Another question regarding your barrier control strategy. Given the fact that you've got bat populations out there that always have a background count of this kind of stuff -- and that's where my exposure came from a while back -- bats do fly. They can fly over this kind of corridor. They are not necessarily limited in where they go. As such, you are proposing, say, a 30 mile wide corridor, etcetera. You are still going to have possibly bat -- bats that have infections flying over this and possibly going further east. Are you going to be doing any monitoring further east aside from what you are talking about in terms of trappers and things like that?

DR. DILLION:

He actually brings up some good points. Five percent of our bats in Suffolk

County are always rabid, always will be. And bat rabies is a different animal -- and the bat is a different animal all together. There's something unique about the bat in that it can function and still be rabid for a good year, year and a half.

A raccoon, from the time it becomes rabid, its throat starts to get sore, it starts to swell up, it starts to hallucinate, not behave normally, will start being aggressive, fighting with other raccoons or actually go into a catatonic state and will only for about ten days be able to transmit that virus. We will never be able to eliminate bat rabies. It will always be with us. And I guess this is my chance to remind you all, if you ever wake up and there's a bat in your bedroom, if you don't catch him and let me test him, then you've got to undergo treatment.

Now, raccoons are different in that they interact with all the other populations of animals. Bats are reclusive. They want nothing to do with us. If a bat accidentally ends up in your house, he's as frightened of you as are of him. Raccoon is a different thing. I think you've seen, you can go out to your garage, and they'll look at you like, yeah, you know, take me on. And so that's the problem is that the raccoons are going to present a severe public health threat. And they also present a threat to our wildlife. I agree, I wish I could eliminate the rabies that we have in bats, but right now, there's no easy way to do it. And for the most part, bats avoid other animals and they avoid other humans.

MR. KAUFMAN:

One other comment, Mr. Chairman. A gentleman named Charlie {McGinley}, who is now the -- in charge of the animal shelter in the Town of Brookhaven, appeared before us, I think, about seven years ago predicting that this kind of problem would be coming towards us. He was basically talking about trying to do some barrier control much further west in Queens County, etcetera. And I don't know whether -- maybe Dr. Dillon can answer this question, I don't know whether those efforts were ever undertaken or not. It's just funny that he did appear here, he did predict that it would start coming over this way. And he talk about trying to deal with these issues. And, you know, there was never any follow up as far as I'm aware of that ever came before this council. Do you know if any efforts were ever made?

DR. DILLION:

I don't believe any were. And the interesting problem is once you start a barrier, when do you stop. And actually yesterday we had a meeting with the USDA officials, the people from Albany, and one of the questions I posed to them was how do you suppose that this rabid raccoon, the first one, ended up in Nassau County. And they actually believe that it came from Connecticut. There's a boat ramp there, and they believe that it actually just hitched a ride on one of the vehicles coming over that way.

MR. KAUFMAN:

It didn't pay?

DR. DILLION:

It didn't pay. And the other problem is we've also found they've been tagging the raccoons that they trap, they vaccinate them, and they tag them with an ear tag and then let them go. And they found one that actually -- near a garbage transfer station in Nassau County, they vaccinated him, tagged him, and then he was picked up all the way here in Suffolk County. So the theory is do they have homing skills, was he a Suffolk County raccoon that hitched a ride in a garbage truck, ended up in a dumpster there, they found him, and then he came back home, or is he someone from Nassau County that moved out here.

MR. KAUFMAN:

This is in many ways very much like the way they think West Nile came over here and the way that Vector Control, for example, thinks that some other Encephalitis diseases might be able to be transmitted. And basically for this transport, all you need is one or two.

DR. DILLION:

Absolutely.

CHAIRMAN SWANSON:

Any other questions for Dr. Dillon?

DR. DILLION:

Thank you.

LEG. NOWICK:

Thank you.

CHAIRMAN SWANSON:

What's your pleasure? Do we have a motion?

MS. ELKOWITZ:

I make a motion for an unlisted negative declaration.

MR. CRAMER:

Second.

CHAIRMAN SWANSON:

Any comments? All in favor? Opposed? Motion passes.

Proposed stormwater remediation to County Road 85, Montauk Highway at Green Creek. Please state your name for the record.

MR. BERGEY:

My name is Eric Bergey. I'm a Junior Civil Engineer with the Department of Public Works, Water Quality Unit. I'll be presenting for stormwater remediation, County Road 85 at Green Creek.

Currently we have two positive drainage systems that are discharging untreated stormwater runoff to Green Creek, which is located here. And we propose to augment the existing systems to redirect stormwater to two proposed retention basins. The proposed basins are on currently vacant lots that would have to be obtained. Are there any questions?

CHAIRMAN SWANSON:

Okay. Do we have any questions?

MR. CRAMER:

The one recharge basin shown on sheet one of two, what is that habitat on that one?

MR. BERGEY:

You're talking about this one? You can't really see it from there, can you.

MR. CRAMER:

I guess so. The one on the far right of the --

MR. BERGEY:

The habitat on that -- I'm actually not sure at this time.

MR. CRAMER:

It looks from the aerial photo that it's freshwater wetlands coming up into there.

MR. BERGEY:

It is, yes, correct.

MR. CRAMER:

So you're proposing to excavate freshwater wetlands in order to create this recharge basin?

MR. BERGEY:

That's correct.

MR. CRAMER:

Have you made application to New York State DEC yet?

MR. BERGEY:

We have not done that yet.

MR. CRAMER:

Have you had any conversations with them yet?

MR. BERGEY:

No, we have not.

MS. ELKOWITZ:

Well, Mr. Chairman. I don't know that we would have a choice other than to say that this would have a potential significant adverse impact on a wetlands. So I would really, really suggest that we make a motion to table pending Suffolk County DPW have contact with the DEC, because you may find that they don't find this project feasible whatsoever. And I doubt you want us to make a recommendation for a pos dec before you have the opportunity to negotiate with the State Agency, right?

MR. BERGEY:

That's correct?

MS. ELKOWITZ:

Motion to table, Mr. Chairman.

LEG. NOWICK:

Second.

CHAIRMAN SWANSON:

All in favor? Opposed? Thank you very much.

Proposed acquisition of land for open space preservation known as Great Pond, Town of Southold. Good morning.

MS. FISCHER:

Good morning. Laretta Fischer, Suffolk County Planning Department. The first

property before you today is the {Georgiopolis} property in the Great Pond area of Southold. It is one of a number of parcels totaling ten acres, this is 1.34 acres of that ten acre area that the County has proposed to acquire. This area is actually just to the east of Peconic Dunes County Park to the west -- southwest. It's proposed under SOS for open space preservation.

MR. CRAMER:

Mr. Chairman, I'd like to abstain on this. I believe it's a piece of property that I was involved with in the past.

CHAIRMAN SWANSON:

Lauretta, how many acres is this?

MS. FISHCER:

1.34.

CHAIRMAN SWANSON:

On this map, it says approximately ten acres.

MS. FISHCER:

That's the entire area that is outlined in green. We're just acquiring the one parcel of that as shown by the black line.

CHAIRMAN SWANSON:

So the green is something that you have in mind.

MS. FISHCER:

We're looking at the entire area including all the green parcels outlined there.

CHAIRMAN SWANSON:

Okay. Thank you. Any questions for Lauretta? Can I have a motion?

MR. KAUFMAN:

Motion, unlisted neg dec.

CHAIRMAN SWANSON:

Second?

MR. WAGNER:

Second.

CHAIRMAN SWANSON:

All in favor? Opposed? Motion passes with one abstention.

MS. FISHCER:

Thank you.

CHAIRMAN SWANSON:

Proposed acquisition of conservation easement of five acres of land known as the {Sansoussi} Lake County Park, Town of Islip.

MS. FISHCER:

Yes. This is in addition to our holdings in this area in Islip. This is just immediately north of the Roosevelt Estate Property that we own and adjacent to it. There is -- the total acreage of the parcel is 10.3 acres. We are actually buying five plus or minus acres for open space as a conservation easement, and the

other half as a farm through Farmland Development Rights. So we are actually acquiring the entire piece, but in two portions and different in their uses.

So as you can see, the property will be split in half. The western half will be in a conservation easement where the wetlands and adjacent to Browns Creek is, and the farmland to the east will be retained as farmland use. However, we will be buying the development rights to that portion of it.

MR. MALLAMO:

My concern with this -- I've had a concern about this parcel for many years, because this is adjacent to the Roosevelt Estate. The only access to this parcel is through the main driveway through the middle of the historic site.

MS. FISHCER:

Yes.

MR. MALLAMO:

I know the current owner has been cooperative, and he's probably an asset, because he's the eyes and ears of the site, but my concern would be for the future, have we taken any steps to negotiate an arrangement for use of that driveway in the future?

MS. FISHCER:

It's been discussed. I don't know if we've done anything formally with the owner. We did look at other alternatives to that access way, be it other the railroad tracks, which really is unacceptable. That's his only other means of access. We do not have anything formally --

MR. MALLAMO:

Would this --

MS. FISHCER:

-- with him with regard to that access, although his right is obvious.

MR. MALLAMO:

Would securing this easement preclude the County from some later time to acquiring title to this fully?

MS. FISHCER:

No, not at all. In fact, it has -- and I can find out for you -- but I believe we've requested a right of first refusal.

MR. MALLAMO:

Richard, do you have any comments on this?

MR. MARTIN:

That question was my number one question, because the parkland surrounding it is on the National Register, it is all dedicated to our Historic Trust. The ten acres we're discussing was originally part of the Roosevelt Estate, and we, of course, would include that if the County ever purchased it into the historic site.

MS. FISHCER:

Unfortunately, he was not interested in selling. That's why we made this type of arrangement to try to protect it as best we could.

CHAIRMAN SWANSON:

Terry.

MS. ELKOWITZ:

I have a question. Is there a reason why the EAF only talks about the acquisition of the conservation easement even though it appears that the resolution, the Introductory Resolution, talks about the entire ten acres?

MS. FISHCER:

Yes, because the Farmland Development Rights Program, Jim, correct me, has been approved, and those properties do not come before you individually.

MR. BAGG:

If I could cover that. The Council reviewed the Suffolk County Farmland Development Rights Program. You made a recommendation for a negative declaration on the program, okay? So in essence, the farmland portion was covered under that program, which has received a neg dec.

CHAIRMAN SWANSON:

Mr. Kaufman.

MR. KAUFMAN:

Lauretta, I'm looking at the aerial photograph, and I'm trying to place this in relation to Meadowcroft. Are the County lands directly to the south?

MS. FISHCER:

Yes.

MR. KAUFMAN:

Okay. So it is directly contiguous?

MS. FISHCER:

Correct.

MR. MARTIN:

Mike, if you notice, the buildings right on the corner there, that's the caretaker's cottage, that's part of the estate.

MS. FISHCER:

If you continue down that roadway, you would go by the estate to the south.

MR. KAUFMAN:

So this showing -- on the photograph it is showing the winery area among other things.

MS. FISHCER:

Yes, only, the one parcel that we're discussing.

MR. KAUFMAN:

I'm just trying to place it more than anything else.

CHAIRMAN SWANSON:

So the cultivated area is the grapes?

MS. FISHCER:

Yes.

CHAIRMAN SWANSON:

Any other questions?

MR. CRAMER:

Motion, unlisted neg dec.

MS. ELKOWITZ:

Second.

CHAIRMAN SWANSON:

All in favor? Opposed? Motion carries.

Proposed acquisition of land for open space preservation known as Forge River County Park.

MS. FISHCER:

This parcel along with a few others this morning are along the Forge River in the Town of Brookhaven in the Mastic-Shirley/Moriches area. We had identified a number of parcels along this watershed in Master List 1 in 2004, and the Gazebo properties are identified for acquisition. This acquisition totals approximately 37.6 acres of the total site area that we identified as 162.2 acres.

We also have added approximately 30 acres to the north of here on Master List 2 for further acquisition along this watershed. This area has gotten a lot of recent publicity with regard water quality issues. And this is part of the what our proposal is to acquire these properties for open space. We are doing this as a match with the Town of Brookhaven as our partner.

CHAIRMAN SWANSON:

I have a question about water quality issues. My organization was approached about doing sediment analysis for contaminants, and I presume it's on this property, it's the Forge River watershed that the Town of Brookhaven is interested in. Is there some concern that we're buying a contaminated piece of property?

MS. FISHCER:

I wouldn't consider it contaminated. I think -- this portion that we're buying at this moment is the eastern branch, as you can see in the photo. The biggest concerns that have been described to date are primarily on the western branch where there is an existing duck farm. And that is wherein lies the -- well, what is, you know, perceived as the contaminant issue in Forge River. I can't speak beyond that myself. I am not involved in doing the analysis of the water quality there.

CHAIRMAN SWANSON:

So the duck farm is your only concern. You don't really have any knowledge that there's been -- it's a hazardous waste site or anything?

MS. FISHCER:

Not to my knowledge.

MS. ELKOWITZ:

You're doing -- the County is doing routine -- routine phase one --

MS. FISHCER:

Yes.

MS. ELKOWITZ:

-- and as necessary phase two as part of the acquisition, right?

MS. FISCHER:

Yes.

CHAIRMAN SWANSON:

Jim.

MR. BAGG:

I might point that the western branch that Laurretta talked about where the duck farm was, CEQ reviewed a dredging project in there years ago, probably about 20 years ago, where they went in there and removed the duck sludge wall to wall. It ended up being transported and put into the Atlantic Ocean. But the County has been in there with respect to that one duck farm.

LEG. VILORIA-FISHER:

Laurretta, can you go over the acreage with me, please? Because as I look at the map, I'm seeing that it says 57.1 acres for that largest piece to the -- to the east. And I have another question. I'll ask you both of them at once, which is as I look at the resolution where there's a note under the 37.6 acres, there's an asterisk, and this -- it indicates that the property would be equally divided into two sections in which the easterly section would be owned solely by Suffolk County. Can you explain those two things, please?

MS. FISCHER:

Sure. I believe we're only buying a portion of the larger piece, not the entire piece. And then what will happen here is that the town and the County will have separate parcels. They will take the entire 37.6 acres of which this acquisition includes, that includes three parcels, then will then divide that into two portions, and the easterly section will be own by the County, and the westerly section will be owned by the town. They will be separate parcels owned separately.

LEG. VILORIA-FISHER:

Okay. Then let's go back to my first question, which is on the site map, which shows 57.1 acres.

MS. FISCHER:

Yes. As I said, we are only buying a portion of that property, not the entire -- entire piece. I know this is a little confusing. But we're not buying the 57.1, we're only buying 35 acres.

LEG. VILORIA-FISHER:

The totality of the three parcels will be 30 --

MS. FISCHER:

Exactly.

LEG. VILORIA-FISHER:

Now, did we decide to divide the property that way because of the TDR component of SOS?

MS. FISCHER:

Correct. Correct.

LEG. VILORIA-FISHER:

Okay. Thank you, Laurretta.

MR. MALLAMO:

Lauretta, can I ask you a question? When the County does arrangements like this where you're sharing or dividing the property -- I'm just reminded of the situation in Blydenburg Park and Bill Richards Park, which I don't think was part of this, but they're side by side, state -- County and town parklands. And yet in the middle of the park, you'll be walking through the woods and suddenly there's a six foot chain-linked fence coming right down the center. I mean, is there any consideration given to that upfront where we'll try to avoid that so that this parkland can be used by everyone?

MS. FISHCER:

That's a good question. I would refer to the Parks Department.

MR. MALLAMO:

I'll refer it to the Parks Department. This is very annoying, very unsightly. And, you know, if we could avoid that with this parcel, I would encourage us to do that.

CHAIRMAN SWANSON:

Joy.

MS. SQUIRES:

Could I speak to some of the shared acquisitions with the County and the Town of Huntington? We've talked through all of these with the County, and we have several shared acquisitions. And I don't think at any time we've considered fencing County property from town property, because it's a new ball game now, it's a new story. This is the only way we can acquire with the town and the County working together to leverage funding. So, for example, {Fuchs}, we own the land around the house, the 18 other acres belong to the County, but there is no distinguishing of the property. And the town, when we need help from the County, we contract the County. So I suspect that nobody is fencing off property today.

CHAIRMAN SWANSON:

But what about -- are all County residents allowed to use the property?

MS. SQUIRES:

Absolutely. Absolutely.

CHAIRMAN SWANSON:

And you won't get a ticket for parking if you're a non-Huntington resident?

MS. SQUIRES:

No. We agreed to that. Every town agrees to that and says that in public hearings.

CHAIRMAN SWANSON:

And that's going to be agreed to here?

MS. FISHCER:

This one has two separate parcels, so it is different in the fact that we are not shared owners, which is -- happens in the majority of partnership acquisitions. But we certainly can look into it. I don't think the Town of Brookhaven would have any problem.

MS. ELKOWITZ:

Not that this is relevant to environmental impact, but why is this one so different?

Why are we dividing?

MS. FISHCER:

Again, because it's being acquired under the SOS Program, and under that program, we are required to identify the development rights of, you know, the parcel that we are acquiring. We cannot do that on the entire piece if we're going in to a partnership arrangement. We have to do it on a specific acreage.

MS. ELKOWITZ:

That's fine.

CHAIRMAN SWANSON:

Any other questions? Do I have a motion?

MR. CRAMER:

Motion, unlisted neg dec.

CHAIRMAN SWANSON:

Second? John Potente has seconded it. All in favor? Opposed? Motion carries.

Proposed acquisition of land for open space preservation purposes known as Champlain Creek addition, Town of Islip.

MS. FISHCER:

This is a small piece, again, along Champlain Creek in Islip. We just recently came to you with another piece just north of there maybe a month or so ago. We are trying to acquire properties along the stream corridor that flows into the Great South Bay, and this is one of -- one of those sites identified on your map in black. We are acquiring this through the old Drinking Water 12-5-E funding source for open space purposes.

MR. MALLAMO:

What is the roadway behind this?

MS. FISHCER:

That's the Service Road to Southern State Parkway.

MR. KAUFMAN:

Where is the creek on this aerial?

MS. FISHCER:

It's directly to -- on the western boundary of the property.

MR. KAUFMAN:

So the boundary lines look as if they follow the water?

MS. FISHCER:

Correct.

MR. CRAMER:

Motion, unlisted neg dec.

MR. WAGNER:

Second.

CHAIRMAN SWANSON:

Mr. Wagner seconds. All in favor? Opposed? Motion carries.

I guess we have another Forge River property. Proposed acquisition of -- for open space purposes known as Forge River County Park addition, the {Rachagine} property, Town of Brookhaven.

MS. FISHCER:

Again, as you stated, this is in the Forge River Watershed. It was identified on Master List 1. This is on the western branch of the Forge River, a small parcel, within an area that we're trying to acquire, which is predominantly undeveloped adjacent to the watershed. It's .24 acres, a quarter of an acre.

MR. CRAMER:

Motion.

CHAIRMAN SWANSON:

Motion.

MR. CRAMER:

Motion, unlisted neg dec.

MS. ELKOWITZ:

I'll second.

CHAIRMAN SWANSON:

Ms. Elkowitz second it. All in favor? Opposed? Motion carries.

MS. ELKOWITZ:

There's one more, {DeValle}.

MS. FISHCER:

This is two parcels owned by {DeValle}, again, on the western branch of Forge River in the Forge River watershed. Both total .4 acres, and this is being acquired under SOS for open space protection.

CHAIRMAN SWANSON:

Any questions?

MR. CRAMER:

Motion, unlisted neg dec.

MS. ELKOWITZ:

Second.

CHAIRMAN SWANSON:

Ms. Elkowitz seconded it. All in favor? Opposed? Motion carries. Thank you, Laretta.

MS. FISHCER:

Thank you.

CHAIRMAN SWANSON:

Moving on to other business. I'll just make a few comments about vector control. The subcommittee of the Council that's been looking at the Vector Control Program over the last year or so met on two occasions. The first occasion was I

think about two weeks ago. And we, with Jim's help, summarized some of concerns with the completeness and adequacy of the proposed Vector Control DGIS and plan.

And the second meeting was with the same group, but we met with the contractor and also with Mr. Dawydiak, Department of Health. And we essentially told him our preliminary assessment of where we thought there were issues with regard to completeness, and those notes are in your folder for today for you to review.

Also included is Vector Control's own analysis of some of the concerns and issues with regard to completeness and adequacy, and they are also summarized and in your packet. So next thing that we will do is forward these comments to them formally if the committee agrees with our comments. Yes.

MS. ELKOWITZ:

Don't we need to make a recommendation that the document is not complete and adequate -- an actual resolution and transmit it along with this?

CHAIRMAN SWANSON:

We probably will have to do that. Yes.

MR. BAGG:

Larry, if I may. At this particular point, since the meeting on the 10th, I have not had a chance to go over the Health Department responses to comments received and find out whether or not they're covering all the of issues per se at this point in time. I mean, we had an informal meeting with Mr. Dawydiak, but I don't know if we're ready to really say that -- you know, to send a letter out to say that, you know, if you respond to these comments and complete the document in such a fashion that it would be considered complete. I haven't had a chance to review all these things that were given.

MS. ELKOWITZ:

So then are we asking staff to actually do a completeness memo based upon the interaction?

CHAIRMAN SWANSON:

Yes.

MS. ELKOWITZ:

So the question is when do we -- I guess we wouldn't act on it until next time.

CHAIRMAN SWANSON:

So I think certainly by next time we ought be able to do that, Jim, otherwise we're holding up too much.

MS. ELKOWITZ:

The only thing is, I want to make sure, and I haven't been involved on the subcommittee, and trust me, I'm not asking to be involved, I'm just concerned about how the process works. This comment letter is going to be on a document that they originally submitted, not any of this supplemental stuff that they're giving us that they're telling us this is how we are going to fix it. It's just the originally submitted document, right?

CHAIRMAN SWANSON:

Right.

MR. BAGG:
That's correct.

MS. ELKOWITZ:
Okay.

MR. CRAMER:
I think one of the things that became clear in working with this is that although a lot of the information may be in there, it's in such a fashion that it's all disjointed. And that's one of things that we have suggested to them as far as towards completeness is providing an executive summary that references where everything is and essentially taking the scoping document, flushing it out, discussing it more put in the scoping document -- well, putting a section in the executive summary that is essentially the scoping document with narrative around each of the sections and then referencing that back to the specific pages within the DGIS to show where it is. So that's what we're working for as far as the ultimate document.

CHAIRMAN SWANSON:
Jim.

MR. BAGG:
I have a question. Does the Council want to see an actually revised and updated document before you consider it complete for sending out for public comment?

MR. CRAMER:
We would have to. As was pointed out by the Chairman, we have met with them, they are aware of it, both the department and the -- well, both departments and their consultant is aware of the format that we're looking to have it back at -- back to us. Once they have in a form that they feel is acceptable, then we're going to have to review it again for scoping and adequacy, and at that time and only at that time, can it be accepted as complete.

CHAIRMAN SWANSON:
I would suspect that they've got a month and a half or so of work to do in revising it. It's not going to be an easy task, although I think our recommendation was they certainly didn't have to rewrite the thing in a totally different format. As Tom explained, we're asking for a road map to assist them in completing the document, a little easier.

MR. CRAMER:
Right. And again, there are sections that have not been addressed even in the document as it presently stands. A lot of the things were addressed, but they were just extremely difficult to find, and they were the only ones who knew where it was. So we're trying to pull it together and suggested use this format in doing that. So -- but they will have to address those other components. At this point, do we -- you know, do we even need a letter, or do we just wait for the new document to come back and comment on that since we've had several meetings with them? And they apparently are aware of where it's going other than just summarizing what we have done at this point. There's a lot of things that, yeah, they're going to have to address in the document.

MS. ELKOWITZ:
My concern is the paper trail and the litigation. And I think there should be a formal resolution and a letter that says exactly what's inadequate and then a review of it when it comes back.

MR. CRAMER:

Well, we have the outline of that. Jim has worked up that. So it's just a matter of cleaning that up and going through that. I assume you would have it by the next meeting then.

MR. BAGG:

Yeah, that's fine.

CHAIRMAN SWANSON:

So you're suggesting we have a formal resolution from the entire board?

MS. ELKOWITZ:

Next time deeming an incomplete and sending the comment.

MR. CRAMER:

The staff and consultant can still be working on it as, you know, we present to them at our meetings, but there should be a resolution as Terry stated.

CHAIRMAN SWANSON:

Dr. Potente.

MR. POTENTE:

Yeah. Unfortunately I had been on this subcommittee and I been away during the meetings. And I have a number of comments, but one in particular I would just like to address at this point.

CHAIRMAN SWANSON:

Okay.

MR. POTENTE:

I'll just begin here. There's a number of booklets that I'm going to just graze through. It shouldn't take too long, I've got them paper-clipped.

Number one, is Appendix I, it's the task ten Suffolk County Wetlands Management Plan. Apparently it says under task ten management plan, salt marsh management best management practice manual. On page 18, there's a fleeting reference to the Natural Heritage Program. There's a sentence, the Natural Heritage Program has identified reference salt marsh across Long Island, and that's it. That's all I came across unless I missed something in here. That should be addressed a little bit more substantially.

While I was away, I received this letter from Greg {Eddinger} of the New York State Natural Heritage Program. I'll submit a copy of this to Jim. In case many of you may or may not know, the New York State Natural Heritage Program is a component of New York State. New York Natural Heritage Program has an published natural community classification. Our program is responsible for documenting high quality occurrences. I'm reading just excerpts from the letter that I received from Greg {Eddinger}.

MR. CRAMER:

May I before, it may shorten up the process? But this is -- so long as that was mentioned in the DGIS, what sounds like more is that these are relevant to the comments on DGIS, not on the scope and adequacy. In that it's mentioned, opens the door to ask these additional comments. If it wasn't mentioned, then I would feel it would be a valid comment for the scope and adequacy, but not for the

-- not for the -- you know this would be more relevant to the comments on the document itself.

MR. POTENTE:

I will do that.

MR. KAUFMAN:

Are you addressing the scope and adequacy, or are you commenting directly on the plan itself as to, you know, whether it's good or bad or whether you agree or disagree? I mean, right now we're still in the scoping phase. That's all I'm asking.

MR. POTENTE:

Completeness. It's my understanding that OMWM primarily takes place in the high salt marsh, but given that the above listed natural communities generally co-occur as a mosaic in salt marsh complex, it is possible that OMWM activity will involve all of these communities types. And there's a list of different communities types in the letter.

It goes on to say, the reference wetlands survey revealed that it was difficult to find pristine salt marsh occurrence on Long Island. OMWM should not utilize referenced wetland sites as these sites are intended to be set aside as the least altered examples. It is unfortunate that OMWM activity has commenced and Wertheim Natural Wildlife Refuge, because the two referenced wetlands -- because two referenced wetlands were identified by the New York State Natural Heritage at this site; The high salt marsh and the brackish tidal marsh.

OMWM sites should be selected from among the many lower quality salt marsh sites that are in need -- that are in need of restoration rather than testing the technique on the best remaining examples. Attempts to suppress natural processes under their effects are not -- and under their effects are not always successful, and in some cases, the results are regrettable. Wherever possible these ecological processes should be left in tact. In other words, Suffolk County Vector Control has chosen one of the last remaining exemplary referenced wetland sites on Long Island to use as an experiment by bulldozing the high marsh, making it -- this as an example, as ineffective. And it has plans to continue more of this activity in Wertheim desecrating some of the most pristine areas of salt marsh, rare salt marsh, that are left on Long Island.

CHAIRMAN SWANSON:

Dr. Potente, again, we want to just address scope, completeness, adequacy. And, you know, these are very important technical things, but we shouldn't be discussing them today.

MR. CRAMER:

It's unfortunate that you weren't at the meetings, because we spent numerous hours going over a lot of the things that you have right here. I would suggest that you put together and submit to Jim as part of the comments, because, you know, we've spent countless hours over the past several weeks and months going through a lot these things that you're discussing. And a lot of the things that you're discussing are comments on the DGIS itself rather than scope and adequacy.

MR. POTENTE:

Was that included?

MR. CRAMER:

We would like to get through the scope and adequacy at this point. A lot of the things that you just mentioned right there are comments on the DGIS once it's complete. At this point, it's not even complete. You know, you brought up some things, talked about that Natural Heritage Program had lists, although you said that there wasn't any discussion about the list. That's certainly something that should be included in the comments of the DGIS. In that they mention that they're in the DGIS, that opens the door for the comments down the line. So, you know, we have to focus in on where we are going, and that's for everyone at these meetings.

MR. POTENTE:

Tom, I've spent a lot of time since last August on this as well.

MR. CRAMER:

I can appreciate that. But the point is that we're at one phase right now, which is scope and adequacy of the DEIS. We'd like to get through that. And if you have comments on that, submit them to Jim.

MR. POTENTE:

I will.

MR. KAUFMAN:

If I may, Mr. Chairman. I was at the Technical Advisory Committee Meeting yesterday, and I made that exact point that Tom is making. There were starting to be comments about Open Water Marsh Management as a project itself, whether Wertheim was appropriate to be done, whether the project itself was good or bad, etcetera. I've tried to make very clear to everyone that the project was the project, whether we agree or disagree, but you had bifurcate everything. It's you have to look at it in terms of scope and adequacy initially, and that's at the point -- that's the point that we are at right now. Has Wertheim been identified as an issue? Is it out there for discussion? And I asked everyone, please, look at scope and adequacy of the document, and then save your comments for a later period in time as to whether you thought it was a good or bad project.

I share many of Dr. Potente's concerns about it. Right now, John, frankly, we're a little -- you're jumping a little bit ahead of yourself and where we are as a group at this point in time. But -- let me just finish. In mentioning, for example, heritage area programs, it's mentioned in there a little bit. It may need to have a couple more sentences in there saying that there are concerns out there from the Heritage program, etcetera, but the concerns that the letter that you are quoting from, a lot of those concerns are for a little bit later in time. That's when we get to look at this in greater depth and determine whether we like, for example, Open Water Marsh Management, what we think about it, etcetera. That's the point Tom's trying to make.

MR. POTENTE:

Terry, you mentioned that I would be addressing completeness now.

MS. ELKOWITZ:

Yes. Is the DEIS complete and adequate for public review? And the test is, you look at the scope, is the issue addressed? Not do you agree with it, do you not agree with it, do you agree with all the technical analysis, do they need to be more technical analysis, is what's in the scope addressed or not addressed.

MR. POTENTE:

At what point would be appropriate to present this information?

MS. ELKOWITZ:

After the DEIS is accepted as complete and adequate, that's the time that it goes out to all involved agencies and the public and all of us for technical review.

MR. POTENTE:

And so if there's a component within the DGEIS that is incomplete, that should be addressed before or by next meeting.

MS. ELKOWITZ:

Yes.

MR. POTENTE:

Okay. So I want to address one more issue right now then. The one problem is with the Wertheim project, it's mentioned in here, again, in the same on appendix on Page 38, New York State DEC has been very cautious regarding water management projects, and they do list a number of reasons why New York State DEC was cautious about handing out the permits to do Wertheim in the first place. One of them was Jamaica Bay, it's been manipulated in many ways, and there has been marsh loss. Number two, natural resource specialists believe many salt marshes are functioning well. This could lead to diminishment of functionalities. Number three, New York State DEC has a Legislative mandate that there's no loss of salt marsh acreage. Salt marsh acreage is measured in terms of vegetated areas. Therefore, projects proposing to add surface waters within marsh are in conflict with state law. Okay. These have been addresses so far.

Now, number five, past marsh manipulations have not been well documented and have been shown -- have not been shown to meet goals and objectives. This is the issue that needs -- that is incomplete. They address the issue of why New York State DEC has been reluctant to give the permits. And as one of the five reasons that they have addressed, they put down past marsh management manipulations have not been well documented. Now, have they addressed that? In the next paragraph they go, these concerns have been adequately addressed. Now, if we continue with that, through the conduct of the Wertheim project. So they're stating in the DEIS that these concerns have been adequately addressed through the conduct of the Wertheim project. So if we continue to the next appendix, Number Five, let's see where these issues have been addressed in the Wertheim project.

MR. KAUFMAN:

John, can I interrupt you for a second?

MR. POTENTE:

No, you can't, because I'm not done. You'll wait until I'm done.

MR. KAUFMAN:

You have the floor.

MR. POTENTE:

After two years of preproject monitoring, OMWM alterations were implemented on a test project at {CETA}. This is -- this is part of the disjointed format of this -- of this DGIS, and this is one of the reasons Tom wants to see a better road map. After two years of preproject monitoring, OMWM alterations were implemented. This is insinuating that this is one of the incomplete portions of adequate documentation and one of reasons the DEC was not willing to give permits.

If we continue further, we see that the Wertheim project is exemplary and has addressed that. And it says that Wertheim was monitoring for two years. Now first off, that's not much more monitoring than what was already done at Wertheim. Well, now let's look at the appendix, 6.1, for the Wertheim data report and see how their monitoring has addressed the fact that they have now satisfied adequate monitoring for the permitting process.

If we go to page four, the preproject data collected for the time period -- this report provides a complete set of preproject data. This is where they are addressing how they have fulfilled more complete monitoring. This report provides a complete set of preproject data collected for the time period August, 2003 to November 4th -- to November, 2004. So first they say they have two years of preproject monitoring, baseline monitoring for Wertheim, if you go into the appendix here, now all of a sudden that's cut down to 15 months, August 2003 to November 4.

Now, if we actually go into the true data of their monitoring, we see that the dates go from September, 2003 to August, 2004. So now we're down to 12 months. I don't know what kind of a calendar they use, but 12 months looks like one year to me. So what has happened is New York State was looking for three to five years of preproject data.

I have a letter from the New York State DEC addressed to me from {Karen Crawlick} Regional Manager, Marine Habitat protection. This is what New York State DEC was looking for. One paragraph says preproject monitoring should consist of a minimum of three to five years of data, inventory and sampling. New York State DEC was coerced into reducing this to one year. One year is inadequate and has not been properly addressed and is incomplete.

The Wertheim project, the experimentation for Wertheim incomplete. There is inadequate baseline data on their own admission, because in this document they admit that previous projects have not given adequate data. And they cut it down to one year. And now they're saying that that's adequate. New York State DEC says it's inadequate. My point is this. The project at Wertheim has inadequate -- has not addressed the process of baseline preproject monitoring. It only has one year, which is insufficient. They want ahead and they bulldozed a National Wildlife Refuge on Long Island. They want ahead and they bulldozed in the face of the fact that the New York State Natural Heritage Program identified this as one of a -- a significant reference wetland site.

Now, can we go back and now tell them, okay, address this for completeness? They cannot. The one year baseline data is now bulldozed. So what my point is the Wertheim project is null and void, it cannot be used.

CHAIRMAN SWANSON:

Okay. I appreciate it.

MR. POTENTE:

I will submit these comments.

CHAIRMAN SWANSON:

That will be very helpful. As a matter of curiosity, the letter from DEC that you received, was that as a private citizen?

MR. POTENTE:

It was addressed to John Potente, CEQ.

MS. ELKOWITZ:

Mr. Chairman? Were you making an inquiry to the DEC on behalf of the CEQ?

MR. POTENTE:

I inquired every place I could get. I inquired all over, yes.

MS. ELKOWITZ:

But I think there's a problem here, and it's a litigation problem. If you writing letters to agencies on behalf --

MR. POTENTE:

I didn't write a letter, I made a phone call.

MS. ELKOWITZ:

Whatever. But obviously, they're directing this information to you as a member of the CEQ. And if you are representing whatever these questions are as a member of the CEQ, I think the CEQ -- at least I as a member of the CEQ --

MR. POTENTE:

I'm submitting this to the CEQ.

MS. ELKOWITZ:

I understand that, but you're also calling agencies, obviously on behalf of the CEQ. And I personally, Mr. Chairman, see a problem with that if that's not something that's authorized by this Council.

MR CRAMER:

Well, the Council certainly didn't authorize -- that I'm aware of, and I've been involved with all these meetings -- for one member to go around and solicit information. Whether that information -- I don't feel that an individual member of the CEQ should be out soliciting information from other agencies without authorization from the entire CEQ for litigation reasons and just for professional courtesy if nothing else.

MS. ELKOWITZ:

I agree with you. I mean, I spent almost 15 years as the Chairman of the CEQ, and I never reached to an any other agency --

MR. POTENTE:

For information?

MS. ELKOWITZ:

For any purpose.

MR CRAMER:

As representing yourself as a member.

MR. POTENTE:

So every phone call, every time I go on the internet, any time and ask the librarian for information, I have to ask you?

MS. ELKOWITZ:

No. No. No. You going on the internet and getting information to education yourself so that you could bring more information to the Council is one thing. You going to an agency and representing that you're seeking information on behalf of

the CEQ is something very, very different in my eyes.

MR. KAUFMAN:

Terry, if I might. I think it's more a situation of John identifying himself as a member of CEQ and asking the agency to maybe tell him a little more about what's going on. I don't see that necessarily as being out of bounds.

MS. ELKOWITZ:

I do.

MR CRAMER:

I do.

MR. KAUFMAN:

If you're not acting on behalf of CEQ, but you're just saying, hey, I want to find out a little bit more about it, I don't understand, try to clarify.

MS. ELKOWITZ:

If you want to as John Q. Resident of Suffolk County, hello, my name is Mike Kaufman, and you want to get information, that's just fine.

MR. KAUFMAN:

True. On the other hand, a lot of other people that I have contacted in the past -- I am not saying you are wrong -- but a lot of people I have contacted in the past, for example, know that I am a member of CEQ.

MS. ELKOWITZ:

So what?

MR. KAUFMAN:

I'm not doing it on behalf of CEQ or anything like that, but I sometimes will get letters back.

MR CRAMER:

That's the difference.

MS. ELKOWITZ:

Are you getting letters from the --

MR. KAUFMAN:

Sometimes I will get letters back addressed to me as CEQ, and I just ignore it, because I know I haven't done it on behalf of CEQ. I don't see anything -- that may have been this particular letter. I, for example, {Karen Crowlick}. If she writes me a letter, unless I identify myself as working on behalf of a private client, she often will send it to me as a member of CEQ, same with Chuck Hamilton, other people.

You have to be -- at least for myself, I have to be very careful who I am identifying myself as. Again, with a private client, as an attorney, I'm very careful that.

CHAIRMAN SWANSON:

Well, I think all of us need to realize that we shouldn't be going out as individuals and saying I'm a member of CEQ and I want this, and -- because --

MS. ELKOWITZ:

That's exactly right.

CHAIRMAN SWANSON:

That compromises us as an official body if we should as a group decide to go and formally ask questions of the same organization. They're going to quite frankly come back and say, what's going on here, I just wrote to this person or that person as a member of CEQ, and now why are you as the Chair or Vice-Chair or anything else --

MR. KAUFMAN:

I do recognize what you are saying, Larry. You don't want to have it as an agency, as a body, have CEQ impacted that had way. But if you are member of CEQ -- you happen to be a member, and say you call up a County person, let's say Tom Isles or something like that, you know, you're trying the find out a little bit more information about a project, you are making a phone call, he knows you are on CEQ. You may get back a letter from him. You know, you have to be very, very careful that way. You may get back a letter addressed to Michael Kaufman, CEQ, you know, with my address.

CHAIRMAN SWANSON:

I think, John, you have heard the flavor of the board. If an inquiry is going to be made of an official organization, we probably ought to to do it as a group as opposed to an individual.

MR. POTENTE:

First off, it was not just as a member of CEQ. I was on the subcommittee to research, to -- sittings on meetings to research and acquire as much information as I could to try and help evaluate the situation. I made a number of calls to different individuals to field information to try and find out exactly as many sides of this story as I could on this. I could not come back to this CEQ and say, okay, I spoke to this person and he said that, I spoke to that person, I said that, and I spoke to this person, I said that.

I saw nothing in the CEQ Charter that made any mention of any protocol for acquiring information, whether it be literature or information from individuals. It was my understanding that if I were to present any information having it in writing would be the most appropriate and effective and convincing way of showing the information that I received to make the decision that I did.

MR CRAMER:

The letters that were read here today were from involved agencies as part of the SEQRA process. The comments that were made in those letters are more appropriate for the comment phase of the DGEIS. And as soliciting them at this point coming in, I think is totally inappropriate for what it is. If they had comments on the scope and adequacy of the DEIS, there was -- there was a format that we had for that. And that should have come through that process.

Likewise, it should also come through for the comments, once the DGIS is accepted, come through that proper channel. Now we have letters floating out there that are not related to really either one of them, and they're coming in by way of an individual member, which I feel is inappropriate.

MR. KAUFMAN:

I agree with you, Tom, on that.

CHAIRMAN SWANSON:

John, I appreciate the effort that you have actually gone to, and I know you have

put a lot of effort that's very beneficial to the overall process. I do think we need to watch how we represent ourselves when we go to involve public agencies as was the case with the DEC. Would you please give Jim your comments and also a copy of the letter that you received from the DEC?

MR. POTENTE:
I intend to do that.

MR. KAUFMAN:
One other comment tangential to what we were just talking about and responding to some of the concerns John was bringing up, I wish you had been at our two previous meetings. Some of the documents that were supplied to you today as part of the CEQ, clearly show that we are concerned about monitoring issues and things like that. And we have brought them up to the consultant. And some of those issues were discussed with TAC and things like that.

MR. CRAMER:
If you look at the bottom of that -- the notes from the February 3rd meeting, the last sentence goes directly to one of the comments that were made as far as that the former Flanders and Seatuck projects were not included in the results of the follow-up monitoring. That was something we found, in deed, was a deficiency in the DGEIS that must be included prior to its acceptance.

MR. KAUFMAN:
One other comment, if I may, Mr. Chairman, regarding Wertheim and its effectiveness or use in the program. I will note that in the GEIS format, you are allowed to look at projects sometimes in a conceptual way. And I think in a lot of ways that the Wertheim project was looked at by the consultant, and this is my independent recollection and this is my independent opinion, I'm not trying to bind CEQ or anything like that, but the Wertheim project in a lot of ways was experimental. And it was conceptual. It was to see if some OMWM techniques could be used in this County. It was not necessarily to be the basis of a full and complete Open Water Marsh Management Plan. Again, it was conceptual in that the plan itself was obviously oriented only towards Wertheim. It was not necessarily a site-specific or something that would be used as the model.

As such, I think everyone has recognized, and I think it's referenced in the DGEIS and also in the scoping documents that it is, again, a conceptual and sort of a proven project that this stuff could be used. It's not necessarily going to be the master plan. It is not necessarily going to be the model project. Again, for example, with Wertheim, it is a federal refuge. The project was done in cooperation with DU, Ducks Unlimited, and other involved people, and there was a specific orientation of that particular project towards the federal aspect in terms of enhancing what water fowl population and water fowl inhabitants and water fowl environment.

And there was a specific orientation of the plan towards meeting that goal of the resource owner. So as such, it's very -- again, in the plan it is noted that it is not -- at least, this is, again, my reading -- that it is not necessarily the model for each and every marsh that is out there.

CHAIRMAN SWANSON:
Yeah.

MR. KAUFMAN:
So for you to say that it is maybe as binding as you were saying a couple of

minutes ago, I don't see it that way myself.

CHAIRMAN SWANSON:

Jim?

MR. BAGG:

I might point out that we did reach out to the DEC and request comments. And they said that they did not have any formal comments. Now we receive a letter from somebody in DEC that nobody is aware of. Is this DEC's formal position, or is this simply --

MS. ELKOWITZ:

I don't know, but, you know, I would want to know if Peter Scully authorized the writing of that letter?

MR. BAGG:

I mean, that's my question here. I mean, we were told there would be no formal comments yet submitted to CEQ, but yet, individuals in the DEC are now making their own comment letters. It's interesting.

MR. KAUFMAN:

There may have been some letters submitted previously during the process, especially during the development of Wertheim by DEC. They may have been orientated more towards the Wertheim issues itself, and there may have -- there were also I believe some letters submitted by DEC to the Technical Advisory Committee in the past.

MR CRAMER:

But DEC was involved with this whole process.

MR. KAUFMAN:

Yes. That's why they're backing out at this point in time.

MR CRAMER:

Now we're seeing something else. But I think, you know, one thing just to sum up some of the concerns on these various Open Water Marsh Management projects, I would suspect that the findings once this whole process is completed will reflect something very much different than the Wertheim project and set certain conditions that as a whole will probably result in something -- and, you know, that's all part of what we learn through this whole process including the Wertheim Estate.

MR. BAGG:

Larry, one point of clarification. I think the reason Wertheim was picked is because it is federally owned land and under the jurisdiction of the Federal Government, which is a higher level of government. And it's very questionable whether DEC has jurisdiction over those lands or not. And I don't necessarily think they do.

MR. POTENTE:

Just for a point of future reference. If I'm looking to gather information and I wish to call somebody on the phone, what protocol -- since there is no preexisting protocol for this, what protocol are you suggesting for future phone calls for information gathering in order to substantiate information that was taken over the phone?

CHAIRMAN SWANSON:

I think you have to very cautious when you go to an official agency and respect yourself as CEQ, when the CEQ, in fact, may not have authorized you to do that.

MR. POTENTE:

So before I make a phone call, do I request authorization from the CEQ to make a phone call?

CHAIRMAN SWANSON:

No. No. We're not asking you to do that.

MS. ELKOWITZ:

Why can't you just call and say, "Hello, my name is John Potente and I'd like some information on this topic"?

MR. POTENTE:

I did that, and this is what I received.

MR. CRAMER:

You're saying you received it as a member of CEQ, which is -- which is the problem, because --

MR. POTENTE:

That's what Terry just said.

MS. ELKOWITZ:

No. Terry Said, "Hello, my name is John Potente and I'd like some information about this," not, hello my name is John Potente from Suffolk County Council on Environment Quality.

MR. CRAMER:

And the letter here, you know, there's a certain -- we're working within the legal ramifications of SEQRA. And we now have letters from involved agencies that aren't related to comments. As Jim said, we have -- that same agency has come back and said they have no position on it. You know, there's no problem with anybody on this Council going out and speaking to involved agencies as John Q. Public.

MR. POTENTE:

Actually, you know what? Let me correct myself. The letter from CEQ -- I mean, the letter from DEC is John Potente, CEQ. The letter from New York Natural Heritage Program is simply John Potente. This one does not have CEQ, this was private.

MS. ELKOWITZ:

Tom, you know, because I'm really one who gets down to brass tacks, and I've been dancing now for 25 minutes, my concern is that this Council has to have impartiality. And I am starting to sense a bias. And you can't sit here and say that you are going to impartially review something when it appears that you are going out of your way to contact agencies that have permitting authority over aspects of this action to try to cull their support of your position. To me that is completely inappropriate for an impartial body. That's my opinion. But to me, we're getting dangerously close to you on the record expressing some sort of a conclusory opinion with regard to the County's proposal. And that is very dangerous at this point in this process when we don't even have an environmental impact statement that's been deemed complete. That's the concern.

MR. POTENTE:

I'm seeking information for completeness.

CHAIRMAN SWANSON:

Okay. Let's move on. We're still not through.

Review and discussion concerning the preliminary Yaphank Scavenger Waste Treatment Facility.

Anybody here to speak to that?

MS. ELKOWITZ:

Hi, Ben.

MR. CRAMER:

Hi, Ben.

MR. WRIGHT:

Good morning. Ben Wright with DPW and Steve {Gabrerra} from the {Burke and Barlucci}, our consultant. We came last meeting. It was my understanding and hope that the members of CEQ would have had the time to review the DEIS and have some comments that we could either discuss or take back with us hopefully in writing in order to make any response that's necessary.

CHAIRMAN SWANSON:

Any comments?

MS. ELKOWITZ:

I have reviewed it, and I have some questions with regard to the impact issues. But, Ben, you weren't privy, we had a little conversation with Jim a little bit earlier, because I think that you see what we've all been going through under Vector Control, and we have boxes and boxes of things. So what we kind of -- several of us talked about is, and I apologize to Jim, I apologized before too, but none of us, I don't believe, unless somebody hasn't -- we haven't discussed it, has actually typed up a comment letter for you. So I think I'm going to ask if the Chairman is amenable and the members of the Council are amenable for Jim to prepare a comment letter and to distribute it to you, because I think that's going to be the most efficient way to do it.

MR. CRAMER:

I'd like to see the comment letter after Jim had completed it.

MS. ELKOWITZ:

Absolutely. I think we would have to discuss is at the next meeting, and it would be formalized. Would you have a problem though if Jim talked to Ben before that and just gave him a head's up of some of the things?

CHAIRMAN SWANSON:

Sure.

MR. BAGG:

On all of the things I prepare, I will make sure they go to all the CEQ members for input before anything finally gets done.

MS. ELKOWITZ:

Absolutely. Absolutely. Because I think we need to make a resolution too if we're going to deem it incomplete.

MR. WRIGHT:

We did have a question, though.

MR. {GABRERRA}:

At the last meeting, we did receive some verbal comments as part of a teleconference from, I believe, it was Mr. Kaufman. Would that be part of this letter, or are they --

MR. KAUFMAN:

I'll tell Jim what I commented about, etcetera.

MR. {GABRERRA}:

All right. Fine. Thank you.

CHAIRMAN SWANSON:

Thank you. Are you through, Mike.

MR. KAUFMAN:

Yeah.

CHAIRMAN SWANSON:

Anybody else want to make any comments? Mr. Wagner.

MR. WAGNER:

I do, Mr. Chairman, just on what we were discussing a moment ago. I think that the board should probably consider adopting some kind of a formal policy with regard to communications to outside agencies. I don't think anything intentionally amiss was done here, but I think that we all have to be circumspect in how we communicate with the outside world. And you know, you may innocently be on the phone and merely explain that you're a member of an organization, but the person listening to that is bound to make certain assumptions about the level of your authority and the nature of your inquiry.

I would suggest that we have a formal policy that certainly we are all free as individual citizens to communicate with whomever we want in government, that's our right, but if we do so, I think we have to make an affirmative effort never to mention our affiliation in any informal even. You make the inquiries as a private person, but we should not be talking -- the words CEQ or Council on Environmental Quality should not come up.

The other thing I would say with regard to the partiality issue that Terry mentioned a while ago is that the board does become vulnerable to challenge when any member of the board loses impartiality. For myself or for anyone else, if I ever get to the point where I no longer can impartially judge an application, I believe that I'm beholden to recuse myself from consideration of that matter, because if it becomes part of the record or if it becomes known that a member acted out of personal bias, that is a basis for invalidating a determination of this Council. And I don't want to see that happen. I don't want to see that become a litigation issue.

So again, I think that everybody has to search their conscience on these things, and if we find that we're that involved either because of our own personal beliefs or because of client interest or anything, I think it behooves all of us to recuse ourselves from the consideration of that particular issue. That's all I have to say.

CHAIRMAN SWANSON:

Thank you. Michael, I'm also concerned, if I understood you correctly, that you were calling making comments on the DGEIS on your own, and yet we had not discussed this as a Council.

MR. KAUFMAN:

Yeah. We had adjourned it or tabled it, I don't remember exactly what we had on all of this. And I had been talking to Ben Wright after the meeting about this, I'd been talking to him before the meeting. I was trying to figure out distances and things like that. And that's among the things that I did. I was literally trying to understand the document that they were presenting to us. For example, again, I have my notes right here as to it. Let's see. I told him about a Cashin study that had been done. I asked him about, again, distances from everything, etcetera.

MR. CRAMER:

I think if you just give that to --

MR. KAUFMAN:

I'll just give it later. I was not trying to influence the document one way or the other. I did not simply understand it at all. Ben is a County Official, and we had talking about it here.

MR. CRAMER:

Following up with what John Wagner was talking about, I'd like to make a motion that John develop a draft policy for our consideration.

MS. ELKOWITZ:

I'll second, because I think that it is becoming evident that we're going to need such a policy.

MR. CRAMER:

Yes. And John has already said he will do that.

MS. ELKOWITZ:

And since he knows that case law, I think he should.

LEG. VILORIA-FISHER:

Mr. Chair. I'm not a member of committee, but I would just like to weigh in on this, because I think that there could be some disturbing practices involved in this. And because of the nature of this -- of CEQ and the intimate involvement you have with the Legislature, I would like to see either Legislative Counsel be here when you discuss that document or the County Attorney.

MR. CRAMER:

We'd welcome it.

MS. ELKOWITZ:

Not a problem.

LEG. VILORIA-FISHER:

Because we have this type of discussion in the Legislature, which is representing yourself as an individual or representing yourself as the Legislature, the Suffolk County Legislature. And those are two very distinct type of identifications. And the representation, therein, is very important in inquiry and in the type of response

that you are going to get. So with your permission, when the draft is ready, I believe that we should have Counsel present here.

MS. ELKOWITZ:

I agree. And I think that's what Mr. Wagner really was saying. It's a very different thing when you say you're speaking for the CEQ.

MR. CRAMER:

I know myself, it's certainly my concern as far as how you present yourself and also the possibly legal challenges down the line.

MR. MALLAMO:

Well, also, people can pick up subliminally even if you don't say, they can say to you, oh, you're on CEQ. I think you have to make it clear, I'm not calling you in that regard, you have to state. I get confused, I have several different hats, all the time. You're the historian, you're the Director of the Vanderbilt Museum. And I always say, I'm not calling in that regard, I just want information on. But I think to keep an open mind, you really -- we have enough to be looking at.

MR. KAUFMAN:

I agree with you, Lance, 100%. And I'm very careful to try to identify myself in which capacity I'm dealing with. I deal with a lot of private clients, etcetera, and I try and be very careful that way.

MS. ELKOWITZ:

Are we tabling.

CHAIRMAN SWANSON:

We have a motion and you seconded the motion. All in favor?

MS. ELKOWITZ:

I'll make a motion to table and ask that staff prepare a comment letter for our review at the next meeting.

MR. CRAMER:

Second.

CHAIRMAN SWANSON:

All in favor? It's tabled again.

MS. ELKOWITZ:

Sorry, Ben.

CHAIRMAN SWANSON:

Thank you. All right. Historic Services Director's Report.

MR. MARTIN:

Okay. Just to report that we have had completed the installation of the heat and air conditioning at Sagtikos Manor. So we'll now be able to continue with our collections activities there. We need to assess thousands of objects, and we have started that on the first floor, but we need to complete the second and third floor, of course. This will be an ongoing project, but now we can work year round at this site. The property will not be open to the public until the spring. It's just opened for public tourism by the volunteers there. Maybe eventually we can open that site up year round.

Another project we're working on is the Elwood School House on Cuba Hill Road in Elwood. And we've removed all the 1940's era shingles from the building, and we'll be replacing them with the wood shingles that were there originally. And we've had donated to us, to the County, all the plans for that building and the changes that were made over the years that were in the holdings of the Elwood School District. So we're now doing a lot of research, oral history with people that are very interested in seeing that building restored.

MR. KAUFMAN:

Richard, regarding the removal of the wood from the Elwood building, I pass by that three or four times a week on the way to the office. And it's been like that for a number of months. When is that stuff going to be done? Basically I'm thinking about rain damage, snow, things like that.

MR. MARTIN:

The shingles are ordered. I can check and see when they'll be in. And they will be done by our Parks Staff. We do have carpenters now that can do that work. So as soon as that order is in, the job will start.

MR. KAUFMAN:

You do understand you're looking at dry rock, wet rock, God only knows what else.

MR. MARTIN:

Yes. What happened was the shingles from the 1940s were asbestos, so they had to be removed. And we were going to replace immediately, but the time delays with ordering the materials --

MR. KAUFMAN:

Well, all I can say is next time -- while this board is only advisory on the Historic Trust matters, etcetera, it might be better to -- nevermind. Withdrawn.

MR. MARTIN:

I appreciate your comments. And the original thought -- part of the delay also was that the contractor was going to do the job, but it was decided that we would do it inhouse. So the delay then resulted in the ordering of the materials.

CHAIRMAN SWANSON:

Anybody else?

MS. SQUIRES:

In regard to this, do you have an identified use or tenant for the site when it is restored?

MR. MARTIN:

No, we don't at this point.

CHAIRMAN SWANSON:

Wasn't there one where they were going to use it for a library?

MR. MARTIN:

That did not go forward. They moved into a store front in the area, the library.

MS. SQUIRES:

And they're pursuing acreage for a library separate from this. When the store

front, which will not adequately hold expansion, they are looking for land to buy.

CHAIRMAN SWANSON:

Okay. Thank you very much. Any other business? CAC concerns? That completes the agenda. So we have any last minutes thoughts?

MR. CRAMER:

Motion to adjourn.

MS. ELKOWITZ:

Second.

CHAIRMAN SWANSON:

All in favor? Meeting is adjourned.

(*THE MEETING WAS ADJOURNED AT 11:50 A.M.*)

{ } DENOTES BEING SPELLED PHONETICALLY