

SUFFOLK COUNTY PLANNING COMMISSION

c/o Suffolk County Planning Department
100 Veterans Memorial Highway, PO Box 6100, Hauppauge, NY 11788-0099
T: (631) 853-5192 F: (631) 853-4044
Thomas A. Isles, Director of Planning
December 31, 2008

NOTICE OF MEETING

The next meeting of the **SUFFOLK COUNTY PLANNING COMMISSION** will be held on **WEDNESDAY, January 7, 2009 at 12:00 P.M. at Suffolk County Legislative Auditorium in the William Rogers Building at the North County Complex in Hauppauge.**

The **AGENDA** will include:

1. Adoption of minutes for October 1st and November 5th 2008
2. Public Portion
3. Chairman's report
4. Directors report
5. Sections A14-14 to 23 of the Suffolk County Administrative Code
 - Engle Burman Senior Housing 0200-48800-0600-001000 et al
6. Section A14-24 of the Suffolk County Administrative Code
 - RB Industrial Park 0200-58400-0100-001007
7. Nominating Committee – Report
8. S.C. Planning Commission Guidelines- Adoption of Finalized
9. Rules of Proceedings – Discussion
10. Presentation: DeWitt Davies, Chief Environmental Analyst (Suffolk County Department of Planning)-Shellfish Aquaculture Lease Program.
11. Other Business

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SUFFOLK COUNTY PLANNING COMMISSION

H. LEE DENNISON BUILDING
MEDIA ROOM
100 Veterans Memorial Highway
P.O. Box 6100
Hauppauge, New York

January 7, 2009
12:00 p.m.

F I N A L

BEFORE:

DAVID CALONE, Chairman
Town of Babylon

REPORTED BY:

THERESA PAPE, Court Reporter/Notary Public

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2 P R E S E N T :

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4 JOHN CARACCIOLO, Commission Member
Town of Huntington

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6 LINDA HOLMES, Commission Member
Town of Shelter Island

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8 DONALD FIORE, Commission Member
Town of Islip

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9 BARBARA ROBERTS, Commission Member
Town of Southampton

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11 CHARLA BOLTON, Commission Member
At Large

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12 ROBERT BRAUN, Commission Member
Town of Smithtown

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14 THOMAS McADAM, Commission Member
Town of Southold

14

15 CONSTANTINE KONTOKOSTA, Commission Member
Villages Under 5,000 Population

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17 SARAH LANSDALE, Commission Member
At Large

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18 JOSHUA HORTON, Commission Member
At Large

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20 VINCENT TALDONE, Commission Member
Town of Riverhead

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21 A B S E N T :

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23 ADRIENNE ESPOSITO, Secretary
Commission Member
Villages Over 5,000 Population

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S T A F F A P P E A R A N C E S :

- THOMAS A. ISLES, Director of Planning
- DANIEL GULIZIO, Deputy Director of
Suffolk County Planning Department
- LINDA SPAHR, Counsel to the Planning
Commission
- ANDREW P. FRELENG, Chief Planner
Suffolk County Planning Department
- TED KLEIN, Senior Planner
Suffolk County Planning Department
- PETER LAMBERT, Principal Planner
Suffolk County Planning Department
- JOHN CORRAL,
Suffolk County Planning Department
- DOTTY SONNICHSEN, Principal Clerk

G U E S T S :

- JACK CAFFEY, Aide to
Presiding Officer Bill Lindsay
- DeWITT DAVIES, Chief Environmental Analyst
Suffolk County Department of Planning

(WHEREUPON, this meeting convened
at 12:00 p.m. Off-the-record
discussions ensued, after which the
following transpired:)

(Time noted: 12:19 p.m.)

CHAIRMAN CALONE: Good morning.
Good afternoon. We're that late. I
apologize for being late this morning,
we had some members who are still not
here as a result of the -- some of the
flooding out east, but I think we
have --

COMMISSIONER BRAUN: They're
paddling.

CHAIRMAN CALONE: What's that?

COMMISSIONER BRAUN: They're
paddling.

CHAIRMAN CALONE: They're paddling
their way here. It's the transportation
system in Suffolk County.

But it's good to see all of you who
were able to make it. It's also great
to see Sarah here; congratulations,
Sarah --

2 COMMISSIONER LANSDALE: Thank you.

3 CHAIRMAN CALONE: -- on the birth
4 of little Henry.

5 COMMISSIONER LANSDALE: Thank you.

6 CHAIRMAN CALONE: I would just note
7 a quorum is present, and ask
8 Commissioner Holmes to lead us in the
9 Pledge.

10 (WHEREUPON, the Pledge of
11 Allegiance was recited.)

12 CHAIRMAN CALONE: First item on the
13 agenda this afternoon is the Adoption of
14 the Minutes. We have the September
15 minutes, which --

16 COMMISSIONER HOLMES: Only had one
17 more correction.

18 CHAIRMAN CALONE: Okay.

19 COMMISSIONER HOLMES: Otherwise --

20 CHAIRMAN CALONE: You want to just
21 read that into the record then?

22 COMMISSIONER HOLMES: Yes. It's
23 page 25, line 11, the Chairman had said
24 "I appreciate your coming," and it was
25 written "I pressure your coming"; and

1
2 that particular one wasn't corrected.
3 And that's the only substantive one
4 that --

5 CHAIRMAN CALONE: We do not have
6 subpoena power here, so --

7 COMMISSIONER HOLMES: So -- so
8 other than that, I think the September
9 revisions are fine, and I would move
10 their adoption.

11 CHAIRMAN CALONE: Without any
12 other -- any other comments or question?

13 (WHEREUPON, there was no response.)

14 CHAIRMAN CALONE: If not, I'll
15 entertain a motion -- Mrs. Holmes make
16 the motion.

17 COMMISSIONER BOLTON: (Indicating)

18 CHAIRMAN CALONE: Seconded by
19 Commissioner Bolton.

20 All in favor of adopting the
21 September minutes of the Suffolk County
22 Planning Commission as -- as amended,
23 please raise your hand.

24 (WHEREUPON, the Commission members
25 voted.)

2 CHAIRMAN CALONE: Opposed?

3 (WHEREUPON, there was no response.)

4 CHAIRMAN CALONE: Passes

5 unaniously.

6 We also have the October minutes,
7 there's still an open issue on those.
8 We're going to table those without
9 objection -- table those until our next
10 meeting.

11 But the November minutes, I
12 believe, we had a chance to review --

13 COMMISSIONER HOLMES: We have, yes.

14 CHAIRMAN CALONE: -- and

15 Commissioner Holmes --

16 COMMISSIONER HOLMES: The November
17 minutes as revised are fine. There were
18 a couple of little minor things, that
19 are so minor we don't want to mention
20 them. So I would also move the adoption
21 of the corrected November minutes.

22 CHAIRMAN CALONE: Any other
23 comments or questions about the November
24 minutes?

25 (WHEREUPON, there was no response)

2 CHAIRMAN CALONE: Seeing none, a
3 motion is in order for a second.

4 COMMISSIONER BOLTON: (Indicating)

5 CHAIRMAN CALONE: Commissioner
6 Bolton.

7 And all those in favor of adopting
8 the November minutes of the County
9 Planning Commission, please indicate.

10 (WHEREUPON, the Commission members
11 voted.)

12 CHAIRMAN CALONE: Opposed?

13 (WHEREUPON, there was no response.)

14 CHAIRMAN CALONE: That also passes
15 unanimously; 11 to zero.

16 Okay. Moving on, we have the
17 public portion. We have a few folks
18 visiting with us today.

19 I'd first like to welcome Brian
20 Ferruggiari from AVR Realty.

21 Sir, please come up to the podium.
22 We have -- actually, if you would just
23 state your name and spell your last name
24 for Madam Reporter, and you have three
25 minutes.

2 MR. FERRUGGIARI: I'm sure I won't
3 take that long.

4 My name is Brian Ferruggiari, F, as
5 in Frank, E-R-R-U-G-G-I-A-R-I. I'm here
6 on behalf of AVR Realty, One Executive
7 Boulevard, Yonkers, New York, to just
8 let you know that as far as Item No. 6,
9 the subdivision application,
10 RB Industrial Park, I am here, as well
11 as the engineer who designed the
12 subdivision plan, Jeff Vollmuth, is here
13 in the audience today to answer any
14 questions that -- that may arise during
15 your discussion on -- on that
16 application.

17 CHAIRMAN CALONE: Thank you, sir.
18 Appreciate your time.

19 Next we have Jeff -- Jeffrey --
20 help me out.

21 MR. VOLLMUTH: Jeff Vollmuth.

22 CHAIRMAN CALONE: Vollmuth.

23 Same rules of the road, it's good
24 to see you.

25 MR. VOLLMUTH: Good afternoon. My

1
2 name is Jeff Vollmuth. As Brian said, I
3 am --

4 THE REPORTER: Spell your name,
5 please.

6 MR. VOLLMUTH: V, as in Victor,
7 O-L-L-M-U-T-H. I am the project
8 engineer and planner for RB Industrial
9 subdivision. And if you have any
10 questions or comments, I'm available.

11 CHAIRMAN CALONE: Appreciate that,
12 sir.

13 Next up we have Scott Zamek from
14 the Village of Port Jefferson.

15 My understanding is -- is that we
16 have -- a referral was made to the
17 Commission. And, Andy, maybe you want
18 to update us on this, from the Village
19 of Port Jefferson, about a pending
20 building moratorium that was being
21 proposed there.

22 MR. FRELENG: That is correct,
23 Mr. Chairman. We did receive a referral
24 during this cycle from the Incorporated
25 Village of Port Jefferson for a

1 moratorium, which essentially suspends
2 all approvals in -- within the Village.
3 Staff reviewed the moratorium and deemed
4 it incomplete based on the Commission's
5 prior bulletin on moratoriums.
6

7 Substantively, the -- the
8 moratorium referred did not consist of
9 findings or several other points that
10 the Commission deems to be necessary for
11 a well-prepared moratorium. So I -- the
12 staff apologizes to the Commission, but
13 you have not seen this referral because
14 staff reviewed it and deemed it
15 incomplete and referred it back to
16 the -- to the municipality.

17 CHAIRMAN CALONE: Okay. So we
18 don't have that before us this month, it
19 was deemed incomplete. And if -- if
20 it's re-referred, it will --
21 appropriately, then it will be
22 potentially on the agenda for the next
23 time that there -- whenever they submit
24 it.

25 Mr. Zamek, if you'd like to make a

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comment, you're certainly welcome to.
You have three minutes, and just spell
your last name for the record.

MR. ZAMEK: Z, last letter of the
alphabet, A-M, as in Mary, E-K.

I'm a longtime resident of the
Village of Port Jefferson.

As Mr. Freleng just advised, the
Trustees had published a Notice of
Public Hearing for this proposed
Village-wide moratorium. And,
essentially, all construction, other
than one-family and two-family --
pursuant to the published notice, a
hearing was to be held on Monday
night -- this past Monday night, the
5th. Due to, really, a lack of
information circulated around the
Village and due to the lack of a
public sort of disclosure, what was
going on, hundreds of people literally
showed up to Village Hall; couldn't get
into the building, couldn't get into the
room. The Trustees were sort of forced

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2 to not even really open the hearing, and
3 advised that they would reschedule it,
4 publish another notice, and attempt to
5 hold it in the high school auditorium in
6 Port Jeff.

7 We've collected -- I've collected
8 many petitions, we have over
9 200 signatures at the moment; we will be
10 working on getting some more. We will
11 produce them and we'll send them to the
12 Village and request that they send them
13 along to the Commission so that you sort
14 of have that input when it, in fact, is
15 on the calendar.

16 You know, in this time -- in this
17 economic time, we probably all have it
18 where it just doesn't make any logical
19 sense, and I'd be curious to see what
20 the logic behind it is once the Village
21 provides the information to essentially
22 stop all progress and development in the
23 Village of Port Jefferson.

24 Thank you.

25 CHAIRMAN CALONE: Thank you,

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Mr. Zamek.

We also have Jim Tsunis, also regarding the Village of Port Jefferson action.

Sir (indicating).

MR. TSUNIS: Hi. Happy New Year, everyone. Thank you for letting me speak today.

I -- I'm a property owner in the Village of Port Jefferson.

In 2003, I applied for an as-of-right clustered subdivision on 18 and a half acres.

In July of 2008, I received my final approval, as-of-right, 43 units upon 18 acres. I'm preserving 12 acres of the site, and I have several contracts that are signed with Village residents.

The proposed moratorium, the way it's written right now, would bring this senior community to a grinding halt, and I wouldn't be able to do anything for over a year.

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I think it's very unfair, and I'd like to read you a little article from the local paper. Just a couple of sentences:

"What prompted the discussion on moratoriums was the request to develop Liberty Meadows..." which is the name of the company that I'm developing. "...Village Clerk Bob Juliano told The Port Times Record for a story that appeared in our May 13th issue." This was written in 2004. Okay.

It goes on to say, "No doubt envisioning the lawsuit to come, other officials hastened to point out that the Conservation Advisory Council recommended a moratorium on a wide-scale development in... 2001. Council Chairperson Virginia Capon says that perhaps a 'time-out' is needed."

She is now the Trustee in the Village of Port Jefferson, and is the one that is sponsoring this resolution.

I am also a resident of a

1 neighboring community -- in the
2 neighboring community of Belle Terre,
3 I've lived there my entire life. Some
4 of the applications that have recently
5 come into Port Jefferson are
6 redevelopments of the uptown portion of
7 Port Jefferson, and it's -- it's really
8 needed up there, it's been in neglect
9 for several years. And they're --
10 they're using this as a -- a mechanism
11 to say that they're getting an onslaught
12 of applications, which I don't think is
13 correct.
14

15 Also in September, the Village
16 suspended the only Village Planner,
17 Will Rau, for no apparent reason. He's
18 suspended with pay still to this day.
19 At the public hearing on Monday, there
20 was a request made from the ZBA Board
21 members and the Planning Board members
22 to reinstate him, but they still did not
23 do so. It was a vote, and it was turned
24 down three to two.

25 The Zoning Board of Appeals and the

1
2 Planning Board of the Village of Port
3 Jefferson have not taken any action
4 since September. There's no support,
5 written, oral, or otherwise, from the
6 ZBA or the Planning Board for this
7 Village-wide moratorium.

8 I also wanted to let you know that
9 the Village has a Website, and they
10 didn't post the moratorium on the
11 Website, so none of the residents could
12 understand what was going on. And that
13 was another reason that, you know, there
14 was so many people at the hearing.

15 So I just don't think that they
16 thought this moratorium out. I don't
17 think it's well needed. Those of you
18 that have lived in Suffolk County know
19 that Port Jefferson has been around for
20 a long time. It's 95 percent built out,
21 and a Village-wide moratorium at this
22 time is unnecessary.

23 Thank you for your time, and I hope
24 you'll review the application when it
25 comes back as to the needs for a

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Village-wide moratorium.

Thank you.

CHAIRMAN CALONE: Thank you,
Mr. Tsunis.

COMMISSIONER CARACCIOLO:
(Indicating)

CHAIRMAN CALONE: Would you just
spell your last name, just for the
record.

MR. TSUNIS: T-S-U-N-I-S.

COMMISSIONER CARACCIOLO:
Mr. Chairman?

CHAIRMAN CALONE: Oh, sorry, go
ahead.

COMMISSIONER CARACCIOLO: Andy,
when do you think this application will
come back?

MR. FRELENG: Well, that would be
difficult to say. I don't know if they
held -- if they opened the hearing and
they haven't closed the hearing, they're
under no real regulatory pressure to
make another referral. As far as the
Commission is concerned, they -- we do

1
2 have an incomplete referral, so they
3 can't act without closing our end of the
4 referral.

5 COMMISSIONER CARACCIOLO: That was
6 my question. Thank you.

7 CHAIRMAN CALONE: Okay. So it will
8 come here before they can act on it, to
9 us.

10 MR. FRELENG: Procedurally, it
11 should come here before they act.

12 CHAIRMAN CALONE: Okay. Great.
13 Any other comments from the --
14 (WHEREUPON, there was no response.)

15 CHAIRMAN CALONE: If not, we'll
16 close the Public Portion and move on to
17 the -- the Director's Report (sic).

18 I just wanted to update you on the
19 four goals that we had for this year,
20 just to give you a little bit of a quick
21 summary on where we are.

22 We welcomed two new members this
23 year:

24 Vince Taldone who is the former
25 chair of the County's Transportation

1
2 Advisory Committee. He brings a strong
3 transportational perspective to our
4 body. It's good to welcome him.

5 And also, of course, welcome Josh
6 Horton as -- who is the former
7 supervisor for the Town of Southold. He
8 brings us a municipal and a business
9 perspective. He's also the only member
10 of the Commission who is the member of a
11 rock band --

12 (Laughter)

13 CHAIRMAN CALONE: -- so that's a
14 good -- a good addition.

15 COMMISSIONER CARACCIOLO: Don I
16 thought was --

17 (Laughter)

18 COMMISSIONER FIORE: The singer.

19 CHAIRMAN CALONE: But with regard
20 to -- with regard to meeting our goal --
21 that first goal of -- of filling the
22 Commission vacancies, we do still have
23 two vacancies.

24 Of course, this past year, we also
25 saw the retirement of our longtime

1 member Bobby Goodale from Riverhead, and
2 we also suffered the sad and sudden loss
3 of our Vice Chairman, our friend and
4 colleague Ed Pruitt. And so as a
5 result, we have those two vacancies
6 remaining.
7

8 For the East Hampton seat, the
9 County Executive has -- has nominated
10 the former East Hampton Town Councilman
11 Job Potter, and I believe that will be
12 going to the Legislature this -- this
13 month?

14 DIRECTOR ISLES: Soon.

15 CHAIRMAN CALONE: Soon.

16 (Laughter)

17 CHAIRMAN CALONE: And then to fill
18 the Brookhaven seat vacated by Ed's
19 death, the County Executive is open as
20 far as suggestions. I've received a few
21 names from some of you, and we'll want
22 to forward those on to the County
23 Executive by the end of the week. So if
24 anyone has any last suggestions,
25 please -- you know, please let me know

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as soon as possible.

Our second goal, after filling our Commission vacancies, for the year was to finish our Guideline revisions:

It's taken us a while, but thanks to the efforts of everyone around this table, we've created the first update to the county guidebook in ten years, and the most comprehensive update in decades.

You know, these Guidelines -- obviously, they are values to ensure consistency in focusing our time and effort on countywide priorities, while reducing the administrative burden on municipalities and developers. And so these Guidelines are an important step and accomplishment for the Commission, and we'll take a final vote on them later today.

Our third goal for the year was optimizing staff and Commission time:

We adopted our internal significance definitions to help

2 streamline our review process, to focus
3 our Commission review on how best to do
4 the project.

5 We proposed municipal agreements to
6 reduce the burden on municipalities,
7 developers, and the County Planning
8 Department staff.

9 Based on the suggestions of those
10 around the table, we've invited a
11 variety of public figures to our
12 meetings over the last year; folks who
13 were dealing with critical issues
14 pertaining to the future of Suffolk
15 County. They joined us, updated us on
16 their work and their priorities,
17 informed us on how we could work
18 together.

19 This last year we've heard from
20 Joe Gregela from the Farm Bureau and
21 Farmland Preservation. We've heard from
22 LIPA Vice President Mike Deering, as
23 well as Neal Lewis, the Neighborhood
24 Network, on energy efficiency programs
25 and development standards. We heard

1 from District Attorney Tom Spota on
2 planning and public safety. We heard
3 from Riverhead Supervisor Phil Cardinale
4 on proposed developments in Riverhead.
5 And last month we heard from Judy
6 Pannullo from the Suffolk County --
7 Suffolk Community Council on universal
8 design.
9

10 Also, as a result of suggestions
11 around this table, we organized a tour
12 of pilgrim heartland proposed
13 development sites for ourselves, the
14 media, the Legislature, and members of
15 the Administration.

16 Our fourth goal was letting the
17 public know of the work the Commission
18 is doing on their behalf:

19 To that end, we have a new Website
20 which has our agenda, our minutes,
21 Commissioner bios, and a new
22 jurisdictional map.

23 For the first time the Commission
24 hosted the annual Suffolk Planning
25 Training event to a record crowd; over

1 175 municipal officials throughout the
2 county. And for the first time,
3 Commissioners were able to participate
4 as panelists or moderators.
5

6 And we've also tried to start
7 building relationships with other levels
8 of government, in particular, the
9 municipalities we need to partner with
10 in order to advance countywide
11 priorities. And some of you have joined
12 me with meeting the supervisors of East
13 Hampton, Babylon, Southold, Islip,
14 Riverhead, and Shelter Island.

15 Next week, actually, Dan, Josh, and
16 I will be at the Suffolk Village
17 Officials Association. And I also had
18 the opportunity to meet with Congressman
19 Bishop and Assemblyman Sweeney and a lot
20 of others to let them know the work that
21 we're doing.

22 So it's been a pretty busy year. I
23 think from the efforts of everyone
24 around the table, in the past year we've
25 put ourselves in a position to fulfill

1
2 our obligation under the law, to provide
3 leadership on the major land use issues
4 affecting our county, and provide a
5 vision for overall county development.
6 And I look forward to working with all
7 of you to discern how best we can use
8 the power we have and the moral suasion,
9 we might be able to muster to advance
10 these priorities and try to create a
11 Suffolk County that's a little safer,
12 maybe more energy efficient and -- with
13 housing that meets the needs of all our
14 residents.

15 But I think you all agree with me
16 that none of these things would be
17 possible without the tremendous efforts
18 and support given to the Commission by
19 the County Planning Department staff;
20 Tom, Dan, Andy, Ted, John, Dotty, and
21 all those back in the office, really
22 deserve our sincere thanks for their
23 efforts in the last year.

24 Join me please in giving them a
25 round of applause.

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(Applause)

CHAIRMAN CALONE: And is Peter here?

MR. LAMBERT: (Indicating)

CHAIRMAN CALONE: There's Peter.

Thank you, Peter. And we have the Environmental staff. And like I said, the entire Planning Department, you've -- you've done so much in the last year.

Thank you, Tom, and I'll turn it over to you.

DIRECTOR ISLES: Thank you, Mr. Chairman. And for the Director's Report today, what I'd like to do is begin by noting a -- a new staff member that has come into the Department. We were successful with the chain of support of the Legislature and the County Executive, many of the staff took advantage of the early retirement that we offered this past summer. I'd like to introduce Andrew Amakawa who is our -- stand up for a moment, Andrew.

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MR. AMAKAWA: (Complying)

DIRECTOR ISLES: And Andrew is --

CHAIRMAN CALONE: Welcome.

DIRECTOR ISLES: -- joined us last week. He's a graduate of Vassar and studied Early Studies. He will be working within the Planning and Research Unit of the Department, working with Dan Gulizio, Peter Lambert and Jessica Kalmbacher. Most -- to begin with, with the -- with the agricultural programs we have, but it will be blended in to efforts between special projects as well as the comprehensive plan updates, and action on the Commission to discuss as well.

We welcome Andrew to the Department and appreciate what he will be providing to us.

A couple of other items of the report is, we talked the last meeting about a bill introduced by Legislator Schneiderman that would require the Planning Commission to really do a

1 couple of things with notifications.
2
3 And one is to post the Commission's
4 calendar on the Website for the actual
5 agenda of the specific meetings. The
6 Commission has asked the Department to
7 initiate that earlier this year. We
8 have initiated that. We do not have an
9 issue with that, and will continue to do
10 so.

11 The second part of the bill was to
12 require the Commission, through the
13 Department, to process applications and
14 notify applicants. And that's one where
15 there are some practical issues with
16 that, as well as some, we believe,
17 issues in terms of -- the County
18 Planning Commission serves as a referral
19 body for the municipalities, so we have
20 a concern with -- about any direct
21 contact with applicants in terms of
22 bypassing municipalities.

23 So we are in communication with the
24 Legislator on that. The Chair and I did
25 have a conference call with him after

1 the last meeting of the Commission. And
2 we're hopeful that we can maybe suggest
3 to Mr. Schneiderman and come to an
4 agreement on either a bill or a
5 guideline to the Commission that would,
6 here again, provide notification to
7 municipalities, as well as post it on
8 the Website, without creating these
9 other problems that I mentioned. I
10 would expect by the next meeting we'll
11 have that resolved.

12
13 The Chair mentioned the
14 intermunicipal agreement initiative that
15 the Commission has -- it began in 2008.
16 And at the Commission's directive, we
17 did send out letters to all the
18 municipalities in this county strongly
19 encouraging them -- here again, upon
20 direction of the Commission -- to
21 consider involving a County IMA
22 Program -- the Inter-Municipal Agreement
23 Program. We did suggest to the
24 municipalities sample resolutions on how
25 they could do this, trying to make it as

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user-friendly as possible.

I'm happy to report that the response has been quite good. These went out right before the holiday, in the middle of December, and we've already heard back from several municipalities. As the Chair noted, we are going to be doing outreach to the Village Officials Association, with the cooperation and assistance of Commission Member Horton. And we will also be making direct contact with the towns beginning in February.

The idea is that we reach the critical mass whereby we have a significant, if not, universal participation in the IMA Program, that will aide both the county as well as the municipalities, and really start to target the Commission's routine on those matters they discussed in 2008 as intermunicipal, intercommunity, and countywide issues.

I would like to bring to your

1 attention a project with the Long Island
2 Regional Planning Council, I'll be
3 reporting today of a sustainability plan
4 and a selection -- a tentative selection
5 of a proposer on that project. But just
6 to call to your attention, Phase I of
7 that is going -- Long Island 2035
8 Visioning Initiative. That is underway,
9 it is funded. That program, of which
10 the two counties are fully involved in,
11 will be happening, two important
12 sessions, on January 22nd. One dealing
13 with -- and inviting municipal officials
14 to explain the Initiative Visioning
15 Program, and the second to other
16 stakeholders later on that day.

17
18 Any member of this Commission that
19 would like to attend either of those
20 sessions, you know, should contact me,
21 and I will make sure that there is a
22 place reserved for you at that meeting.

23 This will be an ongoing effort.
24 And throughout 2008, the Visioning
25 Initiative, Phase I of the project will

1
2 continue and should be wrapped up by the
3 summer.

4 The Sustainability Plan, which --
5 here again, was subject of a discussion
6 and decision at the Regional Board
7 yesterday. We will take off in 2008 and
8 extend it to 2009. It is important to
9 this County Planning Commission as well
10 as the municipalities to be actively
11 involved, and I will keep you advised
12 and provide you with relevant background
13 information as -- are developed.
14 Certainly, any questions you have that
15 you want to address with me
16 individually, you want to make a
17 reservation for those meetings, you can
18 let me know.

19 We do have -- switching to farmland
20 for a moment, this is one of the major
21 programs administered by the County
22 Planning Department. We are achieving
23 record levels in terms of farmland
24 acquisitions during 2008. We purchased
25 our 50th farm since the County Executive

1
2 came in. We are rounding the corner now
3 on 10,000 acres of preserved farmlands.

4 We have been working with the
5 Department of Law, and specifically
6 Linda Spahr, on revamping the County
7 Codes that we can't -- we can't get
8 any -- a much stronger program, which
9 indeed will support your farm
10 communities as well as general citizenry
11 of Suffolk County. We're pleased to
12 report that we have completed that, and
13 we'll be -- there will be discussions of
14 the Farmland Committee later on this
15 month.

16 And the two other last items is
17 the -- the Department typically prepares
18 and assists in the preparation of the
19 annual report to the Commission. I'd
20 like to discuss that with the Commission
21 in (inaudible) that annual report, and
22 certainly I will be discussing that with
23 the Chair, but certainly any member of
24 the Commission that has thoughts on
25 that, we would like to put that together

1
2 relatively soon. So, hopefully, at the
3 February meeting, we will be discussing
4 that report.

5 And, lastly, we do have on the
6 agenda for today a brief presentation,
7 ten or 15 minutes, on the County
8 Aquaculture Program. We do have the
9 staff of the Environmental Analysis Unit
10 here today in that -- it is another
11 significant initiative of the County
12 Planning Department as well as the
13 County Executive initiative. DeWitt
14 Davies and his unit has put in a
15 tremendous amount of time on that. So
16 we appreciate the -- the cooperation of
17 the Commission to that project, the
18 support -- the support of the Commission
19 to understand this regional initiative
20 and the aspects of where the project is
21 now, and the key phase we're facing in
22 the next six months.

23 CHAIRMAN CALONE: Thank you,
24 Director Isles.

25 Any comments or questions about the

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two reports?

COMMISSIONER HOLMES: (Indicating)

CHAIRMAN CALONE: Yes.

COMMISSIONER HOLMES: Tom, I do hope that in your further discussions with Legislator Schneiderman, that he will understand the importance of having a Commissioner from East Hampton, which has been vacant for so long, because the local boards in East Hampton are unable to notify a member of our Commission when a project is coming our way. And I just hope that he will help -- since he's on that committee, that he will help expedite the people of the nomination.

DIRECTOR ISLES: Okay. So noted.

By the way, the Legislature meets -- it is reforming, they have elected a presiding officer, as of Monday of this week, the calendar is being -- will be put into effect. There -- there are committee assignments that now occur by the presiding officer,

1 and a representative of the presiding
2 officer is here today, so the final
3 outcome of which legislative -- you
4 know, which --

5 COMMISSIONER HOLMES: I see.

6 DIRECTOR ISLES: -- can be
7 determined, but, you're right,
8 Legislator Schneiderman --

9 COMMISSIONER HOLMES: I see. Quite
10 a while.

11 DIRECTOR ISLES: Right.

12 COMMISSIONER HOLMES: Thank you.

13 DIRECTOR ISLES: Thank you.

14 CHAIRMAN CALONE: Thank you, Linda.

15 Any other comments or questions?

16 (WHEREUPON, there was no response.)

17 CHAIRMAN CALONE: If not, we'll
18 move to the regulatory portion. We
19 have -- we only have two items on our
20 agenda today.

21 Andy.

22 MR. FRELENG: Mr. Chairman, Members
23 of the Commission, the first matter is
24 coming to us from the Town of
25

1
2 Brookhaven, and Deputy Gulizio -- Deputy
3 Director Gulizio is going to present
4 that to the Commission.

5 DEPUTY DIRECTOR GULIZIO: Good
6 afternoon.

7 The subject referral is located on
8 the south side of Middle Country Road.
9 It's cornered on the west by Nicolls
10 Road, County Road 97, and it's cornered
11 on the east by South Coleman Road.

12 The basis for the Commission's
13 jurisdiction, you can have your pick,
14 it's either the adjacency to the state
15 highway between State Route 25 or Middle
16 Country Road, or the adjacency to
17 Nicolls Road, County Road 97.

18 The subject referral is located in
19 the community of Centereach in the Town
20 of Brookhaven, again, adjacent to Middle
21 County Road. It is a 9.88 acre site,
22 and the application involves a change of
23 zone from the existing zone, which is
24 Residence A-1 District which allows for
25 single-family homes on lots that

1 maintain a minimum lot area of
2
3 40,000 square feet, to what's called
4 PRCHC or Planned Retirement Congregate
5 Housing Community zoning districts;
6 PRCHC.

7 Normally, independently this would
8 not be a regionally significant project,
9 it would be subject to significant
10 consideration from the staff's
11 standpoint; however, because this site
12 is located in the center of the Middle
13 Country Sustainable Community Plan,
14 which was recently adopted by the Board,
15 we thought it appropriate to refer it
16 based upon its consistency or
17 inconsistency of that plan. That plan,
18 as the Commission will remember, was
19 recently recommended for approval by the
20 Commission a couple of months ago.

21 CHAIRMAN CALONE: And it was
22 adopted.

23 DEPUTY DIRECTOR GULIZIO: And it
24 was -- I don't know if the Town actually
25 adopted the plan. We think they did --

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they did adopt the plan.

CHAIRMAN CALONE: So noted.

DEPUTY DIRECTOR GULIZIO: All right. There are two aspects of the application I would like to discuss with the Commission, and then, in no particular order, I -- I think we'll discuss the variances that are associated with the change of zone and the site plan first.

And, John, maybe you could just go to the site plan.

MR. CORRAL: (Complying)

DEPUTY DIRECTOR GULIZIO: The proposed use for a Planned Retirement Congregate Housing Community is an assisted living facility. It's a three-story facility, including a total of 120 units with 136 beds spread -- spread across the 9.88 acres.

There's a minor lot area variance which is required with the application, a minimum of 10 acres is required for a PRCHC District. In addition, a maximum

1 height of two stories is permitted under
2 the Code and they are seeking three
3 stories; the maximum height is 35 feet
4 permitted, they're seeking 45 feet. In
5 terms of the magnitude of that variance,
6 that's a 28 percent variance in terms of
7 height.
8

9 With respect to the total number of
10 units, again, 79 units are permitted
11 based upon the size of the property,
12 they're seeking 120 units; that's a
13 variance of approximately 50 percent in
14 terms of the total number of units.

15 The number of beds is also
16 regulated by the Code. And, in this
17 case, the maximum number of beds is
18 118 beds, they're seeking 136 beds, for
19 a variance of about 15 percent.

20 It should be pointed out also that
21 the PRCHC Code also requires a minimum
22 of 10 percent of the units be set aside
23 as affordable units consistent with the
24 Multiple Family Code and the Planned
25 Retirement Code. There is no mention in

2 the referral of any affordable units
3 being included, so that would be another
4 relief, we believe, required under the
5 Code.

6 So in terms of the variances, there
7 are a multiple number of variances, and
8 the magnitude of those variances are
9 significant, in our view, varying from
10 15 percent to 50 percent in terms of
11 magnitude related.

12 The most substantive aspect of the
13 application also involves use of the
14 property. The Middle Country
15 Sustainable Community Plan
16 recommended -- and, John, maybe if you
17 can just go to that overall plan.

18 MR. CORRAL: (Complying)

19 DEPUTY DIRECTOR GULIZIO: But it
20 addresses the community through
21 Centereach and Selden, within the Town
22 of Brookhaven, along Middle Country
23 Road. The plan envisioned the
24 development of two downtown hamlet
25 centers as an alternative to the

1 existing sprawl that exists along Middle
2 Country Road. Both hamlet centers
3 involved -- one located in the community
4 of Centereach, it's on the left side of
5 that top image on the screen, and one
6 within Selden, which is along the
7 east -- the one furthest to the east,
8 east of Nicolls Road, within the
9 community of Selden.
10

11 Everything outside those hamlet
12 centers were recommended by the plan to
13 be in a transitional district under a
14 new zoning district that was to be
15 adopted by the Town called J-9 Zoning
16 District. A transitional zoning
17 district. The intent of the
18 transitional zoning district, as
19 enumerated in your staff report, was
20 designed to minimize some of the impacts
21 associated with suburban sprawl that
22 occurs along Middle Country Road, and
23 yet to apply the spirit of architectural
24 and site design requirements at a less
25 intensive level than what would be

1 permitted in the downtown districts.

2
3 There is specific mention within
4 the model code that was supposed to be
5 adopted by the Town also that
6 transferred development rights to the
7 centers and incorporate it within these
8 transitional districts in order to
9 reallocate them to be in the
10 transitional locations to the downtown
11 hamlet center locations. None of that
12 is actually recommended or proposed and
13 incorporated as far as this plan. And,
14 in fact, it increased density being
15 sought above it before it actually
16 permits in terms of the number of units,
17 the number of beds, and the overall
18 intensity of the use of the subject
19 property.

20 Most importantly, the use that's
21 proposed in this assisted living
22 facility isn't permitted under the
23 existing A-1 Zoning District; hence, the
24 need for the change of zone. And more
25 significantly, there were two

1 alternative model codes proposed and
2 zoned for the Middle Country Sustainable
3 Community Plan, neither of which permits
4 this living facility as a proposed
5 use; either as an as-of-right use or as
6 a special permit use.
7

8 The staff is respectfully
9 recommending that the application be
10 disapproved, based upon its lack of
11 compliance with the Middle Country
12 Sustainable Community Plan in terms of
13 the use.

14 There's also some other specific
15 issues in terms of the variances they're
16 proposing be recommended as part of the
17 Middle Country Sustainable Community
18 Plan. In that, the front yard setback
19 exceeds the maximum front yard setback
20 that was proposed by the code, again,
21 the application is inconsistent, there's
22 parking in the front yard which is also
23 prohibited by the proposed code, and it
24 lacks any transfer and development
25 rights that's also recommended in terms

2 of approval within the new code as part
3 of their -- the new Middle Country
4 Sustainable Community Plan.

5 Based upon the lack of consistency
6 to the plan, as well as inadequacies in
7 the variances being sought, staff is
8 respectfully recommending disapproval of
9 the application.

10 If there are any questions, I'd be
11 happy to follow them up.

12 CHAIRMAN CALONE: Thank you, Dan.

13 Any comments or questions?

14 COMMISSIONER HOLMES: (Indicating)

15 CHAIRMAN CALONE: Commissioner
16 Holmes.

17 COMMISSIONER HOLMES: Dan, I'm just
18 curious; who are the Engel Burman
19 people? Is this a group of people who
20 specialize in creating assisted living
21 housing and they're not from the area,
22 so that is why they seem to not be aware
23 of all of the requirements and seem to
24 be exceeding them in every instance?

25 DEPUTY DIRECTOR GULIZIO: I -- I

1 wouldn't say that they're lacking in
2 awareness. They're a fairly experienced
3 development group, they've done assisted
4 living elsewhere within the county as
5 well as within Nassau County. They've
6 done a host of applications within the
7 Town of Brookhaven also.

8
9 COMMISSIONER HOLMES: I see.

10 COMMISSIONER BRAUN: (Indicating)

11 CHAIRMAN CALONE: Commissioner
12 Braun.

13 COMMISSIONER BRAUN: I -- I don't
14 understand something in -- in the
15 definitions here. What is a unit as
16 opposed to a bed? Are these individual
17 two rooms -- two bedrooms in some cases,
18 and one bedroom in other cases?

19 DEPUTY DIRECTOR GULIZIO: That's
20 exactly the case.

21 CHAIRMAN CALONE: Wait. So what is
22 a unit?

23 COMMISSIONER BRAUN: A unit is --

24 DEPUTY DIRECTOR GULIZIO: A unit
25 would be essentially a --

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COMMISSIONER BRAUN: -- an apartment.

DEPUTY DIRECTOR GULIZIO: -- a living unit within the assisted living facility. That could either be a single-bed unit for an independent individual, or it could be a combined unit for two individuals.

COMMISSIONER BRAUN: So they come much closer --

DEPUTY DIRECTOR GULIZIO: Right.

COMMISSIONER BRAUN: -- to the permitted density with respect to beds, but they have more individual units than the zoning would contemplate.

DEPUTY DIRECTOR GULIZIO: That's correct.

COMMISSIONER BRAUN: Okay. Thank you.

COMMISSIONER ROBERTS: (Indicating)

CHAIRMAN CALONE: Commissioner Roberts.

COMMISSIONER ROBERTS: In -- in the documents in front of me, I don't see a

1 reference to your point about affordable
2 housing. I thought that was very
3 important, and I would urge that in any
4 final correspondence, we include that.

5
6 DEPUTY DIRECTOR GULIZIO:

7 Absolutely. It was something we
8 actually discovered recently, but it's
9 in the actual -- in the existing zoning
10 district of PRCHCs.

11 CHAIRMAN CALONE: Thank you.

12 COMMISSIONER TALDONE: (Indicating)

13 CHAIRMAN CALONE:

14 Commissioner Taldone.

15 COMMISSIONER TALDONE: Dan, a
16 couple of questions for you.

17 One, in the plan that we actually
18 voted to support, what was designated
19 for that specific site, or is there a
20 designated use?

21 DEPUTY DIRECTOR GULIZIO: There
22 were no uses designated, there was a
23 zoning district that was proposed. It
24 hasn't been adopted yet by the Town,
25 and, again, that raises another concern

1
2 in that the plan recommended the
3 adoption of these new zoning districts.
4 So now there are applications coming in
5 pursuant to the plan, without the new
6 zoning district having been adopted.
7 That new zoning district, J-9, it was a
8 transitional zoning district, separate
9 and distinct to the downtown hamlet
10 centers.

11 COMMISSIONER TALDONE: Did -- did
12 the Town submit -- the referring agency
13 submit any documentation from the
14 community organization that sponsors the
15 plan that we supported, in terms of
16 their common knowledge? Do we have any
17 information that was submitted to us?

18 DEPUTY DIRECTOR GULIZIO: Not in
19 connection with this referral.

20 COMMISSIONER TALDONE: Okay,
21 correct.

22 What I'd like to say -- I -- I
23 would ask that the Commission consider
24 taking no action on this. Although some
25 comments are clearly in order in terms

1 of affordable housing, TDRs, et cetera,
2 there's just a glaring lack of
3 information that we would really need.

4 I have -- because there is no
5 Brookhaven representative right now, I
6 went about my business of contacting
7 these organizations that I'm familiar
8 with, including the one that for years
9 was fighting for the corridor plan, to
10 find out what they thought of assisted
11 living seniors living in these
12 locations, and got very, very positive
13 feedback. And for a variety of reasons,
14 you know, not the least of which is to
15 provide housing for seniors who can no
16 longer live in the single-family units
17 that are common in the area, who want to
18 stay in the area -- in the neighborhood
19 they know, and nearby what, hopefully,
20 someday will be more of a
21 pedestrian-friendly, shopping, eating
22 area along that road.

23 This is -- I did speak with -- I
24 want the names of the organizations that
25

1 I noted -- Kevin McCormack from Middle
2 Country Coalition for Smart Growth, and
3 Diane Caudullo writes significant
4 (inaudible), she's the head of the civic
5 association; two groups that have been
6 fighting for years to change the uses
7 along this road. And I've been informed
8 that she, in fact, is very supportive of
9 the senior housing. Again, not
10 reflecting specifically on this
11 particular site plan, but the use of
12 that land to house seniors in various
13 forms of independence.

14 And, also, just adding another
15 little factor, the location itself is
16 extremely well served by public transit,
17 which, again, when you think seniors and
18 assisted living and individuals
19 (inaudible) getting on the bus, but all
20 the folks who are basically low-wage
21 maintenance, food service people, are
22 going to use travel to this site by
23 public transportation, making this
24 somewhat of an advantageous location.
25

1
2 And it's near and in proximity to what
3 hopefully this plan will eventually be,
4 a pedestrian-friendly environment, a
5 center of town.

6 To me, it says that this is
7 possibly an excellent location for the
8 proposal. Bearing in mind fully that
9 the zoning issues exist and need to be
10 resolved by the Town, I don't feel the
11 need for this Commission or myself at
12 least to intervene at this point and
13 tell them that -- you know, and vote no.
14 It implies, you know, more than I think
15 we -- we intend to -- we clearly need to
16 note that the zoning problems -- it's
17 clear in my mind that that would be
18 addressed, but I think that should be
19 just comments when it gets kicked back
20 to the locale, and not -- not a reason
21 to disapprove the proposal.

22 CHAIRMAN CALONE: Thank you, Vince.

23 Any further comments?

24 COMMISSIONER BOLTON: (Indicating)

25 CHAIRMAN CALONE: Commissioner

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Bolton.

COMMISSIONER BOLTON: I have a question to you actually, because I'm not sure if it's appropriate for me to have a conversation.

I just wondered, when Vince was speaking with the -- a community representative, were they aware that the proposal is inconsistent with the plan that is presently being considered and I assume will be adopted?

COMMISSIONER TALDONE: And I'm paraphrasing. Certainly, the individual I spoke with did not specifically -- well, did not say it was inconsistent with the plan. But in terms of the actual zoning -- existing zoning, and not being aware of the specific site plan, that individual did not really comment on the -- as we've reviewed, the percentage with height, that it exceeds what the zoning would permit, the number of units, et cetera -- couldn't address that. Just the concept of senior

1
2 supporter housing -- assisted living
3 facility at this location, they thought
4 was actually consistent with the plan.

5 COMMISSIONER BOLTON: With the
6 actual comprehensive plan?

7 COMMISSIONER TALDONE: Right. Not
8 necessarily viable apparently under the
9 existing zoning. So they -- they
10 clearly needs to do some more work on --
11 on the Town level, we need some sort of
12 an approved -- and I understand our
13 needs -- our objective, or one of our
14 objectives is to uphold the zoning of
15 the localities, but I think we have a
16 very current plan that is contradictory
17 to the existing zoning, and that needs
18 to be addressed. But I don't want our
19 message to -- to be -- to be voted no to
20 this project. I -- I -- and that's the
21 misreading of what we've always done,
22 but I -- that's what I don't want to
23 come out. So I'd rather --

24 COMMISSIONER BOLTON: I mean --

25 COMMISSIONER TALDONE: -- take no

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action, but --

COMMISSIONER BOLTON: Again, I have to get something clarified, and that I can ask Dan.

Is it -- is it specific of the comprehensive plan that are inconsistent with this proposal? Meaning, there's nothing within that designation under the comprehensive plan that allows for an assisted living facility to -- is that what you're saying?

DEPUTY DIRECTOR GULIZIO: Yes. The proposed use of an assisted living facility is not permitted, obviously, by the existing zoning of Residence A-1 --

COMMISSIONER BOLTON: That's another issue.

DEPUTY DIRECTOR GULIZIO: The Middle Country Sustainable Community Plan did not recommend assisted living be considered within this transitional zoning overlay district.

CHAIRMAN CALONE: Okay.

COMMISSIONER TALDONE: One more

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point, if I may?

CHAIRMAN CALONE: Go ahead, Vince.

COMMISSIONER TALDONE: I believe that plan did, in fact, provide additional -- with a senior accommodation for people to age -- not to 76, but I think within the same community. I can't reference the page, it's in there. So while it may not have referred to this site, it certainly refers to the corridor that was under analysis.

DEPUTY DIRECTOR GULIZIO: Well, it -- it --

CHAIRMAN CALONE: Well, obviously, somewhere in that corridor there -- there may -- there may be a need in that area. I guess the issue here is the plan that we have doesn't provide for it in this particular location.

Dan, you want to --

DEPUTY DIRECTOR GULIZIO: Just the --

CHAIRMAN CALONE: -- say more?

DEPUTY DIRECTOR GULIZIO: --

affluence, and respecting everything that's been said so far, I just -- it is a dangerous precedent to take a plan that was just adopted within the last couple months -- the county -- the Town Board has set clear policy for it in terms of permitted use, and to base upon comments from individual community members, vary that policy as being somehow more clearly consistent with the intent of the Board. I have the greatest respect for Diane Caudullo and Kevin McCormack, I worked with both of them when I was with the Town of Brookhaven, but the question isn't really so much whether or not an individual community member likes or dislikes a proposed use, this is policy that's been established by the Town Board through a legislative process. And without modification, is, in fact, inconsistent with that policy.

CHAIRMAN CALONE: You know --

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DEPUTY DIRECTOR GULIZIO: If they want to vary the policy, that's one thing, but to say that the application should be considered separate and apart from the policy based upon individual comments from community members, it could set a real precedent.

CHAIRMAN CALONE: Thank you, Dan.

And -- and --

COMMISSIONER BRAUN: (Indicating)

CHAIRMAN CALONE: -- Mr. Braun, I think this feels a little like a Supreme Court, you know, textual analysis here; doesn't it?

COMMISSIONER BRAUN: It does.

Is there a place within the Town of Brookhaven that a PRCHC zone is designated where there is no -- in other words, are there places already set aside, or is every time somebody wants to build a senior -- an assisted living facility, do they need to apply to change some other zone to permit it?

DEPUTY DIRECTOR GULIZIO: There

1
2 have been applications over the years
3 throughout the Town for the PRCHC zoning
4 designations. Not all of those sites
5 have been developed, so there are some
6 vacant properties located. They are
7 limited in number, and they're scattered
8 throughout --

9 COMMISSIONER BRAUN: But they're
10 not predesignated. In other words, as
11 the result of someone's application for
12 a change of zone.

13 COMMISSIONER BOLTON: No.

14 COMMISSIONER BRAUN: At some point,
15 they were neither A-1 zoning or, in this
16 case, J-9 zoning. So it's not
17 necessarily inconsistent with the idea
18 of -- well, let me say it in a -- in
19 a --

20 CHAIRMAN CALONE: The zone may be
21 changed no matter when you have one of
22 these in pursuit, which is -- so that's
23 a good point.

24 COMMISSIONER BRAUN: Right.

25 CHAIRMAN CALONE: The additional

1 point, though, is that in the study that
2 was just completed of this corridor,
3 that was not one of the things they
4 listed among the uses for that --

5 DEPUTY DIRECTOR GULIZIO: Right.

6 CHAIRMAN CALONE: -- area; is that
7 correct?

8 COMMISSIONER BRAUN: Well, where --
9 how far on either side of Middle Country
10 Road or Nicolls Road does the corridor
11 exist? In other words, where do you go
12 back to the non-transitional area?

13 DEPUTY DIRECTOR GULIZIO: The
14 corridor runs, roughly -- again, from
15 the boarder at the western end of the
16 Village of Lake Grove through the entire
17 community of Centereach, which runs
18 from, again, Lake Grove just east of the
19 mall, about a quarter mile east of
20 Nicolls Road, and then continues through
21 the community of Selden up to
22 approximately County Road 83.

23 COMMISSIONER BRAUN: How -- how
24 wide north to south is it?
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DEPUTY DIRECTOR GULIZIO: John, if you can just go back to the earlier screen.

MR. CORRAL: (Complying)

DEPUTY DIRECTOR GULIZIO: That's the boundary of the study area (indicating).

COMMISSIONER BRAUN: Okay.

CHAIRMAN CALONE: And the plan encompasses that entire area; correct?

DEPUTY DIRECTOR GULIZIO: Correct.

CHAIRMAN CALONE: Can you give us a sense -- it's kind of hard to, you know, without a scale there -- and some of us are familiar with Nicolls Road and where it bends and that kind of thing, but, you know, it's -- it's a mile or so, you know, to the Service Road, at least; correct?

DEPUTY DIRECTOR GULIZIO: You're looking at Nesconset Highway to the north, the northwest side of 347 (indicating). That's the northerly boundary. As indicated in the study,

1 the southerly boundary is very difficult
2 to -- an -- an infra-site based upon
3 community information. I think what we
4 ultimately selected was they're roughly
5 consistent with the postal district.
6

7 COMMISSIONER BRAUN: And the -- the
8 proposed location for this is on the
9 southeast side of the intersection of
10 Middle Country Road and Nicolls Road.

11 DEPUTY DIRECTOR GULIZIO: That's
12 correct.

13 COMMISSIONER KONTOKOSTA: Dan.

14 DEPUTY DIRECTOR GULIZIO: Roughly
15 in the center of the study area.

16 CHAIRMAN CALONE: Constantine.

17 COMMISSIONER KONTOKOSTA: Thank
18 you.

19 Were there any areas identified in
20 this plan for family communities or
21 assisted living facilities?

22 DEPUTY DIRECTOR GULIZIO: Not that
23 I'm aware of in terms of a recommended
24 zoning action.

25 COMMISSIONER KONTOKOSTA: So

1 obviously there's a tremendous need for
2 this type of housing, and it seems to be
3 the -- a change is going to be necessary
4 throughout the -- anywhere in this study
5 area, probably anywhere in -- I -- I
6 would imagine the study area in
7 Brookhaven as well.

8
9 Obviously, its -- its consistency
10 with the -- the community plan is an
11 issue. I wonder one thing, the J-9 you
12 talked about, this transitional zone,
13 would that actually be a rezoning
14 applied to all of these parcels in
15 this -- in this transition corner?

16 DEPUTY DIRECTOR GULIZIO: Yes.

17 COMMISSIONER KONTOKOSTA: And what
18 uses would be allowed in that --

19 DEPUTY DIRECTOR GULIZIO: There
20 were two alternatives proposed within
21 the -- within the appendices of the
22 plan. One set found a litany of uses,
23 it was fairly voluminous; everything
24 from offices to mixed-use buildings to
25 retail uses. The other one relied more

1 heavily upon the underlying zoning
2 districts, and it's something more as an
3 overlay zoning district where the uses
4 would be permitted consistent with the
5 existing zoning, but there -- there
6 would be additional site design
7 standards applied to those properties as
8 part of an overlay zoning district.
9

10 COMMISSIONER KONTOKOSTA: That's a
11 little confusing then. If we're saying
12 that specifically assisted living is not
13 appropriate here, and yet they're in a
14 transitional -- transitional zone,
15 they're very broad and only in some --
16 perhaps the plan is a bit too specific
17 against, or we're interpreting it too
18 specific against this type of housing in
19 this location, or in this transitional
20 zone; is that possible?

21 DEPUTY DIRECTOR GULIZIO: Well,
22 it's difficult for me to say. I mean,
23 number one, we think it's reasonable to
24 take an application, following the
25 adoption of a comprehensive plan, and to

1
2 apply the policies of that comprehensive
3 plan to an individual action. In this
4 case, based upon our view of the plans,
5 the proposed rezoning wasn't consistent
6 with the recently adopted plan. From a
7 land use standpoint, I think it's --
8 it's clearly recognized that seniors are
9 our fastest growing portion of our
10 population, and that additional senior
11 housing including assisted living
12 housing is needed and warranted. But,
13 again, our biggest concern was, number
14 one, it wasn't consistent with the uses
15 permitted by the plan, and number two,
16 the intensity of the use -- and, again,
17 I -- I wouldn't look at that as a minor
18 detail, I think the intensity of the use
19 is proposed, but also is inconsistent
20 with the zoning district detail.

21 COMMISSIONER BRAUN: What if --

22 COMMISSIONER KONTOKOSTA: The two
23 concerns you have, one is the -- you
24 know, you just -- you just mentioned
25 that the transitional zone actually is

1
2 quite an encompassable one in terms of
3 offices, retail you mentioned --

4 DEPUTY DIRECTOR GULIZIO: But not
5 assisted living.

6 COMMISSIONER KONTOKOSTA: Right,
7 but --

8 (Overlapping conversations)

9 COMMISSIONER KONTOKOSTA: I mean,
10 perhaps it was an oversight and they --
11 they were multifamily houses, without
12 digging in deeper.

13 And then the other issue is
14 intensity; isn't it possible for the
15 Town to condition the change of zone so
16 that the change of zone is approved
17 based on the process of meeting --
18 meeting smaller -- certain requirements;
19 is that a possibility?

20 DEPUTY DIRECTOR GULIZIO: Well, in
21 answering the first question, I -- I
22 wouldn't want to assume that it was an
23 oversight in terms of the litany of uses
24 that are permitted. I mean, that -- I
25 think we can make -- you know, say that

1 about any zoning district. And we've
2 gone through an exhaustive public
3 hearing process and an outreach process,
4 there was a lot of time put into this
5 plan, so I -- I feel more comfortable
6 going, you know, with what the plan
7 actually states.
8

9 CHAIRMAN CALONE: Dan --

10 DEPUTY DIRECTOR GULIZIO: In terms
11 of conditioning the application to
12 eliminate the variances or minimize the
13 variances; sure, the Town could
14 absolutely do that, they have --
15 absolutely have a right to do that as --
16 in terms of rezoning. But, again, based
17 upon staff's review, we have to do
18 what's been referred from the Town, from
19 the referring agency. And what we have
20 is an application which requires a
21 height variance, a number of assorted
22 variances in terms, you know, of the
23 stories --

24 COMMISSIONER BRAUN: That's the
25 variance from the proposed new zone, not

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the current zone.

DEPUTY DIRECTOR GULIZIO: The variance from the proposed new zoning of PRCHC, including the number of beds and the number of units.

CHAIRMAN CALONE: Let me call on people, because I know a lot of people want to --

Just a quick question, just to be clear on what you were discussing with Constantine; the list is a -- of -- of the permitted uses, is a -- a litany of things -- is long list. Does it -- does it include and exclude, or is it just -- have a list of things that they would consider --

DEPUTY DIRECTOR GULIZIO: The code is actually fairly specific in that it is a litany of all the uses that are permitted, including special permitted uses, these require special permits from the Town Board or Planning Board. And I believe there's also a clause that says all uses not expressly permitted are

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prohibited.

CHAIRMAN CALONE: Okay. All uses not listed on -- okay.

John.

COMMISSIONER CARACCIOLO: Okay.

Mr. Chairman, with all due respect, I think we're getting off the mark here and we've just got to go back to the original application and not try to assume our separate -- and I -- I applaud the -- the homework and legwork that Vince did with the community absent Brookhaven representative. I think we need to go back to the application and just deal with this application, and not try to assume that we know what the Town meant in an -- in an exhaustive hearing that they did, as Dan just said.

The plan is inconsistent with the -- with the community plan. This plan, it has major variances in -- in -- in zoning, it has major variances in -- in the maximum number of permitted units; I think we've got to go back and

1 focus here. I mean, while, you know,
2 it's great to assume that we know what
3 the Town and the community wanted, we
4 have an application before us and we
5 have a -- a Town recommendation on -- on
6 this corridor. So I think we need to go
7 back and focus, we're getting a little
8 too stretched here.

9
10 CHAIRMAN CALONE: Thank you, John.

11 Commissioner Fiore.

12 COMMISSIONER FIORE: I was going to
13 say the same thing, I -- I'm going to
14 echo what John said, that we need to be
15 clear on what the -- what the
16 recommendation is, because that's what
17 they look at. They look at what's there
18 and they give us the information based
19 on their staff report. And when we
20 start getting too far out as to where
21 the sun shines or doesn't shine, I think
22 we're getting too -- too far out on what
23 we're actually supposed to be doing.

24 I would recommend that we stick
25 with the staff report and discuss the

1 staff report as it -- as it was written.
2
3 And from what I can see, and I'm going
4 to go back to what one of the other
5 Commissioners said earlier, is that, you
6 know, Engel Burman, who is a senior --
7 who is a developer on Long Island,
8 should know that to ask for this many
9 variances, it was going to -- was going
10 to put up the antennas of the -- of --
11 of Commissioners -- of the Planning
12 Commission. And I think we should move
13 the question as it -- as it stands,
14 based on what -- what has been reported
15 and what Dan has -- has given back to
16 this Commission.

17 CHAIRMAN CALONE: I appreciate
18 that, Don.

19 Any other comments or questions?

20 (WHEREUPON, there was no response.)

21 CHAIRMAN CALONE: If not, Don has,
22 I think, made a motion.

23 (Laughter)

24 COMMISSIONER CARACCILO: I'll
25 second the motion.

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CHAIRMAN CALONE: Seconded by John.

I just want to be clear, Don has moved the adoption of the staff report, seconded by John.

All those in favor of accepting the staff report which calls for disapproval of the proposal for the reasons that the proposed change of zone is inconsistent with the recommendations of the Middle Country Sustainable Community Plan, and the proposed variances are significant and inconsistent with the spirit and intent of the zoning code, please raise your hand.

(WHEREUPON, the Commission members voted.)

CHAIRMAN CALONE: Six.

And who is opposed?

(WHEREUPON, the Commission members voted.)

CHAIRMAN CALONE: Four.

And abstentions?

(WHEREUPON, the Commission members voted.)

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CHAIRMAN CALONE: One.

Sarah, if you wish to share with the -- the reason why you're abstaining, please do so.

COMMISSIONER LANSDALE: Sure.

My organization, Sustainable Long Island, wrote the Middle Country Sustainable Community Plan; therefore --

CHAIRMAN CALONE: I apologize, I --

I've added to 11 --

COMMISSIONER CARACCILO: I don't

think you voted.

CHAIRMAN CALONE: Well, I think --

I thought I did.

COMMISSIONER CARACCILO: I don't

think I saw your hand, Commissioner.

CHAIRMAN CALONE: All right. I

apologize.

Well, those who voted in the affirmative, please indicate again. I apologize.

(WHEREUPON, the Commission members voted.)

CHAIRMAN CALONE: That's six;

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right?

Okay. And opposed?

(WHEREUPON, the Commission members
voted.)

CHAIRMAN CALONE: That's five. So
six -- the motion is for approval,
six-five-one. Under our Rules, that is
not approved because it does not have
eight votes. So that is a no action.

Moving on to the next item on the
agenda, we have the RB Industrial Park.
Andy.

MR. FRELENG: Mr. Chairman, thank
you. John from our staff is going to
present the subdivision.

CHAIRMAN CALONE: John, welcome.

MR. CORRAL: Thank you.

Okay. The subdivision before you,
referred from the Town of Brookhaven, is
an Industrial Park for a two-lot
industrial subdivision located in the
hamlet of Yaphank on a 101-acre parcel.
The subdivision is located on the
southwest corner of the Long Island

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Expressway and the William Floyd
Parkway.

And just some of the things around
it, for your information.

This parcel is the islander east
pipeline (indicating). This parcel here
is Suffolk County's 7th Precinct
(indicating). This parcel is LIPA's --
a LIPA power station (indicating). This
is an industrial park (indicating).
This is Brookhaven Walk, which has been
approved for retail (indicating). And
on the northeast corner is Brookhaven
National Lab (indicating).

The jurisdiction for this
subdivision is it's adjacent to State
Route 495, the Long Island Expressway,
it's adjacent to County 46A, William
Floyd Parkway, and adjacent to Suffolk
County land.

The zoning of the parcel is L-1; to
the south is Residential A-1; to the
north is J-2; and also to the east and
west is Industrial land.

1 The lot itself is, at the moment,
2 undisturbed. It's completely wooded
3 with fairly steep slopes; in some cases,
4 over ten -- ten percent. And there's
5 fairly large elevation changes, going
6 from about 111 feet here (indicating),
7 to about 44 feet in the southeast corner
8 (indicating).

9 The subdivision itself is -- calls
10 for a two-lot subdivision, with Parcel 4
11 being 24 acres -- here (indicating) --
12 and Parcel 3 being 76 acres. They also
13 dedicated .5 acres on the Long Island
14 Service Road to the State DOT. And they
15 also, for access, proposed a 60-foot
16 right-of-way easement connecting the two
17 lots and the Long Island Expressway and
18 William Floyd Parkway. Within that
19 60-foot right-of-way they propose a
20 40-foot paved private driveway.

21 The access for this subdivision,
22 they propose an ingress/egress on
23 William Floyd Parkway, they'll use the
24 same entrance which is currently being
25

1 used by the Suffolk County 7th Precinct.
2
3 And an egress only onto the LIE South
4 Service Road.

5 Suffolk County has also received,
6 prior to this subdivision, a site plan
7 for Clare Rose. That site plan we
8 determined to be a local determination,
9 it was on the entire 101 parcel. Now,
10 with the EAF that we've received, it's
11 intended, according to EAF, to be in
12 Parcel 4, or in the area of Parcel 4.

13 In regards to this subdivision,
14 adding the proposed building on -- on
15 top of this, that was -- that Clare Rose
16 was just -- been written permission for
17 207,000 square foot industrial building
18 for industrial use.

19 The one issue we wanted to just
20 bring up is that location on Site 4 is
21 located in a -- part of property with
22 the steeper slopes. If you see
23 Parcel 4 and the topography map
24 (indicating).

25 CHAIRMAN CALONE: So the building

1 would be -- are they doing infill or are
2 they -- or are they building, you know,
3 adjacent to --
4

5 MR. CORRAL: From what we can tell,
6 they're going to -- I'm actually not
7 certain whether they're doing infill or
8 not, but it's -- it's supposed to be on
9 Parcel 4 there. But just in looking at
10 the slopes, it would -- it would seem
11 that they're going to need to do some
12 grading. It did say in the EAF, though,
13 that they want to keep the soil on site.

14 Okay. So our -- our
15 recommendations with this is approval
16 with the following conditions, and that
17 should be the proposed right-of-way
18 shall be dedicated to the Town or
19 reserved for future highway use. The
20 private driveway shall be built to Town
21 of Brookhaven specifications so that it
22 is suitable for future dedication.

23 Second is, access shall conform
24 with DOT and Suffolk County Department
25 of Public Works covenants and

1
2 restrictions. The Suffolk County
3 Department of Public Works has three
4 covenants that they want to require,
5 they are listed there.

6 The first being, any future
7 development of these properties,
8 regardless of the magnitude, must be
9 reviewed independently by Suffolk
10 County.

11 The second, the existing 7th
12 Precinct Signal is built as a temporary
13 facility and is intended to be removed
14 in the future.

15 And the third, the northbound
16 County Road left lane may be closed at
17 any time. There's concern that the
18 traffic might back up if the William
19 Floyd Parkway narrows to the south, and
20 then that left turning lane may back up.

21 Our third condition, we ask for
22 vegetative buffers along Long Island
23 Expressway and William Floyd Parkway
24 shall be consistent with Town of
25 Brookhaven L-1 zoning requirements.

1
2 And this is -- this third one is
3 from our Suffolk County Planning
4 Commission Guidelines, that there should
5 be clearing envelopes -- well, I guess
6 I'll read it through.

7 Clearing envelopes shall be drawn
8 for any buildings on a parcel with
9 slopes greater than ten percent. These
10 envelopes shall be located to minimize
11 the disturbance of these slopes to the
12 greatest extent possible. Construction
13 on slopes in excess of ten percent may
14 be approved if technical review shows
15 that control practices and structures --
16 so as to mitigate any negative
17 environmental impacts.

18 The fifth condition is site grading
19 shall not result in a net loss of
20 soil/sand/gravel from the subject
21 parcel.

22 And the sixth is because -- with
23 these large buildings, we thought it
24 would be good to consider energy
25 efficiency. So this is from our Suffolk

2 County Planning Commission's Guidelines,
3 future construction of the industrial
4 buildings shall comply with Suffolk
5 County Planning Commission Energy
6 Efficiency Guidelines.

7 So that's the staff report, and if
8 anybody has any questions --

9 CHAIRMAN CALONE: Thank you, John.

10 Comments, questions?

11 COMMISSIONER TALDONE: (Indicating)

12 CHAIRMAN CALONE: Vince.

13 COMMISSIONER TALDONE: One question
14 or suggestion.

15 In Condition No. 1, I -- I do
16 clearly understand and support the
17 building of the road to Brookhaven
18 specifications so that it is suitable
19 for dedication. But I would request or
20 recommend a change that we have that
21 road dedicated to the Town or reserved.
22 Reserved was not -- if it was up to me,
23 I would prefer to use something like
24 either dedicated or that the applicant
25 will report offers of dedication to the

1
2 Town of Brookhaven; which leaves it for
3 the Town of Brookhaven to say when they
4 want to take that into the road system.
5 But -- but the rest of your -- your
6 conditions here would ensure that
7 someday if they do decide to take it
8 into the road system, whenever they do,
9 it's built to their specifications. So
10 I think that's very important. But I
11 just -- just the word "reserved" was --
12 wasn't clear to me how that would
13 translate into our findings,
14 complications on the property. So offer
15 of dedication for dedication, and let
16 the Town decide when they want to --

17 MR. CORRAL: Right.

18 COMMISSIONER TALDONE: -- that
19 would be my recommendation.

20 MR. CORRAL: Okay. Yeah, this --
21 this is from our Guidelines, so we can
22 make that change there.

23 CHAIRMAN CALONE: Well, let's see
24 if there are any objections here to
25 making the change as indicated.

2 (WHEREUPON, there was no response.)

3 CHAIRMAN CALONE: Seeing none,
4 we'll accept that modification.

5 COMMISSIONER BRAUN: (Indicating)

6 CHAIRMAN CALONE: Commissioner
7 Braun.

8 COMMISSIONER BRAUN: Yes, I have a
9 question about ingress and egress. The
10 ends of that driveway that was on the
11 South Service Road of that Expressway,
12 that's for leaving the parcel only.

13 MR. CORRAL: Right.

14 COMMISSIONER BRAUN: Where is the
15 nearest exit from the Expressway to that
16 driveway, is it east or west of there?

17 MR. CORRAL: It's to the east, it's
18 about -- it's supposed to be 800 -- 800
19 and a little more feet. And you can see
20 in the picture there, there's signs --

21 COMMISSIONER BRAUN: The sign
22 nearest --

23 CHAIRMAN CALONE: You've got to get
24 off William Floyd and make a -- off of
25 William Floyd Parkway.

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MR. CORRAL: To exit, you can get on the South Service Road and then those signs ahead -- those signs to the right there -- to go south on William Floyd, and then the sign -- the other sign is to the north of the Expressway.

COMMISSIONER BRAUN: Well, my question is this, if we're concerned about traffic -- southbound traffic on William Floyd backing up and perhaps closing that right turn lane as a result, why not ask for an entrance on the South Service Road, why just an exit?

MR. CORRAL: From the information we got, they worked with the State DOT, and the State DOT wanted to have only an egress with this minimum weave distance of 800 feet.

COMMISSIONER BRAUN: Okay.

DIRECTOR ISLES: It doesn't fit.

CHAIRMAN CALONE: Because of the distance to the -- to the exit ramp?

DIRECTOR ISLES: Exactly. This is

1 the exit ramp coming off here
2 (indicating). So if you were to put an
3 entrance in here (indicating), you'd
4 have cars weaving across -- cutting
5 across those two through lanes. What
6 DOT is doing is putting the -- the exit
7 moving from the site west of the
8 off-ramp. It's a very complex,
9 high-speed location, and this was
10 carefully reviewed by both DOT as well
11 as ECW.

12
13 CHAIRMAN CALONE: Okay.

14 Actually, a quick question on 2a --
15 Condition 2a, the easement development,
16 regardless of magnitude, it must be
17 reviewed independently by Suffolk
18 County. I mean, I would assume that
19 they -- it would have to come before the
20 Planning Commission anyway if they --

21 DIRECTOR ISLES: The site plan.

22 The site plan is -- definitely has
23 something for the Planning Commission,
24 they're going to put in 500 feet of
25 state or county highway, and so forth.

1 DO -- DPW may not have jurisdiction
2 there. DPW has current jurisdiction on
3 county roads and the county service
4 roads. Therefore, there may be
5 developments in terms of this site, this
6 101-acre site, that is not in county
7 jurisdiction. Nonetheless, it may
8 impact county -- the zoning.
9

10 Given the significance of the
11 potential traffic and hazardous
12 conditions, County DPW thinks it's
13 important to maintain every advantage to
14 ensure there's no adverse effects in the
15 county highway system.

16 CHAIRMAN CALONE: Thank you.

17 COMMISSIONER BOLTON: (Indicating)

18 CHAIRMAN CALONE: Commissioner
19 Bolton.

20 COMMISSIONER BOLTON: This is
21 actually a protocol question for Tom.
22 In this case, one of the rare times
23 we've received this DEIS -- you received
24 the DEIS in conjunction with the
25 application. And I'm wondering, under

1 those conditions, I know that a DEIS
2 would present alternatives that may or
3 may not -- hopefully may mitigate
4 impacts to this site. And I'm
5 wondering, are we -- would we generally
6 be looking at those alternatives? Is
7 that something the Commission would do
8 when a DEIS is presented?
9

10 DIRECTOR ISLES: The -- you know,
11 as part of the review of the project, we
12 require a complete statement of facts
13 with the application. That often
14 included environmental assessments in
15 the environmental assessments form. In
16 this case, it also includes an
17 environmental impact statement. So all
18 of that is germane and available to the
19 County Commission for the review of the
20 application.

21 In this case, the staff review has
22 considered the materials submitted and
23 the particulars considered; again, in
24 view of (inaudible). So in those
25 aspects, in terms of mitigating, you

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2 know, the alternatives to access and so
3 forth, we do review that, we -- we
4 certainly rely heavily on DPW, and
5 that's where this comes from.

6 I'm not sure if you're suggesting
7 that we also go further in (inaudible)
8 DEIS (inaudible) spectrum of
9 alternatives?

10 COMMISSIONER BOLTON: Well, if --
11 if there were a couple of -- a couple of
12 concerns with the application, one of
13 course is the traffic, and the other is
14 the development on the slope. And I'm
15 wondering whether there was any sort of
16 alternative presented in the DEIS that
17 addressed that.

18 DIRECTOR ISLES: This site has been
19 subject to quite a bit of a review. In
20 fact, the earlier site plan that we
21 received -- which, by the way, before
22 this Commission adopted these new
23 Guidelines, the project (inaudible)
24 significantly, I'll point out. At a
25 number of development sites on -- on --

1
2 just go back to the subdivision --
3 the -- you know, the subdivision plan.

4 MR. CORRAL: (Complying)

5 DIRECTOR ISLES: It shows the
6 subdivision of land right here, for
7 example (indicating). As part of the
8 SEQRA process and the review process
9 with the agencies, this is now supposed
10 to be open space, all of this right here
11 (indicating). And this would be the
12 development area right there
13 (indicating).

14 So there was, in answer to your
15 question, a lot of analysis from other
16 agencies. There were modifications,
17 this plan has ultimately been committed
18 to the town, and made part of the
19 application you're reviewing today.

20 So I think there has been a lot of
21 consideration in that regard. Whether
22 it's the best plan out of all those
23 alternatives, you know, it's hard to
24 answer quickly. But this is what we've
25 been referred, we feel that there has

1
2 been a lot of homework done on this by
3 the agency and the applicant, and that's
4 what you see today.

5 COMMISSIONER BOLTON: Thank you.

6 CHAIRMAN CALONE: Any other
7 comments or questions on the -- on the
8 staff report?

9 COMMISSIONER McADAM: (Indicating)

10 CHAIRMAN CALONE: Yes, Commissioner
11 McAdam.

12 COMMISSIONER McADAM: Could you go
13 back to the chart that you had before?

14 MR. CORRAL: (Complying)

15 COMMISSIONER McADAM: No, the --
16 the other one. It was -- it was a
17 picture of the area --

18 CHAIRMAN CALONE: The photograph?

19 COMMISSIONER McADAM: -- I
20 believe -- the photograph.

21 DIRECTOR ISLES: Showing the actual
22 road.

23 COMMISSIONER McADAM: Yes, showing
24 the --

25 MR. CORRAL: Oh, okay. (Complying)

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DIRECTOR ISLES: There you go.

COMMISSIONER McADAM: Now, I'm familiar with that area, and they get a significant amount of traffic going to Mastic/Shirley. And -- well, did the -- did the New York State Department of Transportation address that issue when looking at this problem, or looking at the --

MR. CORRAL: The information that I received in the application from the state addressed that they were okay with this -- this configuration with the weave distance. In that EAF, they mentioned traffic and they did a traffic study, and that traffic study said that these conditions would not present a problem. So that's as much information as I have from the state.

CHAIRMAN CALONE: The other thing you got on that area is the new Brookhaven Walk is going to significantly impact that area as well. So, I mean -- you know, I don't think we

1
2 need to second-guess DOT, but I'm
3 assuming, you know, they looked at
4 that -- that impact as well.

5 COMMISSIONER HOLMES: I just am
6 wondering, I -- I've been on and off the
7 William Floyd from both directions for
8 the past 20 years, and it makes me
9 wonder what time of day or what day of
10 the week the DOT may have looked at that
11 and said there wasn't much of a problem.
12 Because it is always a scary thing
13 coming off the -- onto the William Floyd
14 from the LIE and going southbound
15 towards Mastic is -- is the way I
16 usually -- it is always a scary thing
17 because there is so much traffic already
18 on the William Floyd, and -- for all
19 lanes. And it's hard to imagine, you
20 know, increased use not creating much of
21 a problem. So if they're, you know,
22 mitigating it to some extent, fine; but
23 I just wonder -- you know, I think Tom's
24 point is well taken. It's -- it's
25 already a difficult area. I don't know

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why they are saying this -- this mega development isn't going to make much more of a problem.

CHAIRMAN CALONE: Commissioner McAdam, do you have a follow-up?

DEPUTY DIRECTOR GULIZIO: This site -- I'm sorry.

I don't think -- and, John, I don't want to put words in your mouth, but I don't think the state necessarily indicated that the development wasn't much of a problem. I think what they indicated was that, based upon the mitigations proposed -- so the directions in terms of access goes from the Service Road and William Floyd Parkway, as well as what other road -- whatever other improvements they're requiring for the parkway itself, significantly mitigated the potential impact from the development. So I don't think they just said it wouldn't have an impact.

COMMISSIONER HOLMES: In other

1 words, with the -- with the mitigation,
2
3 it wouldn't make much more of a problem.

4 DEPUTY DIRECTOR GULIZIO: Correct.

5 COMMISSIONER HOLMES: I guess
6 that's what you're saying.

7 COMMISSIONER McADAM: (Indicating)

8 CHAIRMAN CALONE: Tom.

9 COMMISSIONER McADAM: And the other
10 question I had was, you -- you may
11 not -- you may not know this at this
12 point, but do you -- would you have any
13 idea of the number of vehicles that
14 would be coming on and off that site?

15 MR. CORRAL: The EAF in the traffic
16 study does have vehicle numbers, which I
17 can check, I don't have it offhand in my
18 head, but the EAF does have numbers of
19 vehicles that are expected at peak
20 times.

21 COMMISSIONER McADAM: Okay. Thank
22 you.

23 COMMISSIONER TALDONE: (Indicating)

24 CHAIRMAN CALONE: Vince.

25 COMMISSIONER TALDONE: The answer

1 to that question reminds me of a
2 question or -- actually, it's probably a
3 comment; I would just like to see that
4 we request the submitting agency refer
5 this to DP -- County DPW Transit
6 Operation Division to determine whether
7 there are any accommodations for a
8 public bus required. This is sort of
9 a -- if it's a scary place to drive, I
10 can't even imagine what it's like to
11 stand on the side of the road to wait
12 for a bus.

14 Often DPW's Transit Operations
15 Division, if they have time to review
16 those things, they will come up with
17 suggestions like a bus turnoff; the bus
18 gets out of the way of moving lanes, and
19 you have time to get on and off safely.
20 That's not happening now because there's
21 nothing there, but that might be a good
22 idea. This might be the time to get the
23 developer to offer the property, you
24 know, to the county, if we don't already
25 have the right-of-way necessary. So

1
2 without all the knowledge -- specific
3 knowledge of at least that right-of-way,
4 I would just ask that it be referred to
5 DPW, and it has to be processed by
6 Transit Operations because they're more
7 familiar with the buses.

8 COMMISSIONER CARACCIOLO: Would you
9 be looking for that as a comment or as
10 a -- a -- a -- you know, a condition?

11 COMMISSIONER TALDONE: I don't know
12 if it needs to be a condition, I -- I --
13 it's been so long --

14 CHAIRMAN CALONE: Well, I guess it
15 means asking --

16 COMMISSIONER TALDONE: They're
17 aware that they can do that.

18 CHAIRMAN CALONE: Has it been
19 through DPW already? Has it been -- I
20 mean, you've got a comment from DPW.

21 MR. CORRAL: Right. Yeah, it -- we
22 did -- they have been working with the
23 Suffolk County Department of --

24 COMMISSIONER TALDONE: My personal
25 experience is that it has not been

1
2 all -- in the past, it's not all that
3 satisfying. Being sure that the highway
4 people share the plans with the bus
5 route people until after it's built.
6 These plans come in after -- and then
7 it's supposed to be turned in to the
8 operations people who say there's
9 nothing we can do if we don't own the
10 right-of-way.

11 CHAIRMAN CALONE: That would seem
12 to not be a big deal, you know, and if
13 it hasn't happened, at least we'll get
14 it to their attention --

15 COMMISSIONER TALDONE: Then fine.

16 CHAIRMAN CALONE: -- and if it has
17 happened --

18 COMMISSIONER TALDONE: Right.

19 CHAIRMAN CALONE: So any objection
20 to adding that as a comment?

21 COMMISSIONER BOLTON: Nope.

22 CHAIRMAN CALONE: Good.

23 Any other comments, questions,
24 other considerations?

25 (WHEREUPON, there was no response.)

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CHAIRMAN CALONE: If not, I'll entertain a motion to adopt the staff report with two -- two edits; one, the change in the condition number 1 to -- to be dedicated to the town or made available for dedication -- what was the wording that you have, Andy?

COMMISSIONER TALDONE: An offer of dedication which gets recorded --

CHAIRMAN CALONE: So an offer of dedication.

And adding as a comment, not a condition, what Vince just mentioned regarding the importance of it being sent to DPW Transit.

COMMISSIONER HOLMES: (Indicating)

COMMISSIONER BRAUN: (Indicating)

CHAIRMAN CALONE: Commissioner Holmes makes that motion; seconded by Commissioner Braun.

All in favor of adopting it as indicated, please raise your hands.

(WHEREUPON, the Commission members voted.)

2 CHAIRMAN CALONE: Opposed?

3 (WHEREUPON, the Commission members
4 voted.)

5 MR. FRELENG: Commissioner
6 McAdam --

7 CHAIRMAN CALONE: So it's 12 to
8 zero.

9 MR. FRELENG: I just want to
10 clarify, did -- Commissioner McAdam,
11 did -- you voted in favor of the
12 application?

13 COMMISSIONER McADAM: (Head
14 gesture)

15 MR. FRELENG: Okay.

16 CHAIRMAN CALONE: He was a lingerer
17 too.

18 All right. That ends the -- the
19 regulatory portion of the agenda. Next
20 we have the Nominating Committee Report.
21 I believe, Barbara, you've been -- had
22 the pen, and so I'll let you go ahead
23 with that.

24 COMMISSIONER ROBERTS: Okay. Just
25 to remind you of the contents, Charla,

1
2 Linda and Bob served as the Nominating
3 Committee this year. Our process was to
4 solicit nominations and comments from
5 all members of the Commission. We did
6 this by e-mail and phone. We're happy
7 to report that all Commissioners did
8 respond to us, except our newest member
9 and one of our members who was on
10 maternity leave.

11 CHAIRMAN CALONE: Wow --

12 COMMISSIONER ROBERTS: You're
13 forgiven, Sarah.

14 CHAIRMAN CALONE: -- who is that?

15 COMMISSIONER ROBERTS: And we're
16 also very pleased to announce that there
17 is a -- a total consensus between who
18 the Commissioners were suggesting to be
19 our leaders and interest of those people
20 in assuming leadership. So I'm
21 extremely happy to formally nominate
22 David Calone again as Chair of our
23 Commission, Adrienne Esposito as
24 Secretary of our Commission, and I'm
25 extremely pleased also to announce that

1 Constantine Kontokosta has accepted our
2 nomination to be Vice Chair.

3
4 So we will formally vote on this
5 next month, but as in our Rules in our
6 Guidelines, it's presented at the
7 January meeting.

8 We also had the task on the
9 Nominating Committee from last year to
10 take a look at term limits for our
11 officers. We have found out that only
12 the Legislature actually can mandate
13 this. As you know, we did do a survey
14 in our e-mail to all Commissioners on
15 that topic, and there does appear to be
16 a consensus that there are a number of
17 members who would be interested in
18 leadership positions in the future, and
19 we are recommending that by tradition,
20 we think in terms of a two to three-year
21 term for our leaders. But, of course,
22 this is just a suggestion, and we
23 nominated people only for one-year
24 terms.

25 I think that -- that's our

1 nomination and term limits.

2 The other task that we have --

3 CHAIRMAN CALONE: Why don't we hold
4 off on the --

5 COMMISSIONER HOLMES: I'd like
6 to --

7 CHAIRMAN CALONE: -- on the
8 Rules --

9 COMMISSIONER ROBERTS: Okay.

10 COMMISSIONER HOLMES: I'd like to
11 make --

12 CHAIRMAN CALONE: -- and let me
13 just -- let me just ask if anyone else
14 has any other comments from the
15 Nominating Committee, then we can see if
16 anyone else has any comments. Again,
17 we'll let the Nominating Committee have
18 the first shot.

19 Linda.

20 COMMISSIONER HOLMES: Just as a
21 supplement to what Barbara mentioned
22 about term limit considerations. We
23 were charged with that responsibility
24 last year, as she said. And when we
25

1 were informed that only the Legislature
2 could mandate term limits, we were
3 interested to see that a majority of our
4 Commissioners also felt that voluntary
5 term limits would take place.
6

7 It's just that the former chairman,
8 John Caracciolo, and myself as vice
9 chairman, and Charla as secretary, we
10 can only say that we hope that we have
11 started a trend by ourselves stepping
12 aside after two years. Most people, as
13 I recall from the survey, seemed to
14 think that either two or three years was
15 a good limit of time for someone to
16 serve. But it would be voluntary, we
17 just do hope that we've started a trend
18 and have ended the longtime tradition of
19 simply reelecting people who say they
20 would like to continue serving, which
21 was a tradition for many, many years.
22 And we do hope that the results of the
23 survey take hold and that this -- I -- I
24 would like to see a comment in our
25 internal rules or perhaps a -- a mention

1
2 that term limits were discussed and that
3 a majority of the Commissioners did feel
4 that it would be appropriate for
5 officers to serve in the neighborhood of
6 three years. And I would like to see
7 that included in our final draft of our
8 current rules that we will be adopting.

9 CHAIRMAN CALONE: Okay. Thank you,
10 Linda.

11 Any other comments from anyone on
12 the Nominating Committee?

13 COMMISSIONER BOLTON: (Indicating)

14 CHAIRMAN CALONE: Charla.

15 COMMISSIONER BOLTON: I just wanted
16 to very quickly address what Linda just
17 said.

18 I feel that -- since rules are
19 rules, that it's inappropriate to
20 discuss something sort of
21 conjecturally -- to put something very
22 conjectural in the Rules. And, you
23 know, I -- I -- it's been presented to
24 the Commission, and the survey are
25 the -- the -- in the digest of the

1
2 survey, it did present it to the
3 Commission. And I feel that it's
4 something that's -- you know, we can
5 take up for years and years, we feel
6 that we don't want to see someone serve,
7 you know, in the future more than
8 they've already served. I mean, it's
9 just an action that one can take. And
10 so I just feel that it's inappropriate
11 to put it in the Rules.

12 CHAIRMAN CALONE: Okay. We'll --
13 we'll deal with the Rules -- we'll
14 formally adopt those Rules next -- next
15 month. So we'll be -- there'll be an
16 opportunity for anyone to make it a
17 motion in reference to the Rules, and
18 that can be debated.

19 Anything else from the Nominating
20 Committee at this time?

21 (WHEREUPON, there was no response.)

22 CHAIRMAN CALONE: Speaking
23 personally, I -- I appreciate the
24 nomination. But I would just remind
25 everyone that this is just a nomination,

1 that anyone can suggest themselves or
2 anyone else for a position next month,
3 if they change their mind in the next
4 month. I will just say that in the
5 spirit of kind of hitting the ground
6 running, should you chose to elect those
7 who have been nominated, I would like to
8 sit down with each of you like I did
9 last year, you know, in the next couple
10 of weeks, and Constantine and Adrienne
11 can join me if -- if they are available,
12 to get feedback and to discuss our goals
13 for this year. I thought that was
14 pretty helpful last year. I enjoyed
15 sitting down with all of you, so I'd
16 like to keep that going, so I'll be in
17 touch with you about that.

18
19 Anything --

20 COMMISSIONER HOLMES:

21 (Inaudible) --

22 CHAIRMAN CALONE: -- yes, Linda.

23 COMMISSIONER HOLMES: -- and maybe

24 Tom could help us, but last year it was

25 easy because John was chairing and he

1
2 wasn't running for anything, so he was
3 able to preside over the election
4 process.

5 Tom, who would preside over the
6 process for our election next month?

7 CHAIRMAN CALONE: Okay.

8 DIRECTOR ISLES: I -- I think that
9 the Chair remains seated until such time
10 as there's a replacement --

11 COMMISSIONER HOLMES: But it's not
12 possible -- it's not proper, I don't
13 think, under Roberts' Rules for somebody
14 who is standing for an election to
15 actually conduct the election process.
16 Am I correct in --

17 COMMISSIONER CARACCILO: I think
18 in my second year --

19 CHAIRMAN CALONE: Hold it -- yeah.

20 COMMISSIONER CARACCILO: -- as the
21 chair -- in my second year of --

22 CHAIRMAN CALONE: Yeah.

23 COMMISSIONER CALONE: -- the chair,
24 I could preside over the elections.

25 CHAIRMAN CALONE: Of yourself.

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COMMISSIONER CARACCIOLO: Of
myself.

CHAIRMAN CALONE: Well, you know --

COMMISSIONER CARACCIOLO: And I
won.

(Laughter)

CHAIRMAN CALONE: He counted --

COMMISSIONER HOLMES: He presided
last year --

CHAIRMAN CALONE: He counted every
vote.

COMMISSIONER HOLMES: But he
presided last year when we were not
running.

COMMISSIONER CARACCIOLO: And I --
I presided --

CHAIRMAN CALONE: I don't know --

COMMISSIONER CARACCIOLO: -- the
year before as well.

CHAIRMAN CALONE: There's --
there's an easy answer to this. Maybe,
Linda, by next month you can just look
it up and let us know next month. I'm
happy to sit here or not sit here,

1
2 whatever the case may be.

3 MS. SPAHR: Will do.

4 CHAIRMAN CALONE: I think I can
5 hear you outside, though --

6 COMMISSIONER CARACCIOLO: There are
7 padded walls in here.

8 CHAIRMAN CALONE: All right. Any
9 other -- and for the same reason, I
10 think Adrienne, as secretary -- if there
11 are no other nominations, I think the
12 secretary votes -- votes -- I think she
13 can vote for herself too.

14 COMMISSIONER HOLMES: She would be
15 directed to cast one vote. But -- but
16 you should not be doing it. But -- but
17 Linda will clarify that.

18 CHAIRMAN CALONE: That sounds like
19 a plan.

20 Any other comments on the
21 Nominating --

22 COMMISSIONER KONTOKOSTA: Mr.
23 Chairman --

24 CHAIRMAN CALONE: Yes, Constantine.

25 COMMISSIONER KONTOKOSTA: Again, I

1 know it's just a nomination, I
2 appreciate -- appreciate it very much.
3 And I would like to say I'm very humbled
4 actually by the possibility of trying to
5 follow in Ed Pruitt's footsteps. He --
6 he was an incredibly dedicated leader on
7 this Commission and member of the
8 community; and I'd like to say that, if
9 elected, I would do my best to follow in
10 those footsteps.
11

12 CHAIRMAN CALONE: That's a very,
13 very nice sentiment, and all of us, you
14 know, miss Ed and know that you'll do a
15 great job if -- if elected to -- to the
16 fold.

17 All right. We'll move on to the
18 County Planning Commission Guidelines,
19 which is the next item on our agenda.

20 COMMISSIONER ROBERTS: Do we want
21 to do Rules first, David?

22 CHAIRMAN CALONE: We had it next --

23 COMMISSIONER BOLTON: (Inaudible)

24 CHAIRMAN CALONE: -- yeah, let's do
25 the -- let's do the Guidelines. I do --

1 if there's -- if you all don't mind.

2 Also, I know Sarah has to go somewhere,

3 I think she deserves to be here for

4 that.

5
6 So you all know that a lot of
7 work's gone into this. This has been
8 a -- a significant effort of the
9 Commission over the last two years. It
10 started under John's leadership when he
11 was the chairman, and it's been a
12 collaborative effort of virtually
13 everyone here who's contributed in one
14 way or another. And I especially want
15 to thank Dan Gulizio for all his work on
16 the Guidelines. He's done a tremendous
17 job, as has the entire Planning
18 Department. Dan has -- had the pen, and
19 had to deal with the whims and notions
20 of many competing factions, so I
21 appreciate all his efforts.

22 I also want to thank Constantine
23 and Sarah because they certainly helped
24 push the ball this year in leading
25 efforts.

1
2 I want to also note or acknowledge
3 our Guidelines Working Group, which in
4 addition to Constantine and Sarah,
5 included Barbara, Linda and Charla, and
6 all of them did a lot of work on -- on
7 the -- going back and forth on --

8 Just because it deserves a mention,
9 in the highlights of this -- this will
10 be the first time in ten years that
11 we'll be voting or adopting an update to
12 the Commission Guidelines, the most
13 comprehensive revision in decades.

14 The highlights of it are, the
15 Guidelines -- the Guidebook has now been
16 reorganized and streamlined.

17 We've updated the criteria that
18 we've applied to individual projects
19 that have come before us.

20 There's an entire new section on
21 principles to be applied to local
22 comprehensive plans.

23 We also called in this document for
24 reducing the administrative burdens on
25 municipalities and developers. As well

1 as our own -- the -- the time and effort
2 our own staff has to deal with more de
3 minimus applications.
4

5 And we've increased the emphasis on
6 regional priorities; in particular,
7 energy efficiency, affordable housing,
8 and public safety. And we didn't do it
9 alone, we came up with some standards
10 working with, you know, experts and
11 stakeholders.

12 On energy efficiency, we were --
13 especially with particular thanks to
14 Sarah who worked with LIPA, LIBI, the
15 builders, Neighborhood Network, Long
16 Island Association, the architects all
17 had an input.

18 Affordable housing, we worked with
19 the Levy administration, Long Island
20 Housing Partnership. You know, the
21 affordable housing guidelines were one
22 sentence long, as you all know. And now
23 we actually have a robust program. And
24 I was told that the one sentence came up
25 when -- when I guess Congressman Grucci

1 was a member of this Commission, so it's
2 been quite a while that we've had a one
3 sentence affordable housing guideline.
4 We now have a -- a proposed guideline
5 that is robust and thinks about all the
6 issues that come up when we're trying to
7 do an affordable housing application.
8

9 And the last issue, of course,
10 public safety, we worked with District
11 Attorney Spota, Police Commissioner
12 Dormer, and -- and kind of advanced the
13 notion that the best way to fight
14 crime -- or one of the best ways to
15 fight crime is to try to eliminate the
16 environmental conditions that allow
17 crime to occur.

18 The law, as you know, requires the
19 Commission to identify and promote
20 countywide planning priorities, and
21 apply those to the projects that come
22 before us. These Guidelines assures our
23 decisions are based on countywide
24 priorities, sound policy, and,
25 therefore, our conditions are

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consistent. I think Ed Pruitt would like that.

The Guidelines are a critical first step in promoting countywide planning priorities, but they're only a first step because the law also calls on us to create comprehensive planning for the county, to make recommendations to the local municipalities by providing -- creating model codes, serving as a clearinghouse for good ideas, and report on the County's annual progress in meeting of countywide priorities. And all of these ideas we need to work more closely with the towns and villages, and it's something we'll all have to consider for the year ahead.

The Guidelines that we have in front of us represent a slight difference from the ones that we discussed in December, and I like to, just for the record, note those changes before opening up for any comments or discussion.

2 Compared to the December version,
3 on page -- does everyone have this?

4 DIRECTOR ISLES: We handed out
5 draft copies at the beginning of the
6 meeting, they're dated on top as "Draft
7 1/7/09."

8 CHAIRMAN CALONE: Well, that's the
9 Resolutions -- no, that's the Rules.

10 COMMISSIONER HOLMES: That's the
11 Rules.

12 DIRECTOR ISLES: I'm sorry.

13 CHAIRMAN CALONE: The Guidebook has
14 a nice snazzy cover --

15 COMMISSIONER HOLMES: And it has
16 page numbers.

17 CHAIRMAN CALONE: And it has page
18 numbers, which is exciting. And thanks
19 to the Department of Planning for their
20 work on these.

21 Page ii, we added the names of
22 participating staff.

23 Page iii, we added an
24 acknowledgement of former Planning
25 Department staff who played a role in

1 the task with regard to the process we
2 used.

3 We also added an "In Memoriam" for
4 Ed Pruitt.

5 On page 16 --

6 COMMISSIONER HOLMES: Excuse me --

7 CHAIRMAN CALONE: Yes, ma'am.

8 COMMISSIONER HOLMES: On page ii,
9 isn't -- isn't it Logrande, not
10 L-E-O-grande?
11

12 DIRECTOR ISLES: No, it's spelled
13 correctly.

14 COMMISSIONER HOLMES: It is? Okay.

15 CHAIRMAN CALONE: On page 16, at
16 the advices of our counsel, Linda Spahr,
17 we added a sentence to it -- amended
18 Section 3.3, which reads "...any
19 Commission report received after 45 days
20 or such longer period as may have been
21 agreed upon, but two or more days prior
22 to final action by the referring body
23 shall be subject to the provisions of
24 subsection 3.4 below."

25 The bottom line is that we

2 actually -- it's 45 days or less --
3 except this just will literally, you
4 know, reiterate the process involved.

5 On page 32 are the results of the
6 presentation last month, a new section
7 was added on the universal design. It's
8 a brief section, and it -- universal
9 design is something we may want to
10 discuss going forward with regard to
11 model codes. But you'll see right
12 above -- before dot 10, there's a
13 section on universal design, and it
14 talks about some of the things that
15 really -- Linda Pannullo discussed --
16 Judy -- Judy Pannullo discussed last
17 month.

18 On page 38, there's a clause to
19 modify the condition concerning the
20 integration of affordable housing units
21 that were not essential and could have
22 been read to imply that concentrations
23 of affordable housing could lead to
24 pockets of poverty. I don't think any
25 of us believe that.

1
2 And, also, the very last page,
3 there's a new standard for referrals,
4 which was put together by the -- by the
5 Department. And so that's something
6 that you haven't seen before, it was put
7 together -- it was based on old referral
8 forms, but it is updated in some of our
9 new priorities.

10 And then, in addition, there's some
11 of the comments that you may have heard
12 with regard to recent comments on
13 affordable housing. And that was
14 simply that -- I think the only
15 change -- or two changes -- and one -- I
16 apologize, I don't have the pages
17 listed --

18 DEPUTY DIRECTOR GULIZIO: 38.

19 CHAIRMAN CALONE: On -- on page
20 38 -- Dan, you want to actually just
21 talk about the few changes, and just
22 the -- the either/or with the 30 percent
23 target live in -- excuse me, the target
24 income level, and the five units.

25 DEPUTY DIRECTOR GULIZIO: Sure. On

2 Item No. 8, it doesn't reflect it in the
3 draft you have in front of you, but it
4 will address and apply two units of --
5 five units or greater rather than ten
6 units or greater.

7 CHAIRMAN CALONE: Oh, just -- just
8 to be clear, the things I read were the
9 things that are reflected in the
10 document in front of you but are
11 different than in December. What Dan's
12 saying are there's two changes based
13 upon recommendations from the
14 administration, they're not reflected in
15 the document in front of you. So we'll
16 kind of amend the document to do that.

17 Go ahead, Dan.

18 DEPUTY DIRECTOR GULIZIO: Again, in
19 terms of the applicability of these
20 standards, it will apply consistent with
21 recently adopted state law to
22 developments of five units or greater
23 rather than ten units or greater.

24 Also, it was clarified in terms of
25 the initial sales price, as well as the

1 initial rental amount, that the income
2 limit -- the maximum sales price and
3 maximum rental amount would include
4 adjustments for mortgage taxes and the
5 utilities. So that, you know, gross
6 income reflects those -- those costs
7 also.
8

9 We also added some minor editorial
10 comments in terms of adding parentheses
11 and clarifying that the dispersion of
12 the affordable units will be the units
13 referenced on site and not elsewhere
14 throughout the Town.

15 I think that covers all of the --
16 the most recent changes.

17 CHAIRMAN CALONE: And the working
18 group signed off on these changes, they
19 just came up from the last day. So
20 they're not included in the printed
21 book, but will be when we do the final
22 book, you know, in the next week or so.

23 I know -- since we've been
24 discussing this for 12 months, I don't
25 know if other folks want to discuss

1 anything else about it, but I certainly
2 want to give you an opportunity to do so
3 if anyone has comments or questions at
4 this time.

5
6 DEPUTY DIRECTOR GULIZIO: As long
7 as it's not a whim or a notion.

8 (Laughter)

9 COMMISSIONER LANSDALE:
10 (Indicating)

11 CHAIRMAN CALONE: Sarah.

12 COMMISSIONER LANSDALE: If there's
13 typos that we find, should we direct
14 these to you or --

15 CHAIRMAN CALONE: Who -- who wants
16 to keep the pen? Do you want to keep
17 the pen?

18 DEPUTY DIRECTOR GULIZIO:
19 (Indicating)

20 CHAIRMAN CALONE: Dan will now --

21 DEPUTY DIRECTOR GULIZIO: Thank
22 you.

23 CHAIRMAN CALONE: Yeah,
24 certainly -- I don't know -- again,
25 anything minor that needs to be voted on

1 by the Commission, but if -- you know, a
2 typo or anything like that, we can get
3 in the book by the time we make it up --
4 in the publication probably at the end
5 of the week.
6

7 DEPUTY DIRECTOR GULIZIO: Sure.

8 COMMISSIONER FIORE: (Indicating)

9 CHAIRMAN CALONE: Don, yes.

10 COMMISSIONER FIORE: Just quickly,
11 on page 48, if you take a look at that
12 last line there, that's -- I think
13 you've got to reprint it.

14 MR. FRELENG: We note it.

15 CHAIRMAN CALONE: Thank you, Don.

16 DIRECTOR ISLES: There still has to
17 be a lot of cleanup on this, you know,
18 in terms of an editing and publishing
19 standpoint, and the final document will
20 reflect that.

21 (Overlapping conversations)

22 COMMISSIONER BRAUN: And there
23 were -- then there were also some parts
24 where there were still bullets instead
25 of numbers.

2 DIRECTOR ISLES: We had a severe
3 problem with that in terms of the
4 (inaudible) indication of bullet styles.
5 We will get it completely cleaned up,
6 and it's, you know, maybe halfway there
7 right now. But we appreciate your
8 point.

9 CHAIRMAN CALONE: Without
10 objection, I think we can vote on it
11 with -- authorizing staff to do a
12 formatting change if needed.

13 Any other --

14 DIRECTOR ISLES: Just one comment
15 from my standpoint and the Department's
16 standpoint: Working with the Commission
17 on this has been, you know, a pleasure,
18 it's been a very productive process. It
19 was a very difficult thing to get
20 through, but we do appreciate it. The
21 Commission members were 100 percent
22 cooperative, spent a ton of time on
23 this, and so this effort has been a good
24 example of what (inaudible). From the
25 Department's standpoint, it's a real --

2 a really valuable, important, worthwhile
3 product of the County Planning
4 Commission, and we appreciate that.

5 CHAIRMAN CALONE: I also notice --
6 is that Andy on the cover?

7 (Laughter)

8 COMMISSIONER BRAUN: How -- how
9 come that is not us, though, at the --
10 on the alter?

11 CHAIRMAN CALONE: We're working on
12 getting a photographer out here to
13 change the cover.

14 DIRECTOR ISLES: There's Charla.

15 CHAIRMAN CALONE: Is Charla there?

16 All right. Photo editing aside --
17 photo shopping aside, are there any
18 other comments?

19 COMMISSIONER TALDONE: One last
20 comment; all right? I believe I know
21 the answer but I'm going to do it one
22 more time.

23 From what I understand, we cannot
24 require more on the site plan than what
25 is requested of the applicant. That

1
2 makes it kind of difficult for me to
3 evaluate site plans when I don't know
4 where the bus stop is or where the train
5 station is located, because, in most
6 cases, it's not on a site plan. Even if
7 it's not the applicant but the Town, the
8 Planning Department is required on this
9 checkoff list to show that they've noted
10 where the bus now currently stops on
11 this route. That would help me to
12 understand how the flow works at the
13 proposed facility, where the bus stops
14 are. Each time these come, I have to
15 pull out my map and try to figure it
16 out, measure the number of feet from the
17 intersection -- again, if it's not
18 possible, let it go. But I'd like it to
19 be looked at.

20 COMMISSIONER HOLMES: Something to
21 add to the cover form.

22 COMMISSIONER TALDONE: Right. When
23 they refer the site plan, that they
24 indicate where the public or transit --
25 public transit stop, you know, is

1 applicable, if it is on this site.

2 CHAIRMAN CALONE: Well, I believe
3 we can ask them to do that, I don't
4 believe we can require it. You know --

5 COMMISSIONER HOLMES: Well, another
6 box under site plan that says,
7 transportation route stops if available.

8 DIRECTOR ISLES: I don't think it
9 would be on --

10 CHAIRMAN CALONE: Well, why
11 don't --

12 DIRECTOR ISLES: -- the referral
13 form, I think it would be on the
14 checklist inside of the -- (perusing) --
15 application requirements.

16 COMMISSIONER TALDONE: I think that
17 would -- actually, it would address the
18 question often (inaudible).

19 CHAIRMAN CALONE: Do you have a
20 page number?

21 DIRECTOR ISLES: Well, I'm looking
22 at page 9 through 10, the list of what
23 the municipality has provided.

24 COMMISSIONER HOLMES: I -- I think
25

1 Vince's point is well taken. There are
2 many places where there are bus stop
3 routes and other places where there are
4 not. So if it said "if applicable," it
5 would certainly be very helpful for us
6 to know, because very often we don't
7 know if there is public transportation
8 available or not.

9
10 CHAIRMAN CALONE: We do require any
11 additional information deemed necessary
12 by the Commission or Department at the
13 very top of page 10. I personally don't
14 have an objection because it is a
15 critical issue to including it, but --
16 Linda would like to speak.

17 MS. SPAHR: Well, Dan said
18 (inaudible) information that's available
19 to the county and (inaudible) best
20 asking or directing the Department to
21 provide that information to you.

22 COMMISSIONER TALDONE: That's
23 exactly what I was hoping to avoid,
24 giving it to the staff. Maybe they --
25 Planning Department is most

1
2 knowledgeable about their own -- since
3 they know where those bus stops are.
4 But yes, it is a county -- it is a
5 county (inaudible).

6 CHAIRMAN CALONE: Well, I ask this
7 question of the staff, how easy is that
8 to -- in your efforts to --

9 MR. FRELENG: Well, I'm not sure
10 that we have a resource at this time,
11 but we could certainly speak with DPW
12 and see if we could come up with a
13 resource that we could use to compare
14 our application against.

15 CHAIRMAN CALONE: All right.

16 COMMISSIONER TALDONE: They have a
17 GPS -- every single bus stop in the
18 county --

19 DIRECTOR ISLES: We'll look into
20 that.

21 CHAIRMAN CALONE: Okay. Why don't
22 we look into that, if the staff, in
23 fact, is -- in doing this thing, and --

24 COMMISSIONER TALDONE: I wasn't
25 trying to transfer that responsibility

2 from me to you, I was just trying to
3 transfer down to the town if I could.

4 CHAIRMAN CALONE: All right. So
5 we'll pass on that for now. Any other
6 comments or questions?

7 (WHEREUPON, there was no response)

8 CHAIRMAN CALONE: If not, I'll
9 entertain a motion to adopt the
10 guidebook with the -- with the -- with
11 the amendments indicated, the ones that
12 Dan mentioned; in particular, the --
13 the -- two changes in -- a couple of
14 changes in affordable housing, and also
15 directing staff to do the -- deal with
16 the formatting adoptions and
17 coordinating with that.

18 COMMISSIONER LANSDALE:

19 (Indicating)

20 CHAIRMAN CALONE: I'll entertain a
21 motion, and Sarah makes that motion.
22 And I'll entertain a second --

23 COMMISSIONER KONTOKOSTA: Second.

24 CHAIRMAN CALONE: All in favor of
25 adopting the Suffolk County Planning

2 Commission Guidebook as indicated,
3 please raise your hands.

4 (WHEREUPON, the Commission members
5 voted.)

6 CHAIRMAN CALONE: All those
7 opposed?

8 (WHEREUPON, there was no response.)

9 CHAIRMAN CALONE: Okay. It passes
10 12 to zero -- does anyone abstain?

11 (WHEREUPON, there was no response.)

12 CHAIRMAN CALONE: 12 to zero.

13 Okay. Thank you all again for all
14 your work on this.

15 The next step, of course, is -- is
16 working with the towns and villages
17 and -- and -- and -- to see how we can
18 promote these countywide priorities from
19 all the codes and other -- comprehensive
20 plans and other things, but that's for
21 next -- next month's meeting.

22 The next issue -- next item on the
23 agenda is the Rules. Just -- just so
24 everyone's clear, on the same page, we
25 did ask the Nominating Committee to take

1 a first crack at the Rules -- take a
2 look at them. However, everyone now has
3 in front of them the Rules as suggested.
4 And I sent around an e-mail to
5 compare -- that shows you the
6 differences between the 2008 version to
7 2009, but I don't know if that made it
8 in front of us today, I sent that out
9 last night. But we are not going to
10 vote on these Rules until our -- until
11 our meeting next month, our -- our --
12 our organizational meeting, at the same
13 time we'll elect officers. So while it
14 would be helpful to kind of briefly
15 review what the Nominating Committee
16 suggested -- certainly, anyone who
17 wishes to make comments or add -- or
18 suggestions to these Rules should feel
19 free to do so in the next week or so.
20 And we can have a full discussion of any
21 of those suggestions, changes next
22 month.

23
24 So why don't we just briefly go
25 through the Rules as suggested by the

1 Nominating Committee, and I think Dan
2 and Tom had some input here too, so you
3 all can (inaudible). I don't want to
4 take more than just a couple of minutes,
5 because we also want to hear from DeWitt
6 about the Aquaculture Program, and we
7 are voting on this next month. So
8 maybe -- I don't know who's best,
9 Barbara --
10

11 COMMISSIONER BRAUN: Yeah, let
12 Barbara go.

13 CHAIRMAN CALONE: -- briefly go
14 through --

15 COMMISSIONER ROBERTS: Just to
16 clarify, in the envelope that -- when
17 you arrived today, is last year's Rules,
18 so that says -- that says 2/08, and then
19 we handed out the current Rules which at
20 the top say 1/7/09. So you want to look
21 at the version that says 1/7/09.

22 Just to highlight the big changes,
23 we added Clause 6 which clarifies public
24 hearings and refers to what the law is
25 that controls that.

1 I'd urge taking a close look at
2 Clause 9. We did add that we need eight
3 members to approve things. But, in
4 particular, that we added the second
5 sentence that allows members who abstain
6 to give the reasons if they chose to do
7 so.
8

9 I then urge taking a peek at
10 Clause 16, there we added more language
11 about our Guidebook, and it suggests
12 that this -- the Guidebook is the basis
13 for our decisions.

14 And then you will see that starting
15 with Clause 21, we added the regionally
16 significant projects list onto our
17 Rules. Looking at the regionally
18 significant project list, the first
19 paragraph, we added a sentence which
20 clarified that we're talking about --
21 that these are the projects that
22 actually we would hear in front of the
23 full Commission. There was a little bit
24 of confusion with the initial wording
25 that this would only be what we wanted

1 as referrals.

2
3 Also, previously we adopted these
4 standards; however, we found one -- one
5 thing that we had in our list that we
6 actually didn't have the authority to
7 act on. So we deleted the
8 significant -- regionally significant
9 rule that the acquisition, sale, lease,
10 annexation or other transfer of a
11 hundred or more acres of land by a state
12 or local agency. That is not part of
13 our authority, so that was deleted.

14 And the last thing is, there still
15 were some concerns about the bars in the
16 projects being too high for the five
17 east end towns. What we're -- if you
18 look at Clauses 10 and 11 under
19 regionally significant. What we're
20 suggesting -- and I think this still
21 might need some --

22 CHAIRMAN CALONE: I think there's
23 only 10. So I don't know --

24 COMMISSIONER ROBERTS: Oh, it's
25 only -- okay. So then -- that's right,

1 because it was renumbered. So I'm
2 sorry, it's 9 and 10 -- sorry, the new
3 version is 9 and 10.
4

5 You'll see that under 9 we're still
6 suggesting 50 percent for the east end
7 towns. So you have to look at kind of
8 the number of units, parking spaces, and
9 whatever in my -- probably from the east
10 end, please look at that.

11 We are, however, at this time
12 recommending that the bar even go down
13 now for projects that are near the
14 Atlantic Ocean, the Long Island Sound,
15 and whatever, because we feel that those
16 things are particularly sensitive.

17 Just a couple of other things which
18 came up even in the last day. I would
19 imagine we may be adding something from
20 Legislator Schneiderman's -- resolve
21 that issue so that could be added.

22 There also was -- I don't know,
23 a -- Tom, a possible idea of adding the
24 reconsideration rules again to this
25 document. It is in the Guidebook, but

1
2 it might be helpful to repeat those
3 rules here.

4 And then two tiny things: If we
5 can change the known name to Chair
6 instead of Chairman; and under
7 regionally significant, if we could
8 change that to an A, B, C rather than
9 numbers so that it's not confusing.

10 And that was our recommendation.

11 CHAIRMAN CALONE: Okay. Great.

12 And --

13 COMMISSIONER HOLMES: Oh --

14 (indicating)

15 CHAIRMAN CALONE: -- Linda, you
16 have additional comments?

17 COMMISSIONER HOLMES: I just want
18 to underscore about the chair allowing
19 an abstaining Commission member to -- to
20 say why they were abstaining, and I want
21 to underscore why that's so important
22 because many of you were not with us
23 when we had a couple of issues. One, in
24 particular, with a municipality where
25 there were members of the public who

1
2 came to object to a project and to urge
3 us to disapprove of that project. And
4 even our county legislator who
5 represents that town wanted to be here
6 but was involved in a traffic accident
7 and couldn't get here. But when the
8 votes came up, about four members, at
9 least, of the Commission abstained. And
10 none of them said why, even though each
11 of them had what they considered a valid
12 reason for abstaining. But because so
13 many abstained, we took no action on a
14 project that was very important to the
15 people in that town and even to the
16 Legislature. And people left this room
17 mumbling epithets at us. And it was --

18 CHAIRMAN CALONE: We don't want
19 that, do we?

20 COMMISSIONER HOLMES: -- it was
21 very unfortunate. And it would be most
22 helpful if Commissioners like you --
23 what Bobby Goodale did once. When staff
24 began to bring a project before us, a
25 particular project, Bobby raised his

1 hand right away and said, "I just want
2 to let you know I am going to abstain
3 from voting on this project because my
4 company just bought the property across
5 the street from this site. So I have a
6 vested interest and I'm abstaining."
7

8 That was extremely helpful for the
9 rest of us because it allowed us to
10 think carefully about our vote and to
11 count how many of us was here. Because
12 I would submit that one of the most
13 difficult things we can do is to take no
14 action, and that's something we should
15 very carefully consider because it
16 negates the work the staff has done.

17 So I just did want to make that
18 underscore. Thank you.

19 CHAIRMAN CALONE: Thank you, Linda.

20 COMMISSIONER HORTON: I think it's
21 important to recognize that it's a
22 voting -- you know, a member of a board
23 or a body, they have the right to
24 abstain and they are not required to --
25 to say why they're abstaining, because

1 they're not -- one is not required to
2 say why they're voting yes or no on a
3 matter. I do believe, and correct me if
4 I'm wrong, that if one is recusing
5 themselves, recusal is used for the -- a
6 situation where one may have a conflict
7 of interest, whether it's financial or
8 some other substantive conflict of
9 interest. And I believe -- it's my
10 understanding that if one is recusing
11 themselves and -- a reason need -- needs
12 to be provided. But for an abstention,
13 it's simply not --

14
15 COMMISSIONER HOLMES: We didn't
16 mean to require it. As we phrased it,
17 the chair will allow the person to
18 say -- because in the past, we had a
19 couple of times where a Commissioner
20 wanted to say why they were abstaining,
21 and they were cut off. So if someone
22 wishes to say -- and that's the way we
23 word it there. If they wish to say why
24 they're abstaining, it is helpful, not
25 only to us but particularly to the

1 public, to make sure that they don't go
2 away with the impression that there has
3 been a prearrangement where several
4 people will abstain so we take no
5 action. That -- that was the basis for
6 our concern.
7

8 CHAIRMAN CALONE: Okay. I think
9 both -- I think both are consistent
10 statements. I appreciate both of those
11 sentiments.

12 Any other comments on the Rules --
13 any other comments at this point?
14 Again, take a look at this when you've
15 got the chance. If you can give them a
16 look, you know, ahead of time so
17 everyone can -- we can circulate them
18 around with the final version, that
19 would be helpful.

20 COMMISSIONER ROBERTS: David, does
21 that have a huge concern, you know,
22 something -- do we want to allow them to
23 make their points now or wait until
24 next --

25 DIRECTOR ISLES: On the thresholds?

COMMISSIONER ROBERTS: Yeah.

DIRECTOR ISLES: Just a quick comment on that: One concern I expressed to the working group on this is, the threshold for the east end is set at 50 percent of the other part of the county. That has been in effect and that has continued. As indicated, there's also a threshold proposed here for waterways of 33 percent of the numbers.

Two concerns: Number one is having these multiple set of rules starts to present a bit of a problem in terms of how we advise municipalities on plans to do so consistently in terms of what the rules are, and it makes it a little more complicated to do it that way; and secondly, by setting up geographic standards in the county, you know, that are separate from the other standards, are we opening the door to all these different criteria. So today it's the east end, then the waterways. I'm not

1 arguing with the merit of it, but then
2 is it then going to be highly populated
3 west end communities or areas near
4 shopping centers and so forth. In other
5 words, does it get to be a little bit
6 more unmanageable at that point. We
7 understand the motive, we understand the
8 intent as being certainly worthwhile,
9 but if you flip it, administering that
10 they're going to figure out what site --
11 is that a third or the normal threshold
12 and so forth, it does get to be
13 potentially an administrative problem.

14 Thank you for the opportunity to
15 express that.

16 (WHEREUPON, Commissioner Lansdale
17 left the Legislative Auditorium.)

18 (Time noted: 2:17 p.m.)

19 CHAIRMAN CALONE: Thanks for
20 reminding us, Barbara. Appreciate that.

21 Thank you, Tom.

22 The other thing you have in your
23 packet is the list of the meeting dates.
24 Please take a look at those and let us
25

1
2 know if they -- you know, if there are
3 any holidays we're going to enter into
4 or anything like that. Those are just
5 the first Wednesday of every month, I
6 think. So -- you know, we ran into an
7 issue this time with -- this year with
8 that, so please take a look.

9 The other thing I would say is
10 that we -- we haven't --

11 COMMISSIONER ROBERTS: Also, the --
12 David, the -- the schedule --

13 CHAIRMAN CALONE: Yes, Barbara.

14 COMMISSIONER ROBERTS: -- the
15 schedule we got mailed to us at home had
16 the March date wrong, so they should
17 know that this is the correct date.

18 CHAIRMAN CALONE: March --

19 COMMISSIONER BRAUN: 4th.

20 COMMISSIONER ROBERTS: 4th.

21 CHAIRMAN CALONE: All of the
22 days -- excuse me, all of the meetings
23 are listed as here in Hauppauge. That
24 was just kind of put in there. We
25 have -- we've had -- had, you know, east

1 end meetings, we had them this year. My
2 personal preference, because we have at
3 least one each quarter out east, I'd
4 like for us to consider doing one of
5 those -- so I guess that would be four
6 -- you know, four a year out east, and I
7 would like to consider doing one of
8 those in a village out east, and Sag
9 Harbor's been the one that's been
10 suggested. But with regard to us at
11 least reaching out to, you know,
12 villages and trying to get out and about
13 a little bit more -- you know, that's
14 what maybe we're suggesting. We'd
15 appreciate some feedback on that, but I
16 think it would help, you know, maybe
17 once a year to go someplace different,
18 and we can include that as one of the
19 four.

21 But we've been -- we've done the
22 north fork, again, so, you know,
23 maybe -- especially considering some of
24 the issues we had out east, in -- in --
25 in Sag Harbor, it might be helpful for

1 us to go out and take a look. And
2 Barbara will lead the tour of town.

3 COMMISSIONER ROBERTS: I'm happy to
4 host for a picnic or whatever that
5 afternoon.

6 CHAIRMAN CALONE: There we go.

7 Anyway, so that -- again, we'll
8 vote on that next -- next week -- next
9 month. We'll ask staff to kind of think
10 about what -- time-wise meetings could
11 occur out east, and we appreciate your
12 feedback on whether we should do it in
13 a -- you know, do one of those meetings
14 in a village.

15 Lastly, Dotty, if you could for
16 next month have the contact sheet for
17 everyone, so we can just kind of
18 circulate -- everyone can update
19 their -- I know phone numbers change,
20 e-mails change and all that stuff, if we
21 could just kind of circulate that
22 around. We -- it's possible we'll also
23 have a new member next month, so that
24 would be helpful to just bring that with
25

1 you -- you can bring one copy, everyone
2 can just -- we'll pass it around.

3 Okay. That's enough on the Rules.

4 Lastly, we have -- we're joined by
5 DeWitt Davies, the Chief Environmental
6 Analyst who is leading the Aqua -- the
7 County's Aquaculture Lease Program.

8 And, DeWitt, appreciate your time
9 and the floor is yours.

10 (WHEREUPON, Commissioner Caracciolo
11 left the Legislative Auditorium.)

12 (Time noted: 2:20 p.m.)

13 CHAIRMAN CALONE: And, of course,
14 please introduce your team who's here
15 with you.

16 MR. DAVIES: Thank you very much,
17 David. Thank you for the opportunity
18 this afternoon to give you a briefing on
19 a new program that is under development
20 here in the county that will eventually
21 provide secure access to the (inaudible)
22 waters in Peconic and Gardiners Bay for
23 the conduct of private/commercial
24 shellfish aquaculture.
25

2 I'm joined up here today, on my
3 right is Susan Filipowich who will be
4 responsible for dealing with potential
5 applicants under this program, we hope
6 in the near future; and to her right is
7 Mike Mule who has been involved with the
8 program development over the last three
9 years.

10 We have a presentation here that
11 will summarize the status of the
12 program; where it is in respect to the
13 process of it being adopted and
14 implemented.

15 And, Susan, if you would please hit
16 me in ten minutes to shut me up so that
17 these people can eventually leave this
18 room, I'd appreciate that.

19 So, John, let's go to the first
20 slide, please.

21 MR. CORRAL: (Complying)

22 MR. DAVIES: As I was saying
23 before, the county was authorized by the
24 State of New York to develop this
25 program under the so-called Shellfish

1 Leasing Law, which was adopted in 2004,
2 under which the state ceded
3 approximately 110,000 acres of
4 underwater land at Peconic through
5 Gardiners Bay to the county for the
6 purposes of shellfish cultivation. It
7 gave the county the authority to adopt
8 and implement a shellfish cultivation
9 lease program.
10

11 (WHEREUPON, Commissioner Fiore left
12 the Legislative Auditorium.)

13 (Time noted: 2:22 p.m.)

14 MR. DAVIES: The County Executive
15 provided funding under the capital
16 project in the County Department of
17 Planning for the conduct of oyster
18 development program. This is the
19 so-called carrot that's involved in the
20 state authorizing this legislation of
21 mandatory presentation with a stick that
22 we have to deal with in the future.

23 Under this particular program,
24 Suffolk County will control the location
25 of shellfish farms through the

1 establishment of a shellfish cultivation
2 zone. And it also controls the extent
3 and intensity of shellfish aquaculture
4 use through limits on lease size and
5 number.
6

7 Other authorities, with respect to
8 permitting operations that involve
9 shellfish cultivation, remain with those
10 agencies; in particular, the New York
11 Department of Environmental Conservation
12 which issues permits for the on-bottom
13 and off-bottom culture of shellfish.

14 There are a number of goals here
15 associated with the program:

16 We want to sustain and maintain
17 resources -- marine resources and
18 environmental quality, but we also want
19 to provide the opportunity to both new
20 culturists and those who are currently
21 conducting aquaculture operations on the
22 east end to, again, obtain secure access
23 over the long term for their businesses.

24 There are a number of outcomes:

25 Principally we want to provide the,

1 again, businesses with the opportunities
2 to expand and maintain marine-related
3 job opportunities on the east end, but
4 one of the most important things also is
5 the fact that we will be increasing the
6 populations of filter-feeding shellfish,
7 which is associated with improved water
8 quality in the east end waters. It also
9 will augment the native -- the spawning
10 potential of native shellfish
11 populations. And we all know the extent
12 to which some of the native fishery in
13 the east end have declined in recent
14 years.

15
16 Next slide, please.

17 MR. CORRAL: (Complying)

18 MR. DAVIES: Currently, two species
19 are under cultivation for commercial
20 purposes; American oyster and the hard
21 clam. The bay scallop is under
22 cultivation for resource/restoration
23 purposes, and also
24 experimental/commercial, you know,
25 profit.

2 Next slide.

3 MR. CORRAL: (Complying)

4 MR. DAVIES: Just to give you some
5 limited background here with respect to
6 what happens out there on these
7 shellfish farms, we currently have a
8 number of operations that utilize
9 off-bottom culture, which involves the
10 raising of shellfish in a rack, a cage,
11 a float. This is an example of a bag
12 and rack system here (indicating).
13 These bags contain shellfish, are placed
14 in racks which are then raised and
15 lowered on the bottom at periodic
16 intervals for cleaning, et cetera. It
17 takes about two years to get a
18 harvestable oyster. In some cases, it's
19 faster than that; in some cases, it's
20 longer than that.

21 There's also a number -- a number
22 of gear types; as I mentioned, racks,
23 trays, cages, et cetera. This is an
24 example of a lantern net system that is
25 currently in use out in Orient for the

2 raising of scallops for a habitat
3 restoration project.

4 Next slide, please.

5 MR. CORRAL: (Complying)

6 MR. DAVIES: On-bottom culture:

7 Here we have a situation where shellfish
8 are not placed in containers, they are
9 on the bottom. And in this particular
10 operation, hand tools and/or dry dredges
11 or hydraulic dredges are used to harvest
12 the shellfish.

13 Next slide, please.

14 MR. CORRAL: (Complying)

15 MR. DAVIS: I mentioned before that

16 the County Executive established this
17 particular program as a Department of
18 Planning priority back in April of 2005.
19 It was an establishment of a capital
20 project, and we did have funding
21 provided to do this project under the
22 Water Quality Protection and Restoration
23 Program. A Lease Program Advisory
24 Committee established by Executive
25 Order; a 17-member committee. It

1
2 includes representatives from all the
3 five east end towns, environmental
4 groups, baymen, et cetera. We had an
5 RFP process that was completed; Cashin
6 Associates in Hauppauge, New York were
7 the consultants that have been working
8 on this project in an intensive way for
9 the last two years. We've held 18
10 regular meetings, chaired by Tom Isles.
11 So Tom has put a tremendous amount of
12 effort into this particular project
13 also. There was a lot of public
14 outreach. The meetings have been held
15 in Riverhead typically, and also on the
16 north and south forks. And we have a
17 Website here with a rather long address,
18 but if anybody is ever interested, we
19 certainly could provide that to you.

20 CHAIRMAN CALONE: Is that the link
21 off the planning page?

22 MR. DAVIES: Yes. Under -- if you
23 look for the term "aquaculture," you can
24 get to it, it's under -- it's under the
25 home page.

2 For the most part we've been
3 dealing with the SEQRA process here in
4 the county. Draft and final generic
5 environmental impact statements have
6 been prepared. The statement of
7 findings were recently adopted by the
8 County Legislature, signed by the County
9 Executive on December 15th. That
10 completed that process, but more
11 importantly, perhaps, is the fact that
12 the framework for the program has been
13 established as described in the generic
14 environmental impact statement
15 documents.

16 Next slide.

17 MR. CORRAL: (Complying)

18 MR. DAVIES: The county, with the
19 work of the Outback Committee, has
20 established a shellfish cultivation
21 zone. It is shown here, the area in
22 green (indicating). Approximately
23 30,000 acres out of the 110,000 acres
24 that the -- of underwater land, under
25 county jurisdiction, which extends west

1 of the line to the eastern end of
2 Plum Island to Goth Point (phonetic) at
3 Napeague. All the underwater lands in
4 this area was ceded for the County of
5 Suffolk for the purposes of shellfish
6 cultivation by the state. They do not
7 include trustee-owned lands or the
8 harbors or the rivers and streams which
9 are town controlled. These are the
10 state underwater lands offshore.
11

12 One of the provisos in the
13 legislation is that there shall be no
14 leasing of any property for this purpose
15 within a thousand feet of the knee-high
16 watermark. You'll see here a buffer
17 zone around the entire land area here
18 (indicating), constitutes --
19 constituting about 19,000 acres which
20 are off-limits.

21 An extent of -- was conducted to
22 get information from the public, from --
23 from baymen, from commercial fishermen,
24 from boaters, from local governments,
25 et cetera, to define areas that would be

1 in conflict either environmentally or
2 because of socioeconomic concerns with
3 the -- with the activity of shellfish
4 cultivation. Those areas were
5 eliminated from the shellfish
6 cultivation zone.
7

8 So what you have here, the green
9 areas, constitute areas where there is
10 no -- or minimum -- there is no conflict
11 or a minimal conflict. And the areas
12 that are in somewhat regular shape here
13 include consideration of the private
14 ownership of old oyster grants, which
15 are in place out there, as well as
16 individual temporary green area use
17 assignments, which were issued by the
18 State of New York for shellfish
19 cultivation. They have been essentially
20 grandfathered into the program in this
21 map.

22 Next, please.

23 MR. CORRAL: (Complying)

24 COMMISSIONER ROBERTS: What -- what
25 are these straight lines that went

1 through Peconic Bay where --

2
3 MR. DAVIES: This -- this line here
4 (indicating)?

5 COMMISSIONER ROBERTS: No, Peconic
6 Bay.

7 MR. DAVIES: These (indicating)?

8 COMMISSIONER ROBERTS: Yes.

9 MR. DAVIES: Oh, this -- this is
10 the channel.

11 COMMISSIONER ROBERTS: A channel.

12 MR. DAVIES: Correct. That was
13 a -- a -- a channel through the bay
14 system. So we also try to consider
15 (inaudible).

16 This is a blow-up of a section of
17 the aquaculture lease sites map. Lots
18 of detail here.

19 You'll see that this green area,
20 which constitutes the shellfish
21 cultivation zone along with the old
22 oyster grants, which are these regularly
23 shaped parcels here (indicating), the
24 area's been divided up into a series of
25 grids. The grids are 20 acres in size.

1 And within that grid, for example, there
2 is a 10-acre lease site. So, in
3 essence, the leases under the program
4 will consist of either 5 or 10-acre
5 leases within a system whereby there
6 will be grids separating adjacent
7 leases.
8

9 Do not be alarmed at the number of
10 grids here because there are controls
11 built in to limit the scope of this
12 activity during the first decade of its
13 operation. But we did need to have a
14 way to account for and organize the
15 process of how leases would be issued,
16 and also giving people the opportunity
17 to comment on locations where leases
18 would be subject to public notice
19 requirements, such that there may be a
20 need for an applicant to move from one
21 site to another depending on conditions
22 that come up during the review process.

23 Next, please.

24 MR. CORRAL: (Complying)

25 MR. DAVIES: The impact statement

1 that was just recently completed and
2 adopted by the county, looked at the
3 proposed scale of the program. And
4 given the various types of
5 grandfathering that we had to deal with
6 with respect to temporary assignments
7 and old oyster grants, in essence, given
8 the requirements and specifications, the
9 county related maximum potential of
10 leasing that could occur during the
11 first ten years. That's what this
12 column represents (indicating). When
13 you consider everything, the maximum
14 would be 3,173.5 acres, which is less
15 than three percent of the entire area
16 under the jurisdiction and ownership of
17 the county as it stands. Not -- that
18 does not mean that all of those areas
19 would be leased. But I did want to
20 point out that, again, we're not talking
21 about a large percentage of the bay
22 bottom in New York today, which you know
23 is a small percentage.

24
25 CHAIRMAN CALONE: I mean, if you

1 look at -- I mean, obviously in area, I
2 know that you have this significant -- a
3 specific portion of that is the
4 (inaudible) where you have (inaudible)
5 recreational -- you know, outdoor more
6 towards the points. Did you look at
7 kind of more -- back where Peconic Bay
8 would be or not?
9

10 MR. DAVIES: No, that was -- that
11 was included, and -- and some of the
12 things that were excluded from the
13 cultivation zone included all eelgrass
14 beds, for example, scallop beds, hard
15 clamming areas, areas that were subject
16 to recreational fishing and boating. So
17 there was an attempt to get that
18 information presented and -- and mapped
19 out so we could exclude them.

20 The zone, as it stands now, only is
21 used as a tool because leases have to be
22 located within the zone. That's doesn't
23 mean you have to lease any particular
24 area. And as we proceed in the process,
25 there will be an opportunity for people

1 who feel aggrieved to point out their
2 individual experiences with respect to
3 locations and bring them to the -- to
4 the table.
5

6 That's why we have this grid system
7 in place. Such that if there are
8 objections to a particular site and the
9 applicant does not want to counter those
10 objections with, say, for example,
11 shellfish ground surveys -- ground
12 truthing surveys where they document a
13 certain absence of shellfish on the
14 bottom, because we have criteria in the
15 program that would indicate whether or
16 not an area is full productive or not,
17 he could move to go someplace else.

18 So we expect that to happen, Dave,
19 and -- and, again, it's just the areas
20 within which they could be located, but
21 they -- they may be subject to -- again,
22 to public comment and have to move.

23 CHAIRMAN CALONE: Linda.

24 COMMISSIONER HOLMES: I have a
25 question that's very pressing because

1
2 it's only come up in the past few weeks
3 in Shelter Island Sound and Peconic Bay.
4 I saw -- your green area appeared as if
5 you had leasing areas between Shelter
6 Island and Greenport, in what we call
7 Shelter Island Sound; am I correct?

8 MR. DAVIES: This area up in here
9 (indicating)?

10 COMMISSIONER HOLMES: Yes. Because
11 what's happened is, unbeknownst to our
12 town, this individual who runs a company
13 where he likes to use tidal water to
14 generate energy; he calls it tidal
15 turbo. He has applied to a federal
16 agency for permission to set up between
17 the ferry -- the ferry lane in --
18 starting in Shelter Island Sound and
19 going all the way around the South
20 Ferry, and he didn't notify the town.
21 And the worst part was when he was
22 questioned by our newspaper and our town
23 officials, he had no idea at all of the
24 impact of his proposed project on marine
25 life.

1
2 And I am wondering if maybe our
3 town officials should be in touch with
4 you folks to get some data, because
5 they're off the wall with what this guy
6 said. He deliberately didn't notify the
7 town because he did that someplace else
8 in Massachusetts, and when they found
9 out, the town preempted him and applied
10 to the federal government themselves for
11 doing that type of tidal turbo project.
12 So he was trying to be sneaky, but he's
13 driving us crazy because we have no idea
14 of the impact on our precious marine
15 life already, what he's proposing.
16 So --

17 MR. DAVIES: Yes, and point well
18 taken. I -- you know, there is -- here
19 at South Ferry, yeah, there is no --
20 that -- it's been essentially pinched
21 out. There isn't any --

22 COMMISSIONER HOLMES: Yeah.

23 MR. DAVIES: -- cultivation in
24 those lanes. But any activity that's
25 like that that's new would obviously

1 have a potential conflict --

2
3 COMMISSIONER HOLMES: Yeah. I
4 would think --

5 MR. DAVIES: -- with what's --

6 COMMISSIONER HOLMES: -- your
7 project has already been leased --
8 approved and underway. So I am
9 wondering, you know, if I can have our
10 town government people get in touch with
11 you.

12 MR. DAVIES: Matter of fact, this
13 program has -- has not been approved
14 officially yet by the county. I get
15 into that in a second, there is -- there
16 is this -- this thing that has to have
17 happen, I mean, hopefully -- hopefully
18 soon. But Pete -- excuse me -- Pete
19 Bethge from the Town of Shelter Island
20 is the representative on the Aquaculture
21 Lease Program Advisory Committee. So
22 that would be one mechanism to -- for --
23 you know, for the Town of Shelter Island
24 to voice --

25 COMMISSIONER HOLMES: I think he's

1 out of town now --

2
3 MR. DAVIES: -- whatever particular
4 concern.

5 COMMISSIONER HOLMES: -- but, yeah,
6 will do. Thank you.

7 MR. DAVIES: You're welcome.

8 COMMISSIONER ROBERTS: DeWitt, can
9 you please tell me who the
10 representative is for the Town of
11 Southampton?

12 MR. DAVIES: Yes. The Supervisor
13 of the Town of Southampton, when this
14 committee was formed, appointed joint --
15 jointly two trustees, Ed Warner and John
16 Semlear. I could mention the other --
17 the Town of Riverhead is Dave Lessard;
18 the Town of Southold is Jim McMahon; the
19 Town of East Hampton is John Aldred; we
20 have the East Hampton Baymen's
21 Association represented by Arnold Leo
22 and Stuart Heath. So we can go on and
23 on here about the number of people that
24 have been involved.

25 COMMISSIONER BOLTON: (Indicating)

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MR. DAVIES: Do you have a question?

CHAIRMAN CALONE: Charla.

COMMISSIONER BOLTON: How are you going to be allocating the leases -- the specific plots for each user?

MR. DAVIES: Okay. We have, perhaps, if -- can I -- if I could proceed with this, and I can address that particular point as we go on, because I only have --

COMMISSIONER BOLTON: Sure.

MR. DAVIES: -- a few more, but I'll do that; okay?

COMMISSIONER BOLTON: No, that's fine.

MR. DAVIES: Okay. Okay.

Next slide.

MR. CORRAL: (Complying)

MR. DAVIES: The program components in the environmental impact statement discuss all those kinds of details with respect to public notice; size; shape; documentation that's needed on a

1 particular site; survey and marking
2 lease boundaries; we have place limits
3 on ownership and subleasing;
4 requirements for permits and things like
5 that; we have a ten-year lease term; we
6 have established an annual lease rent;
7 there are minimal performance levels
8 that must be addressed; et cetera,
9 et cetera, et cetera.
10

11 Next slide.

12 MR. CORRAL: (Complying)

13 CHAIRMAN CALONE: You haven't set a
14 lease -- a lease, is that --

15 MR. DAVIES: We have recommended
16 a -- all of this is recommended at this
17 stage in time, it has not yet been
18 adopted by Suffolk County. In fact, we
19 are preparing, as we speak, a -- a lease
20 program management plan which will
21 include all the rules, regulations,
22 laws, procedures, forms, et cetera, that
23 would be involved with the adoption and
24 implementation of this process. And
25 that gets back to the -- the question

1 from Charla.

2
3 When and -- as we hope, this
4 program is adopted by local law and we
5 get the -- the green light to proceed
6 with it, there would -- will be a
7 procedure that will be announced such
8 that those individuals that are now
9 permitted to raise shellfish in east end
10 waters now on assignments or grants will
11 be given the opportunity to be
12 grandfathered into this system, but they
13 will have to go through the process
14 which will be public notice, et cetera.

15 We did not want to put people out
16 of business with this program, but it
17 does not preclude them to being subject
18 to review. They will be able to
19 basically conduct their current
20 operations at their current locations as
21 they are now; however, if they want to
22 change, they will be given the
23 opportunity to apply for a different
24 location under this lease program.

25 I want to point out that if someone

1 new wants to get into this program, who
2 is not conducting aquaculture as we
3 speak now, the program sets limits on
4 the number of new entrants because of
5 the fact that we wanted to gain the
6 experience over the first decade to deal
7 with the issues of conflicts, success,
8 et cetera. So during the first five
9 years of the program, there will be a
10 limit of 60 new -- 60 acres of new
11 leases per year, for the first five
12 years; that will give you 300 acres that
13 could be leased in the first five years
14 of the program. In the second five
15 years of the program, those same
16 statistics apply. Such that, at the end
17 of ten years, you could have 600 acres
18 of, quote, new, unquote, leases in
19 effect. No more. That does not apply
20 to the existing operations that are out
21 there as we speak now.

22
23 COMMISSIONER ROBERTS: How many
24 acres do you think there are currently?

25 MR. DAVIES: How many -- excuse me?

1
2 COMMISSIONER ROBERTS: How many
3 acres currently are --

4 MR. DAVIES: Okay. Current --
5 current -- we have approximately, I'll
6 say, 30 assignments at five acres each
7 in -- there's some variation, it's about
8 a hundred -- go back -- go back a couple
9 of slides.

10 MR. CORRAL: (Complying)

11 MR. DAVIES: Right here -- next
12 one.

13 MR. CORRAL: (Complying)

14 MR. DAVIES: Next one.

15 MR. CORRAL: (Complying)

16 MR. DAVIES: Go ahead, forward.

17 MR. CORRAL: (Complying)

18 MR. DAVIES: Next one.

19 MR. CORRAL: (Complying)

20 MR. DAVIES: Okay. Current status
21 under assignments, we have 155 acres.
22 The max potential for them, since these
23 are each -- the assignments are five
24 acres a piece, they could get ten acres
25 and they could go up to a maximum of

1 310.

2
3 On grants we have -- on permitted
4 grants for species other than oysters,
5 1,446 acres. If everything is
6 addressed, all the assumptions were met,
7 et cetera, in the guidelines that we
8 have now, that could be converted to a
9 lease for species like clams.

10 If someone has an oyster grant and
11 they want to raise oysters, they --
12 we -- they do not have to participate in
13 this program, they have the inherit
14 right because they own that bottom for
15 oysters only.

16 However, if considered fallow for
17 this program -- right now, permitted is
18 roughly 1,100 acres; however, a foul
19 grant or an oysters only grant -- and
20 that's for the ones down here
21 (indicating) -- based on the
22 configuration and size of the grant
23 parcels, they are allowed -- the owners
24 are allowed up to two 10-acre leases on
25 their grants. If they have a 7-acre

1 grant, they can't get two 10-acre
2 leases, they can only get 7. And that's
3 why those numbers are a little bit
4 strange in terms of how to figure them
5 out. But if they met all the
6 conditions, all the requirements, they
7 want to do -- essentially jump through
8 all the hoops in this program -- and
9 there are more hoops for them to jump
10 through as presently predicted here --
11 you come up with this figure.

12
13 New York State OGS Lease, maximum
14 of 20. That is the site that was leased
15 to a company there south of Plum Island,
16 it involves an ownership interest that
17 the state has extended to them.

18 I mention here this new lease is
19 subject to cap limits. That's the
20 600 acres that I was previously talking
21 about, when you add all them up. We
22 don't expect and I -- we don't expect
23 all these numbers to reach their
24 maximum. There are a number of people
25 out there who are doing aquaculture on a

2 very small-scale basis. Because of the
3 requirements of this program, many of
4 them may not want to proceed with it.
5 So we will see what happens with that.

6 But there is a lease involved, it's
7 secure access, it's for ten years, but
8 there'd be other things that they have
9 to do that they've never had to do
10 before. Some of them may not want to go
11 to that extent. In exchange for secure
12 access, over a long term, they'll get
13 something in return, but the other side
14 of the question is that they'll have to
15 meet certain performance standards and
16 requirements in reporting and pay lease
17 fees, et cetera.

18 Next slide.

19 MR. CORRAL: (Complying)

20 MR. DAVIES: Okay. I mention more
21 about the schedule. The lease --
22 management plan here, the draft is -- is
23 under preparation, under review now,
24 portions of it, by the Department of
25 Law. So we will get their comments --

1
2 we're waiting for their comments as we
3 speak.

4 The policy review by the County
5 Executive/Legislature occurs later on,
6 during the period of February to April.
7 It is tentative depending on how we get
8 the reviews from the Department of Law.
9 If everything goes well, it goes through
10 all the adoption process, the
11 Legislature and et cetera, probably the
12 earliest that this could happen would be
13 May of 2009 to start implementation.
14 But, you know, we have to get this thing
15 moving along.

16 I mentioned in the beginning a
17 carrot with respect to the enabling
18 Legislation in New York State. This is
19 the stick: If the county does not
20 execute a shellfish aquaculture lease,
21 just one, prior to December 31, 2010,
22 the county loses ownership to
23 110,000 acres of underwater land and
24 loses the authority to have this
25 particular program.

1
2 CHAIRMAN CALONE: So it better be
3 approved.

4 (Laughter)

5 CHAIRMAN CALONE: The question I
6 had for you, though, was really kind of
7 demand side, what are you seeing in
8 terms of the demand side and -- and how
9 you -- how you think that's going to
10 play into it?

11 MR. DAVIES: We haven't even begun
12 to advertise this process, and --

13 CHAIRMAN CALONE: -- people who are
14 in there know or kind of are aware know
15 about this --

16 MR. DAVIES: That's correct.

17 CHAIRMAN CALONE: -- so what kind
18 of feedback are you getting?

19 MR. DAVIES: There have been a
20 couple of newspaper articles due to
21 coverage at our outback meetings, and
22 because of those articles, people have
23 started to call up and send in letters.
24 And what we have to do at the present
25 time is say that the program is under

1 preparation. The adoption process we
2 hope will occur soon. We will -- when
3 that does happen, we keep their contact
4 information on file, and -- and Susan
5 will be the staff member here who will
6 be communicating and keeping those
7 records and dealing with the public in
8 terms of how they could participate in
9 the lease process. We had new people
10 who have never done aquaculture before
11 call us up. We have -- we have
12 displaced fishermen called us up,
13 meaning that they might have run a
14 lobster business and they can't catch
15 lobsters, I want to raise oysters in
16 cages, how do you do it? Well, we sort
17 of have to hold them off a little bit in
18 order for them to -- we've got to get
19 them to wait a little bit here because
20 we don't have the program in place yet.

21
22 CHAIRMAN CALONE: Is there any --
23 any thought of having kind of a
24 revolving loan or any county lending
25 facility (inaudible)?

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MR. DAVIES: Excuse me,
revolving -- I didn't hear that
question.

CHAIRMAN CALONE: Oh, just some
kind of a revolving loan, you know,
facility or something --

MR. DAVIES: We have --

CHAIRMAN CALONE: -- it's a capital
intensive business; right? And if
you're going to -- want to promote it
and -- you know, for smaller boats, who
don't have, you know, corporate backing,
will be able to get in. Especially when
you're talking about you're only going to
allow them to have 10 or 20 acres. So
you're probably not going to get the big
corporations in terms of that scale. So
you may need to set up some kind of a
lending facility to allow those to --
those folks to be able to take that
first step.

MR. DAVIES: We haven't discussed
economic development in those terms.
There are a number of -- of other

1 avenues by which respective lease
2 applicants can obtain the knowledge and
3 information to get into this business.
4 There's certainly a number of
5 entrepreneurs out there who already do
6 it. They do it hidden under the radar,
7 so to speak, but if you look at some of
8 these, you'll find that a number of them
9 sold oysters directly to many of the
10 major restaurants in New York City.
11 It's a -- it's a boutique oyster
12 business, for example, and it's -- I
13 would assume it's very profitable for
14 them, but what do I know? They wouldn't
15 be doing it if they -- if they --
16 they're not doing it for fun, put it
17 that way.

18
19 CHAIRMAN CALONE: And you will soon
20 find out how profitable it is based upon
21 how the people --

22 MR. DAVIES: And this program --
23 the lease -- the suggested lease grant
24 is not exorbitant. You know,
25 200 acres -- \$200 plus \$10 per acre per

1 year. Pretty much, for a 10-acre lease,
2 it would be \$250 per year; it's not a
3 lot of money.
4

5 They may have to do other things to
6 qualify; for example, there might be an
7 insurance requirement, there might be
8 other things they'd have to do that they
9 don't necessarily do now. But as a
10 point well taken, how we communicate
11 with them -- we are having a meeting on
12 January 22nd in conjunction with Cornell
13 Cooperative Extension, the Aquaculture
14 Program there, to answer questions by
15 the perspective shellfish growers about
16 the status of this program. So as we go
17 on, we hope to iron out some of the
18 difficulties and make it more
19 understandable for them.

20 I think that -- to answer the
21 question, David, we have not advertised
22 it. When we do advertise it, hopefully,
23 then I can be -- then we'll be able to
24 tell you directly what the answer's
25 going to be.

COMMISSIONER BRAUN: (Indicating)

CHAIRMAN CALONE: Bob, yeah.

COMMISSIONER BRAUN: Is there --
is there some limit on the number of
plots that entities can lease?

MR. DAVIES: Yes. There would
be -- for example, an -- an assignment
holder now could get a 10-acre lease and
go through the process, he would be
eligible to get an additional 10-acre
lease. That would be considered part of
the -- the 600 acres of new leases
during the first decade, but he would
have to wait until the demand was
satisfied for others to get into the
program. If you understand what I'm
saying.

(WHEREUPON, Commissioner Holmes
left the Legislative Auditorium.)

(Time noted: 2:51 p.m.)

MR. DAVIES: He wouldn't be able to
apply unless -- say the first year there
was 60 acres, if no one applied for the
60 acres, and an assignment holder

1 wanted to get another 10-acre lease, he
2 could apply for that as part of his
3 60 acres. The idea was to give others
4 the opportunity to get into the
5 industry, where they don't have that
6 opportunity now. The state does not
7 like to issue any more assignments which
8 are temporary, limited, or foreign
9 culture in five-acre plots and they have
10 to renew them annually, et cetera. We
11 wanted to give the opportunity to -- to
12 the people who aren't in the business to
13 get that shot. If they don't take that
14 opportunity, then the others can get a
15 second 10-acre lease. And that's how
16 we've -- you know, it was designed.

18 CHAIRMAN CALONE: Any other
19 comments or questions? I don't know if
20 you're finished, I just wanted to make
21 sure that --

22 COMMISSIONER TALDONE: Actually, I
23 have a few.

24 CHAIRMAN CALONE: Vince.

25 COMMISSIONER TALDONE: Quick

1 questions. On the -- the land rentals,
2 these -- it sound like they'll be fairly
3 inexpensive up front. I would imagine
4 over time (inaudible).

5
6 Do the lease holders have the
7 option to sell those leases or transfer
8 them, or does it come back to the
9 county?

10 MR. DAVIES: Right. These are --
11 and -- the so-called administrative
12 guidance section of the management plan
13 report will include all of those
14 necessary procedures, forms, and
15 applications that would govern the lease
16 process. One of the forms is a lease
17 transfer form. They would have to get
18 approval from a county -- however it's
19 set up eventually, you know, in terms of
20 what entity would approve it, to
21 transfer the lease to someone else. But
22 that procedure is accommodated in the
23 guidance.

24 COMMISSIONER TALDONE: Is that the
25 lease for the duration of the term of

1 the --

2 MR. DAVIES: Yes.

3 COMMISSIONER TALDONE: -- of the
4 significant number --

5 MR. DAVIES: Yes.

6 COMMISSIONER TALDONE: --
7 (inaudible) process?

8 MR. DAVIES: Well, it would -- they
9 would have the option right now -- if
10 you've got a 10-acre lease and went
11 on tending your 10 years, you'd have the
12 option to renew for 10 years.

13 CHAIRMAN CALONE: Well, I guess the
14 question is -- is do you transfer -- can
15 a person transfer their rights, and does
16 the new person have the right to renew?

17 MR. DAVIES: Well, that's generally
18 what would happen, because it would be
19 approved as -- the transfer would
20 approved and then that person would then
21 have the lease.

22 COMMISSIONER TALDONE: And the
23 price that the new person pays would go
24 to the old person, not to the county.
25

1 The county gets the --

2 MR. DAVIES: Oh --

3 COMMISSIONER TALDONE: -- land --

4 MR. DAVIES: -- are you talking
5 about subletting or you're talking about
6 transfer.

7 COMMISSIONER TALDONE: Basically
8 it's a sublet, yeah.

9 MR. DAVIES: A sublet is a
10 different question, we address that too.
11 We said that there could be one sublet.
12 In other words, if a person has a
13 10-acre lease and he decides, I want to
14 sublet half of this to somebody else,
15 there would have to be permission to
16 sublet, but he couldn't sublet it to ten
17 other people.

18 COMMISSIONER TALDONE: And at what
19 rent could he sublet? Could he make a
20 substantial profit off of --

21 MR. DAVIES: You know, I don't know
22 if -- did we address sublet rents?

23 MR. MULE: I don't know. I don't
24 think we did.

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MR. DAVIES: I dont' think we
addressed sublet rents.

CHAIRMAN CALONE: You want to
consider whether the county --

MR. DAVIES: Right. Well, we'll
look -- we'll definitely look into that
question of subletting rents.

The transfer was when somebody
essentially just --

CHAIRMAN CALONE: Right.

MR. DAVIES: -- he wants out, he
wants to transfer his lease to someone
else. There is a procedure to handle
that. But we'll look into the sublet
rents --

COMMISSIONER TALDONE:

(Inaudible) --

MR. DAVIES: -- we don't -- we may
not have discussed about that.

COMMISSIONER TALDONE: -- he's
done, can't take it anymore, hands it
over to somebody else, he's not getting
paid for it --

MR. DAVIES: Right.

1
2 COMMISSIONER TALDONE: -- so --

3 COMMISSIONER BRAUN: But what if he
4 does get paid for that?

5 MR. DAVIES: That's a good
6 question. That's a good question.

7 CHAIRMAN CALONE: If these things
8 are valuable, you know, they're worth
9 something, if they want to sell it --

10 MR. DAVIES: Well, the people
11 who -- when they were talking to us --
12 when they -- you know, a typical oyster
13 grower out there might have a converted
14 lobster boat, he might have, you know,
15 whatever, 50-100 cages, he might have
16 invested several hundred thousand
17 dollars in just gear. And when they --
18 and they -- when they go through this
19 process of getting a business,
20 developing the contracts, having their
21 markets established, having their
22 locations reputable in terms of the kind
23 of oysters they raise, they -- they were
24 very concerned, when I want to retire, I
25 built this business up, I want to be

1
2 able to transfer it to someone, sell it
3 or whatever. That's up to them, but
4 the -- the right to the property is
5 what's governed by the county. So this
6 is -- they wanted to be able to do that
7 because they have investments involved.

8 CHAIRMAN CALONE: No doubt. If
9 it's lucrative, they'll want to
10 (inaudible).

11 MR. DAVIES: Right.

12 CHAIRMAN CALONE: You know,
13 especially if it's \$200 an acre, it
14 could be very valuable --

15 MR. DAVIES: It was never -- it
16 is -- it is -- it doesn't sound cheap to
17 the baymen. I mean, we were hammered on
18 that, because they may have other
19 requirements that they have to come up
20 with here in terms of meeting the
21 contract, necessities that are dictated
22 by our Department of Law which are now
23 under review.

24 COMMISSIONER TALDONE: If I could
25 just --

1 MS. SPAHR: It's not me.

2 (Laughter)

3 COMMISSIONER TALDONE: -- as you
4 get a bit further, theoretically we'd
5 know how much they could afford to pay
6 for those leases based on the open
7 bidding --

8 MR. DAVIES: Right now it's --

9 COMMISSIONER TALDONE: --
10 (inaudible).

11 MR. DAVIES: Right now it's not
12 a --

13 CHAIRMAN CALONE: Well, there isn't
14 any --

15 MR. DAVIES: -- it wasn't subject
16 to a bid, this is not a bidding process.
17 In other words, by establishing the rent
18 fee, the bidding nature is -- is moot.

19 We wanted to, again, give people
20 the opportunity right now, when the --
21 when the green light is flashing, in
22 terms of accepting applications in
23 addition to those people who already are
24 grandfathered -- their locations are
25

1 grandfathered. Whether they actually
2 get the lease or not is a question --

3 COMMISSIONER TALDONE: Right.

4 MR. DAVIES: -- because they may
5 not want to apply. But for new lease,
6 right now it's first come, first serve.

7 CHAIRMAN CALONE: How do you deal
8 with speculators? I mean --

9 MR. DAVIES: Speculators, that was
10 also an issue. It was brought up -- it
11 happened in the ancient past when the
12 oyster grants were bought and sold a
13 hundred years ago, and --

14 CHAIRMAN CALONE: Yeah.

15 MR. DAVIES: -- one guy would sign
16 up for a certain number of acres, he'd
17 have his aunt, uncle, children,
18 grandchildren, and everybody else divide
19 up and get another four acres, another
20 four acres. The idea there would be
21 to -- again, the sublet process, and --
22 and the ownership of leases would be
23 limited, be afforded to two.

24 Now, a guy who owns a grant has an
25

1
2 inherent property right already. And,
3 you know, that's why it's different with
4 grants and different with the OGS lease
5 sites, because there is an ownership
6 right in place there. The people who
7 have assignments have no ownership
8 rights, they just have a history of a
9 site and using it. And then because
10 they've had no conflicts, we thought we
11 could grandfather those in.

12 But -- but the speculation is
13 something that would be handled
14 primarily by the fact that -- you
15 couldn't get a corporation coming in and
16 buying them all up because we wouldn't
17 allow the transfer to that corporation,
18 if that's the idea.

19 CHAIRMAN CALONE: Right. But I
20 guess what's to stop me, and I just want
21 to -- you may well see this at \$4,000 a
22 year, I can have an option in that
23 (inaudible) I may do nothing with it,
24 but I want to see if the other guy --
25 other businesses work. If they do, it

1
2 might be worth something and all I want
3 to do is sell it.

4 MR. DAVIES: But if you don't do
5 anything with it -- when we get the
6 annual report from you and you said you
7 didn't do anything with it, we want to
8 know why, is there a hardship or is
9 there some other reason. And if that is
10 not to the satisfaction of whatever
11 review group is involved with this,
12 you -- they could terminate your lease.

13 CHAIRMAN CALONE: Okay. That was
14 my question. But there's some kind of
15 a -- you have to actually do something
16 with it.

17 COMMISSIONER TALDONE: The oyster
18 grant program, the right on the land
19 underwater, I can still remember
20 (inaudible) continue to go on
21 indefinitely, but they do. So those
22 people have their right and there's
23 nothing I can do about it whether I want
24 to do or not. But the rest of that land
25 is clearly in the ownership of the

1
2 county. Will the county be using -- are
3 those revenues -- assuming they're
4 really wonderful, maybe they won't be,
5 but if they add up to lots and lots of
6 money, will they be applied to general
7 revenue or will they be kicked back into
8 estuary land purchases. (Inaudible) is
9 that going to be in the bay or is that
10 direct service directly to the county?

11 MR. DAVIES: Tom -- Tom had some
12 comments about that, I'll let him take
13 it.

14 DIRECTOR ISLES: We believe we'll
15 have to go to the general fund.
16 Ultimately, (inaudible) dedicated to the
17 program, but we would like to see either
18 (inaudible) paying for the program or
19 (inaudible). But it is something that
20 came up. I'm advised that at this time
21 it will go to the general fund.

22 COMMISSIONER TALDONE: The general
23 fund. Okay.

24 CHAIRMAN CALONE: Barbara and, I
25 think, Charla.

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COMMISSIONER ROBERTS: I'm extremely pleased in having this program, but I see a downside. Do these acres actually then get taken away from the use of boaters? I mean, if these are off -- off bottom, are they floating or on top?

MR. DAVIES: Okay. If -- in general, the two types of culture are on bottom and off bottom. On-bottom shellfish are on the surface or in -- in the sediment.

COMMISSIONER ROBERTS: And how deep would that water typically be?

MR. DAVIES: This -- the deep -- there's no site within 1,000 feet of the shoreline, number one. If you look at a depth map, which we have here, you know, they start maybe 8 -- 6-18 feet being the water depth.

However, if it's a structure -- if it's a containment situation off-bottom culture, and there's a rack on the bottom that might be five or six feet

1 high, there has to be a minimum distance
2 between the top of the rack and the
3 surface elevation of the water at low
4 tide in order to get a permit from the
5 Corps of Engineers and Coast Guard.
6

7 So all of those -- all of those
8 permit requirements would be needed to
9 be addressed by the shellfish grower.
10 They will not be able to get a permit
11 for something that is a hazard to
12 navigation.

13 They have to get a Core permit,
14 they have to have a -- a Coast Guard
15 clearance, they have to get permits from
16 New York State DEC. Those permits are
17 addressable in the processes used by
18 those agencies, but they have to occur
19 after the lease is issued. Because you
20 can't get a permit from the State of New
21 York to grow shellfish unless you have
22 access to the bottom. And, in this
23 case, you have to have a lease in order
24 to get access.

25 So the question of navigation, and

1 we discussed this many times, the -- the
2 main concern that -- that -- that
3 boaters have -- have -- have raised with
4 us is the question of markers. And
5 there are gear markers and there are
6 boundary markers.
7

8 Boundary markers would mark the
9 corner points of a square lease, for
10 example.

11 Gear markers are of a different
12 nature. Everybody who boats in the east
13 end is probably familiar with crab pot
14 buoys and lobster buoys and everything
15 else. There's thousands and thousands
16 of these things out there.

17 Will there be more gear buoys with
18 aquaculture? Incrementally, beyond
19 which exists now, yes.

20 Will there be more corner markers?
21 There'll be some more.

22 So right now assignments that are
23 marked by a circular -- they're a
24 circular plot with a buoy in the middle.

25 That is a question that everybody

1
2 grapples with. You want fewer markers
3 to avoid conflict, but you need markers
4 for enforcement. So we're going back
5 and forth on that. And, hopefully, with
6 all the notice and everything else,
7 people will understand where these
8 things are, but buoys of themselves are
9 not necessarily hazards. The structures
10 on the bottom could be that they'll be
11 sufficient density (inaudible).

12 CHAIRMAN CALONE: Charla.

13 COMMISSIONER BOLTON: I just wanted
14 to ask, has anybody calculated the cost
15 of this program to the county?

16 MR. DAVIES: I can tell --

17 COMMISSIONER BOLTON: Because it
18 sounds like it's quite enormous in terms
19 of staffing and enforcement needs.

20 MR. DAVIES: Yes. I can tell you
21 what we spent so far. We spent 400 out
22 of \$500,000 on the development of this
23 project. That's real money under the
24 Water Quality Protection Program. That
25 does not count the staff time, Tom's

1
2 time, and other time that has been spent
3 by people in the office on the project.

4 In terms of the actual
5 implementation of the program, staff
6 committed to this project have been
7 hired under the Water Quality Protection
8 Restoration Program; in other words, the
9 funding source is dedicated to
10 environmental projects and environmental
11 issues and things of that nature.

12 This is considered an environmental
13 project because of the value of
14 shellfish in the east end waters, number
15 one. Will there be staff time required?
16 There certainly will be. They'll be
17 people from the Department of Law
18 involved, they'll be people from,
19 perhaps, the Department of Environment
20 and Energy, and the Department of
21 Economic Development, et cetera, and,
22 perhaps, others during the process of
23 reviewing and administrating these
24 leases.

25 Once these leases are issued,

1 during the first year or two of this
2 program, I would expect the activity
3 level would go down, but there would
4 always be an administrative burden
5 associated with this project.
6

7 Have we calculated the actual cost?

8 No, we haven't.

9 COMMISSIONER BOLTON: Is there some
10 consideration as to the need for a
11 separate department or anything like
12 that?

13 MR. DAVIES: We haven't -- and this
14 is something that still is -- is subject
15 to policy review. I don't -- I don't
16 think that -- in terms of staff
17 evaluation of this, at this point, we've
18 had any -- any recommendation anywhere
19 near that.

20 We would hope to capitalize on the
21 existing personnel, for example, and the
22 Department of Health Services, the
23 Peconic Estuary Program. The water
24 quality monitoring being conducted by
25 the Office of Ecology to -- to look at

1 these particular sites and provide
2 guidance with respect to impacts,
3 positive and negative. And, basically,
4 it's existing staff that would be
5 associated with this.
6

7 Again, it's -- there will be a --
8 a -- a formalized process for the
9 applications to be reviewed and acted
10 upon. And then, again, these are
11 contracts. These are not -- these
12 documents are real documents. The
13 Department of Law is -- you know,
14 they're involved in this.

15 This is not just the back of an
16 envelope kind of agreement. There is a
17 burden associated with this, and we're
18 not -- you know, we're not trying to
19 downplay that. But the -- the fact that
20 it's a new program with secure access,
21 it -- it has its start-up programs, et
22 cetera, but the benefits can be long
23 term.

24 What we're trying to do here is
25 clean up a mess that was created over a

1 century ago with the grants that were
2 issued, and -- and three or four
3 thousand acres of those grants have
4 persisted to the current day. A number
5 of different situations are out there
6 that need to be cleaned up, that was one
7 of the purposes behind facets of this
8 law to begin with.

9
10 So there is a benefit in terms of
11 management of this particular 110,000
12 acres of underwater land that hopefully
13 we'll recruit as a result of this.

14 CHAIRMAN CALONE: Thank you, sir.

15 Any other --

16 COMMISSIONER HORTON: (Indicating)

17 CHAIRMAN CALONE: Josh.

18 COMMISSIONER HORTON: There were
19 several hundred acres in Peconic Bay
20 that were owned, I believe, by the Blue
21 Point (inaudible) service, a company
22 that was in (inaudible) Nature
23 Conservancy. Do those fall --

24 MR. DAVIES: Yes, they do.

25 COMMISSIONER HORTON: -- do their

1 plans seem feasible?

2
3 MR. DAVIES: They would -- I
4 think -- I believe the -- there's
5 approximately, I think, 196 acres that
6 were transferred from Blue Point's
7 company to the nature conservancy. They
8 own that underwater land for oyster
9 cultivation only. And would they be --
10 they could use that for oyster
11 cultivation. If they wanted to grow
12 scallops, clams or something else on
13 that property, they would, as envisioned
14 now, have to get a lease from the county
15 to do that. Because the right that was
16 conveyed under the grants was for oyster
17 cultivation. That's our understanding
18 of the law, that's how we structured the
19 program.

20 They're a nonprofit organization,
21 I'm not quite sure if they could do
22 things commercially, but they certainly
23 can do things for resource restoration
24 purposes if they wanted to.

25 And there is a component of the

1 program that involves resource
2 restoration, whereby towns, non-profits,
3 research entities, et cetera, could get
4 a lease for purposes that are not
5 private/commercial sale of shellfish.
6 But there's a component in the program
7 that would allow that to happen because
8 there has been interest expressed by
9 those groups for those purposes.
10

11 A town may have a shellfish program
12 that -- it enhances its trustee-owned
13 water, for example. It might need an
14 offshore site to field raise -- in a
15 field nursery system, raise shellfish
16 for planting inside their own town
17 waters. They could do that.

18 So there are other things that
19 could be done for -- for different
20 purposes other than private purposes.

21 CHAIRMAN CALONE: All right.

22 Any other comments or questions?

23 (WHEREUPON, there was no response.)

24 CHAIRMAN CALONE: If not, thank
25 you, DeWitt and team for -- for bringing

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us up to speed on that. It was
incredibly interesting, and thank you.

MR. DAVIES: Thank you.

CHAIRMAN CALONE: Anyone else have
anything else they want to raise or
bring to anyone's attention?

(WHEREUPON, there was no response.)

CHAIRMAN CALONE: If not, I'll
entertain a motion to dismiss.

COMMISSIONER BRAUN: So moved.

CHAIRMAN CALONE: Moved by
Mr. Braun.

COMMISSIONER HORTON: (Indicating)

CHAIRMAN CALONE: Seconded by
Mr. Horton.

All in favor?

(WHEREUPON, the Commission members
voted.)

CHAIRMAN CALONE: Good to see you
all, Happy New Year.

(WHEREUPON, the meeting of the
Suffolk County Planning Commissioner was
adjourned at 3:09 p.m.)

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C E R T I F I C A T E

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

That the foregoing is a true and accurate transcription of the stenographic notes taken herein.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of January, 2009.

THERESA PAPE