

# 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

## NOTICE OF MEETING

DATE: August 5, 2009  
TIME: 12:00 P.M.  
LOCATION: William Rogers Legislative Bldg., Rose Caracappa Auditorium  
DIRECTIONS: North County Complex, 725 Veterans Memorial Highway, Hauppauge

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### The Tentative Agenda Includes:

1. Adoption of minutes for June 3, 2009
2. Public Portion
3. Chairman's report
4. Director's report
5. Guest Speakers:
6. Sections A14-14 to 23 of the Suffolk County Administrative Code
  - Pinnacle Hotels, LLC 0200 55400 0300 004049 (Brookhaven)
  - Geotech Realty 0200 97600 0400 004002 et al (Brookhaven)
  - Education & Cultural Fund of Electrical Industry 1000 08300 0200 001000 et al (Southold)
7. Section A14-24 of the Suffolk County Administrative Code:
  - Peter Harbes 1000 12000 0300 011011 (Southold)
8. Discussion
9. Other Business
  - Adoption of Inter-Municipal Agreements

NOTE: The **next meeting** of the SUFFOLK COUNTY PLANNING COMMISSION will be held on WEDNESDAY, **September 2nd** at 12:00 P.M. in the William Rogers Legislative Bldg.; Rose Caracappa Auditorium, Hauppauge

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  - Suffolk County Comprehensive Plan
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SUFFOLK COUNTY PLANNING COMMISSION  
MINUTES OF MEETINGS

AUGUST 5, 2009  
12:00 p.m.

SUFFOLK COUNTY LEGISLATORS BUILDING  
725 VETERANS MEMORIAL HIGHWAY  
HAUPPAUGE, NEW YORK

BEFORE: DAVID CALONE, CHAIRMAN

REPORTED BY: MELISSA POWELL, Court Reporter/Notary  
Public

1 A P P E A R A N C E S:  
2 THOMAS ISLES, Director of Planning  
Page 1

- 3  
4       CONSTANTINE KONTOKOSTA,  
          Vice Chairman
- 5       ADRIENNE ESPOSITO, Secretary  
6            Village over 5,000 Population
- 7       JOHN CARACCI OLO, Commi ssi on Member  
          Town of Hunti ngton
- 8       LINDA HOLMES, Commi ssi on Member  
          Town of Shel ter Isl and
- 9       MICHAEL KELLY, Commi ssi on Member  
10           Town of Brookhaven
- 11       BARBARA ROBERTS, Commi ssi on Member  
          Town of Southampton
- 12       ROBERT BRAUN, Commi ssi on Member  
13           Town of Smi thtown
- 14       THOMAS MC ADAM, Commi ssi on Member  
          Town of Southold
- 15       VINCE TALDONE, Commi ssi on Member  
16           Town of Ri verhead
- 17       SARAH LANSDALE, Commi ssi on Member  
          At Large
- 18       DANIEL GULIZIO, Deputy Di rector of  
19           Suffol k County Pl anni ng Department
- 20       ANDREW FRELENG, Chi ef Pl anner  
          Suffol k County Pl anni ng Department
- 21       LINDA SPAHR, County Attorney
- 22       TED KLEIN, Seni or Pl anner, Suffol k County Pl anni ng
- 23       JOE POTTER  
24           Town of East Hampton
- 25

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- 1                   (WHEREUPON, di scussi ons were held off the  
2       record, after whi ch the fol lowi ng transpi red:)  
3                   (Time Noted: 12:04 p.m.)
- 4                   CHAIRMAN CALONE: Good afternoon and wel come  
5       to the June meeti ng of the 2009 Suffol k County  
6       Pl anni ng Commi ssi on Board -- i t's been a long  
7       day.

8 Welcome to the August meeting of the 2009  
9 PI anni ng Commi ssi on.

10 We have a number of things on the agenda  
11 today. We also have some folks here to meet with  
12 us, however, we will start with the PI edge. I  
13 would ask that the secretary lead us in the  
14 PI edge.

15 (WHEREUPON, the PI edge of Al legi ance was  
16 reci ted.)

17 CHAIRMAN CALONE: Thank you.

18 I would present that we have a quorum, and  
19 the first item on the agenda is the Adoption of  
20 the Mi nutes for June of 2009.

21 Edi tor in Chi ef, do you have any comments on  
22 the mi nutes?

23 COMMI SSI ONER HOLMES: Well, we're going to  
24 clari fy with Job Potter whether his legal name is  
25 Job or Joseph, but he listed it as Joseph, and I

4

1 thought I remember him saying it was Joe, but I'm  
2 -- I have just given the Court Reporter the list  
3 of my corrections and a more extensive list of  
4 Dave's, and I would just ask if, perhaps, Teresa  
5 could clari fy, when she gets a chance, Page 6  
6 Li ne 18. Both of us saw the word spelled which  
7 doesn't make sense in that sentence and the  
8 others are quite minor. I am sure that they will  
9 all be corrected and she has your list also,  
10 Mr. Chair man, so if you would like to -- Oh, the  
11 last page in the draft that was sent to me was

12 missing that page -- Page 179 -- so -- but I  
13 think we were all just saying goodbye to each  
14 other so that should be all right.

15 CHAIRMAN CALONE: My extensive recollection  
16 is that we were all saying goodbye.

17 Thank you, Linda, for as always carefully  
18 reviewing the minutes.

19 Anyone else have any comments or questions  
20 about the minutes?

21 (WHEREUPON, there was no response.)

22 CHAIRMAN CALONE: If not, I reviewed them as  
23 well, and I gave my minor typographical types of  
24 corrections. So, unless there is an objection, I  
25 entertain a motion to adopt the minutes of June

5

1 3, as amended.

2 COMMISSIONER HOLMES: I would move that.

3 COMMISSIONER BOLTON: Second.

4 CHAIRMAN CALONE: Moved by Commissioner  
5 Holmes. Seconded by Commissioner Bolton.

6 All in favor, please raise your hand?

7 (WHEREUPON, the Board Voted.)

8 CHAIRMAN CALONE: Eight to zero.

9 Next on the agenda, we have the public  
10 portion. I would invite our former colleague Don  
11 Fiore to speak on the Educational Cultural Fund.

12 You know the drill, Mr. Fiore, if you could  
13 just state your last name and you have three  
14 minutes.

15 MR. FIORE: Donald Fiore. Another life past  
16 member.

17 Good afternoon. I hadn't planned on  
18 speaking on this particular item, but I just saw  
19 it on the agenda and I just wanted to offer my  
20 support for this particular project that's going  
21 on out there.

22 I will be out there at a conference next  
23 week -- staying out there for a couple of days.  
24 It's a worthwhile project. It's something that,  
25 I believe, the labor community and everyone else

6

1 that wants to use it, should be able to use it  
2 and it's really good.

3 I am asking you for your support on this  
4 project, and I thank you for your time.

5 Thank you very much.

6 CHAIRMAN CALONE: Thank you, Mr. Fiore, good  
7 to see you.

8 MR. FIORE: Thank you.

9 CHAIRMAN CALONE: Next up, we have Lou  
10 Giacalone at -- I believe it's on the Pinnacle  
11 Project.

12 MR. SHEA: Actually, it is on a different  
13 project. We're letting Mr. Giacalone go first  
14 because we have a number of speakers on the  
15 Pinnacle Project, so we let him go first.

16 CHAIRMAN CALONE: Oh, that's fine. Whatever  
17 I called you on, you can speak on. I thought it  
18 was on the Pinnacle Project.

19 MR. GIACALONE: Great. Thank you and good  
20 afternoon.

21 My name is Lou Giacalone of Ehasz and  
22 Giacalone Architects. We're the architects for  
23 the Joint Industry Board of the Electrical  
24 Industry.

25 This project came before this Commission

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1 previously for site plan approval, and you had  
2 forwarded your comments to the Planning Board and  
3 to the Town. We're in the process of reviewing  
4 your comments with the Planning Board.

5 This hearing is for the variances requested  
6 by the Joint Board for the meeting house. The  
7 project consists of, as you know, a motel -- an  
8 existing motel which we've already upgraded and  
9 is being used as a Joint Board Educational  
10 Center. The meeting house is a new 18,000 square  
11 foot building which will house an emergency data  
12 center, a meeting room, a small auditorium, and  
13 breakout rooms for the purposes of the Joint  
14 Industry Board members who visit the motel for  
15 the weekend or for a week and have to take  
16 educational courses.

17 There are three variances requested that the  
18 Building Department had -- and the Town Planning  
19 Board had forwarded. The first is the meeting  
20 house as an accessory use to the motel. The  
21 meeting house is not for public use, nor is the  
22 entire site for public use. It's only for the  
23 members of the Joint Board. Their members are  
24 invited to come for the weekend. There is no  
25 public use of any of the buildings including this



1 new meeting house. It is not a catering  
2 facility.

3 Secondly, there was a variance requested for  
4 a third floor. The limit on the height of the  
5 building in the Town of Southold is two-stories.  
6 Our building has a third floor, but it is  
7 completely concealed under the eave of the roof.  
8 The purpose of that third floor is simply to  
9 access the outdoor deck which is located on the  
10 roof of the second floor. So, this third floor  
11 consists of a hallway, two public toilets, an  
12 elevator, and the stairs going up to that  
13 corridor and then from the corridor, access to  
14 the deck.

15 The Building Department agreed with us that  
16 it did not constitute a third floor, but since  
17 we're going for variances anyway, they wanted  
18 their town Planning Board to rule on whether this  
19 was a third floor or not.

20 We had a meeting with the Town Planning  
21 Board on Monday. We meet with them continuously,  
22 and they've agreed that there is not a third  
23 floor, however, that issue is before you, as  
24 well.

25 The third variance was for an existing five

1 unit building which is adjacent to the pool yet  
2 separate from the motel units. The building was

3 built sometime in the '70's. It was built as a  
4 cabana with five rooms with a toilet in each  
5 room. It was listed as a cabana, however,  
6 historically, it was used as a motel unit because  
7 it's really designed as a motel unit.

8 The Joint Board wants to legalize and change  
9 the use from cabana simply to motel units. The  
10 total number of units maximum on the site that we  
11 would be permitted by sanitary would be 50. If  
12 we convert the cabana five units to motel use,  
13 that would bring us up to a total of 44 motel  
14 units. 39 in the original and five in the  
15 cabana.

16 Those are the issues before you. If you  
17 have any questions, I would be happy to answer  
18 them. I just wanted to show you -- I don't know  
19 if these were submitted or not, but this is a  
20 rendering of the meeting house and it mirrors the  
21 design of the existing motel which we've also  
22 changed dramatically on the site.

23 The project has been well received by the  
24 Town Board, by the Architectural Review Board, by  
25 the Planning Board, and by the Building

10

1 Department.

2 CHAIRMAN CALONE: Thank you for your time.  
3 I appreciate it.

4 Next up we have Tim Shea, I believe.

5 MR. SHEA: Yes, poor handwriting.

6 Timothy J. Shea, Jr., from Certilman & Balin  
7 representing Pinnacle Hotels and the Exit 68

8 development of a 200 room, five-star, seven-story  
9 hotel within the 180 acre Yaphank industrial  
10 subdivision.

11 At the outset, Mr. Chair, I would ask to  
12 take Mr. Lee's time. (Phonetic.) He signed up  
13 immediately after me, if that's acceptable?

14 CHAIRMAN CALONE: Still your shared time  
15 with Mr. Leah's is minimal but now you have five  
16 minutes -- five and-a-half minutes.

17 MR. SHEA: The proposed hotel has received  
18 Town of Brookhaven's IDA approval, and it is  
19 estimated conservatively to cost -- construction  
20 to cost \$30,000,000 or more. This will result in  
21 200 -- at least 200 construction jobs all of  
22 which will be at the prevailing wage.

23 After completion, there will be  
24 approximately 85 to 95 permanent jobs on site  
25 with other complementary jobs, obviously, which

11

1 will arise as a result of this.

2 We feel that this project is appropriate for  
3 this specific location for a number of reasons:  
4 First and foremost, the fact that there is a lack  
5 of services in the immediate area to service the  
6 existing industrial uses within the subdivision  
7 and the general public At Large. You should note  
8 that this 30 lot subdivision was originally  
9 approved in 1989 and to date, 20 years in, only  
10 12 of the 30 lots has been developed. So, nearly  
11 two-thirds of the lots remain undeveloped.

12 We have had support from the adjacent  
13 neighbor to the south Biodex Corp., who has  
14 agreed, in principal, to allow for cross-parking  
15 with our clients at times when we will need it,  
16 and our traffic expert and parking expert will  
17 speak to that in greater detail.

18 We feel that this development will lead and  
19 spur further development within the industrial  
20 subdivision. If you visited the site or the  
21 immediate area surrounding it, you will note that  
22 there is not a single residential property within  
23 100 -- Excuse me, within a 1,000 feet, in fact,  
24 probably more.

25 Furthermore, there is almost no commercial

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1 development within the immediate area. The  
2 commercial development is relegated to the corner  
3 of Middle Island-Moriches Road and the William  
4 Floyd Parkway over a mile away. Those services  
5 consist of one old gas station, a 7-11, and two  
6 strip-malls with no restaurant uses -- no  
7 services that the people in the immediate area  
8 need or the people who come to the industrial  
9 park on a daily basis will require.

10 We feel and we've had support from other  
11 property owners within the industrial subdivision  
12 that this will spur further building within the  
13 industrial subdivision -- will allow those  
14 services to complement the industrial uses around  
15 it.

16 We understand that at the beginning of this

17 project, in the abstract, looking at Brookhaven  
18 Town Code, that a couple of the variances we  
19 would be seeking would appear to be substantial  
20 in nature. However, due to the characteristics  
21 of this property being unique and different to  
22 other properties where hotels may be built, we  
23 feel that this is an appropriate use and the  
24 appropriate size.

25 Brookhaven National Lab is proposing

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1 substantial improvements to its property which is  
2 going to result in a threefold increase in  
3 visitors to their site, yearly, within the next  
4 ten years. The National Lab has had to utilize  
5 the Danford's Convention Center in Port Jefferson  
6 which is a half an hour away. They would like  
7 and have voiced support for a convention center  
8 in the immediate area where people can stay, can  
9 have their meetings, and will all be centrally  
10 located.

11 Furthermore, other businesses in the area,  
12 including Biodex have expressed the same concern  
13 and are in support for our application.

14 Again, this site is unique in that it is in  
15 an industrial subdivision. There is no  
16 surrounding uses that will be impacted, as we  
17 pointed out. It is not an overly intensive use  
18 of the property. It should also be noted that  
19 sometimes the zoning codes are designed and  
20 drafted with an eye towards different uses. This

21 is a J-Business Zoning Code, and I believe that  
22 the intent was at the beginning to avoid  
23 intrusion upon adjacent property owners with  
24 retail and commercial that were going be closely  
25 bunched together and which may have residential

14

1 barriers surrounding it or abutting it and that  
2 was the key element to the height restriction.  
3 Here we have no problem with regard to that  
4 because for over 1,000 feet to the south and  
5 greater distances to the east and the west, we  
6 have nothing but a light industrial property.  
7 There are single or two story buildings which  
8 will not be impacted by the height of this  
9 building.

10 Furthermore, if you look at the Code, and I  
11 see that there is mention for requirements that  
12 require 100 foot buffer around each property  
13 line. Well, out of an 6.3 acre site, that would  
14 mean -- if we drew a 100 foot buffer around the  
15 edge of the property, would mean that the four  
16 plus acres of the six acre site would be deemed  
17 unusable if we were to strictly apply this Code.  
18 That does not make sense. That would leave us  
19 with a building envelope of 65,000 to 75,000  
20 square feet for the building, the parking, and  
21 all of the other improvements that we would need.  
22 There would be a location of this property --

23 CHAIRMAN CALONE: Wrap it up.

24 MR. SHEA: Yes, I will. (Continuing) --

25 location of this property within the industrial

1 subdivision and the fact that we have mitigating  
2 factors which will reduce the impact of the  
3 parking variance, including cross-parking  
4 agreements with Biodex, and we will enter into  
5 and other property owners, we feel that this  
6 property -- this application is proper, and we  
7 would hope for the Board's support of the same.

8 CHAIRMAN CALONE: Thank you, Mr. Shea.

9 Next up, we have Terry Elkowitz.

10 Terry, you have three minutes.

11 MS. ELKOWITZ: Good afternoon, Mr. Chairman  
12 and Members of the Board.

13 I'm principal with VHB Engineering and we  
14 are environmental consultants. We prepared an  
15 extensive -- we prepared an extensive  
16 environmental assessment form which I am sure the  
17 Town has given to you and if they have not, I  
18 have a copy.

19 CHAIRMAN CALONE: Hang on a second. Can you  
20 see if her light is on?

21 MS. ELKOWITZ: We've prepared an extensive  
22 environmental assessment form which I am hopeful  
23 that the Town has provided to you. If not, I  
24 have a copy that I can leave with the staff.

25 It addresses a number of issues, but there

1 is just two that I would like to briefly go over  
2 with you. One is the consistency of the central

3 Pine Barrens standards. We've demonstrated in  
4 our standard EA form that we're consistent with  
5 that.

6 In light of what Mr. Shea had said to you  
7 with respect to the variances that we're seeking,  
8 we also did a comprehensive visual analysis to  
9 determine whether this building as proposed at  
10 seven stories would adversely impact from a  
11 visual perspective, any sensitive receptors, or  
12 residential properties which are also sensitive.

13 You have heard from Mr. Shea that the  
14 nearest residents are 1,000 feet away. There are  
15 thousands of properties, thousands of industrial  
16 subdivisions south of the railroad. We did a  
17 five mile radius. We actually erected a crane at  
18 the actual location of the hotel. We had flags  
19 on the top of the cranes. We corrected for the  
20 elevation after grading development of the  
21 property. We actually went three feet higher,  
22 and we went to the top of the building, not just  
23 height as defined by the Town Code. We went in a  
24 five mile radius where we didn't just do computer  
25 modeling, we actually drove all the public

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1 roadways to see if where we could see this crane  
2 from. We have photographs in there, and we've  
3 demonstrated that there would only be very  
4 limited visibility. There would be visibility,  
5 of course, on neighboring properties which is all  
6 industrial, all industrial subdivision. There is  
7 absolutely no visibility on any residential



8 property or any sensitive receptors, and we  
9 looked at many sensitive receptors: Peconic  
10 River Corridor, Carman's River Corridor,  
11 Cathedral Pines, Southaven Park, and we have them  
12 all listed. There is no visibility and there was  
13 only limited visibility along the Long Island  
14 Expressway.

15 So, I respectfully submit to you from a  
16 visual and character perspective, this would not  
17 have an adverse impact even though we're seeking  
18 these kinds of variances.

19 Thank you very much for your time.

20 CHAIRMAN CALONE: Next up, we have Charles  
21 Olivo.

22 Mr. Olivo, if you could spell your last name  
23 for the record and you have three minutes.

24 MR. OLIVO: Certainly.

25 Charles Olivo. For the record, O-L-I-V-O. I

18

1 am the Principal with Atlantic Traffic and Design  
2 Engineers.

3 For the purposes of this application, our  
4 firm was retained to undergo a study of the  
5 traffic impacts and the traffic impacts on the  
6 roadway network, as well as, the central parking  
7 impacts within the site.

8 As part of the traffic impact analysis  
9 prepared and submitted to the Town, as well as,  
10 Suffolk County DPW, our office reviewed both the  
11 adjacent roadway network system, as well as,

12 potential impacts to William Floyd Parkway.

13 As a result of this study that was  
14 conducted, we found that there would be no  
15 significant impact based on the projected site  
16 generated traffic volumes to a 200 room hotel  
17 which is what is proposed on the site.

18 In addition to the traffic impact analysis,  
19 our firm also prepared a parking assessment. For  
20 use like this with integrated uses such as  
21 restaurants, bars, banquet space, and meeting  
22 room, it is important to know that the Institute  
23 of Transportation Engineers judges the hotel  
24 based on the fact that it has integrated uses  
25 within.

19

1 Based on the Institute of Transportation  
2 Engineers and Transportation of Land Development  
3 Manual, there is a parking recommendation of 1.2  
4 parking stalls per room. So, for the 200 rooms  
5 and the 250 parking stalls which were proposed on  
6 the site, we would have adequate parking based on  
7 those parking guidelines.

8 In addition to utilizing those standards,  
9 we've also reviewed the Urban-Land Institute  
10 Shared Parking Manual. It's important to note  
11 that on sites such as this where you have  
12 different uses that have those demands that would  
13 fluctuate throughout the course of a typical day.  
14 For instance, your restaurant use might peak  
15 during the midday period when the hotel rooms  
16 would then -- the parking for the hotel rooms

17 would then be dispersed as people go to their  
18 office or wherever their destination might be.  
19 So you would have the potential of that -- a  
20 parking stall could be used by more than one of  
21 the integrated uses on site.

22 What we found in the shared parking analysis  
23 is that the proposed 255 stalls would be more  
24 than adequate to accommodate the demand for the  
25 site. Again, in addition, during times when the

20

1 convention space would be utilized, there would  
2 be valet service provided on the site to maximize  
3 the potential parking yield of the site.

4 In addition, as the project counsel stated,  
5 Mr. Shea, there will be parking available at the  
6 Biodex medical building parking lots, and the  
7 applicant is also interested in providing  
8 cross-access to the property to the east. All  
9 with the intent of minimizing the provision of  
10 the impervious area for parking only that would  
11 most likely go unused under typical conditions.

12 CHAIRMAN CALONE: Thank you, sir, for your  
13 time.

14 Next up, we have Mr. Kulka.

15 Sir, if you could just spell your last name  
16 for the record.

17 MR. KULKA: K-U-L-K-A. My name is Jack  
18 Kulka. I am a Licensed Professional Engineer and  
19 a LEED accredited professional.

20 Just a few quick comments. The reason this

21 is a 200 room hotel is because in order to get a  
22 five-star rating from Hilton which is the company  
23 that will be working -- which is the company the  
24 hotel is being designed for, is it requires a  
25 minimum amount of 200 rooms. In addition to that,

21

1 in order to get a convention center rating from  
2 the Hilton Hotel, it also requires that 200 room  
3 minimum requirement.

4 Secondly, this project will be applied for  
5 LEED certification. One of the recommendations  
6 of a LEED certification and LEED credits is to  
7 attempt to minimize blacktop and parking spaces  
8 by creative planning in order to satisfy  
9 environmental concerns. This is being done by  
10 the cross-access agreement, cross-parking  
11 agreements, and at the same time the amount of  
12 parking spaces provided meets the Hilton criteria  
13 which are very strict.

14 Last, but not least, the height of the hotel  
15 is not unusual for Suffolk County. Right now,  
16 there is a Marriott at Exit 58 right on the  
17 expressway that is similar in height and similar  
18 in look. There is a Marriott Courtyard at Exit  
19 60 and there are numerous other structures along  
20 the spine of the expressway that have similar  
21 height and similar ambiance.

22 Thank you.

23 CHAIRMAN CALONE: Thank you, sir.

24 Don Fiore? Do you want to take a minute,  
25 Don, to speak on that?

1 MR. FIORE: Good afternoon, Commi ssi oner' s  
2 of the Board and Mr. Chair man.

3 My name is Donal d J. Fi ore. I am Busi ness  
4 Manager for the Local Uni on B I nternati onal  
5 Brotherhood of El ectri cal Workers. I stand in  
6 support of this project and ask for your support  
7 for the same.

8 In the last several years, the construction  
9 industry has felt the devastating effects of  
10 unemployment. One of the economi c indi cators on  
11 Long Isl and is or even in New York State, is how  
12 goes construction, goes the economy. As you're  
13 aware, all economi c indi cators on Long Isl and  
14 here are not as well as we would like to see. We  
15 need a project like this to get started. We need  
16 several projects, not this one in parti cular, but  
17 we need -- we need this project to get started.  
18 If this is the forerunner of the projects on Long  
19 Isl and, let it be so.

20 A project like this will help the  
21 construction industry. It will put our people  
22 back to work. The one thing our people do is we  
23 recycle money back into the economy, and that's  
24 what we need. We need money to come to us or  
25 come to you and be recycled back into Long

1 Isl and. We need our young people to stay here,  
2 but the only way we can do that is if we can stay

3 here ourselves. We're a bad example if we have  
4 to move off the Island and have them follow us.

5 So, I am asking you to take a look at this  
6 project and support it. I think it is a good  
7 thing, and I am only asking you for your support.  
8 Thank you very much.

9 CHAIRMAN CALONE: Thank you, Mr. Fiore.  
10 That ends our public portion.

11 MR. SHEA: There is one person who arrived  
12 late and would like to speak and had not had an  
13 opportunity to sign up. He is from the Town of  
14 Brookhaven IDA.

15 CHAIRMAN CALONE: Certainly. If you would  
16 like to speak and if you -- when you're done, if  
17 you could give your name to Dottie and if you  
18 could just spell your last name for the record.

19 MR. MICHEL: My first name is Yves, Y-V-E-S.  
20 My last name is Michel, M-I-C-H-E-L. I am with  
21 the Town of Brookhaven Division of Economic  
22 Development, as well as, the Industrial  
23 Development Agency.

24 I am here to say that not only does the Town  
25 but the IDA also supports this project

24

1 wholeheartedly. I would like to underscore what  
2 Mr. Shea said. We did a study with all the other  
3 empire zone companies in which this project would  
4 land, and also the BNL. Everyone is totally  
5 excited about this, and we have the support of  
6 the supervisor all the way down to all the  
7 residents in that area. So our support is for

8 this project and anything the Town can do to help  
9 move this project along, we'll be more than happy  
10 to do that.

11 So, in short, thank you very much.

12 CHAIRMAN CALONE: Thank you, Mr. Michel.

13 I don't know if there are any other further  
14 public comments.

15 (WHEREUPON, there was no response.)

16 CHAIRMAN CALONE: Seeing none, we will close  
17 the public session, and we will move on to the  
18 next item on our agenda which is the Chairman's  
19 Report.

20 In short, as you know, we have two main  
21 goals this year. One beginning with the Suffolk  
22 County Comprehensive Plan Update. In your  
23 packet, the County Executive just issued a press  
24 release this morning. As I said, it is in your  
25 packets just indicating that the -- he is looking

25

1 to work with the Planning Commission on the  
2 update. It's no surprise to anyone here that we  
3 need a strategic plan for the County, and the  
4 Comprehensive Plan will aim to both in terms of  
5 where we are going and also where we need to be  
6 as a County.

7 Following our adoption of the resolution  
8 authorizing the Comprehensive Plan a few weeks  
9 ago, Director Isles and I met with the County  
10 Executive. He is very supportive as he reflected  
11 in the press release, and we will talk a little

12 bit more about the Comprehensive Plan a little  
13 bit later on our agenda.

14 The second major thing we are working on is  
15 our task forces. Constantine, Adrienne, and I  
16 presented to the Long Island Regional Planning  
17 Council Task Force, as well as, the other aspect  
18 of the things we're doing here. The Regional  
19 Planning Council is very supportive, and they  
20 will have the resolution formally endorsing the  
21 task force efforts on their agenda in September.

22 Also, I just want to update you the East End  
23 supervisors and mayors formally voted to endorse  
24 the efforts this past month and Congressman  
25 Israel's office reached out to me to say that the

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1 Congressman is interested in meeting about the  
2 effort and I would imagine that would probably be  
3 after Labor Day. He is very interested and  
4 excited about what we're doing. So that is  
5 great.

6 Adrienne, I don't know if there was anything  
7 you wanted to add on about the Regional Planning  
8 resolution -- you know, they seem to be  
9 supportive and my understanding is that they're  
10 going to have resolution supporting the task  
11 forces at their next meeting, and if there is  
12 anything else you wanted to add?

13 COMMISSIONER ESPOSITO: No.

14 CHAIRMAN CALONE: I wanted to briefly  
15 provide the head of our task forces a chance to  
16 give a brief update. Let's start with Bob.



17 Bob, anything on Public Safety?

18 COMMISSIONER BRAUN: Yes. We have taken a  
19 look at some of the public safety materials that  
20 other municipalities have been using for years as  
21 far ranging as those from Australia to Singapore  
22 and various municipalities around the country.

23 The commission members and staff have  
24 divided them up so that we can try to isolate  
25 those aspects of those reports that seem best to

27

1 apply to us, and then we'll be complying with the  
2 proposal for the public safety guidelines for  
3 ourselves and sharing them with the public  
4 officials who are members of the task force. So,  
5 I think, that process has begun and we're on our  
6 way to, perhaps, producing something in the next  
7 couple of months.

8 CHAIRMAN CALONE: Thank you, Bob.

9 Well, this is an exciting thing.

10 (WHEREUPON, there was laughter.)

11 CHAIRMAN CALONE: Why don't we go to Vince  
12 with Smart Growth.

13 COMMISSIONER TALDONE: Just a couple of  
14 quick points.

15 In our committee, in terms of the universal  
16 design and part of the work that we're doing is  
17 -- there are two things going on right now. We  
18 met with New York State DOT and under the  
19 Governors Safety Senior Program, we did a walk  
20 through downtown Smithtown -- Main Street in an

21 effort to come up with some kind of an  
22 improvement to the roadway such as crossing and  
23 signalization that would make it safer for  
24 seniors and, of course, all other -- anyone with  
25 any kind of mobility issues who are not using the

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1 street and, of course, getting more people out  
2 would be a wonderful economic development  
3 incentive for that bill. That was actually just  
4 yesterday.

5 Coming in September, the Town of Brookhaven  
6 is considering legislation to amend the building  
7 codes to provide incentives for universal design  
8 aspects of residential housing. We're currently  
9 analyzing that bill to see how much of an  
10 incentive is actually there and then I am hoping  
11 -- assuming everything I heard is in the bill, to  
12 come to you at the beginning of next month so  
13 that the Commission itself can either write a  
14 letter or a resolution -- a message of support to  
15 the Brookhaven Town Board because this does  
16 impact support for performing our own guidelines  
17 for development.

18 Lastly, in terms of the Smart Growth end of  
19 where we are, we are working with Dave and other  
20 members of the Commission, not necessarily on  
21 this task force, regarding the sewer issues which  
22 seems to keep rearing in pattern in terms of  
23 significance based on affordable housing in a  
24 affordable compact sustainable development  
25 whether it's called sustainable communities or

1 smart growth communities to help us rely on the  
2 need for sewers particularly in terms of  
3 developing low-cost housing within that next and  
4 we're moving forward on that. I won't go into  
5 that. I could talk for an hour.

6 Lastly, I just want to mention that our last  
7 meeting when the DPW Engineer had indicated that  
8 I was mistaken on the legality of stopping in  
9 travel lanes in terms of the public transit.  
10 They're fully correct. I stand corrected because  
11 currently it is illegal to stop on either County  
12 Road 39 or 58 in Riverhead because it's a  
13 no-stopping zone based on the State DOT  
14 guidelines for safety. The State often  
15 recommends either shoulders or turnouts depending  
16 on the volume of the road and speed, but the  
17 County is not bound by those guidelines. So, the  
18 County can ignore them and just change the road  
19 regulations, thereby, making it technically legal  
20 but DPW can, in fact, make it legal to stop and  
21 pick up passengers on the highway. I stand  
22 corrected.

23 CHAIRMAN CALONE: Thank you for that,  
24 Vincent.

25 Along the same lines of the sewers, I will

1 just let everyone know that Constantine and I  
2 have had a policy meeting with the County

3 Executive and Supervisors Petrone, Cardinale, and  
4 Lesko regarding the sewer issues. A brief  
5 meeting was what we anticipated being the first  
6 of several. They're very interested in working  
7 with us and working with Federal and State  
8 representatives to see how we can get more money  
9 back to Long Island for sewers. Clearly, it is a  
10 critical part of growing as a County and what we  
11 are going to be as a County. We also talked  
12 about the possibility of having a dedicated Long  
13 Island Sewer Fund. So, there is definitely a lot  
14 of interest in that area. Certainly from the  
15 elected officials such as the County Executive  
16 and they would like us to keep working on that.  
17 We can talk more offline on how we do that, but  
18 there is certainly a need for coordination and so  
19 that was much appreciated.

20 COMMISSIONER TALDONE: One more point in  
21 that regard.

22 One of the exciting things about this  
23 initiative is that there are other communities  
24 that we have been looking at. Washington, right  
25 now, which incentives that sewerage funding for

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1 communities, not just on an environmental basis.  
2 This is obviously a great need because of  
3 pollution issues. They also prioritize for smart  
4 growth compact development that preserves open  
5 space as needed and a very long type list of  
6 criteria's. The State will then provide its  
7 assistance to sewer construction.

8           That kind of incentive is particularly  
9           interesting for us as a Planning Commission in  
10          terms of being able to work -- to find out how  
11          those can work to encourage our municipalities to  
12          do the smartest and most sustainable type  
13          development but, of course, the wonderful power  
14          of providing the sewerage of support we think  
15          would have a great impact. I think that's the  
16          most exciting part of our research so far.

17                 CHAIRMAN CALONE: Thank you, Vince.

18                 Linda?

19                 MS. SPAHR: Mr. Chairman, I just heard in  
20          the report for the first time that some of the  
21          commission members are getting involved working  
22          with the Town of Brookhaven and the proposed  
23          stormwater change. It strikes me that the  
24          proposed change would be a referral of the matter  
25          to the Commission and to all kinds of potential

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1          conflicts including conflicts of the entire  
2          Board. So, I would just recommend that we,  
3          perhaps, talk about that going forward and  
4          certainly it could be inappropriate to the  
5          Commission to write a letter recommending a  
6          support change that is going be considered as a  
7          referral.

8                 CHAIRMAN CALONE: Well, I think -- I think  
9          that so far you just read the -- you received it,  
10         right?

11                 MS. SPAHR: Yes.

12                   COMMISSIONER TALDONE: Well, what I am  
13                   looking at is a building code amendment. It  
14                   wouldn't be a zoning change. That's really not a  
15                   referral. They changed their building code with  
16                   lowered fees for certain sort of fixtures or step  
17                   free entries. That wouldn't come to us as far as  
18                   I understand it.

19                   MS. SPAHR: I'm sorry. I just looked at it  
20                   quickly. I don't know if it would or would not  
21                   be.

22                   CHAIRMAN CALONE: But it's a very good point  
23                   and we should figure out the exact answer to that  
24                   before we move forward. I think there is  
25                   probably an easier answer to that issue.

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1                   Yes, Vince?

2                   COMMISSIONER TALDONE: Just as a point of  
3                   clarification. If there was a member of the  
4                   Commission that was on a town appointed committee  
5                   working on suggested changes to the zoning code,  
6                   that would then come here. We have a very  
7                   straight forward process in place here and if  
8                   there was a need to recuse that person, they  
9                   would simple recuse from a statewide --

10                  CHAIRMAN CALONE: I think Linda's point is,  
11                  if we were to all vote on a letter or a  
12                  resolution, part of being a member authorizes  
13                  through County Law is to advise municipalities on  
14                  planning issues and those kinds of things.  
15                  However, when it gets down to actually a specific  
16                  thing that we might actually be referable to

17 here, then we all kind of have to work it out --  
18 we speak on it. That's your concern, right,  
19 Linda?

20 MS. SPAHR: That's one of them, yes.

21 COMMISSIONER TALDONE: I will certainly  
22 confirm that, that it does not come to the  
23 Planning Commission before we introduce that  
24 letter. I think since we do have guidelines and  
25 the code amendments are in concert with our

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1 guidelines that, that's basically to be discussed  
2 in the letter and pointed out to the town board  
3 what is being proposed in the building code,  
4 conforms with Planning Commission's existing set  
5 of guidelines.

6 CHAIRMAN CALONE: I think one of the issues  
7 that Linda raises is a real one. We need to make  
8 sure that this is not something that we can  
9 refer.

10 MS. SPAHR: Also that the Commission's  
11 jurisdiction are set out by law and it's  
12 important when the Commission is taking official  
13 action or communicating on behalf of the  
14 Commission jurisdiction on the -- it can be  
15 complex but you just want to make sure they do  
16 not harm your overall efforts by doing something  
17 that is just a good idea. So you just want to  
18 think a little bit more carefully on that and  
19 have a discussion about it.

20 CHAIRMAN CALONE: We will rely on you for

21 the first one to perhaps check out what is  
22 referable or not working with staff and then  
23 we'll take it from there.

24 What's that, Vince?

25 COMMISSIONER TALDONE: Also determining

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1 whether or not the role that we should be playing  
2 at all.

3 CHAIRMAN CALONE: Right. Like I said, in  
4 the Code, it is very broad -- you know, advising  
5 towns and municipalities of the planning issues.  
6 It is very broad, therefore, you can probably for  
7 see the plans of this whole task force efforts as  
8 it stems out of that general rule.

9 Okay, well let's move on. We have energy  
10 environment. Adrienne is our officer liaison for  
11 that task force, and if you can speak for a  
12 moment and then we can go on to --

13 COMMISSIONER ESPOSITO: We had a conference  
14 call regarding the stormwater, and what's now  
15 being called the stormwater native vegetation  
16 subcommittee. It was extremely productive. We  
17 reviewed -- continue to review several stormwater  
18 ordinances from around the nation of which  
19 apparently there are a multitude of. So, we're  
20 reviewing them with the hope and the goal that we  
21 would be able to draft a generic one for Suffolk  
22 and also at the same time, we're considering  
23 putting together a small guidance document of  
24 green infrastructure to keep as much vegetation  
25 as possible, at the same time, utilize green



1 infrastructure for stormwater filtration and  
2 stormwater management principal -- manage both.  
3 So we're hoping to do those two things.

4 The other idea that we have been discussing  
5 is having a central location on Suffolk County  
6 Planning Commission website for all of our model  
7 codes that our various committees come up with,  
8 and that the Suffolk County Planning Commission  
9 could then each year -- every two years --  
10 whatever we feel is a reasonable timeline, modify  
11 and update that section of the website to  
12 continue to provide accurate information to  
13 municipalities, stakeholder organizations, and  
14 all other builders would be interested in having  
15 easy accessibility information such as this.

16 CHAIRMAN CALONE: Thank you, Adrienne.

17 I would also just say, in addition to the  
18 vegetation and stormwater runoff, there are four,  
19 I believe, other working groups within the energy  
20 environment task force that are going to come  
21 together. One of those are residential solar.  
22 One of them is wind, and then there is building  
23 codes based on energy efficient buildings. I am  
24 forgetting one so, anyway, there is like six  
25 working groups of elected officials and

1 commission members working on these various  
2 aspects of energy and the environment. So those

3 are all starting to go and those conference calls  
4 are in the next week or so.

5 Lastly, we have housing. Constantine had to  
6 run, but we had the kickoff of the Housing Task  
7 Force at Riverhead on Monday. A number of you  
8 were there, and I appreciate that involvement.  
9 Supervisor Cardinale hosted the event.  
10 Legislator DeWayne Gregory joined us and  
11 Councilwoman Ann Throne-Holst from Southampton,  
12 as well as, other interested members of the  
13 community and that, I thought, went very well.  
14 Clearly a lot needs to be done with Suffolk  
15 County regarding housing and that group is going  
16 to be working on that moving forward. So, that  
17 is kind of what's going on with different tasks  
18 forces.

19 August is obviously a slow time but we need  
20 to keep things moving on each of those, so that  
21 we're really keeping things productive, I guess.

22 The last couple of things. Tom and I  
23 presented to the EPA Committee of Legislature  
24 last week on our annual report which you actually  
25 have a copy of -- you're own -- very own version

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1 right here. The EPA Committee extremely  
2 supportive of what we're doing, the annual  
3 report, the task force efforts, and the  
4 Comprehensive Plan. We had a very good reception  
5 there.

6 We had talked about putting together a  
7 jurisdiction committee to talk about commission's

8 jurisdiction and there are five of us who were  
9 interested in working on that. Thanks, Barbara,  
10 Mike, Job, and myself and what I would suggest is  
11 that we maybe try to set a meeting for around the  
12 time of our next meeting in September with Linda,  
13 Tom, Dan, and Andy -- kind of understand what the  
14 commission's jurisdiction is? What it could be?  
15 I know there has been some discussions -- some  
16 sort of legislator's have raised an issue that  
17 they would like to expand that jurisdiction. I  
18 think it is important that we know where we are  
19 before we start figuring out where we should be.

20 The County Attorney's Office has been in  
21 conversations with -- the County Attorney's  
22 Office regarding some ethics issues that have  
23 been raised around this table. Particularly, the  
24 involvement in outside activities that touch on  
25 land use and they have asked the Ethics

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1 Commission to give us some guidance. With  
2 Linda's assistance, I think, going forward, we  
3 could hopefully have some guidance on that in the  
4 near future.

5 MS. SPAHR: I would encourage anybody to  
6 look specifically at the County Code of Ethics  
7 which has got some strict prohibitions on  
8 activities and parts of office for any of you  
9 that don't know you are officials and employees  
10 of the County even those of you who are not paid.

11 COMMISSIONER BRAUN: We get lunch.

12 CHAIRMAN CALONE: We thank the taxpayers for  
13 the lunch, but, no, that is a good point. The  
14 interesting thing on the Ethic Code's is it  
15 largely focused on things like monetary or  
16 pecuniary kind of interest that we have so that  
17 we know that if we're interested in a project  
18 that we can't be voting on it here. A couple of  
19 folks have raised general community involvement  
20 and how that plays out which I think is something  
21 that -- how we may be focusing on it as such but  
22 I believe the Ethics Commission is going to be  
23 looking at that.

24 COMMISSIONER HOLMES: Would a component of  
25 that be what we discussed last month which is,

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1 very often, members of the Planning Commission  
2 are asked to sit in on Town Planning Board  
3 Meetings, and I found in the past that it was  
4 useful to be able to say when a town project was  
5 coming to the Commission or to say that the  
6 Commission had to discuss a project and what our  
7 thinking was. So, I know that the Planning Board  
8 -- our Local Planning Board always asks me as a  
9 commissioner to come and they particularly alert  
10 me when they know a project is coming before the  
11 Commission. So are there guidelines you would be  
12 talking about with that?

13 MS. SPAHR: I believe that the County  
14 Attorney has referred some of the specific  
15 examples to the Ethics Commission to give you  
16 some guidance. What I would point out is that

17 when the Commission speaks, the Commission speaks  
18 to the decisions and determinations and this is a  
19 public meeting and if anybody is interested in  
20 what the Commission thought the process was or  
21 ways of reasoning something out or why they  
22 decided as they did, they may have access to  
23 those minutes and access to the written  
24 decisions. I think it would be safer to say it's  
25 dangerous to speak on behalf of a Commission that

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1 has the means of speaking. Obviously, you're a  
2 free person and you can speak, but you need to be  
3 careful when you have a position -- you know,  
4 holding public office or you're in public  
5 employment giving information you're not allowed  
6 to give because there's a conflict. So you just  
7 need to be cautious. Again, I would encourage  
8 you to look at the specific prohibition in the  
9 Ethics Code because you might be surprised to  
10 hear about what it says.

11 COMMISSIONER HOLMES: I was referring to  
12 being able to update our Local Planning Board on  
13 what the Commission may have discussed and  
14 decided on a project.

15 MS. SPAHR: Yes, and that's exactly what I  
16 am talking about too. The way to update them is  
17 the -- because you have a written decision that's  
18 issued to pass the resolution. You vote on it.  
19 You got great detail in terms of what your  
20 recommendations are or the requirements that

21 you're imposing when you approve something or  
22 your reasoning for disapproving it. That's all  
23 required by law. If you don't give those  
24 reasons, then your decision is annulled under the  
25 law -- if you're disapproving something. So

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1 there is very, very clear requirements under the  
2 State law and local law on how you communicate  
3 your decision to other municipalities.

4 First of all, I don't think that the  
5 Commission could be bound by an individual  
6 commission member's act on behalf of the  
7 Commission. It would be outside of that person's  
8 authority. It could be misleading. It could be  
9 confusing. It could be seen as a potential  
10 conflict, so I would just suggest that you  
11 exercise great caution in that respect. I think  
12 you can get some better answers to specific  
13 questions from the Ethics Commission. The Law  
14 Department can't tell you what you can or cannot  
15 do in the future because we end up litigating it,  
16 when it goes wrong. If you remember from when I  
17 spoke about the issue of recusal. One of the  
18 impacts when you fail to recuse yourself is,  
19 again, the commissioner's act would be annulled  
20 because of the conflict. So there is a lot of  
21 complications. There is a larger kind of a good  
22 or larger perspective that is exercised or  
23 further advice to work as a commission as a  
24 whole. Sometimes you can't do individual work  
25 with the larger work, but I think that the Ethics

1           Commi ssi on can gi ve you some more gui dance.

2           CHAIRMAN CALONE: I understand that, that  
3 was just forwarded to them in the last week or  
4 so, I believe, they're working on it from my  
5 understanding.

6           One thing we might be able to do to help  
7 Linda is -- you know, we don't actually see the  
8 resolution after we -- we passed them but then  
9 the letter actually gets sent by the staff and  
10 then -- you know, wi thi n a couple days after --  
11 one thing that might be helpful would be is if we  
12 have like Shelter Island that maybe, Andy, we  
13 could send it to Linda, in fact, maybe it is just  
14 easier to attach the three or four letters that  
15 will be sent out and send it to everyone to let  
16 them know that it was sent and if there is  
17 relevance to them, then bring them with you and  
18 say here is what the commi ssi on sai d.

19           COMMI SSI ONER HOLMES: That's what I was  
20 driving at.

21           CHAIRMAN CALONE: And that way -- you know  
22 -- but the only thing is, it is a little awkward  
23 for you to say, "I really cannot answer your  
24 questions about that."

25           COMMI SSI ONER HOLMES: Ri ght.

1           CHAIRMAN CALONE: Because of what Linda is  
2 saying. It's more of here is the document and --

3                   COMMISSIONER HOLMES: "Here is what we  
4                   decided and these are the reasons for our  
5                   resolution." That would make a lot of sense.

6                   CHAIRMAN CALONE: At least gives you 80  
7                   percent of the --

8                   The last thing I wanted to raise is our Fall  
9                   Planning Conference is focused with spotlighting  
10                  and town and village innovations. We have a  
11                  guest speaker. Peter Kohler from Cablevision has  
12                  agreed -- the County Executive also he said he is  
13                  going to be there.

14                  COMMISSIONER ESPOSITO: What is Peter Kohler  
15                  going to talk about?

16                  COMMISSIONER HOLMES: Why they're screwing  
17                  the town so badly.

18                  CHAIRMAN CALONE: Peter is well-known and a  
19                  great thinker about Long Island, so I look  
20                  forward to his insight.

21                  What we need to do -- one thing I wanted to  
22                  make sure that, as we did last year, I would like  
23                  the commission members to moderate the panels. I  
24                  don't know if we have a list of the panels yet,  
25                  Andy? That we have many people sign up for what

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1                  they're interested or it might be easier just to  
2                  e-mail them and people moderating specific ones,  
3                  maybe just respond back. That would be an easier  
4                  way to do it.

5                  Last year we had a great -- you know, many  
6                  of members of the Commission moderated the  
7                  various panels and that seemed to work quite



8 well.

9 Andy, anything else?

10 MR. FRELENG: We're in the process of  
11 approving the registration brochure -- something  
12 suitable to mail out and mail that out to the  
13 Commissioner's so they can look at the courses  
14 and decide which one they want to participate in.

15 CHAIRMAN CALONE: Let's do that by e-mail,  
16 that way people can respond back about what they  
17 might be interested in leading.

18 The other thing, Josh, for you is I'd like  
19 to -- we talked about having the village  
20 association involved in some way, and I would  
21 like to -- you know, we have one or two portions  
22 that might lend themselves to innovations going  
23 on in the villages. So maybe that is something  
24 we could talk about offline.

25 Anything else to add on the training, Andy?

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1 MR. FRELENG: Nothing else at this time.

2 CHAIRMAN CALONE: That it's for me.

3 Tom?

4 COMMISSIONER ISLES: I wanted to give you an  
5 update on -- thank you very much, Mr. Chairman.

6 Let me begin by noting that the next meeting  
7 of the Commission is, once again, in this room --  
8 Hauppauge. However, the meeting after that is in  
9 the Town of Southold and we do not have a  
10 location, so if the Commission members have some  
11 suggestions or desire in terms of location,

12 please let us know and we will work on scheduling  
13 that. The Southold Town Hall might make sense.  
14 That's Number One.

15 Number Two, I will mention that Mr. McAdam  
16 and Mr. Kontokosta are up for reappointment. So  
17 your term expires and, therefore, the  
18 legislature will be considering your  
19 reappointment at the EPA Committee Meeting on  
20 Monday. It was laid on the table yesterday --  
21 last night. If you can't make it, we will make  
22 arrangements for another date, but that is in  
23 process as we speak. This Monday coming up --  
24 Monday.

25 Just on the issue of sewers. The County is

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1 -- the County Legislature has provided funding  
2 for a sewer study of Suffolk County. There is an  
3 RFP. Commissioner Esposito has been part of this  
4 -- that study is in the RFP phase. There have  
5 been seven proposals submitted and the RFP  
6 evaluation committee will be selecting a firm  
7 soon. So a contract would probably be secured by  
8 November or December and that project will be  
9 completed in 2011. That is a countywide  
10 comprehensive study. That is something the  
11 office of the Commission should be aware of.

12 Relating to that, Mr. Taldone pointed out  
13 tying in sewer development with smart growth in  
14 the sense of downtown or areas where growth is  
15 desired, but also connected into preservation of  
16 open space which is a very good point. On that

17 same line, let me just update the Board.

18 The Pine Barrens Commission is examining an  
19 update for the Pine Barrens Land -- use plan.  
20 Dan Gulizio and Andrew Freleng are speaking with  
21 the Advisory committee when they can. There is a  
22 key issue being discussed in that process in  
23 terms of the retirement credits when development  
24 occurs in the type of growth area of the Pine  
25 Barrens.

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1 For example, Commission members recall the  
2 Tall Grass application where there was a proposed  
3 smart growth development -- mixed use development  
4 but that wasn't the Pine Barrens or isn't the  
5 Pine Barrens but they were not proposing to  
6 retiring Pine Barrens core credits while the idea  
7 was to use a technique to preserve the core and  
8 one of those techniques -- one of the three major  
9 techniques was the transfer of development rights  
10 out of the core. The problem was having enough  
11 receiving sites and so there is a real -- so in  
12 the case of Tall Grass, there were a few credits  
13 that were offered in the end but in -- it's not  
14 something that is spoken of in the planning. It  
15 just talks about it in general. There is a lot  
16 of discussion going on right now about what is  
17 appropriate census or number or method of  
18 retiring credits to the core in order to sustain  
19 the Pine Barrens. So, we will keep you posted on  
20 that. We did consider it to be important.

21 Last month, the Commi ssi on passed a  
22 resoluti on approvi ng the Suffol k County  
23 Agri cul ture Lease Program. You' re probably sick  
24 and tired of me talki ng about thi s, but I am very  
25 happy to say that i n thi s room, last night around

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1 9:00 p.m. , after qui te a bi t of di scussi on and  
2 contenti on, the Suffol k County Legi sl ature  
3 approved the local law creati ng the Agri cul ture  
4 Leasi ng Program unani mously. I di d note the  
5 support of the Commi ssi on, and I thi nk the  
6 support -- that support and other support was  
7 al so very hel pful. So, thank you for that.

8 CHAI RMAN CALONE: Congratul ati ons to you on  
9 that. I know there was a lot of effort by you  
10 and by the whol e team.

11 COMMI SSIONER ISLES: It was a tremendous  
12 effort of the Department and the Advi sory  
13 Commi ttee and grati fyi ng to see that unani mous  
14 vote from the Legi sl ature.

15 Last poi nt i s, questi ons have been received  
16 by the Department regardi ng the i ntermuni cipal  
17 objecti on process of the zoni ng amendme nt. More  
18 speci fi cally, thi s i s related to the Heartl and  
19 devel opme nt. We di d make a request to the County  
20 Attorney for legal standi ng and to j ust clari fy  
21 the procedures to the extent of the role of the  
22 Pl anni ng Commi ssi on i n the process. We have  
23 received a reply from the County Attorney wi th  
24 her poi nts as expressed through Counsel for the  
25 Pl anni ng Commi ssi on. I f the Commi ssi on woul d

1           like more information on that, we can do a  
2           dialogue and have a discussion on that.  
3           Certainly if Linda wanted to add anything at this  
4           point, just to let you know, we did receive it  
5           and at this point the Heartland application is  
6           still in need of a draft generic commentaries  
7           which was extended by the town board of Islip for  
8           one month to August 27, but obviously at some  
9           point we will get a referral. Whether or not  
10          there will be an objection filed upon the  
11          enactment of the Code of the zoning change -- if  
12          that occurs by the Town of Islip and this process  
13          is vigorous -- we don't know. The information  
14          provided by the Department of Law is very helpful  
15          and will help guide the Commission Department and  
16          ensuring that we do that in compliance with the  
17          law.

18                 The reason we went to the extent of asking  
19                 for an opinion is because this is a very seldom  
20                 used aspect of the County Code. It has not been  
21                 used in over 20 years. Secondly, it's a -- the  
22                 language is a little interesting, so we just want  
23                 to make sure it is clear. Thank you.

24                 CHAIRMAN CALONE: We know you're not a  
25                 lawyer, Tom, but lawyers never call Codes

1           interesting.

2                         (WHEREUPON, there was laughter.)

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CHAIRMAN CALONE: Charla?

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COMMISSIONER BOLTON: I just had a question for Tom about the sewer studies. Are there articulated goals in the RFP for the sewer studies and what are those?

COMMISSIONER ISLES: I don't what they are offhand. I read it about a year ago when we first started this project. Dan is sitting on the Evaluations Committee. They're not even meeting yet at this point -- the RFP and the Evaluations Committee. The essential purpose of this hearing was funded by the County Legislature was the identification at the time for the need for sewers in Suffolk County and that, that should be done in a coordinated matter and a comprehensive manner. It shouldn't just be done from the reaction to the application. There is a pollution problem which here again is a good basis for it, but rather than just jumping all over and just doing them randomly -- understanding also the massive operating cost. It is part of the capital construction cost and a quite significant operating cost would be studied

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reviewed, and completed through the Department of Public Works for the Mastic and Shirley area which isn't a major source of pollution for sewer systems. The operating cost per year for a homeowner in Mastic with the depth services is an operating cost of a minimum of \$7,000 a year per home up to \$35,000 a year per home. That's

8 obviously not affordable. Now, it is significant  
9 for federal funds or other funds when we look at  
10 capital cost which makes it a lot better but  
11 those are some of the considerations that go into  
12 it. Assuming we can offer a debt advantages  
13 department that certainly allows development to  
14 be permitted for the purposes of these studies  
15 and to look at the County law and to look at  
16 opportunities for expanding our system more  
17 efficiently than starting from scratch and so  
18 forth and that is the basis of it.

19 CHAIRMAN CALONE: Thank you, Tom.

20 Any other comments or questions?

21 Vince?

22 COMMISSIONER TALDONE: Tom, the RFP is  
23 structured in a way to begin the process of  
24 determining how to prioritize projects other than  
25 for environmental reasons, such as, that would

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1 concern sustainable developers interested in  
2 developed areas and isn't that part of what the  
3 RFP requirements are going to be? The winning  
4 bidder would be required to explore the issues  
5 for the County? I mean, what is the real --

6 COMMISSIONER ISLES: Well, I don't believe  
7 it is. Here, again, it is the beginning of the  
8 first step in terms of examining the needs. So  
9 what I can do, is for the next few meetings is  
10 get a more complete review. We just got the  
11 proposal back and give you a better description

12 of that. I apologize. I am not prepared today.

13 CHAIRMAN CALONE: I think I did -- I think I  
14 sent the RFP to some of them -- the RFP. The  
15 bottom line was identify the needs so that the  
16 larger of the piggyback of the task force -- the  
17 legislature task already did last year and then  
18 try to determine structures going forward if that  
19 makes sense. One of the things it explicitly  
20 says there is should be -- all those random  
21 sewer -- STP's that are in -- you know, stand  
22 alone development they always somehow fall into a  
23 sewer district so the County would have more  
24 oversight over the RFP. I don't want to make  
25 mention exclusively of the RFP. I think it is a

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1 brief broad mandate as to what the -- you know,  
2 what the contract would look at or -- one thing  
3 it didn't talk about and one of the reasons why  
4 we're doing it -- what is relevant is the sources  
5 of funding for it going forward -- the demand,  
6 how to structure it, oversee them, but we're kind  
7 of looking at an angle of how do we improve  
8 funding to do a better job based on federal,  
9 state, and localized money.

10 Without any comments, let's move onto the  
11 three administrative items. One thing I would  
12 just ask if anyone needs to recuse themselves on  
13 any of the three items that we have before us?

14 (WHEREUPON, there was no response.)

15 CHAIRMAN CALONE: Seeing none, we will move  
16 on.



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Andy?  
MR. FRELENG: Thank you, Mr. Chairman  
Members of the Board.  
The first regulatory item that comes before  
the Commission was referred to us from the Town  
of Brookhaven and this is the application of  
Pinnacle Hotels, LLC.  
Jurisdiction for the Commission is at the  
subject property which is adjacent to New York

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State Route 495, otherwise known as the Long  
Island Expressway.  
The applicants are seeking Town Board change  
approval from Light Industrial to J-Business  
8-District which is their hotel/motel district  
for the construction of an approximate 217,000,  
200 room, seven-story hotel including a pool with  
a 120 seat restaurant, 67 occupant bar, meeting  
rooms, and convention banquet space.  
The application of the Town of Brookhaven  
Zoning Law Parking Schedule would require the  
provision of 420 off-street parking stalls. 254  
stalls are proposed and of that, 18 are land  
banked. An approximate 40 percent variance for  
the required number of parking stalls would be  
required.  
The applicant is also requesting a height  
waiver permitting the hotel with a convention  
center to be seven-stories or approximately 81  
feet in height where the maximum height is four

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stories or 50 feet in height.  
The subject parcel is located on the north east corner of Roned Drive which is a town road and Natcon or Precision Drive which is also a town road in the Hamlet of East Yaphank. The

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subject property borders the Long Island Expressway right-of-way to the north.

If you take a look at the zoning map, you can see that the subject parcel is pretty much in the north center of the L-1 Zoning District. Land use in the area -- if you take a look at the photo for a second -- land use in the area is pretty much a reflective of typical industrial park and as we noted earlier, there is some commercial uses down by the interchanges of William Floyd Parkway and Moriches Road.

Going back to the site plan, the subject application proposes three points of access. One is to Roned Drive. One is to Natcon Drive to the south and another delivery access to Natcon Drive. All three access points are Town of Brookhaven streets. All accesses are un-signalized and unrestricted in turn movements and no cross-access for either motor vehicles or pedestrians is proposed.

With regard to environmental conditions, there are no significant environmental constraints. The subject property is in the Pine Barrens, and it should be noted that the subject site is not located in an economically distressed

1 communi ty as defi ned by Commi ssi on gui del i nes.

2 So, if I could just take a moment to go  
3 through the slides. You can see this is the  
4 proposed site plan. This is the delivery access.  
5 This is the main access. This is the Natcon or  
6 Preci sion Drive. This is Roned Road which is the  
7 other access. In the aerial, you will see that  
8 the ramp to the LIE -- the ramp for the LIE  
9 service roads di sconti nues here. You can get on  
10 the LIE right here, but the road comes around to  
11 the subject site. So if we closed access here,  
12 just keep in mind that you can get to the  
13 proposed hotel site from the LIE from the William  
14 Floyd exit. (Indi cating.)

15 This is the zoning. The subject project is  
16 pretty much in the middle center. This is  
17 residenti ally A-1 zoning. This is A-1 zoning, as  
18 well. This is all land belongi ng to Brookhaven  
19 National Lab.

20 CHAIRMAN CALONE: What is there now that it  
21 is all cleared?

22 MR. FRELENG: There is nothing there now.  
23 The site has just been cleared. There is a lot  
24 of dirt bike acti vi ty. This road here which  
25 would be an extensi on of the service road is used

1 by ATV' s and dirt bikes, so they make thei r way  
2 into the site.

3                   COMMI SSI ONER ESPOSI TO: Was there something  
4 there? I mean, it wasn't just cleared, right, it  
5 had to be cleared for --

6                   MR. FRELENG: We have no knowl edge of  
7 anything being on the si te. It might have been  
8 cleared in preparation for --

9                   This is Bi odex Medi cal where the applicants  
10 are proposi ng an overflow parking arrangement and  
11 that would be in the parking field here next to  
12 that si te.

13                  COMMI SSI ONER BRAUN: There is a road between  
14 there.

15                  MR. FRELENG: The access to thi s parking  
16 lot, you have to exit the si te and come down here  
17 and get in through here. (Indicati ng.) Thi s is a  
18 very small parking area. You could go right  
19 across and park through here but that doesn't  
20 offer a lot of space.

21                  This is the LIE service road and so as you  
22 can see, you can get on the expressway right  
23 about here. There is vehi cle passi ng and then it  
24 wraps around to the subj ect si te.

25                  This is looking at the subj ect si te from the

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1 service road, so it is wrappi ng around. Trucks  
2 are parked approxi mately where the entrance of  
3 the si te would be.

4                  This is the hotel si te. You can see it was  
5 previ ously di sturbed with a lot of dirt bike  
6 trails around it. Thi s is looking from the si te  
7 across the street to Bi odex and then the County

8 Vehicle. There is a string of parking spaces  
9 here. There is really not much to see if the  
10 building is there. Going around the block into  
11 the Biodex parking lot, you can see that it is  
12 gated. The parking lot, at the time we were  
13 there, was about 12:30 p.m., 1:00 p.m., in the  
14 afternoon, the parking lot was about -- maybe  
15 about one third full.

16 So with regard to the staff analysis, it is  
17 the belief of the staff that the requested zone  
18 change results in an unwarranted  
19 over-intensification of the use of the premises.  
20 Staff does agree, however, with the concept that  
21 a hotel would be a compatible use in the light  
22 industrial area.

23 In order to achieve the proposed intensity  
24 on site, the applicant should request a number of  
25 variance some of which indicate that the proposed

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1 use is an unwarranted over-intensification of the  
2 property. The application as proposed would  
3 require a height variance of 38 percent for a  
4 seven-story structure to 81 feet where 50 feet is  
5 allowed. The proposal also requires buffering  
6 variances, parking placement, and parking stall  
7 quantity variances.

8 The applicant has submitted a shared parking  
9 analysis indicating that the proposed parking  
10 supply of 254 stalls would be adequate to  
11 accommodate the parking demands associated with

12 the hotel and the associated components.

13 In addition, the applicant proposed a valet  
14 parking plan -- a parking service -- local  
15 shuttle and bus service. They're also proposing  
16 an arrangement with Biodex Medical Systems for  
17 providing an area of their property for potential  
18 and additional demand associated with the hotel.

19 The problem is that the applicant's proposal  
20 cannot be verified since nothing in the referral  
21 material indicates an agreement with Biodex  
22 Medical Systems. Moreover, a valet parking plan  
23 was not submitted with the referral. Local  
24 shuttle and bus service as indicated as an  
25 amenity to the project is not further discussed

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1 and there is no known county transit route to the  
2 area. The closest route is Suffolk County Bus  
3 Transit Bus Route 17 on Moriches-Middle Island  
4 Road.

5 The proposed layout of the hotel complex  
6 does not include as far as referral material an  
7 indication of motor vehicle or pedestrian  
8 cross-access easements to the adjacent property.  
9 Staff believes pedestrian access should be  
10 established to the properties adjacent to the  
11 east of the subject site but each connection  
12 should be an adjacent site coming under site plan  
13 review. Moreover, the applicant should be  
14 required to consult with Suffolk County Transit  
15 for the possibility of the bus turnoff at the  
16 location which is the project site in the future.

17           There is no indication that was submitted  
18 material of the Suffolk County Planning  
19 Commission that the proposed project has been  
20 designed with energy efficiency or public safety  
21 in mind.

22           Finally, it is the belief of the staff that  
23 the premises can be reasonably developed a L-1  
24 Zoning of the property and can be reasonably  
25 developed into a hotel site in accordance with

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1           the un-varied requirements of the J-8 Zoning  
2 District. Staff is recommending, as result of  
3 the analysis -- staff is recommending disapproval  
4 for the following reasons: Foremost, that the  
5 requested zone changes result in unwarranted  
6 over-intensification use of premises and in order  
7 to achieve the proposed intensity on site, there  
8 are a number of variance which are required.

9           In addition, there is no submitted material  
10 that verifies a valet service plan or anything  
11 for an off-site service park arrangement. There  
12 is no further discussion of the shuttle bus or  
13 the bus service so the applicant's contention is  
14 that they have to make arrangements for overflow  
15 parking cannot be validated with the material in  
16 the referral.

17           In addition, one of the many reasons for  
18 recommending disapproval is that there is no  
19 discussion of a pedestrian cross-access easement  
20 or motor vehicle access even to the adjacent

21 property within the hotel site which is intended  
22 to serve the industrial park. At the very least,  
23 there should be some sort of pedestrian  
24 connection to the adjacent properties.

25 Again, there is no material submitted to

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1 either Suffolk County Planning Commission which  
2 discusses energy efficiency or public safety.

3 Finally, it is the belief of staff we  
4 recommend that the Commission adopt this  
5 recommendation that the premises can be  
6 reasonably developed in accordance with the L-1  
7 Zoning of the property and can be reasonably  
8 developed into a hotel site in accordance with  
9 un-varied requirements of the J-8 Zoning  
10 District.

11 We had some discussion inhouse about the  
12 application of the J-8 District. We believe that  
13 the Town of Brookhaven treats J-8 as a floating  
14 zone which essentially means that under certain  
15 conditions, you could apply that zoning  
16 designation over the underlying zoning. However,  
17 the problem that we had with the referral was that  
18 in order to apply floating zoning you usually  
19 want to apply standards or criteria or some  
20 rational on why that floating zone would be  
21 appropriate there. There was no information in  
22 the referral to the Commission why they would want  
23 to apply the J-8 District, so all that stands is  
24 the request variances that would go along with  
25 the application.



1           So the final comprehensive sense of that  
2 paragraph discusses why the Commission feels that  
3 the Town should take a more comprehensive look at  
4 the application. The J-8 zoning makes a finding  
5 that helps substantiate the application of that  
6 zoning there and to determine if there is spot  
7 zoning. If you don't have any type of  
8 comprehensive analysis for the application of the  
9 floating type zone and we're using it relatively  
10 loosely here, but that's a rationale of their  
11 recommendation and that concludes the staff  
12 report.

13           CHAIRMAN CALONE: Thank you, Andy.

14           This is a Brookhaven project. Mr. Kelly is  
15 there anything you would like to add about the  
16 area? Your thoughts on the project?

17           COMMISSIONER KELLY: Andy, just a couple of  
18 questions.

19           One, the distance from the LIE to building  
20 elbow --

21           MR. FRELENG: Well, it's less than the  
22 approved site plan. It's going to be less than  
23 100 feet. I -- the variances that were requested  
24 -- I am sorry I don't have the approval of the  
25 site plan, so I can't answer your question.

1           They're requesting a 53 foot buffer -- 53 foot  
2 setback, a 40 foot setback, and a 38 foot

3 setback. We went around the site plan. I am not  
4 sure which one were which, but it is certainly  
5 less than 100 feet to the LIE right-of-way.

6 COMMISSIONER KELLY: Yes. I was going to  
7 say, just eyeballing it, it looks like it as at  
8 least 100 feet to the edge and that's just the  
9 edge of the tree line and then the tree line is  
10 not a distance to the service road.

11 MR. FRELENG: So worst case analysis is 38  
12 feet. I believe that, that was on the side and  
13 the best case analysis was 53 feet from the --

14 COMMISSIONER KELLY: The two hotels that  
15 were mentioned -- three hotels that were  
16 mentioned, the one in Ronkonkoma that is at Exit  
17 60 and I don't know if we mentioned the Hampton  
18 Inn at Exit 63, how tall are those?

19 MR. FRELENG: Staff did not analyze those.  
20 I usually count them as I go by and they're  
21 usually around five-stories -- somewhere around  
22 five-stories. I haven't seen one seven-stories,  
23 and I don't know if there was six-stories.

24 COMMISSIONER KELLY: The Marriott on Exit  
25 60, I believe, is seven.

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1 COMMISSIONER HOLMES: Yes, I believe -- I  
2 would concur with that. When they were saying  
3 those three were comparable, they are roughly but  
4 the Marriott is at least that tall, yes, that is  
5 seven.

6 COMMISSIONER KELLY: Just a quick comment.  
7 I know the Town of Brookhaven has being

8 trying to develop this area for quite some time  
9 and the industrial park is slowing moving. So  
10 this type of development is -- is that the spur  
11 that starts the development or is -- it's tough  
12 to say what the economic impact would be because  
13 of the distance -- the chicken or the egg?

14 CHAIRMAN CALONE: Thank you, Mike.

15 Charla, do you want to say something?

16 COMMISSIONER BOLTON: I think -- actually  
17 did anybody look cause I am reflecting the same  
18 that was made mention to the staff presentation  
19 for this application. Has anybody looked at what  
20 sort of conference facilities or what sort of  
21 hotel accommodations are needed in this area and  
22 whether they have been currently supplied by  
23 other hotels or not? Because that is not  
24 something that was very clear to me. I know they  
25 really need given the Brookhaven Lab programing

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1 in the future and the existing needs of other --  
2 either existing developments or proposed  
3 industrial development and I am curious, does it  
4 seem that there is a need for a hotel of this  
5 type -- with these types of facilities?

6 MR. FRELENG: Staff couldn't make a  
7 conjecture -- at least this staff person couldn't  
8 make a conjecture. We did not look at that  
9 analysis for this particular application. I  
10 don't know if the demographics or any other unit  
11 or department might be able to comment on that,

12 but when we reviewed this application, we did not  
13 take that into consideration, no.

14 COMMISSIONER BOLTON: I mean, there is no  
15 other Suffolk County study you haven't looked at?  
16 Conference hotel facilities where they're located  
17 and what they supply? I mean, is there such a  
18 study?

19 MR. FRELENG: I will defer it to the  
20 Director.

21 COMMISSIONER ISLES: We do monitor hotel  
22 development in the County both with building and  
23 what is proposed. Peter Lambert does that part  
24 for the Planning Department, so that is something  
25 we do monitor. As far as conference spaces, we

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1 do not monitor those.

2 COMMISSIONER BOLTON: Alright, because there  
3 is sort of a disparate -- there are bits  
4 information here today and one is coming from the  
5 applicant which clearly -- I mean, I assume even  
6 though they're not under oath, that their telling  
7 us that, that is a reasonable assessment that  
8 there is a need given the future development --  
9 perspective development in the area and that of  
10 the Brookhaven Lab interest in -- you know, and  
11 their needs in the future and I just don't -- I  
12 am not comfortable with even making a decision  
13 because I don't feel I have enough useful  
14 information.

15 COMMISSIONER ISLES: Just to add one  
16 additional comment on that.

17           The information we collected -- the map  
18           growth would be countywide and regional  
19           information. We do not make market selections,  
20           site collections, and so forth. That is outside  
21           of our expertise. That comes from a private  
22           sector's decision. The information that Peter  
23           collected here, again, is from regional planning,  
24           and county planning for the purposes of private  
25           sector uses, and we don't make site

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1           recommendations on that.

2           CHAIRMAN CALONE: One thing I would add is  
3           we always need to be cautious about taking into  
4           account, what people say, in front of the bodies.  
5           It is under advisement. There is no staff  
6           reaction one way or the other. It is not to say  
7           though that we can't use our own knowledge or the  
8           fact that we all live all over the county -- you  
9           know, I think it is pretty safe to say there is  
10          no facility like that in that immediate vicinity  
11          that I am aware and if anyone else is otherwise,  
12          please say so, but that is a very broad  
13          statement. What is in that vicinity and what is  
14          the need -- you know, those are issues that have  
15          come up before with some of these things -- you  
16          know, what is economic need? There are in this  
17          particular application significant variances  
18          requests, but there may be mitigating  
19          circumstances, for instance, as you're saying,  
20          the economic development. Maybe the fact that is

21 it not in the downtown area, obviously, or  
22 congested area where you would say significant  
23 parking variances would be a big deal. Is it  
24 less than a deal because -- you know, it's in a  
25 more isolated area? Those are issues that kind

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1 of have to be --

2 COMMISSIONER BOLTON: And the other piece of  
3 that is the information regarding the Biodex  
4 signing and what it can supply in a way of  
5 additional parking. I just felt -- you know, if  
6 you look at the site, obviously, it seems as if  
7 there is an excess amount of parking there, but  
8 there is no analysis regarding this. Is it just  
9 a daytime operation, Biodex? Is there free  
10 parking there in the evening? I just don't feel  
11 I have the information that I really need  
12 regardless.

13 CHAIRMAN CALONE: Mr. Braun and then Mrs.  
14 Holmes?

15 COMMISSIONER BRAUN: Thank you.

16 Andy, would the absence of the information  
17 that you would have wanted to see, would you  
18 consider the application incomplete? I mean, is  
19 it -- should we send this thing back and say, "We  
20 liked it before certain things were exposed to  
21 what you're asking for but you haven't shown us  
22 enough." Would that be useful?

23 MR. FRELENG: That's the pleasure of the  
24 Commission, but I think from the staff's  
25 perspective, I think, they have met all the

1 requirements of the submittal. So, technically,  
2 it wasn't incomplete. They make up a  
3 substantiating claims in their referral that's all  
4 I can --

5 COMMISSIONER BRAUN: You know, I would hate  
6 to say, we heard from the IDA, we heard from Don  
7 Fiore on behalf of the construction trades, we  
8 heard from -- everyone seems -- as we all know  
9 upon sworn testimony, everybody loves this  
10 project everywhere around it.

11 CHAIRMAN CALONE: Well, everyone that was  
12 here.

13 COMMISSIONER BRAUN: Everyone that was here  
14 -- true, Dave, no question about it.

15 Also, you made a comment -- do you think  
16 that the L-1 Zone should be redefined to include  
17 a hotel? Is that what you were saying? You said  
18 this is compatible with the surrounding area of  
19 the L-1. If they simply redefine the zone, would  
20 that make it easier?

21 MR. FRELENG: Well, from a perspective of  
22 our review, it would be because then it would be  
23 a permitted use in the zone. We wouldn't just be  
24 looking at a site plan.

25 COMMISSIONER BRAUN: And the variances.

1 MR. FRELENG: And the variances, right.  
2 With respect to the height, staff felt that

3 variances of this type is like a precedent  
4 setting. Buildings are starting to go up higher  
5 and higher on the Island, so there is going to be  
6 precedent setting in this location. The  
7 accumulation of variances just indicates the  
8 over-intensification of the use of this size  
9 property.

10 COMMISSIONER BRAUN: So what they have to do  
11 is change the zone and then once changed, the  
12 variance is part of the new zone?

13 MR. FRELENG: That's correct.

14 CHAIRMAN CALONE: Linda?

15 COMMISSIONER HOLMES: With reference to what  
16 Mr. Kelly was asked to state, this states that  
17 presently that the Brookhaven Lab people that  
18 stay there for a conference, have to travel the  
19 distance to Danford's which is quite away, and if  
20 that is true -- but I must say I regret that all  
21 the people that came here to speak to this  
22 project left before we had an opportunity to  
23 discuss it because, I think, it would have been  
24 very useful for them to hear this staff report  
25 and realize that what they were telling us today

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1 was not presented in the application, and we have  
2 to go by what is presented to us. I agree with  
3 Commissioner Braun sort of wrestling with whether  
4 or not could we consider it incomplete just on  
5 the basis of their oral testimony not being  
6 substantiated in the material they gave us which  
7 puts us in a position as Commissioner Bolton said



8 "Really not having enough information to know  
9 whether the application is substantial." You  
10 know, substantiated or not, I think that makes a  
11 great difficulty for us, and I think it is  
12 unfortunate that they all left.

13 MR. FRELENG: Well, what you heard to was  
14 hearsay. It is not substantiated. It was  
15 referred to us from the Town of Brookhaven. We  
16 are advisory to the Town of Brookhaven who puts  
17 the whole package together and refers it to us.

18 It is my personal experience that sometimes  
19 they don't want the Commission to know certain  
20 things so they can -- the Commission would be  
21 something in a vacuum and give a pure opinion.  
22 That may not be the case for this application. I  
23 don't know.

24 COMMISSIONER HOLMES: One wonders.

25 MR. FRELENG: Secondly, because it is

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1 hearsay, I just have to let you know that one of  
2 the sessions at the planning conference in  
3 October is going to be from Brookhaven Lab, and  
4 they're going to be discussing their Master Plan.  
5 Their Master Plan does include, as it has right  
6 now, by the way, the way it does have  
7 accomodation for guests when they visit the Lab,  
8 and their Master Plan does include future  
9 accomodation for guests which may include a  
10 hotel. So --

11 COMMISSIONER HOLMES: Would that be on the

12 Brookhaven site and not as part of this project?

13 MR. FRELENG: As part of their plan, it's on  
14 the Brookhaven Lab site. So we don't know what  
15 the demand is, and I would hazard to put forth  
16 that hearsay, is hearsay and the project sponsors  
17 are going to put the best foot forward for their  
18 project.

19 Having said that though, staff reviewed the  
20 project with the materials that was referred to  
21 us and that, therefore, precipitated the  
22 recommendations.

23 CHAIRMAN CALONE: Thank you, Andy.  
24 Charla and then Dan.

25 COMMISSIONER BOLTON: I just have a quick

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1 questi on.

2 You mentioned that this is a J-8 designation  
3 and how the statement of -- I am trying to think  
4 of the right words -- whether it is suitable --  
5 you know, to do this development and I am  
6 wondering, does a J-8 have an intent clause in it  
7 that talks about -- you know, would then make it  
8 a spot zone, but really is a policy statement of  
9 some kind regarding the use of the zone?

10 MR. FRELENG: I don't recall off the top of  
11 my head.

12 COMMISSIONER BOLTON: That would be  
13 difficult to --

14 MR. FRELENG: Well, yes, finding the  
15 floating zone. It is listed as J-1 through J-8  
16 in code and I don't remember if there was an

17 intent on it. If there was, it was very small  
18 but it is their hotel/motel zoning designation,  
19 but I don't recall to answer your question.

20 CHAIRMAN CALONE: Vince?

21 COMMISSIONER TALDONE: I have a couple of  
22 points I wanted to discuss regarding this project  
23 because that should be added in the process -- it  
24 did a little bit of information in terms of why  
25 it is 200 rooms in order to obtain a four-star

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1 status and that is one of my questions that the  
2 tail of this thing has no relationship to the  
3 unsuccessful industrial park next to it. So, I  
4 mean, it would just be huge. It's really on the  
5 part of the future development of the Brookhaven  
6 National Lab. Hopefully it will provide the  
7 customers with this really intensive use. It's  
8 basically in the vacuum. I think there is no  
9 planning rationale behind this that I can  
10 understand. If they were rezoning that whole  
11 area because of the industrial park did not work  
12 as they planned and now they're looking to go in  
13 a different direction and need this kind of  
14 four-star hotel that might make more sense to me.  
15 This doesn't make any sense as a project. There  
16 are other hotels proposed. One at Brookhaven and  
17 more at Enterprise Park which partly serves the  
18 Brookhaven National Lab, but it is intended  
19 primarily for the rest of Enterprise Park.

20 So there is an overall plan for that

21 development that includes a hotel and that kind  
22 of makes sense to me. From the information  
23 they've sent and what's represented about needing  
24 a four-star designation, to me, it's just taking  
25 up a piece of property that has very little value

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1 -- well, not very, but relatively lower value and  
2 we pick up that value because we're going to  
3 allow this developer to do something that would  
4 not be even imagined by others looking at the  
5 zoning in the area. That always makes me a  
6 little bit nervous because it is not part of a  
7 bigger plan that I can see, other than trying to  
8 tap into Brookhaven National Lab when that  
9 project gets moving.

10 So I would be supportive of what the staff  
11 had said. We got the information. It doesn't  
12 support the application, and I would be inclined  
13 to vote against it. Let them come back with more  
14 information about why this really does make  
15 sense.

16 CHAIRMAN CALONE: Thank you, Vince.  
17 Commissioner Esposito?

18 COMMISSIONER ESPOSITO: First a comment than  
19 a question. It's also when we talk about hotel  
20 availability, this Commission did recently  
21 approve a seven-story hotel in Patchogue which is  
22 only 15 minutes from this proposal here. In  
23 addition, as a side bar, which I know having  
24 served on the Brookhaven National Lab CAC for  
25 over a decade, the vast majority of visitors

1 staying are not able to stay at five-star hotels.

2 That was the comment.

3 Question, the report says that there are  
4 between 8 and 35 percent slopes on this property;  
5 can you point to where they are?

6 MR. FRELENG: Right here. (Indicating.)

7 CHAIRMAN CALONE: Near the ATV jumps.

8 MR. FRELENG: That's mostly what it is. The  
9 slope -- the property, naturally, before it was  
10 graded falls into a swell. You can just about  
11 see it here. (Indicating.) There is a little  
12 standing water and --

13 COMMISSIONER ESPOSITO: The swells on the  
14 east side, right?

15 MR. FRELENG: Yes. The swell is on the east  
16 side, so there is a little bit of a natural grade  
17 that slopes off here, but that's not the 35  
18 percent. The 35 percent is where all this has  
19 been cut and piled. It's hard to see from this  
20 angle. It is a big stockpile.

21 COMMISSIONER ESPOSITO: That's not natural  
22 swells?

23 MR. FRELENG: No, but the swell survey is  
24 calling this area -- in this corridor sand with  
25 an E, which gives you up to 35 percent slopes.

1 COMMISSIONER ESPOSITO: And also -- you said  
2 say offsite sewage disposal, would it be hooking

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up to existing --

MR. FRELENG: Yes. If we go to one of the  
aerials, you can see in the tax map -- from the  
staff report, this is the sewage treatment plant  
here. The overflow from the treatment plant goes  
into this discharged basins. So the entire --  
this would be the cul-de-sac here and these were  
all divided out into lots, so this entire  
industrial park is being served by the sewage  
treatment plant.

CHAIRMAN CALONE: Any other thoughts or  
comments?

COMMISSIONER KELLY: That is 495 and William  
Floyd Parkway?

MR. FRELENG: Yes.

COMMISSIONER KELLY: And Clare Rose is in  
the process right now developing a 270,000 square  
foot industrial or distribution center right at  
that corner and I do know that --

CHAIRMAN CALONE: That is the southwest  
corner.

COMMISSIONER KELLY: I know they do bring in  
a lot of -- national people come in and have

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conferences so this might be one spot. Also,  
having been with National Builders for some time,  
whenever we had the need for a conference area  
for a few hundred people, it was very difficult  
to find it in that area. We were on Exit 65 just  
west of this center.

CHAIRMAN CALONE: Other thoughts?

8 Josh?

9 COMMISSIONER HORTON: Just briefly on that  
10 note.

11 I appreciate all the thoughts and hard work  
12 going into this recommendation. This is sideline  
13 relevancy, but I just think we need to be very  
14 careful -- the commission when issuing opinion on  
15 the market need for hotel space, conference room  
16 space -- quite frankly, it is not our purview. I  
17 don't -- I could be wrong about that. If I am  
18 wrong, please correct me but -- you know, as  
19 Director Isles stated the market drive from a  
20 private sector will put their best foot forward  
21 and indicate that. I just -- it concerns me when  
22 we get into discussions and opinions about the  
23 need for additional conference space room or  
24 conference area or hotel rooms on the Island and  
25 --

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1 CHAIRMAN CALONE: Let me just respond to  
2 that because it is a good point. I mean,  
3 obviously, the developer sees some economic  
4 benefit doing this or they wouldn't do it. Why  
5 it's -- the only reason you're considering  
6 relevance to us is because I think a situation  
7 where you're asking for a variances of a  
8 significant amount, we need to make a decision  
9 that's -- the variance arguably is something  
10 that's, again, just standing alone. So then what  
11 would be in the benefit of public interest? Well

12 if there is a need accruing or missing, in my  
13 mind, definitely counter weights that to some  
14 degree. The fact that it is a development --  
15 it's an eager development in an area that has not  
16 seen development. Well, that counter weights  
17 that to some degree. So, I think, your point is  
18 a very good one. I think, certainly, an  
19 as-of-right or something like that, we certainly  
20 shouldn't impact -- that should not impact our  
21 thinking, but when we have to balance the public  
22 equity in various ways. We have a negative  
23 public equity arguably in the variance and that  
24 counter weights that by a positive public equity  
25 in the economic development need or not. But I

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1 agree that it is -- it is difficult for us to sit  
2 here and play developer. I think we have to  
3 assume that they believe there is a need and  
4 that's why they're doing they're project.

5 Charla?

6 COMMISSIONER BOLTON: I appreciate what you  
7 just said. I think it should be clarified for  
8 the Commission what their role is because the  
9 number of people here have said that -- you know,  
10 our role is to look at the market and I, as a  
11 planner, that it is part of our role. So I just  
12 want that clarification because I won't spend ten  
13 or fifteen minutes of your time trying to ask  
14 questions to figure out is there a need or is  
15 there not a need in the future? So, clearly, one  
16 very helpful bit of information came from Andy



17 and that is regarding Brookhaven Lab's own plan  
18 for the future which, I believe, does change the  
19 way I am going look at my vote, but that came not  
20 in this but -- you know, later in the discussion.  
21 I think we need to have that clarified then. Is  
22 that or is that not our role? Because if it is,  
23 then that, to me, has to be folded into what  
24 these applicants -- how we look at these  
25 applications.

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1 CHAIRMAN CALONE: Let me respond to that --  
2 at least the first half.  
3 I think our job is to look at things  
4 regionally and that does include development.  
5 However, we are limited by a lack of knowledge  
6 and about what is the need and we -- staff and as  
7 Andy said, it's not like we did a lot of analysis  
8 -- you know, our own conception what there is a  
9 need or not. That's something we can bring to  
10 the table here. I do believe that the  
11 development is a piece of the regional picture.  
12 Like I said, you might have something that is way  
13 against Code or against variance, but it's really  
14 important economically. We might say, "Okay, on  
15 a regional basis, it's worth doing." You can  
16 also see the flip side of that. So I do think  
17 there is a flip, but I do think that Josh's point  
18 is true in the sense that we are limited by --  
19 you know, we're bringing our best estimate of  
20 what to do to the table and it is hard to make an

21 informal decision. When it comes to the staff  
22 analysis, we're focusing on that unlike so many  
23 of the other things that staff has --

24 COMMISSIONER BOLTON: I agree with you,  
25 Dave. It shouldn't be our job. It should just

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1 be our job to make a decision about it -- the  
2 information should be before us which is what I  
3 said in the first place.

4 COMMISSIONER TALDONE: Just quickly to  
5 follow up in terms of the dollar sense about our  
6 analysis of this, and I agree with Commissioner  
7 Bolton that it is not our job to second guess the  
8 developer who is proposing a hotel -- a four-star  
9 hotel -- 200 room -- they think they can make  
10 money with it and that is great.

11 COMMISSIONER HOLMES: Five-star.

12 COMMISSIONER TALDONE: Multiple star, but  
13 that's not what I am looking -- what I am looking  
14 at is the need here. They're asking for a bundle  
15 of relief as Dave had mentioned in order to  
16 basically completely change what was the intended  
17 use of this particular site and to some benefit  
18 to the surrounding industrial park. I just don't  
19 think they made arguments. Do they think their  
20 going to make money from a large hotel here?  
21 They do and that's a good thing. I hope they  
22 make money. That's what every developer does but  
23 if they're asking the Planning Commission or the  
24 County to agree with an over-intensification of  
25 the use, there has to be some pretty strong

1 public benefit like downtown revitalization or  
 2 make other projects that are going up currently  
 3 and use them for the kinds of things I am looking  
 4 for in my own personal analysis. I don't make --  
 5 I don't second guess whether a 200 room will make  
 6 money on that spot. Should we be supporting that  
 7 kind of spot zoning without a better rationale to  
 8 us. This is unusual.

9 CHAIRMAN CALONE: Linda and then Director  
 10 Isles?

11 MS. SPAHR: If I could just address -- I  
 12 just wanted to remind the Commission that if  
 13 there is a referral process under the Code and  
 14 there is some specific guidance in the Code  
 15 itself -- this is -- I am going refer to Section  
 16 A-1423 of the County Code. This is for a  
 17 referral of variances, but there is a similar  
 18 provision in all of the different sections which  
 19 talks about what your job is and one of the  
 20 things that it says, specifically, "The Planning  
 21 Commission shall not assume for the purposes of  
 22 its deliberation, that the variance will be  
 23 granted by the pertinent town or village." So if  
 24 that helps you focus, your job here is to give  
 25 feedback in some respect and remember that the

1 town or village can either deny the application,  
 2 overrule it by -- you know, by the super

3 majority. That's why you have to give your  
4 reasons. They state their reasons if they're  
5 going to overrule this, so I just wanted to help  
6 you focus back on that, that you can't assume  
7 they're going to pass it because they're going to  
8 refer it before they make a final action. So if  
9 that is helpful.

10 CHAIRMAN CALONE: Director Isles would like  
11 to comment on that.

12 DIRECTOR ISLES: Just a little bit more on  
13 the question of the market evaluation of the  
14 site.

15 As I mentioned, we don't consider the  
16 Department's role to be doing a site review as to  
17 whether this is viable development from a market  
18 standpoint. Let me just clarify too that from a  
19 county and regional standpoint, the zoning with  
20 the rational allocation of land use is  
21 specifically for consideration of that macro-data  
22 and especially, for example, talking a lot about  
23 retail development and way of capital and retail  
24 development in Suffolk County, we think that the  
25 planning consideration -- here, again, the macro

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1 sense and should there be consideration in the  
2 application. If we're adding a million square  
3 feet, for example, to Heartland, is that  
4 something that is suitable? Is that appropriate?  
5 What are the consequences of some the impact to  
6 the existing downtown with the County's policies  
7 and so forth? So that is the sense that -- from

8 the staff's standpoint, we're not here to make a  
9 market analysis. Yes, in a broad sense, the  
10 allocation of land uses, planning questions, as  
11 repercussions of effected communities and should  
12 be considered in that broad approach. In this  
13 instance case, it has been reported, we don't  
14 require the concept of the hotel location. We're  
15 not making a market determination. Our issues  
16 are the intensification that are proposed and  
17 appear to be excessive in terms of the use of the  
18 property.

19 CHAIRMAN CALONE: Thank you, Director Isles.

20 COMMISSIONER HOLMES: Just one way to flip  
21 the coin is you could possibly use the magic word  
22 which we don't like to use. Mr. Chairman, you  
23 used the word "assume" at one point in your  
24 comment. We could equally look at this and say  
25 this developer went for Hilton and the Hilton

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1 standards because it's gave them the opportunity  
2 to say, "We're building this for Hilton," and in  
3 order to get their five-star designation, we have  
4 to have 200 rooms -- you know, again, they did  
5 not give us information in the town referral to  
6 make us know for sure which came first, the  
7 chicken or the egg. I just think that is part of  
8 our --

9 CHAIRMAN CALONE: Do you think the Hilton  
10 standards are no way binding on us but obviously  
11 explaining that now, I understand what you're

12 sayi ng.

13 Any other comments?

14 (WHEREUPON, there was no response.)

15 CHAIRMAN CALONE: If not, let me ask Counsel  
16 -- Counsel, am I allowed to ask for an informal  
17 poll of people's support of the project? Shall I  
18 say --

19 MS. SPAHR: Of the staff report.

20 CHAIRMAN CALONE: Staff report --

21 MS. SPAHR: You can have any discussi on you  
22 want.

23 CHAIRMAN CALONE: Thi s is a discussi on and  
24 the reason I am going to ask is because we only  
25 have nine of us. In order to speak -- well,

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1 eight of us so we -- for my purposes to see where  
2 people are. So for the purposes of discussi on,  
3 would any of those inclined to support the staff  
4 report and that would be for disapproval for the  
5 reason indicates. Please, you know, raise your  
6 hand?

7 (WHEREUPON, the Board voted.)

8 CHAIRMAN CALONE: Okay, fi ve. Well, I don't  
9 think there is the high likeli hood of any kind  
10 conclusi on of our staff report and so the  
11 questi on then is, is there anything short of  
12 disapproval that would be -- something that would  
13 be of interest? Some of the members who are not  
14 inclined to support -- yes, Bob?

15 COMMI SSIONER BRAUN: May I suggest that,  
16 perhaps, that we propose to approve the

17 application with conditions rather than  
18 disapprove with reasons and the conditions be  
19 that the specific plan building requires for  
20 their share of parking including the access  
21 agreement with the neighboring parcel and  
22 consider a pedestrian access, as well as, for the  
23 surrounding industrial area. In addition that --  
24 I am not sure quite how to say this, but to  
25 consider some other footprints of the building

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1 that would allow them to add the number of rooms  
2 they wanted without going to the height they  
3 requested.

4 CHAIRMAN CALONE: We can do that as a  
5 comment. Mike, are you interested in what Bob is  
6 talking about or you want to go in a different  
7 direction?

8 COMMISSIONER KELLY: I have a comment  
9 regarding the height and, again, I go back to  
10 Exit 60 where the Marriott does exist with seven  
11 stories right on the expressway. I am not as  
12 concerned with the height.

13 CHAIRMAN CALONE: Mr. Gulizio?

14 COMMISSIONER GULIZIO: I apologize for  
15 extending the discussion. Just a couple of  
16 points of background.

17 The town specifically amended their town  
18 code back, I believe, it was 2002 in connection  
19 with hotels to reduce the maximum height and the  
20 maximum number of stories. The other hotels that

21 you see at Exit 60, on the south side at Exit 63  
22 on the southeast corner, and at Exit 63 on the  
23 northwest corner, those all predated by revised  
24 code. The code was specifically done in reaction  
25 to those three or four hotels approved through

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1 Exit 60 and 63. I can point out that those  
2 hotels are -- there is also a fourth hotel. It  
3 was approved but not built at Exit 60 directly  
4 south of the existing Marriott or whatever it is.  
5 All four of those hotels would be a seven minute  
6 drive to the subject parcel. It is not an half  
7 an hour drive to Danford's being the only option.  
8 So, in terms of the availability of other hotels,  
9 again, there is at least three other hotels built  
10 between Exit 60 and the fact that a fourth was  
11 approved but not built and, again, the Code was  
12 specifically amended to reduce the maximum number  
13 of height.

14 One other alternative the Town could request  
15 of this application is simply to amend that Code  
16 to allow this type of development, but the Town  
17 at least at the present time has established a  
18 new policy zoning code which indicates the  
19 maximum height for hotels to 50 feet and  
20 four-stories -- you know, a simple mechanism if  
21 this type of development is what they would like  
22 to see, so then the Code would allow it.

23 COMMISSIONER TALDONE: That actually  
24 furthers the report of what I had said earlier.  
25 This is a spot zoning. This is a property worth



1 substantially more by the fact that we and the  
2 Town would be giving them a bundle of variances  
3 to build something that the Town does not want in  
4 other places. It just seems to me as something  
5 we should be opposed to. The Town has set its  
6 guidelines. It doesn't want the hotels by the  
7 expressway and here these people are coming in  
8 with a piece of property that was not designated  
9 for such a thing. They're looking for massive  
10 ability to put something in there that the Town  
11 has said it doesn't want overall. So why would  
12 we show any support for something that?

13 CHAIRMAN CALONE: Well, Vince, I think you  
14 -- some agree with you, but we don't have eight  
15 so that's the issue that I am just focusing on  
16 right now.

17 COMMISSIONER HOLMES: Did anyone change  
18 their mind?

19 CHAIRMAN CALONE: Tom and then I will poll  
20 again.

21 COMMISSIONER MC ADAM: I have a technical  
22 question about the shared parking and the valet  
23 service. What if that company goes out of  
24 business? Then what happens to the shared  
25 parking?

1 MR. FRELENG: Well, there is no agreement  
2 that was submitted to the Commission, so there is

3 no language on that aspect of what would happen.  
4 You could surmise that if the current landowner  
5 is know longer on that property, it shuts the  
6 gate, locks it up, and waits for the next  
7 landowner to take over. That would be a new  
8 agreement that may not happen.

9 COMMISSIONER BRAUN: What if there be an  
10 easement that runs with the land?

11 CHAIRMAN CALONE: That would have to be the  
12 agreement.

13 Dan has another comment?

14 DIRECTOR GULIZIO: I beg for the Board's  
15 permission.

16 Just in relation to the shared parking. One  
17 of the other factors from the staff's standpoint  
18 was that the site that was offering the shared  
19 parking would have a surplus of parking on the  
20 site per Code -- you know, to execute a shared  
21 parking agreement is nice and cooperative, but if  
22 they don't have more than the minimum required  
23 parking that they're required to have, that would  
24 be something that we could look at with a great  
25 deal of scrutiny from a staff's --

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1 COMMISSIONER BOLTON: Do we know?

2 DIRECTOR GULIZIO: I don't know for a fact,  
3 but my assumption based on 22 years of redoing  
4 site plans and planning, is that the site for  
5 building is a minimal required of parking  
6 required by the Town at that time.

7 COMMISSIONER BRAUN: How much time of day

8 consideration do you give that?

9 DEPUTY GULIZIO: The problem with  
10 considering the time of day, is that uses come  
11 and go. The designation is made for long term.  
12 So in one sense, even if there is almost none of  
13 the parking use currently by existing tenant, we  
14 have no way of regulating from a land use  
15 standpoint whether or not that tenant stays or  
16 goes and the next tenant can be a very parking  
17 intensive use who would not be able to  
18 accommodate any shared parking so from a long  
19 term planning standpoint, shared parking  
20 agreements are looked at with some degree of  
21 scrutiny from a staff standpoint.

22 Once again, without some downtown locations  
23 and municipal parking available, I think it could  
24 be very difficult.

25 CHAIRMAN CALONE: Okay, I would like to wrap

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1 this up. So all those -- let me poll the room  
2 again. Will those who are inclined to support  
3 the staff recommendations, please indicate?

4 CHAIRMAN CALONE: Five again.

5 Again, that would not be something that  
6 seems to have a majority of support so then going  
7 to what Bob suggested which was approval with  
8 conditions that there be shared parking with the  
9 easement that runs with the land, the issue of  
10 cross-access, and pedestrian accessibility, and  
11 perhaps a comment regarding the concern about

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height; is that right?

COMMISSIONER BRAUN: Yes.

CHAIRMAN CALONE: By means of discussion, if we could have indication of who would be in support of that kind of a motion; does that make sense? Again, as opposed to doing nothing?

COMMISSIONER TALDONE: Again, there are so many components in here, I really agree and don't understand and see where they are coming from. There might a different way as of what they're trying to approach now. Is there any way that we could also work language sort of asking for the town's rationale or that there was consideration of, as you mentioned here, the J-8 Zoning

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District that might apply or accommodate to the effect that Mr. Gulizio mentioned that a change in the code to accommodate this. One may think that making this an over-intensification of the use isn't necessarily the physicality of the project. It is the way -- you know, the way in which it is contrary to the code. So, I think, that the technical matter is that we might want to issue some conjectured comments in there.

CHAIRMAN CALONE: We certainly could include that as a comment, I think.

COMMISSIONER BRAUN: I just want to make one point about my proposal.

I would rather have them send this back with conditions, then send it back with no action as if we never heard it. At least that way, they

17 get to know what they have to overcome in order  
18 to obtain our approval. We can't come to some  
19 decision by more than eight of us one way or the  
20 other, otherwise, then it just goes back like we  
21 never heard it.

22 COMMISSIONER ESPOSITO: Okay, but let me get  
23 this straight.

24 We're proposing that instead of looking at  
25 the town zoning and recommending whether or not

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1 they're uses, we're recommending a change of  
2 zoning so that it's not an over-intensification?

3 COMMISSIONER BRAUN: No, that's not --

4 COMMISSIONER ESPOSITO: That's what I heard  
5 them say. This is not exactly what I think we  
6 want to be doing.

7 COMMISSIONER BRAUN: No, what I proposed was  
8 that we approve the application with conditions.  
9 Approve the application with conditions.

10 COMMISSIONER ESPOSITO: And one of the  
11 conditions was, what I thought I heard Josh say,  
12 was -- why don't you explain it so I understand.

13 COMMISSIONER HORTON: I will. In fact, it  
14 actually was a question which is, is there any  
15 relevance to us making note as is in the staff's  
16 recommendations because one of the  
17 recommendations or reasoning for disapproval is  
18 that, perhaps, there is -- there is J-8 zoning  
19 district, but if that's part of the disapproval,  
20 then, I think, relevant as part of anything that

21 we send back. My question was, if we were to  
22 approve it with conditions and comments, is there  
23 room for a comment is actually what I said  
24 regarding that J-8 Zoning District or what  
25 Mr. Gulizio said. That is the question that I

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1 asked. I didn't suggest that there be a  
2 condition. I did not say anything of those  
3 things. What I said was that -- you know, this  
4 is something that has been mentioned by staff in  
5 the staff report so, obviously, it is something  
6 that warrants discussion and review and I am  
7 raising that point.

8 MR. FRELENG: Mr. Chairman?

9 CHAIRMAN CALONE: Yes, Andy?

10 MR. FRELENG: Before we can certainly  
11 approve the application and the limit application  
12 to 50 feet -- on the condition that the structure  
13 be no taller than 50 feet, you can approve the  
14 application on the condition that they submit  
15 parking agreements and valet parking plans --  
16 covering all the points of the staff report, you  
17 can approve it with making the reasons for the  
18 denial, conditions for approval.

19 CHAIRMAN CALONE: Right. I think that is  
20 kind of what Bob was saying. Because of the  
21 absence of eight votes -- you know, rather than  
22 saying no and then with conditions saying yes.

23 MR. FRELENG: That's my point. The  
24 Commission has in the past limited the height,  
25 limited the number of units, limited just all

1 aspects of the project. So you do have the  
2 option of approving under the condition that it  
3 not be taller than a certain amount or a certain  
4 number of rooms.

5 COMMISSIONER HOLMES: In other words, to  
6 conform to the present Brookhaven Code that Dan  
7 had mentioned?

8 CHAIRMAN CALONE: Yes. I think we're on the  
9 same page. I think the issue that Josh raised is  
10 still an open issue. I don't know the answer to  
11 it which is -- should we include as a comment on  
12 the lines of the last paragraph saying that we do  
13 believe that site could be developed an L-1  
14 Zoning. What you're saying to be developed in  
15 the L-1 zoning, you're saying that this project  
16 would have to change for it to be used.

17 COMMISSIONER BRAUN: For it to be useable in  
18 an industrial park.

19 MR. FRELENG: The site is zoned for L-1 and  
20 it is suitable for an L-1 use.

21 COMMISSIONER TALDONE: It could include  
22 hotel use but not to this scale.

23 COMMISSIONER HOLMES: I would like to --

24 MR. FRELENG: No, the L-1 Zone does not  
25 permit that.

1 CHAIRMAN CALONE: Which is why they want to  
2 change it to a J-8.

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MR. FRELENG: That's correct.

CHAIRMAN CALONE: Then within the J-8, they're asking for certain changes with rights.

MR. FRELENG: That's correct.

COMMISSIONER HOLMES: Could we get, Andy, to articulate those conditions again? Could you write them down so that we could vote on that because that is something I could understand and go along with.

CHAIRMAN CALONE: I understand that. Let's just see if there are any other conversations about what could be conditions that we would consider, and then what I will do is, I will repoll the room and see if that changes anything.

What I heard Bob say was the condition on the shared parking. I heard a condition on with shared parking, cross-access for pedestrian accessibility, and then what Andy said was a condition of 50 feet. I haven't heard anyone from this table say that though. I think those were the main ones we have here. The energy efficiency and public safety, I think, those would both be conditions that those guidelines be

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conformed to if we're going to see --

COMMISSIONER HOLMES: You said 50 feet in height and then you said what else? Because I would want to add those to the conditions.

MR. FRELENG: Director Gulizio's made the suggestion to the Board, that the Board could approve it on the condition that it conform to



8 all the J-8 requirements which includes height  
9 and buffering and all the other requirements.

10 COMMISSIONER HOLMES: That's a very simple  
11 way. How about that, Bob?

12 COMMISSIONER BRAUN: (No response.)  
13 (WHEREUPON, there was laughter.)

14 CHAIRMAN CALONE: Does anyone have any  
15 response to what Andy just said which was you can  
16 make it -- my question would be, what are the  
17 requirements of the J-8 Zoning District?  
18 Basically, you can have a hotel there, but there  
19 would be all these --

20 COMMISSIONER BRAUN: Parking and the height  
21 and all that other stuff.

22 COMMISSIONER HOLMES: So, would we say as  
23 long as this conforms with the J-8 and then the  
24 list for J-8?

25 MR. FRELENG: I don't think we need to do

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1 that.

2 CHAIRMAN CALONE: The J-8 would basically be  
3 what he said. That would obviate the need for  
4 the valet parking.

5 COMMISSIONER BRAUN: Approve the changes in  
6 zone, but not the variances, is what we're  
7 saying.

8 CHAIRMAN CALONE: That would make sense.

9 I would like to see comments on that -- see  
10 what people think because that really is changing  
11 the process.

12                   COMMISSIONER HORTON: I have a legal and  
13                   procedural question and that is, are we -- if  
14                   this change of zone is approved by the town  
15                   board, and I have been on the town board for  
16                   approved changes in zoning, but I don't recall  
17                   ever having to approve the change of zone and  
18                   then the town board issue variances. That is  
19                   something that should be identified by the Board  
20                   of Appeals. The Zoning Board of Appeals is a  
21                   board that operates outside of the town board.  
22                   So, are the variances relevant as it relates to  
23                   this at all any way?

24                   COMMISSIONER BRAUN: That was my first  
25                   question. How did this come to us as a change of

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1                   zone and variances from the new zone at the same  
2                   time?

3                   COMMISSIONER HORTON: It seems very  
4                   confusing to me.

5                   CHAIRMAN CALONE: Andy?

6                   MR. FRELENG: It comes to the Planning  
7                   Commission as a change zone with an attached  
8                   conceptual plan and that proposal is for a  
9                   seven-story structure, and they're requesting  
10                  those variances on their plan. So that is the  
11                  information that has been provided to us.

12                  COMMISSIONER HORTON: Would there have to be  
13                  a separate referral for the variances then?

14                  MR. FRELENG: Well, Deputy Director Gulizio  
15                  is a little bit more familiar with the Brookhaven  
16                  Code, off the top of his head, than I am.

17           The Planning Board and the Town Board have  
18           certain powers that they delegated or kept with  
19           each other so I don't know. Dan, if you can  
20           speak about --

21           DEPUTY GULIZIO: The Town amended its Code  
22           through its own rules which are to empower the  
23           town board for the variances and that's why our  
24           case was pending before this change of zone and  
25           special permits. So the variances involved would

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1           be the change of zone which are the same here  
2           given by the town board.

3           CHAIRMAN CALONE: So we could say what we  
4           want. The outcome is still the same. You're  
5           saying the variances will be considered --

6           COMMISSIONER TALDONE: So those variances go  
7           through the change of zone and the change of zone  
8           is approved by the town board as amended, here,  
9           before us, and there will be no further review by  
10          the Zoning Board of Appeals on those variances?

11          DEPUTY GULIZIO: That is correct.

12          CHAIRMAN CALONE: Linda?

13          MS. SPAHR: I think what I understand is  
14          that both of those applications that would be  
15          considered jointly by the town have been referred  
16          to the Planning Commission, so both of them are  
17          before you; is that correct?

18          CHAIRMAN CALONE: Yes.

19          MS. SPAHR: So it is a single application?

20          CHAIRMAN CALONE: Yes, we don't get two

21 bites of the apple. We typically wouldn't in a  
22 situation like this. You're saying that this is  
23 a unique situation.

24 MS. SPAHR: Yes, you have one bite at two  
25 apples.

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1 (WHEREUPON, there was laughter.)

2 CHAIRMAN CALONE: Vince, then Tom, and then  
3 let's wrap this up.

4 COMMISSIONER TALDONE: Do we know if the  
5 property owner for this application is the same  
6 owner as the rest of the industrial park?

7 MR. FRELENG: I have no knowledge of that.  
8 I don't believe it is.

9 CHAIRMAN CALONE: The LLC has been provided.  
10 It may have been the same.

11 COMMISSIONER HORTON: I am just curious how  
12 much of spot zoning is this? Is this the owner  
13 of the entire industrial park trying to come up  
14 with an anchor use that would help generate more?  
15 Then it starts to make some sense. Is it an  
16 individual owner who just wants to talk zoning  
17 for something he didn't pay for?

18 CHAIRMAN CALONE: It's a fair question but  
19 we don't know.

20 COMMISSIONER MC ADAM: If we approve it, and  
21 we have conditions, and somewhere along the line  
22 the project changes -- let's say that the  
23 applicant changes the project, would that come  
24 back to us again? That is one of the questions I  
25 have.

1           The other thing is, if we disapprove --  
2           let's say, we disapprove it the way it was -- the  
3           way it was submitted and it goes back to the  
4           Town, they can make the changes and it would have  
5           come back to the Planning -- back to us anyway;  
6           do you understand that?

7           MR. FRELENG: The Administrative Code reads  
8           there is a substantial difference to the  
9           application, and it should be referred but that  
10          call is made by the locality on what is a  
11          substantial difference. So if the Commission  
12          takes an action and the applicant's go back to  
13          the drawing board and redraw their map and give  
14          the local board another map, it's up to the local  
15          board whether it should be -- the referment is on  
16          the local board on whether or not it should be  
17          referred to the Commission again or not.

18          COMMISSIONER MC ADAM: So whether we approve  
19          it or disapprove it, and we have provisions to go  
20          back to the applicant and then the applicant  
21          would have to revise it, get it back to the town,  
22          and then refer it to us.

23          MR. FRELENG: Your recommendation goes back  
24          to the town. It's the town's prerogative to  
25          decide what to do with that recommendation. They

1           can say, "We have a disapproval from the  
2           Commission, so do you want it to go back to the

3 applicant? Do you want it to go back to the  
4 drawing board and resubmit the changes," but the  
5 recommendation of this Commission goes back to  
6 the Board, in this case, the Town Board and they  
7 would decide what to do with their  
8 recommendation. They can override the Commission  
9 and leave the map as is or they could go back to  
10 the applicant to see if they meet all the  
11 requirements.

12 CHAIRMAN CALONE: Linda?

13 MS. SPAHR: If I may just -- I think what  
14 happens after you render your report is you set  
15 very, very specifics in the code which are based  
16 on state law. So if you want me to tell you  
17 exactly what it says in the Code, I can do that  
18 but in any event, they don't just get to decide.  
19 If you disapprove, you have to state your reasons  
20 why you disapprove it and then by a super  
21 majority override, they can pass it as originally  
22 proposed. If you make recommendations or require  
23 -- if you require changes, then they need the  
24 super majority to pass what was initially  
25 proposed, or they can pass it in the ordinary

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1 course of things, but they're going along with  
2 the changes.

3 The bit about whether it has to be  
4 re-referred -- if they don't pass it -- if you  
5 reject it and they don't pass it or if you do  
6 approve it -- I am sorry -- if you do approve an  
7 action and then the proposal changes and are

8 significant after that, that's when they have to  
9 make that determination. I think that's really  
10 what Andy was referring to about whether it is so  
11 different or it requires a new referral, but the  
12 steps that they would have to take after you make  
13 your determination are very, very clear and  
14 specify it to the law. Then as for the review  
15 process, if the Town went forward, that could  
16 confirm the specific steps written in the Article  
17 78.

18 CHAIRMAN CALONE: Here's where we are.  
19 There is no consensus on agreeing to this  
20 approval. Also, there is no consensus on  
21 agreeing to without conditions. So, Bob, had  
22 made two suggestions. One was, the motion for  
23 approval with a handful of conditions. The  
24 difference between that and what Andy said is  
25 that if you say that it has to be consistent with

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1 the J-8 zoning, it treats all those conditions as  
2 one bundle. The Town would say, "Okay, we either  
3 address all of these or none." What Bob  
4 originally proposed was, let's say, three  
5 conditions. I don't know the exact number but  
6 let's say it was three. Then the Town Board  
7 would take each of those individually. So they  
8 could say, "We want to -- we want to override on  
9 the height because we think the height is fine,  
10 but we agree on the parking issues." So that  
11 should have some sort of a -- so that is the

12 practical difference between having it the way  
13 Andy said as one bundle and the way Bob said it  
14 which was individual conditions.

15 I think your only -- it sounds to me the  
16 only option here if we're going to pass anything  
17 would be to do one of those two things. I don't  
18 even know if we have eight folks for that. I  
19 think one of those two is an option instead of  
20 saying --

21 Mr. Kelly?

22 COMMISSIONER KELLY: Just in regard to Bob's  
23 comment regarding our decision and going back to  
24 the Town and approving the J-8 zoning, that still  
25 leaves two variances that the Town Board can

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1 approve on their own.

2 COMMISSIONER BRAUN: Does it have to be by a  
3 super majority?

4 COMMISSIONER KELLY: That's a question for  
5 Dan.

6 DEPUTY GULIZIO: If the Town were to ignore  
7 the Board's recommendation -- the Commission's  
8 recommendation to comply with the J-8  
9 requirements and to issue variances, it would  
10 need a super majority to override that as a  
11 condition.

12 CHAIRMAN CALONE: Okay, what I would like to  
13 do is poll on both of those and see if we have  
14 any and, if not, we're just going to move on and  
15 not waste our time.

16 The first thing I would like to poll on is



17 that motion that we approve with individual  
18 conditions, those being, should there be shared  
19 parking -- that there be shared parking -- I  
20 mean, an easement or some kind of cross-access,  
21 pedestrian issues, and the height issues. So  
22 those are four separate conditions for approval.

23 Would those who would be inclined to support  
24 that, please indicate?

25 CHAIRMAN CALONE: Let's go back and then the

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1 other option was doing the approval with the  
2 conditions and that it just be J-8 and that it  
3 would be funded through --

4 COMMISSIONER HOLMES: What is riskier, Tom,  
5 would you know that?

6 CHAIRMAN CALONE: Well, I would just say --  
7 asking them to take it one-by-one leaves open the  
8 Town to say some issue are to be upheld, but it  
9 also means that some of them might do them  
10 individual or doing as a group it is a little bit  
11 more and that means they uphold those conditions.

12 COMMISSIONER HOLMES: In other words, the  
13 second one that Andy mentioned, would be that we  
14 would approve if it if it conforms with the  
15 present Brookhaven Zoning --

16 MR. FRELENG: With the J-8 zoning?

17 COMMISSIONER HOLMES: With J-8 Zoning?

18 CHAIRMAN CALONE: So they would be changing  
19 the zone with no variance.

20 COMMISSIONER HOLMES: Right. Is that right,

21 Dan? That if we went for Andy's thoughts that,  
22 that would mean -- you know, that we approved it  
23 as long as it meets the J-8 provisions -- what  
24 we're really saying is, as long as it meets the  
25 present Brookhaven Town Code for a J-8?

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1 CHAIRMAN CALONE: For a J-8, right.  
2 COMMISSIONER BRAUN: What we're also saying  
3 is that any of the conditions that they want to  
4 permit require a super majority.  
5 COMMISSIONER HOLMES: Yes, so it's stronger  
6 -- the second -- what Andy proposed is stronger?  
7 CHAIRMAN CALONE: It's more restrictive.  
8 It's all or none. You can't pick or choose.  
9 We're game playing how this would play out. We  
10 can't pick or choose.  
11 Let me run a poll on that.  
12 All those in favor of that?  
13 CHAIRMAN CALONE: Five.  
14 COMMISSIONER BRAUN: As opposed to nothing,  
15 yes.  
16 COMMISSIONER TALDONE: Can you just go  
17 through -- there are two votes.  
18 CHAIRMAN CALONE: We're not voting on it.  
19 This is a discussion -- it's just  
20 considering and as simple as it is with the same  
21 criteria we put forward -- is it the way Andy  
22 said, bundle all of them?  
23 COMMISSIONER KELLY: That was the second  
24 thing?  
25 CHAIRMAN CALONE: That was the second thing

1 and then the first one was the way Bob originally  
2 articulated it. It would be one at a time.

3 Now, you can say that you would be for it  
4 here -- there is's motion here that was made.  
5 That's fine. I just wanted to see whether we  
6 have people for either of them.

7 COMMISSIONER BOLTON: Could I just say one  
8 thing?

9 CHAIRMAN CALONE: Yes.

10 COMMISSIONER BOLTON: One, I promise.

11 Dan kind of mentioned in the way of saying  
12 -- saying that Brookhaven had decided to change  
13 the number of stories, et cetera, in the J-8 in  
14 order to -- I mean, was the decision really a  
15 Comprehensive Plan decision? For me, the fact  
16 that the second recommendation to approve  
17 including meeting all the J-8 conditions makes  
18 sense from a Comprehensive Plan standpoint and  
19 for that reason, I would prefer to see it as the  
20 second -- as that -- that scenario rather than  
21 the first with the individual one because I think  
22 that recognizes Brookhaven's effort to do this  
23 comprehensive planning.

24 CHAIRMAN CALONE: I understand that, and the  
25 reason I asked why as a opposed to nothing

1 because you would be faced with one of those or  
2 nothing. So the question was, do we have eight

3 votes for one of these? I understand you would  
4 prefer -- if you had the choice to choose one or  
5 the other -- just a little bit much to present  
6 ourselves with. It's going to be one thing or  
7 nothing. This is just saying something. This is  
8 taking way too long.

9 We have issues with people needing to go and  
10 stuff. I apologize. I don't remember what the  
11 count was on the second so I want to see if you  
12 would vote for the bundle?

13 COMMISSIONER HOLMES: I would vote for the  
14 bundle, but I would vote for --

15 CHAIRMAN CALONE: That's fine. You already  
16 said --

17 Any other comments or questions?

18 (WHEREUPON, there was no response.)

19 CHAIRMAN CALONE: I want to make a motion  
20 that we adopt -- that we un-move the following  
21 motion which is that we approve the application  
22 with the following conditions and those  
23 conditions are -- are somewhere.

24 (WHEREUPON, there was laughter.)

25 CHAIRMAN CALONE: The following conditions

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1 are that there be shared -- an easement related  
2 to shared parking and a plan for shared parking  
3 proposed that there be cross-access and that  
4 there be pedestrian and motor easements, and also  
5 that the height of the structure be limited to --

6 COMMISSIONER HOLMES: Can we say in  
7 accordance with the town zoning?

8 CHAIRMAN CALONE: No, they know what they're  
9 talking about.

10 I'm looking for a second?

11 COMMISSIONER BRAUN: I'll second it.

12 CHAIRMAN CALONE: Second by Commissioner  
13 Braun.

14 (WHEREUPON, the Board voted.)

15 COMMISSIONER HORTON: Are you going to  
16 included the energy efficiency?

17 CHAIRMAN CALONE: Yes, I apologize. It is  
18 also included in the condition that they review  
19 the project for energy efficiency and public  
20 safety.

21 COMMISSIONER HORTON: Thank you for that,  
22 Mr. Chairman.

23 COMMISSIONER HOLMES: Would you read that  
24 again?

25 CHAIRMAN CALONE: That there be approval

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1 with the following conditions: Utilize shared  
2 parking and parking optimization practices  
3 including an agreement -- including an easement  
4 to allow for offsite parking and that there be  
5 motor or pedestrian -- motor and pedestrian  
6 cross-access to the adjacent properties. Also,  
7 that there be will energy efficient and public  
8 safety guidelines to be incorporated and that the  
9 height be no more than 50 feet.

10 That's the motion. Can I have a second?

11 COMMISSIONER BRAUN: I seconded that.

12 CHAIRMAN CALONE: All in favor of that  
13 motion, please raise your hand?  
14 (WHEREUPON, the Board voted.)  
15 CHAIRMAN CALONE: Eight.  
16 All opposed?  
17 (WHEREUPON, the Board voted.)  
18 CHAIRMAN CALONE: Zero. The motion passed.  
19 On to the next application.  
20 The Education and Cultural Fund of the  
21 Electrical Industry.  
22 It's actually June everyone.  
23 (WHEREUPON, there was laughter.)  
24 ACTING CHAIR ESPOSITO: The next  
25 application, I think, Teddy will be presenting it

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1 to us. Town of Southold, let's rock 'n' roll.  
2 MR. KLEIN: This application is from the  
3 Joint Industrial Board of Electric Industry  
4 referred to the Commission by the Town of  
5 Southold. The commission jurisdiction is the  
6 Long Island Sound in New York State, Agricultural  
7 District #1.  
8 This property is located on the eastern side  
9 of Duck Pond Road and the shoreline of the Long  
10 Island in the Hamlet of Cutchogue.  
11 This is a variance application as submitted  
12 for the construction of a three-story 18,000  
13 square foot conference facility upon land having  
14 slopes equal to greater than 20 percent. Also,  
15 in addition to this variance is a "as built" deck  
16 which is the Nixon Motel which will see to a

17 setback of not covered requirements.

18 The size of the parcel is 16.59 acres. This  
19 application is regionally significant based on  
20 the threshold of the east-end towns, and its  
21 proximity to the Long Island Sound. This  
22 property is presently approved with a member's  
23 only motel which includes several one and two  
24 story structures and the physical character to  
25 site is that it is located on a natural break and

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1 bluff-line and the is location on a pond.

2 So the conditions show a filled material and  
3 a 1930's aerial shows impression that might have  
4 contained water, hence the name Duck Pond Road,  
5 which is the only particular access to the site.  
6 The area is currently single family in nature to  
7 the west and the east and agricultural to the  
8 south.

9 The zoning and parcel primary residential  
10 show -- residential to some agricultural  
11 conservations in the south. The proposed  
12 conference facility is the permitted use and  
13 would be in accordance with the County zoning  
14 code and Southold local waterfront revitalization  
15 programs.

16 It will not encroach upon with the  
17 agricultural operation to the south. All  
18 construction work will comply with that energy  
19 code. The proposed 18,000 square foot conference  
20 facility is proposed to be constructed upon the

21 northeast portion of the property in an area  
22 containing the most steepest slopes located on  
23 the property that is still naturally wooded.

24 You can see the -- the shaded area of the  
25 slopes are pointing to something greater and the

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1 conference facility proposed is right in there.

2 ACTING CHAIR ESPOSITO: What is the sense of  
3 the whole parcel?

4 MR. KLEIN: Sense of the whole parcel?

5 COMMISSIONER ESPOSITO: Yes.

6 MR. KLEIN: I don't know. The referenced  
7 material included vast criteria that is reasoning  
8 for the request. Briefly stated, they were, one,  
9 no undesirable change to the neighborhood would  
10 occur. Two, benefit store cannot be achieved by  
11 some other method. Three, the amount of the  
12 relief stored is not substantial. Four, it will  
13 not have an adverse impact on the physical  
14 environment. Five, the alleged difficulty is not  
15 self-created.

16 The material also noted in compliance with  
17 the town stormwater runoff code which is based on  
18 stormwater management programs. The programs for  
19 proposed stormwater runoff control has been  
20 approved by New York State DEC.

21 I will show some photographs of the proposed  
22 -- this is from Duck Pond Road looking to the  
23 east and that is -- this is the conference  
24 facility proposed in that area. Also to the  
25 right -- right back here and looking forward to



1 the shoreline and then back here -- so after  
2 reviewing the survey provided, there appears to  
3 be an alternative location for the construction  
4 of the proposed conference facility.

5 Staff recommends a decision of local  
6 determination so the variance associated with the  
7 "as built" deck of the motel structures, and  
8 disapproval of the variance for the proposed  
9 conference facility to be built on slopes equal  
10 to or greater than 20 percent for the following  
11 reasons:

12 The proposal is not in conformance with  
13 Condition #1 of the approval of the site plan for  
14 the property that the Planning Commission adopted  
15 at their meeting on March 4, 2009, of which  
16 required the following:

17 The location of the proposed conference  
18 facility shall be moved away from the natural  
19 steep slopes and wooded areas to limit their  
20 disturbance and the creation of potential erosion  
21 and stormwater runoff problems. That is the  
22 staff report.

23 CHAIRMAN CALONE: This is a Southold  
24 project. The Southold project, Tom, if you have  
25 any comments or questions?

1 COMMISSIONER MC ADAM: I think the question  
2 I have is why we have a back -- if the location

3 of the slope problem was a condition the first  
4 time in March, why are we getting it back here?

5 MR. KLEIN: That was the first application.  
6 This is a variance application. I assume the  
7 Town is waiting for the variance -- you know, the  
8 application to be resolved.

9 COMMISSIONER BRAUN: I'm sorry. Did they  
10 override our conditions the last time in getting  
11 to the next step?

12 MR. KLEIN: Well, I don't know that  
13 information.

14 COMMISSIONER BRAUN: What if we create a  
15 condition that would --

16 MR. KLEIN: That was a site plan  
17 application. This is a variance application.

18 COMMISSIONER BRAUN: I understand. The site  
19 plan application was approved with the condition  
20 that the site plan move that building, and now  
21 we're getting the same thing back with a variance  
22 to the place -- with the building in the same  
23 place, and it would appear that the Town has  
24 already overridden our conditions, wouldn't it?

25 MR. KLEIN: I don't believe they've acted on

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1 it.

2 CHAIRMAN CALONE: So the two different  
3 boards are operating on two different time tables  
4 here.

5 COMMISSIONER TALDONE: So different boards  
6 but the same issue.

7 CHAIRMAN CALONE: That would be my guess.

8 People from Southold is that what is happening?

9 COMMISSIONER HORTON: I think it operates on  
10 a clock -- time zoning -- it sounds to me that  
11 this referring agency is the Zoning Board of  
12 Appeals.

13 CHAIRMAN CALONE: It seems unusual that it  
14 would go in that order, right?

15 COMMISSIONER HOLMES: So we don't know --  
16 would you clarify -- would you ask that question.

17 COMMISSIONER TALDONE: Tom asked the  
18 question but maybe Josh can clarify this phase.

19 COMMISSIONER HORTON: At this phase, we have  
20 it from the Zoning Board of Appeals and,  
21 obviously, the same issue as last time present  
22 themselves. Tom, is there anything you would  
23 like to add to the Southold?

24 COMMISSIONER MC ADAM: No.

25 CHAIRMAN CALONE: Josh, anything you would

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1 like to add?

2 MR. HORTON: No.

3 CHAIRMAN CALONE: Then we will vote on a  
4 motion.

5 Charla?

6 COMMISSIONER BOLTON: I just want to move  
7 that we adopt the recommendation of the staff  
8 report.

9 COMMISSIONER TALDONE: I will second that.

10 CHAIRMAN CALONE: I wasn't quite ready. I  
11 want to make sure there is no other comments and

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that is very much appreciated.

13 The motion has been made to adopt the staff  
14 report. Seconded by Commissioner Talone.

15 All in favor?

16 (WHEREUPON, the Board voted.)

17 CHAIRMAN CALONE: Nine to zero.

18 Thank you, Ted.

19 Obviously, we have an efficiency expert  
20 right here. Thank you, Adrienne.

21 Next we have the Harbes application.

22 MR. KLEIN: It was brought to the Commission  
23 by Peter Harbes. It is referred to us by the  
24 Town of Southold. Its location is on the west  
25 side of Aldrich Lane, I believe. Approximately,

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1 1200 feet south of Sound Avenue in the Hamlet of  
2 Laurel. The jurisdiction review is the municipal  
3 boundary line of the Town of Riverhead. This  
4 property is also regionally significant based on  
5 size with the eastern town threshold.

6 Zoning of the application -- zoning of the  
7 property is AC agricultural -conservation with a  
8 minimum lot area of 80,000 square feet which is  
9 also the same as Riverhead's adjacent APZ  
10 Agriculture Protection Zoning. The land use --  
11 the present land use is agricultural and also it  
12 is agricultural to the southwest and north and  
13 residential to the east which is across the  
14 street.

15 The property is mostly leveled and cleared.  
16 The proposed subdivision -- the applicant is

17 proposing subdividing 22.2 acres. It's a three  
18 residential lot. One has an agricultural preserve  
19 lot. Environmentally, there are no water bodies  
20 or map wetlands on the property. It's not within  
21 a groundwater protection zone or New York State  
22 critical environmental area.

23 The comprehensive plan -- it's low in  
24 density and agricultural which is consistent with  
25 the application. This is a -- the applicant is

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1 proposing sketch plans for the subdivision for  
2 four lots. The sketch plan proposal is part of  
3 the application process. You have a property  
4 designate in the Town of Southold called the Open  
5 Development Area or ODA by the town board.

6 Pursuant to local law, the sketch plan is  
7 the final review done by the Planning Board. The  
8 ODA requires that at least 35 percent of the  
9 building local land is developed in perpetuity  
10 with access.

11 The proposal is an 80/60 conservation  
12 subdivision. Where at least 80 percent of the  
13 buildable land is preserved and which the density  
14 is reduced by at least 60 percent.

15 Stated yield for the second parcel is 12  
16 lots, therefore, the proposed four lots would be  
17 a reduction of 66.7 percent and Lot 4  
18 agriculturally reserve totals in area of 18.4  
19 acres represents 83 percent of the total area of  
20 the preserved opened space -- to be preserved as

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open space.  
Town code states that active agricultural land with farm may be used to meet the minimum for the open space requirement.  
The sketch plan shows lot -- the sketch plan

shows 41 proposed greenhouses. Each one is approximately 3,750 square feet for a total area of 154,239 square feet of greenhouse cover which computes to 19 percent of agricultural reserve of their lot and it is consistent with the town's open space with AC zoning requirements.

Staff recommends approval of this application with the comments stated in the staff's report.

CHAIRMAN CALONE: Any questions? Another Southold issue, Tom?

COMMISSIONER MC ADAM: Yes, on Lot 4, is that -- you're recommending approval but with a comment that, that lot should be easement using it for agricultural use only. Did the town propose that in the first place? In other words, usually what they do is they will do something like this and say -- you know -- the largest lot has to be preserved in some way and we're just using it -- we're recommending it as a comment and not as a condition. Did they --

MR. KLEIN: I did not write the staff report but the comments are -- you know, in conformance with commission guidelines for agricultural subdivision.

1 CHAIRMAN CALONE: So I guess the question  
2 is, whether there should be conditions?

3 COMMISSIONER MC ADAM: Yes.

4 COMMISSIONER HORTON: If I may and I may  
5 make be incorrect and Tom may have more  
6 information about it then I do, but it seems that  
7 I believe the County may have or may be if they  
8 haven't closed it -- may working towards or  
9 purchasing the development rights on that -- we  
10 may need the parcel and when they do purchase the  
11 development rights, the Town has a host of  
12 stipulations and restriction and things that go  
13 along with that for that property because that  
14 traditionally takes place with conservation  
15 subdivisions.

16 COMMISSIONER MC ADAMS: I understand as  
17 well.

18 COMMISSIONER HOLMES: That the Town is  
19 considering purchasing the fourth lot.

20 COMMISSIONER HORTON: They've been  
21 considering it already.

22 COMMISSIONER BRAUN: Purchasing the lot or  
23 purchasing the development?

24 COMMISSIONER HOLMES: The development.

25 COMMISSIONER HORTON: A or B? Purchasing

1 the development of that parcel like it is and  
2 when the town purchases the development rights,

3 that leaves the title -- the ownership of the  
4 seller to the dirt, if you will, with very  
5 restricted capabilities to do that.

6 COMMISSIONER HOLMES: Would the Town  
7 development rights address the runoff questions  
8 which, to me, is quite significant because I know  
9 that area.

10 COMMISSIONER HORTON: I don't know -- my  
11 answer is actually to Tom which is probably see  
12 both comments as to conditions.

13 CHAIRMAN CALONE: Mr. Kelly?

14 COMMISSIONER KELLY: Is that the development  
15 rights to the entire site or just Lot 4?

16 COMMISSIONER HORTON: Lot 4 conservation  
17 subdivision section of the Southold Town Code, as  
18 I said here, 86/60 conservation subdivision.  
19 Those three smaller lots are actually residential  
20 building lots, and the fourth lot which is that  
21 larger flag lot would be agricultural, as well,  
22 and the Town most likely has or will buy building  
23 department rights.

24 CHAIRMAN CALONE: Okay. Thank you, Josh.  
25 Charla?

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1 COMMISSIONER BOLTON: I just had a question  
2 for Tom.

3 This is a planning point of information.  
4 All of those greenhouses, isn't that pretty  
5 intensive for an agricultural parcel? It's not  
6 -- I mean, I don't know because I am not familiar  
7 with the zoning and provision size or the



8 anything, but it just seems to me to be really  
9 intensive.

10 DIRECTOR ISLES: I can't comment  
11 specifically on Southold requirements. I can  
12 speak on the County's requirements and the  
13 County's program. The County Farmland Committee  
14 adopted guidelines last year to restrict  
15 greenhouse PDR. The key issue -- there was a  
16 couple of issues. In terms of stormwater runoff,  
17 we have a larger issue that should be dealt with.  
18 I think in this case, it is the rear end of the  
19 property behind the dwelling units and so forth.  
20 So, I think, they're making an attempt to keep  
21 away from other residential properties. But here  
22 again, specifically, Southold's Code, I cannot  
23 comment on that other than this level seems to be  
24 at the high end of experts with practices that  
25 are existing on the east end.

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1 CHAIRMAN CALONE: So do any of the Southold  
2 guys have any sense of -- this strikes me as a -  
3 COMMISSIONER HORTON: Yes. I mean,  
4 actually, it was a large component of the  
5 legislative intent, and that guideline is a  
6 particular process and -- you know, the amount of  
7 greenhouse and space -- greenhouse space that is  
8 being proposed here would be regulated by the  
9 Town. If the town purchases the development  
10 rights and the town, quite frankly, did a very  
11 good job of guiding issues related to the

12 agricultural industry and uses of the property.

13 COMMISSIONER HOLMES: I think it's worth  
14 mentioning that the -- if you had ever driven  
15 past the Harbes Farm and Berry Farm which are on  
16 the opposite side of the road that stands, it is  
17 wall-to-wall people in the late Summer and the  
18 Autumn. They do a tremendous business with their  
19 berry farm and with their produce stand, and the  
20 number of green houses leads me to believe that  
21 they're going to be selling raspberries all year  
22 or something but, I mean, they already have a  
23 tremendous operation.

24 COMMISSIONER HORTON: Two different names.

25 CHAIRMAN CALONE: Well, thank you.

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1 Yes, I think what they are doing with other  
2 parcels is -- you know, interesting but not  
3 necessarily good -- a good point, the other  
4 Harbeses are certainly a good thing commercially  
5 for that area.

6 Any other comments?

7 (WHEREUPON, there was no response.)

8 COMMISSIONER BRAUN: I make the motion.

9 COMMISSIONER ESPOSITO: Second.

10 CHAIRMAN CALONE: Seconded by Secretary  
11 Esposito.

12 All those in favor?

13 (WHEREUPON, the Board voted.)

14 CHAIRMAN CALONE: Nine to zero.

15 Thank you, Ted and thank you, Andy.

16 The County's Comprehensive Plan, as I said,  
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17 Tom had covered it mostly. Tom can speak for a  
18 minute about our next steps. We have the press  
19 release that went out this morning from the  
20 County Executive. I will say that -- you know,  
21 in the meantime, Tom and I had a -- I mentioned  
22 earlier the County Executive was very supportive.  
23 It's great to have him involved in support,  
24 obviously, of the Planning Commission Department.

25 As I mentioned, we do have -- I am sorry --

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1 we have a Comprehensive Plan Advisory Committee  
2 or Liaison committee on this group and the people  
3 who are on that are Charla, Barbara, Joe, Tom  
4 McAdam, and myself. If any others are  
5 interested, please let me know but we have  
6 exactly five folks who are kind of Liaison with  
7 the Department going forward as we're working on  
8 this Comprehensive Plan. It is a critical  
9 requirement of the commission. It is something  
10 fundamental for the Planning Commission to be  
11 doing so it is exciting that we're starting.

12 Tom, is there anything else you want to say  
13 with respect to the next steps on this?

14 DIRECTOR ISLES: I think what I would like  
15 to see is the first meeting with the Advisory  
16 Committee from the Planning Commission for the  
17 month of September -- maybe the first half of  
18 September -- now that we have the names and if  
19 there are any others, what we'll do is reach out  
20 to those members and schedule a meeting time

21 perhaps next month with the planning commission  
22 committee.

23 Secondly, the first phase of this project  
24 and it is on a one year timeframe. We will be  
25 gathering information, getting background

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1 information. The second phase will be on public  
2 intensive -- we will have public participation  
3 and we're looking at something in the Fall to  
4 kick this off to have some series of meetings to  
5 engage the public, and also to engage some of the  
6 municipalities and the town planning directors  
7 and so forth. We are mapping out that strategy  
8 with the understanding, of course, the budget  
9 personnel limitation, but we're going to put that  
10 together as much as we can and make it available.

11 The last point this is not being done in a  
12 vacuum. It is being done cognizant of the  
13 regional planning councils work -- the visioning  
14 and planning they're doing, as well as, the  
15 ability in the planning also to be done  
16 consistent with the municipal plan some of which  
17 were recently done and some are in preparation  
18 right now.

19 We will especially be using the public  
20 outreach that occurred through the LI2035 profits  
21 for the regional planning council. So we're off.  
22 Dan Gulizio is the project manager and has been  
23 working with the Department. Staff members are  
24 kicking into high gear now that the project has  
25 commenced and we'll keep the Commission informed

1 as.

2 CHAIRMAN CALONE: One thing I will note is  
3 that if you can all take a look at the press  
4 release -- the County Executive particularly  
5 highlighted that looking at housing which allows  
6 in population in place. Something that is very  
7 important. He explicitly mentions that in the  
8 press release. Economic development, job  
9 creation, and many of the issues that we deal  
10 with any individual projects as well as the  
11 future as a county. So I commend the press  
12 release to you in terms of an overview.

13 Last item on our agenda is the  
14 intermunicipal agreement and then Dan is just  
15 going to give a brief overview of where we are.

16 DEPUTY GULIZIO: Briefly.

17 Six of the towns have responded initiative  
18 local resolutions adopting the amended referral  
19 requirements. We have nine villages that have  
20 responded and passed resolutions. Brookhaven  
21 respectfully requested permission that the Town  
22 send out a commission resolution that authorizes  
23 the implementation of that revised referral  
24 requirement standard with those 15  
25 municipalities, and then continue to issue them

1 as we get both comments back from the other  
2 municipalities in Suffolk County.

3 CHAIRMAN CALONE: Have any of the  
4 municipalities offered the language in anyway or  
5 asked to offer them in anyway?

6 DEPUTY GULIZIO: The one municipality I  
7 believe it was the Town of East Hampton did have  
8 some slightly revised language adding in some  
9 additional permanent applications we don't  
10 normally see any way, but all the other  
11 municipalities specifically said they would like  
12 to keep it simple and a consistent resolution and  
13 they would all cooperate to that extent.

14 CHAIRMAN CALONE: I believe this commission  
15 has passed the initial language or at least we --  
16 we proposed the language.

17 DEPUTY GULIZIO: You authorized staff to  
18 begin the outreach process with the local  
19 municipalities. What we're ask today though is  
20 to allow us to outreach the resolution adopting  
21 the amended resolution for the local  
22 municipalities and actually implement the  
23 process.

24 COMMISSIONER BOLTON: Can you name the  
25 municipalities?

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1 DEPUTY GULIZIO: Yes.

2 MR. FRELENG: I have a list.

3 DEPUTY GULIZIO: We heard back from the  
4 towns of Babylon, East Hampton, Huntington,  
5 Islip, Riverhead and Southold. We heard back  
6 from the Village of East Hampton, Head of the  
7 Harbor, Huntington Bay, Lloyd Harbor,

8 Nissequoche, North Haven, Old Field, Poquott, and  
9 Southampton.

10 CHAIRMAN CALONE: Which are the towns that  
11 you haven't heard back from?

12 DEPUTY GULIZIO: Shelter Island, Smithtown,  
13 Brookhaven, and --

14 CHAIRMAN CALONE: Why don't you -- it would  
15 be good to know specifically the towns that have  
16 adopted and have our commission members from  
17 those towns reach out to the town supervisor or  
18 whoever is the right person there. I know, for  
19 instance, Commissioner Holmes already spoke to  
20 the supervisor of Shelter Island. I believe this  
21 process may take a meeting or so to get on our  
22 agenda, but as you can all imagine, she is making  
23 sure Shelter Island gets things done.

24 As for the villages, I think, it makes more  
25 sense to work with the village association and

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1 continue to kind of do our outreach there.  
2 That's the most convenient way.

3 Do you guys have a meeting coming up soon?

4 COMMISSIONER HORTON: Yes, we will.

5 CHAIRMAN CALONE: Well, maybe you can help  
6 get the word out there. I know one of the  
7 lawyers for the village contacted the liaisons  
8 about the language.

9 COMMISSIONER HOLMES: Can you tell me  
10 whether the current supervisor of Shelter Island  
11 who is not the same supervisor who had expressed

12 interest initially? Has he been equipped with  
13 the proposal because I don't know that he has.

14 DEPUTY GULIZIO: We have sent the proposal  
15 to the Town of Shelter Island. I don't know who  
16 the current supervisor was.

17 CHAIRMAN CALONE: The same supervisor has  
18 been there now for a year.

19 COMMISSIONER BRAUN: That only goes out  
20 there once a month.

21 COMMISSIONER HOLMES: Recently within the  
22 last six month?

23 DEPUTY GLITZIER: Yes.

24 CHAIRMAN CALONE: We only passed this six  
25 months ago, so I think it's out there and, Dan,

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1 what I guess the question for you is, what do you  
2 want us to authorize now?

3 DEPUTY GULIZIO: We would like you to  
4 authorize the staff to implement the agreement  
5 with the 15 participating municipalities that I  
6 just named.

7 CHAIRMAN CALONE: All in favor?

8 COMMISSIONER HOLMES: I'll move it.

9 COMMISSIONER HORTON: Second.

10 CHAIRMAN CALONE: Moved by Commissioner  
11 Holmes. Seconded by Commissioner Horton.

12 All in favor to authorizing staff, please  
13 raise your hand.

14 (WHEREUPON, the Board voted.)

15 CHAIRMAN CALONE: All opposed?

16 (WHEREUPON, the Board voted.)



17 CHAIRMAN CALONE: Thank you, Dan. Keep us  
18 up to date. If there are more towns, let the  
19 commission members know and see if we can.

20 COMMISSIONER ESPOSITO: We would like that  
21 in alphabetical order.

22 CHAIRMAN CALONE: Right and on top of that I  
23 want the.

24 Anyone else have anything else they want to  
25 raise?

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1 (WHEREUPON, there was no response.)

2 CHAIRMAN CALONE: Motion to adjourn by  
3 Commissioner Kelly and seconded by Commissioner  
4 Braun.

5 All in favor?

6 THE BOARD: Aye.

7 CHAIRMAN CALONE: Have good one.

8 (WHEREUPON, the Suffolk County Planning  
9 Commissioner Board meeting of August 5, 2009, was  
10 concluded at 3:10 p.m.)

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STATE OF NEW YORK )

SS:

COUNTY OF SUFFOLK )

I, MELISSA POWELL, a Shorthand Reporter and

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Notary Public of the State of New York, do hereby  
certify:

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

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

IN WITNESS WHEREOF, I have hereunto set my hand \_\_\_\_  
day of \_\_\_\_\_, 2009

MELISSA POWELL