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SUFFOLK COUNTY PLANNING COMMISSION

East Hampton Village Hall  
Town Board Room  
159 Pantigo Road  
East Hampton, New York  
September 7, 2011

12:00 p.m.

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MEMBERS PRESENT:

DAVID CALONE, Chairman  
CONSTANTINE KONTOKOSTA, Vice Chairman  
ADRIENNE ESPOSITO, Secretary  
CARL GABRIELSON, Town of Riverhead  
DIANA WEIR, Town of East Hampton  
LINDA HOLMES, Shelter Island  
THOMAS McADAM, Town of Southold  
MICHAEL KELLY, Town of Brookhaven  
JOHN FINN, Town of Smithtown  
MATTHEW CHARTRAND, Town of Islip  
BARBARA ROBERTS, Town of Southampton  
BILL SCHOOLMAN, At-Large

THOMAS YOUNG, ESQ., County Attorney for  
Planning Department

SARAH LANSDALE, Planning Director  
ANDREW FRELENG, Chief Planner  
THEODORE KLEIN, Planning Department



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2 THE CHAIRMAN: Welcome to the  
3 September meeting of the Suffolk County  
4 Planning Commission. We have a quorum present.  
5 I ask Secretary Esposito to lead us in the  
6 pledge.

7 (Recitation of the Pledge of  
8 Allegiance.)

9 THE CHAIRMAN: Thank you all for  
10 being here in East Hampton. The first item is  
11 the June minutes. I provided my edits to the  
12 Editor-in-Chief. I would note to the  
13 Commission members that they are de minimis in  
14 nature, typographical in nature. The Chief has  
15 a few comments as well.

16 COMMISSIONER HOLMES: I found  
17 fifty-nine errors. Most of them are not very  
18 important, but a couple of them are missed  
19 words or omitted words. And I asked the court  
20 reporter when we were going to get the  
21 corrected May minutes and she said that our  
22 corrections were never given to her. She has  
23 to get her service to track down whoever subbed  
24 for her that day and get the corrections to  
25 her. But we have the June corrections. Andy,



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2 can you pass those over? Thank you.

3 I don't know if in view of what  
4 happened with May, but now we know that she  
5 didn't get the corrections, I would hesitate to  
6 say I would move the adoption of the minutes  
7 for June pending the corrections, but I think  
8 this time we will get a corrected copy.

9 THE CHAIRMAN: Any other comments or  
10 additions to the minutes other than those that  
11 are the typographical edits that I gave, other  
12 than the fifty-nine? Any other changes or  
13 edits to the minutes for anybody on the  
14 Commission? Seeing none, I will entertain a  
15 motion to adopt the June minutes as amended.  
16 Motion by Commissioner Weir and seconded by  
17 Commissioner Schoolman. All in favor, please  
18 raise your hand. (Show of hands) Eleven to  
19 zero.

20 Next item on the agenda is the public  
21 portion. We have two speakers. We will let  
22 you speak during the next portion.

23 COMMISSIONER ROBERTS: There are  
24 twelve. Did you count yourself? Okay eleven.  
25 Sarah is no longer part of us.



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2 THE CHAIRMAN: I'll ask Brian  
3 Ferruggiari to come to the podium. I ask that  
4 you spell your last name for the record and you  
5 have three minutes.

6 MR. FERRUGGIARI: Good afternoon. My  
7 name is Brian F-E-R-R-U-G-G-I-A-R-I. I'm here  
8 today with Tom Perna. We are the  
9 representatives of Rose Breslin. That's the  
10 applicant of the Town of Brookhaven application  
11 entitled Meadows at Yaphank. This application  
12 is on the agenda this afternoon. You will be  
13 receiving a full presentation from the planning  
14 staff. As such, my remarks will be very brief  
15 and just highlight the important benefits of  
16 this project.

17 The Meadows of Yaphank is a mixed use  
18 planned community containing a variety of  
19 housing options, commercial uses as well as  
20 public and private recreation areas. The  
21 concept plan utilizes a traditional  
22 neighborhood design that promotes walkability,  
23 connectivity and public open spaces. The main  
24 road network is made up of tree lined  
25 boulevards that incorporate traffic calming



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2 features and bicycle lanes.

3 The Master Plan was designed with  
4 input from the Town of Brookhaven planning  
5 staff and from suggestions we received during  
6 our initial community outreach. We also  
7 consulted with Brookhaven National Labs and the  
8 Syracuse Center of Excellence on sustainable  
9 design features. As a result of our  
10 discussions with BNL and Syracuse, the design  
11 contains storm water treatment designs that  
12 utilizes the natural vegetation in constructed  
13 wetlands and bioretention areas. These  
14 features will improve the quality of our storm  
15 water recharge and reduce the amount of  
16 fertilizer dependent vegetation on the site.

17 The proposed Meadows at Yaphank  
18 application provides substantial benefits  
19 compared to the development that would be  
20 permitted under existing zoning. Those  
21 benefits include reduced traffic. The proposed  
22 plan will generate less traffic than uses  
23 permitted under the existing zoning. On  
24 weekday mornings, traffic will be reduced by  
25 fourteen percent. On weekday evenings, it will



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2 be reduced by forty percent, and Saturday peak  
3 hours, reduced by forty-one percent.

4 We are also proposing to operate a  
5 private shuttle bus service on demand to and  
6 from local train stations and BNL. This  
7 service will be offered in addition to other  
8 public transportation options and may reduce  
9 the project's trip general generation even  
10 further.

11 The project will also generate tax  
12 revenue for all taxing jurisdictions.  
13 Currently on the property, the three hundred  
14 twenty-two acres, we pay eight hundred sixty  
15 thousand dollars a year in taxes. Under  
16 existing zoning scenarios, that would increase  
17 to seven point eight million dollars. The  
18 Meadows at Yaphank the generate over twelve  
19 million dollars annually in tax dollars to all  
20 tax jurisdictions.

21 When you consider the cost of the  
22 additional one hundred eight students projected  
23 in the Longwood School District, at the current  
24 level of state aid, upon full build out, this  
25 project will generate surplus revenues to the



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2 Longwood School District of almost seven  
3 million dollars, and the Longwood School  
4 District is in favor of the project.

5 It has a positive economic impact on  
6 the community and will generate over two  
7 thousand six hundred permanent jobs, eighty-two  
8 construction jobs annually through the ten year  
9 build out, over two million dollars in mortgage  
10 recording tax revenues and over thirty-two  
11 million dollars added annually in purchasing  
12 power to the community.

13 The project will provide a  
14 substantial public benefits package totaling  
15 eleven point eight million dollars that  
16 includes over two million dollars to the  
17 Carman's River Invasive Species Remediation  
18 Fund, and about one point eight million dollars  
19 for the dedication of land for athletic fields,  
20 two million dollars to construct two ballfields  
21 and one multi-purpose field and about one point  
22 four million dollars to construct a community  
23 building, and a one thousand five hundred  
24 square foot pavilion.

25 The application that is before you



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2 this afternoon is a product of more than two  
3 years of work to ensure that that project will  
4 not only be successful, but will provide a  
5 positive community benefit and be sensitive  
6 to the environment. During the design phase we  
7 had extensive community outreach, meeting with  
8 community organizations and government  
9 officials. Our community outreach effort will  
10 continue as the project proceeds. An  
11 informative Website has been developed for the  
12 project which we will continually update.

13 I thank you for your consideration  
14 for this application. Tom Perna and myself  
15 will be the available in the audience if you  
16 have any questions.

17 THE CHAIRMAN: Thanks. I appreciate  
18 your time. There is no other public comment.  
19 I have the Chair report. Welcome everyone to  
20 East Hampton. This is the tenth town that the  
21 Board has visited in the past three years. I  
22 want to thank Supervisor Wilkinson and the Town  
23 Board for inviting us here to use their table.  
24 I have to say, having been to pretty much all  
25 of the town halls, this is one of the -- this





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2 is the most beautiful and unique town hall. I  
3 say that everywhere we go. Anyway, beautiful  
4 facility. Thank you for sharing it with us.

5 We look forward to hearing from the  
6 supervisor in a few minutes. First a quick  
7 overview of our activities. Our goal this year  
8 is to focus on land use issues critical to  
9 Suffolk County's future. In that regard we  
10 have been emphasizing the major county-wide  
11 issues such as development of the Comprehensive  
12 Plan, as well as related issues like housing,  
13 infrastructure financing and storm water  
14 management.

15 And with regard to the Comprehensive  
16 Plan, in June, the Planning Commission voted to  
17 release a draft of Volume 1A. That is an  
18 important step, a step that has not been taken  
19 in the county for thirty years. This month the  
20 county executive hosted a press conference and  
21 several of us attended to announce that step.  
22 Director Lansdale and I presented the draft of  
23 Volume 1A to the Legislature last week. They  
24 were very supportive. The presiding officer  
25 came to hear the presentation, which was



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2 encouraging.

3 Our goal is to finish Volume 1B by  
4 the end of this year, and completing Volume 2,  
5 the goals and policies, by the end of next  
6 year. I would like to have a brief meeting  
7 after this meeting of our comprehensive plan  
8 steering committee, that's Commissioners  
9 Roberts, Holmes, McAdam, Weir and Kelly, to go  
10 over the next steps for Volume 1B.

11 With regard to our task force  
12 efforts, the solar permit streamlining effort  
13 is now completed, finally. In the last month,  
14 we got final sign-off on the plan from Nassau  
15 County and New York Department of State. It's  
16 been a long process, but it's done. A letter  
17 will be going out by the end of the week to the  
18 two county planning commissions and LIPA, to  
19 the one hundred and three municipalities,  
20 laying out the requirements of the program,  
21 which will be fifteen thousand dollars, which  
22 is the townships, and five thousand dollars to  
23 the first ten villages in each county who sign  
24 up to participate.

25 The deadline for participation is



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2 December 31st of this year. The town and  
3 village boards will need to pass the required  
4 legislation by the end of this year to get the  
5 incentive.

6 We are planning an information  
7 session for the municipalities on September  
8 23rd at Molloy College in Farmingdale. We will  
9 also do a press event to try to publicize the  
10 -- we have a handful of municipalities that  
11 already said they want to use it we will  
12 recognize them at the press conference and  
13 answer questions that any of the municipalities  
14 have on September 23rd.

15 The county's applying for a energy  
16 grant that relates to solar and Director  
17 Lansdale will talk about that. With regard to  
18 wind, we have, as I reported to you, we had  
19 four meetings among the four East End  
20 municipalities to come up with a model East End  
21 wind code. One meeting was held right in this  
22 room. In particular, we have a staff from East  
23 Hampton and Southampton working on this  
24 diligently. Joel Halsey from East Hampton is  
25 here to speak about that later to update



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2 everyone as to where we are on that wind code.

3 With regard to commercial energy  
4 efficiency standards, the Vice Chairman as well  
5 as John Finn have been leading that effort.  
6 Basically, the working group is focusing on the  
7 new green building code coming out in New York  
8 State effective January 1st. The task force is  
9 looking to help municipalities who want to  
10 adopt pieces of that green code figure out what  
11 to adopt and how to ease into following it, and  
12 of course how to measure results. The  
13 Department of State actually came to a meeting  
14 that Constantine hosted last month. They are  
15 excited about the stuff we have in Suffolk  
16 County that this working group is working on.  
17 We had the head of Codes come and pledge to  
18 help Suffolk County and this commission as we  
19 help roll out the green building code and let  
20 the municipalities know what it's all about.

21 With respect to our Protect and Grow  
22 initiative, as you know, we spent the last year  
23 pushing the county to come up with better ways  
24 of financing sewage. We put on Sewer Summit II  
25 with the county executive, and we worked on



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2 identifying local sources for sewer financing.  
3 It culminated in a bill that was adopted last  
4 month by the legislature that was proposed by  
5 the county executive, to create a reoccurring  
6 source of locally controlled sewer money.

7 Next, Director Lansdale is heading a  
8 group to look at specific criteria to ensure  
9 that that financing goes to those areas where  
10 it is most needed, consistent with the  
11 Comprehensive Plan, as well as projects that  
12 support the values that the Planning Commission  
13 and others have identified as important to the  
14 Suffolk county's future, like workforce  
15 housing, transit-oriented development,  
16 downtowns, energy efficient development, etc.  
17 That is a critical step because without that  
18 criteria, the money can simply be used for  
19 whatever purpose. That is not what we ever  
20 intend for it to happen, and the bill has a  
21 group headed by the director so we can look at  
22 the criteria where to put that. It's critical  
23 and we need to keep on top of that and work  
24 with the planning staff on that.

25 COMMISSIONER ESPOSITO: Will those



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2 meetings be open?

3 DIRECTOR LANSDALE: I'll check and  
4 get back to you.

5 THE CHAIRMAN: Suffolk Unified  
6 Permitting Portal. There are teams working on  
7 the technology side as well as the permitting  
8 side. We have quarterly steering meetings.  
9 Things are moving along. The county is putting  
10 resources behind it. Professional  
11 certification for commercial interiors,  
12 Jennifer Casey is heading that up as well as  
13 John Finn. They will be meeting with the Town  
14 of Brookhaven for the next steps on that.

15 New York City has a program that  
16 Constantine has been helping us learn about,  
17 which is basically you don't have to go back to  
18 the Building Department if you want to change  
19 the inside of the interior, if you are not  
20 changing load bearing walls or emergency exits  
21 or anything like that. If a new tenant comes  
22 in, it makes it easier for the commercial  
23 landlord. It's working fairly well in New York  
24 City.

25 We want to see if we can pilot that



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2 out here. The town of Brookhaven is interested  
3 in being the pilot. Our next step is to take  
4 the models that we developed based on what they  
5 have in the City and meet with the Town of  
6 Brookhaven to figure out what they need to do  
7 to change their code to make it happen.  
8 Hopefully, if it works well, we will bring it  
9 to the other towns.

10 Then on agriculture, we have our new  
11 effort that Carl Gabrielsen is going to be  
12 heading up. We have a new event called Food  
13 Day, which is going to be sometime in October.

14 COMMISSIONER ESPOSITO: Do we eat all  
15 day?

16 DIRECTOR LANSDALE: October 22nd.

17 THE CHAIRMAN: We are working on  
18 doing an event.

19 COMMISSIONER GABRIELSEN: That is  
20 right. I'm working with Sarah.

21 THE CHAIRMAN: We may want to do that  
22 in Hauppauge or Riverhead. Obviously, the East  
23 End is the home of our very powerful and very  
24 important agricultural industry.

25 COMMISSIONER ESPOSITO: Is it



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2 followed by Wine Day? Just asking.

3 THE CHAIRMAN: On housing, we started  
4 working last month on planning a Suffolk County  
5 Conference for January. I spoke with the  
6 Suffolk County Village Officials Executive  
7 Committee and the head of the Suffolk County  
8 Town Supervisors Association, and both of them  
9 are interested in co-hosting the event with us.  
10 Hopefully, they will be on board as well.

11 The Vice Chairman, as well as  
12 Commissioner Roberts and Kelly and Weir are  
13 going to help put that together. I would like  
14 to meet with those folks after this meeting to  
15 talk about a time line to sort of layout what  
16 our goals are.

17 Last thing I will mention to you, we  
18 have a Planning Federation meeting training  
19 session on October 12th. The Planning  
20 Commission is involved with that. We need  
21 moderators. Andy Freleng has a list of classes  
22 in your packets. You need to look at that and  
23 let me know if there is one that you would be  
24 interested in moderating.

25 Also, we have a guidelines committee





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2 meeting. Maybe the Director will talk a little  
3 bit about that. We have the guidelines  
4 committee meeting. We will be meeting after  
5 this meeting. We had a good meeting yesterday  
6 with some outside stakeholders. A lot of folks  
7 are excited to be part of it. They know how  
8 important our guidelines are to our decisions  
9 around the table.

10 Next month we are in Smithtown Town  
11 Hall. Supervisor Vecchio will be there  
12 addressing us just on issues facing Smithtown,  
13 as you will be hearing in a few minutes from  
14 the Supervisor of East Hampton. Any questions  
15 or thoughts? If not, I'll turn it over to  
16 Director Lansdale for her report.

17 DIRECTOR LANSDALE: Thank you so  
18 much, Mr. Chairman. First, the guidelines  
19 review committee meeting we had yesterday. I  
20 want to thank the members of the Planning  
21 Commission who attended the meeting driving out  
22 in the pouring rain to get there, and I want to  
23 thank you Andy for being there as well. It's  
24 an important committee. We had a number of  
25 towns and villages participate as well as



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2 environmentalists, developers and members of  
3 the Planning Commission. the goal of the  
4 committee is to update our guidelines that we  
5 use as staff, to evaluate all of the referrals  
6 for the Planning Commission.

7 It's the first time in a couple of  
8 years that we have updated these guidelines.  
9 The last time they were updated was 2009. We  
10 are hoping to kick this off every two years and  
11 update that. It's the first time we have  
12 actually invited towns and villages and the  
13 public to participate in the update of these  
14 guidelines. It's very exciting.

15 We identified an initial ten areas  
16 that we are going to focus on; affordable  
17 housing, transfer density requirements, storm  
18 water runoff, native vegetation, steep slopes,  
19 night skies, universal design, water usage,  
20 parking and community character. Those are the  
21 first ten. We will have meetings between now  
22 and the end of the year with the goal to adopt  
23 the new guidelines at the December Planning  
24 Commission meeting. It's an ambitious and  
25 exciting endeavor.



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2 The next thing is the Comprehensive  
3 Plan. We started work on Volume 1B, which will  
4 be completed by the end of the year. The  
5 chapters we are focusing on is emergency  
6 response, which is apropos to us these days,  
7 energy, natural resources, land use, housing  
8 and transportation.

9 I also want to talk about the  
10 Department of Energy grant. The county is  
11 applying, specifically the Planning Department  
12 is applying for a five point five million  
13 dollar Department of Energy grant, with the  
14 following objectives: To develop a unified  
15 solar code for both residential and commercial,  
16 and then to have that adopted by all of the  
17 municipalities within Suffolk County. Also, to  
18 work with the unified permit portal process  
19 that has already been launched in Suffolk  
20 County and to recreate a unified permit for  
21 solar permits as the first work effort for the  
22 Suffolk initiative. That is where we are with  
23 the DOE grant, and I want to thank the Town of  
24 East Hampton for offering to provide a letter  
25 of support for this application. Thank you.



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2 The other thing I want to mention is  
3 open enrollment. September 1st began the  
4 county's open enrollment period. The month of  
5 September is the open enrollment period for our  
6 purchase of development rights program in the  
7 county. There is more information. There is  
8 an application on line. If you know of anyone,  
9 any landowner interested in selling their  
10 development rights on farms, please let us know  
11 and we will take that into consideration. This  
12 is the first time ever that we are doing an  
13 annual review period for the purchase of  
14 development rights program. If you have any  
15 questions, the Planning Department is more than  
16 happy to answer and entertain any questions.

17 I just want to correct myself and say  
18 that National Food Day is October 24th, not  
19 22nd. We are hoping, in addition to working,  
20 the Planning Commission execute a number of  
21 aquaculture leases that day. That is one of  
22 the things that the Planning Department  
23 manages, which is the aqualease program, which  
24 is an important development tool, as well as  
25 adding to the local food scene. Thank you so



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2 much.

3 THE CHAIRMAN: Any questions?  
4 Commissioner Roberts.

5 COMMISSIONER ROBERTS: I would like  
6 to highlight and compliment something that our  
7 new director is doing. One of Director  
8 Lansdale's initiatives is to be far more  
9 aggressive about getting grants for the county  
10 that are uninitiated by the Planning  
11 Department. I compliment her. I know how many  
12 hours it took to put in the first two. Please  
13 tell the commissioners if there is anything  
14 that we can do to help you. Bravo.

15 THE CHAIRMAN: Good point. Thank  
16 you, Commissioner Roberts, for that. Any other  
17 thoughts or comments? If not, we will move  
18 onto the guest portion. We are privileged to  
19 be here in East Hampton. I want to invite  
20 to the podium Supervisor Wilkinson and thank  
21 him for hosting us here today.

22 SUPERVISOR WILKINSON: Thank you for  
23 coming out and gracing us with your presence.  
24 This is a new town hall for us. It's a pun on  
25 the word "new" because these are historic



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2 buildings that made a transition from history  
3 to a municipal center. Although I had some  
4 pains during the campaign about the cost of the  
5 buildings, now that I am one of the primary  
6 occupants, I think they're great. I sold out  
7 really quick.

8 I just want to recognize, you all  
9 know Dominick Stanzione, he's a councilperson,  
10 and Joel Halsey is going to be talking to you a  
11 little bit, and Margaret Wilson is in charge of  
12 our planning process. I would like to  
13 recognize David for his continued support of us  
14 with great appreciation and passion that he  
15 presents a whole bunch of initiatives that we  
16 are lucky enough to jump on.

17 Also Diana Weir, who is not only a  
18 great addition to your commission, but she has  
19 been a great leader in the Town of East  
20 Hampton. Good to see you in an official  
21 capacity. I see her on Saturday mornings once  
22 a month as she runs the Wainscott citizens  
23 advisory committee. It's one of one of five  
24 citizens advisory committees.

25 COMMISSIONER WEIR: But the best one,



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2 I'll say it.

3 SUPERVISOR WILKINSON: I give them a  
4 lot of credit for being the eyes and ears of  
5 probably one of the richest of the hamlets in  
6 the Town of East Hampton. It's interesting  
7 that you mentioned in your preface some of your  
8 priorities; to me it's the priorities of good  
9 government. I was speaking to Dave. As we go  
10 along, we had in East Hampton a great success  
11 with comprehensive plans. The comprehensive  
12 plans have been, to a large degree, about land  
13 management.

14 We are fortunate enough, depending on  
15 where you are in this wonderful town of ours,  
16 anywhere from fifty to seventy percent  
17 preserved. That brings some issues with it.  
18 As land becomes scarce for anything but  
19 preservation, the prices go up. You see the  
20 average price for a home up here of about nine  
21 hundred thousand dollars, with a median income  
22 of increasingly something south of that, so  
23 affordability becomes a very big issue. To  
24 retain a middle class becomes a big issue. To  
25 attract jobs for full-time employment year



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2 round becomes a very big issue. You take the  
3 demographic from where the town moved from what  
4 was sixty percent full-time residents to forty  
5 percent full-time residents. That means you  
6 are dealing with a population that is basically  
7 looking at this as a place to relax, for their  
8 own individual entertainment and wants it  
9 exactly the way they bought it, however long  
10 ago they bought it.

11 What comes to our attention now, it's  
12 probably appropriate that you have your  
13 conference here at this time, is  
14 infrastructure. I think we have to really look  
15 at our plan with regard to what are we going to  
16 do in the future with infrastructure. Whether  
17 it's highways, and we have thirty miles of  
18 roads that still have to come into the highway  
19 system that are still in urban renewal or  
20 private status. Whether it's energy, and Joel  
21 and Margaret I think were lucky enough to  
22 spearhead for us the first energy wind platform  
23 that we have here. The first one was passed  
24 and the second one is planned for Iaconna farm.  
25 We have to talk about the power grid.





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2 As you know, it's extremely fragile out here.  
3 This was complicated by the fact that this was  
4 an eighty-five miles per hour storm rather than  
5 a hundred thirty-five mile per hour storm.  
6 I'll tell you why. My perspective is that the  
7 wind stayed up in the wires. As a result, when  
8 they went to repair the wires, they had to talk  
9 about something else other than the wires. The  
10 first was the wires hanging, the second was to  
11 trim the trees around the wire, and the third  
12 was to reinstall the wires, so you saw how long  
13 it took.

14 We have to talk about our waterways.  
15 We have done a wonderful job of preserving.  
16 Now we have to start about focusing on the  
17 quality of what we have and how do we retain  
18 that quality and make sure that it stays the  
19 best town that we can possibly make. I get  
20 very selfish. I worry about my seventy four  
21 square miles.

22 Then we have to talk about things  
23 like sewage treatment. Do we have the proper  
24 facilities? Are we encouraging, wherever  
25 possible, and I need county cooperation on this



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2 as well, those types of facilities, state of  
3 the art facilities, complications arising from  
4 it because we don't have the competency  
5 in-house to make those decisions, so we lean on  
6 others to do that.

7 That is why this group is terribly  
8 important and practical to be able to lean on  
9 you and to have your expertise. We will never  
10 get to that state.

11 I came out of private industry. For  
12 a good thirty-five years and I was fortunate  
13 enough to be in a top fifty corporation wide  
14 world in a leadership role. I know that best  
15 practices work, and that is what we really have  
16 to believe in. We have to believe in metrics  
17 and best practices. I can only ascertain what  
18 those best practices are in coming to a group  
19 like you.

20 I appreciate you being here. I  
21 appreciate you sharing our new old home  
22 together. If you have any questions, I'll be  
23 glad to take them. This is a government that  
24 was in crisis twenty-four months ago when I  
25 campaigned. We had a twenty-seven million



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2 dollar deficit when I came in. The 2010 budget  
3 we underspent by eight million dollars, the  
4 2011 budget, ten million dollars, and we  
5 delivered seventeen percent property tax  
6 reduction for all the residents of the Town of  
7 East Hampton.

8 We shrunk fifty jobs, and not one  
9 person of those fifty did it in other than a  
10 voluntary basis. Eighteen went through  
11 attrition, and twenty-three through voluntary  
12 separation programs. Twenty-six departments  
13 shrunk into sixteen. Started expanding  
14 people's roles. I can't tell you anybody that  
15 doesn't like taking on new responsibilities.  
16 Regardless of the environment, we had a lot of  
17 cooperation from the collective bargaining  
18 units. There is opportunity to bring in best  
19 practices. There is opportunity if you have a  
20 good team to work with you.

21 Not that it is a friendly environment  
22 up here. Trust me, when we are on up here on  
23 this desk when we open up meetings on at night  
24 and weekends you appreciate the dais being up  
25 here so high. If you have any questions, I'll



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2 be glad to answer them.

3 THE CHAIRMAN: Thank you for your  
4 leadership out here. I appreciate you working  
5 with us. You have had an open door since you  
6 have been in office. Thank you. Anyone have  
7 any questions for Supervisor Wilkinson at this  
8 time?

9 COMMISSIONER WEIR: Thank you for  
10 your leadership. (Applause)

11 THE CHAIRMAN: Next we have The  
12 Village of North Haven. We have Village  
13 Attorney Tony Tohill. If you could come up,  
14 and after that we will have the presentation  
15 after that.

16 MR. TOHILL: Hello. Thank you for  
17 the opportunity to speak. My name is Anthony  
18 Tohill. I've been village attorney in North  
19 Haven since 1982. I'm here today to address  
20 the moratorium local law that is being  
21 considered by you today.

22 The law of the State of New York is  
23 hard to explain with respect to the regulation  
24 of docks. There is a thin, obscure volume of  
25 the McKinsey's statutes known as the Navigation



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2 Law. Within the Navigation Law, for reasons  
3 that history has left unstated, towns have the  
4 authority to regulate docks. Villages,  
5 state-wide, do not. The only way that the  
6 village, until the law was amended, could  
7 regulate docks would be through the local  
8 waterfront revitalization program, but in order  
9 to have a local waterfront revitalization  
10 program such as, for example, the nearby  
11 villages of Greenport and Sag Harbor, you need  
12 a commercial district. In the Village of North  
13 Haven we have no commerce at all.

14 So there was a time 1992 when the  
15 state enacted a subsection of the Executive  
16 Law, another fairly obscure volume of  
17 McKinsey's. If a village that did not have  
18 commercial zoning were to create something  
19 called a harbor management plan, which would be  
20 supervised by the Department of State, then  
21 they could regulate docks. That lasted about  
22 six months and an attorney for the Department  
23 of State, he wrote an opinion saying that the  
24 harbor management plans do not authorize  
25 villages to regulate docks.



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2 I should tell you in 1989, I've been  
3 the village attorney there since 1982, I've  
4 tried to have the Navigation Law amended so as  
5 to include the Village of North Haven and allow  
6 the village to regulate docks. There is a  
7 reason. In the village of North Haven and we  
8 don't like to make this a matter of great  
9 public consumption, we generally have docks  
10 built between Friday night at 5 p.m. and Monday  
11 morning. The building inspector is a  
12 notoriously good fisherman, and I have a hunch  
13 he sees them being built when he's out on his  
14 boat, but he has not done anything about them.

15 So the bottom line is on a regular  
16 basis I get calls on Monday morning nine a.m.  
17 from the mayor or village clerk asking why I  
18 did not cause the dock not to be built. It's  
19 been going on for years. The village board had  
20 a public hearing on August 18th. There were  
21 nine people in attendance, or nine property  
22 owners represented either directly or by  
23 counsel. Every one of them had an application  
24 pending. There was an application -- that the  
25 village hall closes at four p.m. There was an



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2 application filed by an attorney at three-fifty  
3 nine p.m. all on the premise that if you file  
4 the application, you were somehow grandfathered  
5 on the moratorium on the local law. Unless  
6 there was a moratorium, we would have docks  
7 being built every day right now. There is a  
8 reason. For all the years they have been  
9 there, I have litigated and defended the  
10 village without any authority under New York  
11 law, I have on occasion prevailed and prevented  
12 the docks from being built. I have billed by  
13 the hour since 1982, so it's been a fairly  
14 fruitful voyage for me.

15 We have tried to regulate the docks.  
16 On August 3rd, the governor signed this new  
17 statute specifically giving the Village of  
18 North Haven, the only village on the Island and  
19 the only village south of Croton-on-Hudson and  
20 Mamaronck, and the rest are in Western New  
21 York. There are possibly ten villages in New  
22 York State who got amendments to the New York  
23 State Navigation Law. We are the only one on  
24 Long Island.

25 Now people actually know we had no



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2 authority prior to this at all. It was all  
3 done with smoke and mirrors. If we don't have  
4 a moratorium, we will have docks being built  
5 night and day. There is a reason. The west  
6 side of North Haven is a completely different  
7 shoreline than the east side. The wind causes  
8 real problems for docks on the west side.  
9 People feel the need to build the docks bigger  
10 and deeper. The east side is benign.

11 Somehow we have to have a coastal  
12 expert come in. We are planning our very first  
13 meeting tomorrow at one p.m. in village hall.  
14 We will confirm with the DEC. We have never  
15 been able to get the cooperation of the DEC.  
16 We tried with DOS. We have had experience with  
17 them. It's a good experience, except they have  
18 no control over the DEC either. The bottom  
19 line is unless the local government were to  
20 regulate the docks -- they can't regulate the  
21 docks. The DEC always approved the docks.  
22 This is a historic moment.

23 Most important resource in the  
24 Village of South Haven is the shoreline and  
25 beaches. Each beach dock that is built





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2 prevents people from walking along the  
3 shoreline. So the village wants to allow the  
4 docks, but to regulate the docks. We need a  
5 moratorium to stabilize the situation. This is  
6 the first time in the history of the State of  
7 New York that a Long Island village has had  
8 this authority. It's the single most important  
9 regulatory moment in the village's history.  
10 Any questions?

11 THE CHAIRMAN: Thank you. I  
12 appreciate your time. Next on the agenda we  
13 have the update on the draft on the East End  
14 Wind Code. Joel Halsey is here from the Town  
15 of East Hampton and Dominick Stanzione,  
16 councilman, has been helping spearheading this.

17 MR. STANZIONE: Dom  
18 S-T-A-N-Z-I-O-N-E. First of all, as Bill said,  
19 welcome to our humble home. As you can see, we  
20 are a small but complex people. And while much  
21 of our land is preserved, the rest of it is  
22 evenly split between the wealthy and the lower  
23 middle class. So we have a very unique set of  
24 problems in East Hampton, that doesn't  
25 naturally mirror the development on the western



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2 side of the county, but it is, in fact, similar  
3 to other tourist towns, Martha's Vineyard or  
4 any other kind of destination tourist town.

5 As a result of that sort of special  
6 identity, it's been difficult for us to become  
7 part of a cohesive regional planning process  
8 because of our terminal uniqueness. We pray  
9 that you all will recognize this and apply  
10 some special attention to our situation here,  
11 which we are happy to have, by the way. It's  
12 not that we are complaining. It's just that  
13 there is, with so much money, there is so much  
14 time to complain.

15 But I do want to speak to you about  
16 our vision on energy. One of the goals that we  
17 have is to be a leader in municipal energy  
18 planning. Having so much land preserved gives  
19 us the unique opportunity to be experimental  
20 and provide leadership in the area of energy  
21 sustainability. So what we are working on is  
22 an energy vision for our community, for our  
23 Town of East Hampton. It's a work in progress  
24 right now. We have not yet published a  
25 document. Briefly I can tell you that vision



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2 includes reducing our fossil fuel utilization,  
3 both on the electrical grid and oil and gas and  
4 transportation. We know that while the goal of  
5 establishing reduction of twenty-five to fifty  
6 percent of electrical usage from LIPA directly  
7 is ambitious, we are negotiating amongst our  
8 own group to decide what exactly that number  
9 will be. It will be substantial. It will  
10 provide the town with choices, planning choices  
11 on how to achieve those goals. One of those  
12 elements is going to be wind power. You have  
13 already discussed your solar vision. It fits  
14 directly into what we are trying to do. Energy  
15 efficiency, what is the word I'm looking for  
16 when you recycle the homes, when you retrofit  
17 the homes, we are working on developing code  
18 changes to stimulate activity in that area. We  
19 want to be leaders in this endeavor. Uniform  
20 wind energy code is an idea really that really  
21 speaks to the specific use of the regional  
22 planning organization like yourselves. I come  
23 from the Koppelman, Klein, Arthur Kunz's era,  
24 if you will, in regional planning. As a  
25 student of Lee Koppelman, I have great respect



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2 for the effort that you have undertaken for  
3 achieving a regional vision over a highly  
4 fragmented municipal hodgepodge. I know Lee  
5 spent his life trying to achieve that. To some  
6 degree, he's a great success. Even the  
7 creation of the county itself was a vision that  
8 not many people had back in 1960. As part of  
9 our energy vision, we are very supportive. I  
10 have to say that Margaret and Joel, as part of  
11 our planning department, have been really the  
12 workhorses of this effort. David, your  
13 chairman, approached me many months ago. We  
14 were in a lobby, sought me out and we began a  
15 conversation about the subject. We have a  
16 great desire to see it become a success, a  
17 model for all kinds of intermunicipal  
18 uniformity of planning codes. Wind, solar, I  
19 can't think of all of them off the top of my  
20 head. Retrofitting homes. There is no reason  
21 why each of our towns should have maximum  
22 individualized codes on energy retrofitting.  
23 Anyway, enough from me. I want to introduce  
24 Joel, who is going to tell you more about where  
25 we are.



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2 THE CHAIRMAN: Thank you Councilman  
3 Stanzione. And it was Sewer Summit II. To  
4 give some context and Joel provide us a brief  
5 update of where we are, he handed out a draft,  
6 we had four meetings on the east end. Each  
7 township has hosted them. The supervisor of  
8 shelter Island has been a big supporter. One  
9 of the meetings was right here. We passed out  
10 what made sense for an east end wind code.  
11 Thanks to Joel's work as well as Katie Garvin  
12 from Southampton, who couldn't be here with us,  
13 we were getting to the finish line. We need  
14 the support of the councilman as well as his  
15 colleagues to sort of get us to the finish  
16 line. Joel can provide a brief update at a high  
17 level of what we are looking at.

18 MR. HALSEY: Good afternoon. I want  
19 to start you off with a brief history of the  
20 East Hampton Town Code as it pertains to wind  
21 energy. Back in 1996, the town started  
22 developing an energy code. At that point, the  
23 Town Board at that time deemed a wind energy  
24 code an issue because they thought it might  
25 encourage the development of wind turbines in



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2 the towns, and they basically stopped  
3 development of the wind energy code. About  
4 2009, Steven Mahoney, who owns a large twenty  
5 acre property in East Hampton, approached the  
6 town board and said I want to build a wind  
7 turbine on my property, it's a perfect  
8 location. It's going to be a hundred twenty  
9 foot tall. How do I do that. I explained to  
10 Mr. Mahoney that our town code has a simplistic  
11 explanation. If you get approval, you can put  
12 up a wind turbine. The previous  
13 administration, by not allowing, which would  
14 have been a stricter code, not going forward  
15 with the town code, basically made it easier  
16 for the next administration to allow wind  
17 turbines in the town. There were about four  
18 hearings about the Mahoney wind turbine. It  
19 was contentious, there was a lot of opposition  
20 you heard everything from the noise to how it's  
21 going to effect animals and kids and all sorts  
22 of issues with wind turbines. That went on for  
23 about four hearings. The town board listened  
24 and it was approved and it's standing right  
25 now. If you haven't seen it yet, it's probably



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2 spinning right now.

3 SECRETARY ESPOSITO: How are the  
4 animals?

MR. HALSEY: The animals  
5 are fine and the birds and the kids. They  
6 don't kill birds.

7 COMMISSIONER ESPOSITO: Your window  
8 kills more birds.

9 MR. HALSEY: As I was saying, the  
10 Mahoney wind turbine, once it was up, I haven't  
11 heard one issue on it so far. The biggest  
12 member who was in opposition came to my  
13 department and said "it's up. It's not so  
14 bad." Meanwhile, it took about you four hours  
15 of my time just to get the town board to  
16 approve it.

17 COMMISSIONER FINN: Welcome to Long  
18 Island.

MR. HALSEY: Now 2009, we had  
19 another application for a wind turbine on the  
20 Iaconna farm, six point five acres, smaller  
21 farm. Only about twenty-five hundred feet east  
22 of the Mahoney wind turbine. That public  
23 hearing was mid-August. Not one person showed  
24 up in opposition. The wind turbine was  
25 approved September 1st and hopefully should be



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2 constructed within the next few months or so.

3 As pertains to the uniform wind code,  
4 it's inherently difficult because every town  
5 has different issues and different definitions  
6 within the code. As Chairman Calone approached  
7 Councilperson Stanzone, he approached me to  
8 attend the uniform wind code meetings. Sitting  
9 there at the meetings, we had a list of all the  
10 towns that had an adopted code, and we had AWEA  
11 models and AWS model as well as in front of us,  
12 I don't know if the commission has seen the  
13 list that we have seen, basically just columns  
14 and rows of what is approved and the heights  
15 and what is allowed in Islip and other towns.  
16 East Hampton, it's strict but it all depends on  
17 the town board. So, what we did is worked on  
18 what the commonalities were within each code,  
19 existing codes in other municipalities and  
20 structured the uniform wind code to kind of say  
21 what does everybody need for a wind turbine  
22 that may be a definition and setbacks for where  
23 a wind turbine will go, whether it's going to  
24 create too much sound. Each town has their own  
25 sound ordinances. Our ordinance may be





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2 stricter than Islip or other towns in Suffolk  
3 County. As you read through the wind code, you  
4 may see things that may not pertain to your  
5 town. We can always take them out. The beauty  
6 of the code itself is the commonality in the  
7 beginning. Most of the first four pages  
8 basically address standards and what would be  
9 needed for a building permit application, and  
10 how you basically go about applying for your  
11 wind turbine. Page 5 is where you go through a  
12 tiering process. Once you go to a tiering  
13 process, the towns can pick and choose which  
14 tiers they like. That is where we are at with  
15 the uniform wind code. It's almost in the  
16 final stages of development. I'm sure Chairman  
17 Calone is going to have a meeting relatively  
18 soon, I know you mentioned something towards  
19 the end of September, where we can present  
20 to the rest of the towns what we have.  
21 With the tiers, basically, you might only want  
22 one tier. We have four right now. There are  
23 more examples rather than what the town should  
24 be looking at. Look at the tiers and decide  
25 how you would like your tiers to be set up.



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2 The idea of the uniform wind code is to help  
3 the consumer, the contractor, the town issue  
4 permits and develop wind energy projects within  
5 the town. When you have a uniform code, the  
6 first four pages are relatively the same. The  
7 contractors all kind of know what they need to  
8 submit to the towns. It's the tiers that they  
9 have to familiarize themselves with before we  
10 can say East Hampton allows a hundred twenty  
11 foot turbine on a twenty acre piece of  
12 property, but Riverhead only allows a hundred  
13 twenty foot turbine on a forty acre piece of  
14 property. To wrap it up, basically it's just  
15 to make everything easier for the town,  
16 consumer and contractor. If anybody has any  
17 questions, I would be happy to answer them.

18 COMMISSIONER McADAM: Thank you for  
19 your presentation. I have one or two  
20 questions. One is, you make a reference to the  
21 tower, that it needs a light. It's an FAA  
22 requirement. Do you know offhand.

23 MR. HALSEY: Two hundred feet, the  
24 FAA requires a light at the top of the tower.

25 COMMISSIONER McADAM: The other



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2 question is, the county and towns, specific  
3 towns purchase development rights on farm  
4 property. Does the town or county need to  
5 approve?

6 MR. HALSEY: I heard rumor -- I  
7 don't want to speak for the county. I heard  
8 rumor that the county was working on something.

9 DIRECTOR LANSDALE: There is a new  
10 Chapter 8, which guides the county purchase and  
11 development program for the county, and Andy --

12 MR. FRELENG: Any structure that is  
13 proposed on PDR property would require farmland  
14 committee approval. I believe they're looking  
15 at standards for reviewing structures such as  
16 wind turbines.

17 THE CHAIRMAN: It would be good if we  
18 interacted on them with this.

19 COMMISSIONER HOLMES: Joel, has your  
20 committee considered this Cornell professor's  
21 panel, wind power? This is a clipping from the  
22 New York Times magazine. This professor from  
23 Cornell developed panels so you don't have to  
24 use turbines. I wondered if you heard of  
25 those.



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2 MR. HALSEY: I have not heard or  
3 looked into them. I know that the wind turbine  
4 industry has a lot of technology out there. A  
5 lot is in the development phase.

6 COMMISSIONER HOLMES: You may keep  
7 that, Joel.

8 MR. HALSEY: Thank you. If anybody  
9 has anything relating to wind turbines, I'd  
10 love to see it. Right now the only technology  
11 that is in Brookhaven is the wind turbine.

12 COMMISSIONER ESPOSITO: And cost  
13 effective.

14 THE CHAIRMAN: Technology  
15 is going to move forward. That is why putting  
16 in a code that is flexible but also has the  
17 same definitions and those kinds of things,  
18 that is what this group is going to do. I know  
19 Commissioner Holmes was at some of the meetings  
20 and Diana Weir was at some of the meetings.  
21 With the wind, there are a lot of definitions  
22 out there to get best practices for the  
23 definition side.

24 MR. HALSEY: Katie Garvin is not  
25 here today.

THE CHAIRMAN: The tiers, so everyone



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2 is here there are four tiers that range from  
3 utility scale wind to a wind thing you put on  
4 the roof. From the smallest to the largest  
5 possible. Some municipalities don't want the  
6 small wind attached to the roof. Some don't  
7 want the utility. You can allow the  
8 municipalities to choose which ones they will  
9 allow. They can tailor it for their own needs  
10 but keep the definitions, and best practices in  
11 terms of the standards. That was a great  
12 innovation that you guys had. I think it  
13 worked well.

14 COMMISSIONER WEIR: Based on this,  
15 the different tiers, is that kind of jumping  
16 off the way we did the tower legislation?

17 MS. WOLFFSON: A little bit.

18 COMMISSIONER WEIR: So people know  
19 they can get a quicker process if they go with  
20 a certain tier.

21 MS. WOLFFSON: It allows the  
22 different towns to tailor it to their own  
23 needs.

24 COMMISSIONER WEIR: Like a cell  
25 tower, it has different levels also.



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2 THE CHAIRMAN: We have some similar  
3 issues there.

4 COMMISSIONER ROBERTS: Joel, can you  
5 explain why a tower has to get higher?

6 MR. HALSEY: That is where the wind  
7 resource is.

8 COMMISSIONER ROBERTS: It's a concern  
9 to some of us in the Hamptons.

10 MR. HALSEY: I happen to enjoy them.  
11 I'm not everybody. I can't say they are  
12 beautiful, but to me they are.

13 COMMISSIONER ESPOSITO: He can't say  
14 that, but he will.

15 MR. HALSEY: But I will. It's a  
16 subjective term. Aesthetics are going to be an  
17 issue.

18 COMMISSIONER ROBERTS: What is the  
19 difference of a tower at forty feet versus a  
20 hundred twenty? What is the benefit to the  
21 community?

22 MR. HALSEY: LIPA has a good wind,  
23 small wind energy map, which you can go on line  
24 and you can type in the height of the turbine  
25 and it will tell you the actual difference. It



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2 will depend on where the turbine is going. The  
3 amount of energy that it can create at forty  
4 feet compared to what you can create at a  
5 hundred twenty feet is exponential.

6 COMMISSIONER FINN: Most of the  
7 turbines or wind generation that you see, is it  
8 coming from the private landowner or does the  
9 town have a -- because we just heard the  
10 councilman talking about getting off the grid  
11 by fifty percent. It's a lofty goal. From my  
12 personal experience, I've had the good fortune  
13 of playing golf on the north shore of Ireland.  
14 You go down the country road and come to a high  
15 rise and you see these wind farms spread out on  
16 the landscape. I agree with you, it's  
17 beautiful. On the ocean they have what we have  
18 here on Long Island, they have wind. You have  
19 all this preserved space coupled with the  
20 methodology of having wind generation. Is  
21 there a plan of some sort?

22 MR. HALSEY: The plan is not  
23 developed yet, but it's on the table. We have  
24 a unique opportunity with all the open space.  
25 All the open space around here, some has



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2 restrictions -- some was bought with CPS  
3 money -- and some doesn't. We have to pick and  
4 choose areas where you may want to develop a  
5 wind overlay area. If you need a hundred fifty  
6 foot turbine, utility scale is a little  
7 different because now you are creating the  
8 noise and aesthetics issue. If you can keep  
9 ita far enough away from residences -- I've  
10 heard anywhere from two and a half feet to two  
11 and a half miles. There are a lot of studies  
12 and it depends on what you want to believe. If  
13 you get up to a hundred fifty foot tall wind  
14 turbine a hundred fifty feet off the road  
15 surrounded by trees no one is going to see it.  
16 Block Island most of it is on diesel generation  
17 they're developing a plan right now it's in the  
18 study phases to develop off shore I think five  
19 two and a half megawatt wind turbines.

20 COMMISSIONER ESPOSITO: It's more  
21 than that.

22 MR. HALSEY: They are huge. It will  
23 basically create power on Block Island. They  
24 will still rely on diesel. In order to rely  
25 solely on renewable energy technology you need





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2 solid renewable energy, wind, solar --

3 THE CHAIRMAN: You need batteries for  
4 storing.

5 MR. HALSEY: Technology, it's there  
6 but it's not quite there.

7 COMMISSIONER ESPOSITO: It's pretty  
8 there.

9 THE CHAIRMAN: It's getting there.  
10 It's expensive right now. As the price goes  
11 down, there are more opportunities.

12 COMMISSIONER ESPOSITO: Previously  
13 you spoke about doing energy reduction for the  
14 town. Did you do an energy inventory and do  
15 you have a baseline that you measure by?

16 MR. HALSEY: Right now, what we need  
17 is an assessment of all the homes. Our plan is  
18 broken out into a phase plan. We are going to  
19 work on the lowest first, which is considered  
20 non-renewable electrical energy. At that  
21 point, most of you will get electrical energy  
22 consumption with structure. We need  
23 commercial, municipal and residential  
24 structures within the town and need a baseline  
25 of what our energy usage is. It's tough to get



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2 a baseline because the information is not  
3 readily available.

4 COMMISSIONER ESPOSITO: That is what  
5 why I'm asking. Many municipalities say  
6 we will reduce our energy consumption by  
7 twenty-five percent and our response is  
8 twenty-five percent of what number, and they  
9 say, I don't know.

10 MR. HALSEY: I use the percentage  
11 that is out there. I knew how much energy LIPA  
12 used in 2005. I used the LIPA energy  
13 production from 2009. I think ten is the final  
14 number I can get. Actually not LIPA's energy  
15 production within Long Island. I determined if  
16 East Hampton used X amount in 2005 and LIPA  
17 transmitted this amount for 2005.

18 COMMISSIONER ESPOSITO: It's not  
19 accurate. THE CHAIRMAN: LIPA  
20 can't give you that information.

21 MR. HALSEY: I asked. They told me  
22 that the information is broken out by user  
23 account. It's tough information to get out. I  
24 know that all that information is in -- I  
25 forget. COMMISSIONER



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2 ESPOSITO: NYSERTA.

3 MR. HALSEY: Not NYSERTA. There is  
4 a school, I want to say NYU, but I don't think  
5 so.

6 COMMISSIONER WEIR: The Electrical  
7 Institute, do they do any surveys like that?

8 MR. HALSEY: I'm not even going to  
9 try it. I have that information; I can give it  
10 to you.

THE CHAIRMAN: Any  
11 other questions for Joel? If not, thank you  
12 for what you are doing.

13 MR. HALSEY: I want to reach out, if  
14 you need help in grant writing, feel free to  
15 contact me.

16 COMMISSIONER ESPOSITO: Joel, I want  
17 to recommend to you when we refer to wind  
18 turbines we refer it them as kinetic art.

19 THE CHAIRMAN: We have two items on  
20 the agenda today, moratorium on the dock  
21 building. I believe I will recognize  
22 Commissioner Roberts first.

23 COMMISSIONER ROBERTS: I have to  
24 recuse myself since I do live on the western  
25 side of North Haven.



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2 MR. FRELENG: As you mentioned, the  
3 first regulatory referral before the Suffolk  
4 County Planning Commission is from the  
5 Incorporated Village of North Haven. This is a  
6 proposal for a six month moratorium on the  
7 approval of any dock or structure accessory to  
8 a dock and/or the issuance of building permits  
9 for said land along the shoreline of the  
10 village of North Haven.

11 In terms of location, this moratorium  
12 is applicable to multiple properties along the  
13 shoreline of Sag Harbor Cove, Noyack Bay,  
14 Shelter Island and Sag Harbor. We have up on  
15 the screen the Incorporated Village of North  
16 Haven. You can see the length of shoreline  
17 that they are considering.

18 The referral materials from the  
19 Suffolk County Planning Commission shows a  
20 brief reference to the need for a moratorium.  
21 The local law reads the local law shall remain  
22 in effect pending completion of ongoing efforts  
23 by the Board of Trustees to enact legislation  
24 pursuant to, I think its enabled authority  
25 under New York Navigation Law, which is



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2 attached to the staff report.

3 Navigation Law lists several  
4 activities and the moratorium intends to  
5 address each of those activities. It being the  
6 board's intention that the status quo be  
7 maintained in the interest of avoiding the loss  
8 of valuable and limited local resources, and  
9 in the interest of enabling the future  
10 regulatory management of those resources by  
11 means of new legislative enactments.

12 What was not referred to us was that  
13 the governor just signed into law on August  
14 3rd, just after the -- just prior to the  
15 referral that the state transferred its  
16 authority to regulate docks from the state to  
17 the village. So that came subsequent to the  
18 staff report, and I believe you heard testimony  
19 to that effect from the village's  
20 representative today.

21 The information in the staff report  
22 basically refers back to the commission  
23 bulletin on moratoriums. It shows what a court  
24 tested bulletproof moratorium should be. It's  
25 the belief of staff that Section 1 of -- the



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2 purposes of the proposed local law is too  
3 vague. Staff provided a copy of the local law  
4 to the commissioners and we believe that the  
5 staff recommendation, that the moratorium  
6 should be approved, taking into consideration  
7 the transfer of authority from the state to the  
8 village, and giving the village the opportunity  
9 to create regulations to regulate shoreline  
10 structures, nor do we believe that the local  
11 law should be modified to include more explicit  
12 findings necessitating the proposed moratorium.  
13 That is the staff report, Mr. Chairman.

14 THE CHAIRMAN: Thank you, Andy. What  
15 do you mean by -- we heard here today that the  
16 law just passed. Obviously, they only just got  
17 this authority. What happened here in terms of  
18 findings right now?

19 MR. FRELENG: In terms of the tax  
20 moratorium, the moratorium is two pages it  
21 talks about keeping the status quo and creating  
22 regulations pursuant to Subsection 46A of the  
23 Navigation Law. What is missing, they didn't  
24 have the authority in the past, they had no  
25 regulations. The state just transferred the



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2 authority to them, and they have pending dock  
3 applications. Consistent with what we said in  
4 other moratorium reviews, moratorium suspends  
5 land use and the rights of private property  
6 owners to develop. We are suggesting that they  
7 put in more findings in case there is a  
8 challenge on the moratorium that indicates what  
9 the emergency and necessity of the moratorium  
10 is.

11 If you look at the local law, purpose  
12 is about a paragraph, maybe two paragraphs  
13 long. It really doesn't show what the  
14 necessity of the moratorium is.

15 THE CHAIRMAN: Should be maintained  
16 in the interest of avoiding the loss of  
17 valuable and limited local resources and in the  
18 interest of enabling the future regulatory  
19 management of these resources by means of new  
20 legislative pursuant to -- I guess they're  
21 citing the law. It doesn't say it's a new law,  
22 but they are citing the new law.

23 MR. FRELENG: Oftentimes moratoriums  
24 are used to delay controversial development  
25 applications, and if you put in your findings



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2 the necessity of moratorium other than just to  
3 include regulations, it would strengthen the  
4 moratorium in case there is a challenge. We  
5 are looking out for the interest of the village  
6 in this instance. We want to make sure that  
7 the moratorium is bulletproof in case of a  
8 challenge.

9 COMMISSIONER WEIR: I have a  
10 question. I don't know how much -- it says,  
11 "valuable and local limited resources." Should  
12 they expand on that? I'm trying to figure out  
13 what kind of language it should be because that  
14 is kind of serious right there.

15 MR. FRELENG: It's generic language.  
16 That is the opinion of staff. The commission  
17 has a published bulletin on what the commission  
18 in the past felt what a bulletproof moratorium  
19 challenge is legally. Staff referred to the  
20 publication which is attached to the staff  
21 report. You can see the various things that  
22 the courts look at to uphold a municipal  
23 moratorium.

24 COMMISSIONER WEIR: Is that the  
25 section back here, the one page?





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2 MR. FRELENG: It's two pages. It's  
3 on the commission Website.

4 COMMISSIONER KELLY: Is there any  
5 hardship provision?

6 MR. FRELENG: Yes.

7 COMMISSIONER HOLMES: Are you also  
8 suggesting that the New State Law gives them  
9 the authority?

10 MR. FRELENG: Staff believes there  
11 should be more specificity in their purpose.

12 COMMISSIONER HOLMES: Could you  
13 mention including the language of New State  
14 Law, because that to me is very important  
15 because they have now gotten that authority and  
16 you said that was referred to. I think that  
17 they would be well served to make it specific,  
18 specific reference, quote, of the state law.

19 THE CHAIRMAN: Any other thoughts on  
20 it? I think the big question is whether there  
21 is a condition at all or it's a comment.  
22 Taking what Andy is saying having more specific  
23 findings, I think that is what Commissioner  
24 Holmes is getting at here. It's not like there  
25 are no findings, there are some findings. As



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2 Andy pointed out, maybe we can say that other  
3 moratoriums that we have seen that have more  
4 detail as to their rationale, and we urge the  
5 village to include more explicit details.

6 I would like hearing your thoughts as  
7 to whether this should be a condition or  
8 comment.

9 COMMISSIONER HOLMES: Well, the word  
10 that the staff has used is "modification."

11 THE CHAIRMAN: Whether it's a  
12 modification.

13 VICE CHAIRMAN KONTOKOSTA: How are  
14 docks regulated now, Andy?

15 MR. FRELENG: As you heard today in  
16 the village, the docks are regulated mostly by  
17 the state. DEC or Department of State.

18 VICE CHAIRMAN KONTOKOSTA: They're  
19 planning on enacting legislation that is more  
20 stringent?

21 MR. FRELENG: No, the governor signed  
22 over jurisdiction to the Village of North  
23 Haven. They have no regulations at the moment.

24 COMMISSIONER ESPOSITO: Signed it  
25 over at their request. Now they need time to



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2 craft what their regulations would be.

3 THE CHAIRMAN: The only question is  
4 whether there should be any kind of comment --  
5 excuse me, modification or comment from the  
6 commission about the more explicit findings.

7 COMMISSIONER CHARTRAND: Is there a  
8 time line here that we are looking at before  
9 the state kicking and the village taking  
10 control?

11 COMMISSIONER WEIR: They already  
12 have.

13 THE CHAIRMAN: As of right  
14 now. The governor signed it. Right now there  
15 is no regulation.

16 COMMISSIONER  
17 CHARTRAND: We want to get regulations going  
18 forward here.

19 THE CHAIRMAN: Right. The only  
20 question in my mind is whether there should be  
21 a condition at all or approval with a comment.  
22 Whether it's a condition or comment, the  
23 condition has a legal role there. If they  
24 can't meet that condition for whatever reason,  
25 it can be an impediment.

COMMISSIONER WEIR: My question is,  
and I guess staff has their guidelines that



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2 they're looking at, is the intention to prevent  
3 the village from getting sued? What is our  
4 intention? Do we have a regional perspective  
5 on this or just warning the village that they  
6 might be sued if they don't.

7 MR. FRELENG: The commission is on  
8 record indicating that the moratorium, since  
9 they suspend that kind of development, might  
10 not necessarily be a good thing. The  
11 commission has a bulletin that says if you do a  
12 moratorium, it's going to be bulletproof and  
13 it's going to be challenged, it should justify  
14 the reason for the moratorium and indicate how  
15 serious and urgent the circumstances are.

16 Staff would agree that this is a  
17 serious and urgent circumstance. It's not in  
18 their purpose. It's a simple thing.

19 THE CHAIRMAN: I don't know if a dock  
20 imposes on someone's economic development.  
21 Moratoriums generally deal with things like  
22 buildings, and lack of commercial development.  
23 This is something not being able to build a  
24 dock out of their own water. It's an  
25 environment kind of thing. It's not that it's



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2 not important. It's the ultimate sort of land  
3 use restriction.

4 Any thoughts on whether this should  
5 be a condition or comment?

6 COMMISSIONER ESPOSITO: I think it  
7 should be a comment. I think this is something  
8 that needs to occur quickly and swiftly. I  
9 would like the village to have as much time  
10 available and latitude available to make these  
11 decisions.

12 I agree this is not an economic  
13 development issue. This really is a use issue.  
14 It's also an environmental issue. I think that  
15 the village requested this in order to frankly  
16 do the right thing and look at their water  
17 resources in a more comprehensive way, and more  
18 access to water in a comprehensive way, to  
19 allow proper planning, and I think we should  
20 allow them to do proper planning.

21 COMMISSIONER HOLMES: I would urge  
22 that the comment be added. I noticed, I was  
23 very surprised to hear Mr. Tohill say that all  
24 of the docks constructed in North Haven so far  
25 do not allow people to walk along the beach.



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2 That is a colonial law; that is riparian  
3 access. I know on Shelter Island, the  
4 regulation is that the dock owner leave an open  
5 space between a high water mark and low water  
6 mark for people to be able to walk. And the  
7 dock, you know, stops and then starts again,  
8 with steps going up to the dock that goes into  
9 the water.

10 I would certainly urge that we add  
11 that comment, that the village consider making  
12 that part of their regulation to preserve  
13 riparian rights, because I can't believe that  
14 nobody has been challenged on taking away  
15 riparian rights.

16 MR. FRELENG: I note for the  
17 commission that the village is required to  
18 refer the ordinance when they draft it. So  
19 language preserving riparian rights or public  
20 access should be in that. I don't know if you  
21 want to make that comment now or when you get  
22 the referred local code amendment. That is up  
23 to the commission.

24 I want to point out that the dock is  
25 fifteen hundred feet in into public water. It



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2 reflects the Navigation Act and not just  
3 private property, so it is a regional concern.

4 THE CHAIRMAN: I think what  
5 Commissioner Holmes is saying, if you are going  
6 to draft a law, why not say it now. It's a  
7 comment and why not point it out.

8 COMMISSIONER HOLMES: That language  
9 should be inserted so future docks preserve  
10 riparian rights.

11 THE CHAIRMAN: To summarize, the  
12 commission urges that the village consider  
13 regulations that preserve riparian rights and  
14 beach access.

15 COMMISSIONER HOLMES: By having the  
16 docks leave some open space.

17 COMMISSIONER ESPOSITO: No. We  
18 shouldn't be crafting the verbiage.

19 COMMISSIONER HOLMES: Such as open  
20 space on the beach between the high water and  
21 low water mark.

22 THE CHAIRMAN: I got that. What I  
23 heard from that objection is that we consider  
24 regulation that protects riparian rights and  
25 beach access when drafting legislation.



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2 COMMISSIONER HOLMES: I think we  
3 should put "such as." I think we -- I don't  
4 know why it wasn't suggested to any of the  
5 people so far.

6 THE CHAIRMAN: Mr. Schoolman next and  
7 then Diana.

8 COMMISSIONER SCHOOLMAN: I have a  
9 question there is a quote in here that says,  
10 "not consistent with the present best interest  
11 of the village." Can you give me information  
12 as to how it's not consistent with the best  
13 interest of the village?

14 MR. FRELENG: To answer your question  
15 directly, no. We didn't get any information.

16 COMMISSIONER SCHOOLMAN: I find  
17 that troubling. I don't think Brookhaven --  
18 the state controls docks. You need permission  
19 from the DEC in terms of issues that are  
20 environmental. Why would there be such a  
21 problem in North Haven but not necessarily in  
22 Brookhaven?

23 MR. FRELENG: I can't answer that  
24 other than it's a local perception. We did not  
25 get any information as to answer that.





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2 COMMISSIONER SCHOOLMAN: Do you find  
3 that kind of specificity should really have  
4 been presented.

5 MR. FRELENG: Certainly that would  
6 have been helpful in the purpose and intent of  
7 their moratorium in discussion with what the  
8 urgency is. COMMISSIONER

9 SCHOOLMAN: I'm agreeing with your criticism  
10 that it's not specific.

11 COMMISSIONER WEIR: I want to explain  
12 to Bill. If a township, according to New York  
13 State or the DEC regulation, establishes a  
14 local water revitalization plan, then I think  
15 those rights to regulate are given to the town.  
16 They get a permit so they're able to do that.

17 I don't think villages are able to do  
18 that, villages that have the water around them,  
19 such as North Haven. Townships had the right  
20 under the local water revitalization plan,  
21 villages did not have that. COMMISSIONER

22 SCHOOLMAN: I was aware of that. In  
23 Brookhaven, in Port Jeff Harbor, they had major  
24 controversy on who was going to control the  
25 mooring rights and it just became a revenue



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2 stream rather than improving the water rights.

3 COMMISSIONER WEIR: It is important.  
4 Those dockages do have an impact on the  
5 environment and all the things. I see what  
6 Andy is saying what they should have put in  
7 detail in their findings to make it more  
8 understandable.

9 MR. FRELENG: Andy is only saying  
10 what you have published. Just for the record.

11 COMMISSIONER WEIR: I'm agreeing with  
12 what you are saying that we said what you  
13 should say. I agree with the comment with the  
14 riparian rights, but I don't think that we  
15 should tell them how to do that. They may have  
16 their deliberations at the village.

17 THE CHAIRMAN: We mostly agree on  
18 that sentence. There is a little disagreement.

19 VICE CHAIRMAN KONTOKOSTA: I'm going  
20 to look at this from a procedural point of  
21 view. That should be a condition. I don't see  
22 how you evaluate the merits of a moratorium  
23 without articulated intent and purpose. I  
24 don't see how we can evaluate that at all  
25 without that sufficient justification. While



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2 the scale of this might be different from some  
3 of the other moratoria that we see, I think  
4 procedurally we have to look at the same way  
5 and justify it the same way and debate it the  
6 same way. That is my concern.

7 THE CHAIRMAN: Any other comments or  
8 thoughts? If not, I'm going to go back to  
9 Commissioner Holmes' statement. What were you  
10 suggesting, "such as?"

11 COMMISSIONER HOLMES: Using the  
12 example to say "such as leaving beach access  
13 between the high and low water marks," just to  
14 give an example of the common way that docks  
15 comply with riparian rights.

16 THE CHAIRMAN: That is what we have.  
17 This is a comment, by the way. Consider  
18 regulations that protect riparian rights slash  
19 beach access when drafting moratoria  
20 regulations. Commissioner Holmes is suggesting  
21 that we add the following at the end of the  
22 sentence: Such as allowing beach access  
23 between the high and low water marks.

24 COMMISSIONER HOLMES: That's good.

25 THE CHAIRMAN: Any objection to that



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2 language. Motion? (Hand raised by  
3 Commissioner Weir)

4 THE CHAIRMAN: Seconded by me in  
5 order to vote. All in favor of changing the  
6 end of the comment to add the words "such as  
7 allowing beach access between the high and low  
8 water marks," please raise your hands. (Show  
9 of hands)

10 THE CHAIRMAN: Three. Opposed? The  
11 rest. Three to seven; it fails. It will go  
12 forward as the comment as written.

13 Now we have a condition, more  
14 specificity, a comment regarding the future  
15 regulation. Any other thoughts or comments?  
16 If not, I'll entertain a motion. Motionn by  
17 Commissioner Esposito.

18 COMMISSIONER HOLMES: Do I understand  
19 that you cut out the entire "preserving  
20 riparian rights?"

21 COMMISSIONER ESPOSITO: No, just the  
22 "such as."

23 THE CHAIRMAN: The village should  
24 consider regulation that protects riparian  
25 rights and beach access when drafting the



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2 forthcoming laws. That is how it reads.  
3 Motion on that by Secretary Esposito, seconded  
4 by Commissioner Chartrand. All in favor,  
5 please raise your hand. (Show of hands)  
6 Opposed? Two. Goes back to local action.

7 MR. FRELENG: Goes back as  
8 non-action.

9 THE CHAIRMAN: Six to four. Next  
10 item is Brookhaven.

11 MR. FRELENG: Application of Meadows  
12 in Yaphank referred to us from the Town of  
13 Brookhaven. Jurisdiction is the subject  
14 application is adjacent to County Road 46 and  
15 New York State 495. The subject application is  
16 in the Pine Barrens zone. The application  
17 requesting a change of zone on the subject  
18 property totaling three hundred twenty-two  
19 point thirty-seven acres, from J-2 and L-1 to  
20 Planned Development District.

21 The PDD plan, proposed mix of uses  
22 totaling one million five hundred thirty-two  
23 square feet of commercial space, including a  
24 hotel, restaurant retail space, office,  
25 industrial space and retail, office/flex



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2 industrial space and eight hundred fifty units  
3 of attached housing.

4 Three hundred three units are age  
5 restricted with eighty-five workforce housing  
6 units dispersed among the condominiums and  
7 rental units. I just want to indicate in the  
8 staff report we had an error and I want to  
9 correct that. We picked up some old numbers.  
10 There is a mix of one and two bedroom rentals,  
11 which is two hundred twenty-four units, one and  
12 two bedroom condominiums, two hundred  
13 ninety-four units, and the two and three  
14 bedroom townhouses are three hundred thirty-two  
15 units.

16 The Town of Brookhaven zoning law for  
17 requirement for off street parking relevant to  
18 this action is not met by the proposal and  
19 would require adjustments to the requirements  
20 of all the uses, with the exception of the  
21 hotel. The petitioners have put forth,  
22 however, that adequate parking to serve the  
23 related uses will be provided throughout the  
24 development. Storm water retention ponds are  
25 proposed on the site. The application material



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2 indicates that the development is to connect to  
3 an existing sewage treatment facility  
4 associated with an adjacent attached  
5 development, although the facility will require  
6 construction upgrades to adequately accommodate  
7 the combined flow.

8 The petition also includes proposed  
9 creation of a town square, including concert  
10 gazebo, reflecting pond, public plaza, great  
11 lawn and civic space in the form of community  
12 center, pavilion and rest rooms. Approximately  
13 seven acres of parkland in the form of athletic  
14 fields is offered, along with one hundred  
15 sixteen point nine acres or thirty-six percent  
16 of existing natural areas to remain.

17 In addition, the proposal includes  
18 the retirement of five Pine Barrens credits.

19 In terms of the staff analysis,  
20 taking a look at the considerations of the New  
21 York State General Municipal Law Section 239,  
22 the proposal involves the development and  
23 improvement of the subject site in order to  
24 provide a use that is presumptively compatible  
25 with the existing land use character of the



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2 area.

3 One concern that the Suffolk County  
4 Department of Planning staff has is that the  
5 Town of Brookhaven has a relatively low  
6 percentage of zoned industrial land compared to  
7 other zoning categories. It has less than one  
8 percent of its land zoned in industrial zoned  
9 district. That is just a notation that the  
10 staff is making to the commission. We believe  
11 that the town should recognize that the  
12 preservation and improvement of industrial land  
13 with industrial uses creates long term  
14 employment opportunities, in addition to the  
15 short term construction jobs associated with  
16 improvement of the land. The town should give  
17 consideration to the preservation of industrial  
18 zoned properties for sustained industrial  
19 growth.

20 The Town of Brookhaven 1996  
21 Comprehensive Land Use Plan recommends the  
22 subject parcel as appropriate for planned  
23 development. The proposal is for a change of  
24 zone to a mixed use planned development  
25 district and presumptively compatible with the





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2 1996 Comprehensive plan.

3 In terms of the Suffolk County  
4 Planning Commission guidelines and  
5 considerations, The Town of Brookhaven  
6 Department of Planning, Environment and Land  
7 Management, their planning division, in concert  
8 with the petitioner's consultant, Nelson, Pope  
9 & Voorhis, jointly prepared and submitted an  
10 analysis of the guidelines for referral of the  
11 proposed municipal subdivision and zoning  
12 actions. This was dated August 17th and that  
13 was attached to the staff report.

14 The Suffolk County Department of  
15 Planning staff has reviewed the analysis  
16 performed by the petitioner and has the  
17 following observations: Section 4.3 related to  
18 housing, this is in the Suffolk County Planning  
19 Commission guidebook, indicates that general  
20 policy affordable housing should be set aside.  
21 The petitioner indicates that ten percent of  
22 the proposed units would be set aside for  
23 workforce housing units. Section 5.1 in the  
24 guidbook further elaborates on Section 4.3 and  
25 indicates that a minimum of twenty percent of



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2 all units should be set aside as affordable  
3 housing units for a change of zone  
4 applications.

5 It's the belief of staff that the  
6 workforce housing element of the proposal  
7 should be modified to reflect Suffolk County  
8 Planning Commission policy. When reviewing the  
9 rest of the responses to the commission's  
10 guidelines, staff did not have any significant  
11 considerations at this time. Any other  
12 comments could be taken during the site plan  
13 review or variance referrals that could come as  
14 a result of the zoning approval on this action.

15 Staff is recommending approve with  
16 the following modifications: In accordance  
17 with the Suffolk County Planning Commission  
18 policy that twenty percent be set aside for  
19 affordable workforce housing purposes, and the  
20 reason is excerpted from the staff report.

21 COMMISSIONER WEIR: For the record, I  
22 need to recuse myself on this until I get a  
23 ruling from the attorney.

24 MR. FRELENG: On the Smart Board we  
25 have the zoning maps and site plan along with



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2 inventory of photographs from the site. Staff  
3 was there last week. If there is anything that  
4 you need us to refer to, I would be happy to.

5 THE CHAIRMAN: Thank you, Andy.  
6 Obviously, this is an area that has been --  
7 used to be the race track.

8 MR. FRELENG: Part of the property  
9 was the race track.

10 THE CHAIRMAN: It's been like that  
11 for an extended period of time. This is a  
12 Brookhaven project, so I'll turn to  
13 Commissioner Kelly for an opening comment.

14 COMMISSIONER KELLY: Thank you,  
15 Mr. Chairman. This is a major application in  
16 the Town of Brookhaven. I agree with the  
17 recommendation for the approval. I believe it  
18 will make a significant impact, not just in the  
19 area, but also with the public benefits that  
20 are comprised in this application.

21 The condition that is recommended by  
22 the staff, I do have a concern about, and allow  
23 the twenty percent set-aside for affordable  
24 units that is in the planning guidebook.  
25 Economic conditions at this point in time, and



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2 the interest rate environment at this time,  
3 makes it very, very difficult to deliver that  
4 many housing units at the numbers required at  
5 twenty percent. It's not necessarily the  
6 delivery, but it's the restrictions that go and  
7 coincide with the affordable classifications.

8 So, what happens is the market itself  
9 has driven prices down such that people in that  
10 income bracket can't afford non-restricted  
11 units. When you deliver, as a developer, if  
12 you are delivering units with restrictions,  
13 those units could sit for a long, long time  
14 without occupancy. It makes the economic  
15 impact extremely difficult to deliver those  
16 units, so I just want you to recognize that  
17 because I think that is a significant issue,  
18 not just on this application but in the  
19 guidebook as well, which I know we are possibly  
20 going back and forth.

21 THE CHAIRMAN: We talk about the  
22 guidebook a lot, reforming the guidebook a lot.  
23 We haven't done it yet. Yesterday's meeting we  
24 talked quite a bit about this particular one in  
25 particular. I would like to meet after this



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2 meeting to have a more detailed discussion  
3 about the housing condition.

4 We made a lot of progress in changing  
5 that condition, I think three years ago. I  
6 think I have heard about from about fifty  
7 people that this needs to be looked at again,  
8 and that's fine. It comes up time and time  
9 again with our applications.

10 COMMISSIONER KELLY: The fact that  
11 it's a requirement, we also have to note that  
12 is a rather large redevelopment, one of which  
13 is not going to happen overnight. This is a  
14 phased development and will come before us, I  
15 would imagine, several more times through the  
16 site plan approval process.

17 MR. FRELENG: That is true, it would  
18 be developed in phases and the various  
19 different site plan phases would be referred to  
20 the Commission and we would examine that issue  
21 at the time.

22 THE CHAIRMAN: What issue?

23 MR. FRELENG: The number of each  
24 units in each phase that are affordable.

25 THE CHAIRMAN: How are they dividing



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2 this out?

3 MR. FRELENG: I don't have knowledge  
4 at this time how they would build out the  
5 phases, but you can see it's modular in its  
6 design. I would imagine that the town and  
7 applicant would pick a section and start with  
8 that.

9 COMMISSIONER KELLY: Whatever Phase 1  
10 consists of has to be a success for this  
11 developer to get to Phases 2, 3, 4 and 5. To  
12 have the restriction of affordable component at  
13 this point in time might be economically  
14 burdensome for the financial success for Stages  
15 2, 3, 4 and 5. That is my concern. While I do  
16 agree that affordable housing is a necessary  
17 regional component that we have to look at, I  
18 think we have to balance something like this.

19 I would say if anything, I would make  
20 the modification a comment, so that would be up  
21 for discussion.

22 THE CHAIRMAN: I think one thing that  
23 is interesting about this project, there are a  
24 handful of things that are regionally  
25 significant. Affordable housing we've said



1 Suffolk County Planning Commission - 9/7/11  
2 time and time again is regionally significant.  
3 We also said Pine Barrens credits are a  
4 regionally significant thing.

5 The question for this commission, is  
6 how do you deal with a situation where you have  
7 several of those things being achieved, or you  
8 have a development that is seeking to advance  
9 several regional goals, but doesn't reach one  
10 of the goals that we articulated. Obviously,  
11 from an open space perspective, or green  
12 methodology perspective and Pine Barrens  
13 perspective does achieve certain things. It's  
14 a balancing act.

15 COMMISSIONER ROBERTS: There are two  
16 hundred twenty-four rental units and three  
17 hundred three senior units. I think there is  
18 also another way of looking even at the  
19 affordable housing requirements, that rental is  
20 certainly helping along that issue, and I would  
21 love to learn more about the senior units. I  
22 think we have to look at the whole scope and  
23 not be that rigid as they go forward on this  
24 project.

25 THE CHAIRMAN: Is the senior housing



1 Suffolk County Planning Commission - 9/7/11  
2 an affordable housing concept?

3 MR. FRELENG: No, it's age  
4 restrictive, but not price restrictive.

5 COMMISSIONER KELLY: It could be.

6 MR. FRELENG: It could be, but it  
7 wasn't indicated that it was.

8 COMMISSIONER HOLMES: Do I understand  
9 Commissioner Kelly to say that the economic  
10 situation has become such that people can now  
11 afford housing that isn't workforce? Is that  
12 what you were saying, that now we can afford  
13 the regular housing?

14 COMMISSIONER KELLY: Somewhat. I  
15 think the price points on housing units have  
16 come down significantly. And what happened  
17 with the definition of workforce to provide  
18 housing for those eighty to a hundred twenty or  
19 even hundred thirty percent of median income,  
20 those people can afford a lot more of a house,  
21 especially in today's interest rate  
22 environment.

23 When you are in that program, the  
24 program has certain restrictions on resale and  
25 your price appreciation and equity. In order





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2 to stay in that program, if you can afford a  
3 unit without those restrictions, the buyer will  
4 go to the one without the restrictions. In  
5 this marketplace there is not a sufficient gap  
6 between price restrictive and non-price  
7 restrictive.

8 VICE CHAIRMAN KONTOKOSTA: While  
9 pricing has gotten to the point where someone  
10 wants to buy a market rate unit, five years from  
11 now when we hope that the market has recovered,  
12 that housing unit will have appreciated and  
13 will not be affordable to the next buyer. I  
14 think this is another case. I think we have  
15 seen that in a lot of East End applications in  
16 terms of the residential subdivisions, how do  
17 we apply the housing standards. I think this  
18 is an example of taking a regional policy and  
19 applying it to an individual site as we get  
20 mired into the individual details.

21 I would say we have a policy. There  
22 is a tremendous value here in terms of the  
23 developer in the economic burden. As a  
24 developer I'm going to even question that were,  
25 to a certain degree, I think this is a really



1 Suffolk County Planning Commission - 9/7/11  
2 interesting project. There is a lot of thought  
3 given to it. There is standard that should be  
4 applied and at the same time there are a lot of  
5 other benefits that should be considered. The  
6 town should consider the other benefits and  
7 amenities that the project is offering in  
8 exchange and in light of the affordable housing  
9 requirements.

10 It's their discretion as to how that  
11 affordable housing requirement is met.

12 COMMISSIONER HOLMES: Would you  
13 modify the modification that -- could you not  
14 say in accordance with the Planning Commission  
15 policy twenty percent, would you alter that?

16 VICE CHAIRMAN KONTOKOSTA: No. I see  
17 that we are using some new semantics,  
18 "modifications?"

19 COMMISSIONER HOLMES: Yes.

20 THE CHAIRMAN: This was our attorney  
21 pointed out two or three meetings ago.

22 MR. YOUNG: "Modification" is what  
23 the statute usually actually uses. Where we  
24 have been saying "conditions," it's actually a  
25 modification.



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2 THE CHAIRMAN: Commissions around the  
3 state use the term "modification."

4 MR. FRELENG: From staff's  
5 perspective it's two words, "shall" and  
6 "should." If it's a condition it will be  
7 "shall," if it's a modification or comment,  
8 that would read "should."

9 MR. YOUNG: No, if it's a  
10 modification, it's still "shall." If it's a  
11 condition --

12 THE CHAIRMAN: He was testing us.  
13 That is exactly right. The question comes from  
14 the perspective from the government body,  
15 whether it's the town or county, developers  
16 want to give a certain amount of benefits, if  
17 you will. Whether that is put into parks or  
18 amphitheaters or open space, or Pine Barrens  
19 credits, or affordable housing, all that comes  
20 out of the developer's pocket in some way.  
21 There is some amount that the developer is  
22 willing to bear on that.

23 The question for us is, I think, how  
24 do we balance that and do we, perhaps going  
25 forward, allow for that recommendation, while



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2 still saying it's regionally significant and  
3 it's a critical piece. At the end of the day,  
4 the local town councilperson cares more about  
5 the parks and ampitheater and he's going to  
6 consider that more from a political perspective  
7 and there is no pressure on the town to address  
8 the regional aspects. In this case, they're  
9 doing the ten percent, which addresses it to  
10 some degree. They're not doing the twenty  
11 percent, which historically has been our  
12 standard.

13 COMMISSIONER HOLMES: How are we  
14 going to leave it? Are we going to leave in  
15 the twenty percent? COMMISSIONER

16 SCHOOLMAN: Why not make it a comment instead  
17 of a condition?

18 THE CHAIRMAN: We can certainly do  
19 that. The recommendation of staff is that it  
20 be a modification.

21 COMMISSIONER KELLY: I make a motion.

22 THE CHAIRMAN: Let's see if there is  
23 another comment on this. Other thoughts?

24 COMMISSIONER HOLMES: How are we  
25 resolving it? Are we making it a comment?



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2 THE CHAIRMAN: I'm looking for  
3 thoughts. COMMISSIONER

4 GABRIELSEN: Did you say you were going to  
5 revisit the Planning Commission policy on the  
6 twenty percent?

7 THE CHAIRMAN: We have talked around  
8 the table that we need to revisit the number.  
9 I'm not saying that we have to change the  
10 number, but after this meeting we will discuss  
11 it further. We are not going to make a  
12 decision on changing the guidelines any time  
13 soon. It will be after the end of the year.

14 The staff has said it's been our  
15 policy for a certain period of time. We have  
16 discretion. We can make it a comment to  
17 highlight the twenty percent, but acknowledge  
18 there are a lot of other things that we like  
19 here. It's important to say hey, we like the  
20 application to be twenty percent, but we are  
21 acknowledging that there are other good things  
22 here and we would like the town to strike a  
23 balance. You can say that at the very least we  
24 would want to explain why, we should say  
25 something stronger than that.



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2 COMMISSIONER SCHOOLMAN: I thought

3 all the comments about having a balanced

4 approach is very important and sounds like what

5 I'm hearing is the good that this project would

6 do far exceeds the issue, which is perhaps be a

7 little controversial of a number like twenty

8 percent. That is why I kind of feel that it

9 should be a comment rather than a requirement.

10 COMMISSIONER FINN: One of the things

11 we talk about as commissioners is there are a

12 lot of lack of definition in the word

13 "affordable," especially as it pertains to Long

14 Island. If you speak to some housing experts,

15 they will define affordability as the supply

16 issue. We have failed miserably on Long

17 Island. Just the sheer number of supply that

18 has been brought to the market has left the

19 housing stock vulnerable.

20 You heard it from the supervisor of

21 East Hampton, seventy percent of the housing

22 stock has been preserved. If you don't have

23 supply in the marketplace, you are not going to

24 have affordability. We have a supply coming on

25 line. In this instance, it's a multi-faceted



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2 various housing stock, rental, town home,  
3 senior.

4 One thing I have noticed, this  
5 project was identified as a project of  
6 significance. About eight or nine years ago  
7 Long Island had, or maybe it was 2004, seven  
8 years ago, projects of significance.

9 THE CHAIRMAN: Who identified it?

10 COMMISSIONER FINN: The  
11 business community, whether it was the Gabreski  
12 Airport, Nassau County Hub, Calverton, Central  
13 Islip with Jerry Wolkoff's project. We were  
14 talking about it. Now here again is an  
15 opportunity to see something actually get  
16 delivered. I think the staff is not refuting  
17 that, they are going by the twenty percent  
18 guideline, but I think twenty percent from the  
19 Land Use Institute, depending on who you are  
20 talking to is basically double of what is  
21 considered sustainable in a project of this  
22 size.

23 I think we have to acknowledge we  
24 have twenty percent at the moment. I would be  
25 in favor of having it be a comment.



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2 COMMISSIONER McADAM: I think the  
3 project, and probably the other projects like  
4 this are very good at this time because the  
5 foreclosure market and short sale market, there  
6 are going to be a lot of people over the next  
7 five years. The last seminar that I went to,  
8 they feel it's this is with the Multiple  
9 Listing Service, that there are at least five  
10 years of foreclosures and short sales that have  
11 to shake out of the system before the market  
12 can come back.

13 The problem is I have experience with  
14 family members and friends, that they're going  
15 to need places to live. If we don't have a  
16 good rental market for them right now, when  
17 they leave their home that they purchased,  
18 either through a short sale or foreclosure, we  
19 are going to lose them to some other part of  
20 the country. If we have rentals here, I think  
21 it's going to keep their services, because of a  
22 particular hardship that they have, they may  
23 still be working, but there may be other  
24 factors. I think we may want to keep those  
25 families on Long Island.





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2 The other thing is regarding the  
3 affordability, the area south of Yaphank, to  
4 some extent north of Yaphank, there is a  
5 tremendous amount of affordable houses. I  
6 recognize when I first started on the  
7 commission when John Caracciola was the  
8 chairman he said when we come aboard as members  
9 we have guidelines, we have policies that we  
10 have to follow, but we also have to use our  
11 common sense and take into consideration a  
12 particular situation or the time we are living  
13 in.

14 I think that the time that we are in  
15 right now, we do have to been a little bit more  
16 flexible, and to that end I would support the  
17 affordable housing component, I would support  
18 as a comment.

19 THE CHAIRMAN: Other thoughts?  
20 Anyone else want to articulate in favor of  
21 keeping it as a condition? Okay. Then, I  
22 suggest that we are making to them a comment  
23 that speaks to aspiration, that we are going to  
24 see it again, that we would like to see as much  
25 affordable as possible, and identifying the



1 Suffolk County Planning Commission - 9/7/11  
2 regional standard is twenty percent. That  
3 while we recognize there are tradeoffs made  
4 with a lot of community benefits, that  
5 affordable housing is one of the most paramount  
6 elements and we will keep an eye on that as it  
7 comes through for site plan.

8 No one other than the vice chairman  
9 spoke in favor of it as a condition. If it's  
10 going to be a comment, it's going to be a  
11 comment, I think it should say something and  
12 also recognize the standard and say we are  
13 going to keep an eye on this going forward.

14 COMMISSIONER KELLY: We get it at  
15 site plan approval and the next four phases.

16 THE CHAIRMAN: Sounds like we will be  
17 living with this for a while. Any other  
18 thoughts along those lines? I articulated  
19 something that I would like feedback.

20 COMMISSIONER HOLMES: Would you say  
21 it again?

22 THE CHAIRMAN: I think I  
23 said something along the lines that we  
24 acknowledge that the project is balancing a lot  
25 of regional interests. That under the Planning  
Commission guidelines, affordable housing is



1 Suffolk County Planning Commission - 9/7/11  
2 one of the most paramount regional interests.  
3 That the regional standard has historically  
4 been twenty percent, and we will keep an eye on  
5 that standard, keep an eye on this project and  
6 look to apply this standard as the next phases  
7 of the project move forward. Something like  
8 that.

9 COMMISSIONER ROBERTS: I might  
10 suggest adding a positive comment about the  
11 rentals and senior component. I would be  
12 concerned to have tradeoffs or as that project  
13 moves forward, if the units are actually  
14 affordable or can be used in the twenty percent  
15 affordability number. I would like to see a  
16 positive statement about accepting this as what  
17 we recognize as a need on Long Island.

18 THE CHAIRMAN: We may want to make it  
19 a second comment for ease of clarity. If you  
20 want to think of some words. I'll ask the rest  
21 of the commission if there is any other  
22 feedback with regard to what I said.

23 COMMISSIONER CHARTRAND: I agree with  
24 what you said. It's going to be back in front  
25 of this commission four or five more times. At



1 Suffolk County Planning Commission - 9/7/11  
2 that time we will see if they're going to take  
3 the recommendation that we are going to make  
4 them. That will be sending us back more  
5 material. If they're going to do something to  
6 mitigate the housing thing, they will send it  
7 back the next time we get a report.

8 THE CHAIRMAN: If you are going to  
9 say something, you should say it in the  
10 beginning.

11 VICE CHAIRMAN KONTOKOSTA: Is there  
12 any discussion of how the affordable housing  
13 would be built out in the phases of the  
14 project?

15 MR. FRELENG: Staff is not familiar.  
16 I don't recall how they will phase it out.

17 VICE CHAIRMAN KONTOKOSTA: The  
18 concern with phased projects is provide  
19 affordable housing, they provide it in the  
20 fourth phase in twenty years and it never gets  
21 built. It should be addressed in some way if  
22 no residential is being built in the first  
23 phase -- it should be built in proportion to  
24 the phasing of the project as they're being  
25 built.



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2 COMMISSIONER ESPOSITO: When is the  
3 first phase, do we know?

4 MR. FRELENG: I couldn't state it as  
5 a fact.

6 THE CHAIRMAN: Barbara, do you  
7 have any thoughts on the language?

8 COMMISSIONER ROBERTS: Building on  
9 what you said, in light of the many benefits of  
10 this project, we were making this a comment as  
11 opposed to our usual ruling, that it would be a  
12 modification, and amongst those benefits we are  
13 considering are the number of rental units and  
14 senior housing.

15 COMMISSIONER HOLMES: You were  
16 asking, weren't you, to get more clarity  
17 whether the senior housing will be -- at what  
18 rate they would be.

19 COMMISSIONER ROBERTS: I think that  
20 would be part of it. As it comes back to us,  
21 the staff would know we want that  
22 documentation.

23 COMMISSIONER HOLMES: We should  
24 mention that we would like to see that  
25 documentation, right.

THE CHAIRMAN: Staff can ask for that



1 Suffolk County Planning Commission - 9/7/11  
2 when the next phase comes in.

3 MR. FRELENG: Specifically what are  
4 we asking for?

5 THE CHAIRMAN: Affordability  
6 component of the senior housing, or if it's  
7 affordable at all. My question is, I guess  
8 they will be saying whether or not it's  
9 affordable.

10 MR. FRELENG: The approving  
11 resolution of the Town of Brookhaven will have  
12 details relevant to the site plan phases later  
13 on and may have specificity with regard to  
14 units later on.

15 THE CHAIRMAN: What I articulated  
16 that the planning commission acknowledges that  
17 the project is balancing a variety of regional  
18 interests. That affordable housing is one of  
19 those paramount or one of the most important  
20 regional interests, and while the Suffolk  
21 County Planning Commission standard is twenty  
22 percent, we will look at the project in future  
23 stages with that standard in mind.

24 Barbara added that the rental units  
25 and senior housing are important components of



1 Suffolk County Planning Commission - 9/7/11  
2 this project, and from the commission's  
3 perspective, that the rental units and senior  
4 housing units are important components of this  
5 project, and Constantine added that the  
6 commission will look to see whether the  
7 affordable rental and senior aspects of the  
8 project are proportional to the project as a  
9 whole as it's built out over time.

10 That is really three sentences or  
11 three statements. Any thoughts on that,  
12 Michael?

13 COMMISSIONER KELLY: Yes.  
14 Proportional of -- I guess it's a comment.

15 THE CHAIRMAN: This is all a comment.  
16 This is simply us saying look, I hope this  
17 commission sort of weighs this because if we  
18 don't make it a condition, it's a rare thing  
19 and should only be done in certain  
20 circumstances. If we are going to do it, and  
21 if it's the will of the commission, fine, we  
22 should articulate clearly why.

23 COMMISSIONER KELLY: Not knowing the  
24 phasing.

25 THE CHAIRMAN: They're doing the



1 Suffolk County Planning Commission - 9/7/11  
2 commercial first. In proportion to what is  
3 brought to us. We can weigh that the  
4 proportionality. It doesn't mean down to the  
5 decimal point.

6 COMMISSIONER KELLY: Maybe they can  
7 only build the rental.

8 THE CHAIRMAN: They're all  
9 hypotheticals. To the extent it's brought to  
10 us we can weigh it. I think the first  
11 principal should be proportionality with regard  
12 to the affordable senior and rental units, as  
13 the residential piece is being built out over  
14 time.

15 We have three comments, all relating  
16 to housing -- sort of broken them up a little  
17 bit. That is not a problem with me. They  
18 deserve their own weight, I think.

19 Other additions, thoughts about this  
20 project? Anything else to add? Seeing none,  
21 I'll entertain a motion to adopt the staff  
22 report as amended with a comment. Sorry, those  
23 three comments.

24 COMMISSIONER ESPOSITO: Just that a  
25 clarification question, Andy, after that





1 Suffolk County Planning Commission - 9/7/11  
2 we will see in the future each segmented  
3 portion of the proposal will come back here?  
4 How does it work?

5 MR. FRELENG: Generally, it works  
6 that the planning board, when they seek  
7 approval for site plan approval, goes back to  
8 the town. The town should refer it to us in  
9 phases.

10 COMMISSIONER ESPOSITO: It may not be  
11 in phases, it may be one project or it may be  
12 in phases.

13 MR. FRELENG: We are not certain at  
14 this time.

15 THE CHAIRMAN: Entertain a motion to  
16 adopt the three comments.

17 COMMISSIONER KELLY: Motion.

18 COMMISSIONER SCHOOLMAN: Second.

19 THE CHAIRMAN: All in favor of  
20 adopting the staff report for approval with the  
21 three comments indicate by raising your hand.  
22 (Show of hands) Ten in favor, no opposed.  
23 Abstentions? One abstention, ten to zero and  
24 one. Commissioner Esposito abstained.

25 Last item on the agenda is Director



1 Suffolk County Planning Commission - 9/7/11  
2 Lansdale is going to give a brief update on the  
3 Comprehensive Plan layout, where the next steps  
4 are.

5 DIRECTOR LANSDALE: Thank you. Just  
6 real quick, the next phases of the  
7 Comprehensive Plan that we are working on  
8 energy efficiency, natural resources, land use,  
9 housing, transportation and emergency response.  
10 If you have any ideas on how to shape the  
11 content of the Comprehensive Plan or subsequent  
12 chapters, please give me a call. Thank you.

13 I'd love to work with you. Just to  
14 remind the Chairman about the Yaphank special  
15 meeting that he is going to schedule for later  
16 this month.

17 THE CHAIRMAN: Guess what, surprise?  
18 We have been asked by the county executive to  
19 have a special meeting to deal with the Yaphank  
20 project, so under the rules I would call a  
21 special meeting for later this month. There is  
22 a timing issue in that regard so I believe we  
23 can't do a phone meeting.

24 DIRECTOR LANSDALE: Correct.

25 THE CHAIRMAN: We will see at least



1 Suffolk County Planning Commission - 9/7/11  
2 eight of you sometime in the next month. I  
3 believe our constraint is it has to be done by  
4 20th. We will obviously not have any of the  
5 other updates, we will just hear this one  
6 project. It relates to a subdivision of land,  
7 I believe for Yaphank, the county land in  
8 Yaphank. We will get back to you. We will all  
9 have a chance to be together again.

10 I'd like for the folks on the housing  
11 summit to stay for a few minutes. I want to  
12 talk about the housing parts of the guidelines.  
13 Let's talk about that for a few minutes. Any  
14 other thoughts, comments or questions?

15 Motion to adjourn by the vice  
16 chairman, seconded by Commissioner Weir.

17 (Time noted: 2:30 p.m.)

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CERTIFICATION

STATE OF NEW YORK)

)

ss:

COUNTY OF SUFFOLK)

I, JUDI GALLOP, a Notary Public in  
and for the State of New York, do hereby  
certify:

THAT this is a true and accurate  
record of the meeting held by the Suffolk  
County Planning Commission on September 7,  
2011, as reported by me and transcribed by  
me.

*Judi Gallop*  
JUDI GALLOP



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WITNESS ' SIGNATURE DATE



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