

Letter concerning Legacy Village

Environmental and civic groups voice concerns to legislature

By LINDA LEUZZI

Just a few days after the Carmans River Partnership meeting, several of the same organizations that are members forwarded a letter to the Suffolk County Legislature with their concerns about the major waterway and Legacy Village project.

Twenty organizations signed on. The letter was not sent under the Carmans River Partnership aegis but as a separate concerned group. Signees included the Environmental Defense Fund, Post-Morrow Foundation, the Long Island Pine Barrens Society, Friends of the Wertheim National Wildlife Refuge, ABCO, the Open Space Council and Open Space Preservation Trust along with civics from Brookhaven, South Yaphank, East Moriches, Manorville, Miller Place, Mastic Park and Ridge.

Forwarded on Oct. 20, the letter urges the county legislature to table or disapprove Resolution IR 1922-09, a local law introduced on Oct. 13 that would allow the sale of the county property to Legacy Village and declare the 249 acres surplus, at least until the completion of a full environmental impact statement had been conducted on the proposed surplus declaration and transfer program as well as the completion of the Carmans River Watershed Preservation Plan study. The town of Brookhaven and the Central Pine Barrens Commission are awaiting groundwater watershed boundaries from the county before completing their own plans.

"The basic decision they are being asked to make is, 'Can this land be developed or not?'" explained Jim Tripp, counsel for the Legal Defense Fund, who constructed most of the letter. "And that is in terms of the integrity of the Carmans River and its watershed, and that is a momentous decision. Any significant development will add nitrogen loads to the groundwater of the Carmans River and it already suffers and the groundwater around it suffers from a significant level today. It's higher than it should be. The county's decision appears to be that the decision of the county executive and the county legislature to alienate this land and declare it surplus and enter into a contract has no significant environmental

consequences and that is wrong for the reasons I just stated."

Sources say some of the issues to be grappled with include the actual definition of surplus land and whether the county can declare surplus land if there is a SEQRA.

An attempt by Legislator Kate Browning (WFP-Shirley) to form a task force to review the Legacy Village Plan before the resolution was voted on was killed a few weeks ago. The surplus land resolution, introduced to the legislature on Oct. 13, does not include an environmental review prior to the sale. Section 9 of the resolution states that the environmental review of the action is being permissibly segmented from the environmental review of the overall development. It alludes to the Brookhaven Town Board having ultimate land use approval authority and conducting their own SEQRA.

A public hearing will take place on Nov. 17, said Josh Slaughter, Browning's aide. "It's a local law so that means

it requires a public hearing before it's voted on," he said. "I'm sure there will be quite a debate on both sides. They can recess the meeting and then continue it the following month. If they close it, it will go back into committee, and then it will be decided on, whether it's approved or not and then goes before the legislature for a vote. So potentially it could be voted on in December."

According to Tom Williams, vice president of the Post Morrow Foundation, the letter and the group's issues will be on the Council for Environmental Quality agenda on Nov. 18. The CEQ is responsible for a number of responsibilities including making recommendations on what county activities are likely to have a significant impact on the environment and advising the county legislature and county executive on developments with environmental significance.

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Bellport lawyer Reggie Seltzer, who is also one of the signers, said she met with County Legislator and Majority Leader Jon Cooper (D-Lloyd Harbor) on Oct. 2 regarding a municipality's power to dispose of county-owned real property. Seltzer, who said she felt that Cooper had a good relationship with Levy and that the meeting might be helpful, emphasized a number of legal concerns in her own letter including Article III of the county charter Section C3-3, which defines the functions and powers of the county executive. "Nothing in the charter permits the County Executive to dispose of County property or to select a developer or to issue an RFP unless the County Legislature explicitly delegates such authority to him, by resolution or local law," her letter states.

"By having a resolution, which asks the legislature to rubber stamp what has already been done, he still hasn't given them all the information," Seltzer said.

County attorney Christine Malafi disputed Seltzer's assertion. "(The County Executive's) first power is general supervision of all administrative units of the county, so he really runs the day-to-day operations of the county," she said. "In order to do his duty, he issued an RFP to review the property."

"What Reggie was doing was listing her interpretation of the charter," County Executive Steve Levy charged back. "But we are not taking any action unilaterally. We are doing it in concert with the legislature. She's factually incorrect to suggest county executives cannot issue RFPs. County executives do it regularly as prescribed by state law. They've issued them going back to H. Lee Dennison. This is an example where the county legislature will have final say on the deal because it can't move forward without the legislature first giving approval for the surplus. The point she is missing is, none of this can happen without legislative approval. They have the right to vote on this for the next session or they can delay it for a year. I can't go forward without them. Some people are making the ridiculous argument that we should have had the legislature declare the property surplus before we had the RFP. Can you imagine the outcry? They're not going to say, we can't declare it surplus before seeing what could be done. You have to do the RFP first, pick a winning proposal and then present it to the legislature before they can declare it surplus. You can't do it the other way around. It wouldn't be transparent."

Levy, who pointed out that Caithness, the Grucci plant, and other businesses were nearby, reiterated that sewers would be an integral part of the project as well as state-of-the-art environmental features. ■

Significance of county SEQRA versus town

By LINDA LEUZZI

What is the significance between the county issuing a SEQRA versus the town? *The Advance* asked Jim Tripp, Environmental Defense Fund counsel and SEQRA expert. "As a legal matter, the county could keep the land as is, but it also has the legal right to change the status of the land, so it could become part of the preserved land along the Carmans River corridor such as Southaven Park," Tripp explained. "Once it becomes surplus, that is not an option. Once the county enters into a contract

March 2002 Carman River Environment Assessment Report prepared for Suffolk County Department of Health Services by Cashin Associates. It states: "Both the Town of Brookhaven and Suffolk County have identified the Carmans River as a 'critical environmental area' pursuant to the State Environmental Quality Review Act, (SEQRA) thereby distinguishing it as unique in regard to environmental quality and sensitivity, and as such, worthy of greater protection from potential significant adverse environmental impacts.

Tripp's words "If some the county should