

WESTCHESTER COUNTY BOARD OF LEGISLATORS

COMMITTEE ON ENVIRONMENT & ENERGY

MINUTES: June 15, 2009

MEMBERS (E&E): Chair: Abinanti; Legislators: Harckham, Kaplowitz, Maisano, Myers, Nonna, Rogowsky. Chairman Ryan joined flood mitigation discussion.

IN ATTENDANCE: STAFF: C. Crane; GUESTS: Hon. V. Pinto; S. Gerry, B. Randolph (CEO); Comm'r. T. Lauro (WCDEF); S. Dolgin-Kmetz (Law); R. Mayer (F&J); Hon. P. Wittner (Mamaroneck), S. Altieri; Hon. J. Feinstein (Rye Brook); F. Culross, S. Pickup (Rye); L. Marriman, S. Pappalardo (Scarsdale); V. Pici (Bronxville) [list of other attendees is on file]

Committee on Environment & Energy called to order at 3:45 pm.

Item(s) Discussed: **Long Island Sound Environmental Benefit Projects (SLI02); Flood Mitigation Projects**

Chair Abinanti began the meeting with a review of the legal basis of the appropriation for capital project SLI02, Environmental Benefit Projects (EBPs). Committee members reviewed a memorandum prepared by Mr. Mayer on the allocation of EBP project costs. Upon query by Chair Abinanti, Mr. Mayer replied that there is not case law on district funding of capital projects that directly fits the relevant facts.

Leg. Maisano questioned why the EBPs were not eligible for payment from the county general fund, as these projects would otherwise have been considered for such funding. Ms. Gerry stated that the sewer districts are responsible for making penalty payments associated with NYSDEC consent orders, and varying from this approach could pose problems. Upon the motion of Leg. Myers, seconded by Leg. Kaplowitz, the Committee approved the proposed legislation for project SLI02 (6-1, Maisano voted no). Chair Abinanti requested the Administration provide further reference on the definition of environmental benefit projects and any exclusion for projects that are typically included in a sewer district's program.

Upon the motion of Leg. Nonna, seconded by Leg. Kaplowitz, the Committee approved the May 18, 2009 meeting minutes (all in favor).

The Committee next considered proposed capital project BPL26, Flood Mitigation. Planning Commissioner Mulligan introduced the four flood mitigation projects and welcomed the municipal representatives to provide additional detail. Commissioner Mulligan noted that each of the projects included an aspect that protects county-owned infrastructure. Chair Abinanti commented on the earlier discussion on public benefit doctrine and its relevance to these projects also.

Each of four flood mitigation projects was then presented for the following municipalities: Town of Mamaroneck (Gardens Lake project); City of Rye/Village of Rye Brook (Bowman Avenue dam); Village of Scarsdale (several projects); Village of Tarrytown (Loh Park project).

Upon the motion of Leg. Myers, seconded by Chairman Ryan, the Committee approved the legislation (all in favor, Abinanti without prejudice). Leg. Nonna stated that an opinion should be provided that describes the legal basis for county funding of the projects.

Upon the motion of Leg. Myers, seconded by Leg. Nonna, the Env't. & Energy Committee voted to adjourn (all in favor). The meeting ended at approximately 5:55 p.m.

[audio recording of the meeting is on file]