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NASSAU COUNTY LEGISLATURE

NORMA GONSALVES,
Presiding Officer

PUBLIC WORKS AND PARKS COMMITTEE

VINCENT MUSCARELLA, Chairman

1550 Franklin Avenue
Mineola, New York

Monday, January 11, 2016
2:16 P.M

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

VINCENT MUSCARELLA,
Chairman

STEVEN RHOADS,
Vice Chairman

DONALD MACKENZIE

C. WILLIAM GAYLOR III

ELLEN BIRNBAUM,
Ranking

JUDITH JACOBS

LAURA CURRAN

WILLIAM J. MULLER, III
Clerk of the Legislature

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LIST OF SPEAKERS

SEAN SALLEY 7

Public Works and Parks Committee/1-11-16

2 CHAIRMAN MUSCARELLA: Public
3 Works and Parks Committee is hereby called
4 to order. I will read the roll. I am here.
5 Vice Chairman Rhoads?

6 LEGISLATOR RHOADS: Here.

7 CHAIRMAN MUSCARELLA: Don
8 MacKenzie?

9 LEGISLATOR MACKENZIE: Present.

10 CHAIRMAN MUSCARELLA: Bill
11 Gaylor?

12 LEGISLATOR GAYLOR: Here.

13 CHAIRMAN MUSCARELLA: Ranking
14 Member Birnbaum?

15 LEGISLATOR BIRNBAUM: Here.

16 CHAIRMAN MUSCARELLA: Judy
17 Jacobs?

18 LEGISLATOR JACOBS: Here.

19 CHAIRMAN MUSCARELLA: Laura
20 Curran?

21 LEGISLATOR CURRAN: Here.

22 CHAIRMAN MUSCARELLA: We have a
23 quorum. We have one item on today. That is
24 Clerk Item 4 of 2016, an ordinance making
25 certain determinations pursuant to the State

Public Works and Parks Committee/1-11-16

2 Environmental Quality Review Act and
3 authorizing the County Executive on behalf
4 of the County of Nassau to execute an
5 amendment to a lease agreement between the
6 County of Nassau, as landlord, and Sun E
7 Solar XVII Projects, LLC, as tenant, in
8 connection with the lease of certain
9 premises consisting of approximately 10.199
10 acres of real property situated at the Cedar
11 Creek Water Pollution Control Plant, Town of
12 Hempstead, County of Nassau, State of New
13 York, said real property known as Section
14 63, Block 261, and a portion of Lot 765H and
15 773 on the land and tax map of the County of
16 Nassau.

17 LEGISLATOR MACKENZIE: So moved.

18 LEGISLATOR RHOADS: Second.

19 CHAIRMAN MUSCARELLA: Motion by
20 Mr. MacKenzie, seconded by Mr. Rhoads. That
21 item is before us. Do you have some
22 information for us?

23 MR. SALLEY: Absolutely. Sean
24 Salley, Nassau County Department of Public
25 Works. The action before you today is a

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2 lease amendment to the county lease
3 agreement with Sun Edison. The vendor that
4 was chosen pursuant to a county RFP to
5 construct, at the time it was a three
6 megawatt utility solar facility at the
7 southern end of the Cedar Creek water
8 pollution control plant. There is a vacant
9 area just to south of the plant.

10 That lease was approved by this
11 legislature in the fall of 2014. That
12 provided Sun Edison with site control and
13 they were able to formally apply to LIPA
14 under the LIPA Solar Feed and Tariff II
15 Program.

16 Through a reverse auction, LIPA
17 was procuring roughly 150 megawatts
18 throughout Long Island of solar energy from
19 these distributed sites so to speak.

20 So, the lease was approved by the
21 legislature. Sun Edison applied, received
22 an approval from LIPA to move forward with a
23 three megawatt project at 16.88 cents a
24 kilowatt hour. That 16.88 megawatt,
25 kilowatt hours was set across the board on

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2 Long Island. So any project that entered
3 into this program would receive that fee.

4 In return the county would
5 receive a lease payment for the utilization
6 of the land. Sun Edison would produce power
7 and sell that power pursuant to a PPA,
8 power purchase agreement with LIPA.

9 Subsequent to that happening,
10 LIPA then undertakes an interconnection
11 study, and the outcome and the findings of
12 that study was basically that the nearest
13 substation which is in Bellmore was unable
14 to accept the three megawatts of solar of
15 renewal energy. So the maximum that that
16 substation could handle was approximately
17 1.8 megawatts.

18 Just as an aside, the overall on
19 Long Island, the amount of power that could
20 be kind of plugged into the substations was
21 less than what LIPA thought originally could
22 be the case.

23 So if not all the projects on
24 Long Island had received the benefit of this
25 program, the projects were all reduced

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2 because of the capacity at the substation.

3 Sun Edison is actually working
4 with Suffolk County to develop utility solar
5 at Gabreski Airport in West Hampton through
6 the same program. Their project was
7 actually reduced almost 50 percent. So just
8 to kind of give you more context, this is
9 sort of happening across the county -- I'm
10 sorry, across the island, and in order for
11 future projects to come online, there will
12 need to be some substantial infrastructure
13 improvements in terms of upgrading and
14 expanding substations. So, just again, kind
15 of keep that in mind.

16 So the lease amendment today is
17 basically to memorialize the new project
18 size which is 1.8 megawatts. What that does
19 is drop the rent payment down that's due to
20 the county. The original amount to the
21 county was approximately \$105,000 a year for
22 20 years which is concurrent with the power
23 purchase agreement for 20 years.

24 That lease payment drops down to
25 \$70,000, and just to point out that the drop

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2 in rent is not proportional to the drop in
3 system sizes. It's slightly more of that
4 percent reduction so we are able to
5 negotiate with Sun Edison.

6 The land area also involved also
7 goes down from 12.5 acres to roughly ten
8 acres and what that did was actually
9 preserve a stand of scrub bush on the
10 southeast corner of the site so that is no
11 longer part of this leasehold.

12 And, other than that, the
13 remaining lease terms remain the same. Sun
14 Edison is nearing completion of
15 construction. If you've been down there
16 it's a really neat sight to see, this
17 project nearing completion. They expect to
18 be producing power to the grid in the next
19 couple of weeks.

20 There was a question on the
21 commencement date. The commencement date is
22 actually the day they flip the switch and
23 start providing power to LIPA. That's
24 imminent within the next couple of weeks.

25 There will be a public outreach

Public Works and Parks Committee/1-11-16

2 component to this where all of the energy is
3 tracked in real time by the vendor, of
4 course, for security purposes and overall
5 performance purposes.

6 We will have an internet or web
7 interface to view in real time what that
8 facility is producing. So, for the county
9 to understand what it's producing, as well
10 as bringing that information to schools and
11 universities and so forth, it's kind of a
12 nice component and benefit to the project as
13 a whole.

14 So, again, the lease amendment is
15 for the reduced land area and for the
16 reduced lease payment to the county over the
17 20 year duration.

18 CHAIRMAN MUSCARELLA: Thank you.
19 I know that Mr. Rhoads had had some
20 questions.

21 LEGISLATOR RHOADS: I appreciate
22 that. Thank you, Chairman Muscarella.

23 Mr. Salley, good to see you
24 again. A couple of follow-up questions.
25 First of all, I know that I wasn't on the

Public Works and Parks Committee/1-11-16

2 Legislature at the time that this passed,
3 but I was kind of familiar with the project
4 because I was sitting on OSPAC at the time,
5 and we have had some subsequent meetings,
6 they were kind enough pursuant to the
7 Legislature's recommendation to meet with
8 the fire department.

9 Since completion of the project
10 is imminent, have there been any follow-up
11 conversations with the fire department about
12 setting up that training before they flip
13 the switch?

14 MR. SALLEY: No. And we will do
15 that. It is imminent in the next few weeks
16 so we will contact the district to set up
17 that meeting.

18 LEGISLATOR RHOADS: I appreciate
19 that. Secondly, I know that the issue of
20 security had come up at one of our prior
21 meetings. With respect to having a camera
22 to be able to see in real time, if there is
23 a security issue going on at the facility
24 itself, not just fluctuations in terms of
25 the production of the plant, whether there

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2 were any issues concerning the operation of
3 the plant, but specifically with security,
4 what was the resolution of that, has there
5 been?

6 MR. SALLEY: That did come up at
7 the fire district meeting back in early
8 September. Sun Edison explained to us that
9 they typically provide perimeter fencing as
10 they have done at this location, it's a 12
11 foot high chain link fence around the entire
12 installation.

13 In addition, this is at the rear
14 end of the treatment plant. The security
15 booth up front is supposed to be manned
16 24/7.

17 But, in terms of security, from
18 the vendor's perspective, they were
19 comfortable with the chain link perimeter
20 fencing and the real time performance
21 monitoring.

22 LEGISLATOR RHOADS: Is the
23 security fencing accessible without going
24 through the front gate of the plant?

25 MR. SALLEY: You would have --

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2 there are two different guard booths there.
3 One is the plant's guard booth and the other
4 one is the county, maintains the guard
5 booth, that protects the assets, other than
6 the plant that are back there.

7 LEGISLATOR RHOADS: So there are
8 two guard booths; the guard booth that
9 protects the plant itself. That's the
10 primary access to get into the solar
11 facility.

12 There's a road maintenance
13 facility that's just north of the
14 installation that during the day the trucks
15 and vehicles can flow through. But when
16 there are off hours, that gate is shut.

17 But, again, the primary
18 protection would be the county manned guard
19 booth at the top of the hill. Then, during
20 the evenings, it would be the secondary
21 booth manned by United Water.

22 LEGISLATOR RHOADS: I would still
23 make the suggestion that obviously it's not
24 part of the contract so they are not
25 required to do it, but I would still make

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2 the suggestion that they consider having
3 some sort of camera system so that at least
4 the guard sitting at the booth for the plant
5 can keep an eye on what's going on whether
6 there happens to be an issue other than
7 operations.

8 My last question that I had, it's
9 my understanding that the sewer treatment
10 plant initially for its power needs relies
11 on methane that's produced at the plant and
12 that the secondary system, if the energy
13 that's produced by the methane is
14 insufficient, it's to go on their natural
15 gas backup system.

16 MR. SALLEY: That's correct.

17 LEGISLATOR RHOADS: Since we are
18 talking about reducing the size of the solar
19 field, and we are always talking about green
20 energy, has there been any thought by the
21 administration to seeing if we can use the
22 excess capacity that the original system
23 would have produced, the 1.2 megawatts
24 that's not being produced, to actually be
25 the back-up system for the plant, to reduce

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2 our need for natural gas, since it's
3 renewable energy that theoretically we
4 wouldn't necessarily have to pay for?

5 MR. SALLEY: Sure, sure.

6 Exactly. And I can bring that back to my
7 commissioner of Public Works. So, you do,
8 you have another two or three acres now that
9 is not being utilized in that area and could
10 potentially be used for solar or other
11 renewable to directly feed into the plant
12 itself. Under that arrangement, I would
13 imagine that the county would be responsible
14 for maintaining and operating those solar or
15 wind or what have you.

16 In this arrangement with Sun
17 Edison, they are responsible for maintenance
18 and operation and so forth. But we can
19 certainly bring that opportunity up to the
20 commissioner.

21 LEGISLATOR RHOADS: Completely
22 understood. Since our rent payment that we
23 are receiving is \$70,000, is that annually?

24 MR. SALLEY: Annually, yes.

25 LEGISLATOR RHOADS: I was curious

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2 whether any portion of the \$70,000 that
3 we're receiving in terms of revenue could
4 actually be reinvested back so that we could
5 actually produce that renewable energy, so
6 there would be actually no direct costs and
7 perhaps Sun Energy can actually maintain it
8 based on the use of our anticipated
9 revenues.

10 MR. SALLEY: Sure. Point is
11 taken. I will bring that back to the
12 commissioner.

13 LEGISLATOR RHOADS: I appreciate
14 that. If you could get back to us with some
15 sort of answer I would appreciate it.

16 MR. SALLEY: Sure.

17 CHAIRMAN MUSCARELLA: Any other
18 questions? Legislator Jacobs.

19 LEGISLATOR JACOBS: Sean, hi, how
20 are you? Just a quick question. Don't you
21 think a feasibility study on their part
22 should have been done prior to that original
23 that would have avoided the amending?

24 MR. SALLEY: Absolutely. You do.
25 They promote renewable energy and rightfully

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2 so. Then you have in this case a
3 municipality to develop a utility energy
4 facility, it has to go through a bunch of
5 steps, if the capacity could be determined
6 prior to us spinning the wheels.

7 LEGISLATOR JACOBS: Of course.

8 MR. SALLEY: Exactly.

9 LEGISLATOR JACOBS: So, in other
10 words, I'm not going to put words in your
11 mouth, but I assume it was something you
12 felt would happen when they applied for this
13 amount?

14 MR. SALLEY: Yes, I mean, we
15 looked -- what was very comforting, maybe
16 not the right word, but we had been working
17 closely with Suffolk County because it just
18 so happens they have a similar facility with
19 the same vendor, and when we heard that they
20 were going through the same issues in terms
21 of the capacity dropping and having to go
22 through that process, because originally up
23 front we felt, wait a minute, you're telling
24 us one thing in one capacity, and we go
25 through all these steps and now it's

Public Works and Parks Committee/1-11-16

2 reduced, what's going on here?

3 LEGISLATOR JACOBS: I fully
4 understand. So I guess it's good to be
5 forewarned about this and make sure that we
6 ask that question, have you done a
7 feasibility study, because it's a good
8 thing, and so it's silly to have to be
9 amended.

10 MR. SALLEY: Exactly. And, if I
11 may, when Sun Edison was alerted that it was
12 chosen to be part of the feed in two tariff
13 program, it was then asked to provide the
14 interconnection documents.

15 LIPA then gave no timeline as to
16 when that would be approved, but they did
17 say, if you don't have site control by the
18 time that study is completed, you risk being
19 bumped from the cue. So there is a lot of
20 moving parts.

21 LEGISLATOR JACOBS: I get it.
22 Thank you so much as always.

23 CHAIRMAN MUSCARELLA: Any other
24 questions? Ms. Birnbaum.

25 LEGISLATOR BIRNBAUM: Has it cost

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2 the county any money with this
3 miscalculation? Has the county laid out any
4 money for development?

5 MR. SALLEY: No. This was all
6 vendor responsibility.

7 CHAIRMAN MUSCARELLA: Any other
8 questions?

9 (No verbal response.)

10 Is there any public comment?

11 (No verbal response.)

12 Hearing none, all those in favor
13 of moving this item signify by saying aye.

14 (Aye.)

15 Any opposed?

16 (No verbal response.)

17 That item carries. There being
18 no further business, a motion to adjourn.

19 LEGISLATOR MACKENZIE: So moved.

20 LEGISLATOR RHOADS: Second.

21 CHAIRMAN MUSCARELLA: Motion by
22 Mr. MacKenzie, seconded by Mr. Rhoads. All
23 those in favor of adjourning?

24 (Aye.)

25 Any opposed?

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2 (No verbal response.)

3 We are adjourned. Health is
4 next.

5 (Whereupon, the Public Works and
6 Parks Committee adjourned at 2:32 p.m.)

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C E R T I F I C A T E

I, FRANK GRAY, a Shorthand Reporter and
Notary Public in and for the State of New
York, do hereby stated:

THAT I attended at the time and place
above mentioned and took stenographic record
of the proceedings in the above-entitled
matter;

THAT the foregoing transcript is a true
and accurate transcript of the same and the
whole thereof, according to the best of my
ability and belief.

IN WITNESS WHEREOF, I have hereunto set
my hand this 25th day of January, 2016.

FRANK GRAY