

NASSAU COUNTY LEGISLATURE

NORMA GONSALVES,
PRESIDING OFFICER

PLANNING, DEVELOPMENT AND
THE ENVIRONMENT COMMITTEE

LAURA SCHAEFER,
CHAIRWOMAN

1550 Franklin Avenue
Mineola, New York

July 25, 2016
2:56 p.m.

REGAL REPORTING SERVICES
516-747-7353

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

LAURA SCHAEFER
Chair

DENNIS DUNNE
Vice-Chair

DENISE FORD

STEVEN RHOADS

JUDY JACOBS
Ranking

CARRIE SOLAGES

LAURA CURRAN

WILLIAM C. PULITZER
Clerk of the Legislature

LIST OF SPEAKERS

SAMANTHA GOETZ	5
DAVE RAGINETTI	5
MARK THEILKING	7
META MEREDAY	41
NICK SERANDIS.	49

1 Planning, Development & Environment Committee - 7-25-16 4
2 CHAIRWOMAN SCHAEFER: I ask the clerk to
3 call the roll.
4 CLERK PULITZER: Thank you.
5 Legislator Laura Curran?
6 LEGISLATOR CURRAN: Present.
7 CLERK PULITZER: Legislator Carrie
8 Solages?
9 LEGISLATOR SOLAGES: Here.
10 CLERK PULITZER: Ranking Member Judith
11 Jacobs?
12 LEGISLATOR JACOBS: Here.
13 CLERK PULITZER: Legislator Stephen
14 Rhoads?
15 LEGISLATOR RHOADS: Present.
16 CLERK PULITZER: Legislator Denise Ford?
17 LEGISLATOR FORD: Here.
18 CLERK PULITZER: Vice Chairman Dennis
19 Dunne?
20 LEGISLATOR DUNNE: Here.
21 CLERK PULITZER: Chairwoman Laura
22 Schaefer?
23 CHAIRWOMAN SCHAEFER: Here.
24 CLERK PULITZER: We have a quorum.
25 CHAIRWOMAN SCHAEFER: Thank you.

2 We have one item on the agenda, and it is
3 proposed Local Law Number 266-16, a local law to
4 add Title 83 to the Miscellaneous Laws of Nassau
5 County in relation to a sustainable energy loan
6 program.

7 LEGISLATOR DUNNE: So moved.

8 LEGISLATOR RHOADS: Second.

9 CHAIRWOMAN SCHAEFER: Motion made by
10 Legislator Dunne, seconded by Legislator Rhoads.

11 Do we have someone to speak?

12 MS. GOETZ: Hi. We have David Raginetti
13 from the county attorney's office.

14 CHAIRWOMAN SCHAEFER: Thank you.

15 MR. RAGINETTI: Good afternoon. Deputy
16 County Attorney David A. Raginetti. Clerk Item
17 266 proposes a sustainable energy loan program in
18 Nassau County, as you stated, enacted as Title 83
19 of the Miscellaneous Laws. A little background.

20 Pace Financing, which is property
21 assessed clean energy financing, has been
22 implemented throughout the nation. This model
23 has two defining characteristics - one, loans for
24 energy improvements to property owners, and, two,
25 repayment of the loans with taxes to the local

1 Planning, Development & Environment Committee - 7-25-16 6
2 municipalities. So New York has enacted Pace
3 legislation in the form of New York General
4 Municipal Law Article 5L which, again, authorizes
5 New York municipalities to create sustainable
6 energy loan programs for such improvements and
7 collect loan repayments as a separate charge with
8 taxes; just to be clear, only for properties that
9 opt in to said loans. Accordingly, today's
10 proposed local law would authorize this in Nassau
11 County.

12 This legislation has been enacted in
13 dozens of municipalities throughout New York
14 State, including the Counties of Dutchess, Orange,
15 Suffolk, Tompkins, and Ulster, as well as in
16 cities in towns and villages throughout upstate,
17 downstate and the capital region.

18 The program administrator is a New York
19 State not-for-profit local development
20 corporation named the Energy Improvement
21 Corporation, or EIC. This entity is focused on
22 facilitating improvements for benefitting
23 property owners through those clean energy
24 efficiency and renewal energy improvements,
25 again, pursuant to the State General Municipal

2 Law.

3 We have here today, representing EIC,
4 their executive director, Mark Thielking, to
5 speak on this item. If you would.

6 MR. THIELKING: Thank you. I'm Mark
7 Thielking. I'm the executive director of the
8 Energy Improvement Corporation. We are, again,
9 controlled by local governments that wish to
10 offer this public benefit, financing for clean
11 energy improvements.

12 As David said, Pace is a nationwide
13 product. There are about 31 states now that
14 offer this. The reason why they do is that it
15 relates to economic development, it pairs up very
16 nicely with environmental goals, and it creates a
17 lot of jobs in the clean energy space.

18 Overall, in New York State, as David
19 mentioned, there are 31 municipalities that have
20 passed similar legislation to this, essentially
21 identical legislation, and that represents about
22 30 percent of the population of the state,
23 excluding out New York City. The reason why
24 they're doing that, again, is that the financing
25 is very impactful, relating to the goals of each

1 Planning, Development & Environment Committee - 7-25-16 8
2 county or city that passes this. For example,
3 the financing pays for 100 percent of the project
4 improvements. The repayments are made on the tax
5 charge, which is transferrable to the next
6 property owner so they don't have to pay it off
7 before the loan is paid off - I mean before the
8 property is sold. Also, the terms are very long
9 so it matches up against, again, the financing of
10 energy improvements that take a long time to pay
11 off.

12 The current sector of buildings that
13 we're offering the financing to are commercially
14 owned and not-for-profit owned. In addition, the
15 type of improvement relate to renewable energy as
16 well as energy efficiency. The characteristics
17 have to be that they run these upgrades through
18 existing utility programs or through New York
19 State's energy office, which is called New York
20 State's NYSERDA. NYSERDA is the energy office
21 that we run the project through.

22 Since we financed our first project last
23 year in the County of Orange, we have 356 project
24 leads, of which 60 of them are active projects,
25 totaling \$15 million in financing. Again, this

1 Planning, Development & Environment Committee - 7-25-16 9
2 is across the state. There are 12 closed and
3 approved projects totally about \$1.5 million. So
4 it's been a very, very quick uptake.

5 The next steps in the process is to pass
6 a local law. There is a second item, an inter-
7 municipal agreement between our membership and
8 the County of Nassau that needs to be approved
9 and signed. Finally, as you become a member of
10 the Energy Improvement Corporation, you need to
11 be accepted by our board which is made up, again,
12 of county executives and other mayors and
13 officials of our membership.

14 The additional services that the Energy
15 Improvement Corporation offers also relate to
16 training of local contractors. So the
17 contractors that are working on clean energy
18 projects here in the County will get plenty of
19 opportunities to be trained up on the Pace
20 Financing offerings. We've already done two
21 trainings in Suffolk County and there are host of
22 contractors in Nassau that wish to see this
23 happen right away. So that is part of the
24 services. In addition, we support property
25 owners with also project support.

2 CHAIRWOMAN SCHAEFER: Thank you. I have
3 a couple of questions. Is this a new law? Is
4 this something that we've had something similar
5 in the past and it's somewhat different now, it's
6 changed?

7 MR. THEILKING: In Nassau it's a new
8 law. There is a state law that was passed 2009
9 and this is the local essentially opt-in
10 authorizing it in Nassau County.

11 CHAIRWOMAN SCHAEFER: Okay. And when
12 you said that the projects have to be run some of
13 the New York State entities, does that mean that
14 they are - what does that mean exactly? Are they
15 put together? Developed? Contracted?

16 MR. THEILKING: NYSERDA?

17 CHAIRWOMAN SCHAEFER: NYSERDA.

18 MR. THEILKING: The standards that
19 contractors have to adhere to are pursuant to the
20 state law so they have to be approved by NYSERDA.
21 They are NYSERDA standards for these
22 improvements.

23 CHAIRWOMAN SCHAEFER: Okay. Any other
24 legislators? Legislator Ford.

25 LEGISLATOR FORD: Good afternoon. Thank

1 Planning, Development & Environment Committee - 7-25-16 11
2 you very much, Laura, for allowing me to ask
3 these questions. Just a couple of questions in
4 regard to this program since it is something new
5 that we are passing. Obviously, we're opting
6 into New York State - I'm over here, sir. I know
7 Judy was raising her hand so you probably thought
8 she was me. That's all right.

9 You're saying that what it is right now
10 is if we pass this law, okay, this is going to
11 allow commercially owned properties and/or non-
12 for-profit owned companies to opt into this
13 program that you operate throughout New York
14 State, correct?

15 MR. THEILKING: Correct.

16 LEGISLATOR FORD: Not homeowners, just
17 commercially.

18 MR. RAGINETTI: Just to specify, the
19 state legislation and this law would enable
20 residential and commercial property owners. But
21 at this time, my understanding from what he said,
22 the EIC is targeting that segment.

23 LEGISLATOR FORD: So right now it's just
24 commercial. So New York State would allow
25 residential. Sort of step me through this a

1 Planning, Development & Environment Committee - 7-25-16 12
2 little bit. We have a commercial property. We
3 have a small business owner that wants to opt in.
4 So when you do energy savings this would include,
5 like, say, solar power or if they want to do
6 thermal heating or tankless water heaters and
7 things like that. Am I correct?

8 MR. THEILKING: Correct. The list of
9 measures is pretty much endless. Again, they
10 have to run through either the local utility
11 program or a NYSERDA program to get qualified for
12 this specific improvement. Generally it's
13 insulation, replacement of boilers, solar hot
14 water, solar photovoltaic, a lot of those types
15 of improvements.

16 LEGISLATOR FORD: So then if they are
17 doing something that has to do with gas
18 improvement or if they are a gas customer they'd
19 have to go through National Grid first?

20 MR. THEILKING: Correct. They'd have to
21 qualify the technical qualifications of that
22 upgrade through National Grid's program and then
23 we would be able to finance it.

24 LEGISLATOR FORD: And then the same
25 thing then would either be through LIPA or

1 Planning, Development & Environment Committee - 7-25-16 13
2 through PSE&G Long Island.

3 MR. THEILKING: That's right.

4 LEGISLATOR FORD: Even if it's solar,
5 they would automatically apply. I know that -
6 they would, like, apply for solar energy, right,
7 they're going to put solar panels on and then
8 they could apply through PSE&G or LIPA to be able
9 to qualify so that they can install solar panel,
10 right?

11 MR. THEILKING: Solar is a little
12 different because New York State administers
13 those qualifications and that would be NYSDERDA,
14 the New York State Energy Office, and they would
15 qualify the project through a trained network of
16 installers here in Nassau.

17 LEGISLATOR FORD: Okay. And they would
18 have to be somebody who is licensed in Nassau to
19 do it, right?

20 MR. THEILKING: That's right.

21 LEGISLATOR FORD: When you say that is,
22 like, \$30,000 to install solar - I'm just
23 throwing the number out there. I'm just
24 guessing. So they apply through NYSERDA.

25 Through your program you would finance the 30,000

1 Planning, Development & Environment Committee - 7-25-16 14
2 for them?

3 MR. THEILKING: Correct. We finance net
4 of any New York State incentives. Typically a
5 \$30,000 project would be something like \$26,000
6 after the incentives. Again, if it meets our
7 qualifications both from a technical side, which
8 would be NYSERDA validating, and then the
9 financial underwriting, which would be, again,
10 the property has to meet our underwriting
11 standards - I can go through them - the idea
12 would be then they could get that \$26,000 for
13 that solar improvement and it would be paid
14 directly to them after the project has been
15 completed.

16 LEGISLATOR FORD: So they would lay out
17 the money first or you would pay -

18 MR. THEILKING: Correct. They would lay
19 out the money first.

20 LEGISLATOR FORD: Then they would lay
21 out the \$26,000, okay, and then they would apply
22 to you for you to reimburse them for the 26,000?

23 MR. THEILKING: Correct.

24 LEGISLATOR FORD: And then you would
25 take out - they would somehow pay it back to you

1 Planning, Development & Environment Committee - 7-25-16 15
2 through their electric bills?

3 MR. THEILKING: The repayment is through
4 a charge on the property tax bill of that
5 property. That's the big differentiating
6 component of this. The county is getting
7 remittances from the townships where those
8 properties exist and they are then remitted back
9 to our debt holders.

10 LEGISLATOR FORD: Through the tax bills
11 and then you would ultimately get paid back the
12 26,000 that you laid out to them.

13 MR. THEILKING: Correct.

14 LEGISLATOR FORD: Over a certain amount
15 of years. Do they get to negotiate the number of
16 years that they would pay that back or is it a
17 set?

18 MR. THEILKING: Yes. It's any time
19 between five and 20 years. It's very flexible.
20 It could be eight years, six and a half years.

21 LEGISLATOR FORD: Okay. And what is the
22 interest rate?

23 MR. THEILKING: The rates right now are
24 between four percent and five and a quarter for,
25 again, between a five year and 20 year term

1 Planning, Development & Environment Committee - 7-25-16 16
2 financing.

3 LEGISLATOR FORD: If it's a shorter time
4 it would be less interest?

5 MR. THEILKING: Four percent, five
6 years. Twenty years, five and a quarter.

7 LEGISLATOR FORD: Five and a quarter.

8 MR. THEILKING: That's right.

9 LEGISLATOR FORD: And they would, like,
10 it would go through their tax bills.

11 You don't have to go through all the
12 underwriting things. But what would keep a
13 company from being able to qualify for this under
14 your standards?

15 MR. THEILKING: Our underwriting
16 standards really are designed to protect the
17 municipalities from unnecessary delinquencies.
18 We don't want to see more tax delinquencies
19 happen because of this program. So we're looking
20 at elements like what is the total debt load of
21 the property? If it's greater than 80 percent
22 loan to value, meaning existing mortgages are
23 greater than 80 percent, then we would not be
24 able to finance that property. If they're
25 delinquent on their taxes for greater than - if

1 Planning, Development & Environment Committee - 7-25-16 17
2 it's the last three years they've been
3 delinquent, then we cannot finance that property.
4 If it's a bankruptcy in the last seven years, we
5 would not be able to finance the property.

6 The other component to this is that we
7 want to make sure that the savings are greater
8 than the annual tax charge. We want to see that
9 the estimated savings from the improvement, from
10 that solar improvement for example, is greater
11 than what they'd be paying out on the tax bill.
12 So if it's less, we would probably decline that
13 financing. They really have to be impactful
14 economic impact to that property.

15 LEGISLATOR FORD: What about new
16 businesses? I found that after Sandy we had
17 businesses that opened up, like, say, in the
18 Sumer of 2012, like maybe restaurants or
19 whatever. Sandy comes through Long Beach, wipes
20 everybody out. So the government then would give
21 loans - SBA or might give certain other financial
22 considerations, but you had to show, like, two
23 years of tax returns or whatever. So all of
24 these brand new companies went out. They could
25 not get any money from anybody. Nobody was going

1 Planning, Development & Environment Committee - 7-25-16 18
2 to help them because they couldn't demonstrate
3 that they were going to be a viable business and
4 that they had backup to support their business.

5 What about new companies in your type of
6 program? What if I started a business last year
7 but I can't demonstrate to you that I'm not going
8 to be delinquent or my debt to income ratio or
9 whatever is a health type of debt ratio. What do
10 you do for them? A lot of times those businesses
11 are the ones that might need the help the most.

12 MR. THEILKING: We're not looking at the
13 individual borrower. We're looking really at the
14 property itself. If the property has too much
15 debt, even if it's a new business, we would not
16 be able to finance it. If it's a limited amount
17 of debt, if the property had a bad tax record
18 prior to that new owner coming in but they've
19 cleaned up that tax record, then we would be able
20 to finance that. So that would be a caveat to
21 that. It wouldn't be just restricted.

22 We need to see that the business or
23 organized correctly, so we're going to look at
24 the state records on how that business is
25 organized, make sure that everything is correct.

2 But again, we're looking at the building. We're
3 not looking at the individual. I think that
4 would speak well to the type of business that
5 you're thinking about, generally.

6 LEGISLATOR FORD: If it's a new
7 business, if I was in - like I started a new
8 business or maybe I worked out of state somewhere
9 and I brought my business into a place where the
10 property that the business owner let go into
11 decline - the property owner, I should say, never
12 paid their bills - I came in and started up my
13 business there, now made it a thriving business
14 for six months or whatever. Would you take into
15 consideration if they operated elsewhere and came
16 over and took over a defunct property? Would
17 they qualify or not?

18 MR. THEILKING: Again, it's more about
19 the property itself. If that property owner came
20 in and they cleaned up the past tax record, if
21 they have, again, a solid record, depending on,
22 again, that property being administered properly,
23 again, we would be able to finance that. It's
24 really not looking at the individual borrower.
25 It's looking at whether the property can carry

1 Planning, Development & Environment Committee - 7-25-16 20
2 that extra tax charge and whether the
3 improvements have a material impact on the bottom
4 line of that building.

5 LEGISLATOR FORD: And you've done this
6 in other counties. How many counties in New
7 York? I know you said Orange County. Where
8 else?

9 MR. THEILKING: We have 31
10 municipalities that have joined. It's all
11 throughout the lower mid-Hudson Valley.
12 Westchester. Orange. Dutchess. Ulster. Albany
13 County is in the same position; they just passed
14 a local law. Tompkins County. City of Ithaca.
15 City of Schenectady. City of Troy. City of
16 Albany. Suffolk County is about to activate
17 their program, they passed a law.

18 LEGISLATOR FORD: Okay. So a lot of
19 this - this is new for a lot of these counties.

20 MR. THEILKING: It's new. It's new.
21 But we do have six properties that have been
22 financed on last year's tax record and it's very
23 successful. They are very happy with it.

24 LEGISLATOR FORD: What happens if the
25 property does go under in, say, ten years and

1 Planning, Development & Environment Committee - 7-25-16 21
2 nobody is paying taxes on it? What do you do?

3 MR. THEILKING: This is the - we're
4 providing the public benefit on behalf of Nassau
5 County. Those taxes are going to be collected and
6 enforced in the same way that they're always
7 collected and enforced. So if there is no one
8 paying taxes, the county then forecloses on that
9 property and makes themselves whole.

10 Since we are an in-behalf of enterprise,
11 we're paid during that foreclosure process
12 regarding of whether there are taxes being paid.
13 So that is a county obligation to pay during
14 delinquency just like you're paying your schools
15 districts, your townships, and water districts,
16 etcetera. We're acting in the same way. That
17 process would, again, continue the same way it
18 exists with all other entities.

19 LEGISLATOR FORD: What if the county,
20 like, sometimes we've seen it in the City of Long
21 Beach, certain commercial properties, they go
22 under, and a lot of times they may write off
23 their taxes. They may not have to pay all of
24 their taxes. They may settle for a lower amount.
25 Do we then have to pay you the full amount that

1 Planning, Development & Environment Committee - 7-25-16 22
2 you're owed on the benefit that you gave to this
3 property?

4 MR. RAGINETTI: Yeah, let me just
5 clarify that. Only for property owners who apply
6 for the loan, if they were unable to pay their
7 taxes. This is a charge on their taxes and there
8 would be a lienable interest. Just like any
9 other taxes, you can't partially pay your taxes,
10 so we would have a lien for the amount of
11 whatever amount they didn't pay up to.

12 LEGISLATOR FORD: But what if - like,
13 what if I have a business and I decide I'm not
14 coming back to it, I'm moving to North Carolina
15 and I really don't care what I owe on my taxes.
16 They underwrote solar power for my business and
17 now I'm not paying anything, I'm leaving, I'm
18 gone and nobody is paying taxes on that property.
19 Do they absorb the loss of what they laid out for
20 that solar or does the county have to pay them
21 for the balance that may be due on the solar
22 energy project that they underwrote?

23 MR. RAGINETTI: I think we're being
24 transparent that the county would be paying. We
25 would have that tax lien interest and we would be

1 Planning, Development & Environment Committee - 7-25-16 23
2 made whole when the property is transferred. On
3 the other hand, there are a number of other
4 controls that I think he could possibly speak to.
5 Again, their underwriting standards seek to
6 prevent that very problem, and they are also loss
7 reserve funds that are available in the event
8 that there is a loss like that.

9 LEGISLATOR FORD: But we would not be -
10 but the county would never be subjected to making
11 whole what is owed them if somebody does not pay
12 their taxes.

13 MR. THEILKING: Again, we're limited to
14 only ten percent of the appraised property, so we
15 can't finance more than, again, ten percent of
16 the property. But because we are acting on
17 behalf of the County, again, we're a public
18 authority just like the water authority, so that
19 collection process is essentially controlled by
20 the county. So the county has to collect,
21 enforce, and remit regardless of whether the
22 property owner is paying those taxes on all
23 charges.

24 Just one more thing that Dave mentioned.
25 This is a charge. It's essentially a fee for

1 Planning, Development & Environment Committee - 7-25-16 24
2 service. It's not an assessment. So the charges
3 persist until the financing is paid off but they
4 also do not accelerate. So the charge would be
5 passed on to the next property owner. The full
6 amount of the loan, it never accelerates. The
7 only thing owed by the county would just be the
8 annual payment that is owed on the property.

9 One more thing that Dave had mentioned.
10 Because our members have the same questions
11 regarding the liability of the counties, we have
12 a permanent loss fund which benefits the counties
13 that have a permanent loss on collection. So if
14 in that foreclosure process the property is worth
15 less than what you had paid us during the period,
16 we would reimburse the county. And that is
17 funded to over \$1 million, and every financing we
18 do contributes more to that fund. So that's
19 something that, again, your water districts don't
20 have. We built it because, again, the same
21 issues came up at other hearings.

22 LEGISLATOR FORD: Okay. Thank you.

23 CHAIRWOMAN SCHAEFER: Legislator Dunne.

24 LEGISLATOR DUNNE: Just off of what
25 Legislator Ford was saying. The owner of the

1 Planning, Development & Environment Committee - 7-25-16 25
2 property is actually the bank. So if the people
3 leave the bank still owns that property.

4 MR. THEILKING: That's correct.

5 LEGISLATOR DUNNE: If the Town of
6 Hempstead had to mow the lawn, they would add it
7 to the taxes and the bank would have to pay that.
8 The bank would be responsible to you then for
9 what's not paid.

10 MR. THEILKING: I think Legislator Ford
11 was suggesting when there is no mortgage on the
12 property then it really goes straight to the
13 county. Typically, when there is a mortgage, the
14 mortgage bank is going to pay those taxes to
15 prevent the county from taking control. That's
16 correct.

17 LEGISLATOR DUNNE: Thank you.

18 MR. THEILKING: And the vast majority is
19 commercial properties have mortgages on it.

20 CHAIRWOMAN SCHAEFER: Legislator Jacobs.

21 LEGISLATOR JACOBS: I know - believe me,
22 I understand the importance of this and I really
23 appreciate the fact that it's based on the fact
24 of environmentally sensibly run operations, but I
25 have a few questions to ask you.

1 Planning, Development & Environment Committee - 7-25-16 26
2 Through an IMA on this the county
3 essentially will give broad authority to ESC; is
4 that correct, in the respect that you will act on
5 behalf of the county to administer the entire
6 program. Let me stop there. Is that correct?
7 MR. THEILKING: Yeah, that's correct,
8 along with the other member municipalities.
9 LEGISLATOR JACOBS: So correct me where
10 I'm wrong here. So you would create the loan
11 application forms not Nassau County. Correct?
12 MR. THEILKING: That's correct.
13 LEGISLATOR JACOBS: You would set the
14 terms of repayment not Nassau County.
15 MR. THEILKING: That's correct.
16 LEGISLATOR JACOBS: You would set the
17 rate of interest.
18 MR. THEILKING: Correct.
19 LEGISLATOR JACOBS: Okay. Now the fees
20 that you mentioned that are involved - I think we
21 were discussing financing, etcetera. These fees,
22 are they on top of the interest rate?
23 MR. THEILKING: We do charge a fee for
24 the property owner that relate to building
25 reserves for the benefit of our members, like we

1 Planning, Development & Environment Committee - 7-25-16 27
2 discussed earlier, also a reserve for our
3 creditors, and then we charge a fee to support
4 our operations because we're not charging the
5 county or any member any fees to administer the
6 program. It's basically a free service.

7 LEGISLATOR JACOBS: Is there a ceiling
8 on those fees? Do we know what those fees -

9 MR. THEILKING: The fees right now are
10 4.25 points on the loan amount. In addition, we
11 charge a fee on the rate, an ongoing fee to pay
12 for our bank trustee costs. So the rate is a
13 little bit higher than if we were just passing
14 through the capital as is.

15 LEGISLATOR JACOBS: Now I have a
16 question because a lot of this is on all of our
17 minds. The EIC loan repayments, which are
18 collected as if they are property taxes. Are
19 they counted in the calculation of whether the
20 county has exceeded its tax cap?

21 MR. THEILKING: We've actually dug in
22 that years ago and it is not part of the tax cap.
23 Because it's a charge it's not an ad velorum tax.
24 It is disqualified from being involved in the
25 cap. Plus, EIC is the one issuing the debt not

1 Planning, Development & Environment Committee - 7-25-16 28
2 the county or our members.

3 LEGISLATOR JACOBS: Thank you.

4 CHAIRWOMAN SCHAEFER: Legislator Curran.

5 LEGISLATOR CURRAN: You may have already
6 answered this in your remarks up to now. But
7 what is the source of the money to finance these
8 loans?

9 MR. THEILKING: We did an RFP about a
10 year and a half ago which secured about eight
11 different capital providers. We picked Bank of
12 America Public Capital Corp. that has secured \$75
13 million worth of our first projects. They are
14 purchasing the bonds. We are, again, a public
15 authority of New York State. We're able to issue
16 bonds to support our public mission which, in
17 this case, is supporting Pace Financing. So
18 that's the capital provider for the long-term
19 debt, and we also have an arrangement with First
20 Niagara Bank to supply a warehouse facility which
21 allows us to fund when that project is completed
22 at the time it is completed. It's a pretty
23 sophisticated approach. I'm a finance person
24 myself. It is very low cost. That's the idea,
25 to create a low cost funding stream.

2 LEGISLATOR CURRAN: So would the county
3 be liable if the lender defaults?

4 MR. THEILKING: The lender is the one
5 supplying -

6 LEGISLATOR CURRAN: I'm sorry. The
7 borrower. The borrower.

8 MR. THEILKING: The borrower. So the
9 charge, which is put on that property that
10 received the service, would be paying annually
11 through the tax bill. If the property stops
12 paying that charge, just like if they stop paying
13 all their taxes, the county would be obligated to
14 pay that annual charge back to our trustee bank,
15 which then pays the creditors, because the lien
16 is the county's to enforce, it's not anyone
17 else's. Just like your water districts and sewer
18 districts rely on the county to pay during a
19 delinquency, we're in the same boat. The
20 difference is that we have the permanent loss
21 fund. The other difference is that under Article
22 3 of the Municipal Agreement you can control the
23 program as you see fit. If you wanted to extract
24 or restrict the program to classes of buildings
25 that may have higher delinquencies, you can do

1 Planning, Development & Environment Committee - 7-25-16 30
2 that. If you wanted to stop the program
3 tomorrow, you could do that because you control
4 us, essentially. So that is part of the
5 municipal agreement, again, that you haven't see
6 yet but we have copies it if you'd like to take a
7 look at it. And that's the idea, that you're
8 controlling the governance of this to the extent
9 that if it does pose a risk to the county you can
10 stop it, restrict it or limit it.

11 The other side of that is, again, I don't
12 think you want to get into the qualifications
13 side of it, so that's what our job is.

14 LEGISLATOR CURRAN: Got it. Okay. I
15 guess it goes without saying but I just want to
16 get it on the record. The county doesn't have
17 any role in determining who gets the financing,
18 right, it's the EIC that does the decision.

19 MR. THEILKING: Correct. Unless the
20 county wishes to activate Article 3, which could
21 restrict the class of building or the type of
22 property owner. It can't individually restrict
23 it but it could be the class or the type of
24 building stock. Right now we're restricting -
25 we're not offering it to individually owned

1 Planning, Development & Environment Committee - 7-25-16 31
2 residential and that's just a membership
3 decision. So the county may decide to go forward
4 with that so you can take that restriction off of
5 us and decide to offer it to individually owned
6 properties, but we'd have to work through that
7 because there are conditions around that. So
8 that's the governing component to this, there are
9 restrictions that are put on the program.

10 LEGISLATOR CURRAN: Okay. Thank you.

11 CHAIRWOMAN SCHAEFER: Legislator Jacobs.

12 LEGISLATOR JACOBS: Sorry. One question
13 I just have to ask you about. 5.3 gifts, I'm
14 just looking down because I want to make sure I
15 get this right.

16 The board of directors may accept on
17 behalf of the corporation any contribution,
18 donation, gift, bequest, or device whether in
19 cash or otherwise for the general purposes or any
20 special purpose of the corporation.

21 Will a property owner be required to
22 disclose any contribution that they have made to
23 the EIC board of directors?

24 MR. THEILKING: What were you reading
25 from? I apologize.

2 LEGISLATOR JACOBS: The bylaws. Your
3 bylaws, I think. 5.3 of the EIC. Your bylaws.
4 I'm sorry. Should I repeat it?

5 MR. THEILKING: Yes, please.

6 LEGISLATOR JACOBS: The board of
7 directors may accept on behalf of the corporation
8 any contribution, donation, gift, bequest, or
9 device whether in cash or otherwise for the
10 general purposes or any special purpose of the
11 corporation.

12 Our question is will a property owner be
13 required to disclose any contributions they have
14 made to the EIC board of directors?

15 MR. THEILKING: We are restricted from
16 accepting gifts. We're a public authority and we
17 are regulated by -

18 LEGISLATOR JACOBS: Okay. Okay.

19 MR. THEILKING: We cannot accept gifts
20 or loans.

21 LEGISLATOR JACOBS: So why would this be
22 in your bylaws then?

23 MR. THEILKING: Because we're a public
24 authority. We abide by the Public Authorities
25 Law. So gifts and loans made by individuals we

2 cannot accept.

3 LEGISLATOR JACOBS: It says may accept.

4 MR. RAGINETTI: On behalf of.

5 LEGISLATOR JACOBS: On behalf of that
6 corporation. Okay. Okay. Got it. Got it.
7 Sorry.

8 MR. THEILKING: No problem. That's a
9 first. It's good though.

10 CHAIRWOMAN SCHAEFER: Legislator Ford.

11 LEGISLATOR FORD: Back over here. I'm
12 sorry. This is something new and I guess we have
13 a lot of questions. Okay.

14 My question then would be this. So I
15 guess the property owner then is responsible for
16 the equipment that they purchase and that you're
17 going to help finance, correct? So they have to
18 carry the insurance and everything on that
19 equipment. Do you make sure that they have
20 sufficient insurance? Like, say if there is a
21 fire and everything gets destroyed.

22 MR. THEILKING: We require that they
23 show proof of insurance, particularly with solar
24 project. Typical energy efficiency improvements
25 are insulation, boilers, right, that's all going

1 Planning, Development & Environment Committee - 7-25-16 34
2 to be covered. For solar installation we need to
3 see that the property insurance coverage is
4 sufficient to cover that, yes.

5 LEGISLATOR FORD: For the repayment of
6 the loan, right?

7 MR. THEILKING: Just to replace it. To
8 replace the system.

9 LEGISLATOR FORD: Just for argument's
10 sake, you know, I think it is a good program. My
11 district went under water with Sandy so I know
12 that a lot of the issues, even insurance wise,
13 that a lot of the small businesses faced. And
14 what they found out what they thought they were
15 covered for when the storm hit and they found out
16 that they were not covered, okay. They suffered
17 a lot of losses and everything. It was a
18 hardship for them. But even, like, considering
19 that we are the county, then we'll be responsible
20 for the tax payments, collecting, and sending you
21 what is due you on an annual basis, correct?

22 MR. THEILKING: Correct.

23 LEGISLATOR FORD: Until this particular
24 mortgage or whatever you want to call it is paid
25 off, this loan is paid off.

2 Just for argument's sake, if it's a
3 business and it goes under and a storm comes
4 through again and they find they didn't have the
5 insurance, the insurance company says you really
6 weren't covered or something happens. A lot of
7 times you might have a business, they don't own
8 the property, they are leasing the property,
9 okay. So who is then responsible for the loan?
10 Is it the business owner or the property owner?

11 MR. THEILKING: The property owner. The
12 property owner would be responsible for paying
13 the taxes. There may be a lease arrangement
14 where the lessee is paying that charge on behalf
15 of the property owner, but ultimately it goes
16 back to the property owner. That's how tax law
17 works.

18 LEGISLATOR FORD: But does the property
19 owner normally have the insurance or is it the
20 business owner?

21 MR. THEILKING: If there is a third-
22 party in the middle of this, we would need to see
23 that the lease actually specifically says that
24 there is an economic benefit flowing to that
25 property owner to pay for the charge. So we

1 Planning, Development & Environment Committee - 7-25-16 36
2 actually require that. So either it's a
3 renegotiated lease or it's a separate agreement
4 between the property owner and the person leasing
5 the space.

6 LEGISLATOR FORD: So it's a property
7 owner who owns the actual property and it's their
8 decision to do energy efficiency, finance it
9 through you, and then they would be the ones
10 required to carry the insurance that if anything
11 happens they would be able to recoup the money
12 for whatever system so that you could get paid
13 for whatever was damaged. If they want to
14 afterwards, after the property is restored, if
15 they then want to take out another loan, after
16 the insurance paid off the property that was
17 destroyed, the energy stuff that was destroyed,
18 then they would then sign on for another program
19 with you.

20 MR. THEILKING: I don't know if we would
21 be able to do that. Again, typically the charge,
22 again - if they have proper insurance, the
23 insurance is going to fix that system. That's
24 the idea of requiring insurance.

25 Now you have raised a scenario where

1 Planning, Development & Environment Committee - 7-25-16 37
2 they're gone and there is no more anybody there,
3 and that's a scenario where, again, I don't know
4 if we can actually solve for that in every case.
5 Typically, property owners that do this type of
6 improvement are there for the long haul. They
7 are actually looking long term. They're
8 investing in their building, typically. You're
9 not seeing someone just do this -

10 LEGISLATOR FORD: And then just leaving.

11 MR. THEILKING: Yeah.

12 LEGISLATOR FORD: Right. Okay. I
13 promise my last question is this. With the
14 interest, when you say four to five and a quarter
15 percent, who sets that? Are you, like, like say
16 in two years, are you then allowed to say we need
17 to make it five percent? Do you do it
18 independently or do you have to come back to the
19 county to request an increase in the interest?

20 MR. THEILKING: Once the finance is
21 already established for the property owner that's
22 fixed. It doesn't flow. It doesn't change.
23 It's fixed for the term of the financing. But we
24 reserve the right to change the offered rates.

25 LEGISLATOR FORD: That I understand.

2 MR. THEILKING: That may happen,
3 depending on, again, Bank of America, our cost to
4 them actually is floating so right now it's very
5 low. It may go lower. It may go higher. Those
6 move. When the property owner is signing up and
7 they are fixed, then that's fixed for the life of
8 the loan. It's not going to change.

9 LEGISLATOR FORD: Thank you very much.

10 MR. THEILKING: Okay.

11 CHAIRWOMAN SCHAEFER: Mr. Raginetti, I
12 just have one question for you. Is there a
13 reason why we're not doing the residential
14 portion of this as well?

15 MR. RAGINETTI: There is. It has to do
16 with Fannie Mae and Freddie Mae guidance. It's
17 effectively preventing the IEC from engaging.
18 It's not that they don't want to, it's just that
19 there is some uncertainty in that space at this
20 time.

21 MR. THEILKING: So if we designed this
22 program to be a residential program back in 2011,
23 the regulatory for Fannie Mae/Freddie, the
24 Federal Financing Housing Authority, has written
25 very explicit language, advisory language to

1 Planning, Development & Environment Committee - 7-25-16 39
2 their banks that offer loans to conforming homes
3 that says that if you take out a Pace Financing
4 that is repaid on a property tax bill you run the
5 risk of possible default of that mortgage, which
6 seems really unlikely but that's what they're
7 threatening, as well as redlining communities
8 that offer this.

9 California has decided to ignore those,
10 and they've done over 10,000 financings. We may
11 decide to do that, but it would take a decision
12 by the membership to move forward given the very
13 explicit threats from this federal agency that
14 is, in our opinion, obstructionists, especially
15 when a local government wants to provide a public
16 benefit that they're now restricted from doing
17 so. But right now we're holding off.

18 CHAIRWOMAN SCHAEFER: Okay.

19 MR. THEILKING: Just to be timely, there
20 was an announcement by the Federal Housing
21 Authority, FHA, which regulates about three
22 percent of the mortgage market, that they're
23 comfortable with this. And that just came out
24 last week. So we are now looking at that class
25 of residential property. We haven't moved on

1 Planning, Development & Environment Committee - 7-25-16 40
2 anything yet. The membership will be kept
3 informed as to how we decide to proceed with that
4 class of building. Again, it's a small subset of
5 the mortgage market but they are comfortable with
6 it. That's good news, a good first step,
7 hopefully to get resolution.

8 CHAIRWOMAN SCHAEFER: Okay. Thank you.
9 Legislator Curran.

10 LEGISLATOR CURRAN: Just very briefly to
11 that point. It's a great question. NYSERDA does
12 do this for private residences. I actually had
13 this done in my house and it was great. It was
14 really wonderful. I don't know if it's still
15 being offered but I know it has been in the past.

16 MR. THEILKING: NYSERDA does offer these
17 upgrades, it's called the Home Performance with
18 Energy Star Program, and they do offer a loan
19 that's repaid on the utility bill. I don't want
20 to - that's a very, very viable product, and
21 people that are interested in moving forward with
22 upgrades, they should look at that. It is
23 changing in the next six months. It's probably
24 going to go away. For those that are interested
25 in looking at this for their homes, while we

1 Planning, Development & Environment Committee - 7-25-16 41
2 can't offer it just yet, the Home Performance
3 Program and the on bill recovery payment is a
4 very, very viable product and they should look at
5 that.

6 MR. RAGINETTI: Again, this is an
7 alternative, a lower cost alternative that EIC is
8 seeking to provide and the county here is
9 proposing to authorize them to do so.

10 CHAIRWOMAN SCHAEFER: Thank you.

11 MR. THEILKING: I have a membership
12 packet that I can hand out. It has the municipal
13 agreement, FAQs, other documents that I can hand
14 out.

15 CHAIRWOMAN SCHAEFER: That would be
16 great. Okay.

17 If there are no other questions from the
18 legislators, are there any questions from the
19 public on this item?

20 MS. MEREDAY: Meta Mereday. Just a
21 couple. Some I might get answers for, but I'm
22 just going to put them out there anyway.

23 It was mentioned that this pertains to a
24 new law that, clearly, with all of the questions
25 that had been asked, I'm sure that the residents

1 Planning, Development & Environment Committee - 7-25-16 42
2 of Nassau County would also have questions. Is
3 this the type of scenario that would require some
4 type of forum for public comment? That's that
5 question.

6 Would this become, in essence, a sole
7 source arrangement with just this particular
8 company or would there be opportunity for other
9 similar companies that have kind of jumped off in
10 this particular industry since I helped to
11 develop some of the initial documentation that
12 NYSERDA used when they had the initial grant
13 program, which I guess all of that money is gone
14 so now we're talking about loans. But there were
15 quite a few companies that were invested in
16 participating in this type of scenario. Again,
17 I'm just asking if there is going to be room for
18 competition or does this, in essence, become a
19 sweetheart deal? No offense to all involved.

20 How many jobs? I heard there was some
21 input about this being a job creation/potentially
22 contract creation model with training for
23 contractors, etcetera. What are the numbers to
24 support that? Since we are also dealing in New
25 York State with the fact that we have invested

1 Planning, Development & Environment Committee - 7-25-16 43
2 billions into the Startup New York Program that
3 has basically been proven to be a bust.

4 Again, words sounds good on paper but
5 what are the numbers to justify that we are
6 actually going to create jobs for the residents
7 who are leaving Long Island in droves?

8 What type of amnesty could possibly be in
9 place - amnesty might not necessarily be the
10 right word - or forgiveness for companies that
11 fit the bill for now that are addressing
12 bankruptcy issues post-Sandy and other disasters
13 because they did not get the aid that they needed
14 or they had to use their funding for flood
15 insurance and repairs. And many of our
16 businesses as well as our residents are now
17 getting those nice little letters that say we
18 want upwards of 60 and \$100,000 back for the
19 repairs that they were assured that would be in
20 place for them.

21 So we do have a situation in Nassau
22 County where we have business owners who have
23 bankruptcy on their records who could apply for
24 this type of program but would automatically be
25 put out because they have that blot on them. I

1 Planning, Development & Environment Committee - 7-25-16 44
2 know that from not my own personal experience but
3 just from dealing with veterans in terms of
4 fighting their eviction. They were almost not
5 getting their settlements when we had to fight in
6 the Town of Babylon with the Frontier Development
7 because some of those veterans had gone into
8 bankruptcy because they couldn't pay their rent.
9 So it is a situation that is definitely facing
10 many of our businesses on the south shore.

11 Lastly, again, what happened to the
12 NYSERDA grants? What about PSE&G's role, when
13 they promised that they were going to do so many
14 wonderful things when they came in to take over
15 post-Sandy and so many, again, residents, our
16 senior citizens, our lower income, our nursing
17 home facilities are still in desperate need of
18 energy efficiency programs and models that were
19 promised to them and were not. And we're not
20 talking about the trees that were inadvertently
21 cut down on some boroughs. In our community,
22 particularly in Baldwin, we still have diseased
23 trees that a good wind is going to knock them
24 over and then we're going to have another issue
25 with our utility.

2 Again, finally, how are the residents,
3 the taxpayers going to be impacted by this? One
4 of the questions that was definitely asked on a
5 regular basis, what happens when the default
6 process, when we have additional zombie
7 businesses that are going to accompany the zombie
8 houses? And guess who is going to be
9 responsible? Because you can promise all the tax
10 breaks, you can give all the tax credits, and you
11 can talk about all of the property and prosperity
12 that's going to happen, but at the end of the day
13 when the stuff does hit the fan we're the ones
14 who have to pay. Again, I cannot stress this
15 enough - we are tired of having to pay.

16 Let's just think about this. Let's ask
17 some questions. Let's step back. Let's get some
18 more information before we have another red light
19 camera, police consolidation issue that costs us
20 more money. Not to mention, I don't know how
21 much we're going to have to end up paying for
22 this debate that's going to be taking place at
23 Hofstra. I don't know if we finished paying for
24 the police overtime for the last two.

25 Thank you.

2 CHAIRWOMAN SCHAEFER: Thank you, Ms.
3 Mereday.

4 MS. MEREDAY: You're welcome.

5 CHAIRWOMAN SCHAEFER: Legislator Ford
6 wants to comment.

7 LEGISLATOR FORD: Ms. Mereday, just
8 quickly, I'm just going to go through what I
9 learned even today.

10 First of all, with the jobs. I know for
11 a fact when we do residential solar - I put solar
12 power on my house. I know through the benefits
13 that we got many more residential areas,
14 residences put solar power. I know that speaking
15 to the various companies, the solar companies,
16 they ended up employing a lot more young people,
17 and these young people are learning a new skill,
18 installing solar.

19 You can argue with me about who is
20 getting the jobs or not -

21 MS. MEREDAY: I'm not arguing. All I'm
22 saying is - I'm not trying to dispel anything.
23 I'm putting the information to those of you who
24 can ask the questions and make the decision. If
25 somebody says it is creating jobs, okay, in

1 Planning, Development & Environment Committee - 7-25-16 47
2 Dutchess County, give me a number. That is all
3 I'm saying. In Ithaca, give me a number.

4 LEGISLATOR FORD: Put it in writing and
5 then we can answer.

6 Just to let you know, the one thing that
7 they did clarify for me is it's not necessarily
8 the business owner that is getting the solar
9 system, it is going to be the property owner.
10 The business, the people who own the property
11 usually remain the same. It's the businesses
12 that change. The constant will be the property
13 owner who then, right, will be putting the solar,
14 which may end up being a benefit if they go into
15 this, so that if a business fails and move out,
16 that could be a benefit, something that they can
17 entice another business to come in to say because
18 we have solar or because we have these energy
19 efficiencies you're going to be paying less in
20 utility bills. Just so you know.

21 MS. MEREDAY: Okay.

22 LEGISLATOR FORD: Please put it in
23 writing.

24 MS. MEREDAY: I will, now that I have
25 this information. But I've put other things in

1 Planning, Development & Environment Committee - 7-25-16 48
2 writing and I still haven't gotten a response.

3 LEGISLATOR FORD: I know, Orange County,
4 we could find out how many jobs they generated by
5 some of the projects they did up there. Okay.

6 MS. MEREDAY: Okay. Thank you.

7 CHAIRWOMAN SCHAEFER: Legislator Rhoads.

8 LEGISLATOR RHOADS: And just as a follow
9 up also. The fact that there is an approval
10 process by which they are indicating they are not
11 going to approve any building that has a loan-to-
12 value ratio of 80 percent or greater ensures that
13 there is equity left in the building so that if
14 there is a situation for default that the county
15 can be made whole.

16 CHAIRWOMAN SCHAEFER: Thank you.

17 There is no other public comment?

18 (No verbal response.)

19 I'll take a vote. All those in favor of
20 passing Clerk Item Number 266-16, please say aye?

21 (Aye.)

22 All opposed?

23 The item passes.

24 We have a motion to suspend the rules.

25 Motion so moved by Legislator Dunne, seconded by

1 Planning, Development & Environment Committee - 7-25-16 49
2 Legislator Ford.

3 All in favor of suspending the rules
4 please say aye.

5 (Aye.)

6 Any opposed?

7 (No verbal response.)

8 We suspended the rules. We have an item
9 on the addendum.

10 Item 294-16, a resolution authorizing the
11 county executive to accept on behalf of the
12 County of Nassau a grant of perpetual easement
13 from Lynbrook Theatre Group, LLC., for property
14 situated in the Village of Lynbrook, Town of
15 Hempstead, Nassau County, New York.

16 May I have a motion?

17 LEGISLATOR DUNNE: So moved.

18 LEGISLATOR RHOADS: Second.

19 CHAIRWOMAN SCHAEFER: So moved by
20 Legislator Dunne, seconded by Legislator Rhoads.

21 Do we have someone to speak on this?

22 MS. GOETZ: We have Nick Serandis from
23 the county attorney's office.

24 CHAIRWOMAN SCHAEFER: Thank you.

25 MR. SERNADIS: Nicholas Serandis,

1 Planning, Development & Environment Committee - 7-25-16 50
2 deputy county attorney. This basically involves
3 the new project going on in the Village of
4 Lynbrook for the renovation of the theaters in
5 Lynbrook. As part of that renovation project
6 there was a requirement that there be a
7 handicapped ramp and other traffic-related
8 installation on a portion of the property which
9 is a very miniscule portion of the property. As
10 a result, there was an agreement reached that the
11 theater group, Lynbrook Theatre Group, LLC, would
12 grant an easement to the county to construct the
13 handicapped ramp, the sidewalks, and the traffic
14 signal infrastructure in that small area and
15 without any cost to the county for the easement.
16 It also provides that if in the future it becomes
17 necessary for the county to have title to the
18 improvements on the property in which they sit,
19 that they would be granted title to those
20 improvements.

21 As I said, there is no cost to the county
22 for the easement. Much of the construction costs
23 are reimbursed by the federal government pursuant
24 to the Americans with Disability Act, which
25 requires these new handicapped ramps.

1 Planning, Development & Environment Committee - 7-25-16 51
2 CHAIRWOMAN SCHAEFER: Okay. Thank you.
3 Are there any questions by the
4 legislators?
5 (No verbal response.)
6 Any public comment on this item?
7 (No verbal response.)
8 There being none; all those in favor say
9 aye.
10 (Aye.)
11 Any opposed?
12 The item passes. This item moves on to
13 the Rules Committee.
14 There being no other business to come
15 before this committee, can I have a motion to
16 adjourn?
17 LEGISLATOR DUNNE: So moved.
18 LEGISLATOR FORD: Second.
19 CHAIRWOMAN SCHAEFER: So moved by
20 Legislator Dunne, seconded by Legislator Ford.
21 We move on to Rules. Thank you.
22 All in favor say aye.
23 (Aye.)
24 Those opposed?
25 (No verbal response.)

1 Planning, Development & Environment Committee - 7-25-16 52
2 We are adjourned.
3 (Whereupon, the Planning, Development and
4 the Environment Committee is adjourned at 3:45
5 p.m.)
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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 state:

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 10th day of August, 2016.

FRANK GRAY