

Further Notes from Gil Anderson, received September 18, 2014

The following answers to questions raised at our last meeting were provided to Mary Parker earlier, but I am adding herein as follows with further revisions shown in **blue**:

1. Right of Entry: Some do not want permission to be given to anyone other than Suffolk County to access their property under this agreement. Others feel it is too long a time period. For the purposes of moving forward, should we revise a special ROE for Davis Park (and other communities that object) that only extends the length of the FIMI project?

**I am advised that the ROE is only intended to give the County permission to access the property, The County would then have the right to extend access to its partners after receipt of formal request specific to the project. We really can't change the language of the ROE and it is not as broad as some would think it is. However, we can change the duration, which may make signing these documents more palatable to some. Either way we are moving forward with the surveys and appraisals.**

2. If the ROE is not signed can we access the site to survey anyway to move the project forward? **ACOE still wants the ROE signed. However, Suffolk County has the right to access the property to survey under New York State Law (Chapter 190, Laws of 1927, as amended as well as General Obligation Law). ACOE will reimburse the County for Survey work even if ROE's are not returned. As such, SC will proceed with surveys.**

3. Easement: Can construction equipment cross the dune easement to repair private homes if no other means of egress is possible? **A DEC permit would be required for this work - both CEHA and Tidal Wetlands. It would be reviewed on a case by case basis and would require repair of the dune and replanting afterward if approved.**

4. Hold Harmless under construction: Again the question was raised as to whether or how the land owners will be held harmless during construction from liabilities that could result from injury or damage on their property? **The attorneys for DOS and OGS are working on resolving the questions regarding liability and what we can put in writing to give property owners. We hope to have something in the next week or so that we can share with everyone.**

5. The other question raised is centered around if a structure is situated within the landward slope of the dune, and can remain, to what extent can it be maintained/replaced? **It is my understanding that general maintenance can be done on a structure (such as replace a window or siding) However, if full reconstruction is required due to storm or age, the requirements of CEHA would apply to any new construction. If I am mistaken, I would ask that Sue McCormick correct any errors that I mis-state.**

6. If a homeowner does not accept the offer made for acquisition of their land, does the project stop? **No. The project will move forward, albeit at a much slower pace due to the need to enter into EDPL process. We are required to provide an offer based on the best available use of the land. If the offer is declined, the County would move the issue to Court under EDPL. If the court approves moving forward, the County will take title and the landowner would receive payment equal to the appraised value. Then the landowner will have the ability to argue in court for a higher value for their property. The court would have the final say in this matter.**

Gil Anderson