

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

NASSAU COUNTY LEGISLATURE

NORMA GONSALVES,  
Presiding Officer

PLANNING, DEVELOPMENT AND THE  
ENVIRONMENT COMMITTEE

MICHAEL VENDITTO, Chairman

1550 Franklin Avenue  
Mineola, New York

Monday, September 9, 2013  
3:24 P.M

ORIGINAL

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

MICHAEL VENDITTO,  
Chairman

DAVID DUNNE,  
Vice Chairman

RICHARD NICOLELLO

DENISE FORD

JUDY JACOBS,  
Ranking

DAVID DENENBERG

KEVAN ABRAHAMS

WILLIAM J. MULLER, III  
Clerk of the Legislature

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

LIST OF SPEAKERS

GREGORY MAY, Director  
County Executive's Office.....5

MARTIN KATZ,  
Nassau County  
Department of Public Works  
Division of Planning.....5

JOHN O'DOUGHERTY, Chief Building  
Construction Inspector  
Department of Public Works.....10

EDWARD TAYLOR, public comment.....14

ALBERT D'AGOSTINO, Minerva & D'Agostino,  
Public comment.....19

Planning & Development Committee/9-9-13

2 CHAIRMAN VENDITTO: At this time  
3 I ask the Planning, Development and  
4 Environment Committee to take their seats,  
5 please. I call the Planning, Development  
6 and Environment Committee to order.

7 I'll ask the clerk to please call  
8 the roll.

9 CLERK MULLER: Minority Leader  
10 Abrahams?

11 (No verbal response.)

12 CLERK MULLER: Legislator  
13 Denenberg?

14 LEGISLATOR DENENBERG: Here.

15 CLERK MULLER: Ranking Member  
16 Jacobs?

17 (No verbal response.)

18 CLERK MULLER: Legislator Ford?

19 LEGISLATOR FORD: Here.

20 CLERK MULLER: Legislator

21 Nicoletto?

22 LEGISLATOR NICOLELLO: Here.

23 CLERK MULLER: Vice Chairman

24 Dunne?

25 LEGISLATOR DUNNE: Here.

Planning & Development Committee/9-9-13

2 CLERK MULLER: Chairman Venditto?

3 CHAIRMAN VENDITTO: Here.

4 CLERK MULLER: We have a quorum.

5 CHAIRMAN VENDITTO: We have a  
6 quorum. Here comes Minority Leader Abrahams  
7 and Legislator Jacobs to join us.

8 We have one item on the agenda  
9 today. It's Clerk Item 386-13 which is a  
10 resolution authorizing the release of a  
11 surety bond and cash escrow monies for the  
12 Map of the Seasons at East Meadow  
13 subdivision.

14 May I have a motion, please.

15 LEGISLATOR DUNNE: So moved.

16 LEGISLATOR FORD: Second.

17 CHAIRMAN VENDITTO: Motion by  
18 Legislator Dunne, seconded by Legislator  
19 Ford. The item is before us. Anyone here  
20 from the administration to speak on this  
21 item?

22 MR. MAY: Yes. We have Mr. Katz  
23 from the Department of Public Works.

24 MR. KATZ: Martin Katz,  
25 Department of Public Works, Division of

Planning & Development Committee/9-9-13

2 Planning.

3                   This is to release the remaining  
4 surety bond and cash escrow deposit for the  
5 subdivision plant known as the Map of the  
6 Seasons at East Meadow. The applicant,  
7 Seasons at Mitchell Field, L.L.C. is  
8 requesting the release of the remaining  
9 surety bond and escrow deposit for a 404  
10 unit residential condominium subdivision on  
11 about 19.2 acres on the north side of Front  
12 Street, approximately 1,000 feet west of  
13 Merrick Avenue.

14                   The Planning Commission approved  
15 the preliminary map on May of 2007. The  
16 Planning Commission approved the final map  
17 November 2007.

18                   The applicant applied for a  
19 reduction of surety bond in March of 2010 to  
20 cover the cost of public improvements that  
21 were deemed complete at the time primarily a  
22 site grading, a major component of that.

23                   On 3-4-2010, the Planning  
24 Commission approved the bond reduction from  
25 \$6,957,362.70 to \$4,722,122.70.

Planning & Development Committee/9-9-13

2           In the spring of 2013, the  
3 applicant applied for the release of the  
4 remainder of the surety bond, \$4,722,122.70  
5 and a cash escrow in the amount of  
6 \$217,547.30.

7           And on May 21st, 2013, a DPW  
8 inspector conducted final inspection of the  
9 bonded public improvements and indicated all  
10 such work met all county codes and  
11 standards. At its May 30th, 2013 hearing,  
12 the Planning Commission recommended release  
13 of the remaining surety bond in the amount  
14 of \$4,722,122.70, and cash escrow in the  
15 amount of \$217,547.30.

16           We have John O'Dougherty, he's  
17 the chief building construction inspector  
18 from DPW to answer any questions you might  
19 have on the inspection process in this  
20 particular subdivision. Thank you.

21           CHAIRMAN VENDITTO: Thank you,  
22 Mr. Katz. At this time I will ask the  
23 legislators if they have any questions.

24           Legislator Dunne.

25           LEGISLATOR DUNNE: Mr. Katz,

Planning & Development Committee/9-9-13

2 since the last inspection, which was May  
3 30th, has there been any complaints from the  
4 residents living in this facility, in the  
5 404 units about the windows leaking or  
6 electric going bad or the plumbing not being  
7 adequate? Has there been any complaints  
8 since then?

9 MR. KATZ: Well, I haven't been  
10 privy to any of that. At the Planning  
11 Commission hearing to release the remaining  
12 surety bond, a couple of representatives  
13 from the development, the Seasons, were  
14 there, homeowners were there.

15 LEGISLATOR DUNNE: Who live in  
16 the units?

17 MR. KATZ: Yes. Live in the  
18 units who expressed, who raised some issues  
19 which we didn't -- at that time the  
20 commission didn't think were part of the  
21 bonded improvements, public improvements,  
22 which include various items such as grading,  
23 parking, paving sidewalks, curbs, gutters,  
24 driveway aprons, catch basins, recharge  
25 basins, street signs, planting, screening,



Planning & Development Committee/9-9-13

2 street lighting, water supply infrastructure  
3 and the like.

4 The commission felt that the  
5 problems indicated might have been in the  
6 building envelope which might be considered  
7 under the purview of the town of Hempstead.

8 LEGISLATOR DUNNE: And not in the  
9 construction of the building.

10 MR. KATZ: Yes. To be public  
11 improvement.

12 LEGISLATOR DUNNE: That the  
13 county has the ordinances with. Okay, thank  
14 you.

15 CHAIRMAN VENDITTO: Thank you. I  
16 believe Legislator Jacobs has some  
17 questions.

18 LEGISLATOR JACOBS: Yes. Along  
19 the same lines as Legislator Dunne. Are we  
20 satisfied, as Public Works of the county,  
21 that the items that do fall under that  
22 surety bond have been satisfied to the our  
23 satisfaction for the people that live there?

24 MR. KATZ: Can I ask John  
25 O'Dougherty, chief inspector to answer?

Planning & Development Committee/9-9-13

2 LEGISLATOR JACOBS: Sure.

3 MR. O'DOUGHERTY: Good afternoon.  
4 John O'Dougherty, chief building inspector,  
5 County of Nassau.

6 LEGISLATOR JACOBS: My question  
7 is simple. I'm on the same wave length as  
8 Legislator Dunne. Only I know what must  
9 have happened, people came down to complain  
10 about certain other things that perhaps were  
11 not part of that surety bond.

12 I just wanted to confirm that  
13 again, and also ask you if you feel  
14 confident that what originally kept the  
15 surety bond in place has been satisfied?

16 MR. O'DOUGHERTY: Yes, ma'am. As  
17 it pertains to the bonded public  
18 improvements, all inspections and testing  
19 has been reviewed numerous times, everything  
20 is met or above the standards. Having been  
21 to the site on numerous occasions, I can  
22 tell you that I've never seen nor been made  
23 aware of any issues with a site drainage or  
24 any other issues which would pertain to the  
25 bond improvements.

Planning & Development Committee/9-9-13

2           As Mr. Katz stated, had there  
3 been any complaints about the building  
4 envelope, we would not be privy to that.

5           I did tests of all the concrete  
6 and asphalt that was in place. Everything,  
7 again, was above county standards and there  
8 have been no issues ever, to my knowledge,  
9 with this development.

10           LEGISLATOR JACOBS: Let me ask  
11 you, I'm not a lawyer, but, legally, do we  
12 have any foot in the door with -- if there  
13 are problems with windows or roofs or  
14 whatever to hold back releasing of the  
15 surety bond to make sure those things are  
16 done or we don't really?

17           MR. O'DOUGHERTY: Not being a  
18 lawyer myself, my thought on the matter  
19 would be, we would probably be opening  
20 ourselves up to some kind of liability  
21 because that would, again, fall under the  
22 Town of Hempstead and that would be a C of O  
23 issue. So that would go to find the  
24 inspector who is the building inspector from  
25 the town who signed off on the C of O,

1 Planning & Development Committee/9-9-13  
2 should have done those inspections of the  
3 building envelope and any systems therein to  
4 enclose.

5 LEGISLATOR JACOBS: Thank you.  
6 That's just what I wanted to know.

7 CHAIRMAN VENDITTO: Thank you.  
8 Legislator Denenberg, do you have a  
9 question?

10 LEGISLATOR DENENBERG: Yes, sir.  
11 Thank you.

12 Was there anything for this  
13 particular development when it was done that  
14 required sidewalk replacement or maintenance  
15 of adjacent sidewalks and land because,  
16 under the Town of Hempstead code, and I  
17 don't know about the other towns, it would  
18 be the adjacent property owner that would  
19 have to maintain sidewalks and public right  
20 of way, regardless of whether it's town  
21 property or not.

22 MR. O'DOUGHERTY: There were no  
23 such problems, to my knowledge, with our  
24 inspections.

25 LEGISLATOR DENENBERG: That

Planning & Development Committee/9-9-13

2 wouldn't have anything to do with the surety  
3 bond anyway, there was no requirement?

4 MR. O'DOUGHERTY: Any walks that  
5 were placed within the project were  
6 inspected and did meet standards and were  
7 tested. There were no issues with any of  
8 the walkways, drives, parking lots, curbing  
9 any of that which falls within the bonded  
10 public improvements. All met standards.

11 LEGISLATOR DENENBERG: So if  
12 anything that people complained about, let's  
13 say it's true, that would have been without,  
14 outside of what you would have inspected and  
15 outside of the surety bond coverage?

16 MR. O'DOUGHERTY: I have not been  
17 made aware of any specific complaints. Just  
18 there were general complaints about  
19 drainage, per se, on the site but nothing  
20 specific.

21 LEGISLATOR DENENBERG: Did we ask  
22 anyone when the Planning Commission? There  
23 was testimony at the Planning Commission, so  
24 did anyone try to follow-up with the people  
25 that were there complaining?

Planning & Development Committee/9-9-13

2 MR. O'DOUGHERTY: I'm not aware  
3 of it. We did our inspections, like I said,  
4 of being on-site. I never witnessed nor was  
5 I told of any site problems. Just a hearsay  
6 that someone heard there was a problem.

7 We went back and looked and we  
8 did not see any. I have gone there after  
9 some of the heaviest rains we have had  
10 lately and saw no issues anywhere on the  
11 site.

12 LEGISLATOR DENENBERG: Okay. So  
13 you did go there and checked out the  
14 drainage?

15 MR. O'DOUGHERTY: I personally  
16 went, yes.

17 CHAIRMAN VENDITTO: Thank you,  
18 legislators. Any debate or discussion?

19 (No verbal response.)

20 We do have public comment today.  
21 I will ask you to come up, Mr. Levine, and  
22 address the committee.

23 MR. TAYLOR: If I may, I'm the  
24 attorney for the association, Edward Taylor,  
25 811 West Jericho Turnpike in Smithtown. If

Planning & Development Committee/9-9-13

2 I could speak in Mr. Levine's place. Mr.  
3 Levine is the president of the association.

4 CHAIRMAN VENDITTO: That would be  
5 fine, Mr. Taylor, and good afternoon.

6 MR. TAYLOR: I'm executive vice  
7 president. The sponsor recently just turned  
8 over the control of the board of directors  
9 for the association back I believe at the  
10 end of June. The homeowner controlled  
11 board, since then, recently hired an  
12 engineer just to check on the public  
13 improvement aspect of the community.

14 They have a report that's dated  
15 September 6th, just the end of last week  
16 that they were finally able to obtain from  
17 the engineer that does point out a number of  
18 different problems with primarily the  
19 roadways, some uneven pavement, some  
20 ponding, some cracked concrete, some  
21 problems around some of the manholes, some  
22 places where next to the curbing is absent.  
23 Also some problems with curbing and with the  
24 concrete sidewalks.

25 The report, which I have just

Planning & Development Committee/9-9-13

2 seen today, in which the board just got the  
3 end of last week estimates repair costs of  
4 \$109,500. We weren't able obviously to get  
5 this to the sponsor ahead of time since it  
6 just came out now, but I think the excuse  
7 for the very recent issuance of the report  
8 is that the homeowner's were just elected,  
9 there was an election at the end of June,  
10 and until they, so to speak, got their act  
11 together, were able to look at different  
12 engineers, interviewed engineers, and  
13 finally wound up hiring this engineer and  
14 then had them do the report and issue the  
15 report. Just the timing was very close to  
16 the meeting.

17 So we would like, before any  
18 decision or recommendation is made on  
19 releasing the bond, that we have an  
20 opportunity to have our engineer go through  
21 the property with this report, with the  
22 sponsor, with the Department of Public  
23 Work's representative if they so choose to  
24 participate to go through and see which of  
25 these items indeed are meritorious and might



Planning & Development Committee/9-9-13

2 need rectifying.

3           It doesn't seem to me, my  
4 layman's look at an engineers report, that  
5 the defects are too extreme, it doesn't look  
6 like anything that could be remedied in  
7 short order.

8           CHAIRMAN VENDITTO: Okay, Mr.  
9 Taylor. Thank you. We've had I think some  
10 good testimony here today from the  
11 administration and from our inspector.

12           Now we have had a chance for our  
13 residents, their attorney, to speak out and  
14 today before the committee is the issuance  
15 of the release of the surety bond.

16           There will be other aspects of  
17 this matter that will go through to the Full  
18 Legislature of course, and I think,  
19 hopefully by that time, which is in two  
20 weeks time from now, many of these  
21 improvements which the homeowners say need  
22 to be worked on, perhaps we can see some  
23 problems there.

24           We are dealing in this matter  
25 with residents who -- I want to thank the

Planning & Development Committee/9-9-13

2 residents for being in attendance today and  
3 expressing their viewpoints.

4 We are dealing with residents who  
5 clearly care about this area and want to see  
6 that it is maintained properly. They're  
7 investing a lot into the community of East  
8 Meadow and the surrounding area.

9 We're also dealing with a  
10 developer who has a stellar reputation. And  
11 I see Mr. D'Agostino is representing a  
12 developer today, their attorney, a stellar  
13 reputation for really taking into account  
14 what the residents have to say and gaining  
15 their input and really wants to be welcomed  
16 into the community with every project that  
17 he oversees.

18 Having said that, I see no good  
19 reason why both of the parties who both have  
20 I think a very common interest in seeing the  
21 best result for the community, there's no  
22 reason why we can't get to the table one  
23 more time before the 23rd, I don't think,  
24 and see if we can iron out some of the  
25 details that are still kind of remaining in

Planning & Development Committee/9-9-13

2 question here.

3 We have the developer's attorney,  
4 we have an inspector, we have  
5 representatives for the residents all here  
6 today. Perhaps it's a good opportunity to  
7 set a date.

8 In the event that it's becoming  
9 difficult for some reason, I'll certainly  
10 act as a liaison for you and be more than  
11 happy to help organize a time, place and  
12 forum for that meeting to occur. Just  
13 somebody who is going to be voting on this  
14 in the Full Legislature, I'd feel a lot more  
15 comfortable, I think, just knowing that that  
16 meeting is taking place and that some of the  
17 final details here have gotten ironed out.

18 I know there's been a lot of good  
19 communication up until this point, but we  
20 still do have that two week window.

21 Mr. D'Agostino, I see you here in  
22 attendance today. If you would like to  
23 approach, feel free.

24 MR. D'AGOSTINO: Thank you very  
25 much, Mr. Venditto, members of the

Planning & Development Committee/9-9-13  
2 committee.

3                   Obviously there was a hearing  
4 before the Planning Commission at the end of  
5 May. Equally obvious, Legislator Jacobs  
6 raised some issues and I think we go back a  
7 few decades in different capacities on  
8 things of that type. I think that the  
9 committee and the Full Legislature would  
10 have to look to the common area improvements  
11 which are secured by the bond.

12                   It is the position of DPW that  
13 the developer's obligation has been  
14 completed. There's almost \$5 million  
15 sitting with the county between the bond and  
16 the cash escrow deposit.

17                   Mr. Taylor and I had a brief  
18 conversation a short while ago. The items  
19 which were raised were relatively minor  
20 items. We appreciate your willingness to  
21 facilitate a meeting and Mr. Kreager said he  
22 would be happy to attend the meeting as I  
23 would. So I thank you for that offer,  
24 Legislator Venditto.

25                   CHAIRMAN VENDITTO: And thanks to

Planning & Development Committee/9-9-13

2 you, Mr. D'Agostino. And, again, more  
3 evidence of this developer's reputation for  
4 really being a developer that is willing to  
5 receive community input.

6 Some of the improvements that we  
7 are talking about here are not really major  
8 in their nature, so I'm pretty confident  
9 that over the next two weeks we will see a  
10 lot of progress as far as the communication  
11 goes and I think things are going to work  
12 out here.

13 So I appreciate both sides coming  
14 to us today and hopefully over the next two  
15 weeks we'll be in contact and find a  
16 peaceful resolution to the matter.

17 MR. D'AGOSTINO: Thank you. Just  
18 want to make my appearance for the record.  
19 It's Albert D'Agostino, the firm is Minerva  
20 & D'Agostino, P.C., 107 South Central  
21 Avenue, Valley Stream 11580. Thank you very  
22 much.

23 CHAIRMAN VENDITTO: Thank you.  
24 Any other public comment at this point?

25 (No verbal response.)

Planning & Development Committee/9-9-13

2                   Seeing none, all those in favor  
3 of passing this item on, signify by saying  
4 aye.

5                   (Aye.)

6                   Any opposed?

7                   (No verbal response.)

8                   None opposed, the item passes  
9 unanimately.

10                  LEGISLATOR JACOBS: Chairman, I  
11 just wanted to thank you.

12                  CHAIRMAN VENDITTO: You're quite  
13 welcome.

14                  LEGISLATOR JACOBS: It would be  
15 nice if every hearing went like that. It's  
16 important and it's important for the people  
17 to know that we're caring.

18                  CHAIRMAN VENDITTO: Well, it's a  
19 good example of the procedure of  
20 communication, what it could do, and the  
21 willingness to come to the table together,  
22 we can find a happy medium, as they say.

23                  So, thank you, Legislator Jacobs.  
24 Thank you to everybody here. There is no  
25 other business before this committee.

Planning & Development Committee/9-9-13

2 Motion to adjourn.

3 LEGISLATOR DUNNE: So moved.

4 LEGISLATOR FORD: Second.

5 CHAIRMAN VENDITTO: Motion by  
6 Legislator Dunne, seconded by Legislator  
7 Ford. All those in favor.

8 (Aye.)

9 Motion passes unanimously and  
10 this committee is now adjourned. Public  
11 Works is next.

12 (Whereupon, the Planning,  
13 Development & the Environment Committee  
14 adjourned at 3:52 p.m.)

15

16

17

18

19

20

21

22

23

24

25

1  
2  
3  
4  
5  
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 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 24th day of September, 2013.

  
-----  
FRANK GRAY