

Notes from a meeting of Gilbert Anderson, Commissioner of the Suffolk County Dept. of Public Works, with the dune owners at Davis Park, held September 6, 2014 on the FIMI Project (reviewed and corrected by Gil in red type below)

Commissioner Anderson's opening summary: The project agreements have now been signed between the Army Corp and NY state DEC and the County for the Fire Island Inlet to Moriches Inlet (FIMI) project. The project is a one-time dump of sand on the beach, seen as an interim measure to be followed by the larger Fire Island Inlet to Montauk Point (FIMP) project. The County's role in FIMI will be the real estate process, including obtaining the ROEs, surveying, obtaining easements, and appraisal and acquisition of some properties. RFP's are currently out for surveyors and surveying should begin by the end of September. The Town of Brookhaven will be working with the County to relocate houses wherever possible rather than acquire them. The first step in the process is for owners to sign a Right of Entry form (ROE) to allow for a survey to determine the exact areas for easement and for appraisal and acquisition. Next week a package will be coming to each dune owner from the County containing FAQs, ROE, and generic easements (samples of these documents are attached to this email).

Mr. Anderson took questions for about an hour. Here they are grouped roughly by topic:

ROE

1. **Length of time in force** is 3 years and the document appears to give unlimited access for the County, surveyors, appraisers, the state DEC and the Corps and their contractors to come on the property with tools, equipment, etc. Can we limit the scope of the ROE, both in terms of time (say limit to one year) and actions to be performed (limit to survey and appraisal, say, rather than leaving it open-ended and appearing to cover the entire process)?
 - a. Gil responded that the plan is for this one ROE to serve several purposes. This ROE will mean that the FIMP will not require the whole ROE and easement process to be repeated. He will find out about modifications to the ROE.
2. **Why isn't there a "hold harmless" indemnification clause** in the ROE and the draft easements? Some homeowners felt such a statement must appear in the documents they are to sign.
 - a. Gil responded that the FAQs mention that any contractor on the project will carry insurance to cover the risk, and that the homeowner does not take on added risk by signing the ROE.
3. **What happens if someone or several people don't sign the ROE?**
 - a. Gil responded that the County does not require an ROE to proceed with the survey but that the Corps wants the ROE. He also said that he was not sure what would happen and would try to find out exactly, but that the County can make use of eminent domain where necessary.

Easements / Waiver

1. **Why is the easement perpetual?**

Gil responded that it allows for repair of the project if needed. Though there is no required maintenance on this one-time dump of sand, if there were another major emergency that devastated the dune, the Corps could make repairs, building the dune back to its project level. This would also depend on Congressional appropriations for the repair.
2. **Can construction equipment cross the easement area to work**, for example to replace pilings for the houses behind the dune property? In many cases, those properties are not accessible for such repair except from the dune side.

Gil responded that he would have to find out.
3. **Who will own the easement area of my property?**
 - a. Gil responded that ownership of the easement area does not change; the dune owner still owns the land.

4. What if my dune crossing stairs are damaged in the construction process? Or if my property is damaged as equipment is brought onto it from the Burma Road? Will I be compensated?
 - a. Gil responded that **if the contractor constructing the dune needs to access property north of the easement line, a Temporary Working Easement or Access Agreement will be requested of the landowner that will require the contractor restore the property upon completion of work-**
5. **What is the waiver document and why would I sign it?**
 - a. Gil responded that the dune owner has can sign a waiver for appraisal of the easement area, thus donating any value to the County. The easement area is seen as having no value and remains the property of the dune owner. Owners might want to sign to expedite the process and get sand on the beach sooner.
6. **If the dune owner signs the waiver and donates the use of the easement area to the County, does he still owe taxes on it?**
 - a. Gil responded that this is something to take up with the Town. It was a matter also brought up by the FIA.
7. Some 10 properties in Davis Park have deeds showing their property extending to the mean high water line. What will happen to easements there?
 - a. Gil responded that he would find out but that those areas are in the CEHA area and are already essentially unbuildable

Surveys

1. **Will I get to see the survey stakes** and how the easement affects my property?
 - a. Gil responded that modern methods do not require monuments but rely on GPS coordinates. He also said that a copy of the survey will be attached to each individualized easement document. It will show the easement area and other structures and features of the property in that area, **as well as distances from the structures to the easement line.**

Appraisals

1. **How will the appraisals be done?**
 - a. Gill responded that the County will hire 6 or 7 appraisers to do the work in all the communities. They will follow the usual appraisal process using square footage and recent comparable sales to develop a market rate offer. By law, the government must pay the current market rate so they cannot pay at some other rate (i.e., pre-Sandy prices).

The Dune Line

1. How was the new dune line determined? Why isn't it straight?
 - a. Gil responded that the Army Corps set the dune line and "the line is the line" at this point and not open to negotiation. It is a line agreed to by all the cooperating agencies and came about by weighing costs and benefits of placing it further south versus moving and acquiring certain houses. The line is the balance of all these considerations. It is the line based on the agreement for the FIMP plan and is ready to be implemented immediately
2. Who was the voice of the homeowners in the process of setting the line?
 - a. Gil responded that the County and Town are our advocates. The Corps is planning a 100% federally funded project for the benefit of the community and has balanced all interests.
3. Can a large map be produced showing the location of the dune line? It is very hard to read what is available on line.
 - a. Gil responded that only the surveys can show exactly where everything will be located. He emphasized that all the agencies would rather move houses than acquire and remove them.
4. What will the revised CEHA area look like after the FIMI project is finished?

- a. Gil responded that his current understanding is that the state will realign the CEHA line north of the new dune line by 20-25 feet from the landward toe of the new dune.

Purpose the FIMI project

1. What is the purpose of the FIMI project?
 - a. Gil responded that the main purpose is to protect the mainland by strengthening and stabilizing the barrier island.
2. How did Suffolk County develop a budget for the acquisitions?
 - a. Gil responded that the Corps developed the fee structure and has sent money to the State, which will come to the County to pay for the surveys, appraisals, acquisitions, etc. The County will go through the real estate process and pay the amount the appraisal process determines as fair market value.

General comments / Concerns

1. How will this project protect anything with big voids in the National Seashore areas?
 - a. Gil responded that the FIMI is a one-time dump of sand, not the longer term FIMP project. That is still planned and will require an EIS and other time-consuming processes. The FIMI gives the beach an infusion of sand now.
2. In the case of groins out east, the Army Corps apologized and said that they made a mistake. Why won't the Corps now negotiate with homeowners regarding the engineering of this project?
3. If we don't put in jetties or groins, this project won't work. This is just the first step in the process and after the next storm, the government (National Seashore) will take another row of houses.

Notes taken by Mary Parker