Northport Power Plant Litigation

SEPTEMBER 3, 2020 PUBLIC FORUM REGARDING LIPA SETTLEMENT PROPOSAL

Litigation Summary

- 2010-2019: LIPA and National Grid file annual tax certiorari proceedings seeking a reduction in Northport's assessment.
- May 10, 2011: Town and School District commence third-party action against National Grid and LIPA.
- April 2018: LIPA submits appraisal valuing property at $193M
- August 2018: Judge dismisses Town and School District's third-party actions; appeals filed.
- February - July 2019: Tax certiorari trial for 2014 assessment (2015 Town Tax Year)
- July 20, 2020: Northport-East Northport School Board votes to accept settlement proposal subject to Huntington Town Board approval

Potential Outcomes of Tax Certiorari Proceedings

- **JUDGMENT IN FAVOR OF TOWN FOR 2014 PROCEEDING:**
  - **No immediate tax increase or refund liability but still need to litigate 2010-2013 and 2015-2019 cases, plus any new cases.**
- **JUDGMENT IN FAVOR OF LIPA FOR 2014 CASE:**
  - **POTENTIAL REFUND AND INTEREST LIABILITY for 2014 TAX ASSESSMENT (approximately $70.7M) ranging from average payment of approximately $834.00 (SH) - $2,677.07 (CSH) for residential properties and $2,123.29 (CSH) - $15,996.00 (HHH) for commercial properties.**
  - **INCREASE IN ANNUAL TAXES**
  - **APPEAL?**

- **JUDGMENT IN FAVOR OF LIPA FOR ALL YEARS**
  - **POTENTIAL REFUND AND INTEREST LIABILITY for all years (approximately $825M) ranging from average payment of approximately $8,200 (SH) – $26,000 (CSH) depending upon assessed value for residential properties and ranging from approximately $22,000 (CSH) - $158,000 (HHH) for commercial properties.**
  - **POTENTIAL IMMEDIATE INCREASE IN ANNUAL TAXES ranging from approximately $231 (SH) - $4,558 (NEN) for residential properties and ranging from approximately $586 (CSH) - $15,648 (NEN) for commercial properties.**

Suffolk County Tax Act and Payment of Refund Liability

- Suffolk County Tax Act, Article I, Section III
  - Initially payable by County to petitioner
  - County ***required*** to charge back to Town
  - County ***may*** finance pursuant to Local Finance Law
- Financing of Judgment
  - 20-year financing (Local Finance Law §11.00(33-a)(c))
  - Letter from County Attorney
    - Requires 2/3 vote of the County Legislature (Local Finance Law §33)
    - County has rejected bonding for legal judgments in the past
    - Uncertainty as to whether market would sustain bonding of this amount
    - Huntington taxpayers must pay back principal, interest, and cost of bond

Suffolk County Tax Act and Payment of Refund Liability

- Interest on 20-year loan would be approximately **$375M**
- Increase NYS Real Property Tax Law line by **$60M** annually
- Annual Cost of Refund (Principal and Interest) for an ***average assessment***:

SCHOOL DISTRICT	ANNUAL COST	TOTAL COST OVER 20 YEARS WITH BONDING	REFUND AMOUNT WITHOUT BONDING
COLD SPRING HARBOR	$1,761.02	**$35,220.40**	$26,517.21
COMMACK	$685.82	**$13,716.40**	$10,327.02
ELWOOD	$630.07	**$12,601.40**	$9,487.42
HALF HOLLOW HILLS	$856.81	**$17,136.20**	$12,901.78
HARBORFIELDS	$707.20	**$14,144.00**	$10,648.86
HUNTINGTON	$633.78	**$12,675.60**	$9,543.40
NORTHPORT-EAST NORTHPORT	$684.89	**$13,697.80**	$10,313.03
SOUTH HUNTINGTON	$549.22	**$10,984.40**	$8,270.01

KEY TERMS OF PROPOSED SETTLEMENT

1. Waiver of all refund liability upon compliance
2. LIPA will pay $14.5 million dollars to Northport-East Northport School District
3. LIPA will pay $3 million to the Town of Huntington (New Development)
4. How Long? Minimum of 7 years; maximum of 12
    - Years 1-7: Lower assessed valuation for 7 consecutive years to achieve tax payments not exceeding $46 million by tax year 2026/2027
    - Years 8-12: taxes remain steady at $46 million

Key Terms of Proposed Settlement (Continued)

5. Guaranteed payments in Years 1-7 regardless of whether one or more units are retired or shut down.
6. LIPA pays $460.3M in Years 1-7; $312.9M in school taxes
7. No new tax challenges for 7-12 years upon Town compliance
8. Withdrawal of all appeals and all pending lawsuits
9. Side agreement between LIPA and National Grid naming Town as a third-party beneficiary
10. Most-favored nation provision inuring to Town's benefit
11. Provision allowing for increased assessment for:
    - Improved efficiency
    - Increased capacity by 75 MW or more
    - New material structures unrelated to electric production

Community Outreach Regarding Settlement Proposal

- ✓ Press releases, website updates, emails on significant developments
- ✓ Dedicated settlement webpage with impact charts and FAQs
- ✓ Social media postings
- ✓ Postal mailing to every household in the Town
- ✓ Direct response to emailed questions
- ✓ Robocalls
- ✓ Public Forums on August 10 and September 3
- ✓ Presentations to Village of Asharoken, School Districts, and Chambers of Commerce

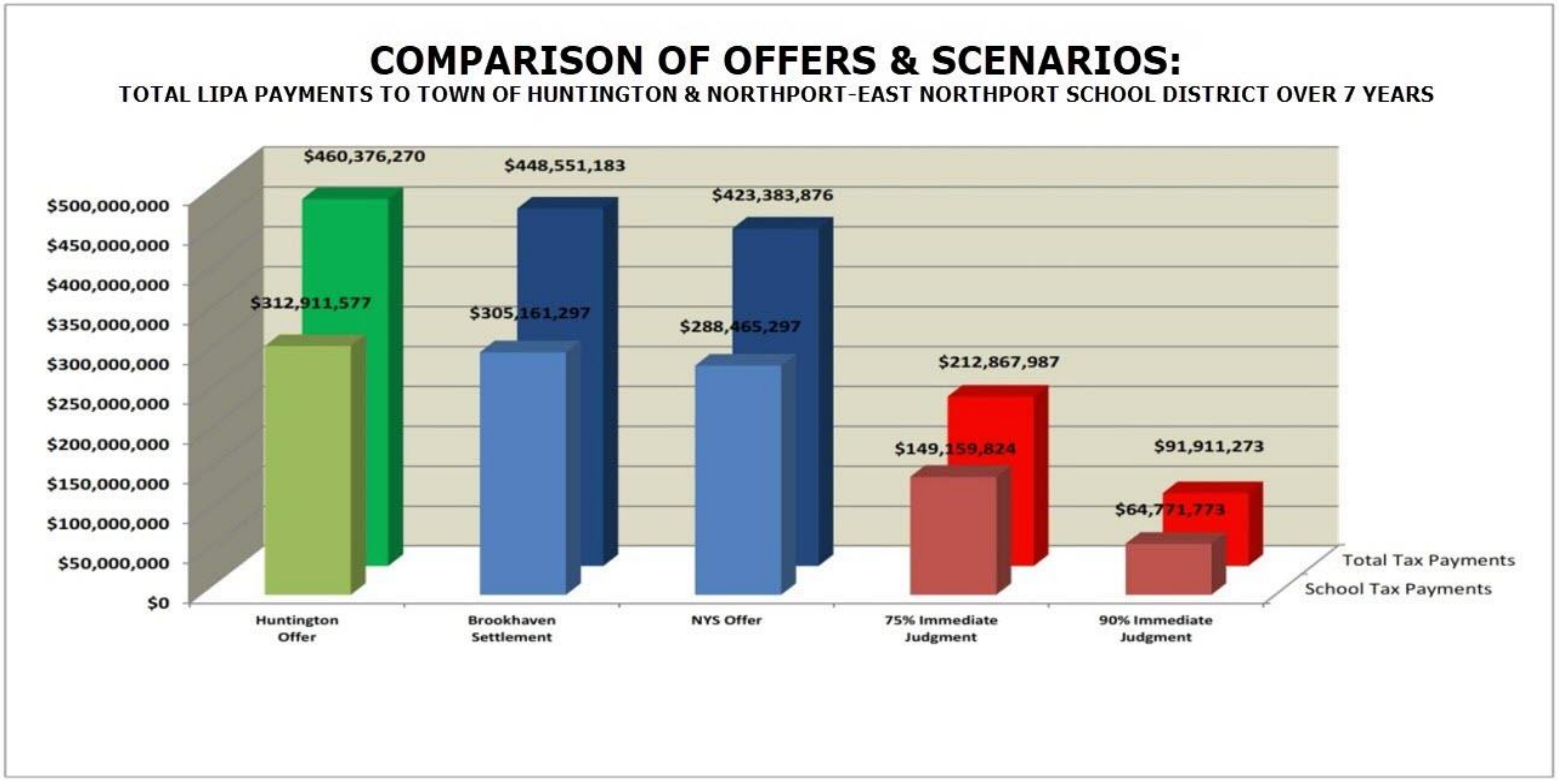
IMPACT OF PROPOSED SETTLEMENT ONLY – Annual Property Tax Increase Due to Settlement Only (Residential)

SCHOOL DISTRICT	AVERAGE RESIDENTIAL ASSESSMENT/ ANNUAL INCREASE	$400,000 MARKET VALUE (AV 3040) ANNUAL INCREASE	$500,000 MARKET VALUE (AV 3800) ANNUAL INCREASE	$600,000 MARKET VALUE (AV 5700) ANNUAL INCREASE	$750,000 MARKET VALUE (AV 5700) ANNUAL INCREASE	$1,000,000 MARKET VALUE (AV 7600) ANNUAL INCREASE
COLD SPRING HARBOR	9475 ($1,246,710) **$72.43**	**$24.14**	**$29.00**	**$34.86**	**$45.29**	**$60.43**
COMMACK	3690 ($485,526) **$28.14**	**$24.14**	**$29.00**	**$34.86**	**$45.29**	**$60.43**
ELWOOD	3390 ($446,052) **$25.86**	**$24.14**	**$29.00**	**$34.86**	**$45.29**	**$60.43**
HALF HOLLOW HILLS	4610 ($606,579) **$35.14**	**$24.14**	**$29.00**	**$34.86**	**$45.29**	**$60.43**
HARBORFIELDS	3805 ($500,658) **$29.14**	**$24.14**	**$29.00**	**$34.86**	**$45.29**	**$60.43**
HUNTINGTON	3410 ($448,684) **$26.14**	**$24.14**	**$29.00**	**$34.86**	**$45.29**	**$60.43**
NORTHPORT-EAST NORTHPORT	3685 ($484,868) **$370.29**	**$329.14**	**$381.71**	**$458.14**	**$617.00**	**$822.57**
SOUTH HUNTINGTON	2955 ($388,816) **$22.57**	**$24.14**	**$29.00**	**$34.86**	**$45.29**	**$60.43**

IMPACT OF PROPOSED SETTLEMENT ONLY – Annual Property Tax Increase Due to Settlement Only (Commercial)

SCHOOL DISTRICT	AVERAGE COMMERCIAL ASSESSMENT	AVERAGE ANNUAL TAX INCREASE	BASE YEAR TAXES FOR BUSINESS WITH AVERAGE ASSESSMENT	YEAR 7 TAXES FOR BUSINESS WITH AVERAGE ASSESSMENT
COLD SPRING HARBOR	7515 ($988,816)	**$57.43**	$26,130	**$26,532**
COMMACK	15950 ($2,098,684)	**$121.86**	$62,753	**$63,606**
ELWOOD	13540 ($1,781,579)	**$103.57**	$53,140	**$53,865**
HALF HOLLOW HILLS	56615 ($7,449,342)	**$432.71**	$183,927	**$186,956**
HARBORFIELDS	15945 ($2,098,026)	**$122.00**	$60,875	**$61,639**
HUNTINGTON	7860 ($1,034,210)	**$60.00**	$28,223	**$28,643**
NORTHPORT-EAST NORTHPORT	12650 ($1,664,747)	**$1271.14**	$36,154	**$45,052**
SOUTH HUNTINGTON	14035 ($1,846,711)	**$107.29**	$53,670	**$54,421**

IMPACT OF PROPOSED SETTLEMENT
LIPA Tax Payments to Town and School District*
*Not Including $14.5M to School District and $3M to Town



COMPARISON OF VARIOUS PROPOSALS

PROPOSAL	CASE(S) BROUGHT TO TRIAL	PERCENT REDUCTION OF TAXES	CASH PAYMENT TO HOST SCHOOL DISTRICT	CASH PAYMENT TO HOST TOWN	WAIVER OF REFUNDS	MAXIMUM LENGTH OF DEAL	TERM PROVIDING FOR INCREASE IN CAPACITY OR EFFICIENCY	PROTECTION AGAINST RAMP-DOWN OR RETIREMENT OF UNITS
HUNTINGTON OFFER	YES	46.5%	YES ($14.5M)	YES ($3M)	YES	12	YES	YES
NYS OFFER	NO	58.6%	NO	NO	YES	10	NO	NO
BROOKHAVEN SETTLEMENT	NO	50%	NO	NO	YES	9	NO	NO
NASSAU OFFER	NO	50%	NO	NO	YES	11	YES	YES