

COUNTY OF SUFFOLK



STEVEN BELLONE
SUFFOLK COUNTY EXECUTIVE

DEPARTMENT OF PUBLIC WORKS

PHILIP A. BERDOLT
DEPUTY COMMISSIONER

GILBERT ANDERSON, P.E.
COMMISSIONER

DARNELL TYSON, P.E.
DEPUTY COMMISSIONER

MEMORANDUM

TO: Dennis Cohen, Chief Deputy County Executive, Honorable DuWayne Gregory, Presiding Officer of the Suffolk County Legislature, Honorable Legislators; Al Krupski, Chairman of the Public Works, Transportation, & Energy Committee, Louis D'Amaro, the Sewer Agency Legislator-At-Large; Schneiderman, Browning, Muratore, Hahn, Anker, Calarco, Lindsay, Martinez, Cilmi, Barraga, Trotta, McCaffrey, Stern, Spencer; Michael Cavanaugh, representing Presiding Officer Gregory; Walter Hilbert, P.E., Principal Public Health Engineer, representing the Commissioner of the Suffolk County Department of Health Services; Sarah Lansdale, AICP, Director, Suffolk County Planning Department; Lisa Broughton, representing County Executive Steven Bellone

FROM: Gilbert Anderson, P.E., Commissioner, SCDPW and Chairman, Suffolk County Sewer Agency

DATE: December 31, 2014

SUBJECT: Please note that there is a Special Sewer Agency meeting for the purposes of discussing Suffolk County Sewer Agency policy in the application of Local Law 20-2007 "Affordable Housing" on January 6, 2015 at 1:30 PM at the offices of the Commissioner of the Suffolk County Department of Public Works - 335 Yaphank Avenue - Yaphank, NY - Conference Room 1B.

GA/JD/cap - Attachments

cc: Jon Schneider, Deputy County Executive

Philip A. Berdolt, Deputy Commissioner SCDPW

Darnell Tyson, P.E., Deputy Commissioner SCDPW

John Donovan, P.E., Chief Engineer, Division of Sanitation, SCDPW

Janice McGovern, P.E., Principal Civil Engineer, Division of Sanitation, SCDPW

Robert A. Braun, Esq., SC Department of Law

Walter Dawydiak, P.E., SC Department of Health

James Meyers, P.E. SC Department of Health

Kathy Negri, SC Department of Health

Catherine Stark, Aide to Legislator Al Krupski

Ted Klein, SC Planning Department

Tim Laube, Clerk of the SC Legislature

Justin Littell, Aide to Legislator Louis D'Amaro

Karen Klafter, Aide to Legislator Louis D'Amaro

Debbie Colonna, County Executive's Office

Tony Leung, NYSDEC

Craig A. Platt, Secretary, SC Sewer Agency

The Suffolk County Sewer Agency meets at 11:00 AM at the offices of the Suffolk County Department of Public Works - 335 Yaphank Avenue - Yaphank, NY

SUFFOLK COUNTY IS AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

Suffolk County Sewer Agency Special Meeting Agenda January 6, 2015

- I. Roll Call**
- II. Minutes of Previous Meeting (N/A)**
- III. Public Portion**
- IV. Old Business**
 - 1. Discussion of Local Law 20-2007, Affordable Housing**
 - Agency policy in the application of the local law
- V. New Business**
 - A. Formal Approval – Capital projects**
 - 1. SCSD No. 3 – Southwest (CP 8108)**
 - Approving the Map & Plan for replacing the section of the outfall beneath the Great South Bay

IV. Old Business

1. Discussion of Local Law 20-2007, Affordable Housing

Below is an excerpt of the Agency minutes from November 17, 2014, which necessitated the special meeting;

BAYPORT MEADOW ESTATES

IS-1636

John mentioned that this project is proposing to discharge Forty Five Thousand Six Hundred (45,600 GPD) gallons per day of wastewater to SCSD No. 14 – Parkland. The project was tabled at the April 14, 2014, Agency meeting due to an issue with the location of the Affordable Housing. Agency Staff had a concern that regardless of the proposed agreement between the developer and the Town of Islip, the proposed project is connecting to a County sewer district and that the local law specifies that the development should contain Twenty percent (20%) affordable housing. Additionally, the developer requests a payment plan for the connection fee (See attached).

Ms. Broughton asked if the project met the criteria for affordable housing by having the affordable aspect at a different location, to which Mr. Braun replied that the Local Law (20-2007) was silent on the matter. Mr. Braun added that he thought the Town of Islip's requirement satisfied the Local Law. Discussion ensued as to the requirements of Local Law 20-2007 and whether or not the Town had stipulated that the affordable aspect would be constructed prior to or construction (design) begin prior to the Bayport Meadow Estates project. Mr. Klein asked if the County Director of Affordable Housing (Economic Development) had approved the project. At this time Mr. Tsunis (the developer) interjected that the Islip Town Commissioner of Planning had required that the affordable aspect be constructed (or begin construction) prior to the issuing of Certificates of Occupancy. Mr. Tsunis asked if a letter from the Town of Islip's Commissioner of Planning would be satisfactory. Mr. Klein asked if the letter would state that the Town's affordable requirement is in conformance with County law. Discussion ensued to the Town's Affordable requirements and the guarantee that the affordable units would be constructed. It was pointed out that one of the prior projects (Highland Green Residences) was the affordable aspect of the Greens at Half Hollow and almost nine (9) years later the affordable aspect had not been constructed. It was mentioned that the project should be tabled so the Agency could get clarifications and that the Agency should have a work session to discuss the matter further. Commissioner Anderson mentioned that his office would schedule the work session, hopefully, by the end of November. Ms. Broughton mentioned that perhaps there should be more coordination between the County and Towns regarding affordable housing.

Commissioner Anderson asked if there were any additional questions or comments; seeing none; made a motion to table the request; the motion was seconded by Mr. Hilbert and approved unanimously.

**RESOLUTION NO. 554 -2007, ADOPTING LOCAL LAW NO. 20 -2007,
A LOCAL LAW TO AMEND THE COUNTY POLICY FOR SEWER
CONNECTIONS TO PROMOTE AFFORDABLE HOUSING**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on February 6, 2007, a proposed local law entitled, "**A LOCAL LAW TO AMEND THE COUNTY POLICY FOR SEWER CONNECTIONS TO PROMOTE AFFORDABLE HOUSING**"; now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. 20 -2007, SUFFOLK COUNTY, NEW YORK

**A LOCAL LAW TO AMEND THE COUNTY POLICY FOR SEWER
CONNECTIONS TO PROMOTE AFFORDABLE HOUSING**

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF SUFFOLK,
as follows:

Section 1. Legislative Intent.

This Legislature hereby finds and determines that there exists a critical need for affordable housing opportunities in Suffolk County.

This Legislature also finds and determines that the County of Suffolk has shown its commitment to providing affordable housing by crafting an affordable and workforce housing infrastructure improvement fund, by instituting a 72-h property transfer program to promote affordable housing, and by commissioning a study to determine the best methods to generate more affordable and workforce housing in Suffolk County.

This Legislature further finds and determines that the County of Suffolk regularly enters into contracts to permit residential housing developments to connect to County sewer districts, without regard to any public benefit that these developments could provide to the people of Suffolk County.

This Legislature finds that a portion of the excess sewer capacity that is given away to private developers should be reserved for affordable and workforce housing so as to encourage their construction.

Therefore, the purpose of this law is to promote the development of affordable and workforce housing opportunities in Suffolk County by requiring residential housing developments that connect to County sewer districts to contain no less than 20% of affordable housing units.

Section 2. Amendments.

Chapter 424 of the SUFFOLK COUNTY CODE is hereby amended as follows:

Chapter 424, SEWERS

* * * *

ARTICLE VIII, General Provisions

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§ 424-45. Connection by premises outside district.

A. The Administrator is hereby authorized and empowered to consider applications for connections to a county sewer district facility by businesses, industries and other users from outside the geographical boundaries of a district and to negotiate contracts and agreements with those businesses, industries and users as he deems appropriate upon such terms and conditions as to him may seem reasonable and proper to protect the best interests and to accrue to the financial benefit of the district, including but not limited to provisions intended to relieve a district of the full burden of maintenance and capital costs, present or future, if any, attributable to and that might result from such contractual connections, and including the filing of a surety bond or the deposit of cash or securities with the County Treasurer or the giving of every guaranty to the district to ensure the performance of said agreements and contracts, and the costs, if any, to a district relating thereto will be offset by payments from the owner and will not constitute an undue burden upon the property within said district, subject to the provisions of § 424-38 of this chapter and the charges imposed thereunder.

B. 1. No contract between the Administrator and an applicant from outside the geographical boundaries of a district may be entered into unless, in the case of a residential housing development or a development that includes a residential component, which consists of 10 or more units only, the housing development or component is comprised of no less than 20% of units that are set aside for homebuyers or renters whose income does not exceed 120% of the HUD established median income limit for the Nassau-Suffolk Primary Metropolitan Statistical Area (PMSA) adjusted by family size.

2. Prior to the approval of a contract with the Administrator, the Director of Affordable Housing within the Suffolk County Department of Economic Development and Workforce Housing shall be provided with such documentation and certification as he or she deems necessary in order to certify that the requirements outlined in paragraph (B)(1) of this Section are being complied with.

3. Upon approval of a contract with the Administrator, a covenant shall be filed on the deed of those units that are required to be set aside pursuant to paragraph (B)(1) of this Section, which covenant or covenants shall contain the following restrictions:

a. said unit or units shall be restricted for use as affordable housing units, defined for purposes of this Section as meaning units which are set aside for homebuyers or renters whose income does not exceed 120% of the HUD established median income limit for the Nassau-Suffolk Primary Metropolitan Statistical Area (PMSA) adjusted by family size, for a period of fifteen years from the date of filing of the covenant or covenants;

b. said unit or units shall remain the principal residence of the individual or individuals who occupy the unit or units during the fifteen year restriction described above;

c. all covenants filed pursuant to this Section shall be in a form approved by the Suffolk County Attorney.

[B.]C. Any contracts or agreements negotiated by the administrative head of any Suffolk County Sewer District shall be subject to the final review, approval and ratification of the Suffolk County Legislature.

* * * * *

Section 3. Applicability.

This law shall apply to contracts or agreements entered into on or after the effective date of this law, but shall not apply to contracts or agreements that arise from applications that received formal approval from the Suffolk County Sewer Agency prior to the law's effective date.

Section 4. Enforcement.

The County Attorney may institute any other action or proceeding in any court of competent jurisdiction that may be appropriate or necessary for the enforcement of the provisions of this chapter, including actions to secure permanent injunctions enjoining any acts or practices which constitute a violation of any provision of this law, mandating compliance with the provisions of this chapter, or for such other relief as may be appropriate.

Section 5. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 6. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20) and (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 7. Effective Date.

This law shall take effect immediately upon filing in the Office of the Secretary of State.

[] Brackets denote deletion of existing language

___ Underlining denotes addition of new language

DATED: June 12, 2007

APPROVED BY:

/s/ Steve Levy
County Executive of Suffolk County

Date: July 12, 2007

After a public hearing duly held on June 26, 2007
Filed with the Secretary of State on August 6, 2007

V. New Business

A. Formal Approval – Capital projects

1. SCSD No. 3 – Southwest (CP 8108)

Summary of Map & Plan for Sewer District No. 3 - Southwest Outfall Replacement Beneath the Great South Bay (CP 8108)

An engineering design report provided for the rehabilitation and replacement of the ocean outfall system. The details on the various alternatives that were explored with the conclusion that tunneling beneath the Bay would minimize environmental impacts and provide the reliable system for replacement is included within the report. The project is to replace 14,000 feet of pipe beneath the Great South Bay at a cost of \$207 million, which is included in the adopted Capital Program and Budget for 2015. With the completion of an application to NYS Environmental Facilities Corporation by June 1, 2015 funding by grant and zero interest loan can be provide in an accumulative amount approaching \$50 million. The prerequisites for the funding application include the Agency approval, a public hearing followed by findings and the appropriating and bonding resolutions.

The environmental issues and permits are extensive, however SEQRA Resolution 971-2012 has determined that this is a Type I action and does not have significant adverse impacts on the environment. The issues identified during the Suffolk County Counsel on Environmental Quality Review which were addressed by the project included such things as Disposal options for excavated tunnel material; Storm surge potential and impact prevention; Environmental characteristics of staging and shaft areas; Tunnel integrity issues; Methods of dealing with sea level rise; Fate of existing outfall pipe and contingency if tunnel is shut down and Permits which will require application approval.

The project is at the 60% design level and will be competed 2015 with bids to be let during the summer of 2015.

SUFFOLK COUNTY SEWER AGENCY

RESOLUTION NO. - 2015 APPROVING THE MAP & PLAN FOR REPLACING THE SECTION OF THE OUTFALL BENEATH THE GREAT SOUTH BAY SUFFOLK COUNTY SEWER DISTRICT NO. 3 – SOUTHWEST (CP 8108)

WHEREAS, the Agency with the assistance of the Department of Public Works Staff prepares the necessary maps, plans, specifications and other relevant material for improvements to the district. Pursuant to the map, plan and report the Agency finds that it is in the public interest to improve the district by replacing the section of outfall beneath the Great South Bay; and

WHEREAS, the Map and Plan for outfall replacement beneath the Great South Bay in Suffolk County Sewer District No. 3 – Southwest (CP 8108) has been prepared; and

NOW, THEREFORE, IT IS

1st RESOLVED, that the Map and Plan for outfall replacement beneath the Great South Bay in Suffolk County Sewer District No. 3 – Southwest (CP 8108) be approved; and it is further

2nd RESOLVED, that the Administrative Head of the Sewer Districts be and hereby is authorized, directed, and empowered to take whatever steps are necessary for the implementation of this project and proceed with the steps necessary to secure grants and loans.

3rd RESOLVED, That the Suffolk County Department of Public Works is hereby authorized, directed, and empowered to take whatever steps are necessary, pursuant to C8-2 (L&M) of the Suffolk County Charter.

(Suffolk County Sewer Agency Special Meeting, January 6, 2015)