

STRICKEN AS OF 9/8/2011

Intro. Res. No. 2008-2010

Laid on Table 10/12/2010

Introduced by Presiding Officer, on request of the County Executive

RESOLUTION NO. -2011, CALLING A PUBLIC HEARING UPON A PROPOSAL TO AMEND THE MAP AND PLAN OF SERVICE FOR SUFFOLK COUNTY SEWER DISTRICT NO. 4 – SMITHTOWN GALLERIA, IN THE TOWN OF SMITHTOWN, TO DETERMINE WHETHER IT IS IN THE PUBLIC INTEREST TO EXTEND THE BOUNDARIES IN THE DISTRICT AND AMEND THE OPERATION AND MAINTENANCE BUDGET TO REFLECT FULL CURRENT COSTS AND ANNUAL RATE TO BE CHARGED FOR SEWAGE TREATMENT

WHEREAS, in accordance with New York County Law Article 5-A, and following the submission of maps, plans, and reports, dated July 2002, regarding the proposed establishment of Suffolk County Sewer District No. 4 - Smithtown Galleria, a Public Hearing was held by the Suffolk County Legislature regarding said proposal at the North County Complex in Hauppauge, New York on November 19, 2002; and

WHEREAS, on March 11, 2003, the Legislature duly adopted Resolution No. 179-2003, Making Certain Findings and Determinations Upon a Proposal to Form Suffolk County Sewer District No. 4 - Smithtown Galleria in the Town of Smithtown; and

WHEREAS, on May 11, 2004, the Legislature duly adopted Resolution No. 520-2004, Amending Resolution No. 179-2003 in Connection with Making Certain Findings and Determinations Upon a Proposal to Form Suffolk County Sewer District No. 4 - Smithtown Galleria in the Town of Smithtown; and

WHEREAS, on December 21, 2004, the Legislature duly adopted and on December 27, 2004 the County Executive duly approved Resolution No. 1403-2004, Making Certain Findings and Determinations Upon a Proposal to Form Suffolk County Sewer District No. 4 - Smithtown Galleria in the Town of Smithtown, which Resolution No. 1403-2004 rescinded Resolution No. 179-2003, as amended by Resolution No. 520-2004; and

WHEREAS, pursuant to Article 5-A of the New York County Law and Suffolk County Resolution No. 1403-2004, Suffolk County duly established Suffolk County Sewer District No. 4 - Smithtown Galleria in the Town of Smithtown, relying on the maps, plans and reports of July 2002; and

WHEREAS, pursuant to Article 5-A of the New York County Law, Suffolk County notified the New York State Comptroller's Office of the establishment of Suffolk County Sewer District No. 4 - Smithtown Galleria; and

WHEREAS, subsequent to the creation of Sewer District No. 4 - Smithtown Galleria, but before ownership and operation of the treatment facilities were assumed by the County, it was determined that the budget, operating expenses and the necessary fees for sewage treatment contained in the July 2002 report were flawed; and

WHEREAS, because the fees for sewage treatment, as proposed in the July 2002 report, would be inadequate to support the operational and maintenance expenses of the Sewer District as required by law, the County has not yet completed the acquisition through dedication of all necessary sewage facilities nor is said Sewer District currently operating any sewage facility or charging for sewage treatment and disposal service; and

WHEREAS, the Commissioner of the Department of Public Works, Administrator of Sewer District No. 4 - Smithtown Galleria, has submitted a report dated June 2010 recommending certain changes to the map and plan of service for the District to correct and update the operation and maintenance budget, to expand the boundaries of the district to include certain commercial establishments adjacent to the district, and to adjust the expected fees for sewage treatment to be paid by district members, such that the District would produce enough revenue to support the expenses of the District in accordance with law; and

WHEREAS, said changes, if adopted, would result in a change in the rate for sewage treatment from the \$470 per year per typical residential connection originally estimated in the July 2002 report and relied upon when a Public Hearing was held which led to the creation of the district, to a proposed rate of \$1420 per year per typical residential connection as required to support the budget contained in the June 2010 report; and

WHEREAS, the proposed rate of \$1420 per year per typical residential connection is lower than it would be if the additional properties within the proposed extended boundaries of Suffolk County Sewer District No. 4 - Smithtown Galleria were not included; and

WHEREAS, as a result of this proposed increase, extension of the boundaries, and resulting modification to the original map and plan of service for Suffolk County Sewer District No. 4 - Smithtown Galleria, it is now required to call a public hearing pursuant to Sections 253-b and 254 of the New York County Law; and

WHEREAS, it is in keeping with the letter and spirit of Article 5-A of the New York County Law and in the public interest to consider whether such proposed amendments are in the public interest, and acquisition and operation of the sewer district treatment facilities should proceed with such extended boundaries and rate of \$1420 per year per typical residential connection necessary to support the operation and maintenance of the district, or whether it would be in the public interest to rescind Legislative Resolution 1403-2004 and the notification to the NYS Comptroller by which Sewer District No. 4 - Smithtown Galleria was created; now, therefore be it

1st **RESOLVED**, by the County Legislature of the County of Suffolk, New York, as follows:

Section 1. A meeting of the County Legislature of the County of Suffolk, New York, shall be held at the North County Complex in the meeting room of the County Legislature in Riverhead, New York, in said County, on the 7th day of December, 2010 at 2:30 p.m., Prevailing Time for the purpose of conducting a public hearing on the proposed amendment to the map and plan of service for County Sewer District No. 4 - Smithtown Galleria, as contained in the June 2010 report of the Sewer Agency and Department of Public Works to the Legislature. Said proposed amendments include the extension of the boundaries of the district to include certain commercial properties, and amendment and updating of the operation and maintenance budget such that there would be a change in the rate for sewage treatment from the \$470 per year per typical residential connection originally estimated in the July 2002 report and relied upon when a

Public Hearing was held which led to the creation of the district, to a proposed rate of \$1420 per year per typical residential connection as required to support the budget contained in the June 2010 report.

Section 2. At the public hearing, the Legislature will consider whether such proposed amendments are in the public interest, and acquisition and operation of the sewer district treatment facilities should proceed with such extended boundaries and rate of \$1420 per year per typical residential connection necessary to support the operation and maintenance of the district, or whether it would be in the public interest to rescind Legislative Resolution No. 1403-2004, and the notification to the NYS Comptroller by which Sewer District No. 4 -Smithtown Galleria was created.

Section 3. The Department of Public Works is directed to mail or otherwise deliver notice of said public hearing, including a copy of this resolution, to the extent possible, to all residents and property owners within the boundaries of the district and the areas to be included within the proposed extended boundary, said notice to be delivered not less than ten, nor more than twenty days before the day set herein for said public hearing.

Section 4. A copy of the June 2010 report and recommendations of the Department of Public Works shall be made available at the offices of the Department of Public Works, Yaphank County Center, 335 Yaphank Avenue, Yaphank, New York and at the Office of the Clerk of the County Legislature at the North County Complex in Hauppauge, New York.

Section 5. The Clerk of said County Legislature is hereby authorized and directed to cause a notice of said public hearing to be published once in each of the official newspapers of said County, and such other newspaper as the Legislature may designate, if any, said publication to be made in each of such newspapers not less than ten, nor more than twenty days before the day set herein for said public hearing. Such notice shall be in the following form, to wit:

NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that the County Legislature of the County of Suffolk, New York, will meet at the North County Complex in the meeting room of the County Legislature in Riverhead, New York, in said County, on the 7th day of December, 2010 at 2:30 p.m., Prevailing Time, for the purpose of conducting a public hearing upon a proposed amendment to the map and plan of service for County Sewer District No. 4 - Smithtown Galleria, as contained in the June 2010 report of the Sewer Agency and Department of Public Works to the Legislature. Said proposed amendments include the extension of the boundaries of the district to include certain commercial properties, and amendment and updating of the operation and maintenance budget such that there would be a change in the rate for sewage treatment from the \$470 per year per typical residential connection originally estimated in the July 2002 report and relied upon when a Public Hearing was held which led to the creation of the district, to a proposed rate of \$1420 per year per typical residential connection as required to support the budget contained in the June 2010 report.

At the public hearing, the Legislature will consider whether such proposed amendments are in the public interest, and acquisition and operation of the sewer district treatment facilities should proceed with such extended boundaries and rate of \$1420 per year per typical residential connection necessary to support the operation and maintenance of the district, or whether it

would be in the public interest to rescind Legislative Resolution 1403-2004 and the notification to the NYS Comptroller, by which Sewer District No. 4 - Smithtown Galleria was created.

Suffolk County Sewer District No. 4 - Smithtown Galleria is currently comprised of an area laying entirely within the Town of Smithtown, known as the Hamlet of Smithtown, bounded by Terry Road (CR 16) to the west and Nesconset-Port Jefferson Highway (NYS Route 347) to the south, such area being more particularly bounded and described as follows:

All that certain plot, piece or parcel of land situate lying and being at Smithtown, Town of Smithtown, Suffolk County, New York, being more particularly bounded and described as follows:

BEGINNING at a point on the easterly side of Terry Road, said point being 444.89 feet northerly of the intersection of the easterly side of Terry Road with the northerly side of Nesconset-Port Jefferson Highway (NYS Route 347);

THENCE along a curve on the easterly side of Terry Road bearing to the right having a radius of 1885.11 feet a distance of 28.61 feet;

THENCE North 32° 12' 10" West 228.37 feet;

THENCE North 61° 01' 53" East 356.33 feet;

THENCE North 28° 07' 03" West 119.41 feet;

THENCE South 61° 52' 57" West 355.77 feet to the easterly side of Terry Road;

THENCE along a curve on the easterly side of Terry Road bearing to the right having a radius of 1885.11 feet a distance of 233.75 feet;

THENCE along the easterly side of Terry Road North 18° 12' 00" West 67.99 feet;

THENCE along a curve along the easterly side of Terry Road bearing to the left having a radius of 1661.77 feet a distance of 199.40 feet;

THENCE North 65° 36' 33" East 350.41 feet;

THENCE North 27° 17' 12" West 121.74 feet;

THENCE South 66° 36' 42" West 350.76 feet to the easterly side of Terry Road;

THENCE along a curve on the easterly side of Terry Road bearing to the left having a radius of 1661.77 feet a distance of 86.22 feet;

THENCE along the easterly side of Terry Road the following three (3) courses:

1) North 28° 02' 13" West 42.27 feet;

2) North 37° 07' 18" West 618.20 feet;

3) North 36° 57' 45" West 26.27 feet to land now or formerly of John Worrell;

THENCE along said land the following three (3) courses:

1) North 35° 24' 16" East 284.64 feet;

2) North 32° 35' 20" West 146.31 feet;

3) South 60° 52' 30" West 299.04 feet to a point;

THENCE North 12° 07' 20" West 151.99 feet;

THENCE North 19° 07' 30" East 229.63 feet;

THENCE North 86° 00' 20" East 4.12 feet;

THENCE North 20° 11' 10" East 150.17 feet to land now or formerly of Frank H. Rowan;

THENCE along said lands the following two (2) courses:

1) South 82° 38' 20" East 38.40 feet;

2) South 85° 35' 50" East 156.20 feet to land now or formerly of Howard Silverman;

THENCE along said land the following three (3) courses:

1) North 67° 41' 00" East 91.37 feet;

2) North 65° 36' 20" East 115.59 feet;

3) North 50° 25' 30" East 85.43 feet
 THENCE South 61° 16' 40" East 150.00 feet;
 THENCE South 64° 35' 20" West 11.31 feet;
 THENCE South 61° 16' 40" East 83.17 feet;
 THENCE South 60° 48' 30" East 208.66 feet to the westerly side of Fairview Street West;
 THENCE along the westerly side of Fairview Street West South 07° 35' 50" East 15.63 feet;
 THENCE South 78° 36' 10" West 136.30 feet;
 THENCE South 17° 23' 50" East 186.21 feet;
 THENCE North 71° 56' 10" East 17.70 feet;
 THENCE South 18° 03' 50" East 135.00 feet to the northerly side Fairview Street West;
 THENCE along the northerly side of Fairview Street West South 71° 56' 10" 225.00 feet;
 THENCE South 18° 03' 50" East 50.00 feet;
 THENCE along the southerly side of Fairview Street West North 71° 56' 10" East 25.00 feet;
 THENCE along the Map of Town Heights the following four (4) courses:
 1) South 18° 03' 50" East 135.00 feet;
 2) North 71° 56' 10" East 75.00 feet;
 3) South 18° 03' 50" East 65.00 feet;
 4) North 71° 56' 10" East 387.12 feet;
 THENCE North 72° 00' 08" East 233.28 feet;
 THENCE North 71° 56' 02" East 87.61 feet;
 THENCE North 74° 40' 23" East 156.29 feet;
 THENCE North 71° 33' 46" East 416.43 feet;
 THENCE North 71° 36' 12" East 147.04 feet;
 THENCE North 71° 33' 50" East 105.91 feet to Land of the Town of Smithtown;
 THENCE along the following two (2) courses:
 1) North 71° 48' 12" East 356.02 feet;
 2) South 23° 12' 06" East 1222.24 feet;
 THENCE South 54° 21' 30" West 281.59 feet;
 THENCE North 29° 20' 25" West 240.95 feet;
 THENCE South 58° 09' 10" West 1478.97 feet;
 THENCE North 43° 43' 20" West 70.02 feet;
 THENCE South 53° 37' 30" West 508.83 feet to the point or place of BEGINNING.

Extension

Suffolk County Sewer District No. 4 - Smithtown Galleria is proposed to be extended to include an area between Terry Road (CR 16) to the west and Nesconset-Port Jefferson Highway (NYS Route 347) to the south, the extension being more particularly bounded and described as follows:

All that certain plot, piece, or parcel of land, with the buildings and improvements thereon erected, situate, lying and being at Smithtown, Town of Smithtown, County of Suffolk, State of New York. Being more particularly bounded and described as follows:

BEGINNING at a point on the northerly line of Nesconset-Port Jefferson Highway (NYS ROUTE 347). Said point being the intersection of said line with the easterly line of Dinicola Lane (Not open as Street). Running thence northerly along said easterly line of Dinicola Lane from said point of BEGINNING the following courses:

THENCE North 43 degrees 43 minutes 20 seconds West, 277.29 feet;
THENCE North 58 degrees 09 minutes 10 seconds East, 626.80 feet;
THENCE South 35 degrees 38 minutes 30 seconds East, 268.21 feet;
THENCE South 57 degrees 39 minutes 30 seconds West, 295.16 feet, along the northerly line of Nesconset-Port Jefferson Highway (NYS ROUTE 347);
THENCE North 35 degrees 44 minutes 57 seconds West, 104.54 feet;
THENCE South 54 degrees 21 minutes 30 seconds West, 130.00 feet;
THENCE South 35 degrees 18 minutes 59 seconds East, 96.41 feet;
THENCE South 57 degrees 55 minutes 10 seconds West, 161.34 feet, along the northerly line of Nesconset-Port Jefferson Highway (NYS ROUTE 347), to the point or place of BEGINNING

Said parcels having an area of 3.46 acres more or less.

A copy of the June 2010 report of the Sewer Agency and Department of Public Works to the Legislature is available for inspection at the offices of the Department of Public Works, Yaphank County Center, 335 Yaphank Avenue, Yaphank, New York and at the Office of the Clerk of the County Legislature at the North County Complex in Hauppauge, New York.

Section 6. This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this resolution constitutes a Type II action pursuant to Section 617.5(c)(20), (21) 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, and 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 resolution.

Section 7. This resolution shall take effect immediately.

DATED:

APPROVED BY:

County Executive of Suffolk County

Date: