

**RESOLUTION NO. 251 -2014, CALLING A PUBLIC HEARING FOR THE PURPOSE OF MODIFYING THE PLAN OF SERVICE FOR SUFFOLK COUNTY SEWER DISTRICT NO. 4 - SMITHTOWN GALLERIA AND REPEALING THE TERMS OF INCONSISTENT RESOLUTION NOS. 749-2013 AND 1200-2013**

**WHEREAS**, in 2005, by proceedings heretofore duly had and taken pursuant to Article 5-A of the County Law, the County Legislature of the County of Suffolk, New York, established a County sewer district designated and known as Suffolk County Sewer District No. 4 - Smithtown Galleria; and

**WHEREAS**, the establishment of said Sewer District was based on the Suffolk County Sewer Agency's June 2002 Report, Map, Plan of Service and Recommendations for the Formation of Suffolk County Sewer District No. 4 - Smithtown Galleria (the "Original Plan"); and

**WHEREAS**, while said District was established in 2005, due to costs not accounted for in the Original Plan, the rate charges to the residents of Suffolk County Sewer District No. 4 – Smithtown Galleria would have been prohibitive; and

**WHEREAS**, as a result, the County did not take-over the operation and maintenance of the wastewater treatment plant that served said District and the residents were never charged for District services; and

**WHEREAS**, after extensive review of the cost of operation and maintenance, the Suffolk County Sewer Agency has approved a modified plan, July 2013 Report, Map, Plan of Service and Recommendations for the Formation of Suffolk County Sewer District No. 4 - Smithtown Galleria (the "Modified Plan"); and

**WHEREAS**, consistent with the provisions of New York County Law Section 253-b, it is now the desire of the Suffolk County Legislature to approve the Modified Plan, which reflects the newly calculated costs and rates for the residents of Suffolk County Sewer District No. 4 - Smithtown Galleria; and

**WHEREAS**, by this resolution, it is the intent of the Suffolk County Legislature to repeal Suffolk County Resolution Nos. 749-2013 and 1200-2013, which implied that Suffolk County Sewer District No. 4 - Smithtown Galleria had not yet been formed and to enact a new resolution calling for a public hearing on the Modified Plan in conformity with the legal requirements of New York County Law Section 253-b; now, therefore be it

**1<sup>st</sup>** **RESOLVED**, that Suffolk County Resolution Nos. 749-2013 and 1200-2013 are repealed in their entirety.

**2<sup>nd</sup>** **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 County Center in the meeting room of the County Legislature in

Riverhead, New York, in said County, on the 29th day of April, 2014, at 2:30 p.m., Prevailing Time, for the purpose of conducting a public hearing on the aforesaid matter and for such other action on the part of said County Legislature as may be required by law or proper in premises.

Section 2. 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 County Center in the meeting room of the County Legislature in Riverhead, New York, in said County, on the 29<sup>th</sup> day of April, 2014, at 2:30 o'clock, Prevailing Time, for the purpose to provide information to the parcel owners and users within Suffolk County Sewer District No. 4 - Smithtown Galleria with respect to the modification of the original map, plans and reports that served as the foundation of the formation of Suffolk County Sewer District No. 4 - Smithtown Galleria.

The rate of \$470 per year to be charged for each District resident as set forth in the June 2002 Report, Map, Plan of Service and Recommendations for the Formation of Suffolk County Sewer District No. 4 - Smithtown Galleria (the "Original Plan") did not include certain spread costs and therefore did not reflect the true operational costs of Suffolk County Sewer District No. 4 - Smithtown Galleria. In 2010, the Suffolk County Department of Public Works conducted a review and prepared a draft modification of the Original Plan, but this draft modification plan was never submitted for approval. This 2010 draft modification included the spread costs and was based on the operation and maintenance costs for what were believed to be similar Suffolk County sewage treatment plants and established the proposed rate of \$1,420 per year for District residents. Further inquiry revealed that the sewage treatment plants used for comparison had undergone or were undergoing significant upgrade or construction. As a result, these sewage treatment plants had significantly higher operational costs than might be expected of a typical plant. The use of these sewage treatment plants as a guide for the prediction of costs and rates for Suffolk County Sewer District No. 4 - Smithtown Galleria was misplaced, and the rates based on the costs of these plants did not reflect the true cost anticipated for Suffolk County Sewer District No. 4 - Smithtown Galleria. After further studies, the Suffolk County Sewer Agency approved a July 2013 Report, Map, Plan of Service and Recommendations for the Formation of Suffolk County Sewer District No. 4 - Smithtown Galleria (the "Modified Plan") which utilized Suffolk County sewage treatment plants which are more comparable to the plant for District 4 - Smithtown Galleria(140,000 GPD to 400,000 GPD, and those plants used for comparison are not currently undergoing upgrade or construction. Based on this averaging, the cost per gallon for the Smithtown Galleria is expected to be approximately Two Dollars Thirty-Six cents (\$2.36) per gallon, which translates to \$685 per year per single family equivalent.

### Sewer District Boundaries

Suffolk County Sewer District No. 4 - Smithtown Galleria will comprise an area lying within the Town of Smithtown, more particularly bounded and described as follows:

All that certain plot, piece or parcel of land, situate, lying and being at Smithtown, in the Town of Smithtown, County of Suffolk, and 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 on 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 land 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 of 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 said land 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;  
 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.

Copies of the July 2013 Report, Map, Plan of Service and Recommendations for the Formation of Suffolk County Sewer District No. 4 - Smithtown Galleria (the "Modified Plan") June 2002 Report, Map, Plan of Service and Recommendations for the Formation of Suffolk County Sewer District No. 4 - Smithtown Galleria (the "Original Plan") are on file in the Office of the Clerk of said County Legislature where the same may be examined during regular business hours.

**3<sup>rd</sup>** **RESOLVED**, 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), (21), and/or (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; and be it further

**4<sup>th</sup>** **RESOLVED**, this resolution shall take effect immediately.

DATED: March 19, 2014

APPROVED BY:

/s/ Steven Bellone  
County Executive of Suffolk County

Date: April 3, 2014