

RESOLUTION NO. 600 -2015, ESTABLISHING A POLICY FOR THE REMOVAL OF ROADS FROM THE COUNTY ROAD SYSTEM AND THE APPORTIONMENT OF THE MAINTENANCE COSTS ASSOCIATED WITH COUNTY ROAD SYSTEMS

WHEREAS, decades ago certain roadways placed in the County Road System were owned by the towns or villages in which those roadways are situated; and

WHEREAS, duly authorized representatives from the towns and villages in Suffolk County requested that these roadways be placed in the County Road System to make those roadways eligible for State and Federal Aid that is only available to roadways in the County Road System; and

WHEREAS, under New York State Highway Law § 115-b, the County may remove a road or a part thereof from the County Road System; and

WHEREAS, under New York State Highway Law § 129, the County may apportion the cost of maintenance of roads improved under provisions of Article VI of the New York State Highway Law between it and the towns or villages in which such roadways are located; and

WHEREAS, it is hereby declared to be the policy of the County that there be a uniform system for the removal of roads from the County Road System and for the maintenance and apportionment of costs of certain roads in the County Road System as set forth in an amendment to Chapter 847 of the County code; now, therefore be it

1st **RESOLVED**, that, Chapter 874 of the Suffolk County Code is hereby amended by the addition of a new Article II to read as follows:

**Chapter 874
Capital Projects**

ARTICLE II
County Road System

§ 874-1. Legislative Intent.

This Legislature finds and determines that the authorization for and establishment of a County Road System stems from a New York State Law initially enacted in 1893, which was intended to permit the development of road systems in counties throughout the State of New York by creating a system of state funding of county roadway development.

This Legislature further finds and determines that because of 1914 and 1929 amendments to this funding mechanism, roads that had been constructed

and maintained by local municipalities (i.e. towns and incorporated villages) were ineligible for direct State and/or Federal Aid and could only avail themselves of this financial benefit if these road segments were included in the County Road System despite the fact that the local municipality where the road segment was located retained ownership and/or maintenance responsibilities of the subject road segment.

This Legislature further finds and determines that subsequent amendments to New York State and Federal laws, rules, and regulations now allows for direct New York State and/or Federal Highway aid to be directly distributed to local municipalities and that the prior inclusion of these roadway segments in the County Road System to secure said financing is no longer necessary.

This Legislature further finds and determines that New York State Highway Law Section 115-b permits the County and the local municipalities to enter into agreements removing said road segments from the County Road System. Resolution No. 825-2011 authorized the Commissioner of the Department of Public Works to take measures to remove certain roads from the Suffolk County Road System.

This Legislature further finds and determines that it was never the intention of the County of Suffolk to own or maintain the local municipal roads that were included in the County Road System for the purpose of obtaining New York State and/or Federal Aid.

This Legislature further finds and determines that Section 129 of the New York State Highway Law authorizes and permits the County of Suffolk to apportion the cost of maintenance between it and the local municipalities in which any County Road System road is located.

Therefore, the purpose of this resolution is to establish a uniform system for the removal of roads from the County Road System and for the maintenance and apportionment of costs of certain roads in the County Road System.

§ 874-2. Definitions.

Commissioner means the Commissioner of the Suffolk County Department of Public Works.

County Road System as used herein shall have the same meaning as used in Article VI of the New York State Highway Law.

Maintenance means any design, construction, improvement, operation, maintenance, use, management, or any combination of the foregoing for any road in the County Road System.

Road means any highway or road in the County Road System for which money has been expended for construction, reconstruction, improvement or maintenance under Article VI of the Highway Law.

§ 874-3. Removal of highways from County Road System.

In accordance with the provisions of New York State Highway Law § 115-b, the Commissioner may enter into any necessary written agreements with the governing body of any town or village for any roadway recommended and approved by the Legislature for removal from the County Road System, for the purpose of returning such roadway to the town or village in which it is situated. The Commissioner may make the necessary applications to the New York State Commissioner of Transportation for any such roadway that the Commissioner deems suitable to be removed from the County Road System and returned to the town or village in which it is situated.

§ 874-4. Apportionment of certain highway costs.

In accordance with New York State Highway Law § 129, the Commissioner may apportion the cost of maintenance between the County and the local municipalities in which any County Road System road is located for any fiscal year during which the County has borne, in whole or in part, the cost of maintenance of such road.

§ 874-5. Rules and regulations.

A.) The Commissioner is hereby authorized and empowered and directed to perform such acts and adopt such rules and regulations after the adoption of this Article that are deemed by him to be necessary and proper to reasonably apportion the costs of maintenance authorized under Code § 874-4, including, without limitation:

1.) for costs of maintenance incurred in a fiscal year prior to the adoption of this Article, identification of the road or part thereof and the fiscal year for which the apportionment is being sought, and the amount to be recovered from local municipalities; and

2.) for costs of maintenance incurred in a fiscal year concurrent with or after the adoption of this Article, identification of the road or part thereof and fiscal year for which the apportionment is being sought, and the amount to be borne by the County and the local municipalities, respectively.

B.) No rule or regulation proposed under this Article shall be approved by the Commissioner until after he has held a public hearing. Notice thereof shall be given by posting conspicuously at the office of the Clerk of the Legislature, the County Clerk, the Commissioner, at the plaza level of the H. Lee Dennison Building and by publication in the official County papers. Such notice shall state the time when and the place where the Commissioner shall convene for such hearing, which will be during regularly scheduled business hours. In any event, the posting and publication shall be not less than three days nor more than 15 days before the date of the hearing. In the case of the notice by posting, a copy of the rules and regulations shall be attached; and in the case of the published notice, a synopsis shall be provided.

§ 874-6. Judicial review.

The action of the Commissioner in apportioning costs may be reviewed by a proceeding brought under and pursuant to Article 78 of the Civil Practice Law and Rules of the State of New York.

and be it further

2rd **RESOLVED**, that 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 617.59(c)(20) and (27) of Title 6 of the New York Code of Rules and Regulations (6 NYCRR) and within the meaning of Section 8-109 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. Furthermore, in accordance with Section 1-4(A)(1)(d) of the Suffolk County Charter and Section 279-5(C)(4) of the Suffolk County Code, the Suffolk County Council on Environmental Quality is directed to prepare and circulate all appropriate notices of determination of non-applicability or non-significance in accordance with this law.

3rd **RESOLVED**, this resolution shall become effective upon its final adoption.

DATED: June 16, 2015

APPROVED BY:

/s/ Steven Bellone
County Executive of Suffolk County

Date: June 29, 2015