COUNTY OF SUFFOLK

STEVE LEVY
SUFFOLK COUNTY EXECUTIVE

DEPARTMENT OF PUBLIC WORKS

THOMAS LAGUARDIA, P.E.
CHIEF DEPUTY COMMISSIONER

GILBERT ANDERSON, P.E.
COMMISSIONER

LOUIS CALDERONE
DEPUTY COMMISSIONER

MEMORANDUM

TO: Hon. William J. Lindsay, Presiding Officer of the SC Legislature
Legislators: Beedenbender, Romaine, Schneiderman, Browning, Viloria-Fisher, Losquadro, Eddington, Montano, Alden, Barraga, Kennedy, Nowick, Horsley, Mystal, Stern, D'Amaro and Cooper
Jeffrey Szabo, Deputy County Executive / Chief of Staff
Vito Minei, P.E., Director, Environmental Quality, S.C. Health Services
Thomas Isles, Director, Suffolk County Planning Department
Legislator Louis D'Amaro, SCSA Legislator-at-Large
Michael Cavanagh, representing Presiding Officer Lindsay

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

DATE: April 30, 2008

SUBJECT: **Minutes of the Sewer Agency Meeting of April 21, 2008**

Attached for your information please find a copy of the minutes for the above referenced meeting.

GA/BW/cp
Attachments

cc: Thomas LaGuardia, P.E., Chief Deputy Commissioner
Louis Calderone, Deputy Commissioner
Ben Wright, P.E., Chief Engineer, Division of Sanitation
John Donovan, P.E., Sr. Civil Engineer
Laura Conway, C.P.A., Director of DPW Administrative Services
Linda Spahr, Esq., Dept. of Law
Walter Hilbert, P.E., S.C. Dept. of Health
Walter Dawydiak, P.E., S.C. Dept. of Health
Tim Laube, Clerk of the Legislature
James Morgo, Commissioner of Economic Development and Workforce Housing
William Spitz, NYSDEC
Adam Santiago, representing Legislator Brian Beedenbender
Justin Littell, representing Legislator Louis D'Amaro
Daniel Gulizio, representing Tom Isles
Craig A Platt, Secretary, SC Sewer Agency

SUFFOLK COUNTY IS AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

335 YAPHANK AVENUE ■ YAPHANK, N.Y. 11980 ■ (631) 852-4205
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Minutes of the Suffolk County Sewer Agency
Meeting Of April 21, 2008

The meeting was called to order at 11:07 am by Gil Anderson, P.E., Commissioner of DPW and Chairman of the Suffolk County Sewer Agency. In attendance were Legislator Beedenbender, Chairman of the Legislative Public Works and Transportation Committee, Legislator D'Amaro, Daniel Gulizio, representing Tom Isles, the Suffolk County Director of Planning, Michael Cavanagh, Legislative Aide to Presiding Officer Lindsay, Vito Minei, P.E., representing the Commissioner of the Department of Health Services, and Jeff Szabo, the Deputy County Executive representing County Executive Steve Levy arrived as the meeting was in progress.

Also present were Linda Spahr, Esq. of the Department of Law, Ben Wright, P.E., Chief Engineer of the Sanitation Division, John Donovan, P.E., Adam Santiago aide to Legislator Beedenbender, Justin Littell aide to Legislator D'Amaro, and Craig Platt, Secretary to the Sewer Agency.

Note: Project representatives are shown on the copy of the sign-in sheet attached at the end.

Welcome by Commissioner Anderson to the April 21st meeting of the Suffolk County Sewer Agency, and introductions by Roll Call.

Roll Call: All members (or representatives) present, it was mentioned that Jeff Szabo was in route.

Minutes from SCSA for March 17, 2008, were discussed. The Agenda included a note that stated:
On pages 9 & 10 under Windwatch STP Expansion (IS-0201.1) the references to the "Connection Agreement" should instead read "Construction Agreement".
A motion to accept the minutes was made by Commissioner Anderson and Michael Cavanagh seconded it. Motion passed 4-0-2.

Public Portion: *There were no requests to make statements.*

See the attached sign-in sheet for additional attendees

IV. Old Business

A. Formal Approval

BEECHWOOD AT YAPHANK PRC ***BR 1351***

Ben mentioned that this project is a proposal for 75 unit PRC a little more 123 acres in Mastic between Moriches-Yaphank Road and Sunrise Hwy, west of Weeks Avenue. It had been approved for a 75,000 GPD on site treatment facility, the engineering report has been approved and the plans and specs have been prepared. The project has been through a number of one year extensions because the agreement hasn't been executed. There have also been negotiations between the Town and County about possible incorporating the project or the land into open space programs. And it's also in the vicinity of the Forge River which has gotten some notoriety of late. A couple of items for the agency record that were mentioned are that there are resolutions pending to install sewer in the Montauk Hwy CR 80 area between William Floyd Parkway and Forge River. There is another resolution that would affect Public Works to look at sewering in that area, and the third item is a comprehensive water resources management plan that Health is preparing and it's used the Mastic area as a pilot and it also has some interesting information about groundwater flows, etc. Ben further mentioned that the area is subject to some degree of study and interest. The staff recommended approving this.

Commissioner Anderson asked who represented the project. David Sloane responded that he represented the applicant. He mentioned that this has been ongoing for many years. The town of Brookhaven agreed to condemn certain out parcels within the plan site. To date they haven't done so due to ongoing negotiations between the town, county, and state to acquire the site. So without having title to the entire plan site they cannot sign a connection agreement. Mr. Sloane requested that the application be approved and be extended one more year while these negotiations can be completed.

A question was asked if there is a limit on the number of extensions. Ben replied that is customary to grant the time extension request. When asked if the proposed sewering of the area along Montauk Highway would be part of this STP Ben replied no, the pipe that's being proposed to be put in really doesn't have a definition of what the service area is. Legislator Beedenbender stated that he knew that Legislator Browning had mentioned that there's a project that he knew that there is a similar project to this that's being developed and Legislator Browning mentioned the public/private partnership possibility. Ben replied no, that this is south of Montauk Highway.

Commissioner Anderson stated that for the record, Jeff Szabo has arrived.

Commissioner Anderson continued, asking Ben what the impact would be to this site if some incorporation into the CR80 sewer was mandated. Ben replied that typically what's done is this plant is being proposed at 75,000 GPD is to require the site to be expandable by 100% so it could be another 75,000 GPD. Ben further mentioned that he doubted that the area being studied in the business district would produce that little amount, probably much more than that.

Discussion continued with Mr. Sloane concerning whether or not the applicant owned all the property and Mr. Sloane responded that the applicant entered into Condemnation Agreements with the Town and that the Town has had appraisals done and that the County was working on the appraisals and shortly they were going before the County Trust Review Board.

Legislator D'Amaro made a motion to approve the application and Legislator Beedenbender seconded it. The motion passes unanimously.

SUFFOLK COUNTY SEWER AGENCY

RESOLUTION NO. 6 -2008 AUTHORIZING AN EXTENSION OF TIME FOR THE COMPLETION OF THE CONTRACT TO CONSTRUCT AND OPERATE AND MAINTAIN A SEWAGE TREATMENT PLANT FOR BEECHWOOD AT YAPHANK PRC (BR-1351)

WHEREAS, on June 25, 2003, this Agency adopted Resolution No. 17-2003, authorizing the construction and operation and maintenance of a sewage treatment system for the Beechwood at Yaphank PRC and Resolutions No. 25-2004, 23-2005 and 22-2006 extending the time a year each for the completion of the required documents, and

WHEREAS, Resolution 15-2007, granting a one year time extension, by its terms, will become null and void on July 17, 2007, since an agreement in furtherance of the authorization granted therein will not executed within one year from the adoption thereof, and

WHEREAS, negotiations concerning such an agreement are complete, and a proposed agreement is being prepared and is in final form, and

WHEREAS, the developer of Beechwood at Yaphank PRC has requested an extension of the authorization granted in Resolution No. 17-2003, 25-2004, 23-2005, 22-2006, and 15-2007.

NOW, THEREFORE, IT IS

1st RESOLVED, that Resolution No. 17-2003, adopted by this Agency on June 25, 2003, is hereby renewed, and it is further

2nd RESOLVED, that this resolution shall become null and void, and of no further force or effect, without any further action by this Agency or notice to the developer, if, within one (1) year from the date of the adoption hereof, an agreement in furtherance of the authorization granted herein, in form and content satisfactory to the Chairman of this Agency, has not been negotiated and fully executed by all parties thereto.

(Suffolk County Sewer Agency Meeting 4/21/08)

Ben mentioned that this project is a proposed group of retail facilities that require 15, 000 GPD to be connected to the Tallmadge Wood facility that previously had acquired 5,000 GPD due to the revised development of that particular parcel they needed additional 10,000 GPD. Tallmadge Woods development has been created as a SC Sewer District but the responsibilities haven't been transferred yet to the County. Ben further mentioned that in the next few months the transfer should take place. Furthermore, that part of the contractual agreement the developer has the right to recover some of the costs that they put into building the facility. Therefore when this is connected and the contract is signed there will be a connection fee going to the developer. There had been some discussion right before the meeting, between the Agency attorney and the attorney for the development. Ben requested that Linda Spahr explain this discussion.

Commissioner Anderson asked who represented the project, and Eugene Wishod replied that he did. Mr. Wishod continued with introducing Herb Balin, Esq., John Berthold, P.E., and Charles Mancini the owner of the property. Mr. Wishod mentioned that the language in the resolution was not what had been done in the past.

Linda Spahr mentioned that the discussion with Mr. Wishod concerned the 3rd and 4th resolve clauses of the 2008 SA resolution. The issue with the 3rd Resolve clause was that since this is a private plant the agreement was between the private parties and therefore not subject to approval by the Suffolk County Legislature. In the 4th Resolve Clause; it is referenced that the language in the"Connection Agreement" would include the standard Sewer Agency Connection Agreement language. Furthermore for the sake of accuracy the clauses should read as follows:

3rd RESOLVED, that the connection authorized herein is subject to the approval of the New York State Department of Environmental Conservation, and it is further

4th RESOLVED, that the connection authorized herein is subject to the execution of an agreement (the "Connection Agreement") between the owner of Miller Place Village Parcel and the Tallmadge Woods STP Associates, which agreement shall contain such terms and conditions as the Administrative Head of the District shall determine, and it is further

Ben mentioned that the SEQRA has received a negative declaration from the Town of Brookhaven in February of this year and that the District's STP has sufficient excess treatment capacity to accommodate this project.

Legislator Beedenbender made a motion to approve the application and Legislator D'Amaro seconded it. The motion passes unanimously.

SUFFOLK COUNTY SEWER AGENCY

RESOLUTION NO. 7 -2008

GRANTING FORMAL APPROVAL TO THE PURCHASE OF ADDITIONAL CAPACITY BY MILLER PLACE VILLAGE (BR-0976) FROM THE PROPOSED SUFFOLK SEWER DISTRICT NO. 2 – TALLMADGE WOODS

WHEREAS, Miller Place Village is an existing development that had previously purchased 5,000 GPD capacity at the Tallmadge STP from the consortium who built the facility, and

WHEREAS, the sewage flow from the Miller Place Village is expected to be fifteen thousand gallons per day (15,000 GPD) when Miller Place Village is fully developed, and

WHEREAS, Miller Place Village has applied to this Agency for permission to purchase an additional ten thousand gallons per day (10,000 GPD) for a total allocation of flow to the sanitary sewerage facilities of the Tallmadge Woods sewage treatment plant of fifteen thousand gallon per day (15,000 GPD), and

WHEREAS, the Tallmadge Woods sewage treatment plant has sufficient capacity in excess of its own needs to accept the sewage which is expected to emanate from the Miller Place Village when fully developed, and

WHEREAS, the connection of Miller Place Village Parcel to the District will be financially beneficial to the District, and environmentally beneficial to Suffolk County,

NOW, THEREFORE, IT IS

1st RESOLVED, that Miller Place Village Parcel be permitted to connect to the sanitary sewerage facilities of the District, upon such terms and conditions as the Administrative Head of the District may impose, subject to the terms and conditions hereof, and it is further

2nd RESOLVED, that ten thousand gallons per day (10,000 GPD) of additional capacity in the District's sewage treatment plant be allocated to Miller Place Village Parcel, and it is further

3rd RESOLVED, that the connection authorized herein is subject to the approval of the New York State Department of Environmental Conservation, and it is further

4th RESOLVED, that the connection authorized herein is subject to the execution of an agreement (the "Connection Agreement") between the owner of Miller Place Village Parcel and the Tallmadge Woods STP Associates, which agreement shall contain such terms and conditions as the Administrative Head of the District shall determine, and it is further

5th RESOLVED, that the consortium has the right to sell the additional capacity and it is further

6th RESOLVED, that Miller Place Village Parcel shall, at its sole cost, expense and effort, construct a sewage collection facility for Miller Place Village Parcel, and shall offer to dedicate the said facility to this Agency, or to this Agency's nominee, at no charge, and it is further

7th RESOLVED, that no Certificate of Occupancy shall be issued for any portion of Miller Place Village Parcel until the sewage collection facility for Miller Place Village Parcel has been completed and Miller Place Village Parcel has been connected to the sanitary sewerage facilities of the District, all to the satisfaction of DPW, and it is further

8th RESOLVED, that the developer of Miller Place Village Parcel shall furnish a Letter of Credit, in form, wording and amount, and on such terms and conditions, as determined by this Agency's staff, as security for the construction of the sewage collection facility for Miller Place Village Parcel, as well as for all of the developer's obligations under the Connection Agreement, and it is further

9th RESOLVED, that this resolution shall become null and void, and of no further force or effect, without any further action by this Agency or notice to the developer of Miller Place Village Parcel if, within one (1) year from the date of the adoption hereof, an agreement in furtherance of the authorization granted herein (the Connection Agreement), in form and content satisfactory to the Chairman of this Agency, has not been negotiated and fully executed by all parties thereto.

(Suffolk County Sewer Agency meeting 4/21/08)

SD# 13 Windwatch – STP Expansion (IS-0201.1) -
Request to amend Connection Agreement

Commissioner Anderson asked who represented the project, Mr. Wishod responded that he did. Mr. Wishod mentioned that since he had a lengthily presentation that maybe this item could be moved to the end of the agenda. A motion was made by Legislator Beedenbender to do so and seconded the motion passed unanimously.

110 Sand & Gravel Clean Fill Disposal Site HU 1040

Ben mentioned that this project is an existing 69.8 acre landfill located at the end of Park Place in Melville. The landfill has been a Contractee to SCSD No. 3 – Southwest authorized to discharge 70,000 GPD of leachate to the facilities of the District. The landfill has need for an additional 30,000 GPD, which is expected to be generated by future cells. The owner requests approval to connect the additional flow to SCSD No. 3. This will total allowable to 100,000 GPD.

Although staff believes that the District's Bergen Point STP has sufficient treatment capacity in excess of the needs of the District and its contractees to accommodate the additional flow, the DEC has questioned recent requests for connections. They have approved the request by Canon for 60,000 GPD.

Commissioner Anderson asked who represented the project, and Ray Wagner of LKB responded that he did. A question was asked of Mr. Wagner, if an application had been submitted to the SCDHS. Mr. Wagner stated that he did not know and would discuss the matter with the company contact. Further discussion ensued that it is necessary for an application of this type to be jointly submitted to the Sewer Agency along with the SCDHS. A question was asked if tabling the motion for a cycle would be a hardship for the company and the response was no, the request was for future expansion. Mr. Wagner was given Walter Hilbert's name and telephone number in response to his question of to whom to contact in the SCDHS. Mr. Wagner was asked why there was a need for the additional gallonage. Mr. Wagner replied that the company was building a new cell onto the landfill and it was nearly complete. It was further mentioned that the cells are lined and eventually closed.

Ben questioned whether formal applications should include a box asking if the application had also been submitted to the SCDHS. Vito responded that it certainly would be appropriate.

A motion was made by Vito Minei to table, was seconded by Commissioner Anderson and passed unanimously.

SD# 13 Windwatch – STP Expansion **(IS-0201.1)**

Request to amend Connection Agreement

Ben mentioned that the facility is permitted for 400,000 GPD. A series of sewer agency approvals have been granted to Motor Parkway Associates for an expansion. At this stage the expansion is going up to 750,000 GPD and at that capacity reports, plans and specs, bidding process has taken place. However, the legislature has not given the approval for expansion of the plant up to 750,000 GPD. Ben further mentioned that there has been some recent discussion at the last meeting and correspondence from the County attorney's office with respect to this project and the need for the legislature to be involved with the full extent of the capacity as well as the prevailing wages.

Commissioner Anderson asked Mr. Wishod to make his presentation and Mr. Wishod stated that his office had recently received disturbing correspondence from the Suffolk County Attorney. Mr. Wishod stated that he was compelled to address the correspondence and would do so in writing and so far as the prevailing wage issue; that it was a separate issue which didn't bear on the current discussion. Mr. Wishod further gave a history of the process of the project. The efforts on his part to move the process along. He stated the concern of the parties involved that the bid of $15,000,000, that the prices for materials and labor may increase and therefore increase the cost of the project. Discussion ensued with Ms. Spahr questioning specifics of the agreement such as the 15% management fee. A question was asked by Mr. Balin if the Agency would *nunc pro tunc** the 2005 SA agreement. Discussion continued and the reply was in the negative as the County Attorney had already made the determination.

In the opinion of the County Attorney the previous resolutions of the Sewer Agency had expired and had not been renewed. Furthermore, the Suffolk County Legislature had to approve any increase in expansion or improvement. The applicants must resubmit the necessary application and paperwork to complete a new Construction agreement.

A motion was made by Vito Minei to table, was seconded by Commissioner Anderson and passed unanimously.

There being no further business, Commissioner Anderson made a motion to adjourn and Legislator D'Amaro seconded it. The motion passes unanimously.

Meeting adjourned at 12:22

Respectfully submitted,

Craig A Platt

**(nuhnk proh tuhnk) adj. Latin for "now for then," this refers to changing back to an earlier date of an order, judgment or filing of a document. Such a retroactive re-dating requires a court order which can be obtained by a showing that the earlier date would have been legal, and there was error, accidental omission or neglect which has caused a problem or inconvenience which can be cured. Often the judge will grant the nunc pro tunc order ex parte (with only the applicant appearing and without notice).*

SIGN-IN SHEET

Suffolk County Sewer Agency
SCDPW - Sanitation -Engineering

April 21, 2008

	NAME	FIRM	PROJECT REPRESENTING
1	RAYMOND WEGENER	LOCKWOOD, KESSLER + BARTLETT	110 SAND COMPANY
2	MIKE CATARELLI	CATARELLI ENG.	TAV 3 & SPRING MEADOW
3	EUGENE L. WISHCA	Hanlinger, Magnus et al.	MPCD Associates + Motor Parking Associates
4	John C Berchtold	Henderson & Bodwell	MPCD ASSOCIATES
5	Steve Hayduk	Hayduk Engrng	WWSTP Motor Pky Assoc.
6	David Sloane	Certilman Balin	Beechwood
7	MIKE ADLER	BEECHWOOD ORG	BEECHWOOD MASSIC
8	Herb Balin	Certilman Balin Adler & Hyman	
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