

RESOLUTION NO. 725 -2012, ADOPTING LOCAL LAW NO. 49 -2012, A CHARTER LAW TO ENSURE THE INDEPENDENCE AND INTEGRITY OF THE COUNTY ETHICS PROCESS

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on June 5, 2012 a proposed local law entitled, "A CHARTER LAW TO ENSURE THE INDEPENDENCE AND INTEGRITY OF THE COUNTY ETHICS PROCESS"; now, therefore be it

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

LOCAL LAW NO. 49 -2012, SUFFOLK COUNTY, NEW YORK

A CHARTER LAW TO ENSURE THE INDEPENDENCE AND INTEGRITY OF THE COUNTY ETHICS PROCESS

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 a Suffolk County Grand Jury was empanelled to investigate matters related to the former Suffolk County Ethics Commission. The Grand Jury issued a report of its findings and recommendations on April 18, 2012.

This Legislature further finds that the Grand Jury concluded that a small number of County officials, including individuals associated with the Ethics Commission itself, acted improperly for personal and political gain and thereby destroyed the integrity of the Commission.

This Legislature finds and determines that the Grand Jury made a number of recommendations to safeguard the independence and integrity of the County's ethics program going forward.

This Legislature, after pursuing its own independent investigation of the Suffolk County Ethics Commission, enacted Local Laws 55 and 56 of 2011. These laws updated the County's Code of Ethics, abolished the Ethics Commission and established a new Board of Ethics.

This Legislature determines that Local Laws 55-2011 and 56-2011 anticipated and implemented several critical reforms that were recommended by the Grand Jury, including:

1. Increased the size of the Board of Ethics to five members to inoculate the Board from improper influence.
2. Established time guidelines for the Board of Ethics to issue advisory opinions and determine ethics complaints.

3. Delineated procedural guidelines to govern advisory opinions, complaints, hearings and financial disclosure.
4. Provided remuneration to members of the Board of Ethics.
5. Required the Board to respond to requests for financial disclosure statements from members of the public in the order that they are received and within the time periods prescribed by the Freedom of Information Law.

This Legislature also finds that Local Law Nos. 55-2011 and 56-2011 included other important reforms to strengthen the integrity, independence and transparency of the ethics process. Ethics board members are now prohibited from making contributions to County elected officials and candidates; the Boards' offices can no longer be sited in a building occupied by the County Executive or County Legislature; and advisory opinions must now be made public (with such deletions as are necessary to prevent the disclosure of the identity of the person who requested the opinion).

This Legislature further finds and determines that further improvements can be made to the County's ethics process by incorporating certain recommendations of the Grand Jury.

Therefore, the purpose of this law is to enact certain recommendations of the Suffolk County Grand Jury that investigated the former Ethics Commission to protect the independence and integrity of the new Board of Ethics and to ensure that the County's process for enforcing ethical standards is never again improperly subverted.

Section 2. Amendments.

I Section A30-5 of the SUFFOLK COUNTY ADMINISTRATIVE CODE is hereby amended by the addition of new paragraphs (D) and (E) which shall read as follows:

§A30-5 - Complaints, Referrals.

* * * *

- D. The board's staff may answer inquiries regarding the procedure involved in making a complaint alleging an ethical violation, however, the executive director, independent counsel and support staff shall not assist any person or entity, other than the Board and its members, in the preparation of a complaint against a public servant alleging a violation of the County's Code of Ethics or other applicable provision of law governing conflicts of interest.
- E. It shall be unlawful for any person to make a complaint or threaten to make a complaint to the Board against a public servant, or to offer to withdraw a complaint against a public servant, in order to improperly influence that public servant's vote, opinion, judgment, action, decision or exercise of discretion as a public servant. Such conduct will constitute a violation punishable by a fine of not more than \$1,500, or imprisonment of not more than 15 days, or both.

II. Section A30-8 of the SUFFOLK COUNTY ADMINISTRATIVE CODE is hereby amended as follows:

§A30-8. Confidentiality.

- A. Except as otherwise provided by this law, testimony received or any other information obtained by a member of the Board [of] or the staff [or] of the Board in connection with the preparation of an advisory opinion or the investigation of a complaint or referral, or the conduct of a hearing related to a complaint or referral, is confidential and shall not be disclosed by any such individual to any person or entity outside the Board. However, the Board shall provide all documents requested by the Suffolk County Legislature or a duly authorized committee of the Legislature that is exercising oversight of the Board of Ethics. Such a request for records must be approved by a two-thirds (2/3) vote of the Legislature via a procedural motion.

- B. Any unauthorized disclosure of confidential information by a member of the Board, or the executive director, independent counsel or staff of the Board, shall be a violation punishable by a fine of not more than \$1,500, or imprisonment of not more than 15 days, or both.

III. Article 30 of the SUFFOLK COUNTY ADMINISTRATIVE CODE is hereby amended by the addition of a new section A30-9, which shall read as follows:

A30-9. Disclosure of Potential Conflict.

A member of the Board shall disclose to the full Board any personal or business relationship he or she may have with a public servant who has requested an advisory opinion or who is the subject of a complaint pending before the Board. If the member does not recuse himself or herself from participating in that particular matter or proceeding, he or she shall file a written statement with the Board explaining why he or she is able to participate fairly, objectively and in the public's interest.

V. Section A30-9 of the SUFFOLK COUNTY ADMINISTRATIVE CODE is hereby renumbered as Section A30-10.

Section 3. Applicability.

This law shall apply to actions occurring on or after the effective date of this law.

Section 4. 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 5. 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), (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.

Section 6. 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: August 21, 2012

APPROVED BY:


County Executive of Suffolk County

Date: 9.18.2012

After a public hearing duly held on September 5, 2012
Filed with the Secretary of State on October 1, 2012

SUFFOLK COUNTY
County Legislature
RIVERHEAD, NY



This is to Certify That I, TIM LAUBE, Clerk of the County Legislature of the County of Suffolk, have compared the foregoing copy of resolution with the original resolution now on file in this office, and which was duly adopted by the County Legislature of said County on August 21, 2012 and that the same is a true and correct transcript of said resolution and of the whole thereof.

In Witness Whereof, I have hereunto set my hand and the official seal of the County Legislature of the County of Suffolk.

Tim Laube

Clerk of the Legislature

Intro. Res.

1586

Res. No.

725

August 21, 2012

Motion:

Romaine, Schneiderman, Browning, Muratore, Anker
Calarco, Montano, Cilmi, Lindsay, Hahn, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Spencer

Co-Sponsors:

Romaine, Schneiderman, Browning, Muratore, Anker
Calarco, Montano, Cilmi, Lindsay, Hahn, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Spencer

Second:

Romaine, Schneiderman, Browning, Muratore, Anker
Calarco, Montano, Cilmi, Lindsay, Hahn, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Spencer

LD	Legislator	Yes	No	Abs	NP	R
1	Edward P. ROMAINE					
2	Jay H. SCHNEIDERMAN					
3	Kate M. BROWNING					
4	Thomas MURATORE					
5	Kara HAHN					
6	Sarah S. ANKER					
7	Rob CALARCO					
9	Ricardo MONTANO					
10	Thomas CILMI					
11	Thomas F. BARRAGA					
12	John M. KENNEDY, JR.					
13	Lynne C. NOWICK					
15	DuWayne GREGORY					
16	Steven H. STERN					
17	Lou D'AMARO					
18	William SPENCER					
14	Wayne R. HORSLEY, D.P.O.					
8	William J. LINDSAY, P.O.					
	Totals	17	1			

MOTION

Approve

Table: _____

Send To Committee

Table Subject To Call

Lay On The Table

Discharge

Take Out of Order

Reconsider

Waive Rule _____

Override Veto

Close

Recess

APPROVED FAILED _____

No Motion _____ No Second _____

RESOLUTION DECLARED

ADOPTED

NOT ADOPTED

Roll Call _____ Voice Vote

Tim Laube

Tim Laube, Clerk of the Legislature