

Public Works & Transportation Meeting Agenda



Committee Chair: MaryJane Shimsky

800 Michaelan Office Bldg.
148 Martine Avenue, 8th Floor
White Plains, NY 10601
www.westchesterlegislators.com

Monday, May 2, 2022

1:00 PM

Committee Room

CALL TO ORDER

Joint with Legislation and Energy, Environment & Climate committees

MINUTES APPROVAL

I. ITEMS FOR DISCUSSION

1. [2022-96](#) **PH-Greenwich Woods Wastewater Discharge Permit**

A RESOLUTION to set a Public Hearing on "A LOCAL LAW amending Section 824.341 of the Laws of Westchester County excepting a Permit for Greenwich Woods Realty LLC and Greenwich Retirement Housing LLC from the three (3) year term limitation for sewage discharge permits." [Public Hearing set for _____, 2022 at _____ .m.] LOCAL LAW INTRO: 2022-98.

COMMITTEE REFERRAL: COMMITTEES ON LEGISLATION AND PUBLIC WORKS & TRANSPORTATION AND ENVIRONMENT, ENERGY & CLIMATE

Guests: Dept. of Environmental Facilities: Commissioner Vincent Kopicki and Director of Maintenance Marian Pompa; Law Dept.: Senior Assistant County Attorney Jeff Goldman

2. [2022-98](#) **LOCAL LAW-Greenwich Woods Wastewater Discharge Permit**

A LOCAL LAW amending Section 824.341 of the Laws of Westchester County excepting a Permit for Greenwich Woods Realty LLC and Greenwich Retirement Housing LLC from the three (3) year term limitation for sewage discharge permits.

COMMITTEE REFERRAL: COMMITTEES ON LEGISLATION AND PUBLIC WORKS & TRANSPORTATION AND ENVIRONMENT, ENERGY & CLIMATE

Guests: Dept. of Environmental Facilities: Commissioner Vincent Kopicki and Director of Maintenance Marian Pompa; Law Dept.: Senior Assistant County Attorney Jeff Goldman

II. OTHER BUSINESS

III. RECEIVE & FILE

ADJOURNMENT

George Latimer
County Executive

February 24, 2022

Westchester County Board of Legislators
800 Michaelian Office Building
148 Martine Avenue
White Plains, New York 10601

Dear Honorable Members of the Board of Legislators:

Transmitted herewith for your consideration is a Local Law which, if adopted, would authorize the County of Westchester ("County"), on behalf of the Blind Brook Sanitary Sewer District (the "District"), to amend Section 824.341 of the Laws of Westchester County (a provision of the County Environmental Facilities Sewer Act, hereinafter the "Sewer Act") to exempt the permit described below for Greenwich Woods Realty LLC ("GWR") and Greenwich Retirement Housing LLC ("GRH") (collectively the "Licensees") from the three (3) year term limitation for sewage discharge permits. Such exemption would allow the Licensees to discharge sanitary sewage from their nursing home/assisted living facility located in Greenwich, Connecticut into the County trunk sewer tributary to the Blind Brook Wastewater Treatment Plant, for a sixty-five (65) year term commencing retroactive to January 1, 2000.

Pursuant to Act No. 187-1999, adopted by your Honorable Board on November 8, 1999, the County was authorized to enter into a sewage discharge agreement (the "Agreement") with Greenwich Woods Health Care Center Corp. ("GWHCCC"), pursuant to which the County was authorized to grant GWHCCC a permit to discharge sanitary wastewater from GWHCCC's nursing home/assisted living facility located on King Street in the Town of Greenwich, Connecticut, into the County trunk sewer serviced by the District for a term of thirty years commencing January 1, 2000. Act No. 187-1999 further provided that in consideration for the permit, GWHCCC would pay the County an annual permit fee to be computed by multiplying 250% of the District's operating costs by 80% of the metered water usage of GWHCCC during the current permit year. Act No. 187-1999 further provided that as additional consideration, GWHCCC would grant an easement to the County to enable the County to trim or remove trees on GWHCCC's property where the trees represent an obstruction to navigable airspace at the Westchester County Airport. The Agreement was duly executed on January 24, 2000.

Subsequently, GWHCCC requested that the Agreement be assigned from GWHCCC to Greenwich Woods Limited Partnership ("GWLP"), as GWLP took ownership of the facilities. Pursuant to Act No. 159-2000, adopted by your Honorable Board on July 10, 2000, the County was authorized to enter into an assignment agreement which was duly executed on November 7, 2000.

In 2015, the County was advised by GWLP that it had sold the facilities to GWR on February 1, 2015. GWLP further advised the County that GRH, an affiliate of GWLP, owned the adjoining assisted living facility, which was also discharging sewage under the Agreement. In order to clarify the ownership status of the facilities, it was agreed by the parties that the Agreement should be further assigned from GWLP to the Licensees. Accordingly, by Act No. 117-2015, adopted by your Honorable Board on July 13, 2015, the County was authorized to consent to the assignment of the Agreement from GWLP to the Licensees. An Assignment Agreement was duly executed on September 25, 2015.

Most recently, by letter dated December 13, 2021 from the law firm of Cuddy & Feder, which is representing the Licensees in this matter, the County was advised that the Licensees were in the process of refinancing their existing debt and that their lending institution was requesting an extension of the Agreement's expiration date to a date that is at least ten (10) years after the maturity date of the upcoming refinancing. The Licensees anticipate this refinancing to close sometime late in the first quarter of 2022, which would place the anticipated maturity date sometime in the calendar year of 2052, and require the Agreement to be extended until at least 2062. To avoid any potential timing issues, Cuddy & Feder, on behalf of the Licensees, has requested that the term of the Agreement be extended for a period of thirty-five (35) years through December 31, 2064.

Pursuant to Section 824.41(3) of the Sewer Act, sewage generated on or discharged from real property located outside a County sanitary sewer district may be discharged into County trunk sewers only with the express consent of the Commissioner of the Westchester County Department of Environmental Facilities ("WCDEF"), and then only upon the issuance of a permit setting forth the terms and conditions of such discharge. However, Section 824.341 of the Sewer Act limits the duration of such permits to three (3) years with certain exceptions. If approved, the attached Local Law would except the Licensees from the three (3) year permit limitation and allow them to discharge sanitary sewage from their nursing home facility into the County trunk sewer tributary to the Blind Brook Wastewater Treatment Plant, for a sixty-five (65) year term commencing retroactive to January 1, 2000.

It should be noted that although the Agreement has been in effect since 2000, no exception from the three (3) year permit limitation was ever obtained. The attached Local Law would cure this defect retroactively and allow WCDEF to seek authority from the County Board of Acquisition & Contract to amend the Agreement to extend the term through December 31, 2064.

Attached is a Resolution authorizing a public hearing as required by Section 209.141(4) of the Laws of Westchester County.

The Planning Department has advised that based on its review, the issuance of a sixty-five (65) year out-of-district wastewater discharge permit constitutes a Type II action under the State Environmental Quality Review Act ("SEQRA"), and its implementing regulations, 6 NYCRR, Part 617 and therefore no further environmental review is required. As you know, your Honorable Board may use such expert advice to reach its own conclusion.

Please be advised that the attached Local Law is also subject to permissive referendum pursuant to Section 209.171(2) of the Laws of Westchester County because it changes a provision of law relating to contracts. Consequently, the proposed Local Law may not take effect until sixty (60) days after its adoption, assuming that within that time a petition protesting its adoption is not filed by the statutorily required number of qualified electors.

For the foregoing reasons, I most respectfully recommend accommodating the Licensees by amending Section 824.341 of the Sewer Act to permit the issuance of the permit described above. The Commissioner of WCDEF concurs in this recommendation.

Very truly yours,

A handwritten signature in cursive script, appearing to read "George Latimer".

George Latimer
County Executive

GL/VK/jpg

**HONORABLE BOARD OF LEGISLATORS
THE COUNTY OF WESTCHESTER, NEW YORK**

Your Committee is in receipt of a communication from the County Executive recommending the adoption of a Local Law which, if approved by your Honorable Board, would authorize the County of Westchester ("County"), on behalf of the Blind Brook Sanitary Sewer District (the "District"), to amend Section 824.341 of the Laws of Westchester County (a provision of the County Environmental Facilities Sewer Act, hereinafter the "Sewer Act") to exempt the permit described below for Greenwich Woods Realty LLC ("GWR") and Greenwich Retirement Housing LLC ("GRH") (collectively the "Licensees") from the three (3) year term limitation for sewage discharge permits. Such exemption would allow the Licensees to discharge sanitary sewage from their nursing home/assisted living facility into the County trunk sewer tributary to the Blind Brook Wastewater Treatment Plant, for a sixty-five (65) year term commencing retroactive to January 1, 2000.

Pursuant to Act No. 187-1999, adopted by your Honorable Board on November 8, 1999, the County was authorized to enter into a sewage discharge agreement (the "Agreement") with Greenwich Woods Health Care Center Corp. ("GWHCCC"), pursuant to which the County was authorized to grant a permit to GWHCCC to discharge sanitary wastewater from GWHCCC's nursing home/assisted living facility located on King Street in the Town of Greenwich, Connecticut, into the County trunk sewer serviced by the District for a term of thirty years commencing January 1, 2000. Act No. 187-1999 further provided that in consideration for the permit, GWHCCC would pay the County an annual permit fee to be computed by multiplying 250% of the District's operating costs by 80% of the metered water usage of GWHCCC during the current permit year. Act No. 187-1999 further provided that as additional consideration, GWHCCC would grant an easement to the County to enable the County to trim or remove trees on GWHCCC's property where the trees represent an obstruction to navigable airspace at the Westchester County Airport. The Agreement was duly executed on January 24, 2000.

Subsequently, GWHCCC requested that the Agreement be assigned from GWHCCC to Greenwich Woods Limited Partnership ("GWLP"), as GWLP took ownership of the facilities. Pursuant to Act No. 159-2000, adopted by your Honorable

Board on July 10, 2000, the County was authorized to enter into an assignment agreement which was duly executed on November 7, 2000.

In 2015, the County was advised by GWLP that it had sold the facilities to GWR on February 1, 2015. GWLP further advised the County that GRH, an affiliate of GWLP, owned the adjoining assisted living facility, which was also discharging sewage under the Agreement. In order to clarify the ownership status of the facilities, it was agreed by the parties that the Agreement should be further assigned from GWLP to the Licensees. Accordingly, by Act No. 117-2015, adopted by your Honorable Board on July 13, 2015, the County was authorized to consent to the assignment of the Agreement from GWLP to the Licensees. An Assignment Agreement was duly executed on September 25, 2015.

Most recently, by letter dated December 13, 2021 from the law firm of Cuddy & Feder, which is representing the Licensees in this matter, the County was advised that the Licensees are in the process of refinancing their existing debt and that their lending institution was requesting an extension of the Agreement's expiration date to a date that is at least ten (10) years after the maturity date of the upcoming refinancing. The Licensees anticipate this refinancing to close sometime late in the first quarter of 2022, which would place the anticipated maturity date sometime in the calendar year of 2052, and require the Agreement to be extended until at least 2062. To avoid any potential timing issues, Cuddy & Feder, on behalf of the Licensees, has requested that the term of the Agreement be extended for a period of thirty-five (35) years through December 31, 2064.

Your Committee is advised that pursuant to Section 824.41(3) of the Sewer Act, sewage generated on or discharged from real property located outside a County sanitary sewer district may be discharged into County trunk sewers only with the express consent of the Commissioner of the Westchester County Department of Environmental Facilities ("WCDEF"), and then only upon the issuance of a permit setting forth the terms and conditions of such discharge. However, Section 824.341 of the Sewer Act limits the duration of such permits to three (3) years with certain exceptions. If approved, the attached Local Law would except the Licensees from the three (3) year permit limitation and allow them to discharge sanitary sewage from their nursing home facility into the

County trunk sewer tributary to the Blind Brook Wastewater Treatment Plant, for a sixty-five (65) year term commencing retroactive to January 1, 2000.

Your Committee is advised that although the Agreement has been in effect since 2000, no exception from the three (3) year permit limitation was ever obtained. The attached Local Law would cure this defect retroactively and allow WCDEF to seek authority from the County Board of Acquisition & Contract to amend the Agreement to extend the term through December 31, 2064.

Attached is a Resolution authorizing a public hearing as required by Section 209.141(4) of the Laws of Westchester County.

The Planning Department has advised that based on its review, the issuance of a sixty-five (65) year out-of-district wastewater discharge permit constitutes a Type II action under the State Environmental Quality Review Act ("SEQRA"), and its implementing regulations, 6 NYCRR, Part 617.5. A Type II action is an action determined not to have significant effect on the environment and, therefore, does not require further environmental review. Your Committee has reviewed the attached SEQRA documentation and concurs with this conclusion.

Your Committee is advised that the attached Local Law is also subject to permissive referendum pursuant to Section 209.171(2) of the Laws of Westchester County because it changes a provision of law relating to contracts. Consequently, the proposed Local Law may not take effect until sixty (60) days after its adoption, assuming that within that time a petition protesting its adoption is not filed by the statutorily required number of qualified electors.

Your Committee has carefully considered the proposed legislation and recommends that your Honorable Board adopt the proposed Local Law that would amend Section 824.341 of the Sewer Act to authorize the issuance of the permit described above. The Commissioner

of WCDEF concurs in this recommendation. It should be noted that a vote of not less than a majority of the voting strength of the Board of Legislators is required to pass the Local Law.

Dated: _____, 2022
White Plains, New York

COMMITTEE ON

C:jpg/Greenwich Woods LL(1-03-22)

FISCAL IMPACT STATEMENT

SUBJECT: Greenwich Woods HCC

NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

SECTION A - FUND

GENERAL FUND

AIRPORT FUND

SPECIAL DISTRICTS FUND

SECTION B - EXPENSES AND REVENUES

Total Current Year Expense _____

Total Current Year Revenue _____

Source of Funds (check one): Current Appropriations Transfer of Existing Appropriations

Additional Appropriations Other (explain)

Identify Accounts: _____

Potential Related Operating Budget Expenses: Annual Amount _____

Describe: _____

Potential Related Operating Budget Revenues: Annual Amount _____

Describe: _____

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: _____

Next Four Years: _____

Prepared by: Sebastian Abraham

Title: Coordinator Fiscal Operations

Department: Environmental Facilities


Date: February 22, 2022

Reviewed By: 

Budget Director

Date: 2/22/22

TO: Jeffrey Goldman, Senior Assistant County Attorney
Department of Law

FROM: David S. Kvinge, AICP, RLA, CFM 
Assistant Commissioner

DATE: February 23, 2022

SUBJECT: **STATE ENVIRONMENTAL QUALITY REVIEW FOR GREENWICH
WOODS WASTEWATER DISCHARGE PERMIT**

PROJECT/ACTION: Local law to amend Section 824.341 of the Laws of Westchester County to exempt a wastewater discharge permit for Greenwich Woods Realty LLC and Greenwich Retirement Housing LLC from the 3-year term limitation and authorize the extension of the permit for a total term of 65 years commencing retroactively to January 1, 2000.

With respect to the State Environmental Quality Review Act and its implementing regulations 6 NYCRR Part 617, the Planning Department recommends that no further environmental review is required because the project/action:

- DOES NOT MEET THE DEFINITION OF AN "ACTION" AS DEFINED UNDER SECTION 617.2(b)**
- MAY BE CLASSIFIED AS TYPE II PURSUANT TO SECTION 617.5(c)(32):**
license, lease and permit renewals, or transfers of ownership thereof, where there will be no material change in permit conditions or the scope of permitted activities.
-

COMMENTS: The existing permit is due to expire in at the end of 2029. The proposed action will allow for the continued discharge of sewage from the existing nursing home and assisted living facility in Greenwich, Connecticut, to the County's Blind Brook Wastewater Treatment Plant in Rye for an addition 35 years with no change in permit conditions. The County treatment plant has sufficient capacity to continue handling the permitted sewage discharge.

DSK/cnm

cc: Andrew Ferris, Chief of Staff
Paula Friedman, Assistant to the County Executive
Vincent Kopicki, Commissioner of Environmental Facilities
Tami Altschiller, Assistant Chief Deputy County Attorney
Norma Drummond, Commissioner
Claudia Maxwell, Associate Environmental Planner

RESOLUTION NO. - 2022

RESOLVED, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No. -2022 entitled “A Local Law amending Section 824.341 of the Laws of Westchester County excepting a Permit for Greenwich Woods Realty LLC and Greenwich Retirement Housing LLC from the three (3) year term limitation for sewage discharge permits.” A public hearing will be held at ____ m. on the ____ day of _____, 2022 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law. Such Notice shall be substantially in the form attached hereto.

PUBLIC NOTICE

NOTICE OF HEARING: AMENDMENT OF SECTION 824.341 OF THE LAWS OF WESTCHESTER COUNTY TO EXCEPT A PERMIT FOR GREENWICH WOODS REALTY LLC AND GREENWICH RETIREMENT HOUSING LLC FROM A THREE (3) YEAR TERM LIMITATION FOR A SEWAGE DISCHARGE PERMIT; NOTICE IS HEREBY GIVEN THAT A PUBLIC HEARING WILL BE HELD BY THE BOARD OF LEGISLATORS OF WESTCHESTER COUNTY ON THE DAY OF , 2022 AT M. IN THE CHAMBERS OF THE WESTCHESTER COUNTY BOARD OF LEGISLATORS, 8TH FLOOR, 148 MARTINE AVENUE, WHITE PLAINS, NEW YORK FOR THE PURPOSE OF HEARING PERSONS OR PARTIES INTERESTED IN THE AFOREMENTIONED AMENDMENT OF SECTION 824.341 OF THE LAWS OF WESTCHESTER COUNTY.

CLERK OF THE COUNTY
BOARD OF LEGISLATORS
WESTCHESTER COUNTY, NEW YORK

Dated: , 2022
White Plains, New York

LOCAL LAW NO. 2022 - _____

A Local Law amending Section 824.341 of the Laws of Westchester County excepting a Permit for Greenwich Woods Realty LLC and Greenwich Retirement Housing LLC from the three (3) year term limitation for sewage discharge permits.

NOW, THEREFORE BE IT ENACTED by the County Board of Legislators of the County of Westchester as follows:

Section 1. Section 824.341 of the Laws of Westchester County is hereby amended to read as follows:

Permits shall be issued for a specified time period, not to exceed three years, except for the permit granted to International Business Machines Corporation in a certain agreement dated December 23, 1983 as authorized by Act 107-1983, between the County of Westchester and International Business Machines Corporation which has a term of 30 years; and a permit for Maryknoll Sisters of Saint Dominic, Inc. for a term of 20 years commencing March 19, 2004; and a permit for the Catholic Foreign Missions Society of America, Inc. for a term of 20 years commencing March 19, 2004; and a permit for the Town of Putnam Valley for a term of 30 years commencing August 21, 2014; and a permit for Greenwich Woods Realty LLC and Greenwich Retirement Housing LLC, as assignees under the permit, for a term of 65 years commencing January 1, 2000. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the County during its term as the limitations or requirements prescribed in Article V are altered or other just cause exists. Any changes or new conditions in the permit shall include a reasonable time for compliance.

§2. The County Executive or his authorized designee is hereby authorized and empowered to execute all instruments and to take all actions reasonably necessary to effectuate the purposes of this Local Law.

§3. The Clerk of the Board, as soon as practicable after the adoption of this Local Law, shall cause a notice of this Local Law to be published at least once in one or more newspapers published in the County of Westchester selected by the Clerk for that purpose, said notice to contain the number, date of adoption and a true copy of the Local Law, and a statement that this Local Law changes a provision of law relating to public bidding, purchases or contracts and is therefore subject to the provisions of section 209.171.2 of the Westchester County Administrative Code and New York State Municipal Home Rule Law Section 24(2)(b).

§4. This Local Law shall take effect sixty (60) days after its adoption.