

COUNTY COUNCIL
OF
TALBOT COUNTY

2021 Legislative Session, Legislative Day No.: August 24, 2021

Resolution No.: 308

Introduced by: _____

A RESOLUTION TO RESCIND ADOPTION OF RESOLUTION NO. 281, A RESOLUTION TO AMEND THE TALBOT COUNTY COMPREHENSIVE WATER AND SEWER PLAN (THE "PLAN") TO RECLASSIFY AND REMAP PORTIONS OF CERTAIN REAL PROPERTY LOCATED IN THE TOWN OF TRAPPE, MARYLAND, ASSOCIATED WITH THE LAKESIDE PLANNED UNIT DEVELOPMENT (THE "LAKESIDE PROJECT") (FORMERLY KNOWN AS "TRAPPE EAST"), FURTHER DESCRIBED AS TAX MAP 54, PARCEL 304; TAX MAP 55, PARCELS 14, 15, 17, 19, 44, 65, 83, AND 85; AND, TAX MAP 59, PARCEL 4, THE TOTAL AREA CONSISTING OF EIGHT HUNDRED SIXTY-FIVE ACRES, MORE OR LESS (THE "PROPERTY"), FROM "S-2" AND "W-2" (AREAS WHERE IMPROVEMENTS OR EXTENSIONS TO EXISTING, OR CONSTRUCTION OF NEW COMMUNITY, MULTI-USE, OR SHARED SANITARY FACILITIES ARE PROGRAMMED FOR PROGRESS WITHIN THREE TO FIVE YEARS) TO "S-1" AND "W-1" (AREAS SERVED OR TO BE SERVED BY COMMUNITY, MULTI-USE, OR SHARED SANITARY FACILITIES WHICH ARE EXISTING, UNDER CONSTRUCTION, OR HAVE IMMEDIATE PRIORITY STATUS); TO AMEND THE PLAN TO ADD CERTAIN WATER AND SEWER CAPITAL PROJECTS RELATED TO THE LAKESIDE PROJECT AND EXISTING SYSTEMS FOR THE FISCAL YEARS 2020 THROUGH 2030; AND, TO AMEND THE PLAN TO UPDATE THE NARRATIVE DESCRIPTION IN THE PLAN RELATIVE TO THE LAKESIDE PROJECT AND EXISTING SYSTEMS, *as amended*, WITHOUT PREJUDICE

By the Council: _____

Introduced, read the first time, and ordered posted, with Public Hearing scheduled on Tuesday, _____ 2021 at 6:30 p.m. in the Bradley Meeting Room, South Wing, Talbot County Courthouse, 11 North Washington Street, Easton, Maryland 21601.

By order: _____
Susan W. Moran, Secretary

A RESOLUTION TO RESCIND ADOPTION OF RESOLUTION NO. 281, A RESOLUTION TO AMEND THE TALBOT COUNTY COMPREHENSIVE WATER AND SEWER PLAN (THE “PLAN”) TO RECLASSIFY AND REMAP PORTIONS OF CERTAIN REAL PROPERTY LOCATED IN THE TOWN OF TRAPPE, MARYLAND, ASSOCIATED WITH THE LAKESIDE PLANNED UNIT DEVELOPMENT (THE “LAKESIDE PROJECT”) (FORMERLY KNOWN AS “TRAPPE EAST”), FURTHER DESCRIBED AS TAX MAP 54, PARCEL 304; TAX MAP 55, PARCELS 14, 15, 17, 19, 44, 65, 83, AND 85; AND, TAX MAP 59, PARCEL 4, THE TOTAL AREA CONSISTING OF EIGHT HUNDRED SIXTY-FIVE ACRES, MORE OR LESS (THE “PROPERTY”), FROM “S-2” AND “W-2” (AREAS WHERE IMPROVEMENTS OR EXTENSIONS TO EXISTING, OR CONSTRUCTION OF NEW COMMUNITY, MULTI-USE, OR SHARED SANITARY FACILITIES ARE PROGRAMMED FOR PROGRESS WITHIN THREE TO FIVE YEARS) TO “S-1” AND “W-1” (AREAS SERVED OR TO BE SERVED BY COMMUNITY, MULTI-USE, OR SHARED SANITARY FACILITIES WHICH ARE EXISTING, UNDER CONSTRUCTION, OR HAVE IMMEDIATE PRIORITY STATUS); TO AMEND THE PLAN TO ADD CERTAIN WATER AND SEWER CAPITAL PROJECTS RELATED TO THE LAKESIDE PROJECT AND EXISTING SYSTEMS FOR THE FISCAL YEARS 2020 THROUGH 2030; AND, TO AMEND THE PLAN TO UPDATE THE NARRATIVE DESCRIPTION IN THE PLAN RELATIVE TO THE LAKESIDE PROJECT AND EXISTING SYSTEMS, *as amended*, WITHOUT PREJUDICE

WHEREAS, the Town of Trappe (the “Town”) and Trappe East Holdings Business Trust (the “Owner”) intend to construct a wastewater treatment plant in the Town to serve a planned community (the “Lakeside Project”), and in 2019 applied to the Maryland Department of Environment (“MDE”) for a groundwater discharge permit for the proposed Trappe East Wastewater Treatment Facility; and

WHEREAS, on August 30 and September 6, 2019, MDE published a Notice of Tentative Determination to issue a groundwater discharge permit pursuant to the foregoing application (the “Draft Permit,”); and

WHEREAS, on August 11, 2020, the County Council by a 4-1 vote did adopt Resolution No. 281 to amend the County’s Comprehensive Water and Sewer Plan (the “CWSP”) regarding the Lakeside Project, which Resolution was first introduced on December 17, 2019; and

WHEREAS, said adoption followed County Council deliberations based on its consideration of recommendations of the Planning Commission (who recommended Resolution No. 281 for adoption by a 3-2 vote), in disregard of the recommendations of the Public Works Advisory Board (the “PWAB”) (who recommended against adoption of Resolution No. 281 by a 5-0 vote), and on divided public comment offered at a public hearing on July 16, 2020; and

WHEREAS, the Planning Commission had met and considered this matter, including hearing testimony and discussing the Draft Permit and other issues with attorneys and engineers representing the Owner, County staff, and others, which meetings were held on February 5, May 20, June 3, and June 10 of 2020; and

WHEREAS, the PWAB had met and considered this matter, including hearing testimony and discussing the Draft Permit and other issues with attorneys and engineers representing the Owner, County staff, and others, which meetings were held on February 5, May 7, and May 18 of 2020; and

WHEREAS, all considerations and decisions in this matter by the Planning Commission and the PWAB leading to their respective recommendations, as well as all public comments at the July 16, 2020 public hearing, and all the County Council’s deliberations and decisions were based substantially on a review of the Draft Permit and were made in reliance on the belief that a final discharge permit would be properly issued thereafter by MDE in substantially the same form as the Draft Permit in all material respects, except being required to meet “Enhanced Nitrogen Removal” standards; and

WHEREAS, on December 20, 2020, four months after the County Council’s adoption of Resolution No. 281, MDE issued to the Town and the Owner a final determination to issue a groundwater discharge permit (the “Final Permit”); and

WHEREAS, significant aspects of the project as described in the Final Permit were materially different and less protective of the public health and environment of Talbot County than in the Draft Permit, and certain information required for MDE’s proper review, comment, and issuance of a groundwater discharge permit were lacking; and

WHEREAS, on March 24, 2021, certain parties consequently petitioned the Circuit Court of Talbot County in Case No. C-20-CV-21-000004 to remand the Final Discharge Permit to MDE for further action, including a new review period and new public hearing to evaluate, among other things, the significant differences between the Final Permit and the Draft Permit; and

WHEREAS, on April 27, 2021, the Honorable Stephen H. Kehoe of the Talbot County Circuit Court entered an Order remanding the Final Permit to MDE to hold a public comment period and public hearing to hear comments on, and objections to, the nutrient management plan and the final terms and conditions of the Final Permit; and

WHEREAS, significant differences between the project as described in the Draft Permit and the Final Permit, as well as omissions of material information bearing on the Final Permit, require that for the protection of public health and the local environment, as set forth in the Comprehensive Plan, the County Council must reconsider matters bearing on Resolution 281.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF TALBOT COUNTY, MARYLAND:

SECTION ONE: The above recitals are hereby incorporated as if fully set forth herein.

SECTION TWO: The County Council of Talbot County hereby rescinds the adoption of Resolution No. 281, without prejudice to any party, and no consideration of any proposed like amendment to the County’s Comprehensive Water and Sewer Plan regarding the Lakeside Project shall be taken up by the County Council until a final discharge permit shall have been issued by

MDE, Case No. C-20-CV-21-000004 shall have been fully resolved, and the terms and conditions of such final permit have been reviewed by the Planning Commission and PWAB.

BE IT FURTHER RESOLVED, that this Resolution shall take effect immediately upon the date of its adoption.

PUBLIC HEARING

Having been posted and Notice, Time and Place of Hearing, and Title of Resolution No. ___ having been published, a public hearing was held on Tuesday, _____, 2021 at 6:30 p.m. in the Bradley Meeting Room, South Wing, Talbot County Courthouse, 11 North Washington Street, Easton, Maryland.

BY THE COUNCIL

Read the second time:

Enacted: _____

By Order: _____
Susan W. Moran, Secretary

Callahan -

Divilio -

Lesher -

Price -

Pack -

Effective Date: _____