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NASSAU COUNTY LEGISLATURE

NORMA GONSALVES,  
Presiding Officer

PLANNING, DEVELOPMENT AND THE  
ENVIRONMENT COMMITTEE

LAURA SCHAEFER, Chairwoman

1550 Franklin Avenue  
Mineola, New York

Monday, January 9, 2017  
2:33 P.M

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A P P E A R A N C E S :

LAURA SCHAEFER,  
Chairwoman  
  
DENNIS DUNNE  
Vice Chairman  
  
DENISE FORD  
  
C. WILLIAM GAYLOR, III  
  
ARNOLD DRUCKER,  
Ranking  
  
CARRIE SOLAGES  
  
LAURA CURRAN  
  
MICHAEL PULITZER,  
Clerk of the Legislature

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LIST OF SPEAKERS

KEN ARNOLD . . . . . 5

FRANCIS BECKER . . . . . 14

1                   Planning & Development /1-9-17

2                   CHAIRWOMAN SCHAEFER:   At this  
3   time I will call the Planning, Development  
4   and Environment Committee to order.   I'll  
5   ask the clerk to please call the roll.

6                   CLERK PULITZER:   Thank you.  
7   Legislator Laura Curran?

8                   LEGISLATOR CURRAN:   Here.

9                   CLERK PULITZER:   Legislator  
10   Carrie Solages?

11                  LEGISLATOR SOLAGES:   Here.

12                  CLERK PULITZER:   Ranking Member  
13   Arnold Drucker?

14                  LEGISLATOR DRUCKER:   Here.

15                  CLERK PULITZER:   Legislator  
16   Gaylor?

17                  LEGISLATOR GAYLOR:   Present.

18                  CLERK PULITZER:   Legislator  
19   Denise Ford?

20                  LEGISLATOR FORD:   Here.

21                  CLERK PULITZER:   Vice Chairman  
22   Dennis Dunne?

23                  LEGISLATOR DUNNE:   Here.

24                  CLERK PULITZER:   Chairwoman Laura  
25   Schaefer?

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2 CHAIRWOMAN SCHAEFER: Here.

3 CLERK PULITZER: We have a  
4 quorum, ma'am.

5 CHAIRWOMAN SCHAEFER: Thank you.  
6 We have one item on the agenda for today.  
7 It is Clerk Item 7-17, a resolution  
8 authorizing the County Executive to execute  
9 an agreement between the County of Nassau  
10 acting on behalf of the Nassau County  
11 Department of Public Works and Engel Burman  
12 at Jericho, L.L.C.

13 Motion, please.

14 LEGISLATOR DUNNE: So moved.

15 LEGISLATOR FORD: Second.

16 CHAIRWOMAN SCHAEFER: Motion by  
17 Legislator Dunne, seconded by Legislator  
18 Ford. The item is before us. Anyone here  
19 to speak on this item?

20 MR. ARNOLD: Ken Arnold, Public  
21 Works. This is a contract with Engel Burman  
22 as a revenue contract.

23 This developer is putting  
24 together a senior citizen development  
25 outside the current disposal district but is

1                   Planning & Development /1-9-17

2       looking for sewer access at our Cedar Creek  
3       plant.   The Cedar Creek Plant has sufficient  
4       capacity.   This agreement will allow that  
5       facility to connect to the plant and get  
6       disposal and treatment services.

7                   LEGISLATOR DRUCKER:   Legislator  
8       Schaefer, I have a question.

9                   CHAIRWOMAN SCHAEFER:   Legislator  
10      Drucker.

11                  LEGISLATOR DRUCKER:   Do we have  
12      any idea what comparable facilities pay the  
13      county for their out of district service  
14      connections?

15                  MR. ARNOLD:   The annual fee is  
16      the same for all facilities.   They pay the  
17      disposal rate of that particular rate for  
18      disposing sewage, the treatment facilities,  
19      times the amount of flow that they provide.

20                  LEGISLATOR DRUCKER:   So it's  
21      based on the flow they use rather than the  
22      size of the facility.

23                  MR. ARNOLD:   That is correct.   It  
24      is based on the actual flow.

25                  LEGISLATOR DRUCKER:   Thank you.

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2 CHAIRWOMAN SCHAEFER: What is the  
3 size of this facility?

4 MR. ARNOLD: I believe it says  
5 25,000 gallons per day of sewage is  
6 projected to be discharged based on the  
7 number of people that will be living at the  
8 facility.

9 LEGISLATOR DRUCKER: I have one  
10 more question.

11 CHAIRWOMAN SCHAEFER: Sure.

12 LEGISLATOR DRUCKER: Once we do  
13 this connection, is the county assuming any  
14 environmental liability for any  
15 contamination at the site due to any  
16 malfunction in the connection?

17 MR. ARNOLD: No.

18 LEGISLATOR DRUCKER: Why is that?

19 MR. ARNOLD: We are not liable  
20 for anything on the property. We are only  
21 picking up the sewage at our sewer line.

22 LEGISLATOR DRUCKER: But even if  
23 it relates to the actual connection, some  
24 environmental hazards that can occur --

25 MR. ARNOLD: You mean something

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2       that would discharge into the pipe?

3                   LEGISLATOR DRUCKER:   Correct.

4                   MR. ARNOLD:   They would be part  
5       of our retreatment program.  We would be  
6       watching over that facility to make sure  
7       there is no illegal discharges of any  
8       material.

9                   LEGISLATOR DRUCKER:   What if it's  
10      an accident?

11                  MR. ARNOLD:   Then we would go to  
12      our sewer use ordinance and proceed as we  
13      would do with any other private entity that  
14      connects to us to a facility.

15                  LEGISLATOR DRUCKER:   So we do  
16      have potential liability then?

17                  MR. ARNOLD:   Yes.  I would say  
18      yes.

19                  CHAIRWOMAN SCHAEFER:   Have we had  
20      any issues in the past relative to that  
21      question?

22                  MR. ARNOLD:   Not to my knowledge.  
23      Restaurants we do, with grease and things of  
24      that nature, but not typically of the senior  
25      centers.



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2                   LEGISLATOR DRUCKER:   But would  
3   you agree that potential liability in the  
4   event of an accident, that is unanticipated  
5   of course, could be millions of dollars.

6                   MR. ARNOLD:   That seems -- I'm  
7   not sure that would be a true number of what  
8   could occur.

9                   LEGISLATOR DRUCKER:   You don't  
10   know, it's an unknown, correct?

11                  MR. ARNOLD:   Well, a small deli  
12   with a grease discharge could be millions of  
13   dollars depending on the impact.

14                  LEGISLATOR DRUCKER:   What about a  
15   nursing home like this or assisted living  
16   facility?

17                  MR. ARNOLD:   They would have to  
18   upkeep all their facilities, all their  
19   pretreatment on the property and our  
20   inspectors would be in charge of making sure  
21   they follow all the pre-treatment permits  
22   that they have.

23                  LEGISLATOR DRUCKER:   I recognize  
24   what their responsibilities are. I'm just  
25   saying, from the county's liability

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2       standpoint, you kind of like need to have  
3       some sort of idea of what your potential  
4       liability or exposure is. Is there any way  
5       for us to know that?

6                   MR. ARNOLD: No.

7                   CHAIRWOMAN SCHAEFER: How about  
8       insurance? Is there insurances there that  
9       covers on their end?

10                  MR. ARNOLD: Let me look at the  
11       agreement. Hold on. The question was  
12       regarding insurance. The contract does not  
13       call for any insurance.

14                  LEGISLATOR DRUCKER: Can you  
15       repeat that? I didn't hear what he said.

16                  LEGISLATOR FORD: He said that  
17       the county doesn't require insurance.

18                  LEGISLATOR DRUCKER: So that  
19       means there would be no insurance to cover.

20                  LEGISLATOR FORD: I guess not.

21                  CHAIRWOMAN SCHAEFER: Legislator  
22       Ford.

23                  LEGISLATOR FORD: Thank you.

24       Mr. Arnold, I can understand Legislator  
25       Drucker's concern, but have we ever had any

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2       significant problems because of nursing  
3       homes and the sewage that is being pumped  
4       into or sent into our sewage system?

5                   MR. ARNOLD:   Not to my knowledge,  
6       and if there was any type of problem it  
7       would all be handled under our sewage use  
8       permit that has all kinds of criteria and  
9       penalties associated with it.

10                  LEGISLATOR FORD:   So while there  
11       may not be an insurance policy that would be  
12       covered, there are certain requirements set  
13       in place that can potentially protect the  
14       county in case of somebody doing something  
15       illegal or being very negligent on their  
16       part?

17                  MR. ARNOLD:   Yes, there is.   And  
18       we are required by the EPA to have the sewer  
19       use permits.

20                  LEGISLATOR FORD:   And when you're  
21       talking about the restaurants, because I  
22       know I have a restaurant on my corner that  
23       sometimes we think that they do pump the  
24       grease into the sewage and we are trying to  
25       always catch them, because I know they have

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2     a separate pumping station, whatever they  
3     do, so, obviously, aside from like sometimes  
4     if you take a tour of the sewage treatment  
5     plant, which isn't always fun, you will see  
6     a lot of rags and other debris that makes  
7     its way into the collectors or whatever  
8     they're called, but we've never had any  
9     significant problems in regard to this, so  
10    we can feel rest assured that having another  
11    entity hook up to our sewage treatment plant  
12    won't pose a great risk?

13                   MR. ARNOLD:   Related to nursing  
14    homes, no, we have not.

15                   LEGISLATOR DRUCKER:   A nuclear  
16    reactor leaked for the first time and no one  
17    ever thought that was going to happen  
18    either.

19                   LEGISLATOR FORD:   I'm not  
20    dismissing what you're saying, I'm just  
21    saying that I understand your concern that  
22    we're investing a lot of money into our  
23    sewage treatment plant, and we want to make  
24    sure that we continue with the integrity of  
25    it.

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2                   But I guess on past practices --  
3       but I think there seems to be things in  
4       place that can help protect us.

5                   I mean, we even found out that  
6       people go into the sewer lines through --  
7       contractors have dumped cement down into the  
8       storm drains and stuff. So there's no way  
9       of us catching it, but this can happen. I  
10      understand.

11                  But I think if we can make sure  
12      that -- I don't want to see anything go  
13      wrong, but I think that maybe since we do  
14      have some things in place that maybe it will  
15      help protect us from something devastating.

16                  LEGISLATOR DRUCKER: That's the  
17      idea but you always feel a lot more secure  
18      when you have insurance backing you up and  
19      we don't have any insurance here.

20                  LEGISLATOR FORD: But I think  
21      because of the regulations and requirements,  
22      I think that in the absence of an insurance  
23      policy, we can go after people that  
24      knowingly or, even by mistake, we can go  
25      after them for something like that.

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2                   MR. BECKER:   Legislator Drucker,  
3   as a former legislator, this is a common  
4   practice for developers to try to want to  
5   hook into our sewer system.   We are not  
6   insuring anything on their property.  
7   Whatever they do on their property and part  
8   the sewage system is separate that gets tied  
9   into the county.   So this is very, very  
10  common and then they pay the fees  
11  accordingly.

12                  And then there is a whole bunch  
13  of agreements that the developer is subject  
14  to as far as disposal of sewage.

15                  So it's the same once they're  
16  hooked up as you or I or our homes in any  
17  residential area.   This is common practice  
18  any time a developer wants to hook into our  
19  sewer system.

20                  I don't even think sumps are even  
21  permitted in Nassau anymore, perhaps, but I  
22  don't know that for a fact.   This is very  
23  common.

24                  And, as far as the liability is  
25  concerned, whatever is on the development

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2       itself, we have no liability regarding that.  
3       They're just hooking into our system. So  
4       there is really no liability, per se, other  
5       than any of us would have with our homes  
6       being hooked into the county sewer system.

7                   LEGISLATOR DRUCKER: So then  
8       there is no validity to the hypothetical  
9       that if there is a leakage originating from  
10      the actual connection that --

11                  MR. BECKER: If the leakage is on  
12      the developer's side, that's his problem,  
13      their concern. Doesn't have anything to do  
14      with the county.

15                  LEGISLATOR DRUCKER: Well, the  
16      actual connection that's made, there has to  
17      be some margin for it.

18                  MR. BECKER: Once again, we'd  
19      have the same problem with any other  
20      connection anywhere else in Nassau County if  
21      there was a problem or the county has in  
22      place provisions for that.

23                  CHAIRWOMAN SCHAEFER: Any more  
24      questions from the legislators?

25                         (No verbal response.)

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2                   Is there any public comment on  
3 this item?

4                   (No verbal response.)

5                   There being none, all those in  
6 favor of Clerk Item 7-17 signify by saying  
7 aye.

8                   (Aye.)

9                   Any opposed?

10                  (No verbal response.)

11                  The item passes unanimously.

12                  Motion to adjourn?

13                  LEGISLATOR DUNNE: So moved.

14                  LEGISLATOR GAYLOR: Second.

15                  CHAIRWOMAN SCHAEFER: Moved by  
16 Legislator Dunne, seconded by Legislator  
17 Gaylor. We are adjourned.

18                  Public Works is up next.

19                  (Whereupon, the Planning,  
20 Development and the Environment Committee  
21 adjourned at 2:45 p.m.)

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C E R T I F I C A T E

I, FRANK GRAY, a Shorthand Reporter and  
Notary Public in and for the State of New  
York, do hereby stated:

THAT I attended at the time and place  
above mentioned and took stenographic record  
of the proceedings in the above-entitled  
matter;

THAT the foregoing transcript is a true  
and accurate transcript of the same and the  
whole thereof, according to the best of my  
ability and belief.

IN WITNESS WHEREOF, I have hereunto set  
my hand this 24th day of January, 2017.

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FRANK GRAY