

**COUNTY COUNCIL
OF
TALBOT COUNTY, MARYLAND**

2021 Legislative Session, May 11, 2021, Date May 6, 2021

Petition No. 21-1 Received May 7, 2021

IN THE MATTER OF THE PETITION OF Dan Watson,

FOR RECISSION (WITHOUT PREJUDICE) OF RESOLUTION 281.

To the Secretary, County Council of Talbot County,

Under the authority of Section VI.B. of the Talbot County Council Rules of Procedure, I, the undersigned citizen of Talbot County, Maryland, hereby Petition the County Council of Talbot County for the following:

- (1) That a Resolution be introduced substantially in form and substance attached hereto as Exhibit A for the purpose of rescinding, without prejudice, Resolution 281 enacted by the Council on August 11, 2020.

And for reasons therefore say: this is necessary in order to uphold the integrity of Talbot County's legislative system, both as to the substance of and the process for enacting Resolution 281, as further detailed in materials attached hereto.



Dan Watson
8404 Aveley Manor Ln
Easton, MD 21601

EXHIBIT A

**COUNTY COUNCIL
OF
TALBOT COUNTY**

2021 Legislative Session, Legislative Day No.: _____

Resolution No.: ____

Introduced by: _____, _____, _____, _____, and _____.

A RESOLUTION TO RESCIND PASSAGE OF RESOLUTION 281, WITHOUT PREJUDICE.

By the Council: _____

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

By order: _____

Secretary

A RESOLUTION TO RESCIND PASSAGE OF RESOLUTION 281, WITHOUT PREJUDICE.

WHEREAS, the Town of Trappe and Trappe East Holdings Business Trust (together, "the Owner") intend to construct a wastewater treatment plant in the Town of Trappe to serve a planned community (the "Lakeside Project"), and in 2019 applied to the Maryland Department of Environment ("MDE") for a waste water discharge permit; and

WHEREAS, on August 30 and September 6, 2019, MDE published a Notice of Tentative Determination to issue a permit for construction of said plant pursuant to Owner's application in which the proposed improvements were described (the "Draft Permit,"); and

WHEREAS, on August 11, 2020 the Talbot County Council by a 4-1 vote did enact Resolution 281 to amend the County's Comprehensive Water and Sewer Plan respecting the Lakeside Project, a resolution first introduced on December 17, 2019; and

WHEREAS, said enactment followed Council deliberations based on its consideration of recommendations of the Planning Commission (who recommended for passage 3-2), in disregard of the recommendations of the Public Works Advisory Board (who recommended against passage 5-0), and on divided public comment offered at a 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 Public Works Advisory Board 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 Public Works Advisory Board leading to their respective recommendations, as well as all public comment at the July 16th, 2020 public hearing, and all Council's deliberations and decisions were in fact 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;

WHEREAS, on December 20, 2020, four months after the County's enactment of Resolution 281, MDE issued to the Owner a final determination to issue a discharge permit in connection with Owner's application (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 discharge permit were lacking; and

WHEREAS, on March 24, 2021 certain parties consequently petitioned the Circuit Court of Talbot County, as set forth in Exhibit B, 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 Judge Kehoe of the Talbot County Circuit Court granted said petition (Exhibit C);

AND WHEREAS, significant differences between the project as describe 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 for the in the Comprehensive Plan, Talbot County must reconsider matters bearing on Resolution 281;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF TALBOT COUNTY, MARYLAND, that the Talbot County Council does hereby take the following action with respect to Resolution 281:

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

SECTION TWO: The Talbot County Council does hereby rescind the enactment of Resolution 281, without prejudice to any party, and no consideration of any like amendment to the County's Comprehensive Water and Sewer Plan as respects the Lakeside Project shall be taken up by the 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 County Planning Commission and Public Works Advisory Board.

SECTION TWO: 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:

, Secretary

Callahan --

Divilio --

Leshner --

Price --

Pack --

EFFECTIVE DATE:

EXHIBIT B

Motion, Memorandum in Support, Proposed Order, and Exhibits

IN THE CIRCUIT COURT FOR TALBOT COUNTY

*** PETITION OF: * SHORERIVERS INC. ***

**FOR JUDICIAL REVIEW OF
THE DECISION OF: * THE MARYLAND DEPARTMENT * OF THE ENVIRONMENT ***

**IN THE MATTER OF: * ISSUANCE OF DISCHARGE PERMIT * 19DP3460 FOR TRAPPE EAST
WWTP ***

(PROVIDED BY ELECTRONIC COPY DUE TO LENGTH)

Statement May 7, 2021

To those interested....

Be advised that this morning I petitioned the Talbot County Council to introduce a Resolution rescinding Resolution 281 enacted last August 11, which modified the County's Comprehensive Water and Sewer Plan to accelerate development of the Lakeside project in Trappe. A copy of the relevant materials is attached.

The story here is not the petition. From time immemorial citizens have needed to asked their government to redress grievances, and this is just another one of those.

The story, unknown by most everyone because it has not been reported in the press or mentioned by the Council, is the fact that the developer of Lakeside materially changed the plans for and constraints on the proposed waste water treatment plant after the County's enactment of Resolution 281, and is not planning to build and operate in accordance with the plans and understandings reviewed by the County's Public Works Advisory Board, the Planning Commission, the citizens engaged in the public hearing, and the County Council itself. On April 27th, Judge Kehoe of the Talbot County Circuit Court signed an order remanding Lakeside's so-called Final Discharge Permit back to the Maryland Department of the Environment, at the request of ShoreRivers who brought the matter forward. See attachment.

It would violate the integrity of our entire review process, both substantively and procedurally—and would be an unacceptable precedent--if Talbot County were to simply ignore this development and permit Resolution 281 to stand under these circumstances. As detailed in the materials attached, the Council in the first instance acted prematurely to accommodate the developer, for example ignoring the advice of the Public Works Advisory Board that unanimously opposed the Resolution. Lakeside no doubt will move forward, but we have the right to expect our Council, who also sits as the Board of Health, to properly exercise their responsibility to oversee it carefully.

**Dan Watson
Easton**

IN THE CIRCUIT COURT FOR TALBOT COUNTY

PETITION OF:
SHORERIVERS INC.

FOR JUDICIAL REVIEW OF
THE DECISION OF:
THE MARYLAND DEPARTMENT
OF THE ENVIRONMENT

IN THE MATTER OF:
ISSUANCE OF DISCHARGE PERMIT
19DP3460 FOR TRAPPE EAST WWTP

CASE NO: C-20-CV-21-000004

**ORDER REMANDING MATTER TO MDE FOR FURTHER
CONSIDERATION OF DICHARGE PERMIT 19DP3460**

IT IS, this 24th day of March, 2021, upon consideration of the Motion to Remand filed by
ShoreRivers Inc. in the above-captioned case hereby ORDERED THAT:

1. The motion is granted; and
2. Discharge Permit 19DP3460 is remanded to the Department to hold a public comment period of not less than 30 days and a public hearing to hear comments on, and any objections to, the nutrient management plan and the final terms and conditions of the Permit for which the Department has made a final determination to issue; and
3. Case No. C-20-CV-21-000004 is stayed, pending the Department's compliance with this Order.

04/27/2021 9:39:04 AM


Judge, Circuit Court
for Talbot County

