

RESOLUTION

14-07

A Resolution of the County Commissioners of Queen Anne's County, sitting as the Sanitary Commission, providing for the establishment of the South Kent Island Wastewater Subdistrict of the Queen Anne's County Sanitary District; prescribing the boundaries of the South Kent Island Wastewater Subdistrict; classifying properties within the South Kent Island Wastewater Subdistrict for the purpose of assessing benefits; establishing and providing the methodology for fixing, levying and collecting special benefit assessments for the purpose of providing funds for the payment of the principal of and interest on indebtedness incurred by the County to finance sewage collection and transmission system to serve the South Kent Island Wastewater Subdistrict; defining certain terms; making certain findings; and generally relating to establishment of the South Kent Island Wastewater Subdistrict and the financing of a sewage collection and transmission system to serve that Subdistrict.

RECITALS AND FINDINGS

Under Chapter 24, § 24-1 of the Code of Public Local Laws of Queen Anne's County (1996 Edition, as amended by 2013 Supplement) (the "Act"), Queen Anne's County is declared to be a sanitary district under the jurisdiction and control of the County Commissioners of Queen Anne's County, sitting as the Sanitary Commission.

Section 24-11A. of the Act states that, in order to provide for the general health and welfare of the residents of Queen Anne's County, the County Commissioners of Queen Anne's County (the "County") may acquire, construct, operate, and maintain whatever water, sewer, solid waste, and drainage systems it deems to be in the public interest. Section 24-28A. states that the County shall divide all properties in the Sanitary District into four classes: agricultural, small acreage, industrial or business, and subdivision. Further § 24-28B. states that the County may subdivide the sanitary district classes into water, sewerage, solid waste, and drainage subdistricts in such way as in its judgment will best serve the needs of the sanitary district, promote convenience and economy of installation and operation, and permit the raising of revenues and apportionment of costs to those served on an equitable basis.

Section 24-27A. of the Act provides that, for the purpose of paying the principal of and interest on indebtedness incurred by the County for water supply, sewerage, or drainage

systems constructed, purchased, or established under the Act, the County is empowered to fix an assessment on all properties, improved and unimproved, abutting upon a street, road, lane, alley or right-of-way in which a water main, sewer or drain has been built. Section 24-27B. further provides that the County may authorize such benefit assessments to be made on any basis considered appropriate by the Director of Public Works for the equitable distribution of charges.

In order to preserve and enhance the public health, safety, and welfare, the County has determined to construct and install a system (the "Sewage System") to service the unincorporated area known as South Kent Island, composed primarily of the residential subdivisions located on Kent Island in the County which include all or portions of Tower Gardens, Romancoke on the Bay, Queen Anne Colony, Kentmoor, Chesapeake Estates, Sunny Isle of Kent, Normans, Matapeake Estates, and Kent Island Estates 1, 2 and 3, and certain adjoining residential areas (collectively, the "Service Area"). To provide for the financing of the Sewage System and acting pursuant to the authority of the Act, the County intends to utilize such bonds, loans or other evidences of obligation as may be required to finance the total capital costs of construction and installation of the Sewage System.

The Service Area is partially developed at this time: residential dwellings and some commercial or institutional uses have been built on some of the lots in that area, but many residential lots remain vacant. With some exceptions, the lots that are vacant are not "buildable" under current health regulations and standards (i.e., the characteristics of the soil in the area are generally such that acceptable septic systems cannot be installed and thus building permits cannot be issued).

The County finds that all of the properties located in the Service Area will be specially benefited by the construction and installation of the Sewage System. The County further

finds, however, that the owners of properties which are now vacant and which are not buildable under current regulations will realize a substantially greater economic benefit from the construction and installation of the Sewage System than will the owners of properties that have been improved and owners of properties that are vacant but which can be improved under current regulations. The County has obtained a real estate study from W. Fitzhugh Turner to assist it in the determination of the additional benefit enjoyed by vacant, unbuildable properties. Further, as a part of the project, the County will construct on improved properties tank and pumping systems ("STEP Systems") to transfer effluent to the County's sewer lines. The tank and pumping systems, however, will not be constructed for vacant lots. If and when vacant lots are developed in the future, tank and pumping systems will have to be constructed for the lots at the expense of the owner. This requirement will apply to vacant lots that are both unbuildable and buildable. The County has determined that the construction of the STEP Systems for improved properties will be a substantial benefit for those properties. Accordingly, the County has determined that it is just, reasonable, equitable and in the public interest to establish the subclasses of properties specified herein and to provide for a system of Sewage System benefit assessments that takes into account the differences in the economic benefit that owners of the properties in those different subclasses will realize as a result of the construction and installation of the Sewage System.

The County imposes an allocation charge on the owners of structures connected to the County's public sewage system in order to recover each unit's pro rata or portional share of the capital costs incurred by the County to finance the construction of capacity in the County's wastewater treatment plant to serve new customers. Currently, the County imposes the allocation charge on vacant and improved properties in the amount of \$7,750. It is anticipated

that the State of Maryland will award Bay Restoration Fund grants for the purpose of financing the expansion of the County's wastewater treatment plant to permit the connection of existing, improved properties in South Kent Island and thereby address health and environment issues relating to failing septic systems in this area. Because of the expansion of the wastewater treatment plant to accommodate existing, improved properties on South Kent Island, the County will not impose allocation charges on improved properties on South Kent Island. All unimproved properties are subject to the standard allocation charge in effect at the time service is available or as a condition of building permit.

NOW, THEREFORE, BE IT RESOLVED BY COUNTY COMMISSIONERS OF QUEEN ANNE'S COUNTY:

Section 1. Definitions. Unless the context clearly requires otherwise, in this Resolution the following words have the meanings indicated:

(a) "Act" means the Code of Public Local Laws of Queen Anne's County (1996 Edition, as amended by 2013 Supplement).

(b) "Completion Date" means, with respect to the Sewage System, the date determined by the Director as the date on which the Sewage System or a phase of the Sewage System project has been completed.

(c) "County" means County Commissioners of Queen Anne's County, a body politic and corporate and a political subdivision of the State of Maryland.

(d) "Director" means the Director of Public Works of the County.

(e) "Quarterly Payment Date" means each January 1, April 1, July 1, and October 1.

(f) “Subdistrict” means the South Kent Island Wastewater Subdistrict, a subdistrict of the Queen Anne’s County Sanitary District established by this Resolution.

(g) “Sewage System” means the sewage collection and transmission system serving the Subdistrict.

(h) “Sewage System Bonds” means collectively all evidence of obligation as may be required to finance the total capital costs of construction and installation of the Sewage System.

Section 2. Subdistrict Established. A South Kent Island Wastewater Subdistrict is hereby established in accordance with § 24-28B. of the Act. The boundaries of the Subdistrict are those set forth on Exhibit A to this Resolution, which is incorporated herein by reference.

Section 3. Classification of Properties. All of the properties in the Subdistrict are classified as either “subdivision property” or “industrial or business” (hereinafter “IB”) within the meaning of § 24-28A. of the Act. All properties in the South Kent Island Wastewater Subdistrict classified “IB” are currently improved with structures and have installed septic systems. In accordance with § 24-28B., properties in the Subdistrict classified as subdivision property are further classified as follows for the purpose of levying Sewage System Benefit Assessments into the following subclasses:

(a) Class A Properties - All lots of land in the Subdistrict on which permanent dwelling units have been lawfully constructed and appurtenant septic systems installed;

(b) Class B Properties - All lots of land in the Subdistrict except those classified as Class A or Class C and those exempt under Section 10 hereof; and

(c) Class C Properties - Unimproved lots of land in the Subdistrict with respect to which the owner has presented evidence satisfactory to the Director establishing that, prior to January 1, 2016, the property has passed a soil percolation test meeting all the requirements of the Department of Environmental Health of the County.

Section 4. Sewage System Benefit Assessments.

(a) In accordance with Section 24-29 of the Act and for the purpose of providing funds for the payment of debt service on the Sewage System Bonds, upon completion of the Sewage System, there shall be fixed and levied (i) on each Class A and IB property, a Sewage System Benefit Assessment in principal amount equal to the Sewage System Base Cost plus the STEP System Cost, both as defined below, (ii) on each Class B property, a Sewage System Benefit Assessment in principal amount equal to the sum of the Sewage System Base Cost plus the Economic Benefit Premium, both as defined below, and (iii) on each Class C property, a Sewage System Benefit Assessment in principal amount equal to the Sewage System Base Cost, as defined below. Interest shall accrue on the unpaid principal amount of each such benefit assessment, from 60 days following the Completion Date of the Sewage System applicable to the property on which the benefit assessment is fixed and levied until the principal amount is paid in full, at the rate of interest accruing on evidences of obligation as may be required to finance the total capital costs of construction and installation of the Sewage System.

(b) As used herein, the term “Sewage System Base Cost” means an amount as determined by application of the following formula:

$$BC = \frac{TC - (SC \times A) - (B \times EBP)}{A+B+C}$$

where A = Class A properties – improved with permanent dwelling units and IB properties as improved.

B = Class B properties – unbuildable lots not included in Classes A or C or exempted in Section 10 hereof.

C = Class C properties – unimproved but buildable lots having a valid percolation test.

TC – Total Construction Cost – includes public sewer force main for all properties, public sewer collection lines for all properties, and STEP System for Class A and IB improved properties.

STEP System – includes a holding tank, pump and on-lot service lines and all associated on-lot electrical and plumbing work required for a property to connect into a public sewer collection line.

SC – STEP System Cost – average per-lot cost of constructing STEP Systems (tank and pumping systems to transfer effluent from structures to the County’s sewer lines) for Class A and IB properties. STEP System Cost shall not include capital costs funded by a State or Federal grant (but shall include capital costs funded by Sewage System Bonds).

EBP – Economic Benefit Premium – represents the additional incremental increase in fair market value that vacant, unbuildable properties will enjoy over the gain in fair market value that buildable properties will enjoy as a result of the extension of public sewer. The County has determined that the EBP will be determined as of the Completion Date of the first phase.

BC – Sewage System Base Cost – base Benefit Assessment gain in fair market value applicable to all properties.

Section 5. Quarterly Payments. The special assessments established hereby shall be payable in eighty (80) consecutive quarterly installments of principal and interest commencing with the first Quarterly Payment Date that occurs following the giving of notices to property owners as specified in Section 11 hereof. Payment of the principal amount of the special assessments shall be amortized so that, for property owners within each class, the payments (principal and interest) due on each special assessment on each Quarterly Payment

Date shall be approximately equal from quarter to quarter. Bills for benefit assessments shall be sent quarterly by the Department of Public Works and shall specify the portion of the payment due that is allocable to principal and the portion that is allocable to interest.

Section 6. Prepayments. The benefit assessments levied under Sections 4 and 5 of this Resolution may be prepaid in full and discharged at any time upon the payment to the Director of an amount equal to the outstanding principal amount of the benefit assessment and accrued interest thereon to the date of prepayment.

Section 7. Partial Deferral of Principal of Sewage System Benefit Assessments. The owner of a Class B property may elect to make quarterly payments in the amount applicable to the Sewage System Base Cost, plus interest in an amount equal to interest on the Economic Benefit Premium at the rate specified in Section 4 hereof, by filing with the Director a written election to that effect. Any such election shall be filed prior to the first Quarterly Payment Date and in such a form as the Director may prescribe. As a condition to any such deferral, the owner shall agree to pay a sum equal to the full amount of the Economic Benefit Premium upon the first to occur of the following:

- (a) Issuance of building permit with respect to the property; or
- (b) A transfer of the property that is subject to the transfer tax imposed by Subtitle 2 of Title 13 of the Tax-Property Article of the Annotated Code of Maryland; or
- (c) Five years from the first Quarterly Payment Date; provided, however, that the owner in this situation shall have the option of paying the Economic Benefit Premium in sixty (60) equal quarterly installments of principal

and interest at the rate specified in § 4(a) hereof, in addition to the quarterly payments for the Sewage System Base Cost.

Section 8. Payment of Assessments Upon Transfer. The Sewage System Benefit Assessment levied on a property in the Subdistrict pursuant to this Resolution shall be due and payable in full, in an amount equal to the outstanding principal amount thereof plus accrued interest thereon, upon a transfer of the property assessed that is subject to the transfer tax imposed by Subtitle 2 of Title 13 of the Tax-Property Article of the Annotated Code of Maryland.

Section 9. Contiguous Lots. One or more lots which must be merged pursuant to the merger requirements set forth in Ordinance No. 24-13 shall be treated as one lot for purposes of the benefit assessment established by this Resolution. In addition, an owner of two or more contiguous lots of land in the Subdistrict which either are not required to merge under Ordinance No. 24-13 or have been merged under Ordinance No. 24-13, may elect to have such lots assessed as a single property for purposes of this Resolution by filing among the land records of Queen Anne's County prior to January 1, 2016, an instrument in writing irrevocably surrendering any right to create future additional lots from such property. Such instrument shall be in a form approved by the County Attorney, as evidenced by his signature endorsed thereon.

Section 10. Exemptions. The assessments levied hereby shall not apply to a lot of land in the Subdistrict if and so long as (a) a single family dwelling may not be constructed on the lot of land under the provisions of a law or regulation protecting wetlands or other applicable Federal, State, or County law or regulation, or (b) the lot of land does not abut upon a street, road, lane, alley or right-of-way in which a sewer line has been built. Each property in the Subdistrict shall be subject to the applicable

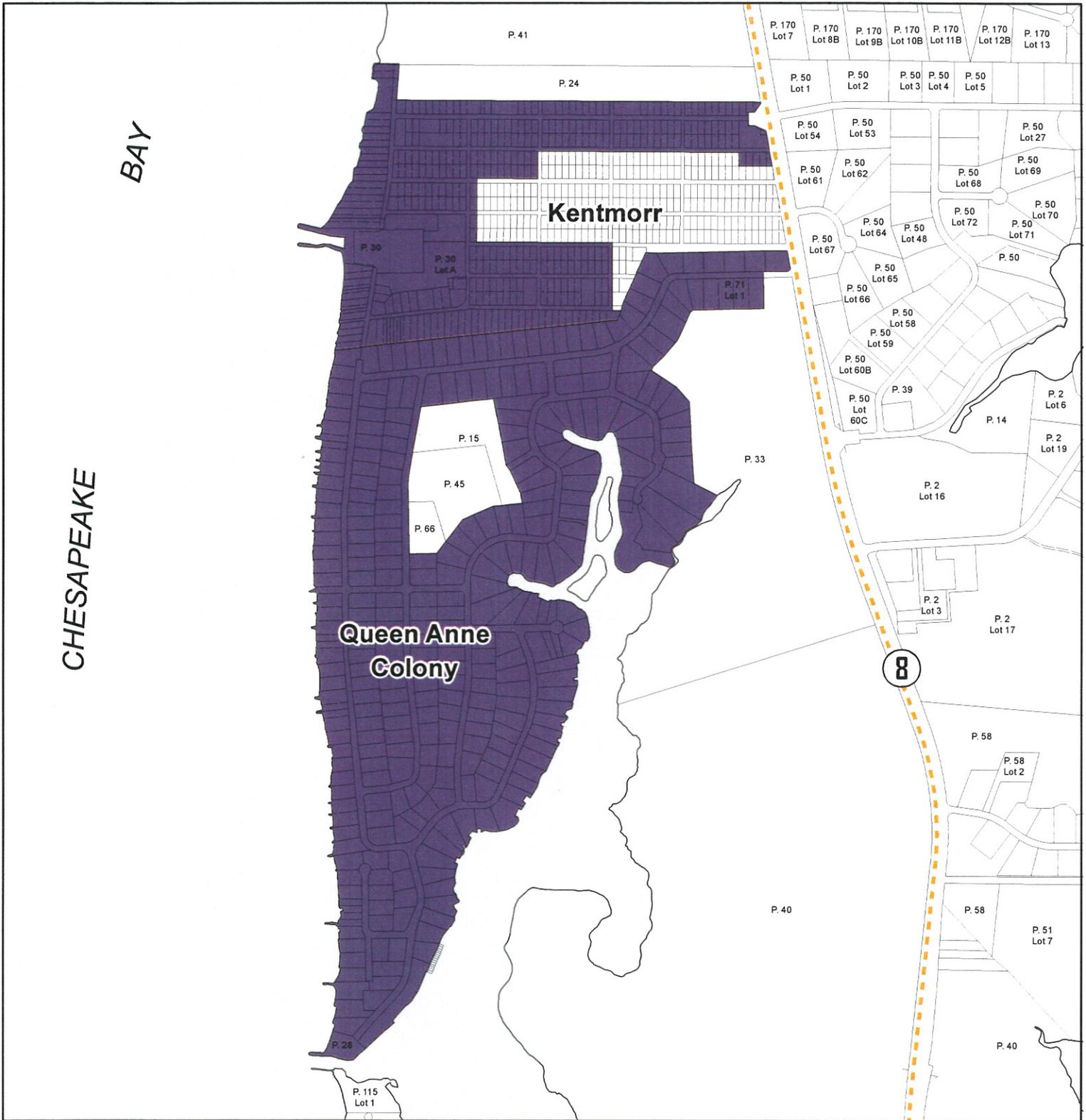
assessment levied hereby unless and until satisfactory proof of entitlement to an exemption under this Section has been provided to the Director and the Director has issued a certificate of exemption.

Section 11. Notices. As soon as practicable following the Completion Date of the Sewage System, the Director shall (i) determine the amount of the special assessments applicable to each class of property in the Subdistrict in the manner described in Section 4 or Section 5 hereof, as applicable, (ii) assign each lot of land in the Subdistrict to one of the Classes established by Section 3(a) or Section 3(b) hereof, as applicable, and (iii) give notice to the owner of each lot of land in the Subdistrict of the assessments established hereby in accordance with the provisions of § 24-29B. of the Act. The notices shall be given in the manner, and shall contain the information, specified in said § 24-29B.

Section 12. Effective Date. This Resolution shall take effect from and after the date of its passage.

Adopted by the County Commissioners of Queen Anne's County, sitting as the Sanitary Commission, this ____ day of _____, 2014.

Queen Anne Colony and Kentmorr Public Health Sewer Service Area



SOUTH KENT ISLAND WASTEWATER SUB DISTRICT

Queen Anne's County, Maryland

Exhibit A Page 2

Source: 2006 Comprehensive Water & Sewerage Plan

Legend

Sewer Service Area



S3

--- Denied Access Sewer Line



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Exhibit B

Illustrative calculations for the value of the Economic Benefit Premium that could be assigned to vacant unbuildable (Class B) properties at different levels of buildout. In all cases, the monthly charge to the existing homeowners is set at \$100 per month or less and:

A = 1,526 = Class A properties – improved with permanent dwelling units and IB properties as improved.

C = 12 = Class C properties – unimproved but buildable lots having a valid percolation test.

TC = \$ 37,433,326 – estimated total cost of construction – includes public sewer force main for all properties, public sewer collection lines for all properties, and STEP System for Class A and IB improved properties.

B = Class B properties – unbuildable lots not included in Classes A or C

EBP = Economic Benefit Premium

<u>B</u>	<u>EBP \$</u>
360	40,900
410	35,900
460	31,600
510	28,300
560	25,600

*This level of buildout represents 85% of the total number of vacant lots or 658 which will result from the lot consolidation ordinance #13-24 becomes effective.