

Board of Trustees of the Incorporated Village of Quogue

Decision on Proposal to Consent to formation of a Beach Erosion Control District within the Village

Background

For well over two decades, citizens in the Village of Quogue and public officials have debated the condition of its beach. For example, in January 1997 the Board of Trustees accepted a previously-commissioned Generic Environmental Impact Statement entitled “Examination of Options to Control Beach Erosion in the Village of Quogue.” In 2010, following a nor’easter in November 2009 that did severe damage to the beach, the Village started the process to obtain permits from the New York Department of Environmental Conservation (DEC) and the U.S. Army Corps of Engineers (ACOE) to do a beach nourishment project on the beach in Quogue. The cost was paid for by the Save the Dunes and Beaches Foundation, an organization composed of some homeowners on the eastern approximately one-third of the Quogue beachfront, the area of the Quogue beach that historically has had a smaller visible beach and less dune development than areas to the west. There was no promise to do a nourishment project if the permits were obtained—in fact the agreement between the Foundation and the Village explicitly disclaimed any such promise. An organization calling itself the “Concerned Citizens of Quogue” and others opposed a beach nourishment project and the grant by the DEC of a permit therefor. The DEC eventually decided to hold a public hearing on the question of issuance of a permit. A hearing was held on August 10, 2015 in the north meeting room of Quogue Village Hall at which a number of residents spoke for and against the grant of a permit. The DEC permit was eventually issued in July 2016.

In the meantime, some people believed there should be objective review of the condition of the Quogue beach and, if applicable, the steps that should be taken to address any problems that were found to exist. As a result, the Board of Trustees formed a seven-person Beach Advisory Committee in 2015. Over the course of some months, that Committee met with one or more experts on eight different occasions. In May 2017 the Committee issued its report, in which a majority of the Committee believed “that there is not enough scientific data establishing a long term, naturally occurring, and irreversible trend of beach loss such as would warrant the substantial expenditure required to initiate and maintain a beach nourishment program.” The Committee concluded that “a publically funded beach nourishment project should not be undertaken at the present time.” The Committee recommended that Village continue its program of scientifically monitoring the beach.

The Federal government was also active during this period prompted by the damage that was inflicted on the south shore of Long Island by Superstorm Sandy in October 2012. The Army Corps of Engineers in July 2016 issued a Draft General Reevaluation Report for the long-considered Fire Island to

Montauk Point Reformulation Study (FIMP) in order to fortify the south shore against future storm damage. A Draft Final General Reevaluation Report was made available to the Village in May 2019. That draft calls for among other things: bypassing of sand around Shinnecock inlet via dredging ; beach nourishment in Hampton Bays/East Quogue (areas identified in 2016 draft as being most vulnerable to breach) that appears to continue into Quogue about 3,000 feet as well as dune building in Quogue along the same area. The sand borrow area would be Area 5B established by the ACOE, which is off the shore of Quogue in about 40-50 feet of water.

Following the issuance of the report of the Beach Advisory Committee, homeowners on the east end of Dune Road, understanding that a publicly financed nourishment program was not likely to occur in the Village at the present time, explored creation of a beach erosion control district in the eastern end of Dune Road whereby the cost of a nourishment in this area of a little more than a mile would be borne solely by the beachfront owners within the district. Beach erosion control districts are a creature of Articles 12 and 12A of the New York Town Law, which spell out alternate procedures for the formation of a district. Beach erosion control districts were formed by the Town of Southampton in connection with a Bridgehampton and Sagaponack nourishment project that occurred in 2013. In that instance, the project cost was paid primarily from proceeds of bonds issued by the Town of Southampton. Debt service is paid by annual special assessments imposed on properties in the district.

Under this model, while the beach erosion control district would be formed by the Town of Southampton, pursuant to Section 209 of the Town Law, the consent of the Village is required, to be expressed in a local law or resolution of the Board of Trustees, in each case subject to a permissive referendum.

In order to assess whether to issue such consent, the Board of Trustees held meetings on August 18, 2018 and May 25, 2019. These meetings were in addition to numerous presentations held in Village Hall over the last decade or so, sponsored by various organizations, at which beach nourishment was the topic. Residents had an opportunity to speak at each of the meetings regarding the proposed beach erosion control district and did so. The information noted below was produced at the most recent meeting on May 25, 2019 but is similar to the information provided in August 2018.

The bounds of the beach erosion control district chosen by the proponents would include properties on the south side of Dune Road from number 146 eastward to the Village boundary, a distance of approximately 1.13 miles. That area includes 43 residential properties, the Quogue Village Beach and two other Village-owned properties and a private right of way. Of the 43 residential properties, 24 owners have clearly indicated in writing or at a public meeting that they are in favor of the formation of a beach erosion control district, 10 have in the same manner expressed their opposition and 9 have not stated a position or been unclear.

According to the most recent information submitted by the proponents, the estimated cost of a beach nourishment project in this area would be approximately \$9.87 million. This figure assumes that it would be possible to contract privately with the dredging company doing FIMP work for the ACOE and

thus save some of the cost normally attributed to dredge mobilization. The annual cost to retire a 10-year bond issue of the Town of Southampton would be approximately \$1.22 million, according to the proponents. There has been no decision by the proponents on whether to base the special property assessment on the basis of assessed value, beachfront footage or a combination of the two methods. The impact on individual properties can change materially based on whichever method is chosen, but overall the aggregate yearly assessments spread across the properties in the district would be set to pay the annual debt service on the bonds. The highest special assessment imposed on a property on a combined basis would be more than \$65,000, and many of the properties would have special assessments in excess of \$20,000 and \$30,000. A handful would be in the range of \$40,000 and even \$50,000.

Decision

At the outset, we are compelled to commend the proponents of the beach erosion control district. They, and others, believe that they are confronting a serious threat to their properties and have sought to address it largely at their own expense. As a practical matter, beach nourishment is the only way to address it on any scale. Trucking inland sand to bolster the beach or dunes at individual properties will not create a continuous stretch of strong beach or dune. Scraping, fencing and planting of beach grass, while effective to a degree to gather protective sand in the dune area, do not add sand to the beach as a whole.

We do believe that beach nourishment can be effective in our area, which has a relatively slow rate of erosion and nearby offshore areas with abundant beach compatible sand. Beach nourishment has been widely used on the south shore of Long Island, including the aforementioned project to our east in Bridgehampton and Sagaponack. Is there any guarantee of longevity? Of course not, but the proponents of the beach erosion control district are willing to risk their own dollars on the proposition that beach nourishment will be successful.

We do not share the belief of the Concerned Citizens of Quogue that dredging offshore of Quogue in the places and manner proposed will have an adverse effect on our beach. Such scientific evidence as exists is to the contrary, and neither the DEC nor the ACOE believes that dredging will be a harmful. In any event, dredging is already slated to occur off our shore in connection with FIMP.

We accept the evidence that a majority of the property owners within the proposed beach erosion control district support its creation even if the exact count has not been completely verified. While majority support is a condition to eventual creation of the district, in this instance we believe that there are other considerations that dictate that our consent should be withheld:

1. Based on the results of monitoring that was undertaken by the Village in 2015 and 2017 and visual observation, the eastern portion of the Quogue beach is not in crisis.
2. We believe that the beach is a collective asset of all citizens, and a beach nourishment project should be undertaken, if at all, when there is substantial public support for it.

3. Fueled by newspaper ads and correspondence containing many inaccurate and misleading statements, the issue is an extremely divisive one for the Village. Issuance of consent by the Board of Trustees would be merely the first step in the process of forming a beach erosion control district and completing a beach nourishment project. There is no reason to believe that the divisiveness will not continue, and that would not be healthy for the Village as a whole.

4. FIMP is apparently soon to be implemented. At this point we do not have the precise parameters of the work that will be proposed to be undertaken in Quogue or know whether conditions imposed will be acceptable to the Village and affected residents. However, at the very least, the work that will be undertaken to our east should have some positive effect for Quogue. With these uncertainties, we believe that it is not the time to undertake a private beach nourishment project.

5. The costs imposed by the creation of a beach erosion control district and completion of a project on property owners within the district who are against its creation are very substantial. With a relatively small number of properties contributing to the cost of a very expensive project, we believe that the cost imposed on the minority is too great given all the circumstances.

For the foregoing reasons, the Board of Trustees declines to give its consent to the formation of a beach erosion control district within the Village of Quogue.