

STATE OF NEW YORK: COUNTY OF SUFFOLK  
SUFFOLK COUNTY BOARD OF ETHICS

-----X  
In the Matter of the Inquiry of  
[REDACTED] in Capacity of a  
Former County of Suffolk public servant

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STATE OF NEW YORK: COUNTY SUFFOLK  
COUNTY BOARD OF ETHICS  
Advisory Opinion 2020-5  
May 20, 2020

**NOTICE: THIS ADVISORY OPINION IS SUBJECT TO REVISION OR WITHDRAWAL**

*Applications requesting its modification, clarification, or withdrawal must be made in accordance with Suffolk County Board of Ethics rules. Unless an application for the revision or withdrawal of an advisory opinion is timely received, it shall become final. Nothing shall prohibit the Suffolk County Board of Ethics, on its own motion, from reconsidering, revising or withdrawing an advisory opinion at any time.*

**Summary:** The Requestor, a former County of Suffolk Department of Public Works employee has submitted an advisory opinion request to the Suffolk County Board of Ethics as part of a prospective post-employment income conflicts check. He has asked the Board if a waiver is available to be a subcontractor to a company in contract with the County. The County contract is for servicing the [REDACTED] where he performed work during his former employment with the County of Suffolk.

Upon full Board review, the Board hereby issues this advisory opinion setting forth that there is no applicable waiver provision in the County of Suffolk Code of Ethics. In furtherance, the Board concludes that pursuant to Suffolk County Code 77-6 (C), the stated prospective post-employment income does create an impermissible conflict constituting a “matter” that the Requestor participated in personally and substantially as a public servant. Additionally, pursuant to Suffolk County Code 77-6 (I), the post-employment prohibition under 77-6 (C) is limited to only the matter he participated in as a County employee, [REDACTED]

**Analyzed Laws and Rules:** The Laws of Suffolk County; Suffolk County Administrative Code XXX, Advisory Opinions; and Suffolk County Code Chapter 77 Sections 77-6(C), and 77-6(I).

**Procedural History:** This request was received on 5/5/2020, standing vote occurred on 5/6/2020, and the Board vote occurred within the 45 days of conclusion on fact finding under the Suffolk County Code on 5/20/2020. The Board determined by majority vote that there is an impermissible conflict of interest under the facts presented on prospective future activity.

**Opinion:** The Requestor, a former County Department of Public Works employee has submitted a post-employment advisory opinion request for a waiver and conflicts check to the Suffolk County Board of Ethics. This former employee held the County job title, “Assistant Wastewater Plant Operations Supervisor” (*See Civil Service Spec 7655*). The post-employment income conflicts check relates to prospective post-employment work, as subcontractor, with a company ([REDACTED]) who has a contract with the County. The Requestor has advised he was not on any County RFP Committees for [REDACTED], however, he did perform work on the [REDACTED] system while a County employee.

This requesting former employee retired from the County of Suffolk on 11-21-2019 and subsequently contacted

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██████████ regarding potential subcontracting work. To date, no work has been performed. The prospective post-employment subcontractor work that would be performed includes maintenance of industrial UV lamps in the water requiring a crane/boom each time to remove the UV light from under water. The purpose of these commercial UV lights is to disinfect the water prior to being discharged into the Atlantic Ocean.

The Suffolk County Board of Ethics has reviewed the relevant provisions of the County Code inclusive of Section 77-6(C), and 77-6(I). These state in pertinent part:

- C. No person who has served as a public servant shall appear before the County, or receive compensation for any services rendered, in relation to any particular matter in which such person had participated personally and substantially as a public servant, provided that, such prohibition shall not apply to a former public servant serving as a consultant to the County, where such former public servant contracts to provide such consultant services directly with the County.
  
- I. Nothing contained in this section shall prohibit a former public servant from being associated with or having a position in a firm which appears before a County agency or from acting in a ministerial matter regarding business dealings with the County.

As applied to this request, the Requestor has advised that his former job duties included,

“Oversees the plant process relating to tankage, pumping stations and plant equipment; Schedules personnel and plans routine and cyclical procedures relevant to plant operations; Places orders, issues contracts and assists in preparation of budgets and other financial requirements; Prepares all process and plant operating reports as required by NYSDEC, Suffolk County and other regulatory agencies; Trains and supervises lower level wastewater treatment plant operations personnel; Supervises routine maintenance and overhaul of sewer district machinery and equipment”. (*See Civil Service Spec 7655*).

The description of ██████████ as described online and by the Requestor is set forth below:

“██████████ Treatment Plant, which processes the effluent from the district prior to release to the ocean outfall. The ██████████ Wastewater Treatment Plant provides primary and secondary treatment for the removal of biological oxygen demand (BOD) and suspended solids in the wastewater flow.

Installation of a new UV disinfection system to neutralize microorganisms in the effluent, providing improved worker safety and resulting in cleaner discharge into the Great South Bay.

GD expansion of the plant to provide additional treatment capacity. Due to the necessity of providing additional treatment capacity at the ██████████ to accommodate areas that are adjacent to and outside the district boundaries, a 10-million-gallon-per-day expansion has been planned.

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Upgrade of the influent grit handling facility to improve operation and maintenance costs.

Replacement of the final effluent pumps and the addition of a new pump to provided redundant capacity. The final effluent pump station at the [REDACTED] Wastewater Treatment Facility conveys treated effluent through a 6½ mile outfall to the Atlantic Ocean. The final effluent pump station facility went into operation over 30 years ago and it is essential that the redundancy and service life of the facility is extended”.

At the outset of this request reviewed, the Board hereby sets forth that there is no applicable waiver provision in the County of Suffolk Code of Ethics.

As applied to 77-6 (C), the Board concludes that the job duties the Requestor performed on the UV system when employed by the County *does* constitute a “matter” under the Code and that he *did* participate in this matter personally and substantially as a public servant. Therefore, the Board concluded that the proposed work is an impermissible post-employment conflict.

Additionally, as applied to 77-6 (I), the Board concludes that the above post-employment prohibition in 77-6(C) *is limited to only the matter* he participated in as a County employee, [REDACTED].

**CONCLUSION**

The Board concludes 1) Pursuant to 77-6 (C), the stated prospective outside income does create an impermissible conflict constituting a “matter” that the Requestor participated in personally and substantially as a public servant and 2) Pursuant to 77-6 (I), the Board concludes that the above post-employment prohibition in 77-6(C) *is limited to only the matter* he participated in as a County employee, [REDACTED].

Pursuant to Suffolk County Board of Ethics Resolution 004/2013 passed on January 30, 2013, the requester shall have 15 business days from the time this Advisory Opinion has been rendered (excluding Saturday, Sunday, or a legal holiday) to file a request for reconsideration supported by new material facts submitted to the Board. Pursuant to Suffolk County Board of Ethics Resolution 004/2013 passed on January 30, 2013, the requester shall have 15 business days from the time this Advisory Opinion has been rendered (excluding Saturday, Sunday, or a legal holiday) to file a request for reconsideration supported by new material facts submitted to the Board.

The forgoing is the advisory opinion approved by majority of the Members of the Suffolk County Board of Ethics.

Dated: Hauppauge, New York  
5/20/2020  
Vote: 5-0-0



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Eric A. Kopp. - Chair