



## Old Lyme Shores Beach Association – WPCA

October 10, 2024

Dear OLS Neighbors,

I am writing to you on behalf of the Water Pollution Control Authority (WPCA), as its Chair.

### 1. Brief History

On August 11, 2012, at a Special Meeting of the Association, our members voted to approve a bond resolution to appropriate up to \$9.7M for sewer system construction. In October 2012 (later updated on February 14, 2018), to avoid a clean water enforcement action by the state, our Association joined with the surrounding beach communities to enter into a Consent Order with the State of Connecticut whereby each Association ***is legally required to install a sewer system***. Pursuant to said \$9.7M bond resolution and Consent Order, our Association entered into grant/loan agreements with the State. More recently, the State offered a \$15M forgivable loan for funding the shared sewer system, subject to certain limitations. The State of Connecticut requires several things before we can seek bids for the construction of the sewer system. One of these is a “Supplemental Bond Resolution” that would increase the \$9.7M limit of the 2012 current bond resolution to cover our Association’s share of the \$15 forgivable loan and the increased construction costs since the 2012 bond resolution vote..

### 2. Informational Communications

As noted in our September 14, 2024 letter, the WPCA’s primary goal is to provide you with the most current information regarding the twelve-year plus sewer project, including the estimated cost per member. To that end, we are offering and recommending the following to all Association members:

#### **A. PowerPoint Presentation – OLSBA Project Updates and Estimates for: Sewers, Roadway Enhancements, Stormwater Improvements as of October 9, 2024.** Please read this

PowerPoint presentation, which includes:

- the estimated cost per member
- how we concluded \$6.8M is the proper amount for the Supplemental Bond Resolution
- potential consequences to OLSBA for not complying with the February 14, 2018 CT DEEP Consent Order
- a letter dated October 2, 2024 from the CT DEEP and CT Attorney General
- Clean Water Fund Appropriation information from the CT DEEP Website
- Frequently Asked Questions and Responses from Prior Meetings

#### **B. Fuss & O’Neill Engineering Firm Video Presentation for OLSBA Members - when the presentation is completed, we plan to make it available online and send an announcement in a separate communication.**

### 3. Special Meeting of the OLSBA for a Membership Vote on the \$6.8M Supplemental Bond Resolution - Saturday, November 9, 2024 at 10 a.m. via Zoom

The Zoom meeting credentials, description of the voting process, and meeting agenda will be emailed to all members separately.

**CRUCIAL SUPPLEMENTAL BOND RESOLUTION VOTE IS REQUIRED TO GO OUT TO BID AND APPLY FOR THE \$15M FORGIVABLE LOAN AND OTHER DISCOUNTS AND GRANTS AFFORDED BY THE STATE OF CONNECTICUT.**

Receiving the bids will allow us to determine the actual contract cost of the project. *No contract for sewer project construction spending by our Association will be awarded without seeking a separate approval vote from our membership.*

4. Unexpected Delay Caused by Legal Memo Raised by Member at September 14, 2024 Fall Meeting

We had hoped to provide all of the above information by the end of September, but our attention was diverted by a questioned legality of the easement for the bioxide station to be located on the Association's Gorton Avenue property. The bioxide station design and layout was approved as part of a Special Permit in 2020. The easement was already granted by our Association to the combined beach associations to enable the shared sewer project. It was recorded in May 2021, and is relied upon by all parties. Private legal memos cited by a member were not sought or sanctioned by our Association. Our Association's current legal counsel nevertheless reviewed the memos and has determined they present no legal issues for the granted easement.

5. Miami Beach Association and Old Colony Beach Club Association Have Approved Their Supplemental Bond Resolutions

OLSBA is the last remaining beach to approve their Supplemental Bond Resolution. We seek each member's support in approving the \$6.8M Supplemental Bond Resolution so as to enable the beach associations and the Town of Old Lyme to go out to bid.

If the members vote down the Supplemental Bond Resolution, **(among other consequences as noted in the slide presentation)**, the Clean Water Fund Interim Loan Obligations to which our Association is obligated for the internal and shared sewer system project will automatically convert to Permanent Loan Obligations in January 2025 for the shared and in March 2025 for the internal, necessarily resulting in each OLSBA member being assessed in 2025 to meet OLSBA's obligations.

Best,

Tim Larson  
Chair, WPCA

# Old Lyme Shores Beach Association



Project Updates and Estimates for:

- Sewers
- Roadway Enhancements
- Stormwater Improvements

With APPENDIX

October 9, 2024

**DISCLAIMER: All numbers in these slides are ESTIMATES and subject to change depending on various factors**

# Disclosure on Estimates

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- These slides present **ESTIMATES**<sup>1</sup> of OLSBA sewer, roadway enhancements & stormwater improvement costs
- The **ACTUAL** contract costs cannot be presented *until after an approval vote* on the Supplemental Bond Resolution

<sup>1</sup>These estimates are based on Fuss & O'Neill estimated costs to complete OLSBA's portion of shared, internal and stormwater projects, plus OLSBA portion of East Lyme & New London buy-ins, as of 9/4/2024 as presented during WPCA's special meeting on 9/5/24

# Project Updates

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- Latest cost estimate for the sewer, roadway enhancements & stormwater improvement projects totals \$16.1 million<sup>1</sup>
- Actual contract costs could be higher or lower, determined by a rebid of project proposed for this fall
- CT DEEP requires that OLSBA membership vote to increase its bond authorization from current \$9.7 million to cover expected increase in GROSS sewer project costs
- **CT DEEP will not permit new bidding without approval of a Supplemental Bond Resolution**
- **CT DEEP, for a LIMITED TIME, is offering a forgivable loan to offset cost increases<sup>2</sup>**  
(See copy of 10-2-2024 Letter from State of CT in next slide)

<sup>1</sup>Fuss & O'Neill estimates as of 9/4/24 to complete OLSBA's portion of shared, internal and stormwater projects, plus OLSBA portion of East Lyme & New London buy-ins.

<sup>2</sup>Based on terms currently offered by CT Clean Water Fund as of 10/3/2024.

# State of Connecticut DEEP & OAG Letter



October 2, 2024

Town of Old Lyme  
Water Pollution Control Authority

Miami Beach Association  
Water Pollution Control Authority

Old Lyme Shores Beach Association  
Water Pollution Control Authority

Old Colony Beach Club Association  
Water Pollution Control Authority

Re: Town of Old Lyme Wastewater Management Project

Dear Water Pollution Control Authority representatives,

We write to express our concern about the failure of the Water Pollution Control Authorities of the Miami Beach Association, Old Lyme Shores Beach Association and Old Colony Beach Club Association ("Associations") to complete the joint sanitary sewer system project. As you know, General Statutes § 22a-428 and the 2018 consent order between the Commissioner of Energy and Environmental Protection and the Associations require you to abate the documented community pollution problem caused by wastewater disposal by the beach associations. We are concerned that this project is not yet complete and that there have been considerable delays in meeting your obligations.

The State of Connecticut, including the Department of Energy and Environmental Protection ("the Department") and the Office of the Attorney General, take very seriously our commitment to water quality in Long Island Sound and public health. To that end, you are required by law to comply with 2018 consent order and state law. To complete this project, you may be eligible for significant but time-limited financial support, including a newly available forgivable loan. We strongly encourage you to take advantage of this support.

For over 10 years, the Department has been working with the Associations to ensure the protection of public health and the environment by ordering and facilitating the construction of a joint sanitary sewerage system to address the community pollution problem.

However, this additional state financial assistance is time limited and cannot be sequestered forever. In order to access this funding, the project communities must move forward in a timely fashion with the construction of the sanitary sewerage system. We appreciate the associations' efforts under their respective consent orders and state officials stand ready to help the associations and the Town of Old Lyme move this project to conclusion. Nevertheless, any additional delay in the construction of this project jeopardizes the subsidy and leaves the community pollution problem unabated.

As soon as possible, it is necessary that you provide us the details of a plan to meet your obligations under the consent orders and the relevant pollution abatement statutes and regulations.

We look forward to working in partnership to ensure that this project moves forward and is completed for the benefit of the community.

Sincerely,

Handwritten signature of Katherine S. Dykes in blue ink.

Katherine S. Dykes  
Commissioner, Connecticut Department of  
Energy and Environmental Protection

Handwritten signature of William Tong in blue ink.

William Tong  
Connecticut Attorney General

# Proposal To Increase Maximum GROSS Bond Appropriation

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## Initial Bond Resolution

\$9.7 million approved by OLSBA membership in 2012.

## Proposed Update

2024 request to approve a Supplemental Bond Resolution of \$6.8 million. Increasing total authorization to \$16.5 million.

Supplemental Bond Resolution Approval is Required to Proceed with Coordinated Bidding of:

- Sewer Project
- Roadway Repaving & Enhancements
- Stormwater Drainage Improvements

# Supplemental Bond Resolution\*

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RESOLUTION AUTHORIZING A SUPPLEMENTAL APPROPRIATION OF \$6,800,000 FOR THE PLANNING, ACQUISITION, DESIGN AND CONSTRUCTION OF A SANITARY SEWER SYSTEM TO SERVE THE OLD LYME SHORES BEACH ASSOCIATION AND AUTHORIZING THE ISSUANCE OF BONDS, NOTES OR OTHER OBLIGATIONS IN AN AMOUNT NOT TO EXCEED \$6,800,000 TO FINANCE SAID APPROPRIATION.



# How Would The Projects Be Funded

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- 100% of sewer project and basic repaving expected to utilize funding available from CT Clean Water Fund (CWF)<sup>1</sup>
- At least 20% of both Stormwater Improvement and Roadway Enhancements expected to be CWF eligible
- Remaining investment for Stormwater Improvement and Roadway Enhancement projects would require OLSBA to obtain separate financing

100% of CWF-eligible costs would be funded by:

- 25% Grants
- 25% **Loan Forgiveness from State is TIME LIMITED.** See letter in Slide 4 above.
- 50% Financing for 20 years @ 2% fixed rate

<sup>1</sup>Based on terms currently offered by CT Clean Water Fund as of 10/3/2024

# Estimated NET Project Costs

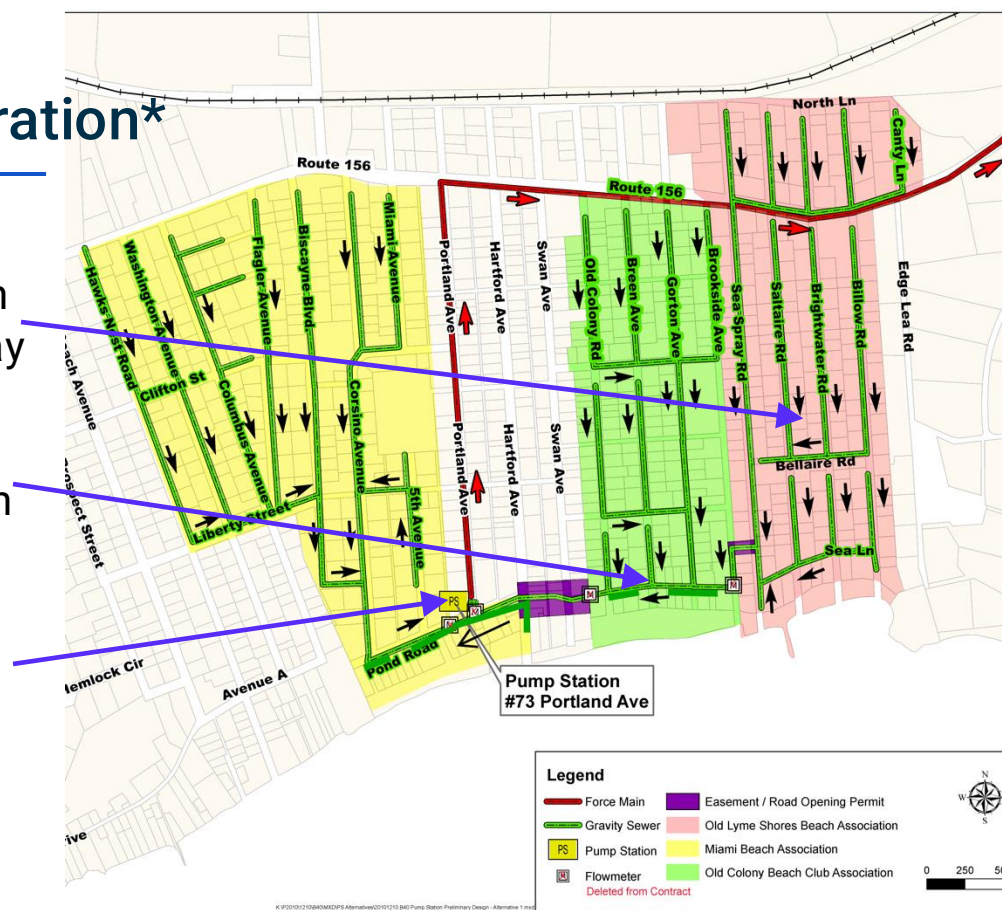
	<u>Total Cost</u>	<u>Cost per EDU</u>
Estimated Gross Project Costs (OLSBA PORTION) <sup>1</sup>	\$16,099,572	\$83,417
CWF Eligible Costs (Sewer & Basic Roadway Repaving)	\$13,559,581	\$70,257
- CWF Grant (25%)	(\$3,148,067)	(\$16,311)
- CWF Loan Forgiveness (25%)	(\$3,148,067)	(\$16,311)
Net Sewer Project Costs	\$7,263,447	\$37,634
Stormwater Project (Assume no CWF)	\$2,539,991	\$13,161
Roadway Enhancements (Assume no CWF)	TBD	TBD
Total NET Sewer + Roadways + Stormwater Cost	\$9,803,438	\$50,795

<sup>1</sup>Includes OLSBA portion of shared sewers (21.1%), the internal sewer project, repaving and stormwater improvement

All numbers in these slides are ESTIMATES and subject to change depending on various factors

# OLSBA Internal Project – Illustration\*

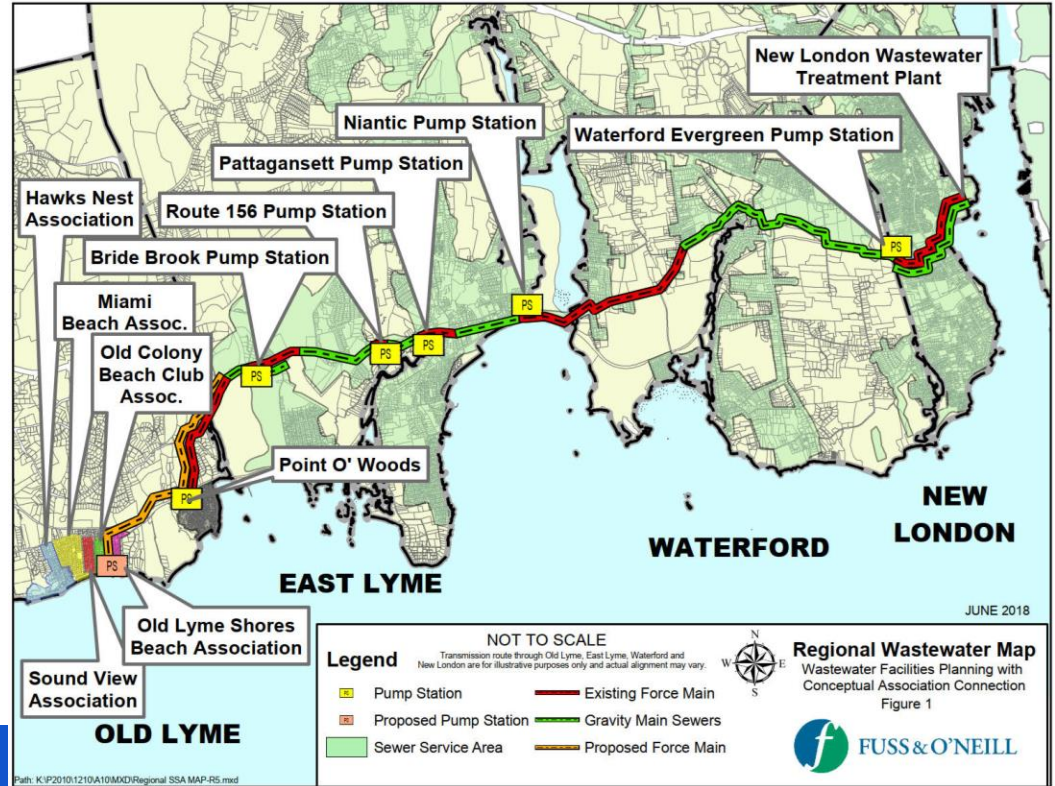
- I. Gravity sewer lines Installed on full length of Billow, Brightwater, Saltaire & Sea Spray
- II. Flow from all beaches would travel downhill to trunkline and across Common Transmission Main
- III. Connection to Force Main at Pond Road pump station



\*Illustration from F&O as of September 2024. See Appendix for full image.

# Shared Sewer Project - Illustration

- I. From Pond Road pump station, sewage travels through new force main
- II. Connects to East Lyme forced main at Bride Brook Pump Station
- III. Sewage conveyed to the New London Wastewater Treatment Facility



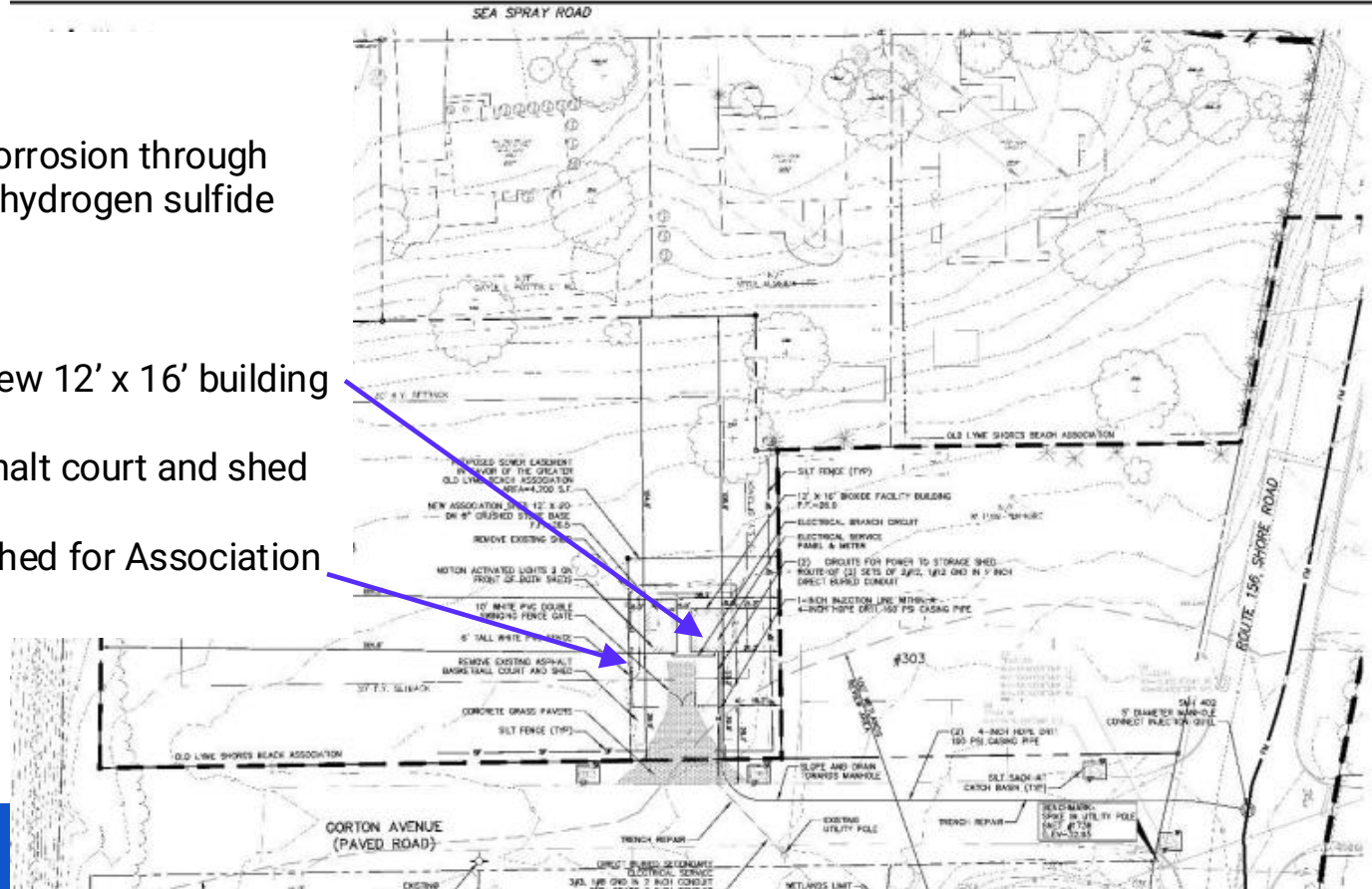
# Shared Sewer Project – Proposed Bioxide Facility\*

## Use Case

- I. Controls odors and corrosion through removal of dissolved hydrogen sulfide

## Proposed Improvements

- I. Bioxide enclosed in new 12' x 16' building
- II. Remove existing asphalt court and shed
- III. Install new 12' x 20' shed for Association use



\*More detailed information and illustrations included in Appendix

# SEWER Project Estimated Annual Cost per Equivalent Dwelling Unit (EDU)

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## CWF Funding & Grants Subsidizes Annual Cost of Sewers

### Annual Payment of Principal & Interest per EDU

CWF Loan (20-years @ 2%)	\$2,085
East Lyme Loan (20-years @ 2%)	\$51
New London Loan (20-years @ 2.65%)	\$159
<b>Total Estimated Sewer Financing Cost</b>	<b>\$2,294</b>

### Estimated Annual Payment to Operate System per EDU

Based on experience from other towns (\$400-600) <sup>1</sup>	\$500
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<b>Total Estimated Annual Payment per EDU for Sewers</b>	<b>\$2,794</b>
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<sup>1</sup>Exact operating costs are TBD

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# Estimated One-Time Costs of Connection

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- I. Each property will be responsible for these one-time costs, which are not covered by CWF loans or grants and are **solely at the property owner's expense**

## Estimated One-Time Costs

Connection to System + Septic Abandonment	\$5,000
Cost of Meter (if not connected to CT Water)	\$1,000

- II. Estimate for connection from curb to residence, pumping out and filling septic tank in place

Estimated One-Time Costs	\$6,000
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- III. Water usage will be used to approximate flows to sewer

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# What If The Estimates Are Wrong...Cost of Sewer Project Overruns

Sensitivity If SEWER Project \$1,000,000 (8%) Over F&O Budget

Financing Source	Total Funding Received	OLSBA Responsibility	Total Increase Per EDU	Annual Payment Increase per EDU
CWF Grants	\$250,000	\$0	\$1,295	\$0
CWF Loan Forgiveness	\$250,000 <sup>1</sup>	\$0	\$1,295	\$0
CWF Loan (20-years @ 2%)	\$500,000	\$500,000	\$2,591	\$157
Totals	\$1,000,000	\$500,000	\$5,181	\$157

<sup>1</sup>Assumes total eligible project costs (including other beaches) doesn't exceed cap of \$60M. This compares to current F&O estimates of total eligible project costs of approximately \$56.8M.

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# Roadway Repaving & Enhancements

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**Basic Repaving** is included in the \$16.1M project estimate, and includes:

- Return of roads to current specifications
- 100% mill and overlay

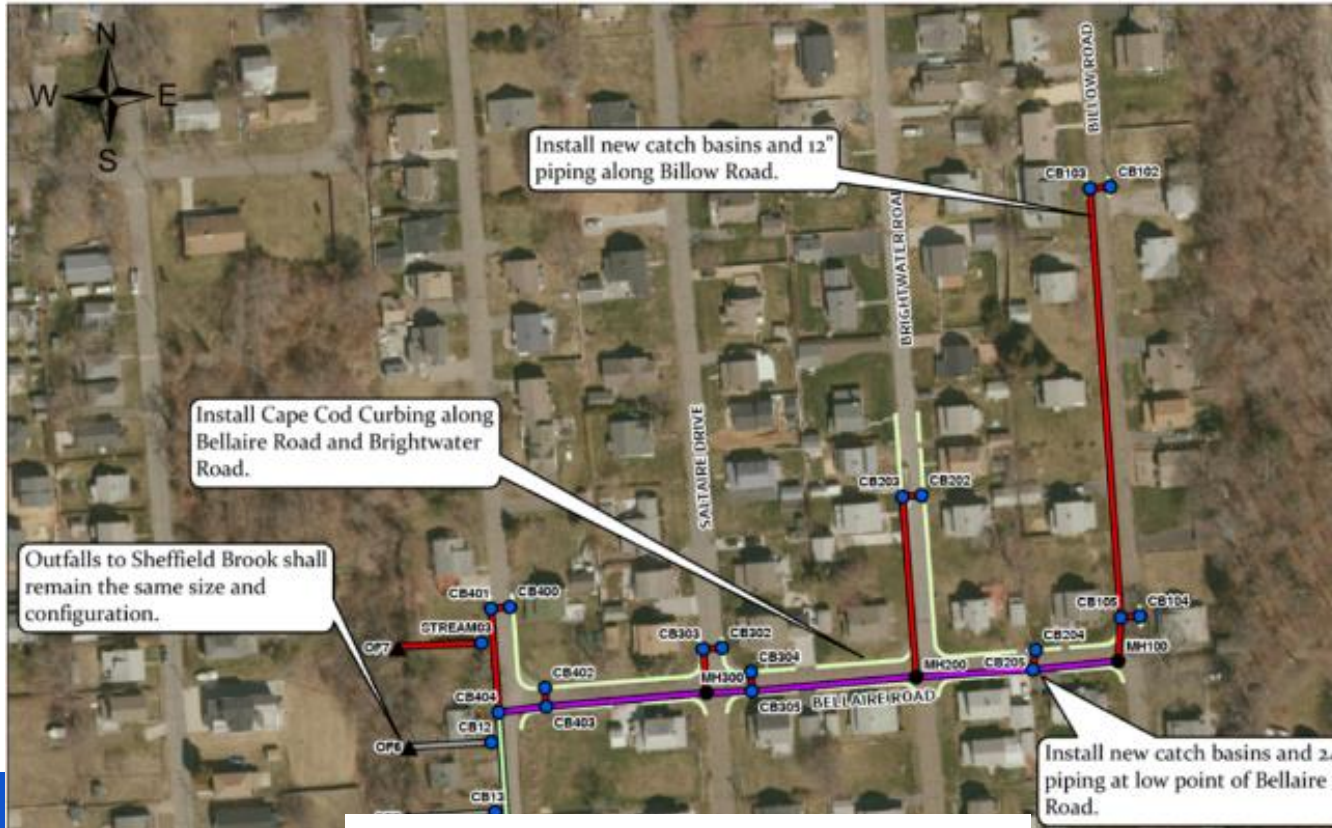
**Roadway Enhancements** could be incremental and include:

- Safer roadways with improved clearance for bikes & pedestrian passage
- Reduction of crown in roads
- Modest widening and uniform straight-line layout of enhanced roadways
- Improvement of the turning radius at several intersections

100% of basic repaving and at least 20%<sup>1</sup> of enhancements would be CWF eligible if performed together with sewer project

<sup>1</sup>Clean Water Fund coverage available for some portion of both roadway enhancements and stormwater improvements. Precise level to be determined during engineering & construction.

# Stormwater Improvements Project – Northern Portion



North of Bellaire Road

# Stormwater Improvements Project – Southern Portion



South of Bellaire and at Beachfront

# STORMWATER Improvements Project Estimated Annual Cost Per EDU

Stormwater Financing Would Require OLSBA Funding<sup>1</sup>

Illustrative Financing Scenarios <sup>1</sup>	Total Funding Received	Cost to OLSBA	Total Cost Per EDU	Annual Payment per EDU
<u>Scenario 1:</u> OLSBA borrows 100% (15-years @ 6%) <sup>2</sup>	\$2,539,991	\$2,539,991	\$13,160	\$1,337
<u>Scenario 2:</u> \$5,000 1x Assessment	\$965,000		\$5,000	\$0
OLSBA Borrows Remainder (15-years @ 6%) <sup>2</sup>	\$1,574,991		\$8,160	\$829
Scenario 2 Total	\$2,539,991	\$2,539,991	\$13,160	\$829

<sup>1</sup>Some portion of Stormwater & Roadway enhancements would be eligible for CWF. This analysis assumes no CWF availability as a simplification.

<sup>2</sup>Options for OLSBA financing to be determined. Maturity and interest rate shown are estimates.

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# What If The Estimates Are Wrong...Stormwater Project Overruns

Sensitivity If STORMWATER Project \$210,000 (8%) Over Budget

Financing Source	Total Funding Received	OLSBA Responsibility	Total Project Cost Increase per EDU	Annual Payment Increase per EDU
CWF Grants - 5% of cost	\$10,500	--	--	--
CWF Loan - 15% of cost (20 yrs @ 2%)	\$31,500	\$31,500	\$163	\$10
OLSBA Financing – 80% of cost (15 yrs @ 6%) <sup>1</sup>	\$168,000	\$168,000	\$870	\$88
<b>Totals</b>	<b>\$210,000</b>	<b>\$199,500</b>	<b>\$1,033</b>	<b>\$98</b>

<sup>1</sup>Options for OLSBA financing to be determined. Maturity and interest rate shown are estimates.

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# Annual Cost per EDU after Adding Stormwater Improvement

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Total Estimated Sewer Financing Cost per EDU	\$2,294
Estimated Annual Payment to Operate Sewer per EDU <sup>1</sup>	\$500
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Total Estimated Annual Payment per EDU for Sewers	\$2,794
<b>Total Estimated Stormwater Financing Cost per EDU</b>	<b>\$1,337</b>
<b>GRAND TOTAL Estimated Annual Payment per EDU</b>	<b>\$4,131</b>

<sup>1</sup>Exact operating costs are TBD

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# OLSBA Members Should Vote YES to Support Project Rebidding per CT DEEP Legal Requirements

- A **YES** is needed to cover our share of the \$15 forgivable loan and the increased construction costs since the 2012 \$9.7 bond resolution vote, and remain in compliance with the Consent Order
- OLSBA's is the last YES vote needed to proceed with rebidding
- Old Colony & Miami members have already voted YES to their increases

## **If OLSBA votes NO to the \$6.8M Supplemental Bond Resolution:**

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- **The CWF Interim Loan Obligations will automatically convert to Permanent Loan Obligations in January 2025 for the shared and in March 2025 for the internal, necessarily resulting in each OLSBA member being assessed approximately \$3,400 in 2025 to meet OLSBA's obligations under said loans.**
- **OLSBA risks expensive and protracted legal action by the other beach associations (Old Colony & Miami), Town of Old Lyme and/or the State of Connecticut (OLSBA members paying attorneys thousands of dollars without the benefit of getting sewers, stormwater improvements or roads for the \$ spent)**



# APPENDIX

(per information provided by Fuss & O'Neill and CT DEEP)



**DISCLAIMER:** While all data presented in this Appendix is believed to be accurate, unintentional errors may be corrected in future communications

## Frequently Asked Questions

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Are the situations with Old Saybrook and other shore towns relevant to our situation in Old Lyme? There are three other CT shorefront communities in the Long Island Sound which currently don't have public sewers. Old Saybrook, Westbrook and Clinton. Reportedly Old Saybrook is working on a dispersal site for a groundwater discharge north of Route 1. If the site is approved, the next steps will be constructing and permitting a collection system along the shorefront conveying the wastewater to a wastewater treatment facility near to the dispersal site. Westbrook is reportedly evaluating potential groundwater dispersal sites for a wastewater treatment facility with a groundwater discharge. Clinton, likewise, is reportedly evaluating potential groundwater dispersal sites for their capacity to discharge treated wastewater to the ground. Many properties across OLS are either too small, are too close to bedrock (Billow), or too far below the water table (Sea Spray) to add a well-functioning septic system.

## Frequently Asked Questions Continued

Is the WPCA exploring other options? Public gravity sewers were recommended and agreed upon by DEEP as the most cost-effective long-term wastewater renovation solution for OLSBA. Grinder pumps and low-pressure sewers are generally more favorable than gravity sewers where there is undulating topography and sparsely developed areas with high groundwater and bedrock. Though OLSBA is characterized by high groundwater and shallow depth to bedrock in the lower half of the Association, the area is characterized by consistent north to south natural sloping topography and dense development which make the requisite 75 ft setbacks of public water infrastructure from grinder pumps difficult to achieve. Further, vents and electrical disconnects for the grinder pumps would need to be installed at elevation 13 feet above 1% flood levels to comply with TR-16 technical guidelines. The lower section of OLSBA is prone to frequent flooding. Individual onsite systems with nitrogen removal features were deemed infeasible due to the shallow depth to groundwater and bedrock which would prevent adequate separation. Individual mounded systems are infeasible due to lack of space on properties and FEMA flood compensatory storage concerns. They are also notorious for poor nitrogen removal at seasonal properties.

## Frequently Asked Questions Continued

Why is a vote on the Supplemental Bond Resolution being obtained before a bid?

The CWF statutes require a resolution of authorization for the entire eligible portion of a project to issue preapproval for services and execute a Clean Water Fund Agreement for eligible project costs. DEEP will not issue a Notice to Award letter without assurance that the responsible party is able to repay the project costs.

What are the Clean Water Funds, and how do they impact the price of this project?

Clean Water Funds are funds administered through the DEEP for eligible pollution abatement studies and projects <sup>(1)</sup>. OLSBA's project is being funded through the Small Community Set Aside Program which provides 25% grant and 75% low interest loan for eligible project elements. This typical funding is being augmented through short term BIL funding for another 25% loan forgiveness due to the affordability coefficient of the project. Effectively, OLSBA will be responsible for 50% of the eligible project costs, with the remaining 50% funding as a loan repayable to the State of CT at 2.0% interest for 20 years.

<sup>1</sup>Storm drainage improvements to reduce flooding in OLSBA are ineligible for Clean Water Funds, though storm drains affected by the sewer installation are eligible.

## Frequently Asked Questions Continued

Will there be separate loans for the Clean Water Fund (CWF), the East Lyme loan, and the New London loan or will they be consolidated? The beaches have agreements for buy-ins with both East Lyme and New London to transport and receive our flows. These agreements specify a 20-year payback period at interest rates of 2% and 2.65%, respectively. The cost of these agreements as well as the CWF will be managed by the WPCA and billed through annual dues to membership.

Will the loan stay with the property if an OLS resident chooses to move? The lien is placed on the land records of the property until the benefit assessment payments are complete. This means the buyer of the property inherits the cost of the sewers, much like other utility costs.

Why can't connections be made with the Point O'Woods sewer system? The Point O' Woods force main and pump station wet well do not have adequate capacity to convey the flows from the Associations and Town of Old Lyme.

## Frequently Asked Questions Continued

What contingencies are built into the Fuss & O'Neill pricing? The F&O estimate of project costs accounts for a 17% cost escalation from 2021 to 2026, along with an additional 8% contingency applied on top of that escalation.

After the bids and final pricing are received, will the membership be able to vote before moving forward with the project? Receiving the bids will allow us to determine the actual contract cost of the project. We plan to go back to the membership for another approval vote before moving forward with awarding any contract for sewer project construction.

What is the legal status of the Bioxide Station and its easement? The Bioxide Station design and layout was approved as part of a Special Permit in 2020. The easement was already granted by our Association to the combined beach associations to enable the shared sewer project. It was recorded in May 2021, and is relied upon by all parties.

## Frequently Asked Questions Continued

What happens if the Supplemental Bond Resolution doesn't pass and/or Old Lyme Shores doesn't move forward with the sewer project? What are the penalties for not following the Consent Order? This is a question for counsel. DEEP has enforcement capabilities for responsible parties which do not meet Consent Order schedules. The February 14, 2018 Unified Consent Order included a completion date for implementation of the remedial actions by February 21, 2021. Typically, DEEP will consider a fine of \$1,000/day for noncompliance, but that amount may be escalated. In addition, the additional 25% loan forgiveness currently being offered to defray capital costs for affordability challenged projects is not guaranteed for OLSBA and is only currently committed until October 2026.

# CT Clean Water Fund Offers Significant Advantage

## Sewer Project Financing Comparison

	Project Cost (Sewers-only)	Cost to OLSBA	Total Cost per EDU	Estimated Annual Payment per EDU <sup>2</sup>	
Financed with CWF	\$13.6 million	\$7.3 million	\$70,256	\$2,794	Cost Estimates from Slides 5 & 8
If Self-Financed (15-yr @ 6%) <sup>1</sup>	\$13.6 million	\$13.6 million	\$70,256	\$7,664	Assumes OLSBA Self-Finances <sup>1</sup>
<b>Estimated Subsidy</b>		<b>\$6.3 million lower</b>		<b>\$4,870 less per year</b>	

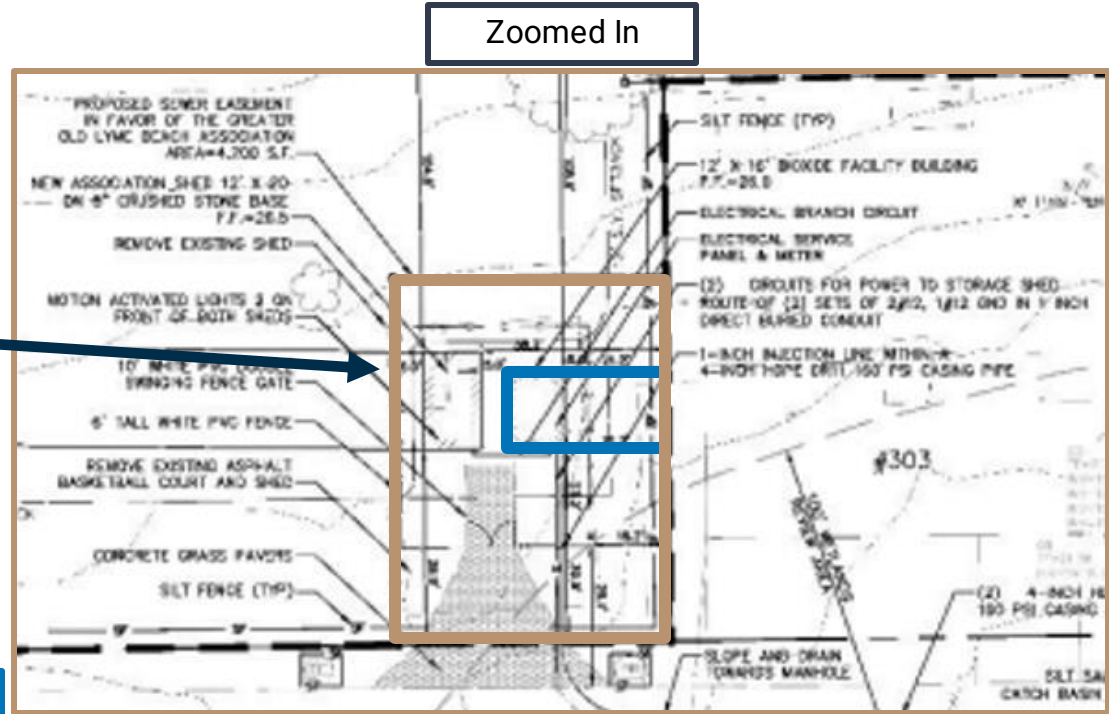
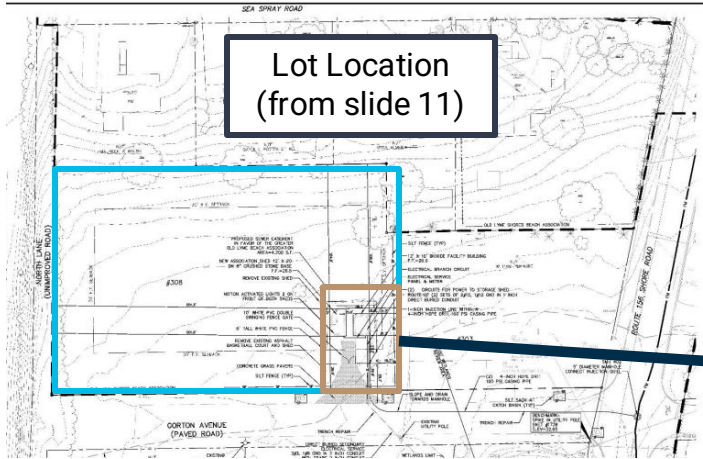
<sup>1</sup>Options for OLSBA financing to be determined. Maturity and interest rate are shown are estimates.

<sup>2</sup> Includes \$500 estimate for annual cost to operate system.

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# Detailed Bioxide Easement Plans



Lot Size: 164' x 112' or 18,368 sq ft

Easement Size: 75' x 69' or 5,175 sq ft

Bioxide Building: 12' x 16' or 192 sq ft

# Proposed Bioxide Station

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Before

After

**DRAFT**



**DRAFT**



# Supplemental Bond Resolution

RESOLUTION AUTHORIZING A SUPPLEMENTAL APPROPRIATION OF \$6,800,000 FOR THE PLANNING, ACQUISITION, DESIGN AND CONSTRUCTION OF A SANITARY SEWER SYSTEM TO SERVE THE OLD LYME SHORES BEACH ASSOCIATION AND AUTHORIZING THE ISSUANCE OF BONDS, NOTES OR OTHER OBLIGATIONS IN AN AMOUNT NOT TO EXCEED **\$6,800,000** TO FINANCE SAID APPROPRIATION.

## RESOLVED:

Section 1. That the Old Lyme Shores Beach Association in the Town of Old Lyme, Connecticut (the "Association") make a supplemental appropriation of \$6,800,000 for the planning, acquisition, design and construction of a sanitary sewer system to serve the Association including, but not limited to, connection fees for the conveyance of sewage to an existing regional sewerage facility and all costs associated with connecting to said regional sewerage facility, pump stations, acquisition of real property as may be required for the project, engineering, land surveying, geophysical studies, rights of way and easements, storm drainage improvements, road reconstruction, water distribution system improvements, and all other tasks related to the planning, acquisition, design and construction of said project, all to be completed in substantial accordance with plans and specifications as outlined in that certain study entitled "Wastewater Facilities Planning Report, Miami Beach Association, Old Lyme, CT," dated June 19, 2015, prepared by Fuss & O'Neill, Inc., as it may be amended from time to time, and for administrative, printing, legal and financing costs and other costs related thereto (collectively, the "Project"). The appropriation shall include any and all federal, state or other grants-in-aid, subsidies, loan forgiveness, or other funds received for the Project. The President and Treasurer may reduce or modify the scope of the Project, and the entire appropriation may be expended on the Project as so reduced or modified. This supplemental appropriation is in addition to the \$9,700,000 appropriation previously approved by voters of the Association on August 11, 2012.

Section 2. That the Association shall finance said supplemental appropriation by issuing its bonds, notes or other obligations in an amount not to exceed \$6,800,000 or so much thereof as the President and Treasurer may deem necessary after deducting any federal or state grants or subsidies, other grants-in-aid, principal loan forgiveness or other funds received for the Project. The bonds, notes or other obligations may, in whole or in part, be secured as to both principal and interest by (a) the full faith and credit of the Association, or (b) a pledge of revenues to be derived from the Project, including, without limitation, sewerage system sewer use charges, sewerage system connection charges and sewerage system benefit assessments, or any combination thereof, or (c) a pledge of revenues to be derived from the Project, including, without limitation, sewerage system sewer use charges, sewerage system connection charges and sewerage system benefit assessments, or any combination thereof, and also by the full faith and credit of the Association. The bonds, notes or other obligations shall be issued pursuant to the Connecticut General Statutes, as amended. The bonds, notes or other obligations may be sold as a single issue or consolidated with any other authorized issues of bonds, notes or other obligations of the Association. The bonds, notes or other obligations may be in the form of interim funding obligations, interim funding obligations in anticipation of project loan obligations, and project loan obligations issued to the State of Connecticut under the State of Connecticut's Clean Water Fund Program. The Treasurer shall keep a record of the bonds, notes and other obligations. The bonds,

notes and other obligations shall be signed in the name and on behalf of the Association by the President and Treasurer, shall bear the Association seal or a facsimile thereof, shall each recite that every requirement of law relating to its issue has been duly complied with and that such bond, note or other obligation is within every debt and other limit prescribed by law, and shall state that either (a) the full faith and credit of the Association, or (b) a pledge of revenues to be derived from the Project, including, without limitation, sewerage system sewer use charges, sewerage system connection charges and sewerage system benefit assessments, or any combination thereof, or (c) a pledge of revenues to be derived from the Project, including, without limitation, sewerage system sewer use charges, sewerage system connection charges and sewerage system benefit assessments, or any combination thereof, and also by the full faith and credit of the Association, are pledged to the payment of the principal thereof and interest thereon. The aggregate principal amount, the dated date, final maturity, rate or rates of interest, the date, time of issue and sale and all other terms, details and particulars of such bonds, notes or other obligations shall be as determined by the President and Treasurer. Said bonds, notes or other obligations shall be sold by the President and Treasurer at public sale, by negotiation or to the State of Connecticut under the Clean Water Fund Program, in their discretion. This supplemental bond authorization is in addition to the \$9,700,000 appropriation previously approved by voters of the Association on August 11, 2012.

# Supplemental Bond Resolution Continued

Section 3. That the President and Treasurer are authorized to issue temporary notes in anticipation of the receipt of the proceeds of said bonds, notes or other obligations, including, without limitation, issuing and renewing temporary notes in the form of interim funding obligations issued to the State of Connecticut under the State of Connecticut's Clean Water Fund Program. The temporary notes shall be signed by the President and Treasurer and shall bear the Association seal or a facsimile thereof. The temporary notes shall be issued with maturity dates in accordance with the Connecticut General Statutes, as amended, or the State of Connecticut's Clean Water Fund Program, as applicable. The temporary notes shall each recite that every requirement of law relating to its issue has been duly complied with, that such temporary note is within every debt and other limit prescribed by law, and that the temporary notes, in whole or in part, are secured as to both principal and interest by either (a) the full faith and credit of the Association, or (b) a pledge of revenues to be derived from the Project, including, without limitation, sewerage system sewer use charges, sewerage system connection charges and sewerage system benefit assessments, or any combination thereof, or (c) a pledge of revenues to be derived from the Project, including, without limitation, sewerage system sewer use charges, sewerage system connection charges and sewerage system benefit assessments, or any combination thereof, and also by the full faith and credit of the Association. The net interest cost on such temporary notes, including, without limitation, renewals thereof, and the expense of preparing, issuing, and marketing such temporary notes, to the extent paid from the proceeds from the issuance of bonds, notes, other obligations, or project loan obligations, shall be included as a cost of the supplemental appropriation.

Section 4. That the Association hereby declares its official intent under Treasury Regulation Section 1.150-2 of the Internal Revenue Code of 1986, as amended, that the Project costs may be paid from temporary advances of available Association funds and that the Association reasonably expects to reimburse any such advances from the proceeds of borrowings in an aggregate principal amount not in excess of the amount of borrowing authorized for the Project; that the President and Treasurer are authorized to bind the Association pursuant to such representations and agreements as they deem necessary or advisable in order to ensure and

maintain the continued exemption from federal income taxation of interest on the bonds, notes, temporary notes and other obligations authorized by this resolution, if issued on a tax-exempt basis, including, without limitation, covenants to pay rebates of investment earnings to the United States in future years; and that the President and Treasurer are authorized to make representations and agreements for the benefit of the holders of the bonds, notes, temporary notes and other obligations to provide secondary market disclosure information and to execute and deliver on behalf of the Association an agreement to provide such information with such terms and conditions as they, with the advice of bond counsel, deem necessary and appropriate, including, without limitation, bonds, notes, temporary notes and other obligations issued by the State of Connecticut under the State of Connecticut's Clean Water Fund Program.

Section 5. That the President is hereby authorized, empowered and directed in the name and on behalf of the Association to execute and deliver such other instruments, documents and agreements and to take such other and further action, as the President shall deem necessary, appropriate or desirable to carry out the purpose and intent of this resolution and to effectuate the transactions contemplated by this resolution, including, without limitation, contracting with vendors and others on behalf of the Association for the Project and approving construction expenditures for the Project.

Section 6. That the President is hereby authorized, empowered and directed in the name and on behalf of the Association to apply for and accept or reject any federal or state grants or subsidies, other grants-in-aid, loans and principal loan forgiveness and to execute and deliver to the State of Connecticut one or more project loan and project grant agreements, project loan and project grant and principal forgiveness agreements, and similar agreements with the State of Connecticut, and such other instruments, documents and agreements for and on behalf of the Association, and the President and other Association officials, employees and representatives acting at the direction of the President, are authorized to take all actions necessary and proper to obtain such grants, subsidies, grants-in-aid, loans and principal loan forgiveness and to take such other and further action, as the President shall deem necessary, appropriate or desirable to carry out the purpose and intent of the foregoing resolution, including, without limitation, to implement such project loan and project grant agreements, project loan and project grant and loan forgiveness agreements, and similar agreements with the State of Connecticut, to carry out the Project, to effectuate the transactions contemplated hereby, and to issue the bonds, notes, temporary notes and other obligations to finance the appropriation.

# CT DEEP Consent Order Excerpts (2018)



79 Elm Street • Hartford, CT 06106-5127

[www.ct.gov/deep](http://www.ct.gov/deep)

Affirmative Action/Equal Opportunity Employer

STATE OF CONNECTICUT :  
V. :  
THE OLD LYME SHORES BEACH ASSOCIATION, THE OLD COLONY BEACH CLUB :  
ASSOCIATION AND MIAMI BEACH ASSOCIATION :

## CONSENT ORDER

A. With the agreement of the Old Lyme Shores Beach Association ("OLSBA"), the Old Colony Beach Club Association ("OCBCA") and Miami Beach Association ("MBA"), the Commissioner of Energy and Environmental Protection ("The Commissioner") finds:

1. The Old Lyme Shores Beach Association ("OLSBA") is a specially chartered municipal corporation located in the Town of Old Lyme. OLSBA was established in 1947 by Special Act of the Legislature. OLSBA has the power to levy and collect real estate taxes. By virtue of these powers, OLSBA qualifies for the funding of a sanitary sewer construction project from the state of Connecticut's Clean Water Fund Program.
2. OLSBA submitted for the Commissioner's review a Wastewater Facilities Planning report dated January 2012 prepared by the consulting firm Fuss & O'Neill, Inc., and subsequently amended by the same firm in June 2012. This report identified numerous areas within the boundaries of OLSBA that could not support onsite wastewater treatment due to the overall density of development, lack of adequate space or adverse on-site subsurface conditions, such as shallow groundwater, bedrock, and rapidly draining soils. The report identified as the most technically and economically feasible alternative the conveyance of the wastewater to the City of New London via the towns of East Lyme and Waterford.

6. MBA submitted for the Commissioner's review a Wastewater Facilities Planning report dated December 13, 2013 and revised on April 1<sup>st</sup>, 2015 prepared by the consulting firm Fuss & O'Neill, Inc. This report identified numerous areas within the boundaries of MBA that could not support onsite wastewater treatment due to the overall density of development, lack of adequate space or adverse on-site subsurface conditions, such as shallow groundwater and rapidly draining soils. The April 1<sup>st</sup> 2015 report recommended as the most cost effective and technically feasible solution the construction of a regional wastewater system encompassing the installation of a gravity wastewater collection system within OLSBA, OCBCA and MBA; heretofore jointly referred to as the "the beach associations"; and the construction of a single shared pump station and force main pipe for the conveyance of the wastewater to the City of New London via the towns of East Lyme and Waterford.
7. By virtue paragraphs A.2., A.4., and A.6 above, a community pollution problem exists and the beach associations are causing pollution of waters of the state.
8. On October 23, 2017, the Commissioner approved the report referenced in A.6. above.
9. OLSBA, OCBCA and MBA have not implemented any structural solutions to address the wastewater disposal problems pursuant to paragraphs A.2., A.4., and A.6. above.
10. The recommendation included in the April 1<sup>st</sup>, 2015 report referenced in A.6. above supersedes previous recommendations pursuant to paragraphs A.2. and A.4., above. The April 1<sup>st</sup> 2015 report estimates a combined daily average sewage flow of up to 156,000 gallons to be discharged into East Lyme's wastewater conveyance system from the beach associations for final treatment and disposal at the Municipal Wastewater Treatment Plant in the City of New London.
11. The implementation of the remedial actions specified in the engineering report pursuant to paragraph A.6. above require the beach associations to procure capacity in the regional wastewater system serving the City of New London, the Town of Waterford and the Town of East Lyme; and design and construct a wastewater collection system within the boundaries of the beach associations and convey the wastewater through portions of the Town of Old Lyme to the regional wastewater system.
12. By virtue of the above, after giving due regard to regional factors, a community pollution problem exists and such pollution can best be abated by the action of the beach associations referenced in the paragraphs above.
13. By agreeing to the issuance of this consent order, OLSBA, OCBCA and MBA make no admission of fact or law except with respect to the matters addressed in the above paragraphs.

# Consent Order Excerpts Continued

B. With the agreement of the beach associations, the Commissioner, acting under Sections 22a-6, 22a-424, 22a-427, 22a-428 and 22a-458 of the Connecticut General Statutes orders OLSBA, OCBCA and MBA to undertake the following actions as follows:

1. Compliance schedule.

- a. The beach associations have retained Fuss & O'Neill, Inc., to prepare the documents, implement and oversee the actions required by this consent order. The beach associations shall retain one or more qualified consultant(s) acceptable to the Commissioner until this consent order is fully complied with, and, within ten days after retaining any consultant other than the one originally identified under this paragraph, the permittee shall notify the Commissioner in writing of the identity of such other consultant. The consultant(s) retained shall be a qualified professional engineer licensed to practice in Connecticut. The permittee shall submit to the Commissioner a description of a consultant's education, experience and training which is relevant to the work required by this consent order within ten days after a request for such a description. Nothing in this paragraph shall preclude the Commissioner from finding a previously acceptable consultant unacceptable.
- b. Unless another deadline is specified in writing by the Commissioner, on or before 547 calendar days after execution of this consent order by the beach associations and the Commissioner, the beach associations shall submit for the Commissioner's review and written approval, contract plans and specifications for the approved remedial actions identified in paragraph A.6., above. As part of the Commissioner's review and approval process of the plans and specifications, the beach associations shall provide the Commissioner with, 1) written legal confirmation that the wastewater capacity pursuant to paragraph A.11., above has been procured; 2) written confirmation that the application for all required permits and approvals have been submitted; 3) written legal confirmation that all required easements and/or right of ways necessary to construct the project pursuant to paragraph A.6., above have been secured; and 4) a project schedule listing anticipated bid and contract award dates; as well as a detailed schedule with tasks to be performed during the construction phase of the project pursuant to paragraph A.6., above.

- c. Unless another deadline is specified in writing by the Commissioner, the beach associations shall perform the approved remedial actions in accordance with the approved schedule(s), but in no event shall the approved remedial actions be completed later than 547 calendar days after the approval of the plans and specifications pursuant to paragraph B.1.b., above.
- d. The beach associations may request that the Commissioner approves in writing revisions to any document approved hereunder in order to make such document consistent with law or for any other appropriate reason.
- e. This Consent Order supersedes and administratively closes Consent Orders No. CO-WR-MU-12-001 and CO-WR-MU-12-002 issued on August 14, 2012 and October 1, 2012 to OCBCA and OLSBA, respectively.

7. Noncompliance. This consent order is a final order of the Commissioner with respect to the matters addressed herein, and is non-appealable and immediately enforceable. Failure to comply with this consent order may subject the beach associations to an injunction and penalties.

17. Joint and several liability. The beach associations shall be jointly and severally liable for compliance with this consent order.

# CWF Priority List – Old Lyme Funding

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<u>Reserve for Small Community Projects</u> <u>(25% grant/75% loan)</u>	FY24/25	\$76M
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This reserve allows for the funding of small community projects that will mitigate an existing documented community pollution problem. Small community projects include, but are not limited to, the following:

New Hartford, Pine Meadow sewer extension -	\$5M
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Marlborough Town Center/Lake Terramuggus Phase IV -	\$8M
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Old Lyme Project Areas:

Sound View Town Area -	\$10M
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Miami Beach Association, Old Colony Beach Association, and , Old Lyme Shores Beach Association Sewers -	\$54M
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# CWF Priority List – Old Lyme Funding

## Section 3b: Set-Asides and Reserves

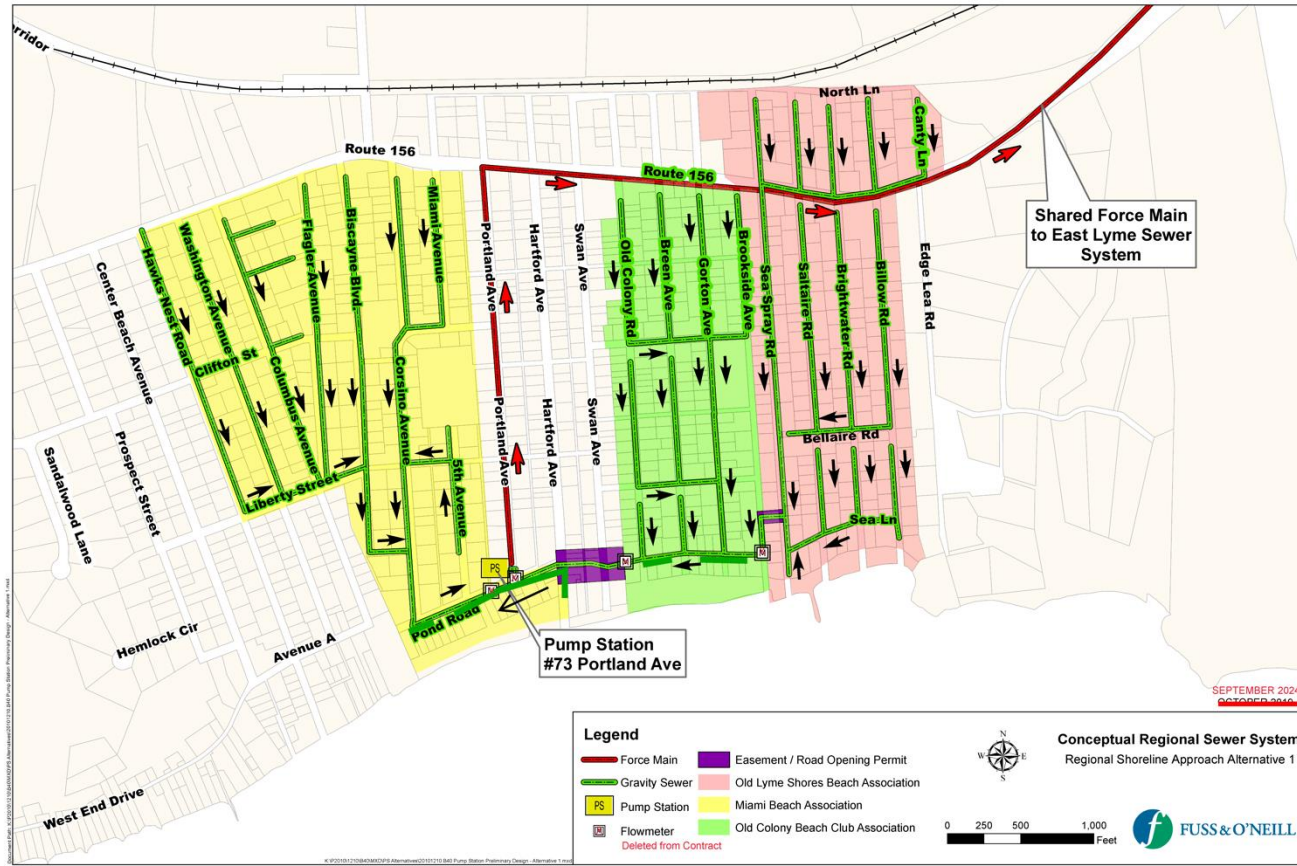
As previously noted, in developing the fundable portion of the Priority List and the intended use plan, the State has established a number of set-asides and reserves required or allowed under federal and state regulations. **These reserves are accessed on a first-come, first-served basis unless otherwise noted, and do not rely on a priority point score for allocation to qualifying municipalities. Projects seeking funding through Reserve categories must submit a complete Clean Water Fund application to be considered; projects will be funded on a first-come, first-served basis subject to the availability of funds.**

**TABLE 3 – FY24/25 Project Requests**

Town	Project Type	Description	I	IIA	IIB	3A1	3A2	3A3	3B1	3B2	3C1	3C2	3D1	3D2	IV	V	VIA	VIB	VIC	VID	VII	VIII	Priority Points	Public Project Cost (\$M)	
Old Colony Beach Club Association	Small Community	Old Lyme Beach Associations Shared Sewer Infrastructure Project		20											2	6								28	\$18.0
Old Colony Beach Club Association	Small Community	OCBCA Sewers and Other Infrastructure		20											2	6								28	\$9.0
Old Lyme	Small Community	Sound View and Misc. Town Area B		20											2	6								28	\$10.0
Old Lyme Shores Beach Association	Small Community	OLSBA Sewers and Other Infrastructure		20											2	6								28	\$11.0
Miami Beach Association	Small Community	MBA Collection System Sewers		20											2									22	\$16.0



# Full F&O Project Illustration



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**Thank you for your attention to this matter which is critical  
to the future of our Association**

**Q & A**

**Send your questions to [askthewpca@oldlymeshores.org](mailto:askthewpca@oldlymeshores.org)**

All numbers in these slides are ESTIMATES  
and subject to change depending on various  
factors