

**ORANGE COUNTY SEWER DISTRICT NO. 1 ADVISORY COMMITTEE
MINUTES**

**WEDNESDAY, FEBRUARY 5, 2020
1:30 P.M.**

PRESENT: Peter Tuohy, Chairman,
Michael Amo, Katie Bonelli,
Barry Cheney, Laurie Tautel, John Vero

ALSO

PRESENT: Antoinette Reed, Legislative Counsel
Harold Porr, Deputy County Executive
Langdon Chapman, County Attorney
Joseph Mahoney, Senior Assistant County Attorney
Erik Denega, Commissioner, Department of Public Works
Robert Gray, Deputy Commissioner, Department of Public Works/EF&S
Anthony Griffin, Principal Sanitary Engineer, Department of Public Works
Mary Beth Bianconi, Partner/Senior Project Manager, Delaware Engineering, D.P.C.
Frank Palermo, Supervisor, Town of Woodbury
Michael Queenan, Mayor, Village of Woodbury
Timothy Egan, Village Trustee, Village of Woodbury
Anthony Cardone, Supervisor, Town of Monroe
Stephen H. Welle, Mayor, Village of Harriman
Gedalye Szegedin, Administrator, Clerk, Village of Kiryas Joel/Town of Palm Tree

Mr. Tuohy called the meeting to order at 1:32 p.m. and asked everyone to stand for the Pledge of Allegiance to the Flag and requested a moment of silence for a county employee from the Department of Health, Tom Walter, who died in a tragic car accident that morning. All committee members were present.

Mr. Chapman recapped that they submitted an application to renew the SPDES permit in Harriman and the DEC imposed many limitations on them related to TDS and chlorides. They went before an administrative law judge, a DEC staff member, and they ruled against them. They filed an appeal and they received a determination from the NYSDEC Commissioner's office a few days ago and it was no surprise that the Commissioner supported his own staff's determination. Now they need to decide if they want to file an Article 78 against the Commissioner. Throughout this process, there has been positive discussions with the DEC trying to resolve challenges in establishing the TDS and chlorides limitation that they can all live with. They had meetings in New Paltz and at the staff level through Ms. Bianconi and with outside counsel they use on this litigation with the DEC. They are getting to a point where they will recommend a process to you which he would like to cover in an attorney/client session later. While they were waiting on the response of the SPDES permit, which is a response they expected, they have been diligently working with the DEC. When he and Commissioner Denega recommended the formation of this committee 14 or 15 months ago, they had capacity concerns. Since then they now have conveyancy concerns. The capacity of the pipe to get to the plant and the plant itself. The conveyancing has become almost more of an issue than the capacity issue at the Harriman WWTP, therefore they propose a local law. There are a few different ways to address both issues, conveyancy and capacity, which is a policy decision that the Legislature has to make. Going to the Hudson River seems to be the consensus or expand Harriman, treat at

Harriman and discharge to the Hudson River. Then they need to figure out how to handle financing the increase in capacity and how to handle the increase in the conveyancy process.

Mr. Tuohy asked what is the actual capacity and he commented that since some of the equipment is not working correctly, there are now issues with how much flow comes.

Mr. Denega explained that there is a certain amount of capacity at the plant. They think that about 400 MGD is tied up due to the bottlenecking so there is 400 MGD going to Harriman which should be going to the Kiryas Joel plant. They believe they have about 800 MGD left once they clear up the screener at Kiryas Joel. He noted that was for treatment capacity. They are in the process of gathering additional information to address the conveyance capacity in the pipes.

Mr. Griffin stated that they engaged a third party engineer to do a flow meter reading study and a search monitoring study of the two main trunk lines that come out of the Village of Kiryas Joel as well as the north interceptor that serves the entire Town of Palm Tree area. As they get closer to the Harriman WWTP the pipes are larger. They are looking at the flow contributions. The meters were installed two weeks ago and it is a twelve-week study. They see the surcharging mostly on the northeast interceptor to the point where it actually rises to the manhole rim elevation which they had bolted down so it does not overflow on to the ground. That occurs on Friday evenings in preparation for the Sabbath. The sewer system cannot handle that much water, so it builds up and surcharges. Repairs to the screener will allow the delivery of 440,000 gallons a day of deficit to go to the Kiryas Joel Sewage Treatment Plant not to the north interceptor or lower main interceptor and Harriman WWTP. Preliminary evaluations suggest that might not be the case because if the screener is put in and have high flow come from the pump station in Kiryas Joel, it will not alleviate the problem. They will need to have further things done to address that, reduction of flow or increase the size of the pipes.

Mr. Tuohy asked about automatic meters that was mentioned before.

Mr. Griffin stated that are looking at conservation measures to offset discharge to reduce the high volume coming into the pipe during a short period of time. This is part of the flow metering study they are doing over twelve weeks.

Mr. Cheney asked for an update on the repairs to the screener.

Mr. Griffin replied that the plans will be provided for review in February. It could be November this year or if it needs to publicly go out to bid, they could be looking at May 2021. Even with the screener installed, there will be additional improvements that might be necessary.

Ms. Tautel asked if the other meters have been installed yet.

Mr. Griffin stated that they were hung up and will be going out to bid soon.

Ms. Tautel stressed that she has heard for the last two years that it is being held up. It was approved several years ago, the money has been appropriated. She sees this as a failure and wants it rectified before they meet again.

Mr. Griffin explained that it did go out to bid but the prices came back with a dollar value much higher than they anticipated. It seemed like there was a lack of interest by the contractors. They modified the bid to get the numbers lower. The north interceptor that serves the

Town of Palm Tree needs the pipe replaced to a 30 inch pipe. The replacement of that pipe probably will not occur for another year or year and a half.

Mr. Tuohy asked when they expected the next round of bids to go out.

Mr. Gray responded it should go out in the next four to six weeks.

Mr. Chapman stated that if the Orange County Sewer District No. 1 Advisory Committee and the Legislature would like to spend more money, they can. The bid was put out to bid and the results were not good. More money can be appropriated but they are trying to do the most efficient job for the taxpayers. The staff here does not need to be lectured to because they work very diligently to get this bid out.

Ms. Tautel responded that she along with others have heard it is going out to bid, it was going to get done. She does not blame him particularly but somewhere in the channels of this government, they have failed to get this done in the appropriate amount of time. They need to look at it very carefully as to why it was not put out to bid several years ago when it was approved.

Mr. Tuohy commented that regardless what happened in the past, they have been moving forward over the past year. It is terrible that the bids did not go as smoothly as they hoped for, but they will be out within four to six weeks and get back on track. This has been going on for decades and at times they may go off rail and then they need to get back on track. Too long a time has passed, what happened, happened. He asked that he be notified when the bids go back out.

Mr. Tuohy asked where they were at with the screener.

Mr. Griffin stated that it was out of their hands since it was not their project, but it could be November this year or if it needs to publicly go out to bid, they could be looking at May 2021.

Ms. Bonelli asked when they would find out whether it would be November this year or May 2021.

Mr. Griffin responded that would up to the Village of Kiryas Joel, it is their project.

Mr. Szegedin commented that he was not sure but once he finds out he will share with the committee.

Ms. Bonelli asked if they could secure funding through environmental facilities or was there something under shared services and are they eligible for anything.

Ms. Bianconi stated that the county is eligible to apply for low cost financing, which is EFC through the state revolving fund. There is also a grant called the Clean Water Infrastructure Improvement Act which is for 25% of project costs up to \$5 million. There are other opportunities to be evaluated, Water Quality Improvement Program which is also through the state. Part of the criteria is they must have an engineering report that says this is the project they want to build and SEQRA is required. She noted that they reviewed these options last year and they still remain eligible for all of them, but a project needs to be decided upon and then apply for the financing.

Mr. Tuohy confirmed that when Ms. Bianconi says we are eligible for all does that mean longevity and to go to the Hudson River.

Ms. Bianconi responded that was correct.

Mr. Amo asked about Ms. Bonelli's comment on shared services. He mentioned that Commissioner Church advised him he was in the middle of putting together the county plan.

Mr. Denega did not hear any mention from Mr. Church about including sewer in the county plan.

Ms. Bonelli stated that they were presented eleven different projects so they have their work cut out for them and they need technical and legal support. Most of what they discussed they already heard a few months ago but nothing is being presented to them. There were some recommendations made in the reports.

Ms. Bianconi stated that what informs the decision making is the commissioner's decision that came out on Tuesday. It was a big unknown as to what that means and the Mr. Chapman mentioned there is a path that he wants to take that will be discussed in executive session, which will tie it all together.

Ms. Bonelli asked if there was tracking on the spending for Delaware Engineer.

Mr. Chapman replied that the invoices go to Public Works and they pay them.

Ms. Bonelli requested an update on how much money has been spent and Mr. Chapman replied he would get that information.

Mr. Chapman addressed the local law establishing a limited reservation of treatment capacity at the Harriman WWTP. They need to figure out how they are going to pay for the conveyance and capacity and upgrades that need to be done. There is major development in the Town of Palm Tree and there is a lack of conveyance capacity to get the waste from that development area into the WWTP. The question is, who is going to pay and how do you pay for the enlargement of the conveyance capacity. He believed that developers are hesitant to pay for that because of the reduced available capacity. They are worried they will spend millions of dollars for development improvements. He added that historically developers have paid for this type of improvement whether it is sewer or somewhere else. They developed the proposed local law stating if you make the capital investment in the facility, you are the one who will get the capacity before anyone else. It is a policy decision. You could make it a district wide charge instead of a developer charge. The buildings are rising but the sewer is not going to flow because there is no conveyance capacity. They tried to address the concern to provide the local law that would allow the payor get the benefit of what they are paying for.

Mr. Tuohy asked if here are any guarantees for developers.

Mr. Chapman pointed out that there is no guarantee. Mr. Mahoney wrote the law and it was put out publicly and they received comments from people. They were given suggested changes and input from developers. The local law states that if you pay for a pipe, no waste except yours will go through that pipe. If you are not going to use that pipe, you are not affected. If you repair the interceptor and the Town of Monroe or the Village of Harriman wanted to do a project and use that

interceptor, they can still go directly to Harriman and it would not affect the developer. The only guarantee in the local law is that no one else in Palm Tree is going to flow through the pipe you are paying for.

Mr. Cheney asked if a developer needs the conveyance capacity, wouldn't they need to do that before anyone can get conveyance capacity in there. He was not sure why the law was needed if the developer is going to control the situation.

Mr. Chapman explained that it is a phased development over five to seven years, the developer will spend \$5 to \$7 million and put the pipeline in. Since that project will not be complete for five to seven years, there can be a number of other projects that are complete in two to three years and will likely use the capacity at Harriman. The developer will have built a big enough conveyance mechanism for everyone to go through but the Harriman capacity will go away. There is the alternative of a district wide charge.

Mr. Cheney asked if the numbers are that close regarding the capacity at the plant.

Mr. Denega responded that the developer said 600,000 gallons.

Mr. Chapman explained that it has always been their position that the developer pays and that is how they always interpreted the local laws. There were multiple things going on at the same time. There is shrinking capacity at Harriman, there is massive growth going on, there is a delay to the access to the Kiryas Joel plant and the conveyance.

Mr. Cheney asked what D.E.C. approvals are needed to allow for a hook up to a sewer.

Mr. Griffin responded it is a main line extension approval.

Mr. Cheney pointed out that the local municipality needs to give approval for a subdivision.

Mr. Griffin stated that they need to get approved for a subdivision and for building permits and that is being done without having sewer approval.

Mr. Chapman stated that historically it was get your sewer permit and then issue the building permit but that does not appear to be the case here.

Mr. Cheney questioned if D.E.C. had a problem with that and Mr. Chapman responded that it was an Orange County policy and procedure that they always had in place.

Mr. Amo referred to Mr. Chapman's comments earlier which were how are we going to pay for the conveyance. He stated that capacity is clearly an issue for the sewer district. Conveyance is a new issue for them, not just on Nininger Road but what if they need conveyance in Woodbury Commons. We should not think of this as a one case fix, what is the policy and he does not hear it, that is why he is struggling.

Mr. Chapman explained that it was not what he is trying to accomplish, it is what the Legislature is trying to accomplish. He is providing options and ideas on how to accomplish it. Developers paid in the past. They have never been in this situation where they are facing reduced end capacity at Harriman and this is a big project that will cost a lot of money. This is a tight

situation so should you make it a district wide charge, or do you have the developer pay and take the risk, or do you have the developer pay it and have some kind of guarantee.

Ms. Tautel asked for more clarification on the local law.

Mr. Chapman explained that the way it is structured is if a project does not need any physical improvements then this local law does not affect you at all. The place they are talking about in particular cannot take anymore.

Ms. Tautel asked why they are trying to change policy sewer district wide for an issue that she sees as a developer's issue in a small section of the sewer district.

Mr. Chapman stated that the Legislature could tell the developers to figure it out amongst themselves and divide the cost and submit a proposal to the county.

Ms. Bonelli made a motion to go into executive session at 2:26 p.m., seconded by Mr. Cheney.

Mr. Cheney made a motion to leave executive session at 3:55 p.m., seconded by Ms. Bonelli.

On the motion of Ms. Tautel, seconded by Mr. Amo, the meeting adjourned at 3:55 p.m.