

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

**WEDNESDAY, FEBRUARY 25, 2020
1:30 P.M.**

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

ALSO

PRESENT: L. Stephen Brescia, Chairman
Antoinette Reed, Legislative Counsel
J. Daniel Bloomer, Director of Operations
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
Mary Beth Bianconi, Partner/Senior Project Manager, Delaware Engineering, D.P.C.
Frank Palermo, Supervisor, Town of Woodbury
Robert Jeroloman, Supervisor, Town of Blooming Grove
Timothy Egan, Mayor, Village of Woodbury
Stephen H. Welle, Mayor, Village of Harriman
Gedalye Szegedin, Administrator, Clerk, Village of Kiryas Joel/Town of Palm Tree
Michael Sternhouse, Esq., Attorney for Village of Kiryas Joel
Neil Dwyer, Mayor, Village of Monroe
Dorey Houle, Trustee, Village of Monroe

Mr. Tuohy called the meeting to order at 1:33 p.m. and asked everyone to stand for the Pledge of Allegiance to the Flag. All committee members were present with the exception of Legislator Vero who arrived at 1:52 p.m. and Legislator Cheney who was excused.

Mr. Tuohy recapped the last discussion of the committee regarding the consultant's options for adding 3 million gallons to the Harriman WWTP. They reviewed the different ways to do that so it would be fair and equitable for everyone and discussed the various ways to fund it.

Mr. Chapman stated that they circulated Notice of Intent for SEQRA regarding longevity improvements to a few municipalities that the county will be lead agency and they may wish to expand the SEQRA process to add the expansion of the plant by 3 million gallons a day (MGD).

Ms. Bianconi explained that there were three options to add 3 MGD to the Harriman facility. She stated that there were three different ways to increase the organic and hydraulic capacity at the Harriman WWTP. One option is integrated fixed-film activated sludge (IFAS). A second option is something called MLE process. She explained that the current train three process is an MLE process. A third option is a membrane bioreactor, an MBR facility. In doing a re-evaluation of the project that was done last year, they added a sequencing batch reactor (SBR) treatment process. There are four different ways they can increase the amount of water and the ability to treat it. Two evaluations of longevity were included in the plan. One was a longevity improvement in consideration of a future IFAS upgrade to make the plant larger by 3 MGD and the other was in consideration of an SBR upgrade. She handed out a timeline with costs (see original minutes). She pointed out that the SBR is the recommended alternative, it is the lowest capital cost and lowest operating costs. From what she understands from county staff there is a need for additional

capacity, soon, so since there is a need for capacity, it does not make sense to do a stand alone upgrade of longevity by itself. She reviewed cost calculations of longevity as stand alone project versus including it with the expansion. She reviewed the timeline handout and discussed the timeframe including SEQRA, design, permitting, bidding, construction and the start-up dates which is about three years out. To do the capacity expansion, it leads back to getting the variance for the 6 MGD existing permit. Then they need to make a decision about what the final facility plan is for 9 MGD expansion: IFA, SBR, etc.

Ms. Tautel recalled discussing the longevity improvements and how it could improve the capacity at the plant because of the efficiency upgrades and asked for clarification on her comment.

Ms. Bianconi stated that by improving efficiency at the plant and when tests are conducted, there will be a little less components in the water, which is normal due to the infiltration and inflow. The plant will not have a risk of violations, but it will not automatically become 1 MGD of additional capacity. The D.E.C. says they need to use standards because they do not want a plant designed dangerously, they want balance.

Ms. Bonelli stated that the schedule that has been laid out is relying on the variance from the D.E.C. which leads up to the question she asked a few months ago. They did not realize a variance was an option, but there is no guarantee. They are looking at a schedule and relying on something that might not happen. She asked what is the back up plan. This would be getting done just in time, perhaps just before they need to reapply again, and there is no guarantee of that.

Mr. Chapman commented that part of the five-year permit is an engineering study. You have up to two years to do the engineering study and often you cannot meet that time frame, so you push for the variance. Nothing they have seen so far indicates that the numbers are attainable. That is why they feel they are entitled, as a matter of law, to a variance.

Mr. Denega stated that the issuance of a variance was indicated verbally by the D.E.C. when they met in person, it was something they felt can be issued to them.

Ms. Bonelli pointed out that they have been dealing with this for a very long time. The first time they heard about a variance was within the last year. This is new to them and now they are starting to rely on that, but there is no guarantee, and that is only for a short period of time before they have to go back.

Mr. Denega stated that the other alternative is the Hudson River option. That is what they will continue to work on in parallel with the reverse osmosis.

Mr. Chapman noted that there are options out there but none that they see as viable than that.

Ms. Bonelli stated that the idea of going to the Hudson River is becoming an unrealistic option for them to pursue and that is why they are looking at this.

Mr. Chapman stated that he was not sure if it is not realistic, but if they want to go to the Hudson River, they need to prove their case.

Mr. Denega added that the timeline for the Hudson River is 7-8 years out and they are looking at what can be done quicker, while still looking at that other option. They will only get

3 MGD with this option so they should continue to look at the Hudson River.

Ms. Bianconi stated that the engineering report that they are looking at includes upgrading Harriman WWTP to 3 MGD, it includes going to the Hudson River and it includes diverting some flow to Goshen. The first thing is to apply for the variance with a six-month time limit on it so that you are aware of that now before you move any further. There is no guarantee that the permits will stay the same.

Mr. Tuohy asked if they could get the permit as soon as six months or do they have to do the study for two years and then go for the variance.

Mr. Chapman responded that they are going for the variance now.

Mr. Tuohy confirmed with Ms. Bonelli if she was okay with that and she responded that it was fine.

Ms. Bianconi asked if they recalled the discussion about going to the Hudson River and if they did, they would need to pick a location and do something called a cormix analysis which costs anywhere from \$70,000 to \$100,000 and it is very time consuming. They did not do it that way because if their number one option is to see if they can get a variance and expand Harriman WWTP, they should try that. When they get to the point that expansion is no longer working, the next step is option two which is to conduct the cormix analysis. She hears a lot of pressure from people asking where is the additional flow going to come from. As Mr. Chapman stated, they need to prove their case. There are multiple parties involved who may say they do not want the Hudson River they want to stay in the Ramapo River.

Ms. Bonelli noted that she was not objecting to what was being presented, she wants it known that this is an ever-evolving mission with a detour to get to their goal.

Mr. Amo stated that they talked with other municipalities and most of them are saying they see the growth and see the need for capacity. They should not sit and wait because it will slow it down, they need to move fast.

Ms. Bonelli stated that she did not say she wanted to wait on any of this, she wants to move forward. Mr. Chapman mentioned that they started to work on the variance and asked how long before they would get an answer.

Ms. Bianconi stated that when they send the state D.E.C. what they asked for, it can take several weeks for them to get back to them. She expects that it may go back and forth a bit as they may need additional boxes checked for example. Once everything is in place, it becomes a draft permit and it noticed to the public with a 30-day comment period, subject to SEQRA and eventually issued as a final permit. Their six-month timeline would be to get to where the draft permit is being prepared and being issued.

Mr. Amo noted that it was time to move forward and suggest they make a recommendation to the Physical Services Committee.

Mr. Tuohy liked the idea and he liked what was presented. He did want to hear more on the financing. He also wanted to hear input from the municipal leaders. Once they do that, he was happy to move forward for the next six months and see how it works out with the variance.

Ms. Bonelli asked for the procedure on how to move forward and vote.

Ms. Reed informed Ms. Bonelli and committee members that the County Attorney had prepared motions as to how to move forward.

Ms. Bonelli noted that they have a consensus on the longevity and the 3 MGD expansion at Harriman WWTP.

Mr. Chapman explained they can proceed by putting it all in one resolution as follows: a. endorse conceptionally increasing Harriman WWTP by 3 MGD; b. undertakes longevity improvements; c. classify as a Type I action; d. request Delaware Engineering to start drafting SEQRA documents to declare lead agency and they will start the circulation process. He explained that last November they started to circulate lead agency just for longevity improvements, but that was only to a few different entities. They did not circulate to the D.E.C. or the Federal Government because they did not need funding at the time, but now Ms. Bianconi was focusing on funding sources. They will broaden the scope of who they will circulate to and broaden what they are circulating because it will not be just longevity, it will also be to increase by 3 MGD. Once that is voted on, the next step will be to develop various financing mechanisms. How to finance the longevity and how to finance the 3 MGD.

Mr. Tuohy stated that the committee discussed a municipal work session.

Mayor Eagan thanked Legislators Bonelli, Amo and Tautel for meeting with him and one of his trustees a few weeks ago to discuss their specific issues. In the Village of Woodbury, they are experiencing one of the largest periods of growth they have had since Woodbury Commons came in 1985. They have six hotel projects and various residential project and many things are happening in Woodbury. Considering all the growth, the village have been reviewing their current capacity with their engineers to see what they are using and what they need for the projects. He stated that it looked like they were leaning towards expanding Harriman WWTP by 3 MGD and he was interested to see what Mayor Welle has to say about that. He asked how long that would last and if this will not be built until 2023 or 2024, at what point will they say they need another 3 MGD or another 6 MGD.

Mr. Tuohy stated that he spoke with Mayor Welle and Supervisor Cardone to see what kind of projected gallonage they would need. He stated that Mayor Eagan mentioned six hotel projects and asked what his engineers project their gallons per day would be.

Mayor Eagan stated they just received the report from the engineers a few days ago so they are going to go over that within the next week or two. In addition to the hotels, they have development by the train station and some of the projects will do their own sewage treatment plants. They know it will be very close in the village if they are not already there. They are considering what they will need to do legislatively at the local level to slow down or stop growth that accesses the capacity they have now. They are very close to capacity and they are very concerned. They will take their time with their analysis and make sure to evaluate everything. They need to make sure they have enough capacity for the future.

Ms. Bonelli addressed Mayor Eagan's comments and stated that the reason they are discussing the 3 MGD expansion is because that is all this particular area can hold. It is by no means addressing the growth that is happening all around to be able to service all the areas that are growing. They are still looking into the Hudson River, but they are not there yet. All the things he

stated is important, but at this moment, the 3 MGD is what they can focus on in order to move forward and give some relief.

Mayor Eagan added that when his engineers are able to provide data, he will share that information. He again asked how long will the 3 MGD last. He further added, he did not think they know the answer.

Mr. Tuohy explained that after the last meeting they are trying to get the figure from the municipalities as to what they are looking at. He received some figures so far but still waiting on a few more.

Mr. Tuohy asked Mayor Dwyer if the Village of Monroe was close to capacity.

Mayor Dwyer stated that he believed they are but they have pockets and can maybe see what capacity is needed. He did not know the number but he would like to know and asked if the committee and or Delaware Engineering has any feedback on that because they have different numbers that were given to them for the water side of the equation.

Mr. Tuohy said they will get back to him and see what all the needs will be.

Mr. Amo asked if they could set up a timetable for the future and what they see as average drivers of growth because that could be useful. It will change but it could help.

Ms. Bianconi stated that they do projections and they discussed a 200 room hotel with laundry or without, but it does not take into account infiltration and inflow (I and I) impacts on the ability to treat water. She added that the county does a very good job in reducing the I and I in the county sewer district. As a partnership, the solution is for everyone that is connected to the system to look at I and I.

Mayor Welle agreed with the longevity plan, however he was opposed to the expansion. They were still waiting for all the promises that were made before the last expansion, which the county referred to as an enhancement. Promises that were never kept. They do not want to pay for the expansion. Any new development, in any community served by a waste water treatment plant should be the one paying for the capacity. If the existing users pay for any additional capacity, it should be very minimal. It is not fair.

Mr. Tuohy stated it will be equitable and fair based on projections. He cannot speak for the past, we can only steer towards the future. He has known Mayor Welle for awhile and he knows that this has been his big concern.

Ms. Tautel recalled the County Executive office stating that they would not do anything at that plant without improving odors coming from the plant.

Mr. Denega noted that was included in the longevity plan.

Supervisor Palermo supported Mayor Welle's comments noting that they paid for an improvement and expansion and most of the representatives in the room paid for it already. Most of them do not have much expansion left because they do not have much land left. Regarding Mayor Eagan and the six hotels, the hotels can pay for their own sewage space. He recommended they look at who is building what and what is planned for the future and meet with those developers and

tell them this is what it will cost to build in this district. He stated that they are tired of paying for expansion that they do not need. He added that when the committee is looking at the budget to see how something like this would be financed, he would appreciate if they would reach out to the communities that are actually looking to build and let them know in advance. They did it when they had a moratorium when Woodbury had three projects, all three projects built their own plants. It can be done and Orange County should consider that to be an option.

Ms. Tautel agreed with the remarks made by Supervisor Palermo and Mayor Welle. If that can be legally be done, then they should do that.

Ms. Bonelli made the motion to endorse conceptionally increasing Harriman WWTP by 3 MGD and undertake longevity improvements and classify that work as a Type I action under SEQRA. Request Delaware Engineering in cooperation with Commissioner Denega and Mr. Grey to start drafting SEQRA documents to declare lead agency start the circulation process, seconded by Mr. Amo.

Motion carried. All in favor.

Ms. Bonelli made the motion to draft financial methodologies to accomplish conceptionally increasing Harriman WWTP by 3 MGD and undertake longevity improvements and classify that work as a Type I action under SEQRA. Request Delaware Engineering in cooperation with Commissioner Denega and Mr. Grey to start drafting SEQRA documents to declare lead agency and start the circulation process seconded by Ms. Tautel.

Mr. Grey provided an update on the bid for the meters stating that their low bid was roughly \$1.5 million and the estimate was \$500,000. There were only two bidders. In his experience, when a contractor realized there are very few bidders, the price will be change. They rescinded the bids and made some changes to re-bid it in order to get in as many bids as they can. His goal is to get a dozen bidders and to make the proposals easy to understand. He expected the new bid package that to go out within the next four weeks. The high bid was almost \$3 million. He will keep everyone informed on the bids.

Mr. Chapman addressed the local law establishing a limited reservation of treatment capacity at the Harriman WWTP. The large demand for capacity is coming from the Town of Palm Tree. The problem is getting the wastewater to Harriman due to the existing infrastructure. In the past, they usually have developers pay for the necessary infrastructure improvements. He feels that some developers are hesitant to put out that much money for the improvement. Mr. Mahoney developed a concept for reserved treatment capacity so if a developer wants to make necessary improvements to convey the wastewater to Harriman, they know they are not spending the money for no reason only to have somebody else leapfrog over it. They would like to move forward on the draft local law in hope that they can utilize this to build the necessary infrastructure to handle the increased capacity.

Mr. Tuohy asked if that was a guarantee to the developer and Mr. Chapman responded no is was not.

Mr. Chapman stated that they can never guarantee capacity. If they have all the wastewater flowing into Harriman, Monroe's wastewater will not flow through the pipe that is in question right now, Kiryas Joel's wastewater will flow through it. If developer "X" spends \$7 million, to keep from others getting the advantage of that developer's money to flow through that pipe, except for that developer. This gives a fair shot to the developer getting a return on their investment. This has been done in Saratoga County when they had massive economic growth.

Ms. Tautel reviewed the draft local law and clarified that this local law is not just giving them the right to the pipe first, it also reserves capacity at the sewer plant. She noted she was not comfortable with that, even though it was not a guaranteed.

Ms. Tautel was advised that was not accurate.

Ms. Tautel noted the conflicting information and continued to state that they should wait to see what all the capacity needs are for all those municipalities.

Mr. Tuohy explained that the other municipalities will not be affected by this unless they are using this pipe.

Ms. Bonelli understood Ms. Tautel's comment on conflicting information because this is a unique situation. She became more comfortable when Ms. Bianconi advised her that this was done in other counties. She asked how it affected other municipalities and Mr. Chapman had explained to her that it was anyone who uses the pipe. The relieves any fears from the other communities because it does not apply to them.

Ms. Reed stated that she did not get any direction from this committee or from members of the Legislature regarding changes or revisions. She does have some revisions and planned to speak with the County Attorney's office regarding those changes and noted that it was tightening up the language. She added that they can move forward, but she will work with them on the language changes.

Ms. Bonelli asked Mr. Chapman if Ms. Reed had the recently revised version of the local law.

Mr. Chapman was not aware but thought they already covered it in a committee meeting.

Mr. Chapman further stated that his request today was to conceptually endorse the local law subject to final consensus between himself and Ms. Reed or Mr. Mahoney and Ms. Reed.

Mr. Amo wanted to know if they are setting policy, is it the right policy and what if it turns out it was not a good one. He asked if they could put a sunset clause in the law

Ms. Reed stated they have done that in the past with real property tax exemptions and then referred to the Real Property Tax Director to determine if it worked or not.

Ms. Bonelli stated that it does offer a level of comfort to do so.

Ms. Tautel was not comfortable making motions without having anything in front of her, although she voted on the previous motion, this however is a local law. She did not think a local law should be voted on with changes pending, especially since Mr. Amo added another change to it. She suggested to change that the local law clearly states that this is not for capacity, it is solely for the pipe in question, not the capacity at the sewer plant and that it does not impact other communities, including the Moodna. They are setting a precedent, one that has never been set before because this is normally between the developer and the community, not the county. She would like to see, prior to moving forward, the precise local law rewritten with the changes and next month when they have the correct document, then they can vote and move forward.

Ms. Bonelli commented that the Orange County Sewer District No. 1 is not part of the Moodna communities.

Mr. Chapman stated that they are voting on conceptual support of the local law and the Legislative Attorney will work with the County Attorney.

Mr. Tuohy stated that they will add in the sunset clause, tighten up the language as Ms. Reed stated.

Mr. Chapman suggest the sunset clause be seven years from the date of the first reserve treatment capacity.

Ms. Bonelli made the motion to direct the attorneys to work together taking into consideration their comments to clean up the language and that the local law be brought back to the Orange County Sewer District No. 1 Committee for review, seconded by Mr. Amo.

Motion carried. All in favor.

On the motion of Ms. Tautel, seconded by Ms. Bonelli, the meeting adjourned at 3:09 p.m.