

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

**TUESDAY, JUNE 11, 2019  
2:15 P.M.**

PRESENT: Peter Tuohy, Chairman,  
Katie Bonelli, Barry Cheney, John Vero

ALSO

PRESENT: Antoinette Reed, Legislative Counsel  
Langdon Chapman, County Attorney  
Joseph Mahoney, Senior Assistant County Attorney  
Erik Denega, Commissioner, Department of Public Works  
Robert Gray, Deputy Commissioner, EF&S  
Anthony Griffin, Principal Sanitary Engineer, Department of Public Works  
Brock Juusola, Project Engineer, Delaware Engineering  
John Brust, Manager, Principal, Delaware Engineering, P.C.  
Frank Palermo, Supervisor, Town of Woodbury  
Anthony Cardone, Supervisor, Town of Monroe

Mr. Tuohy called the meeting to order at 2:19 p.m. and asked everyone to stand for the Pledge of Allegiance to the Flag. All committee members were present with the exception of Mr. Amo and Ms. Tautel who were absent.

Mr. Juusola provided an updated draft plan report on Harriman WWTP longevity improvements which defines the scope and the cost of the longevity.

Mr. Tuohy mentioned that he heard the Village of Goshen Sewer Plant instituted a moratorium.

Mr. Chapman responded that he believed they did. They have some technical issues going on, he did not think it was a capacity issue. They might have had a pipeline break, but he was not sure, it is just what he heard.

Mr. Tuohy questioned the impact on the rate payers and pointed out it did not list the Moodna communities.

Mr. Griffin stated that the sheet did not list the Moodna communities, it only listed the impact to the rate payers for the sewer district. He explained that they do not have the components to be able to calculate a number for the contract users. They would have to compute themselves. The way the debt service is computed for the sewer district rate payer is based on property values and level of assessment. They would assign the debt service maybe based on units or based on property tax evaluations. He was unsure because they have not gotten that far to do that kind of an assessment. They came up with the total amount of money that would be billed to them on an annual basis.

Mr. Tuohy asked if that was the \$834,185.00.

Mr. Griffin responded that was the total annual debt service, the sewer district would pay \$503,347.00 and the Moodna communities would pay the remaining balance. The \$834k is based on the percentage of flow.

Mr. Tuohy asked when we would figure out the totals for the other communities.

Mr. Griffin stated that they would need to discuss that with each Moodna community to determine how they would bill those amounts

Supervisor Palermo commented that it would be done as a sewer tax because there are people that are in the sewer district that live in Woodbury.

Mr. Tuohy wanted to know if there was a way to figure out what the amount is. If they want to move forward with the longevity improvements plans and they are unsure what direction to go for capacity, he would like to know what the full impact would be if everyone was included and if Chester and Blooming Grove went to Goshen Sewer Plant. Over the years, the entire group, the sewer district and the Moodna communities have contributed to the wear and tear on the plant.

Mr. Denega stated that if this is like what they did with Beaver Dam Lake, they would be required to do a breakout based on an average home. We would need to see what the Comptroller's Office requires since it is their job to make sure the tax payer is informed of what the impacts would be.

Mr. Griffin stated that it is a simple calculation, it would just take some coordination with the Moodna communities.

Mr. Cheney asked how does the Moodna communities pay and when.

Mr. Griffin explained that they get billed for operation and maintenance and it is paid directly to them from the municipalities twice a year, and then there is the sewer tax.

Mr. Chapman commented that in order to figure out the different costs, it would require them to renegotiate with the Moodna Community. They presently have an agreement in place and that would need to be changed to say basically instead of your waste going to the Harriman WWTP it will now go to Goshen if Goshen becomes an option. Some of the Moodna communities might be okay with that or some might say they want to be part of the whole and whatever tax or levy it is on the guy in the next town, they will pay the same rate. It could be cheaper to go to Goshen and they may want to pay the share of going to Goshen and not the longevity improvements associated with Harriman or the Hudson River if they decide. They would need to negotiate a major amendment to the Moodna contract.

Mr. Tuohy asked if they had any discussions with Goshen and are they ready, willing and able to do this.

Mr. Brust stated that four years ago they reached out to Goshen and they were willing to have the discussion. The mayor told them if it can benefit his tax rate and his rate payers and help alleviate user cost. They have a plant with extra capacity and their users must pay for that idle capacity. If more came in it would lower their existing user cost. There was an

initial discussion and they were positive and encouraging. Since then, they allocated some of their capacity to others, Legoland being one of them.

Mr. Cheney asked what the sewer district's obligation is to the Moodna communities and can a community split off.

Mr. Chapman stated that the Moodna community is not a district so yes, they can split off.

Mr. Cheney asked why is Goshen not looking for municipalities to serve.

Mr. Chapman was unsure. However, the difficulty of changing the agreement is complex. It is no secret that Moodna has claims against the county and the county has claims against Moodna. There are seven figure outstanding debt issues. When he was the attorney for the Towns of Monroe and Chester, they got together and could not agree how to change anything, and the meetings stopped. This has been going on for ten years.

Mr. Mahoney explained that the agreement specifies that Moodna communities go to Harriman WWTP. If it goes somewhere else there will be a major change to the agreement and a big change in obligations, there are obligations to the Hudson, obligations to Hudson and transport to Goshen and Harriman. How do we modify that and how will it be handled ultimately to make changes to the existing agreement.

Mr. Griffin stated that there needs to be an agreement as to how much capacity the sewer district wants, how much new capacity the Town of Chester might want or the Town of Monroe or Village of South Blooming Grove. They will be considered new. Leave what is old where it is at. Maintain the treatment plant at Harriman at 6 mgd (million gallons per day) and continue to allow the capacity assigned to that plant. Anything above and beyond your limit, if you need additional capacity, you could go to the Hudson River or Goshen plant.

Mr. Cheney stated that we would need an agreement of any expansion of the plant.

Mr. Chapman added that he was not sure if they needed to have a new agreement strictly for the expansion of the Harriman Plant. If they do start to expand where they are going to discharge waste, Goshen, the Hudson, in that case they would need to modify the agreement. There are three options, go to Goshen, which may not be viable anymore, go to the Hudson River or make Harriman bigger. To cut anyone off is not an option.

Ms. Bonelli stated the dialogue with Goshen is important. There needs to be some dialogue with Blooming Grove and Chester. In reviewing some of the draft reports, there will be substantial change, but no one has sat down with the municipalities. In order to sit down and have dialogue with them, we will need to provide them with strong financials. There is a risk going to Goshen, what protections do we have. When the previous discussions were held with Goshen years ago, it was a different administration that worked closely with the county. Not that it is not like that now, but it is different, things change. She was the Supervisor of Blooming Grove in 1992 and many of the discussions they are having now, she had back in 1992. She did not think that Goshen was a great idea for Chester and Blooming Grove. She has been hearing and discussing this for years and believed that they should really focus on going to the Hudson River.

Mr. Brust mentioned that within their internal discussions they come to that same conclusion.

Mr. Vero stated that he had conversations with the both the mayor and supervisor of Chester. They are not against going to Goshen but at the same time they are saying they already paid to get down to Harriman and been there a long time. In order to go to Goshen, they should not be expected to pay for the construction. The cost should be burdened upon some of the new coming in to get our capacity, whether it be Palm Tree or whoever else it may be. If Chester pulls out of one and goes to another, they do not expect to pay more for the luxury of going to Goshen at a cost, to give up their capacity for some other entity going into Harriman.

Mr. Brust mentioned that the cost to go somewhere else is balanced by the cost of expanding Harriman and the cost of expanding Harriman is a significant cost given the discharge limits that they will need to make to get into the receiving stream. It is all about facts, figures and numbers.

Mr. Vero stated that they are looking at potential litigation because the Town of Chester lost a lawsuit a few years ago, guaranteeing capacity to a new development that was coming in. The people of the new development did not care if they were going to Harriman or Goshen, they want that capacity. They were guaranteed that in the lawsuit settlement.

Mr. Chapman pointed out that was guaranteed by the Town of Chester, not the County of Orange.

Mr. Tuohy asked who they should talk to about going to the Hudson River, is it New Windsor.

Mr. Brust responded that they started discussions four years ago. The conversation was positive, but they need to put final numbers together. The conversation was about expanding an existing WWTP or taking this as an opportunity to build a new WWTP. This is part of their work going forward.

Mr. Cheney asked if they were to expand a plant that already exists on the Hudson River, does that mean it is owned by an existing municipality. Who would control the financial cost to the district if that plant was to be expanded.

Mr. Brust replied that will be part of their discussion.

Mr. Chapman suggested before they talk to New Windsor, it should be discussed in committee because this is a major policy discussion. The County of Orange is about to go talk to one of our towns about discharging, potentially, into the Hudson River. That would raise many policy ramifications that he would rather seek positive feedback from the committee before they went ahead with the discussion.

Mr. Tuohy asked if they believe this is the time to do this, looking forward thirty years, fifty years down the road, so in another ten years they are not up to twenty years and thirty years of not getting anything done.

Mr. Chapman explained that when they reach 85% threshold for a certain period, three out of six months, the county and the district need to take certain steps. They reached that point under the Neuhaus administration in February this year. That is when they came to the Legislature and said we need to form a committee and lay out a plan to do this. We are ahead of what we need to do as a result of the 85%. What the agreement says is once they hit the 85% threshold, three out of six months, they would hire somebody to start a facility plan. They hired somebody to do a facility plan four or five years ago and now they are ready because of hitting the threshold three out of six months. We need to do something for thirty years. He was a proponent of a thirty-year plan opposed to a five-year plan. The difference between four years ago and today is the reality of the Town of Palm Tree. There will be massive growth in the district.

Mr. Denega pointed out that something that has changed is the draft SPDES permit which imposes other limits on us.

Mr. Chapman added that four years ago when they first started to look at Goshen, they did not foresee the growth. Nobody can foresee the growth. This will raise a lot of eyebrows, the Riverkeeper and everyone will be wondering, what are you trying to do.

Mr. Brust commented that the Hudson River is a more elegant solution and it achieves the long-term answer. The capacity of the Hudson River is greater than the Ramapo River. You are not going to stop, nor should you stop economic development in the county. There are three options; Harriman gets bigger and discharges to the Ramapo, or Goshen which is less attractive now than it was five years ago, or it is the Hudson River.

Mr. Juusola stated that the more elegant solution takes time.

Mr. Brust mentioned the Consolidated Funding Application (CFA) cycle for this year is July 26<sup>th</sup>. If they want to proceed with the parallel track, then they should get an application submitted to try and get grant funding for the longevity improvements.

Ms. Reed asked if the D.E.C. offers any credit or a waiver since they reached capacity because we are in a flood season. So, would we subtract a percentage of storm water that goes into the plant.

Mr. Griffin responded that they do not, there is, however, recognition. The permit is for 6 million gallons a day for your average daily flow. That is what was assigned to us and if we exceed that then it would be a violation. We violate that almost annually, a few months out of the year. They want you to take care of the infiltration and inflow (I & I) water that is getting in there that should not be in there.

Ms. Reed stated that before the committee considers going to the Hudson River, what are the regulatory hurdles that need to be addressed and at what stage will we hit potential litigation. She requested the highlights of the hurdles and regulations for the next meeting.

Ms. Bonelli clarified that she was not opposed to the Hudson River and she was in favor of the parallel paths regarding the longevity, however, in order to gain support from the municipalities, they need to know what the long-range plans are, and we need a clear path.

Mr. Cheney mentioned the expansion of the Harriman Plant and considering the condition of the Ramapo River, there are limitations. Did we calculate any of that and can it be tied to growth projections so they can determine the most they can do at Harriman will get them seven years or twelve years. If they want a thirty-year plan, they need to find somewhere else to go.

Mr. Juusola stated that they calculated the impacts to bring Harriman to 9 mgd. They calculated the cost of 3 mgd capacity increase at Harriman. They have not determined the maximum capacity. Harriman becomes the waterbody so as the flow increases, the limits get ratcheted down. The treatment level that needs to be done at 6 mgd compared to the treatment at 9 mgd, is significant.

Mr. Griffin explained that once you get to 9 mgd, there is no dilution from the receiving body, we would need to meet the water quality standards.

Mr. Brust commented that the Ramapo River today looks like a wonderful receiving stream, but their permit must calculate drought periods and low flow periods.

Mr. Cheney clarified that they are not going to proceed with expanding Harriman another 3 million gallons without looking at the Hudson River as being an alternative to doing that.

Mr. Brust and Mr. Juusola confirmed he was correct.

Mr. Mahoney stated that is what the modified facility plan will include.

Mr. Griffin mentioned that a reduction that might happen is when the Town of Palm Tree uses the New York City water supply. That water will be very low in chloride and that should clean up the waterbody.

Ms. Bonelli asked if there was a consensus by the committee of ultimately going to the Hudson River, sooner than later. She stated that the other options were more like a bandaid. She asked if they should start dialogue with New Windsor.

Mr. Tuohy asked Ms. Reed if they decide to choose the Hudson River option, does the committee need to vote on.

Ms. Reed explained it would come out of the committee as a recommendation to bring it forward to the full Legislature and at this point it is a little premature. Once they get additional information and they are comfortable knowing all the obstacles are addressed and knowing there could be possible litigation, once the committee is pleased with the feedback, then they are ready to proceed.

Ms. Bonelli clarified that she was not suggesting they move forward right away and bring it to the Physical Services Committee, she was just addressing the immediate committee members present today since they are still reviewing the different options, it seems they are narrowing it down.

Mr. Tuohy stated that it was time to start up the discussions from four years ago.

Mr. Tuohy asked if the agreement with the Moodna communities has an expiration date.

Mr. Chapman responded that there was no expiration to the agreement.

Mr. Chapman suggested that members of Delaware Engineering, himself and whomever the Chairman sees fit, join and start discussions in New Windsor and meet with the Moodna supervisors to explain to them what is going on.

Ms. Reed pointed out that Mr. Minuta should be advised of the meeting with New Windsor.

Mr. Brust stated that they will come back in July as to any and all grants they can apply for.

Ms. Reed advised Mr. Denega to process a legislative request to apply for CFA grants and a SEQRA resolution at the June Physical Services committee meetings.

Ms. Bonelli made a motion to recommend to the Physical Services Committee and the Legislative Body a request to apply for any and all CFA and other associated grants for the longevity improvement at the Harriman WWTP and to commence the initial SEQRA process for this project, seconded by Mr. Cheney.

Motion carried. All in favor.

Mr. Juusola pointed out that they would like to have informal discussions with D.E.C. but requested the approval of the committee.

Mr. Tuohy confirmed it was a good idea.

Ms. Reed asked if a representative from the County Attorney's office would be involved during the conversations.

Mr. Chapman stated they would be available as they need to be, but he thought it would be more engineering than anything. He noted they would be sued regardless, and someone will be offended not matter which direction they take.

Ms. Reed suggested someone from the county be present for the discussions and Mr. Chapman assured her there would be someone present from Public Works.

Ms. Bonelli made a motion granting Delaware Engineering to start informal discussions with the D.E.C., seconded by Mr. Vero.

Motion carried. All in favor.

Mr. Tuohy asked if there was anymore follow up with the Environmental Protection Agency (EPA).

Mr. Chapman responded that they were ready, but the EPA was not.

Mr. Cardone asked what will happen in a year or two when the Town of Palm Tree is up and running with 1,700 units. Where will that flow go.

Mr. Chapman responded that they have enough capacity to handle that right now, their concern is they hit the 85% threshold. Right now, he believed they have the capacity for the 1,700 units, but whether they have capacity for 1,700 over here and 300 over there, etc., that was a different story. You are never guaranteed capacity until you make application, you cannot make application until you are fully built out and only when you are issued a certificate. Until then it is on the risk of development.

Mr. Tuohy asked that he is updated on the potential moratorium in Goshen and he was advised that he would be.

On the motion of Mr. Vero, seconded by Mr. Cheney, the meeting adjourned at 3:38 p.m.