

WESTCHESTER COUNTY BOARD OF LEGISLATORS

COMMITTEE ON ENVIRONMENT & ENERGY

MINUTES: March 19, 2007

MEMBERS: Chair: Abinanti; Legislators: Kaplowitz, LaMotte, Rogowsky, Maisano and Myers.

IN ATTENDANCE: **CEO:** S. Gerry, B. Randolph, A. Neuman **LAW:** M. Nicolas-Brewster, M. Gleeson, L. Pizer **DEP'T.:** Commissioner G. Mulligan, T. Corbitt, C. Anderson, (WCDP) **MUNICIPAL:** L. Roberts, Bedford Supervisor; L. Cooper, Yorktown Supervisor; S. Globerman, North Salem Supervisor; J. Faiella, New Castle Manager; M. Murphy, Somers Supervisor; M. Meyer (NYCDEP) **STATE:** W. Harding (NYSDOS, WPPC Exec. Director) **STAFF:** C. Crane, T. Bernard.
[List of other meeting attendees is on file.]

Meeting called to order at 3:25 pm.

Item(s) Discussed

- **E&E No. 69** – [East of Hudson Funds] Forwarding correspondence from the Northern Westchester Watershed Committee (NWWC) recommending allocation of \$50 million in East of Hudson Funds for the implementation of five water quality improvement projects.

Commissioner Mulligan provided an overview of the New York City watershed Memorandum of Agreement (MOA), including the East of Hudson (EOH) funds provision. The Committee reviewed the process for allocating funds with Commissioner Mulligan. NWWC vice chair, Linda Cooper, provided background on how NWWC determined the five recommended priority projects.

Representatives from towns in the NWWC commenced describing priority projects that have been proposed to receive EOH funds within their communities. Linda Cooper, Yorktown supervisor, and Jerry Faiella, New Castle manager, described projects within their respective towns. Discussion included project history, scope, costs, and existing obstacles to implementation. Michael Meyer commented on NYCDEP's procedures in approving variances and promulgating modifications to NYCDEP's watershed regulations.

At 4:15 pm, Chair Abinanti called a recess of the Committee. On behalf of Chair Abinanti, Leg. Kaplowitz reconvened the Committee at 4:45pm and chaired the meeting until Chair Abinanti rejoined the meeting. The Committee explored means of advancing the Board of Legislators' allocation of funds, similar to other projects handled through WCDP. The discussion of priority projects continued with descriptions by Lee Roberts, Bedford supervisor, NWWC chair; Sy Globerman, North Salem supervisor; and Mary

Beth Murphy, Somers supervisor (Descriptions of the five priority projects are provided in the attached list).

Discussion also considered potential methods to advance allocation of the EOH funds. The municipal officials expressed difficulty in moving the priority projects forward, describing a "Catch-22" scenario in obtaining the EOH funds. The officials noted their receipt of a correspondence from Deputy County Executive Schwartz which identified four pre-requisite criteria for projects to be eligible for consideration of EOH fund distribution by the Board of Legislators (BOL) [see Jan. 17, 2007 L. Schwartz correspondence to NWWC Chair Lee Roberts]. The officials collectively stated their belief that satisfying some of these criteria, e.g., securing project funding from sources, would not be possible without BOL commitment to allocate funds. As an example, Supervisor Globerman stated that a petition to create a district for the Peach Lake WWTP/sewer system required an identification of funding sources but, per the L. Schwartz letter, BOL would not commit to providing funding until project approvals had been obtained. Another example cited was difficulty in obtaining financial assistance from NYCDEP unless project funding is secured, such as from the EOH Funds.

Legislators discussed the possibility of an initial resolution emphasizing support for EOH fund allocation but also containing provisions requiring the satisfaction of subsequent criteria. This procedure was previously utilized in allocating \$3.75 Million from EOH funds for water quality improvement projects in each of the twelve NWWC municipalities. In that initial resolution, BOL allocated EOH funds subject to approval by the WCDP commissioner. WCDP could function as an appropriate 'proxy' for BOL because of the department's expertise and background with the projects. However, problems noted with applying this procedure presently include: (i) uncertainty if a project change occurs subsequent to an initial BOL resolution, (ii) a larger allocation quantity is now contemplated - \$50 million versus \$3.75 million, and (iii) interest in obtaining WCDP input prior to BOL resolution on funding projects. One means to address uncertainty and minimize risk could be to allocate EOH Funds sequentially, one project at a time.

Discussion concluded with Chair Abinanti noting that the discussion between the Committee and officials was helpful and timely for acquainting the Committee with the priority projects and reviewing the process for allocating EOH funds. On the motion of Legislator LaMotte, seconded by Legislator Myers, the meeting was adjourned (all in favor). Meeting adjourned at 5:45 pm.

Attachments: Jan. 17, 2007 L. Schwartz Correspondence to NWWC Chair Lee Roberts
Description of Five Priority Projects and Background



Andrew J. Spano
County Executive

Lawrence S. Schwartz
Deputy County Executive

January 17, 2007

Hon. Lee Roberts, Chair
Northern Westchester Watershed Committee
c/o Town of Bedford
Town Offices
425 Cherry Street
Bedford, New York 10507

**RE: Request for Allocation of East of Hudson/Water Quality Investment
Program Funds**

Dear Chair Roberts:

I am in receipt of your November 28, 2006 correspondence to the County Executive in which you forwarded a resolution approved by the Northern Westchester Watershed Committee ("NWWC") on November 14, 2006 seeking the allocation of \$50 million from the East of Hudson/Water Quality Investment Program Funds ("EOH Funds") to the following (5) projects:

- (1) Yorktown: Hallocks Mill Sewer District
- (2) New Castle/Bedford: Riverwoods & Random Farms WWTPs and the Stanwood & Yeshiva Focus Areas;
- (3) Bedford: Bedford Hills/Katonah Focus Areas;
- (4) Somers: Lake Shenarock Focus Area;
- (5) North Salem: Peach Lake Focus Area.

The County shares the NWWC's assessment that addressing the waste water conditions in the referenced project areas is critically important to the process of eliminating present and future threats to the integrity of the New York City drinking water supply, as well as to overall water quality in the County.

However, our collective experience in promoting prior proposed allocations of EOH Fund monies through the legislative process has demonstrated that the County Board of Legislators ("BOL"), as legal trustee of the EOH Fund, will apply a high degree of scrutiny in the evaluation of project components and viability before releasing those funds. The NWWC should anticipate that the BOL will continue to apply that same level of scrutiny to future EOH Fund allocation requests, and particularly in connection with the current request to release virtually the entire remaining balance of the EOH Fund.

Office of the County Executive

Michaelian Office Building
White Plains, New York 10601

Telephone: (914)995-2909 Fax (914)995-3372

E-mail: lss8@westchestergov.com

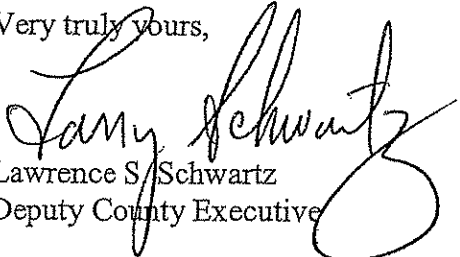
To that end, I can say with reasonable certainty that the BOL is not likely to approve an application for the release of EOH Funds for any project in the absence of a defined project scope which establishes the technical and legal viability of the project, as well as the imminent need for such EOH Fund funding. Specifically, the NWWC should expect that the BOL will seek confirmation of: (1) the project's precise technical and logistical components; (2) construction and/or implementation schedules; (3) accurate cost figures which establish that all funding streams necessary to undertake the project are either in place or sufficiently encumbered such that project completion can be assured, in conjunction with the requested EOH Fund allocation; and (4) the existence of governmental approvals which must necessarily precede the commencement of the project. Further, to the extent that those governmental approvals require BOL approval beyond the release of the EOH Funds, the request for those approvals would typically need to be outlined in detail and submitted to the BOL in conjunction with the request for the release of the EOH Fund monies associated with that project.

It is my understanding that the NWWC or, alternatively, its member communities have not yet provided County staff with a sufficient level of detail regarding the referenced projects to meet the standard outlined above. While the absence of this information would not preclude the BOL's consideration of the NWWC's current funding request, I would caution that, in all likelihood, it would preclude the BOL's approval of same.

To the extent that the NWWC wishes to make the most productive use of its opportunities to present EOH Fund applications to the BOL, my best advice would be for the NWWC to develop this comprehensive project information on a project-by-project basis, and submit same for review by the County's administrative staff. Once those materials are received and reviewed internally, I will be happy to convene a meeting with the NWWC to outline a process for the submission of an EOH Funding request those projects which appear ripe for consideration by the BOL.

If I can be of any further assistance to you in the meantime, please do not hesitate to give me a call.

Very truly yours,


Lawrence S. Schwartz
Deputy County Executive

cc: Hon. Andrew J. Spano, County Executive
Hon. William Ryan, Chair, Westchester County Board of Legislators
Northern Westchester Watershed Committee

Description of Five Priority Projects and Background

1. Yorktown

- Seeks allocation of EOH funds for new extension of sewer collection system to an area of approx. 1,000 homes. This un-sewered area was under moratorium for about 16-17 years. The area for these homes are on very small lots, with much rock, high water table, and little room to replace existing septic systems. Total cost for sewer extension is \$40 Million, and, with a \$10 Million allocation from EOH funds, remaining \$30 Million would come from assessment on homes and perhaps federal funding. Estimated annual cost is \$2,780 per household for 30 years, and goal is to bring annual cost down to \$2,000 per home with help of federal funding. Some homes in the proposed area of extension have paid taxes to the sewer district but are not connected because of the moratorium. Yorktown is presently trying to determine which homeowners will be involved on the project.
- Presently upgrading WWTP to add ammonia removal through rotating biological contactors (RBCs) and microfiltration (sand filters). WWTP retrofit is \$30 Million, and this expense has already been split between Yorktown residents and New York City. EOH Funds are not sought for this project.
- A variance from NYCDEP is required to modify the SPDES permit to accommodate the increased sewage volume from the sewer extension because this project is within the 60-day travel time requirement of NYCDEP watershed rules and regulations. Although installing the new sewer system could proceed, expansion of the WWTP is presently prohibited. NYSDEC has indicated their agreement for this modification. The variance was expected by Dec. 2006 but will likely be provided near Dec. 2007. A public hearing on the variance by NYCDEP could occur in Summer 2007. Presently, Yorktown is waiting for the variance to issue before submitting a request to BOL for a \$10 Million EOH Fund allocation. However, if BOL did allocate this money in advance of an issued variance, Yorktown could keep the money in escrow-type arrangement.

2. New Castle

- Sewerage projects for New Castle have been identified to BOL since 1986. The Savin Report identified 3 focus areas: Yeshiva, Stanwood (New Castle), and Stanwood (Bedford). The earlier consideration of sewage diversion had targeted Riverwoods and Random Farms projects. New Castle retained Rotfeld engineering for engineering design, which achieved 90% completion but was halted when sewage diversion no longer appeared possible.
- New Castle filed petition to BOL to add Yeshiva, Riverwoods, and Random Farms to the Saw Mill River Sanitary Sewer District in March 2006. Petition was re-filed in March 2007. Stanwoods in New Castle and Bedford was not initially included in this petition in order to conduct meetings and survey residents.

Description of Five Priority Projects and Background

- Proposed connection to Saw Mill River Sanitary Sewer District requires construction of trunk lines and lift stations. The proposal includes connection of 362 homes with sewage volume of 145,000 gallons/day to the County trunk line terminating at Route 100 and Chappaqua Road. Connecting Stanwoods New Castle and Bedford would add 123 homes which discharge 49,000 gallons/day. Total estimated addition is a little less than 200,000 gallons/day, which is less than 1% of volume treated at the Yonkers WWTP. Total cost for proposed sewer connection is \$16 Million, which does not include a force main system through Stanwoods (under evaluation, could be \$17 Million total). A document (report) describing the proposal is anticipated to be completed by end of Apr. 2007.

3. Bedford

- Bedford has retained Malcolm Pirnie to design a sewer collection system connecting to the WWTP servicing the Taconic and Bedford Hills Correctional Facilities. An expansion and upgrade of the Correctional Facility WWTP is also planned. Presently, the average flow at the Correctional Facility WWTP is 220,000 gallons/day, with a maximum allowable discharge of 500,000 gallons/day under the SPDES permit. The Correctional Facility WWTP discharges into a tributary leading to the Muscoot Reservoir, and the plant is operated by U.S. Filter.
- There are no existing sewers within Bedford; however, there are 4 on-site small WWTPs that serve institutions (e.g., schools), with a combined allowable discharge of 115,000 gallons/day. The NYCDEP watershed regulations requires upgrade to these 4 WWTPs. These WWTPs would be de-commissioned under the proposed sewer district and Correctional Facility WWTP expansion.
- Failing septic systems within Bedford have contaminated the drinking water wells that serve the town, causing closure of some wells (e.g., nitrates contamination). There are over 140 reported septic system failures, and, although unreported, many more are believed to exist. Many properties have cesspools that can not be remediated.
- The largest well ('Katonah') in the consolidated water district serving Bedford and Katonah shows signs of similar degradation. The town aquifer supplies 2,300 homes and businesses. Bedford plans to install a water filtration plant to remediate aquifer contamination, with an estimated cost of \$15-20 Million. Bedford also plans to obtain drinking water from a connection to the Delaware Aqueduct at Shaft 13.
- The Malcolm Pirnie sewer district design accommodates 1,520 individual properties, although some are not able to be developed (92 parcels are vacant). The sewage flow from these properties is estimated to be 460,000 gallons/day. Including the diverted wastewater from the four small decommissioned WWTPs yields about 550,000 gallons/day. Total flow at the modified Correctional Facility WWTP would be 1,050,000 gallons/day (500,000 gpd from existing SPDES permit plus 550,000 gpd). To conform with watershed regulations, the

Description of Five Priority Projects and Background

Correctional Facility WWTP would be upgraded to 2nd stage nitrification and include microfiltration. Raw costs for construction and related project costs for new collection system and Correctional Facility WWTP upgrade/expansion is now approx. \$45-50 Million. In addition to a \$10 Million EOH allocation, Bedford would seek low-cost loans to finance the project. Previous estimates of O&M costs were \$887,000 per year. Similar to Yorktown, the expansion of the Correctional Facility WWTP requires a variance issued by NYCDEP.

4. North Salem

- The proposed North Salem project is at Peach Lake, which lies between North Salem and Southeast in Putnam County. This type of project was previously recommended in the Savin report in 2000 (new WWTP and collection system). This study was supplemented in 2003 by a Steans & Wheler report, which was financed by a \$150,000 from EOH funds allocated to Putnam and Westchester Counties. The area is presently serviced only by septic systems. Upgrade of the septic systems to more modern or alternative design was not considered feasible because of high water table and shallow bedrock depth. Residents live on small lots, sized at 40 feet by 50 feet.
- A new WWTP would be sited in Southeast and would service existing communities that border Peach Lake within the two towns. Approximately 350 units in North Salem and 125 units in Southeast would be connected to the new WWTP. The estimated cost of Peach Lake project from North Salem is \$17 million. North Salem and Southeast have initiated a draft map-plan, which is not yet complete, but it has been submitted to Westchester Co. Dep't. of Planning. North Salem citizens must approve the project by petition, according to Town law, and the petition must identify funding sources. Application to the NYS Comptroller to create a new sewer district can not occur until certain that funding sources can be secured (and town petition passes). A BOL commitment to allocate EOH funds would assist in circulating a petition. A draft IMA between North Salem and Southeast is nearly finalized and will be presented for approval on April 10 at a North Salem Board meeting.
- The new WWTP would be outside the 60-day travel time criteria in the watershed regulations. A variance from NYCDEP is still required, for which NYCDEP has expressed support. The proposed project is designed to service only the existing community, with no accommodation for new growth. As such, the variance is seen as exercising a controlling function, since it would not permit additional sewage volume (e.g., new development).

5. Somers

- The proposed project is a sewer expansion in northwest Somers at the Shenorock community, a fairly well-defined lake community bordering Lake Shenorock and near the northern tip of Amawalk reservoir. It includes about 800

Description of Five Priority Projects and Background

homes on approx. quarter-acre lots. The number of affected streets was roughly estimated as 50-60. The community is currently serviced entirely by septic systems and was identified as a focus area in the Savin report.

- Drinking water for Shenorock is provided by water transmission main installed about five years ago. The proposed sewer expansion would have approximately the same boundaries as the recent water district. The new sewers would connect to an existing trunk line installed along Route 6, which leads to the Peekskill WWTP. The cost to furnish and install new sewers for Shenorock is \$25-30 Million. Sewage volume (gallons/day) information was not available. A NYCDEP variance is not needed for this project.
- The Route 6 trunk line was previously sized to receive additional sewage contribution. Also, sufficient flow (volume) is necessary to minimize solids settling and the formation of blockages in the trunk line. Other recently developed areas have tied into the Route 6 trunk line. It is believed that this trunk line has adequate capacity to accommodate Shenorock. However, other areas may also have reserved capacity on this trunk line, e.g., in Yorktown, Cortlandt, or Peekskill, and the Peekskill WWTP may be approaching its full capacity. Expansion of the Peekskill WWTP is uncertain.
- Similar to the study conducted at Peach Lake, a study to further evaluate the Shenorock proposal may be appropriate. This would require NWWC approval, and Supervisor Murphy would submit correspondence to make this request. Somers has had discussions with consultants (e.g., Rotfeld Engineering) on the proposal, but resources (\$) have not yet been substantially dedicated to studies. Because relevant data has already been developed during formation of the water district servicing the area, project development could proceed quickly if BOL provides allocation of EOH funds.
- While driving around the northern tip of the Amawalk Reservoir, Supervisor Murphy noticed that this portion of the reservoir, unlike other parts, was not frozen. This is believed to be caused by septic systems in Shenorock leaking into the Amawalk Reservoir, which is of critical concern because this reservoir is a drinking water source for Westchester County.