

Town of Olive
County of Ulster
State of New York
Monday, March 5, 2007

Minutes of a public hearing of the Town Board of the Town of Olive held Monday, March 5, 2007, 7:00 pm at the Town Meeting Hall in Shokan, NY. The purpose of the Public Hearing as stated in the legal notices was to hear all in favor of or those opposed to a proposed local sewer use law and establishment of a sewer use district.

Members Present: Berndt Leifeld, Supervisor
 Henry Rank, Council Member
 Helen Chase, Council Member
 Bruce La Monda, Council Member
 Linda Burkhardt, Council Member
Recording Secretary: Sylvia Rozzelle, Town Clerk

Others Present: William Cook, Assessor; Jimmy Fugel, Highway Superintendent; John Ingram, Zoning Officer; Drew Boggess, Planning Board Member; Alan Rosa, CWC Director; Kevin Young, CWC Attorney; Tim Cox, CWC Attorney and Town Justice; Gino Huggins, Project Engineer, Lamont Engineering and Henry Lamont, Lamont Engineering.

Supervisor Leifeld addressed the approximate 80 persons in attendance by stating there was to be a meeting tonight with Verizon; however, that meeting has been rescheduled for Thursday, March 8, 2007, 7:30 pm at the Town Meeting Hall. Supervisor Leifeld noted that legal notices were printed for two separate public hearings—one for a proposed sewer use law and one for establishing a sewer district. He noted the Town Board would like to open both public hearings simultaneously.

Kevin Young presented correspondence #21-07 which provided residents with a summary of the town's proposed sewer use law and district. He noted that Henry Lamont of Lamont Engineering will be available to go over the exact details of the collection system and plant. Mr. Young stated the proposed wastewater facility being presented in Boiceville goes back to the MOA (Memorandum of Agreement) with the City of New York. In 1997 the federal EPA made the City of New York strengthen their water quality regulations and regulate septic systems more stringently. At the same time the governor's office supported these requirements but also supported the City of New York paying for these programs. Mr. Young noted the first program was \$13.3 million to the CWC (Catskill Watershed Corporation) to replace individual septic systems with 22,000 systems being replaced in the West of the Hudson group. Filtration avoidance for the City of New York has to be applied for every five years. In densely populated areas a septic program wouldn't be effective due to the nature of the soil, high water table, and small lots; so, they convinced the City of New York to pay for sewage filtration plants. Initially the City funded \$75 million to 22 communities with Boiceville being number nine on the list of communities. There are 92 dwelling units and 29 businesses allotted over \$10 million amounting to \$80 thousand dollars per household. The CWC receives the money from the City of New York and hires the attorneys and engineers for the projects. He noted that Boiceville does not have the soil and land to have a community septic program; therefore, they opted for a wastewater treatment facility. To have such a facility a sewer use law is required and also a sewer district must be

formed. The City of New York does not want to spend money for development so a district is formed with the district owning the wastewater treatment plant and collection system. To form a sewer district the Town Board has to make a determination that the people within the boundaries of that district benefit from that district. There are two ways to approach this with either a permissive referendum or a mandatory referendum. Only the property owners within the district have a say in this matter.

Andrew Eberhardt (8 Brunel Drive) asked what the design capacity of the plant is with the 120 customers hooked up. Mr. Young responded that the 92 homes would generate 300 gallons per day or 27,600 gallons per day. To accept the school into the district it helps the district financially and they have a permit for 27,000 gallons per day. Add Bread Alone and the Boiceville Inn and commercial flow outside of this is about 5,000 gallons per day. Total gallons daily would be around 61,990 gallons daily. Households pay \$100 per year per household and the lowest a business will pay is \$250.00. He noted the median amount commercial would pay is \$330.00.

Henry Lamont presented a map of the proposed district noting it was a potential advantage to include the school as there is more money available for the upgrade program which will be included in this project. He noted this will also bring in more money for operations and maintenance cost.

He presented the preliminary site plan for the Trail Nursery site noting the plant will be similar to that of Prattsville consisting of a biological treatment system. He noted in order to flood proof the plant the area around the plant will be built up approximately 10 feet. He noted a study was done noting that the plant could raise the flooding about .2 of a foot. He noted the system is designed for 75,000 gallons per day. He noted the system has to be designed cautiously but should be designed for supporting growth.

Supervisor Leifeld stated he has been getting a lot of calls from people on Brunel Drive and asked if the facility would be large enough to handle that area when that day should come. Mr. Lamont responded, "most definitely". Mr. Lamont stated that only 3 out of the 22 systems on Brunel Drive had an issue relative to their system. He noted the district extension to the Bread Alone area was added at the request of the City. Mr. Young stated if Brunel Drive requests being hooked up then the Town Board has to approve this with the people in that district having the final say.

Joe Stein (16 Deerfield Road) stated he's having difficulty understanding why Brunel Drive is being excluded from this district stating that it's not bad now but it could be in the next 8 to 10 years. Mr. Lamont stated that the health department has approved these lots and they are grandfathered in for septic systems. He noted it is questionable if this area will ever petition the town to be part of the district as it is more economical to revise the systems on site.

Council Member La Monda stated he has always felt that the district was drawn to fit the money and since Phoenicia has turned their system down is there room to negotiate with the City of New York for more money to include this area. Mr. Young responded "no" stating the City pushes to squeeze the area not increase it. He noted the CWC pushes for a bigger area but the City doesn't want to support growth. Mr. Rosa stated these lines were actually negotiated by the health department during the MOA process. Mr. Rosa stated the City doesn't want to fund anything because they feel that their land acquisition program and land use regulations are sufficient.

Cindy Johansen (4084-4092 Route 28) stated the school is anticipating more students in Boiceville and questioned this impact on the system. Mr. Lamont noted the proposed system could still take on 20 to 30 thousand gallons per day extra which would equate to 50 houses. He stated the plant would be ample and he actually feels the system is above that.

Cindy Johansen asked doesn't this decrease our zoning and won't it be adding more houses. Mr. Lamont stated that at some point a decision would have to be made to not allow additional construction within the district.

Cindy Johansen asked wouldn't it be so much better for the school to build this plant and include us in it instead of the other way around. Mr. Young stated the money doesn't flow that way. It was noted the City of New York is to pay for upgrading the school system and it's to the town's advantage to have them in the district.

Cindy Johansen stated she has a log home across the street from the proposed plant site and questioned the aesthetics of how the building will look. She noted her log home is at 4 feet above ground level and she can't be any higher without being in violation of the town's zoning. She asked if there is an artist's rendering of what the facility will look like being 10 feet in the air. Kevin Young responded this will be done at some point in time.

Drew Boggess (Ralis Road, Shokan) asked if this was addressed in the Environmental Assessment Form. Mr. Young stated the Town Board approved the Environmental Impact Statement.

Walter DeBaun (4020 Route 28, Trail Motel) asked why is this being built in Boiceville when no other part of town has one. Mr. Young responded this is due to nature of the commercial development, size of lots, density and nature of the amount of commercial septic systems. Mr. DeBaun questioned why they can't build it above the commercial properties on City land. Mr. Young stated the City is not building it and the City doesn't allow it to be built on their land.

Cindy Johansen noted that 29 businesses are paying a much higher rate which can change after the first year and the residential fee can change after three years. She asked what the cost of hooking up is and what the cost of filling in the septic tank areas is. Mr. Lamont stated the system has to go out to bid to see if there is enough money to do the system and laterals and then the Town Board decides whether or not to do the project. Mr. Lamont noted that Whitney Point houses are paying \$700.00 per year. He stated that setting aside whether or not you want a system this is the best deal you can get.

Mr. Young stated that a restaurant in Hunter was closed for one year to do renovations and never turned off the water. The City has now come back and said you can't use that septic system. He noted any non-conforming, unregulated use or any stoppage in use makes it extremely difficult to sell your property or expand your business. He noted that is why it was insisted these programs be available for the hamlets.

Cindy Johansen asked what happens when the City no longer pays for this and upgrades are needed further stating that's a lot of funding to be raised by the district.

Mr. Young stated the operating budget is very generous for a plant of this size and we want to maintain this perfectly. He noted when a piece of equipment goes down and it's not a piece the City requires, then the district will have to pay for it. He stated that at some point they are hoping other funds will be available, but there are no guarantees.

Cindy Johansen asked what the cost estimate is for hooking up to the system. She noted she is on a slab with the pipes out the back so she would have to change the entire plumbing and dig up the entire yard. Mr. Lamont stated these funds would come out of the block grant noting the importance of properly managing the money to be sure there is enough money. Mr. Rosa stated they are hoping to pay for all the laterals which are the connection from the sewer pipe to your facility. Mrs. Johansen noted she would have to run pipes all the way around the building and asked who maintains these. Mr. Lamont noted for every bend in the pipes there would have to be a clean out further noting the property owner would be responsible for cleaning these out.

Rich Ostrander (23 Brunel Drive) asked if the residents of Brunel petitioned the town to join the district what would it cost them to hook up. Mr. Young stated they are not included in the district and the homeowners would have to pay for the entire hook up. Mr. Lamont stated it would cost approximately \$100.00 per foot for the main sewer line and Mr. Young stated there would be a \$3,000.00 per household hook up charge. Mr. Young noted that there would have to be a majority of the assessed property value and a majority of the properties in that area to petition the Town Board. Mr. Lamont stated that it would be between \$200,000.00 and \$300,000.00 to run the main lines.

Cindy Johansen stated that Section 306 of the sewer use law states there is an exemption process in Section 207 but it doesn't explain how to do that. Mr. Young stated to get a variance you must show you have an adequate septic system and a valid reason of why you don't want to be in the district. He noted they don't want a system with a lot of variances. Council Member La Monda added that if you opt out of the district then you would not be eligible for any funding through the septic program.

Paula Minew (4131 Route 28) stated her car wash is currently under a SPEDES permit and asked if she could leave her car wash as is and just hook up her septic. Mr. Young responded "yes".

Mrs. Margaret Stohr (52 Deerfield Road) asked if they opt out can they be assured they can reconstruct. Mr. Young responded that if they opt out then they are on their own.

Andrew Eberhardt stated the cost is capped at \$100.00 per household for 3 years and after that time who bears the cost of any upgrades. Mr. Young stated items that normally wear out are maintenance items and are part of what the City will pay for. Any major piece of maintenance would be a capital improvement and the district would pay.

Rich Ostrander asked since they are not within the district, would they qualify for septic upgrades. Mr. Rosa stated that if they are within 150 feet of a watercourse they would qualify for the septic upgrade program. Mr. Lamont noted that the CWC states 150 feet from a watercourse to be eligible for funding, the regulations say 100 feet.

Jill Hudler (46 Deerfield Road) asked when they start digging up their yards do they come back and replace shrubs and the yard. Mr. Young responded "yes". Mr. Lamont stated the contractor who does the work is required to do total restoration of lawns and

roadways. He noted preconstruction photos are taken to insure the land is restored to its original condition, if not better.

Ernie Gardner (4181 Route 28) asked what is the definition of a watercourse. Mr. Young stated anything with water in it except if only immediately after a rainfall.

Kenny Gierloff (64 Upper Boiceville Road) asked to know the depth at which they are coming into the house with the laterals and would they take the time and consideration to work with the property owner to go into basements to make it better for the owner. Mr. Lamont stated it depends on elevation as the main is deep enough to be gravity fed. He noted that there may be places where it is lower and they have to pump up but they will be looking at the lowest part of the home. Mr. Lamont stated they would fund up to within 5 feet from the foundation and the owner will take care of the rest.

Eric Matteson (88 Deerfield Road) stated they recently built a house within the past year on Deerfield Road and have a perfectly working system. He asked if it is mandatory that this tank be filled in since he might want to build something else. Mr. Young stated the only reason they address this in the law is because of the safety issue. He stated that if they are not going to fill that in, they would find a way to address that issue.

Kevin Scanlan (1 Croswell Manor) noted that last year Mr. Lamont stated they hoped to do up Bostock Road and now I see that you're not including Upper Boiceville Road. He stated he is in violation with gray water now with the City and is one of the few apartment buildings in Boiceville. He stated that Croswell Manor has the most apartment buildings in Boiceville with at least five. He stated his concern is that the City will shut them down. Mr. Young stated they do not have money to go down to Croswell Manor noting that the district area was defined much earlier.

Cindy Johansen asked why do town residents have to pay for this, why doesn't the City just pay for the whole thing and be done with it. Mr. Rosa stated the City doesn't have to and doesn't want to and that every place in the State of New York you are required to take care of your septic system. He noted the City was forced to give the CWC the money that they now have.

Kevin Scanlan asked if they have the number of people in Boiceville that are in violation. Mr. Lamont responded "yes", it is in the report.

Siobhan Scanlan (4076 Route 28) stated she is residential now but is in a commercial zone and asked what other money is she expected to pay other than the \$100.00 per each unit. Mr. Young stated the \$100.00 per unit until such time the use would change to commercial.

Ralph Leiter (53 Deerfield Road) asked where the line would be placed on Deerfield. Mr. Lamont stated there would be a lateral between the down side of Deerfield and the school and also on the upper side of Deerfield Road.

In response to a question regarding power outages, Mr. Lamont noted an emergency generator automatically comes on with a power failure.

Mr. Barden (183 Piney Point Road) asked what the life span of the facility is. Mr. Lamont stated it would last at least 30 years and in order to avoid future expenditures it

is extremely important to be meticulous in the upkeep and maintenance of this plant. It's cheaper to keep a facility up than to let it go. He noted the operational team should see that every pump replacement, gear, etc., be replaced immediately so the City will pay. He noted if it is let go to the point of having to replace the entire thing then it becomes a capital project and the City won't pay.

In response to knowing if there is a list of what the City will or will not pay for to replace, Mr. Lamont stated there is such a list but not in the materials we have now. That information will come later.

Joe Stein asked about the qualifications for the people who operate this plant. Mr. Young stated that the operations budget anticipates an operating firm to come in and oversee the plant. He noted it is mandatory and a requirement of New York State that staffing be certified and qualified noting they would be working only for the sewer district. It was noted the Town Board runs the sewer district and would sign a contract with the operator.

Council Member La Monda stated this is only for information but many years ago two men came to the Town Board, probably before the CWC was formed, one being from the NYS Department of Health and one from the NY City DEP. He stated they were talking about the City funding waste water treatment plants. Council Member La Monda stated that he personally said to them, what if we don't want one. He stated he remembers clearly the representative from the state saying that the town would have to build one anyway.

Judith Boggess (Ralis Road, Shokan) stated she is not a resident of Boiceville but is a resident of Olive and New York City sucks as a neighbor. She stated they have a total disrespect for the people, the lie, they don't keep their agreements, they close roads, they tie us up in frivolous lawsuits, they won't come to agreement on the reservoir assessment, and they sell us stories about terrorist attacks and then build a police station right in under the dam. She stated she doesn't know why anyone would believe that they would not try to back out of this agreement. She noted the City lies, has deep pockets and high priced lawyers and she's afraid they will come back and thumb their noses at us and the rest of us in town will have to absorb the costs. She stated Boiceville can't afford it and it will come back on the entire Town of Olive. Mr. Young stated if they renege on this agreement then their land acquisition permit ceases and their lawsuits would be done in Ulster County Supreme Court. Mr. Lamont noted that if they renege that would be illegal. Council Member La Monda stated that we have picked up more clout with the CWC and CWT being watchdog groups for us.

Judith Boggess asked what happens when the City builds filtration. Mr. Young stated they are still under contract and if they violate that contract then the town can sue them. Mrs. Boggess responded, "yes", but who's going to pay for that.

Cindy Johansen stated on the proposed cost list they have all businesses on her building listed so would there be one fee per business or per building. Mr. Lamont stated per building. She noted her metered flow is way under the prediction. Mr. Lamont stated they plan to install meters this spring on approximately 12 businesses. She asked if she pays less does that mean others pay more. Mr. Young stated there is approximately a \$2.00 per gallon subsidy, so the less commercial flow they have the lower the rates.

Kevin Scanlan asked for clarification on voters for the referendum. Mr. Young stated it's the property owners listed on the most recent assessment roll within the district.

Supervisor Leifeld stated if the people within the sewer district support the plant then the plant is at the mercy of New York City. If the plant gets voted down then each parcel within this area is at the mercy of the City noting that if any of these businesses want to expand then the City would possibly say you don't have the land to expand. However, with the plant this worry would be off the businesses back.

Supervisor Leifeld stated there is another special meeting on March 15th where CWC Director Alan Rosa has agreed to come to speak on this issue 7:30 pm at the Town Meeting Hall.

On a Leifeld/Chase motion the Town board adjourned the public hearings at 8:55pm.

Supervisor Leifeld opened the monthly audit meeting at 8:55 pm at which time the Town Board audited the bills for the month of February and discussed the agenda for the March 6th meeting.

On a Leifeld/La Monda motion the Town Board adjourned the audit meeting at 9:55 pm.

Sylvia Rozzelle, Town Clerk