

APPROVED MINUTES

SARATOGACOUNTYSEWER COMMISSION No. 1 MINUTES OF MARCH 4, 2021 3:00 PM at the Treatment Plant

COMMISSIONERS PRESENT: Howe, Bisnett, Cannon, Doyle, Fillion, Hotaling, Keegan, Loewenstein,

COMMISSIONERS EXCUSED: Thompson

ALSO PRESENT: Dan Rourke P.E., Executive Director; Anne Gorman, Confidential Secretary; Chief Operator, Gene Hutchings; William Bills, Maintenance Manager; Michael Naughton, Assistant County Attorney

Chairman Howe welcomed everyone to the March 4, 2021 Saratoga County Sewer Commission meeting.

PLEDGE OF ALLEGIANCE: Led by Commissioner Cannon

PUBLIC COMMENT: None

CHAIRMAN'S COMMENTS: Chairman Howe asked Executive Director Rourke and Chief Operator Hutchings if they would give the Commission a quick update on how the plant has been running. Executive Director Rourke stated the plant is running pretty well. He said we had some concerns with some of the different constituents that we treat such as Biological Oxygen Demand (BOD) and Total Suspended Solids (TSS) and we are trying to understand it. He explained the BOD is the demand on water to be able to sustain life, so if we have a high BOD going out to the river then all the oxygen in the river is going to get sucked up for the effluent as opposed to being there for fish and other types of organisms. Our goal is to treat BOD, we remove 85% of our BOD but sometimes we have issues meeting one of our permit limits. We are trying to figure out why because at the same time we nitrify, which means we get rid of ammonia. He said typically if you're getting rid of ammonia you should be getting rid of BOD at the same time but for whatever reason that seems to not want to happen. Chairman Howe asked if the extra ammonia we were receiving was a big issue with that process. Executive Director Rourke said potentially, typically the organisms that nitrify the ammonia aren't as hearty as the heterotrophs that treat your BOD and TSS; they are more susceptible to toxic loads, water conditions and temperature changes, but for whatever reason with our plant they do not seem as susceptible and that is one thing we are fighting right now. Other than that our effluent is clear, we have great clarity and we are disinfecting to permit with no problem. Executive Director Rourke asked Chief Operator Hutchings if he wanted to add anything.

Chief Operator Hutchings said that is pretty much it. He said the last couple of weeks we have been doing really well, process is sustained, effluent is good, our dewatered cake and belt pressing is good and our property odor is significantly less than what it used to be. He added we are making good strides in those areas; we pick something today and work on it then pick something tomorrow and work on that. We continue to chip away and right now we are doing pretty well.

Chairman Howe thanked Executive Director Rourke and Chief Operator Hutchings.

APPROVAL OF MINUTES of February 4, 2021. *Commissioner Doyle made a motion to approve the minutes of February 4, 2021. Commissioner Bisnett seconded the motion. No discussion. The minutes of February 4, 2021 were approved. 8 Ayes, 1 Absent, 0 Nays.*

2018 CAPITAL PROJECTS

Regional Biosolids Handling Facility – Executive Director Rourke gave a status update. He said we are still working through the increased costs related to our increased sludge loads because of our new project as well as the possibility of required aeration upgrades at the North Plant. A meeting is scheduled sometime in mid March with the consultant, Arcadis to get a better understanding of what those cost increases may be. He is hoping to have a meeting in late March with the Joint Regional Biosolids Board to go over the results and the projects path forward and he will be speaking to our representatives today after the meeting about that.

Ammonia Related WWTP Upgrades – Executive Director Rourke said with this he was looking for a motion to amend the contract with Barton & Loguidice (B&L). A letter was attached to the agenda packet explaining all of the effort that has been done to get us to where we are currently as well as what is going to be needed moving forward with the design of the facility. The letter states the increased effort required for all of the testing that was needed to define our ammonia-oxidizing bacteria (AOB) growth rate, and the subsequent designs that are going to be required to design the new plant based on all of the preliminary modeling and analysis. Executive Director Rourke said he requested that B&L add the inDense line under additional design services as that technology was intriguing and we wanted to make sure that was at least included in their fee. He added he thought the fee was fair as the construction services were anticipated to be between \$33M - \$34M. All of the work to date for the first task in the amount of \$124,500.00 was for the effort that was put in for the Nitrification Testing, Dynamic Modeling and Sludge Analysis he thought was fair as well. He said this helped us define our Ammonia oxidizing Bacteria (AOB) growth rate to help us choose a path forward between the two options we were looking at: (1) the pilot option we did here for a few months on site and (2) our Modified Ludzack-Ettinger (MLE) MLE option which is what we ended up going with. Executive Director Rourke said before entertaining a motion he wanted to go over the total contract amount.

Executive Director Rourke informed the Commission this motion would be to increase the contract by \$1,468,300.00, raising the total design fee to \$1,574,600.00 which would raise the total contract amount to \$2,027,800.00. He said there was some money in the original contract for design, approximately \$106,000.00 which was stated in the letter and there is some money included for bidding services, construction and inspection services as well that will be utilized in the future. The amendment does not include construction and inspection services currently; this is just for design services and we will still need a construction and administration number in the future based on that design to complete the work. Executive Director Rourke said he did have a certain amount budgeted for this amendment but not all of it; he budgeted \$500,000.00 in the 2021 budget and stated the rest will need to come from the fund balance. The fund balance after all re-appropriations is approximately \$16,678,794.00, so we would need to appropriate \$968,300.00 for this contract which would then lower our fund balance to \$15,710,494.00. Chairman Howe entertained a motion before beginning a discussion.

Commissioner Doyle said he is happy with our fund balance even if we took that money out but he did not have time to read the lengthy letter and asked if it was logical. Executive Director Rourke said he thought it was based on a couple of metrics it was compare to and a \$33M project you want to assume a 10-12% fee is in the range of \$3M to \$3.5M and it is also an accelerated design. Per our consent order we need 30% plans

and a basis of design report completed by April 30, 2021 which B&L has been working on in parallel with some of the other testing that has been performed. Executive Director Rourke said he thought it was fair.

Executive Director Rourke added the \$968,000.00 will get us a total design to go out to bid. It used to be we would do one resolution for the contract and one resolution for the budget amendment but we can now do it all under one motion now and that would be to approve the contract amendment for \$1,468,300.00 and amend the budget to ensure that project can be funded by appropriating \$968,300.00 from our unassigned fund balance to our capital projects for professional service account. Commissioner Hotaling inquired what the original contract amount was. Executive Director Rourke said the original contract for this around \$283,000.00 but that was originally only for mechanical replacement of our north side aeration system. What ended up happening was our industrial user changed how much ammonia was going to be discharged to us at that time which ended up causing us to have to go through analysis ammonia capacity reports and additional engineering reports for NYSDEC, as well as a consent order, a CORMIX model for Hudson River sampling which then led us to our schedule of compliance. Executive Director Rourke said during all this time we were also learning about all these inhibitive factors in our influent and trying to define the picture. He stated it has literally been a 3 year saga to get to this point.

Commissioner Hotaling expressed his concern for the lack of funding from the industrial user to date. Executive Director Rourke said chemical reimbursement has been negotiated for \$300,000.00, although it is not a large sum of money compared to what we are talking about here but it has been stated that Global Foundries is going to chip in but there are a lot of moving parts with that, including new leadership at the county level that may not necessarily be aware of our situation. Commissioner Hotaling said a megafab is going to be a huge undertaking for this entity and asked where that money would come from. Executive Director Rourke said he can only solve the problem he has in front of him today and the problem he has right now is an engineering analysis in order to treat projections we have in front of us currently with commercial growth, residential growth as well as industrial growth. He said we need to do this design and we need to spend this money. Commissioner Bisnett mentioned an article from Reuters regarding the company that owns Global Foundries and their factory in Germany and Singapore and raising a substantial investment to increase production this year and next year over 20% and the possibility of building a new plant which will increase more ammonia flows and he asked if that was being taken into consideration. Executive Director Rourke said our projections only go out to 2025. Commissioner Lowenstein said it wouldn't be up and running until after 2025, so by then those projections may be out of date. Executive Director Rourke said potentially, all he knows is he has a consent order from NYSDEC that says we have to upgrade our facility and meet pending ammonia limits. Commissioner Loewenstein said we have had that consent order for a number of years, with significant conversations when this was first brought to light and whether or not to hire this consultant. He said to be honest and blunt he was shocked that he was being asked to vote on a \$1.3M proposal and only seeing it for the first time today, and to move \$1M from the fund balance was concerning to him as a Commissioner. He asked Executive Director Rourke if he was confident the consultant could do the job and do it on time. Executive Director Rourke said yes and hopefully. Chairman Howe said this is what we have before us today. We have a motion and we have a second and he asked Confidential Secretary Gorman to call the roll.

Commissioner Cannon made a motion to forward a recommendation to the Board of Supervisors to authorize the chairman to execute a change order with Barton and Loguidice, D.P.C. in the amount of \$1,468,300.00 increasing the total design fee to \$1,574,600.00 and the total current contract amount to \$2,027,800.00 for the required upgrades for the Wastewater Treatment Plant to handle increased ammonia loading from residential and commercial growth as well as industrial discharges to ensure we meet our SPDES permit effluent limits. Commissioner Doyle seconded the motion. Discussion involved the proposal and amendment amount, the budget and fund balance amounts, worked completed to date and work required

to be completed per our consent order deadline wit NYSDEC. Motion passed: 4 Ayes, 1 Abstain, 3 Nays, 1 Absent.

Commissioner Doyle said his big concern was he really didn't understand enough about it and it's a gigantic increase. This is more money than we've had for a long time in our fund balance so for him it is not based on that money but it is a lot of money and at some point in time we need to enter into negotiations to get some of the residents' money back. He added it needs to be done, even if we didn't have Global Foundries. Executive Director Rourke agreed and said if he didn't do a good enough job explaining meeting after meeting that there was going to be a fee increase then he apologized for that. Commissioner Doyle said he didn't have time to read the proposal and needed a little more time and that was why he said no and was afraid to move ahead. Executive Rourke said sure and anytime he wanted to reach out to discuss to feel free to do so.

Commissioner Fillion asked what other alternative is there if we didn't do this. Executive Director Rourke said we would have to go out for a proposal from other engineering firms, give them all the information that this firm has already put together to understand, then get a price based on that information to do the hard design based on the information in all the reports. He said frankly we just don't have time for that.

Commissioner Keegan said it was mentioned that the County Administrator was new and not aware of this situation and asked if it would be wise to have him come down to the plant and explain the situation and what we are facing with Global Foundries. Executive Director Rourke said he has plans to do that and has reached out to the Acting Deputy, Jason Kemper to let him know he was going to generate an email so that he is aware of this situation as well as our joint project with Albany County as both are a little unique and offer up a meeting.

2019 CAPITAL PROJECTS

Knox Woods (HM) and Riverside #1 (ST) Pump Station Upgrades – Executive Director Rourke said the contractor is going to start construction this month. After discussions, the contractor was okay with the weather delay and not going to be searching for any additional charges from what he understood and the project is slated to be complete by early summer. Commissioner Hotaling inquired about the equipment schedule. Executive Director Rourke said all of the equipment is in and we are all set.

2020 CAPITAL PROJECTS

Environmental Benefit Project (EBP) – Executive Director Rourke said the contractor is awaiting warmer temperatures and hopefully next week looking to pull the large conductors. A current planned interconnection date is set for March 18, 2021. He said all the banks and ballasts are done and now it is just connecting wire to wire. Chairman Howe said please take a look to the south and check it out, it's pretty neat.

Storage Building/HVAC and Roof Replacement Design – Executive Director Rourke reported we received a bid price for the AHU-5. This was the unit that had failed and we were trying to replace on a little bit quicker schedule than the rest of that project. That bid price came in at \$96,980.00 and we are going to award to that vendor. It is an approximate 8 week lead time. He said we are also currently out for an install bid for that piece of equipment that is going to be opened on March 18, 2021.

Interceptor Relining Phase VIIB – Executive Director Rourke informed we are still working on the Office of the State Comptroller (OSC) application. He received review comments from our bond counsel and OSC is very particular about some of the items and definitions and he needs some assistance from the County Treasurer’s office as well as the Real Property Dept. to obtain that information so, he will be forwarding that information to those departments and hopes we can get that approved for submission next month. That will push the bid date out from early summer to September or October.

Riverside (Stillwater) I&I Reduction Design – Executive Director Rourke reported he received the schedule yesterday from the engineer. The hope is that design will be completed by July 1st so we can bid the project in July or August and then award in September of this year. He is hopeful construction can start this year. We have done some good CCTV work internally with our own equipment and shared that with the engineer so they can see the condition of the pipe and put those specifications together.

Saratoga Springs Pump Station and F.M. Evaluation and Design – Executive Director Rourke reported we are working on getting some of the forcemain structures cleaned out so we can get the engineer on site to look at access points, debris, and how much pipe is available to be able to tie their instruments into to get a physical reading on the pipe. In parallel the engineer is working on the station and pump upgrade itself as well.

2021 CAPITAL PROJECTS

LED Lighting Upgrade – Executive Director Rourke said the County Attorney’s office is finalizing the task order for execution. Once that gets executed we can continue to move forward with ordering equipment and scheduling that work.

Secondary Clarifier Gate and MCC Replacement – Executive Director Rourke informed there was a site walk a week ago with the engineer and that went very well. He said they looked at all of the secondaries and understood the testing they are going to be doing. He informed that one of the sub contractors will be on vacation in March, so we are planning on performing a lot of the testing in April which works out better with the warmer weather.

MISCELLANEOUS

Adirondack Lab SPDES Sampling/Analysis – Executive Director Rourke said this item was discussed last month and he thought he had authorization to approve the change order because it was less than 10% but apparently that is only for public works projects. He said this isn’t necessarily a public works project so we need a motion to approve an increase to the 2020 contract for Adirondack Environmental in the amount of \$3,558.00 for the extra sampling that was performed for chemical oxygen demand (COD) and carbonaceous biological oxygen demand (CBOD) testing that was done in 2020. Chairman Howe entertained a motion.

Commissioner Loewenstein made a motion to forward a recommendation to the Board of Supervisors to authorize an amendment to the agreement with Adirondack Environmental Services, Inc. in the amount of \$3,558.00 for work performed in 2020, increasing the total 2020 contract to a not to exceed amount of \$78,058.00. Commissioner Doyle seconded the motion. No discussion. Motion passed: 8 Ayes, 1 Absent, 0 Nays.

Infrastructure Capacity Resolution – Executive Director Rourke said there was an Infrastructure Capacity Resolution attached to the agenda packet that he thought wise to entertain. He stated when a developer

submits plans to connect to an existing infrastructure they need to submit permits, plans, and an engineering report explaining the flows that will be connected to our existing system. SCSD takes all that information along with our existing information and determines if we have a capacity issue in our system, which is a NYSDEC requirement. SCSD provides NYSDEC with a reserve capacity letter and they depend on us for that effort. Executive Director Rourke said he wanted to memorialize what our policies are in a resolution through this Commission. The resolution states if an owner or developer reaches 85% capacity of a gravity pipe, SCSD is going to require they upgrade that pipe. If they reach 90% of a pump station or force main capacity, SCSD is going to require them to upgrade that force main or pump station. He said that was his thought process behind that, we have been operating this way and he wanted to memorialize that. Chairman Howe asked if there has been a resolution for capacity before. Executive Director Rourke said not that he could find.

Chairman Howe entertained a motion for discussion.

Commissioner Loewenstein moved the following Resolution SD 2-2021 to memorialize certain criteria for approving new project connections to existing Sewer District infrastructure, seconded by Commissioner Doyle:

RESOLUTION NO. SD 2-2021

WHEREAS, Saratoga County Sewer District #1(SCSD) reviews and approves connection of new projects to existing infrastructure, and

WHEREAS, the NYSDEC requires that SCSD understands available capacity, engineering standards and relies upon SCSD's reserve capacity process to ensure compliance with said standards, and

WHEREAS, from time to time a property owner applies to connect to a portion of the SCSD's sewer system that is reaching capacity and that infrastructure must be upgraded, and

WHEREAS, there are multiple projects submitted to SCSD at the same time, and long lead times are associated with the design and installation of upgraded infrastructure by the applicant connecting, now therefore be it

RESOLVED, that a property owner that requests approval of a project that generates a flow greater than 85% of the total capacity of a gravity system or 90% of a pump station or forcemain, as determined by SCSD approved engineering calculations OR actual flows measured as required by SCSD, shall be responsible for all costs associated with the design and installation of the infrastructure required to increase the capacity, and be it further

RESOLVED, SCSD and this Commission reserves all rights and authority to make the sole determination if the existing infrastructure is at the 85% or 90% capacity as described based upon the information submitted by the property owner at the time connection is requested. Discussion

Commissioner Loewenstein asked if the Sewer District always memorialized its policies based on resolutions or is this something special. Executive Director Rourke said when there's interaction between potential public entities and private entities such as development or reserve capacity, those have been memorialized via resolution like our Rules and Regulations which explain dedications, permits and connections to our system. He said he felt this more fell under that umbrella rather than a letter stating SCSD will respond back

within 30 days. He added this is more concrete for a lack of better terms of percentages, calculations, and flow studies and a developer having to spend their own funds to then dedicate to the Sewer District based on some of the items he just mentioned. Commissioner Loewenstein asked if this has been an unwritten rule and inquired if we had any projects on the horizon where we know this is going to be a problem and do we need this memorialized to stand behind that. Executive Director Rourke said there is some pushback but he thought it wise because we have been doing it for so long. He wanted to get the Commission's input and approval for such a policy knowing that developers are tax payers as well and to make sure that everyone is on the same page.

Chairman Howe asked Attorney Naughton if he found this to be in order. Attorney Naughton said his experience at the state level was typically when you establish standards or criteria they should be published. State authority is enacted in the form of a statute that provides a general directive, and then an administrative body or agency adopts rules and regulations as an interpretation of that law, and the adoption of rules and regulations allow the public to become aware of new standards and criteria. There are sometimes deviations from that typical process with the adoption of certain guidance documents that guide staff and the public on what the criteria and standards are, but Attorney Naughton said he is not as familiar with Sewer Commission resolutions and whether or not they carry the same weight as regulations. He understood the comment and said it is geared toward providing notice to those that could be affected by the formal establishment of standards and criteria, and whether the resolution should be published to provide notice to the community so that they are aware of the standards and criteria prior to embarking on any type of project. He said he is not familiar enough with that process yet and would like to look into it to be able to give a more qualified answer.

Chairman Howe said he didn't think holding off one month would be a problem. Chairman Howe said how about we come back with some points of discussion next month and entertain a motion then. Executive Director Rourke agreed and said this was more for discussion purposes. Chairman Howe offered to amend the initial motion and table it until next month.

Commissioner Loewenstein made a motion to amend the initial motion and table the motion for Resolution SD 2-2021 to memorialize certain criteria for approving new project connections to existing Sewer District infrastructure until council can verify proper policy, standards and regulations and bring it back for further discussion next month. Commissioner Doyle seconded the motion. No discussion. The Motion was tabled: 8 Ayes, 1 Absent, 0 Nays.

Commissioner Loewenstein said he had a question related to the Sewer District's total capital projects and the advent of the proposal for the \$34M project with professional, construction and inspection fee included to be approximately \$37M to \$40M, and asked if that was baked into our overall capital plan and fee. Executive Director Rourke said yes it was and he thought that number was \$39M now. Commissioner Loewenstein said okay and thank you.

EXECUTIVE SESSION

On a motion by Commissioner Cannon and seconded by Commissioner Bisnett, the Commission moved to go into Executive Session with legal counsel and staff present at 3:39 p.m. in accordance with the Open Meetings Law (Public Officers Law § 105(1)(2) for a discussion with Counsel regarding pending litigation regarding the 2008 plant expansion project. Motion passed: 8 Ayes, 1 Absent, 0 Nays.

On a motion by Commissioner Cannon and seconded by Commissioner Doyle, the Commission moved to go out of Executive Session at 3:59 p.m. in accordance with the Open Meetings Law (Public Officers Law § 105(1)(2)). Motion passed: 8 Ayes, 1 Absent, 0 Nays.

ATTORNEY REPORT – No Report

DEDICATIONS – None

Chairman Howe said he thinks the last piece of business we have is the letter regarding Heritage Springs. Executive Director Rourke said yes, there were actually 2 more items he did not get on the agenda and he apologized for that.

First Executive Director Rourke said if you recall last meeting there was the motion to send a letter to the Town of Milton regarding Heritage Springs and our intent to take it over if everything was done properly and there was no debt on the system. The letter was attached to the agenda packet for the Commissioners. He said he believes they may be having their rate hearing today on Heritage Springs so we may hear something about that soon. Chairman Howe said he heard the supervisor cancelled that meeting with no future date posted at this time.

Lastly, Executive Director Rourke said if the Commission recalled Supervisor Richardson from the City of Mechanicville asked us to look at a reimbursement program above and beyond what we already did with the scale of charges modifications that were done at the end of last year. Chairman Howe said this was particularly for restaurants, correct? Executive Director Rourke said it was initially thought that it would be for all small businesses that were affected by Covid for this program. He said we were going to try to set aside \$325,000.00 for other businesses; however, some research was done by Attorney Naughton and the Office of the State Comptroller (OSC) for reasons that he understands much better, it's not necessarily a legal proceeding to be able to do this reimbursement program, so basically it is off the table. Chairman Howe asked if anyone explained that to Supervisor Richardson. Executive Director said he did and he understood and thanked the Sewer Commission and Attorney Naughton for their effort.

Executive Director Rourke said Supervisor Richardson asked if there was anything else we could do. The OSC comptroller was okay with what we did with the scale of charges as that was well within the authority purview of this Commission and the Board of Supervisors but that was a onetime thing. The only other thing he could think of was possibly waive late fees for new constructions homes, businesses and plazas. He explained the Sewer District bills those entities prior to going on the county tax roll and if they don't pay their bill we assess a 1% late fee. He said this Commission could possibly waive those late fees for 2021. Executive Director Rourke said Attorney Naughton looked into that to see if we have the authority to do that. Attorney Naughton said he didn't find anything that specifically stated the Sewer District could or could not do that. County Law §266 states the Sewer District can establish penalties by rule and regulation with a 1% penalty for late fees but there is nothing that talks about circumstances where you can waive the fee. He said a similar provision appears in real property tax law when people do not pay their real estate taxes, the county can waive penalties and interest specifically in statute. However, he did not find anything similar and said that doesn't necessarily mean we can't waive the 1% penalty. Executive Director Rourke added or possibly amend the 1% to 0% through the remainder of 2021.

Commissioner Cannon asked if that decision would be made by this Commission. Executive Director Rourke said yes and that was why he was bringing it up for discussion now to see if there was any interest for it. If so, we will research more into County Law §266 and talk with Supervisor Richardson to see if it can stay down at the Commission level or if it needs to go to the Board of Supervisors. Commissioner Keegan asked if there has been any feedback from the restaurants on the rates. Executive Director Rourke said there were a couple of positive news articles about it and Supervisor Richardson talked with some of the Mechanicville restaurant owners and they were very happy. Commissioner Bisnett asked how much an individual would save on 1% and if it was worth the effort. He said he didn't want to not help people but asked how much are we talking about on an individual basis. Executive Director Rourke said 1% of what is a fair question. For example 1% of a single family home is 1% of \$300.00, 1% of a new apartment complex is 1% of \$3,000.00 and 1% of a new plaza with 75-100 units could be 1% of \$8,000.00 which doesn't happen very often. He reiterated this would just be for new construction, not existing construction already on the property tax bill as that would involve other entities that may not have an appetite for it. Commissioner Keegan said he can't see why the Sewer District has to take the hit if nobody else is doing it. Commissioner Cannon asked how much the Sewer District made in penalties and Executive Director Rourke said he would be surprised if it was any more than \$2,500.00 in the last year. Commissioner Bisnett said it is not really worth the administrative effort. Chairman Howe said if we can't do anymore more with it then we will move on. Executive Director Rourke said he will let Supervisor Richardson know.

Chairman Howe said in the beginning of the meeting he asked Executive Director Rourke and Chief Operator Hutchings how the plant was running. He said he wanted to take this opportunity to ask Maintenance Manager, William Bills how things were going on the collection side and out in the field. Maintenance Manager Bills said everything is going well. Chairman Howe thanked him and entertained a motion to adjourn the meeting.

A motion to adjourn the meeting was made by Commissioner Hotaling and seconded by Commissioner Cannon. The motion passed unanimously.

**Next meeting April 8, 2021
3:00 P.M. at the Treatment Plant**