

Ontario County
ENVIRONMENTAL QUALITY COMMITTEE MINUTES
July 23, 2014

Committee Members: *BAKER*, Angelo, Evangelista, Sheppard, Singer, and Venuti

Attendees:

Committee Members: Supervisor Baker, Supervisor Evangelista, Supervisor Sheppard, Supervisor Singer, Supervisor Venuti

Necessarily Absent: Supervisor Angelo

Staff: Tom Harvey, John Garvey, Darlys McDonough, Kristen Thorsness, Reliefia Kramer, Supervisor Helming, Supervisor Lightfoote, and Supervisor Vedora.

Consultants/Guests: Jerry Leone - Casella Waste Management, Dave Shaw (Finger Lakes Times), John Addyman (Canandaigua Daily Messenger)

Chair Baker called the meeting to order at 4:00 p.m.

Privilege of the Floor: Chair Baker offered Privilege of Floor for those present. Supervisor Venuti requested to speak regarding closure costs. He asks staff to see if they can find any information on post closure costs that other landfill operators have experienced. He understands that the lease with Casella requires Casella to fund post closure costs for a period of time. He is concerned that we understand what costs the County may be responsible for after Casella's obligations have ended. Mr. Harvey offered to bring information on the post closure financial requirements Casella has to fulfill to the next committee meeting, and the department will start to work to see what experiences other owners of closed landfills have had.

Approval of Minutes: July 2, 2014

A Motion to accept and approve the July 2, 2014 minutes as presented was made by Supervisor Singer, seconded by Supervisor Sheppard. Motion unanimously carried.

Chair Baker took a moment to thank Supervisor Sheppard for chairing the last EQC meeting.

Update on the Proposed EPA Rulemaking – Federal Wetland Regulation & Waters of the United States: Mr. Harvey told the committee that he would send them a copy of the memo he prepared for the Planning & Research Committee that summarizes the major issues related to the proposed federal rule making. Now that the comment period has been extended until October 20, 2014, some nationwide and state wide organizations such as the Farm Bureau and the National Association of State Highway and Traffic Engineers are beginning to put out analyses and position papers on the subject which were used in pulling together the memo. He would like to see a consensus on some of the positions in order to develop comments to return to the EPA.

Vice Chair Sheppard explained that there is an option for a resolution in support of Congressman Chris Collins who has spoken at the floor in opposition of the proposed rule-making of the EPA. Vice Chair

Sheppard played a short video of Congressman Chris Collins. Vice Chair Sheppard stated that he would like a simple resolution in support of Senator Collins' position with a consensus of local entities i.e. WRC SLAP 5, with specific comments.

Chair Baker invited Supervisor Lightfoote to speak to the committee. Supervisor Lightfoote told the EQC about his frustration when he went to the meeting in Syracuse to listen to representatives from the EPA. Supervisor Lightfoote felt that while the EPA representatives said they were listening, they weren't hearing us and in many cases gave conflicting answers to the questions they were asked. Supervisor Lightfoote agrees with Supervisor Sheppard that a simple resolution in support of Senator Collins position should be done.

Mr. Harvey reviewed some of the major points from the memo to the Planning & Research Committee. While the current 2008 EPA guidance on what is meant by the phrase 'Waters of the United States' mirrors the limitations imposed by the courts. The current proposal seeks to extend the jurisdiction of the federal government. There is no question that the federal government has jurisdiction over navigable waters in and surrounding the United States. The 2008 guidance extends that jurisdiction to tributaries of navigable waters that are permanent or substantially permanent in flow (meaning they have flow all or most of the year). The current rulemaking proposal would remove the word permanent, so the concern is that any ditch or seasonably wet area that flows eventually into a navigable water would now be considered 'waters of the United States' and subject to federal jurisdiction and regulation. There is no requirement for permanency of flow. In his opinion, one of the most problematic features is the way jurisdiction is extended to neighboring waters, which are ones that are not directly linked to navigable waters. The rulemaking proposes a nexus test, one of the main criteria of which is location in a federal eco-region as determined by EPA. The memo includes a map of such eco-regions, and all of Ontario County is in a federally identified ecoregion. Thus, even periodically wet areas that don't drain to a navigable water or other waters of the United States can be found to be of similar character because they are in an eco-region, and thus be considered waters of the United States subject to federal regulation. There are many exemptions for agriculture and road maintenance, such as the exemption for ditches that are roadside or agricultural as long as they are upland ditches and not improvements to existing streams or swales. The definition for determining what is a pre-existing stream or swale is either lacking or vague. Finally, in Mr. Harvey's opinion this federal rulemaking is written as a one size fits all and does not recognize the varying environments across the county. It is written from the perspective of a state without abundant fresh water resources where every small puddle is significant and is not fair to a state like New York where there are wetlands and streams all over supported by abundant annual precipitation. It puts a tremendous regulatory burden on New York state and puts us in a competitive disadvantage..

Supervisor Sheppard brought up the importance of the impact of federal regulation on the agricultural community in this county and that the farm bureau is adamantly opposed to this rulemaking.

Mr. Emerick told the committee that one of the concerns that the SWCD has is that there are a lot of open ended questions and unanswered scenarios. He agrees with Supervisor Lightfoote that EPA was not able to give any clear answers at the meeting in Syracuse. He is concerned this rule could create unintended consequences for the agriculture producers and also the municipalities, landowners, and the districts. Nobody really knows what impact this will have.

Mr. Emerick also represents a lot of counties in central New York as a Conservation District Employees Division II representative. He has served on the board for six years. At the EPA Syracuse meeting there were only four of his counterparts there from across the state and he questioned why the meeting wasn't publicized more? He plans to continue working with Supervisors, Planning, and the NACD (National Association Conservation Districts) as well as the NYACD. The NACD and the NYACD are very much opposed to this rulemaking. Mr. Emerick will work with NYACD to formulate some constructive, helpful comments.

Chair Baker commented that anything coming from this committee going on to the Board should be more than we are just opposed to this. He asked that comments from supervisors and outside agencies be given to Mr. Harvey.

Chair Baker invited Supervisor Helming to address the committee. Supervisor Helming supports that the proposed law be withdrawn. She does not think that we need to say that we agree with Senator Collins. We can voice the opinion of withdrawal ourselves and do not tie it to Chris Collins. Supervisor Helming would like to include in the resolution asking for clarity with definitions, clarity with exemptions, examples of exemptions, and ask that layman terms be used.

Chair Baker thanked everyone for the comments and asked that any future information or comments be directed to Tom Harvey.

360 Expansion Permit: Jerry Leone, Casella Waste Management stated that they are in the last processes regarding the noise easements and they have all been executed. Mr. Leone said that the DEC had found some language in some of the easements they want revised, and that Casella is working with the property owners and are revising the easements. While they will revise the language in some of the easements, all the requisite noise easements are in place with them are in effect. We are waiting a notice of completion to be issued for the application.

Solid Waste Management Plan: Mr. Harvey informed the Committee that the SWMP has been approved by DEC by letter dated July 7, 2014. Mr. Harvey discussed some ideas for the implementation of the tasks from the Solid Waste Management Plan. Assuming the implementation is funded on a somewhat annual basis from revenue from the expansion permits, the County share will likely be larger the first year or two. The first year will be funding used for the staff position but also for an educational campaign contract with an outside consultant somewhere in the neighborhood of \$80,000. The first year will also see expenses related to consultants and contractors for gaining more information on the composition of the waste stream and how it differs in different areas. Mr. Harvey said in the first year they are going to concentrate their efforts not only in the recycling education, but will likely work on the Pay As You Throw Program as this is one thing that normally has the most dramatic impact on the quantity of solid waste going into a landfill. Mr. Harvey informed the committee that after consultation with the County Administrator and Director of Finance, they will be recommending setting up a separate department for SWMP Implementation for budget purposes.

Supervisor Evangelista asked Mr. Harvey if there were any comments made by the state with the adoption of the plan, especially in regard to whether it contained a comprehensive recycling analysis. Mr. Harvey read a portion of the adoption letter to the committee. It basically states that it meets all of DEC's

requirements, including those for a comprehensive recycling analysis. Mr. Harvey noted that the first progress report is due to DEC in March 2015.

Landfill Operational Update: Jerry Leone congratulated the county on the acceptance of the plan. Mr. Leone stated that they are continuing to make repairs and maintenance of the gas well field. Mr. Leone said that they are continuing with the haul road widening project and installing a tall wind fence along the eastern edge of the landfill on County Road 5. He reports they are doing some repair work to the Phase II Cap on the flat area in response to the last surface scan where elevated methane levels were detected and some damage discovered to the surface membrane.

Mr. Leone discussed the following reports with the committee concerning materials included in the agenda:

Technical Data (Informational)
NYSDEC Facility Reports
Methane Monitoring Log
Monthly Sump Checks
Gas Well Data

Supervisor Sheppard voiced his concern at the level of detail that this body is addressing as to landfill operations. He explained that the committee is not an oversight authority, or a regulatory authority.

Chair Baker commented that the committee shouldn't be managing the operation, but we do have the responsibility of oversight. The committee has requested the reports and can ask for clarification of what the reports mean. If we start delving into the area of where we start telling the operator what to do and how to run the facility, we would be overstepping our boundaries. If any of the questions become too laborious then they can discuss with staff and the operator.

Landfill Odor: Mr. Leone reported that they had added pumps to a number of wells. Mr. Leone said that they hired a third party contractor and were focused on pumping those wells in this area consistent with SCS recommendations. He said that they were also in the process and very close to finishing the design for next series of vertical wells consistent with SCS recommendations for wells to be placed in "green areas". Mr. Leone said that they are proposing some additional wells that will come retro fit with pumps as well as the opportunity to run a permanent airline. Liquids from that pumping would be put back into the system for disposal ultimately into the lagoon as well as an airline for running those pumps. Mr. Leone also communicated with the Planning Department regarding the additional surface scan to be completed by SCS.

Mr. Harvey handed out a draft resolution and short term contract regarding retaining SCS for on-going testing. It will be voted on at the next meeting to give committee members a chance to review. Funding will be from excess landfill revenue.

County Administrator Garvey advised the committee that at the next meeting he will provide a starting point for a county wide Solid Waste Reduction Plan proposal.

Executive Session: At 5:00 p.m. Supervisor Venuti made a motion, seconded by Supervisor Singer, to enter into executive session to confer with council on contractual matters, with County staff and Supervisor Vedora to participate. Motion carried unanimously.

At 5:15 p.m. Supervisor Evangelista made a motion, seconded by Supervisor Sheppard, to exit from Executive Session. Motion unanimously carried.

Adjournment: There being no further business before the committee, a **motion was made by Supervisor Evangelista, and seconded Supervisor Singer, to adjourn. Motion carried.** The July 23, 2014 EQC meeting adjourned at 5:16 p.m.

Respectfully submitted,

Reliefia Kramer

Planning