

Ontario County
ENVIRONMENTAL QUALITY COMMITTEE
MINUTES
March 20, 2013

<p>Committee Members: David Baker, Chair Ralph Angelo.....N/A Dodie Huber Charlie Evangelista.....N/A John Sheppard Kris Singer</p>	<p>Attendees: Tom Harvey, Darlys McDonough, Andrea Schoeneman, John Garvey, Dominic Vedora, Carla Jordan</p> <p>Guests: Richard Eaton, Ed Lavin, Katie Bennett-Roll; David Shaw, Finger Lakes Times; Julie Sherwood, Daily Messenger</p>
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Chairman Baker called the meeting to order at 4:00 p.m. and declared Supervisors Angelo and Evangelista as necessarily absent.

Approval of Minutes: *Motion was made by Supervisor Sheppard, seconded by Supervisor Huber to approve the minutes of the February 27, 2013 meeting. Motion carried.*

Hemlock and Canadice Draft Unit Management Plan: Mr. Harvey referred to the draft resolution presented with the agenda packet. He summarized by noting that the Hemlock and Canadice Watershed lands formerly owned by the city of Rochester are now owned by the NYS Department of Environmental Conservation (DEC) and DEC has prepared a draft Hemlock-Canadice Unit Management Plan for public review. The proposed resolution cites the comments of this Board to that Plan. Basically, the statewide policy allows selling mineral and drilling rights, and this language has been included in the Unit Management Plan. The proposed resolution has gone through the Planning & Research Committee, and is being presented to this committee because of the drinking water and other potential hazards. Supervisor Singer pointed out that she has had discussions with the city of Rochester and DEC, and she got the sense that this Management Plan by DEC is a “boiler plate” plan. She brought up to them the sensitivity with the language concerning potential granting of leases for resource extraction, including gas and oil drilling such as hydraulic fracturing, and the representative at DEC said that there is no intention of drilling, and they are looking at changing that language. Supervisor Singer went on to say that she did encourage DEC to read the whole management plan for other changes and corrections so that it is not the basic boiler plate plan.

Motion was made by Supervisor Sheppard, seconded by Supervisor Huber to move the resolution providing comments to the NYS Department of Environmental Conservation on the Hemlock-Canadice draft Unit Management Plan.

Discussion continued with pointing out that the resolution recognizes that “Hemlock-Canadice Forest” is still a watershed area. It is the desire of Ontario County to ensure that it is not contaminated, and to preserve the natural state of the former Hemlock and Canadice Watersheds as a water source for local residents and the city of Rochester. The resolution comments on certain aspects in the DEC plan recognizing the watershed area, and identifying its contradiction to the Canadice town zoning. Supervisor Sheppard noted his support of the environmental element being addressed in the aforementioned resolution,

as well as the Canadice town zoning, and would request the same consistency and home rule consideration with upcoming discussions regard the Seneca Town matters relative to landfill issues. Mr. Harvey added that the county's Water Resource Council will be sending comments to the NYS DEC regarding the Hemlock-Canadice Draft Unit Management Plan as well. *Motion carried.*

Solid Waste Management Plan: Ms. McDonough reported that Barton and Loguidice has looked at the initial comments received from DEC and are requesting additional time to do more research. B&L anticipates having their response comments to the DEC letter ready for the next EQC meeting. Supervisor Sheppard inquired if there are any funds remaining in the B&L contract as it is his understanding that the contract expired at the end of 2012. Ms. McDonough responded that she has had discussions with B&L and they are willing to extend this work as a no cost time extension while assisting the county with its response to the DEC comments, as that was part of their contract. At present, B&L has not requested additional funds, and Ms. McDonough indicated that she would look into whether there are funds remaining in their contract. Supervisor Sheppard remarked that he felt some of the comments from DEC went from one end of the spectrum, as being all encompassing, to somewhat oppressive with attacks on home rule, and asked if there was anything that could be a "show stopper". Ms. McDonough responded that some of the matters that DEC is requesting will require policy decisions on the part of the Board of Supervisors, which will be discussed through this committee first. *After a brief discussion, the committee concurred that the comments from DEC are public and may be released upon request.*

360 Expansion Permit

Acceptance of Findings, SEQR, Ontario County Phase III, Stage VII and IX Landfill Expansion:

Ms. McDonough reported that Resolution No. 601-2012 continues to be tabled. A proposed revised resolution was sent with the agenda packed and Ms. McDonough asked if there were any concerns.

Supervisor Sheppard began his comments by saying that it has been the town of Seneca's consistent position that the positive Statement of Findings referred to in the proposed resolution has some text that is inconsistent with the town's position and inconsistent within itself. First, he stated that the resolution offers the town of Seneca ownership of the soil borrow area; however, in the Statement of Findings it seems as it is an "either/or" option for the borrow area to be offered to the town of Seneca. The Statement of Findings does not indicate whether the county is exempt to take ownership, and he felt that portion needed clarification on an approval process of who should own the property.

Chairman Baker clarified that this committee has agreed that the town of Seneca should own that property, and he felt that the supervisors as a whole would concur. In an effort to alleviate any doubt, Supervisor Sheppard questioned whether the Findings ought to state just the one option, that being that the town of Seneca own the property in question. Supervisor Singer did not feel it was necessary to change the Statement of Findings as it does state that it is an "either/or" option, and the resolution makes it clear that the soil borrow area is being offered to the Town of Seneca. Supervisor Huber pointed out that the Findings also addresses the fact that if there is no potential of a soil borrow area, then there is the issue of the trucking, which is also an option and still included in the findings. She went on to say that she felt all the options need to be covered in those findings, and that the resolution would be the deciding factor of the Board of Supervisor.

Supervisor Sheppard asked if there are any instances where there was no consistency with the findings and the decisions of the board. Ms. McDonough indicated that there were changes made that have been discussed with Assistant County Attorney, Andrea Schoeneman, on whether the county would need to address the process in which the town would take ownership of the property, and felt that did not need to be included in the Findings. Supervisor Sheppard further pointed out that that town of Seneca has been consistent in indicating they are an involved agency will submit its own Statement of Findings. He is anticipating that if an option, other than town ownership of the soil borrow area, exists then he would expect that the town's findings will indicate the Town ownership of the borrowing acreage the only option.

Supervisor Sheppard stated that another contentious issue with the constituents is the persistent perceived odor nuisance problem. He asked if this Board is ready to accept the odor mitigation plan in connection with Casella's letter of intent for a mitigation plan, and audit the findings and mechanical procedure expected by the DEC and the industry to mitigate odors or are we looking for something else.

Chairman Baker responded that the commitment stated in the proposed resolution, Casella's commitment to taking mitigation measures, combined with the specs in the RFP, and our own experts on odor mitigation ought to be acceptable for making efforts in mitigating the odors.

Supervisor Sheppard indicated that that reply is acceptable to him; however he does not believe that it will be ok with constituents that no action will be taken until there is a prolonged period of no odors. He went on to ask if we are at a point where we are satisfied with current mitigation and have adequate controls going forward and how do we answer that question if we are not satisfied going forward if there are nuisance odors going forward.

Chairman Baker commented that he is confident with the commitment from Casella and the RFP that we are moving in the right direction. He feels progress has been made, and he is not delusional in believing that there will not be any more complaints. The odor issue is something that will need to be addressed continually.

At this time Supervisor Sheppard asked if public comments would be appropriate at this time for those in attendance at this meeting. Chairman Baker agreed to allow comments at this time. Comments were made by residents Mr. Ed Lavin, Ms. Katie Bennett Roll, Mr. Richard Eaton; and Mr. Dominick Vedora (Geneva City Supervisor).

Mr. Ed Lavin, resident, stated that he is not satisfied with the control of odors. He recalled coming to a prior meeting where it was mentioned that there would be a 6 month "no odor" position before moving forward to mitigate odors. Mr. Lavin asked whether it is allowed, or even legal, to request Casella to change the kinds of material they take in at the landfill, such as, for instance, sludge.

Chairman Baker began by stating that DEC has determined that sludge to be acceptable waste. Further, the county has been assured by Casella that they the situation was handled improperly and there are no intentions of accepting that type of fermented sludge.

Ms. Katie Bennett Roll, resident, mentioned the horrible dead fish odor that occurred last week and lasted over 12 solid hours. She is angry at the comment that there be a period time before moving forward with mitigation attempts. She went on to say that you may not be aware that the odor is from uncollected

emissions and you won't get rid of that because there will be a certain percentage of emissions that you don't collect. Ms. Bennett Roll went on to comment that the EPA has a percentage in their AP42 program that they use to estimate emissions and this average emission is 75% of collected emissions estimated. She wants the committee to be aware that these emissions will not ever be collected and they will increase as you put more waste into the dump with the expansion. She stated that you can talk all you want about cubic feet being burned by the plant and the flares, but you will never get rid of the uncollected emissions coming out of there. She indicated that she is angry and wants an explanation as to why there has to be some period of time to see if things are getting better, because they are not getting better at her house.

Chairman Baker noted that he has been getting fewer complaints regarding odor. He does not think it has been as bad as previously. However, he recognized that he is not on Ms. Bennett Rolls' property 24/7 and he can't answer for her.

Question was raised on whether a copy of the mitigation plan is available to the public, to which Chairman Baker responded that Ms. McDonough will make that available to any who requested it.

Mr. Vedora asked if the entire committee felt the odor issue was getting better.

Supervisor Sheppard commented that his frequency of complaints has reduced, and the number of individuals that typically comment is the same. Supervisor Sheppard went on to comment that his personal exposure, being in proximity to the landfill, is that he has experienced less frequent odors and less intensity in the past 8 weeks. He can see the landfill from his property, reads documents, and converses with Casella daily, and it is very apparent to him that it is in no one's best interest to have odors in the landfill.

Mr. Vedora commented that it was three weeks ago that people were talking about the last load of trash that went through there; and he felt the same people making the comments were people who live near the landfill. Mr. Vedora went on to say that he felt Casella and the County is looking at cash, and not the health of the county.

Chairman Baker disagreed with Mr. Vedora's comment that the county is just looking at the cash. He reported that area hospitals have made investigations into the landfill effects, as well as the State Department of Health, and there has been no evidence of any adverse health issues.

Supervisor Sheppard also responded to Mr. Vedora's comment stating that many of the allegations being made are unchecked or are hearsay. Supervisor Sheppard reiterated that he too lives in close proximity to the landfill and has a view of Phase 2. He answers to his constituents every day, and he needs to counter accusations that "we are all going to be sorry" because 50 years down the road we are going to pay for it. Supervisor Sheppard stressed that there is no written or documented material for that sort of speculation.

Mr. Richard Eaton, resident, began by saying that he filed a complaint with the DEC and got a call back from Mr. Edward Kieda, Engineer at DEC, who made the comment that "this odor thing" has been going on for 40 years, and that it is as bad or worse as when Ontario County ran the landfill; if you have garbage, you are going to have odors. Mr. Eaton noted that his research concludes that odor management is in the regulations, and that is not happening. Mr. Eaton pointed out that the latest particular smell was different, like rotting meat. He can also determine when he will smell the odors if the wind is out of the

northwest, moving anywhere between 4 and 8 mph. Landfill odors exist and he does not know if it can be controlled, and he felt that maybe the only answer would be to cut down on the volume until the odor can be controlled. Mr. Eaton went on to state that it is unfortunate, but Casella has lost creditability with neighbors, because the website that was supposed to provide up-to-date information had its last entry on January 16, 2013. There was not anything on the website concerning the sludge spill that he read about in the newspaper. Mr. Eaton further pointed out that he keeps hearing about the issue with the wind blown plastic bags, and that Casella cannot do anything about it without coming on private property. In order to do that they need an easement from the property owner; however, the property owners want assurance that they won't be sued if someone falls out of a tree trying to get a bag. Mr. Eaton stated that Number Nine Road has had plastic bags in their trees for the past four years. He felt that Casella will need to build their creditability with the residents, and they will need to for a proven plan that gets rid of the odor, or reduce the volume of garbage to the point where the problem goes away.

Chairman Baker turned the floor over to Carla Jordan for her responses.

Ms. Jordan indicated that Mr. Ed Kieda is the NYS DEC engineer assigned to the landfill and the individual who issues its permits. He visits the landfill once a week, and drives to site locations where residents have made complaints.

Relative to the website not being updated, Ms. Jordan noted that Mr. Schilling had a discussion at the last meeting regarding the sludge situation and agreed that it was not handled properly by the facility. They did not know it was going to smell when the load arrived, and once that was discovered, Casella called the company immediately and informed them that they would not accept fermented sludge.

Regarding the plastic bags, Ms. Jordan reported that Casella did respond to a letter received by Mr. Eaton explaining that if any resident wished to have Casella remove the bags from their property, they would need to sign a "letter of easement" to allow Casella to come on property.

Supervisor Huber felt that there is a lack of immediate communication on the part of Casella and that needs to improve. For instance, if a stench load of sludge is received by Casella, immediate notification ought to go out to the residents alerting them of the situation and remedies being taken to eradicate the odor. If there are high winds, notification should be sent explaining that there is the potential for an onslaught of bag floating around, and if any resident wishes to sign a "letter of easement" that Casella would be willing to remove those bags from a resident's property.

Ms. Jordan agreed and indicated that Casella would be using the website and the reverse call system to increase communication to the residents from this point forward. She further offered to send out a reverse call and put a notice on the website inviting residents to take a tour of the facility assuring residents that Casella is not concealing anything.

Supervisor Sheppard briefly informed the committee of information provided to him by landfill General Manager, Mr. Fred Kober. He first advised that the large flare and candle flares are out because all landfill gas is being consumed by the landfill to gas energy plant. Some of the emissions spoken about may be caused by the inability, due to inclement weather, to cap one of the wells. As far as the fish stench, Supervisor Sheppard indicated that Mr. Kober has asked that a timeline be established on when that odor occurs as other causes are being investigated, such as the glass recycling plant and its label remover.

Mr. Vedora asked, in the interest of communication and transparency, whether the committee has given thought to having a joint meeting with the public and neighbors. Supervisor Sheppard noted that there is an Advisory Committee formed by Seneca Town residents and Casella. They strive to meet quarterly at Post Manner and have open discussions to alleviate any barriers in communication. Any resident is welcomed on that Advisory Committee, and Supervisor Sheppard suggested that anyone interested should drop off a letter indicating their interest.

Letter from Casella Regarding Gas Control Measures letter was received via email by Ms. McDonough on March 12, 2013.

Landfill Operational Update - Ms. Jordan reported that the delay in the installation of the cell cap is due to bad weather; however materials are on site and ready to go as soon as the weather improves. She indicated that she will post information when that construction is about to begin. Ms. Jordan went on to report that there are no flares at the site as all gases are being used by the gas-to-energy plant. Casella has submitted a plan to the State for additional gas drills and she will let everyone know when they get permission to do that.

RFP for Odor Consultant - Ms. McDonough reported that she continues to work on the RFP, and further indicated that two additional firms have been identified, for a total of four firms. The last two identified have specific landfill experience. She continues to solicit comments from committee members to include in the RFP.

Chairman Baker informed the committee that he has been made aware that there will be an upcoming landfill summit to be held at the Finger Lakes Institute with the assistance of Mr. Ken Camera, Geneva City Councilman. An invitation is being prepared for distribution to this committee. Discussion by committee took place on whether it would be appropriate for supervisors to attend, and Ms. Schoeneman indicated that if there are no legal issues pending, it would not be an issue. However, it is important to note that if supervisors attend, they would be going individually and not as a committee.

On motion made by Supervisor Huber, seconded by Supervisor singer, the meeting was adjourned at 5:10pm.

Respectfully submitted,

Lisa Phillips, Deputy Clerk
Board of Supervisors