

TOWN BOARD TOWN OF LIBERTY WORKSESSION MEETING
SWAN LAKE WASTEWATER TREATMENT PLANT IMPROVEMENT PROJECT
SENIOR CENTER 119 NORTH MAIN ST. LIBERTY, NY 12754
ONLINE VIA ZOOM
MONDAY MARCH 29, 2021
TIME: 6:00 P.M.

Join Zoom Meeting

<https://us02web.zoom.us/j/84333554788?pwd=OXk0S0RDb1VZQ2FVL1RrbTE4TEdSZz09>

Meeting ID: 843 3355 4788

Passcode: 12783

One tap mobile

+19292056099,,84333554788#,,,,*12783# US (New York)

PLEDGE OF ALLEGIANCE

WORKSESSION:

SWAN LAKE WASTEWATER TREATMENT PLANT IMPROVEMENT PROJECT

ATTACHMENTS:

SWAN LAKE WWTP UPGRADE ALTERNATIVES SUMMARY

TOWN OF FALLSBURG WATER & SEWER DEVELOPMENT FEES

CORRESPONDENCE RECEIVED ON 3/22/21

ADJOURN

Chapter 135. Fees

Article II. Water and Sewer Development Fees

[Adopted 5-11-2004 by L.L. No. 2-2004]

§ 135-8. Legislative findings.

The Town Board of the Town of Fallsburg is aware that there has been a substantial increase in subdivisions and site plans submitted to the Town of Fallsburg Planning Board and that projections indicate that same will continue based on a projected population growth in the Town of Fallsburg over the next number of years. This increased growth will increase the demand for water services and wastewater disposal services and will directly impact the existing wastewater disposal system and water supply facilities operated by the Town of Fallsburg which will necessitate the expansion thereof and increase the necessity to repair and maintain same. In order to equitably distribute the monies needed for such expansion, repair and maintenance, new developments should contribute their fair share of the cost of providing said facilities for wastewater disposal and water service.

§ 135-9. Imposition of fee.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. IV)]

There is hereby imposed a one-time fee to be assessed on the real property in the Town of Fallsburg on which new construction is proposed when such construction results from subdivision or site plan approval by the Town of Fallsburg Planning Board. Such fees will be called "water development fee" or "sewer development fee," as the case may be. The fee will be due and payable by the property owner and shall be a lien against the real property until paid. All subdivisions and site plans approved by the Town of Fallsburg Planning Board on or after May 13, 2004, shall be subject to the payment of the fees set forth herein. All monies collected pursuant to this article shall be deposited in a fund to be used by the Town for expansion, repair or maintenance of the sewage disposal system or water supply system of the Town of Fallsburg, it being understood that all sums paid for water development fees shall be used for the expansion, repair or maintenance of the water supply system and all sums paid for sewer development fees shall be used for the expansion, repair or maintenance of the sewerage disposal system, including the acquisition of any property necessary for said purposes.

§ 135-10. Rate of fees per unit.

[Amended 6-24-2013 by L.L. No. 2-2013; 3-14-2016 by L.L. No. 2-2016]

- A. For purposes of this article, the payment of development fees shall be based on a gallon-per-day charge. The charge or fee is hereby established as \$0.86 per gallon per day for water development fee and \$2.81 per gallon for sewer development fee for in-district development, and \$5.26 per gallon per day for water development fee and \$16.42 per gallon per day for sewer development fee for out-of-district development. Whether a property is in-district or out-of-district shall be established by the district lines as they will exist on May 13, 2004. So, for example, if a subdivision is proposed whereby the subdivider wishes to add a sewer or water extension district to an existing district, those structures that are built on premises that on May 13, 2004, are not part of the district will be considered an out-of-district structure for purposes of this article. Further, the Town of Fallsburg may from time to time change the amount of such fees by resolution of the Town Board.
- B. Gallons per day for various uses have been established and tabulated (Table I) and shall be utilized for the calculation of development fees.
- C. The Town Engineer may use his/her discretion in calculating gallons per day for uses not provided on Table I.
- D. The Town reserves the right to collect fees in the event additional homes or bedrooms are built beyond the approved.

Table 1
Residential

Type of Use	Unit	Gallons/Day
Apartment	Per bedroom	110
Mobil home park	A single-wide home	200
	A double-wide home	300
Single-family residence	Per bedroom	110

NOTES:

Home or lodging establishments with high-flow fixtures need to account for any higher peak flow periods.

Campgrounds

Type of Use	Unit	Gallons/Day
Day camp	Per person	12
	Add to shower	8
	Add for lunch	4
Campground	Per unsewered site*	44 (includes showers)
	Per sewerred site	80
Campground day use	Per person	4
Dumping station**	Per unsewered site	8
	Per sewerred site	4

NOTES:

*Gallons per day for food service and laundry shall be added. Structures available for overnight occupancy other than those meeting the definition of a camping unit shall be based on 150 gallons per day unit for design flow purposes.

** The addition of flow for dump station sewage may be prorated by using an estimated percentage of sites for RV use based on historical data.

Institutional		
Type of Use	Unit	Gallons/Day
Assisted living facility/complex	Per bed(1),(2)	110
	Add 10 gallons per day for in-room kitchen	
Group home (residential-style building)	Per bed(1)	110
	Add 150 GPD per day per house for garbage grinder	
Nursing home (hospital care)	Per bed(1),(2)	140
Hospital	Per bed(1),(2)	140
	Per outpatient	24
Church/synagogue	Per seat(1)	3
Church hall	Per seat(2)	8
Fire hall		
Community center		
Library/museum	Per patron(1),(2)	4
Public park	Per person (toilet only)	4
Prison/jail	Per inmate(1),(2)	120
Schools	Day, per student	8
	Elementary	6, 8, 10
	Junior High	
	Senior High	
	Add for meals/showers	4/4
Boarding school	Per Student(1),(2)	60
Mikvah	Per square foot	0.2
	Add per shower fixture	220

NOTES:

(1) Add 15 gallons per day per employee.

(2) Add for Food Service Operations, e.g. twenty-four-hour restaurant.

Commercial		
Type of Use	Unit	Gallons/Day
Airport/bus/rail terminal	Per passenger(1)	4
	Per toilet	320
Barber shop/beauty salon		40

Commercial		
Type of Use	Unit	Gallons/Day
	Per station without hair-care sink	
	Per station with hair-care sink	160
Bowling alley	Per lane(1),(2)	60
Bed-and-breakfast	Per room (See note under Residential)	110
Casino	Per employee/shift	12, plus 0.2 per square foot for nonlodging customer use
County clubs and golf courses	Per round of golf(1),(2)	16
	Add for bar, banquet, shower or pool facilities and golf tournaments	
Concert hall/arena/theater/assembly hall/stadium/skating rink	Per seat(1),(2)	4
Day care	Per child(1)	16
Doctor's office	Per doctor	200
Dog/pet grooming (also see kennel and veterinary office further on in table)	Per station	400
Dentist	Per chair(3)	200
Drive-in theater	Per car space(2)	4
Factory/distribution warehouse	Per employee/shift	12
	Add for showers	8
Fairgrounds	Per visitor(2)	4
Health club	Per patron	16
Highway rest area	per traveler(2)	4
	Per dump station vehicle	6
Hotel	Per sleeping unit(2)	110
	Add for banquet hall, nightclub, pool/spa, theater, etc.	
Kennel	Per kennel/run/cage	40
Laundromat	Per machine	460
Marina	Per slip(2)	16
	With shore-side restroom facilities, including shower	
	Add per slip for dump station	6

Commercial

Type of Use	Unit	Gallons/Day
Migrant worker housing	Per person	40
Motel	Per sleeping unit	110
	Add for in-room kitchen	8
	Add for in-room jacuzzi/spa	16
Office Building	Per employee(2)	12
	Add for showers	4
Service station/convenience store	Per toilet(2)	320
Shopping center/grocery store/department store	Per square foot(1),(2)	0.1
	Add for deli, bakery, butcher	
Swimming pool/bath house	Per swimmer	5
Veterinary office	Per veterinarian	160

NOTES:

- (1) Add 15 gallons per day per employee/shift
- (2) Add for food service operations, e.g., twenty-four-hour restaurant
- (3) Dental offices must recycle mercury amalgam instead of washing it down the drain

Food Service Operation

Type of Use	Unit	Gallons/Day
Ordinary restaurant	Per seat	30
Twenty-four-hour restaurant	Per seat	40
	(for cafeterias, prorate flow in proportion to the hours)	
Fast food restaurant	Per seat	20
	Per drive-up window	400
Lounge/bar	Per seat	16
Drive-in	Per car space	40
Banquet hall	Per seat	8
Restaurant along freeway	Per seat	60

§ 135-11. Collection of fees; fees not waived by failure to collect.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. IV)]
 The charges or fees as established above shall be due and payable before the signing of the subdivision or site plan by the Town of Fallsburg Planning Board. Such fee shall remain a lien against the real property until paid, and no Town official shall issue a building permit or certificate of occupancy or other report concerning such property until the charges or fees required hereby have been paid. The failure of the Town to collect such fees at the time

when they are due and payable shall not waive the Town's right to collect same, together with interest thereon, from the time such fees were due and payable.

§ 135-12. Notice of assessment levied.

If the Town Board determines that such charges or fees are due and owing but have not been paid, the Town Board shall, after due notice to the property owner and an opportunity to be heard at the next Town Board meeting, assess such water development fee or sewer development fee, together with legal interest thereon from the date same was due, and costs related to same, against such real property. Notice by certified mail, return receipt requested, to the address shown on the Town's latest assessment roll at least 10 days prior to the date of the hearing shall be deemed good and sufficient notice. Such assessment shall be levied on the annual state, county and Town real property tax bill.

Chapter 230. Sewers

Part 3. Sewer Impact Fees

[Adopted 12-13-1988 by L.L. No. 10-1988 (Ch. 48 of the 1971 Code)]

Article XI. Imposition and Computation

§ 230-59. Title.

This Part 3 shall be known and may be cited as the "Sewer Impact Fee Law of the Town of Fallsburg, Sullivan County, New York."

§ 230-60. Findings and purpose.

- A. Findings. The Town Board of the Town of Fallsburg makes the following findings and conclusions:
- (1) Projections indicate that the population of the Town of Fallsburg will increase substantially during the next 20 years;
 - (2) The increase in population and the incidental demand for wastewater services will directly and adversely impact the existing wastewater treatment and disposal facilities as provided by the Fallsburg Consolidated Sewer District;
 - (3) In order to accommodate this impact, the wastewater treatment and disposal facilities of the Fallsburg Consolidated Sewer District will have to be expanded;
 - (4) The existing wastewater treatment and disposal facilities of the Fallsburg Consolidated Sewer District are not sufficient to accommodate anticipated new development which is expected to occur in the Town of Fallsburg;
 - (5) The Town of Fallsburg Comprehensive Plan provides that land development be permitted only where adequate public facilities exist, or can be provided to accommodate it;
 - (6) Existing revenue sources are not sufficient to fund capital improvements necessary to accommodate new development;
 - (7) New development should contribute for its fair share of the costs of providing new facilities necessary to accommodate such new development;

- (8) A thorough engineering study has been made to establish a method for developing capital recovery and capital impact fees for expanding wastewater treatment and disposal facilities;
 - (9) The capital recovery fee formula is to provide that new developers shall pay their equal share of capital costs incurred;
 - (10) The capital impact fee formula is not established at a rate to correct existing deficiencies;
 - (11) The capital impact fee formula as determined in this Part 3 establishes a fair and conservative method of assessing new development for its fair share of costs;
 - (12) The capital recovery and impact fees will not fully pay for the costs of wastewater treatment and disposal facilities necessary for new development, and the Town recognizes that the shortfall will have to come from other revenue sources; and
 - (13) Increasing the capacity of wastewater treatment and disposal facilities in order to provide essential services is a recognized responsibility of government and is in the best interest of public health, safety and welfare.
- B. Purpose. The purpose of this Part 3 is to assure that new development does not overtax existing levels of service and that new development bears a proportionate share of the cost of capital expenditure necessary to provide wastewater treatment and disposal services required to mitigate the impacts of new growth in the Town of Fallsburg.

§ 230-61. Authority and supersession of Town Law.

Pursuant to §§ 10(1)(ii)(a)(9-a), (11) and (12) of the Municipal Home Rule Law and § 10(6) of the Statute of Local Governments, the Town of Fallsburg has authority to enact this Part 3; and, whereas, pursuant to Municipal Home Rule Law § 10(1)(ii)(d)(3), the Town may supersede provisions of the Town Law; § 277 of the Town Law, and any of the provisions of the Town Law, to the extent that it is in conflict with this Part 3, is hereby superseded and amended.

§ 230-62. Rules of construction.

- A. Liberal construction. The provisions of this Part 3 shall be liberally construed so as to effectively carry out its purpose in the interest of the public health, safety and welfare.
- B. Generally. For the purposes of administration and enforcement, unless otherwise stated, the following rules of construction shall apply to the text of this Part 3:
 - (1) In case of any difference of meaning or implication between the text of this Part 3 and any caption, illustration, summary table, or illustrative table, the text shall control.
 - (2) The word "shall" is always mandatory and not discretionary; the word "may" is permissive.
 - (3)

Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.

- (4) The phrase "used for" includes "arranged for," "designed for," "maintained for," or "occupied for."
- (5) The word "person" includes an individual, a corporation, a partnership, an unincorporated association, or any other similar entity.
- (6) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or" or "either. . . or", the conjunction shall be interpreted as follows:
 - (a) "And" indicates that all the connected terms, conditions, provisions, or events shall apply.
 - (b) "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
 - (c) "Either. . . or" indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.
- (7) The word "includes" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.
- (8) "Building permit" means a building permit issued pursuant to Chapter 96 or Chapter 100 of this Code.

§ 230-63. Definitions.

As used in this Part 3, unless the context or subject matter otherwise requires:

APPROVED EXISTING BUILDING LOT

A building lot of a subdivision which has been approved by the Town Planning Board and filed in the Sullivan County Clerk's Office pursuant to § 276 of the Town Law prior to the effective date of this Part 3.

CAPITAL IMPACT FEE

The fee charged to the developer at the time of approval of a subdivision located outside the Fallsburg Consolidated Sewer District to partially offset the anticipated costs of providing additional capital improvements necessitated or which will be necessitated by the development of such subdivision, or at the time of issuance of a building permit for premises located inside the Fallsburg Consolidated Sewer District.

CAPITAL IMPROVEMENT

Includes the amount of all expenses which are legally incurred or occasioned by reason of the improvement or project and shall include, but not be limited to, the amount of all contracts, the costs of all lands and interests therein necessarily acquired, including the total payment of principal remaining on obligations assumed pursuant to Paragraph (b) of Subdivision 12 of § 198 of the Town Law, the costs of erection of necessary buildings for operation or administration of the improvement, printing, publishing, interest on

loans, legal and engineering services and as otherwise provided in § 202 of the Town Law.

CAPITAL RECOVERY FEE

The fee charged at the time of issuance of a building permit to equitably adjust the proportionate share of contributions of a specific property for capital improvements in the Fallsburg Consolidated Sewer District (to be effective December 31, 1988) heretofore established or to any extension made to such district resulting from an anticipated larger demand on the use of the facilities provided by such district.

DEVELOPER

A person commencing a land development activity which generates need for wastewater treatment and disposal and which ultimately requires the issuance of a building permit.

§ 230-64. Imposition of capital recovery and impact fees.

- A. Payment required. Any person who, after the effective date of this Part 3, seeks to develop land by submitting a complete application for subdivision approval or a building permit to make an improvement to land or change use of land which will generate additional demand of wastewater treatment and disposal facilities, shall be required to pay capital recovery and impact fees in the manner and amount set forth in this Part 3.
- B. Payment before issuance of building permit or subdivision approval. No building permit for any activity requiring payment of capital recovery and impact fees pursuant to this Part 3 shall be issued unless and until the capital recovery and impact fees hereby required have been paid as hereinafter provided. Nor shall any subdivision be deemed finally approved until the capital impact fee has been paid, if so required.

§ 230-65. Computation of the amount of capital recovery and impact fees.

- A. Capital recovery fee.
 - (1) The capital recovery fee shall be per unit as set from time to time by resolution of the Town Board after a public hearing upon five days' public notice as determined by § 230-44A(1) of Part 1, Sewer Use, of this chapter, except that no unit charge should be computed for vacant land.^[1]
 - [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
 - (2) Each approved existing building lot or separate parcel of land existing at the time of enactment of this Part 3 shall be entitled to a credit of 12 units.
 - (3) The capital recovery fee shall be computed and paid at the time of issuance of a building permit pursuant to this Municipal Code.
- B. Capital impact fee.
 - (1) The capital impact fee shall be per unit as set from time to time by resolution of the Town Board after a public hearing upon five days' public notice as determined by

§ **230-44A(1)** of Part 1, Sewer Use, of this chapter, except that no unit charge shall be computed for vacant land.^[2]

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

- (2) Each approved existing building lot or separate parcel of land existing at the time of enactment of this Part 3 and located within the Fallsburg Consolidated Sewer District shall be entitled to a credit of 12 units.
- (3) For premises located within the Fallsburg Consolidated Sewer District, the capital impact fee shall be computed and paid pursuant to the provisions set forth in this Part 3.
[Amended 3-23-1993 by L.L. No. 2-1993]
- (4) For premises located outside the Fallsburg Consolidated Sewer District, the capital impact fee shall be computed and paid pursuant to the provisions set forth in this Part 3.
[Amended 3-23-1993 by L.L. No. 2-1993]
- (5) In case of improvement of vacant land for which subdivision approval is not required, the payment of the capital impact fee shall be paid as set forth in this Part 3.
[Amended 3-23-1993 by L.L. No. 2-1993]
- (6) In case a lot is developed for a more intensive use, the difference shall be calculated and paid at the time a building permit is issued.
- (7) The annexation of any parcel of land not presently located in the Fallsburg Consolidated Sewer District into the District shall not have any effect upon the imposition of the capital recovery fee or capital impact fee as above provided.

§ 230-66. Payment of capital recovery and impact fees.

A. Time of payment.

[Amended 3-23-1993 by L.L. No. 2-1993]

- (1) Fifty percent of the impact fee charged to the applicant shall be paid prior to the issuance of a building permit by the Building Inspector of the Town of Fallsburg.
- (2) The balance of 50% of the impact fee charged to the applicant shall be paid prior to the issuance of the certificate of occupancy by the Building Inspector of the Town of Fallsburg.
- (3) Anything herein contained in the foregoing notwithstanding, in the event that a major capital expenditure is required by the Fallsburg Consolidated Sewer District in excess of \$10,000 to serve the proposed project, then the portion of the impact fee up to and including the total impact fee required to cover said expenditure must be paid at the time of subdivision approval and the balance, if any, at the time set forth in Subsection **A(1)** and **(2)** of this section.

B. Deposit of fees. All funds collected shall be promptly transferred for deposit into the Wastewater Impact Fee Trust Fund for the Fallsburg Consolidated Sewer District to be

held in a separate account as determined in § 230-68 of this Part 3 and shall be used solely for the purposes specified in this Part 3.

§ 230-67. Wastewater impact fee trust fund established.

- A. Separate fund. There is hereby established a Wastewater Impact Fee Trust Fund for the Fallsburg Consolidated Sewer District.
- B. Withdrawals. Funds withdrawn from such account must be used in accordance with the provisions of § 230-69 of this Part 3.

§ 230-68. Use of funds.

- A. Purpose. Funds collected from capital recovery and impact fees shall be used for the purpose of capital improvements to, and expansion of, the Fallsburg Consolidated Sewer District.
- B. Use for maintenance prohibited. No funds shall be used for periodic or routine maintenance.
- C. Approval by Town Board. The dispersal of capital recovery and impact fee funds shall require the approval of the Town Board of the Town of Fallsburg in accordance with all applicable laws relating to the expenditure of funds for capital improvements.

§ 230-69. Annual local assessments and sewer rents.

The imposition of the capital recovery and impact fees shall not be construed to be in lieu of, but shall be in addition to, the annual local assessments pursuant to Article VIII of Part 1, of this chapter and the sewer rents as provided in Part 2 of this chapter.

§ 230-70. Reservation by Town Board.

The Town Board reserves the right, at any time, to amend, revise or change any of the methods of calculating the capital recovery fee, the capital impact fee, or the unit charge for each, or in any other manner, to amend, revise or change this Part 3 which the Town Board determines to be equitable and fair.

Chapter 135. Fees

Article I. Recreation Land Fees

[Adopted 2-24-2004 by L.L. No. 1-2004^[1]]

[1] *Editor's Note: This local law also provided that it shall apply to any project, residential site plan or subdivision approved by the Planning Board after 3-10-2004.*

§ 135-1. Legislative findings; statutory authority; effect on other laws.

The Town Board of the Town of Fallsburg hereby finds that there is a present need for expansion of park and recreational facilities in the Town, based on projected population growth to which all residential subdivisions and residential site plans will contribute. The Town Board has determined that a unified system of parks and recreational facilities located to meet the needs of the residents of the entire Town is desirable. Therefore, the Town Board determines that it is a proper case that each residential subdivision and residential site plan contribute recreational fees calculated on lots or dwelling unit count resulting from new subdivisions and site plans. The Town Board determines that the provisions of this article are consistent with the purposes of Town Law §§ 277(4) and 274-a.6 and that to the extent, if any, that this article may hereinafter be determined to be inconsistent, this article shall, as provided in Article IX of the New York State Constitution and the Municipal Home Rule Law, supersede such provisions in reference to the Town of Fallsburg.

§ 135-2. Imposition of fee in lieu of recreation land.

There is hereby imposed a one-time fee to be assessed upon real property in the Town of Fallsburg on which new residential building construction is proposed, when such construction will result from subdivisions and site plans (including condo units, co-ops, etc.) hereinafter approved. Such fees shall be levied and collected in accordance with this article. Such fees shall be called "recreation fees." The obligation to pay such fees shall be a lien against the property, which shall contain the new construction as of the time of approval and shall be satisfied as hereinafter provided. All monies collected pursuant to this section shall be deposited in a trust fund to be used by the Town exclusively for park, playground or other recreational purposes, including the acquisition of property within the Town of Fallsburg for such purposes. For purposes of this article, a fee schedule has been established as set forth hereinafter. The Town of Fallsburg may, from time to time, vary the amount of such fees by resolution of the Town Board.

§ 135-3. Collection of fees.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. IV)]

The fees shall be due and paid before the signing of the subdivision or site plan by the Planning Board. No Town official shall issue a building permit, certificate of occupancy or other report concerning such property unless such official has determined that the fees required hereby have been paid.

§ 135-4. Exemptions.

- A. The Town Board may, by resolution, exempt any property from payment of the recreation fees required by this article upon a determination that the property owner has dedicated or donated to the Town real property of equal or greater value than the estimated recreation fees which would otherwise be payable, provided that the Town Board, by resolution, agrees to accept same in lieu of the recreational fee.
- B. This article shall only affect subdivision and site plans in excess of three parcels or three units.

§ 135-5. Fees not waived by failure to collect.

The neglect or failure of the Town to collect such recreational fees at the time when such fees are due shall not waive the Town's right to collect such fees.

§ 135-6. Notice of assessment levied.

In the event the Town Board determines such fees are due and owing but have not been paid, the Town Board shall, after notice to the property owner and the provision of an opportunity to be heard, assess such recreational fees, together with interest and costs related to such assessment, against such real property. Notice by certified mail to the address shown on the Town's latest assessment roll at least 10 days prior to the date of the hearing shall be deemed good and sufficient notice. Such assessment shall be levied on the annual state, county and Town real property tax bill.

§ 135-7. Fee schedule.

[Amended 3-9-2010 by L.L. No. 2-2010; amended at time of adoption of Code (see Ch. 1, General Provisions, Art. IV)]

The following recreational fees shall be charged:

- A. Within a subdivision: \$750 per lot for single-family homes.
- B. Within a site plan: \$750 per dwelling unit.
- C. Duplex: \$1,500 per duplex.

Table 6
Town of Liberty, NY
Swan Lake WWTP Upgrade
Alternatives Summary

	Option 1	Option 2	Tertiary Treatment Breakpoint	Option 3	Option 4	Option 5
1.) Users Served	IN DISTRICT ONLY Current Users (2018) w/ Metered Users (In district)	IN DISTRICT ONLY Option 1 plus Approved In District Development (In district)		IN DISTRICT ONLY Option 2 plus Unapproved Potential Development (In district)	IN DISTRICT ONLY Option 3 plus Developable Vacant Parcels (Full in district)	IN DISTRICT + SOME OUTSIDE DISTRICT Option 4 plus out of district Potential Nearby Development & Developable Vacant Parcels (Out of district)
2.) Option Description	Rehab in-kind of Oxidation Ditches	New Headworks Facility, Rehab in-kind of Oxidation Ditches, & New SBR Process & Tankage		MBR (0.70 MGD) with Pre-Air, Anoxic, and MBR Basins in the Existing Oxidation Ditch	MBR (0.760 MGD) with Pre-Air, Anoxic, and MBR Basins in the Existing Oxidation Ditch	MBR (0.960 MGD) with Pre-Air, Anoxic, and MBR Basins in the Existing Oxidation Ditch
3.) Plant Capacity (MGD)						
Oxidation Ditch/Clarifiers	0.400	0.400		-	-	-
SBR	-	0.092		-	-	-
MBR	-	-		0.686	0.755	0.955
Total	0.400	0.492		0.686	0.755	0.955
4.) Permit Modification Required?¹	No	Yes		Yes	Yes	Yes
5.) Scope of Work	Upgrade influent pump station New screen to handle rags Upgrade oxidation ditch New sludge dewatering Improve secondary clarifier	New Headworks Building and influent pump station by existing Connect to existing force mains Upgrade oxidation ditch New SBR process & tankage Add UV Disinfection, in channel New sludge dewatering in drying bed Septic/sludge offload	Tertiary Treatment Required for Flows ≥ 0.525 MGD	New Headworks Building and influent pump station by existing New force main Convert Ditch to EQ, Anoxic, & Pre-Air Convert Ditch to MBR process & tankage New MBR Building Convert secondary clarifiers to sludge storage New UV, low pressure chamber New sludge dewatering on hill Septic/sludge offload	New Headworks Building and influent pump station by existing New force main Convert Ditch to EQ, Anoxic, & Pre-Air Convert Ditch to MBR process & tankage New MBR Building Convert secondary clarifiers to sludge storage New UV, low pressure chamber New sludge dewatering on hill Septic/sludge offload	New Headworks Building and influent pump station by existing New force main Convert Ditch to EQ, Anoxic, & Pre-Air Convert Ditch to MBR process & tankage New MBR Building Convert secondary clarifiers to sludge storage New UV, low pressure chamber New sludge dewatering on hill Septic/sludge offload
6.) Estimated Capital Cost²	\$10M	\$15M		\$18M	\$19M	\$20M
Notes:	1.) Current permit is 0.425 MGD monthly average. Any increase in permit flow require SPDES permit modification and NY-2A full review. 2.) Assumes bidding the project in first quarter 2022.					



Table 5
Town of Liberty, NY
Swan Lake WWTP Upgrade
Estimated Project Cost Summary

		<u>Upgrade Option 5, Alternative 3</u> MBR (0.960 MGD) with Pre-Air, Anoxic, and MBR Basins in the Existing Oxidation Ditch Minimum Impact	
		Estimated Cost	Major Cost Items
1.)	Scope of Work		
	a.) Influent Pump Station & Headworks Improvements (at bottom of the hill)	\$	1,845,000
	b.) Stormwater Retention basin Flow Equalization Improvements	\$	-
	c.) Oxidation Ditch Improvements (0.400 MGD)	\$	-
	d.) Oxidation Ditch Structural Improvements & Surface Repairs	\$	578,875
	e.) MBR Process Improvements (0.960 MGD)	\$	4,875,000
	f.) Secondary Clarifier Improvements	\$	170,000
	g.) Sludge Holding Tank Improvements	\$	90,000
	h.) Sludge Dewatering Improvements	\$	1,433,000
	i.) UV Disinfection Improvements	\$	408,500
	i.) Post Aeration Tank Improvements - Reuse Existing	\$	35,000
	j.) Existing Infrastructure Repair Improvements	\$	225,000
	k.) Yard Piping Improvements	\$	1,053,200
	l.) Site Work Improvements	\$	287,500
	k.) SCADA Improvements (plantwide, process SCADA included above)	\$	250,000
	l.) Instrumentation Improvements	\$	150,000
	m.) WWTP Emergency Generator	\$	275,000
	n.) Existing Building and Other Facility Improvements (man door (2), ceiling, OH Door, CMU repair)	\$	30,000
	o.) Other Expenses	\$	341,000
	p.) NYSEFC Contract Compliance (4 prime contracts)	\$	125,000
	q.) Contractors Overhead and Profit (15% Max)	\$	1,825,811
	r.) Mobilization/Demobilization/Bonds/Insurance (3% Max)	\$	419,937
	Subtotal - All Construction	\$ 14,417,823	\$ 14,417,823
5.)	Construction Cost Inflation Adjustment (@3% per year, June 2020- June. 2022 Bidding = 2 Years)	\$ 865,069	\$ 865,069
	Subtotal - Construction Cost Inflation Adjustment	\$ 865,069	\$ 865,069
	Subtotal - All Construction	\$ 15,282,892	\$ 15,282,892
6.)	Other Costs (20%)	\$ 3,056,578	\$ 3,056,578
	a.) Engineering/Professional Services	\$	-
	b.) Bond Counsel	\$	-
	c.) Legal	\$	-
	d.) Misc. Other Town Costs	\$	-
	e.) DRBC Project Review Fee	\$	-
	f.) Short Term Financing Cost (Assume 1 year \$500K BAN @ 4%; remaining project under SRF 0% short term financing)	\$	-
	Subtotal - Other Costs	\$ 3,056,578	\$ 3,056,578
	Subtotal - Construction and Other Costs	\$ 18,339,471	\$ 18,339,471
7.)	Project Contingency (10% of Construction and Other Costs)	\$ 1,528,289	\$ 1,528,289
	Subtotal - Project Contingency (10% of All Project Costs)	\$ 1,528,289	\$ 1,528,289
8.)	SRF Issuance Costs (1.84%) (Since it's hardship this goes to 0%)	\$ -	\$ -
	Subtotal - SRF Issuance Cost (1.84% of All Project Costs)	\$ -	\$ -
	Total Estimated Project Cost	\$ 19,867,760	\$ 19,867,760

From: NANCY LEVINE <swanlakeny@gmail.com>
Sent: Monday, March 22, 2021 2:49 PM
To: l.dutcher; Frank DeMayo; McPhillips, Vincent; Brian McPhillips
Subject: Monday's meeting

Laurie, would appreciate Maurice getting a copy. Thanks.

Dear Frank,

Thank you for your call last week in response to the questions I asked at the last zoom meeting.

At the first meeting Michael Edwards and I had with you in September, we brought up the subject of developers' fees to hook into the system, and you said you would look into it. During our call, you said that you have looked into it and found that fees in other towns are substantially higher and that you would be discussing this with the board. To my knowledge, not only are the hook-up fees substantially higher, but so are the building fees, and with all the structures that have been going up, it seems to me that we have already lost a great deal of revenue. In addition, impact fees need to be addressed.

It believe that this is something that should have been added to the codes by this point, and I would certainly hope that at the special meeting on the 29th, this will be addressed and decided upon, as residents should know that you are doing everything possible to minimize our costs. Additionally, has any progress been made in pursuing other grants besides the \$5 million grant that we may or may not get?

I believe that infiltration is not an issue that has thoroughly been addressed, and this could certainly have a substantial impact on the performance of the plant. As things move forward, I hope that the board and engineers will also address the issue of rags at the source, which would save our hard-working employees many headaches and seems to be a simple fix

Lastly, at the first meeting we had, you mentioned that the figure of 750000 was agreeable to you. If you are willing to compromise in good faith, and that figure was agreeable to you from the very beginning, then this leads me to believe that this is no compromise at all. I hope that I am wrong.

Nancy

From: Michael Edwards <edwarmi@hotmail.com>
Sent: Monday, March 22, 2021 10:14 AM
To: Frank DeMayo
Subject: Swan Lake sewer upgrading
Attachments: sewerletter.doc

Dear Frank,

We hope this email finds you and your family well. We understand that there are family issues that require your attention at this time and pray for a successful resolution of them.

Since we understand that there will be a special Town Board meeting to discuss the Swan Lake sewer on March 29, we wanted to send you the attached note with our thoughts on how to proceed. We have also sent it to the rest of the Board. It represents our thoughts on a compromise solution that we can all get behind.

We hope this note is useful to you as you continue the negotiations over the sewer upgrading. If you would like to discuss its contents or have questions for clarification please let us know.

Many thanks again and all the best,

Mike Edwards
Cora Edwards
Nancy Levine
Bill Liblick
Paul Edelstein
Evan Beck
Cindy Karras

This message is private and confidential. If you have received it by mistake, please tell me and delete it from your system. Please do not share this message with anyone unless the sender has given you explicit permission. Inappropriate sharing could put you and the sender at risk.

Dear Frank,

We understand that there will be a special Town Board meeting on March 29 to discuss the Swan Lake sewer plant. Since there seems to be some confusion and misinformation circulating in the community we wanted to send you our current thinking on the Town's proposals and how to move forward from here. We hope these thoughts are helpful in reaching a satisfactory compromise that enables an application to be made for grant funding and zero percent financing once all the information required to finalize a satisfactory proposal has been gathered together.

Point I: what is the 'right-size' solution for the Swan Lake WWTP?

According to the legal advice we have received there is nothing in New York State law that gives property owners a legal right to demand sewer connections in the absence of the necessary sewer capacity. In some ways this is obvious, since otherwise the Town would be obliged to build a sewer plant of almost infinite capacity in order to accommodate 100% of theoretically-possible future demand running into tens of millions of gallons per day, which is clearly absurd. No-one knows what will happen in the future so it is irresponsible to tie a proposal to speculative development at whatever level, whether it is 900,000 GPD or 750,000 GPD or whichever other figure has been suggested.

This is why towns elsewhere insist that any large new residential or commercial development provide their own sewer at their own cost. By doing so, municipal sewer plants are better able to cope with small, manageable and incremental increases in demand as individual property-owners build additional units, while developers are forced to bear the costs of the sewer infrastructure they require instead of off-loading them onto taxpayers to boost their profits – which is what the Town's current proposals would do for taxpayers in Swan Lake. This is unfair and unjust.

Of course, if a town discriminates against a property-owner in allocating existing or future sewer capacity, or if it increases the capacity of the sewer plant but denies sewer connections to property owners whose development plans have already been approved by the Town, then different rules apply - we believe this is what the legal opinion the town has received citing "equal-protection" claims refers to - but this is not the situation in which we find ourselves here.

Therefore, what level of additional sewer capacity is appropriate for Swan Lake? According to the slideshow presented by Delaware Engineering to the Public Hearing on August 31 2020, the current capacity of the plant is 425,000 GPD. "Existing users" constitute 365,000 GPD of this amount and there is a 5% buffer required by the DEC (i.e. 5% of 425,000 GPD = 21,250 GPD), bringing the current baseline to 386,250 GPD (even though the plant operates at around 150,000 GPD for most of the year).

The same slideshow then cites an additional 103,000 GPD for "approved development not built," but according to the Town of Liberty Planning Department the only housing units that have been approved but not built are 58 units in the Green Hills development on Route 55. Using the data

provided by Delaware Engineering in their supporting “Map, Plan and Report” for the sewer project dated July 29 2020, one unit uses 75,000 gallons per year, so these 58 units would generate between 12 and 15,000 GPD depending on family size (i.e. $75,000/365 \times 58$). This brings total demand to around 400,000 GPD, still below the current capacity of the plant *when it is operating efficiently*.

If the Town Board contests this conclusion (as the Supervisor has in the past), then Delaware Engineering must provide documentation accordingly so that the public can see exactly what is covered under this category and how the figure of 103,000 GPD has been calculated. This point is important because property owners whose applications have already been “approved but not built” probably constitute those with the strongest legal claim if they are unable to access a sewer plant with increased capacity. But on the surface the figure of 103,000 GPD looks to be substantially inflated. We also suspect that water infiltration from the mains exaggerates actual usage to some degree, something that also needs to be factored into the equation.

Therefore, increasing the plant’s capacity to 500,000 GPD would provide plenty of room for residential expansion even after the needs of “units approved but not yet built” are met. This level of capacity would exclude very large developments because they would blow out the capacity of even a much bigger sewer plant, but it would meet the legitimate desire of existing property owners in the district to add new units in the future in manageable quantities, thus satisfying the “moral and ethical obligation” argument that some board members have raised.

According to Delaware Engineering, construction costs escalate significantly above a capacity of 525,000 GPD because of the need for “tertiary treatment” (see “Table 6” dated 12/21/20), so options that fall below this figure are also more cost-effective for taxpayers, especially if combined with other cost-saving measures of the sort identified below.

In the meantime of course, the Town is required to bring the sewer plant into compliance at its current level of capacity - an urgent priority that we raised at the Public Hearing on August 31 2020 and have re-surfaced at regular intervals ever since.

Point II: how can the costs of upgrading the Swan Lake WWTP be reduced to a minimum so that the burden on taxpayers is manageable?

Rather than applying for \$20m just because it is available or plucking a figure out of the air based on some hypothetical level of future demand or impact on sewer rates, we feel strongly that any proposal must be based on what it will actually cost to upgrade the sewer plant in the most cost-effective way at the capacity recommended above. To do that requires an accurate costing of the works required *once all available cost-reduction and financing options have been considered*.

The figures provided by Delaware Engineering thus far are simply generic “guestimates” that are based on sewer projects elsewhere and which may or may not reflect the realities of Swan Lake.

And since we don't know what is going to happen in the future it is not possible to calculate a "break-even point" where the impact of the plant on sewer rates will be "net zero" with any degree of accuracy, because that depends on hypothetical levels of development and assumptions about costs and payments whose outcome can only be tested after the fact. So it is impossible to say now whether a loan of \$10m or \$12m or \$15m or whatever will guarantee "net zero" in 5 or 10 or 15 years. The only certainty is that existing taxpayers will be paying for the upgrade from day one (i.e. from the first day in which debt repayments are due).

In order to generate the most cost-effective solution to the sewer plant, all available cost-saving measures must be explored and integrated into a coherent proposal, including the following:

- Value engineering by someone other than Delaware Engineering so that we all have an independent "second opinion" – a separate check and balance which ensures that recommendations and costings are accurate
- Investigation of options for pre-treatment (including rag removal) which reduce pressures on the sewer plant and externalize more costs onto users and less onto other taxpayers
- Quantification of water infiltration into the sewer system from the mains so that it can be reduced if necessary (thereby also lowering pressure on the sewer plant)
- Discussion and decision on requiring hook-up fees for all new units.
- Discussion and decision on requiring on-site sewer facilities for any future development above a certain scale (e.g. 10 two-family units or 20 one-family units, bearing in mind the total capacity of the sewer plant to accommodate future development at any scale).
- Application for a grant from the EFC to cover as much of the cost of upgrading as possible (we understand the maximum available is \$5m), so that the amount borrowed is reduced accordingly. This will further alleviate the debt-servicing burden on taxpayers.

We are confident that these measures will reduce the construction costs substantially from those provided by Delaware Engineering in Table 6 that was distributed last December.

In addition, the upgraded sewer plant should be designed in a way that makes "staged" expansions in capacity possible at minimum cost, should they be approved by the Town Board in the future. This will keep initial construction costs to a minimum. The design should also ensure that the upgraded plant operates efficiently at all times, not just during periods of peak flow, since we know that usage changes dramatically during the year.

We think these suggestions should be fully explored before a proposal is finalized and an application submitted to the EFC. Otherwise we risk paying for a "white elephant" plant that only approaches capacity for a few weeks in the year, leaving enormous unused capacity for 8-9 months that still needs to be paid for by taxpayers - a very inefficient "solution."

Point III: why the Town Board should seek an extension to its current deadlines for applying for zero-percent financing.

These questions and suggestions are complex and numerous, and cannot be answered in a matter of weeks. There are also widely-diverging opinions on what the appropriate answers might be, which will take time to reconcile. Therefore, we suggest that the Town applies for an extension of both the deadline to submit an application to the EFC (May 22 2021) and the deadline for Hardship Eligibility status (December 3 2021). This will give everyone time to undertake the necessary research and make decisions on technology options, pre-treatment, water infiltration, hook-up fees and so forth so that all the relevant information is included in the final proposal. Attempting to finalize a proposal now risks omitting crucial information that could greatly increase the cost-effectiveness and financial sustainability of the upgrading process in the future, not to mention community support.

Since it makes no sense to carry out such research after the proposal has been finalized (a severe case of “putting the cart before the horse”), all necessary evaluative work should be carried out *before* an application for financing is made so that what the Town applies for accurately represents the most cost-effective solution to upgrading the sewer plant. This will guard against cost-inflation as a result of money being made available that is not actually required (the idea that the Town would apply for \$20m and then “only spend \$15m” strikes us as extremely unlikely). As the EFC application form makes clear, the Town must apply for a fixed sum that is tied to the corresponding bond resolution and program of works. All relevant and necessary information should be included in this program of works so that it represents the “best-fit” and “right-sized” solution to upgrading our sewer plant.

In conclusion, we believe that a plant upgraded and expanded to 500,000 GPD that incorporates all available cost-reduction measures and is financed by a grant of \$5m and a loan at zero percent interest represents a cost-effective and responsible solution to our sewer needs.

We hope these thoughts are useful to you in your deliberations and are happy to respond to any questions, requests and queries.

Sincerely Yours,

Nancy Levine
Bill Liblick
Mike Edwards
Paul Edelstein
Evan Beck
Cora Edwards
Cindy Karras

Laurie Dutcher

From: Ana LaGattuta <alagattuta1@gmail.com>
Sent: Monday, March 22, 2021 8:27 PM
To: l.dutcher@townofliberty.org
Subject: Swan Lake

At the last zoom meeting which I was not able to attend, it was brought up that only eight people are opposed to the high cost of a treatment plant in Swan Lake. I think the board should know that these eight people represent a large majority of Swan Lake residents. We are not opposed to well thought out development but believe there are problems that need to be addressed before this happens.

Ana LaGattuta

Sent from my iPhone