

The Norwich School District's responses to DPW Director Hannah Tyler's memo of January 7, 2021 to Interim Town Manager John MacLean are in bold, italicized, blue fonts below.

To: John Maclean, Interim Town Manager
From: Hannah Tyler, Director of Public Works
Date: January 7, 2021
Re: Norwich Sewer Connection

Background:

It is our understanding that the Marion Cross School in Norwich, Vermont has an on-site septic system serving the school located under the playground sometimes called the "Norwich Green". That system has allegedly suffered from failures for close to a decade, with effluent surfacing at certain times of the year.

The Norwich School District's (hereafter referred to as NSD) on-site wastewater disposal system (system) was installed in the late 1980s and began surfacing in winter months in the mid-1990s. This situation appears to have deteriorated over time to the point where NSD needs an alternative. NSD is not sure why DPW Director Hannah Tyler is using the term "allegedly."

The Norwich School Board (NSD) which is part of the Dresden (New Hampshire) School District, has requested that the Town of Hartford (ToH) allow a connection for the School, several commercial enterprises, and future use of our wastewater collection system in response to the failure(s). Subsequently, the ToH has also received a request from the Norwich Commercial Park's consultant (Pathways) to connect as they allegedly have a failed system.

The NSD oversees the Pre-K through 6th grade Marion Cross School (MCS) in Norwich. The Norwich School Board joins with the Hanover School Board to oversee the Richmond Middle School and Hanover High School of the Dresden School District.

The NSD asked the Town of Hartford to consider a connection that would include the aforementioned Marion Cross School, the Co-op Service Center, King Arthur Bakery (KAB), and Norwich Commerce Park (NCP) as a mechanism to pay for the connection and address existing system needs for each of these three businesses.

NSD understands that NCP made a separate request to connect to The Family Place pump station, which is adjacent to NCP's southern driveway and proximate to its existing system, after Brannon Godfrey replaced Leo Pullar as Town Manager in the spring of 2019.

In our conversations with state officials regarding this topic it has become apparent to us that at no time have the involved entities notified the State of Vermont, Agency of Natural Resources, per current Wastewater regulations, that they have failed system per requirements.

NSD has maintained ongoing communication with the Vermont Agency of Natural Resources (VANR) in accordance with the NSD's system permit (currently WW-3-0026 following a transition from Indirect Discharge Permit 9-0021.0304) and the Rules. The system is under the jurisdiction of VANR District 3 represented by Terry Shearer, Regional Engineer, who has been informed and is in communication with NSD on a regular basis.

The Town's suggestion in this paragraph that NSD has somehow failed to conduct itself according to the rules is inappropriate and false.

Historical summary:

During 2018 and possibly earlier, informal inquiries were made to Leo Pullar (Town Manager) from the NSD and their consultant (Pathways), regarding the possibility of the Marion Cross sewer connection as a method for resolving their allegedly failed septic system.

Representatives from the NSD including, the Superintendent, Business Administrator, Director of Facilities, Board Chair, and engineering consultant from Pathways met with Leo Pullar, Hannah Tyler, and other representatives of the Department of Public Works in December 2018. The meeting was positive and Leo Pullar later noted in person and via email that he thought there was a "path forward" and "plenty of capacity" in the Hartford system.

The Town again uses the word "allegedly," which is not applicable in any context.

Between 2018 and 2019, Town Staff met with the NSD team on multiple occasions to discuss their proposal. Very little technical information with regards to existing and futures capacity needs, proposed infrastructure layout compliant with State standards or best engineering practices has ever been provided to the ToH.

The NSD has clearly presented a desire to connect to the Town's system including graphics and flows of approximately 20,000 gallons per day for NSD, Co-op, KAB, and NCP based on NSD's understanding that the Town upgraded its wastewater capacity to 1.45 million gallons per day (MGD). NSD has presented basic project needs in the context of presenting a draft memorandum of understanding (MOU) to the Town before devoting significant effort for planning, funding, design, and permitting efforts that would be needed with the VTDED and VTDEC. The materials presented by NSD for consideration of an MOU are in keeping with appropriate public, legal, and technical practices.

NSD has offered no future use or expansion of the connection and remains baffled why the Town suggests otherwise.

On September 23, 2019, the topic was discussed at a ToH Selectboard meeting, with members of the NSD team and their consultants present. During that meeting, ToH Staff was given approval by the Selectboard to negotiate a Memorandum of Understanding (MOU) with the intent of defining the NSD's obligations for funding a preliminary capacity and infrastructure study among other things. At no time has the Town indicated preliminary approval of the connection, we have only ever noted we would consider a proposal.

NSD continues to hope that Town staff will engage the NSD MOU in good faith.

On October 21, 2019, the NSD provided the Town with a draft MOU.

In November 2019, Town Staff met with Attorney Rob Manby and Wayne Elliot PE (Aldrich + Elliott Engineers), at our expense, to review the issue broadly and the MOU as proposed. Both Wayne and Attorney Manby advised that concept was a significant liability to the Town on a variety of fronts. Wayne advised that he works with multiple municipalities that have connections with other municipalities that are typically 'prickly' and unadvisable for a multitude of reasons.

NSD is not clear about reference to Rob Manby or Wayne Elliott relative to the question of liability. The draft MOU proposed by NSD is intended to indemnify the Town relative to liability. NSD is hoping to enter into further discussions in this regard. NSD is familiar with local inter-municipal agreements involving Hanover, Lebanon, and Enfield that have been successful for a number of years.

Following the meeting, responses to the draft MOU focused on protecting the Town of Hartford's interests and concerns were forwarded to the NSD. In response the NSD provided responses to our comments that mainly attempted to refute or argue against the comments or concerns raised in the Town's response. Town staff and Brannon found the negotiation to be unproductive at that time.

NSD considered this a natural back-and-forth in drafting an MOU after our administrators and legal counsel had reviewed the document. A feeling that the negotiation was unproductive was never communicated to NSD.

Concurrently to this request the Town has been focused on complying with a federal order to develop a Long-Term Control Plan (LTCP) for our Combined Sewer Overflows (CSO). This order requires us to take immediate action with our primary wastewater consultants to complete that study. Due to the existence of CSO's within the wastewater stream between Norwich and our Pollution Control Facility in White River, we notified the NSD, that the CSO needed to be completed prior to considering their proposal. Town staff and consultants advised that any connection decisions prior to having the results of the LTCP would be premature as it may identify critical infrastructure improvements required to maintain compliance with state wastewater regulations. Due to travel and work restrictions during Covid-19, the LTCP has been taking substantially longer than expected.

This paragraph addresses the CSO evaluation NSD understood the Town to be pursuing and further demonstrates why NSD is confused as to why the DPW is recommending that discussions be ended. In email correspondence with Hannah Tyler of November 17, 2020 (cc'ing Lori Hirshfield and Chair Fraser) attached, NSD suggested that we return to finalizing the MOU upon conclusion of the Town's CSO evaluation. As noted in correspondence, Hannah Tyler suggested a likely completion date of the spring of 2021, which, again, was why NSD was surprised by the request for a motion by the Selectboard to end discussions on the same evening (January 26th) they were briefed on the conclusion of the CSO study NSD was told to expect completion of in the spring.

The CSO evaluation does not provide information relative to the increase in capacity that will occur as EPA regulations are addressed. Again, NSD hopes to continue discussions under the assumption that our 20,000 gpd request will not present any negative impacts to the Town.

Since that time, the NSD has requested that we follow up, provide updates with regards to the LTCP, and requested that we revisit the MOU.

Yes, as per the email correspondence, noted above, of November 17, 2020. NSD has also asked what specific details would be helpful for us to provide, in advance. We received no response.

In October 2020, and subsequent to conversations with Patrick MacQueen (Interim Town Manager), Dan Fraser, Lori Hirshfield, and other Town Staff, we notified the NSD that until the MOU was revisited, we would consider the matter tabled.

Again, this reference does not make sense to NSD with respect to the email correspondence of November 17, 2020.

ToH staff continues to receive inquiries from the NSD regarding the topic.

Concerns:

- Impacts to ToH system and plant capacity
 - *It is NSD's understanding that the capacity of ToH's system is 1.45 million gallons per day and it is presently operating at 50% of capacity. NSD is requesting up to 20,000 gallons per day, less than 1.4% of capacity. If allowed to connect, NSD and its associated parties would help to offset the cost of current and future expenses born by current users.*
- Inconsistency with Hartford's Town Plan, TRORC Regional Plan, Hartford's State Designated Growth Plan.
 - *NSD welcomes a discussion about the actual circumstances that pertain to the Town Plan, the Regional Plan, and the March 22, 2010 Growth Center Designation Decision.*
- Necessity for revisions to Hartford's sewer ordinance, need for Norwich sewer ordinance
 - *NSD is not able to understand the basis for this bullet since the Town agreed to connect TFP in 2007 and the Unitarian Universalist Congregation more recently. Additionally, NSD understands that the Town Selectboard unanimously approved connecting (then) King Arthur Flour to the Town circa 2010.*
- Adequacy or updates to Norwich Zoning, Planning regulations, and Town Plan
 - *Like the preceding response, the Town has not previously required modification of planning and zoning documents in Norwich to allow connections from users in Norwich to the Town.*
- Definitions of ownership of infrastructure
 - *NSD understands and would like to engage in this discussion with the Town.*
- Difficulty in developing an appropriate billing schedule and metering method that adequately funds impacts to the Town
 - *NSD was not made aware of this concern until now and would be glad to have a meaningful conversation. Furthermore, NSD assumes that the basis of fees applied to TFP and the Unitarian Universalist Church would be a good starting place for a discussion.*
 - *NSD is part of the School Administrative Unit 70 (SAU70) and has full access to a labor force with depth in financial and operational activities which we can handle all needs promptly and accurately. Currently, SAU70 manages multiple budgets in excess of \$50 million.*
- Competing economic development interests
 - *We have not heard of this concern previously. Nonetheless, NSD is unaware of any competing economic development interests since NSD is seeking a solution for its school children and the Co-op, KAB, and NCP are all existing businesses (two of which have footprints in Hartford) seeking a more environmentally sound and sustainable solution to on-site wastewater disposal. In addition, the Co-op and KAB have significant footprints in Hartford, providing goods, services, jobs, and taxes.*
- Lack of any evidence that the NSD has exhausted all other repair options
 - *NSD has not been asked this question previously, but would be glad to address it. NSD will send reports it has filed with VANR District 3. Additionally, and as discussed previously with the Town Manager and DPW Director, NSD continues to explore options that are less desirable than a connection to the Town. Reports of these options are available on the SAU70 website: <https://www.sau70.org/departments/facilities/norwich-septic-project>.*

- Odor concerns
 - *NSD has not been presented with this concern previously, but can understand the concern and will address the matter with the VTDEC at the appropriate time.*
- Design proposal concerns (approximately 1.5 miles of nearly flat sewer/force main with multiple pump stations)
 - *NSD is not aware of any specific technical concerns, but agrees that a force main from Marion Cross School to the Town will require a pump station and connections from the Co-op, KAB, and NCP will require individual pumps (and KAB will require additional treatment for VTDEC and Town approval).*
- Past town staff experience with similar agreements/system extensions
 - *NSD has not been presented with this concern previously. NSD understands from both TFP and the Unitarian Universalist Church that each relationship with the Town is positive.*
- Reluctance of the NSD to explain why the connection involves other private, public, and commercial interests and the overall lack of a consistency of who those parties reportedly will be and what their potential build-out is
 - *There is no reluctance whatsoever to explain why and the NSD has clearly presented its desire to connect Marion Cross School to the Town in a partnership with the State of Vermont, the Co-op, KAB, and NCP to fund the connection through job creation, which will allow public funding of \$40,000 for each new job. NSD has also acknowledged that it will likely need to partner with the Town of Norwich as a sponsor for receipt of public funds.*
 - *NSD can provide the Selectboard with numerous emails and show many documents that have been shared with the public and posted on the District's communication sites. With regard to direct communication with ToH, I would refer everyone to an email to Former Town Manager Brannon Godfrey dated Wednesday, August 21, 2019, which states: "Brannon, our goal with the State is to ask folks about funding options (e.g., CDBG for job creation, USDA RD, SRF, etc. relative to grants, low interest loans, and other possibilities) so the District can make more informed decisions about cost, both long term and short term. We will keep you posted about funding options so the District can best develop an agreement with the Town if the project moves forward in this direction." The email goes on to explain who would be included and the flows in "a range of 15,000 gpd."*
 - *Additionally, NSD met with Joan Goldstein, Commissioner, Vermont Department of Economic Development (DED) and Josh Hanford, Acting Commissioner, Vermont Department of Housing & Community Development, along with another DEC representative on August 29, 2019 to involve appropriate parties at the early stages of a possible connection with the Town.*
 - *Former Town Manager Brannon Godfrey and Hannah Tyler were all made aware of NSD's efforts and invited to join the discussions in an email stream dated August 20, 2019. Mr. Godfrey emailed his inability to attend and inquired about the content of the discussions, which we promptly explained. Director Tyler had previously noted that she could attend a meeting with representatives from the above listed offices that was scheduled for January 8, 2019, but was subsequently cancelled due to the government shutdown. It was rescheduled for the August 29th date listed above.*

- Reluctance to obtain formal support from the Town of Norwich (municipality vs. school district)
 - *There has been no reluctance to obtain formal support and the Board Chair presented to the Norwich Selectboard following its presentation to the Hartford Selectboard in the fall of 2019. We plan to do so again soon.*
- Lack of real engineering data (rather than unofficial ballpark estimates) Lack of capital budget and program
 - *This concern does not acknowledge the record to date. NSD has devoted a limited amount of effort identifying the scale, scope, and cost of the project in pursuit of an MOU with the Town, after which NSD will devote significant cost and effort to planning, funding, design, permitting, and construction. NSD has also asked on a number of occasions, as recently as October 2020, what data, specifically, Hartford DPW would like to see. We received no response.*
- Lack of definition of service area
 - *The service area repeatedly proposed by NSD includes Marion Cross School and three existing businesses (the Co-op, KAB, and NCP).*
- Lack of determination of appropriate permitting either from VTrans, Act 250, or other agencies
 - *While identification of permitting agencies is appropriate, it is premature. NSD fully intends to engage appropriate agencies for a connection to the Town.*
- Inconsistency with requirements of identified funding sources
 - *NSD cannot understand this concern since it has been clear about its goals with respect to project funding. Also, see responses above.*
- VLCT determination of liability regarding acceptance of wastewater from an adjacent municipality
 - *NSD has not been presented with this concern previously, but presumes that VLCT will provide the same determination it did previously in support of connections approved for TFP, the Unitarian Universalist Church, and KAB.*
- Setting precedent for future, external connections or lack of control over expansion of Norwich 'system'
 - *NSD has presumed that previous Town support of connections in the corridor establishes necessary precedent. NSD has noted in various contexts its willingness to control flows for the purpose of this connection.*

Recommendation:

It is our recommendation that the ToH considers the NSD proposal to be detrimental and notify them that they seek alternatives.

Given the information we have provided above and our understanding that the discussion would continue upon conclusion of Hartford's LTCP CSO study (see email correspondence of November 17, 2020), we ask that the Selectboard encourage the conversations to continue with your incoming Town Manager and relevant Department staff. We believe there are benefits in this proposal for all.