



PZ Clerk &lt;pzclerk@townofnewlebanonny.gov&gt;

## Re: Town Board questions on Sewer Infrastructure, Ethics, CAC, Privilege of the Floor

1 message

John and Bonnie Lichak [REDACTED]

Thu, May 14, 2026 at 3:12 PM

To: "Town Supervisor (New Lebanon)" <supervisor@townofnewlebanonny.gov>  
 Cc: Town Supervisor <supervisor@townofnewlebanon.com>, C Patterson <cpatterson@townofnewlebanon.com>, s tipograph <stipograph@townofnewlebanon.com>, Joanne Amlaw <jamlaw@townofnewlebanon.com>, "spowers@townofnewlebanon.com" <spowers@townofnewlebanon.com>, "nlcac.munves@gmail.com" <nlcac.munves@gmail.com>, "nlebcac2@gmail.com" <nlebcac2@gmail.com>, "nlebcac1@gmail.com" <nlebcac1@gmail.com>, "nlcac.lamonaca@gmail.com" <nlcac.lamonaca@gmail.com>, Elizabeth Brutsch <nlpb.brutsch@gmail.com>, PZ Clerk <pzclerk@townofnewlebanon.com>, "nlpb.carroll@gmail.com" <nlpb.carroll@gmail.com>, David McGinness <nlebpalt1@gmail.com>, Jeff Zimmerman <nlebpalt2@gmail.com>, "nlpb.muse@gmail.com" <nlpb.muse@gmail.com>, "nlpb.hanna@gmail.com" <nlpb.hanna@gmail.com>, "nlpb3@gmail.com" <nlpb3@gmail.com>, [REDACTED], Town Clerk <townclerk@townofnewlebanon.com>, "nlcac.powers@gmail.com" <nlcac.powers@gmail.com>

Dear Supervisor Hotaling and Board Members (Town, Planning, CAC),

If everyone must pay that is in the Sewer District, but it won't be done thru a tax levy what was the purpose of even mentioning that? It seems immaterial. If everyone in the district must pay, then people should know that. I thought the whole discussion was on Peg Munves and Josh Young carrying petitions for those to sign that want to opt in so you could do the math on the budget. I sure don't want to listen to the 2 hours again, but it seems there were some assertions made that would lead people to conclude there was a loophole found to opt out that the prior Bond Attorney said could not be done.

So, what is it that Hodgson and Russ is getting the Town by whatever the new way of billing is? Wouldn't the tax bills be a simpler way vs a whole separate bill. If it is not a tax then what does that do to the collection of delinquent payments? And why would the Bond Attorney be changed and without a request for proposals. I looked online and it says you have to go out to bid, doesn't it.

At this point this just does not have a good look with the Law Firm and the Engineering Firm for Tilden pushing for a Sewer District. We all know full well that the project Engineer has stated 3 times (July, December, and April) that the site cannot meet NYS DOH site separation requirements. If they can move the sewer off site maybe that resolves that issue but so too might a smaller project for the site. To push a sewer district at this juncture looks to be a benefit solely for the Tilden project if that resolves their DOH separation issue.

We still expect answers to each question posed below. If the issue is not the ability to opt out then whatever it is that Hodgson and Russ is doing that is so different it requires the Town to change Attorneys to the same firm that is representing Tilden should be made clear to the public because after that meeting that is NOT what people walked away with.

Sincerely,  
 Bonnie Lichak

**From:** Town Supervisor (New Lebanon) <supervisor@townofnewlebanonny.gov>

**Sent:** Thursday, May 14, 2026 2:16 PM

**To:** John and Bonnie Lichak <[REDACTED]>  
**Cc:** Town Supervisor <supervisor@townofnewlebanon.com>; C Patterson <cpatterson@townofnewlebanon.com>; s tipograph <stipograph@townofnewlebanon.com>; Joanne Amlaw <jamlaw@townofnewlebanon.com>; spowers@townofnewlebanon.com <spowers@townofnewlebanon.com>; nlcac.munves@gmail.com <nlcac.munves@gmail.com>; nlebcac2@gmail.com <nlebcac2@gmail.com>; nlebcac1@gmail.com <nlebcac1@gmail.com>; nlcac.lamonaca@gmail.com <nlcac.lamonaca@gmail.com>; Elizabeth Brutsch <nlpb.brutsch@gmail.com>; PZ Clerk <pzclerk@townofnewlebanon.com>; nlpb.carroll@gmail.com <nlpb.carroll@gmail.com>; David McGinness <nlebbalt1@gmail.com>; Jeff Zimmerman <nlebbalt2@gmail.com>; nlpb.muse@gmail.com <nlpb.muse@gmail.com>; nlpb.hanna@gmail.com <nlpb.hanna@gmail.com>; nlpb3@gmail.com <nlpb3@gmail.com>; a [REDACTED] <[REDACTED]> Town Clerk <townclerk@townofnewlebanon.com>; nlcac.powers@gmail.com <nlcac.powers@gmail.com>

**Subject:** Re: Town Board questions on Sewer Infrastructure, Ethics, CAC, Privilege of the Floor

Bonnie,

It may take a while to compile answers to all of your questions but one I did want to clarify briefly as it is very important. There was NOT a difference of opinion between the bond attorney we discussed the project with last year and Hodgson Russ. Hodgson Russ agreed with that bond attorney that if you create a sewer district (a tax based system) everyone who is in the district must pay even if they don't connect to the services. Hodgson Russ provided a different way of providing sewer services that is not a sewer district with a tax based system, but rather a fee based system, not collected via property taxes.

Tistrya

On Thu, May 14, 2026 at 1:28 PM John and Bonnie Lichak <[REDACTED]> wrote:

Dear Supervisor Hotaling and Town Board Members:

The Town Board meeting had a lengthy discussion on pursuing Sewer Infrastructure funding which raised a number of questions in addition to those we submitted for Privilege of the Floor.

There was discussion that the prior Bond Attorney had issued an opinion that residents could not opt out of a sewer district. Hodgson and Russ, the new proposed Bond Attorney, was stated in the Town Board meeting as having issued an opinion that was cited as stating residents could opt out. The basis of Hodgson and Russ' opinion seemed to be described as whether the system was fee-based vs tax- based.

Our questions on this are:

1. The contention is that Hodgson and Russ have opined that owners in a Sewer District can opt out. However, in reviewing the Hodgson and Russ Letter in the Supporting Documents, there is nothing that speaks to this issue. The ONLY place it is written that properties can opt out of sewer rents is in the CAC Supporting documents pages which state: "**Properties that do not connect to the system will not pay a penny for it.**"

**NOTE: It is not clear if the CAC statement is even referring to opt out for owners in the district or if they are referring to those *not* in the district as not paying for the sewer annual debt and maintenance costs. This is a very important point that needs to be verified for those in the proposed sewer districts.**

Can the Town provide a copy of these two opinions the Town received and post them with the Town Board's May meeting supporting documents?

2. Can the Town cite the General Municipal Laws, Tax Laws and/or Office of the State Comptrollers (OSC) regulations upon which the two attorneys made their opposing opinions on the payment or non-payment of sewer rents for those in the sewer districts and post those as well ?

Here are some links we have read thru which seem to indicate there are a number of factors and processes for establishing sewer districts but none seem to speak to this very important point:

[https://newyork.public.law/laws/n.y.\\_general\\_municipal\\_law\\_section\\_452](https://newyork.public.law/laws/n.y._general_municipal_law_section_452) - Sewer Rents

[https://www.tax.ny.gov/pubs\\_and\\_bulls/orpts/legal\\_opinions/v7/32.htm](https://www.tax.ny.gov/pubs_and_bulls/orpts/legal_opinions/v7/32.htm) - Tax and Finance Opinions of Counsel

[https://newyork.public.law/laws/n.y.\\_general\\_municipal\\_law\\_section\\_99-g](https://newyork.public.law/laws/n.y._general_municipal_law_section_99-g) - Capital Program

3. Since there is a stated differing opinion between Attorneys, can the Town Board /Attorney also seek written clarification from the OSC or other pertinent State Agencies to give residents greater confidence that they will not be advised later they must connect to the sewer system and must pay? After the confusion with the sidewalk materials and the issues that has caused, we would appreciate the OSC or other pertinent State Agency concurrence recognizing there are often changes to laws, etc.
4. Is a door to door petition the most efficient and reasonable way to advise property owners of the proposed sewer districts, the costs, and the legal standing of opt in or opt out?
  - a. How will this work for owners that are not on site?
  - b. Does it give owners time to digest all materials? The property owners should be provided the material prior to any discussions so they are comfortable with any discussions that may be had and not feel undue pressure if it is determined there will be people going door to door with the petitions which we do not support.

NOTE: Mailing petitions by certified mail return receipt requested with a due date would seem to be a more efficient way and gives owners the time to review and digest. This would also remove any question of violations of either Town or State Ethics Laws for Mr. Young or feelings of discomfort by property owners since he has a vested interest in a sewer district with his financial interest in a parcel that may benefit from a sewer district.

5. Can the distributed notarized petitions include the State Laws/Regulations on the to be signed page, so it is clear to residents what the laws are governing a sewer district when they are signing with regard to obligations to pay? Will there be a date stamped carbon copy signed by a Town Employee returned to those who signed for their records?
6. Can the property owners receive a packet of information with the petition that includes:
  - a. the legal finding verifying the ability to opt out. Perhaps a letter from the Town Attorney since he would be viewed as a more independent party.
  - b. maps of the parcels in each proposed District
  - c. The proposed budget so it is clear how the expected sewer rents were derived for both the projected annual use cost and annual maintenance costs (both with and without Tilden)
  - d. whether there will be a connection fee for the new district at start up or for any connections at a later date?
7. Can the existing NYS funding contract be posted with the May supporting documents?
  - a. It was noted that Town Board Member Tipograph had questions on the status of State funds. The key issue would seem to be if the State contract has a deadline date or if it is a grant with no end date. The State often does not reappropriate funds. If there is no reappropriation funds must be spent by September of the current budget year because they expire.
  - b. Can the Town Board seek written clarification if the funds are contingent upon an adopted State Budget and if all existing contracts will have funds included in the budget as reappropriated?
8. Can the Town Board post the Packet provided to those petitioned and within a set time period detail in that post if the circulated budget and those who opted in resulted in meeting the costs that were projected?
9. Is Sewer Infrastructure a Capital Project and subject to General Municipal Law Section 99F? If so, there are many more documents required. Here is a link:
 

[https://newyork.public.law/laws/n.y.\\_general\\_municipal\\_law\\_section\\_99-g](https://newyork.public.law/laws/n.y._general_municipal_law_section_99-g)
10. Is there any issue with ground water recharge if the Town installs municipal sewer that directs all effluent away from parcels that rely on ground water recharge for private wells?

Unrelated to this subject :

11. Can the CAC post an agenda in advance of their meetings?
12. Can the full names of submissions to Privilege of the Floor be read (at the May meeting there were people only identified by first name — Tyler and Ryder)?
13. Can the Town post written Privileges to the Floor with the Town Supporting Documents?

We appreciate the time the Town Board took to discuss the sewer infrastructure project but also hope much more information can be afforded to the Town Board and the public that would be helpful in understanding the proposal. After a whole year of waiting for the Feasibility Study, these details are integral to confidence by all. It would have been very helpful to all for the Town Attorney to be present to answer the Town Board's questions. We hope that at any future Town Board meetings with this project on the Agenda the Town Attorney will be present.

We did search the internet but none of the pages we found on the Office of the State Comptroller's website , Tax and Finance, or General Municipal Law were clear to us on if a Town can levy a fee vs a tax which allows the opt out by those in the district as was stated, but we were able to find an OSC page that deals with Special Districts that may be helpful.

The link is here:

[Town and County Special Districts and Town Improvements | Office of the New York State Comptroller](#)

It seems to state that the Town must get approval from the OSC for a sewer charge that exceeds \$1,010 per year as well as many other required steps.

There is also an excellent Q and A at this link:

[FAQs ON THE ESTABLISHMENT OR EXTENSION OF TOWN SPECIAL DISTRICTS CONCERNING REQUIRED DETERMINATIONS AND METHODS OF ASSESSMENT](#)

We also found this portion of the law.:

[N.Y. Town Law Article 12-A – Establishment or Extension of Improvement Districts--alternate Procedure \(2026\)](#)

The above links included this one which then details how sewer rents can be calculated which may also be helpful to the board:

[https://www.tax.ny.gov/pubs\\_and\\_bulls/orpts/legal\\_opinions/v7/32.htm](https://www.tax.ny.gov/pubs_and_bulls/orpts/legal_opinions/v7/32.htm)

#### **Sewer rents/user charges**

“Sewer rents” may be imposed pursuant to Article 14-F of the General Municipal Law, known as the “Sewer Rent Law”, and are defined in section 451(1) as “a scale of annual charges established and imposed in a city or village or in a sewer district in a county or town pursuant to this article for the use of a sewer system or any part or parts thereof.” These charges may be calculated on any of the following bases:

- (a) the consumption of water on the premises connected with and served by the sewer system or such part or parts thereof;
- (b) the number and kind of plumbing fixtures on the premises connected with and served by the sewer system or such part or parts thereof;
- (c) the number of persons served on the premises connected with and served by the sewer system or such part or parts thereof;
- (d) the volume and character of sewage, industrial waste and other wastes discharged into the sewer system or such part or parts thereof; or
- (e) upon any other equitable basis determined by the local legislative body, including but not limited to any combination of the foregoing

Thank you,

Bonnie Lichak

Amy Brueckmann