

Harvard Sewer Commission
Public Hearing Minutes
September 11, 2012
Approved September 19, 2012

Commissioners: Cindy Russo, Kyle Hedrick, Rick Maiore

Others Present: Tim Bragan, Lorraine Leonard, Sue Fitterman, Marie Sobalvarro, Ron Ricci,
23 Town Residents

Chairman Cindy Russo opened the public hearing at 7:03 pm in Volunteers Hall in the Harvard Public Library. She stated that the Sewer Commission has received input on their proposed rules and regulations from the Board of Health, the Board of Selectmen and others, and is here tonight to get input from the property owners in the sewer district.

Town Administrator Tim Bragan asked residents to give their name and address before asking any questions, and stated that tonight's questions and answers will be posted on the Town of Harvard website. Mr. Bragan reviewed the list of questions and answers from the Board of Selectmen.

Section 1.4 HARVARD WASTEWATER MANAGEMENT SERVICE AREA, first paragraph: Isn't the total system cost, which the betterments pay down, being prorated so the portion attributable to the town's properties, while not assessed in a betterment per se, is not included in the betterments charged to private property owners? What is the need for the last sentence? It reads as if the land owners within the district are paying for their share and the town's share, which is not as we understood the arrangement to be.

The homeowners are not going to be charged for the Town's betterment as they (the residents within the district) are capped at \$18,700/betterment unit. The Town's betterment unit calculation will be done and used in the overall calculation for determining the betterment charges. There is no cap on the town's portion. Three buildings (new library, Hildreth Elementary, and Bromfield) have already built a sewer system and they are not responsible for upgrading to the current system.

Section 1.5 LIMITATION ON DISCHARGE FROM THE SYSTEM: The second sentence is confusing. If the DEP permit requires connections to cease if the system reaches 20,000 gallons per day, what are users to do? Would it be clearer to state that the DEP permit caps the system use at 20,000 gallons per day, and therefore, to avoid reaching this cap, no new connections will be allowed if the system is averaging 19,000 gallons per day. Is the DEP permit an average of 20,00 gallons per day? over what period? or is it a one-time event?

We are not sure how DEP will handle this. The permit says all connections will cease when the discharge from the system reaches 20,000 gallons per day. When the project started in 2007, we met with DEP about how to add the town center sewer district into the existing wastewater treatment plant. The original wastewater treatment plant has a leach field with a permit to process 23,000 gallons per day. At that point in time, DEP allowed 80% of the permitted amount to be used on daily basis, so 18,400 gallons per day were allowed at that time. The town went to DEP with the actual water flow for the district and showed DEP the combined total for all properties in the district was about 13,000 gallons per day. Once we gave DEP that information, they were amenable to give us a permit for this work. We showed DEP that the wastewater treatment plant serviced all houses in the district and that the average number throughout the year was 16,000 gallons per day. In summer that number can go up to 18,000 gallons per day from residents watering their lawns, but that water is not hitting the wastewater treatment plant. Based on that data, DEP said we could use 20,000 gallons per day. When we hit 20,000 gallons per day, we have to stop connections and prepare an analysis to see if 20,000 gallons per day number was an anomaly and let DEP know the results. If anomaly, we can start adding connections again. The historic water use shows 16,000 gallons per day on average. The reality is that right now the wastewater treatment plant can handle 20,000 gallons per day but for all intensive

purposes we won't reach that number. The current numbers for the water pumped come directly from the Harvard Department of Public Works.

Section 1.6 REQUIREMENT OF CONNECTION TO THE SYSTEM, second paragraph and 1.7 RIGHT TO CONNECT TO THE SYSTEM: It is not clear if or where a priority lies between an individual septic system found to be in failure (at some time before the wastewater system is at 19,000 gallons per day) and the right of someone with a functioning system to elect to connect.

The Sewer Commission will have to make that determination at that time. If a property owner's septic system has been determined to be in a state of failure, they need to connect within six months. If the discharge from the Wastewater Management System has reached 19,000 gallons per day, we need to understand what's causing that. When the system reaches 19,000 gallons per day, the DPW Director or Tim Bragan will be notified.

Section 1.7 RIGHT TO CONNECT TO THE SYSTEM: What is the process for disputing the use(s) attributed to their properties? Does this include all uses allowed for that property under zoning, as of May 1, 2009? Can the Commission take away an allowed use?

The use of the property will be established by the lists/matrix that will be attached to the regulations and have just been distributed to the district residents for review and chance to correct. If a resident wants to change / expand use they must apply to the Sewer Commission and, if approved, the BOS must also approve. Zoning is not determinative of right to connect to sewer any more than it is of Title 5 rights.

Section 1.8 GROWTH NEUTRALITY CLAUSE: Must all 3 conditions exist on a given property to trigger the additional review by the Commission? What is the process for this review? A public hearing?

This language comes directly from the legislation. The three conditions listed are (1) new use or building not in the district as of May 1, 2009; (2) a property that has been reconstructed after May 1, 2009 resulting in increase in net floor area or in the number of bedrooms; (3) a property that has undergone a change in use since May 1, 2009 that creates an increase in the Title 5 design flow of the property or which increases the net square footage of a building by more than five percent. There is no requirement for a public hearing although BOS must also approve.

Section 4.2 MATERIALS: Who or what is the basis of prescribing which materials will be used to connect to the Wastewater Management System? How do property owners ensure the best materials are used?

This is being discussed with the project engineers. The town will prescribe which grinder pumps will be used. Tim Bragan is working with three companies to get the best price for the district. It is important to have one standard grinder pump so the town can get parts quickly and have backup pumps available onsite for emergency repairs.

Section 4.3.13 ROCK EXCAVATION: Do the rules and regulations mean to preclude any blasting within the entire geographic area of the wastewater system?

The Sewer Commission believes the town center sewer district is too densely populated for blasting.

SECTION 10.4 PUBLIC FUNCTION: Is everything the Commission does a public function exempt from any liability?

Town Counsel is looking at the definition of public functions of the Sewer Commission.

SECTION 11.8 HEARING RECORD AND DECISION [second 11.7]: Is there a right of appeal of the decision of the Commission? If so, to whom?

Yes. To the Board of Selectmen.

Mr. Bragan then asked for additional questions from town residents, noting that any questions related to fees should be held until the rate hearing scheduled for September 26, 2012.

QUESTION FROM WENDALL WILLARD, 5 POND ROAD: The growth neutrality clause has three conditions; is any one of those sufficient to not allow permit connection? What is definition of new use?

“New use” means the building did not exist in the district as of May 2009. The property owner has to go through an application process with the Sewer Commission in order to connect. If the use of a property changes, the property owner needs to prove that the property can handle the change in use from May 2009.

QUESTION FROM RHONDA SPRAGUE: Does this apply to municipal buildings? And do they get extra capacity before residents?

If the town is expanding the footprint of a municipal building (such as the renovation of Town Hall), the town has to go through the same application process with the Sewer Commission. This applies to all municipal buildings including Hildreth House, the Fire Station, and the old library.

QUESTION: When plans were approved for the renovation of Town Hall, was there a calculation of how much the change will be?

The Sewer Commission asked the Municipal Building Committee to have the project engineers estimate the flow from the renovated Town Hall. Under the Growth Neutrality Clause, the town will have to prove that the new Town Hall is able to handle the new flow calculation, or that a connection is necessary for the health and welfare of the Town.

QUESTION: Are there any undeveloped residential or commercial lots in the sewer district?

None that we know of. The Barber property on Still River Road was mentioned by one resident, but that property is not part of the sewer district. The sewer system stops after the Fagan property at 21 Still River Road.

QUESTION: How would the various schemes for the Hildreth House affect the sewer system?

Since the Hildreth House is town-owned property, the town needs to go through the application process under the growth neutrality clause.

QUESTION FROM BILLY SALTER, 3 ELM STREET: There are a number of big houses in the district with few people living in them. If one of those owners sells their house to a large family with 7 kids, there is no change of use but more water will be used. Is that allowed?

Yes, that is ok.

QUESTION FROM RHONDA SPRAGUE: In May 2009 there were a number of empty properties in the center of town and several vacant homes. What year was the flow determined?

We sent in two years of data to average it out. The data came from either 2009 or the end of 2008.

QUESTION: In May 2009 the Fellowship Building was in its older version. The Unitarian Church now needs to decommission the septic system for the Fellowship Building and connect to the town sewer. Since the square footage changed, do they need to go through the application process?

The Fellowship Building was required by the Board of Health to connect to the system. The Sewer Commission had nothing to do with that. However, the owners of the Fellowship Building have to go through the same application process with the Sewer Commission since there was a change in use.

QUESTION: Could the Sewer Commission decide that the Fellowship Building is not allowed to connect?

If the Board of Health told any property that they need to connect to the sewer system within six months of its being operational, then the Sewer Commission will approve their connection. If any property was able to connect to a septic system, then they have the right to connect.

QUESTION FROM BILLY SALTER: If you could have connected to a Title 5 system, you can by right connect to the town center sewer system. Is that how the Sewer Commission interprets that clause?

Yes.

QUESTION: Can you give us example of someone who may not be able to connect?

If the owners of a real estate office wanted to add a second story to the building and expand its square footage, the owners must go through the application process to see if 1) they were able to put in a septic under Title 5 regulations to allow expansion; if they were not able to do that, then they don't have the right to connect. They would then go to condition b) increase in design flow would be a benefit to the town. If they can't meet condition a) or b) then they cannot add a second floor onto the building. The application process is to protect the gallons per day to allow people who pay betterments to connect to the system.

QUESTION FROM CONNIE LARRABEE: Will Hildreth House be connected when the other town buildings are?

The town buildings must be connected within the first year. We are reviewing estimates of how and when to connect Town Hall, the Fire Station, and Hildreth House. We anticipate that we will hit rock and are working with engineers and contractors to determine the best way to connect these buildings.

QUESTION FROM RHONDA SPRAGUE: How far must the sewer connection be from the water line?

We will ask the engineers and let you know. Like normal wells and septic systems, there is no problem with the water line being close to the sewer line, but we understand that the law says a certain distance. The Sewer Commission needs to find that out and will look at Section 4.3.6 which addresses this. (NOTE: On 9/12/12 the project engineers stated that the sewer line must be 18 inches below the water line, or if the sewer and water lines are side by side, there must be 10 foot distance from trench to trench).

QUESTION FROM BILLY SALTER: The idea of a town center septic was to support the goals of the master plan and have a lively town center. And if the town wants to expand Town Hall, we want the sewer system to support that goal. We don't want a finite system with constraints. This is a big deal to the town and the Board of Selectmen are the final decision-making authority and I am appalled that only one member of the board is present at this meeting. My question is: Section 1.5 currently says that when the wastewater management system discharge reaches a daily average of 19,000 gallons per day, there are no new connections. There are some variables with averages. An average of 19,000 gallons per day will most likely exceed 20,000 gallons per day at some point. The regulation as written might not achieve its stated objective.

We need to remove the word "average" from Section 1.5. And if you are uncomfortable with the average of 19,000 gallons, what number would you recommend?

QUESTION FROM BILLY SALTER: I want the Sewer Commission to know and to fully understand what DEP requires and what they permit. I suggest that the regulation as written is unclear. The average daily use – is that average over a week, a month, a year? The longer the interval, the more reliable the average is. The regulation itself is not clear. I would be happy to spend time with the Sewer Commission to work on this.

The Sewer Commission took the rules and regulations from other committees and bounced them against other regulations from other towns and put together the initial draft of the rules and regulations. We have worked on this for over a year. We are looking for input from residents tonight. We know the regulations are not perfect but they are the best document that the Sewer Commission could produce given the information we had at the time. It is a living document that can be revised based on input from residents.

COMMENT FROM BILLY SALTER: When earlier committees were working on a draft of this, we spent time talking to Town Counsel and the Board of Selectmen liaison and Chris Ashley and others, and there was no talk of having a hard limit. In the process of preparing this for town meeting, assurances were made that people within the district could hook up within 20 years. Then the Sewer Commission found there might be limits on septic capacity, and now it's a very different model that says if you don't sign up quickly, you might not be able to sign up. To fix this, the Town could commit to additional holding tanks, more leach fields, etc. There are a number of things the Town could do.

QUESTION FROM RHONDA SPRAGUE: I am a bit shocked and surprised to hear that even before we can connect, we are worried about being at near capacity. Are we being scared here rather than being realistic? Are we confident that this system will supply everyone who wants to hook up, or are we building a system that is already too small?

Let's go back to that number of 13,000 gallons per day that we showed DEP. That was the combined total for all properties in the current sewer district (the two schools and the new library) over a two-year period. That water use would have to change dramatically before we would get to 19,000 gallons per day. There should be no fear that the new system is too small. Most times when a sewer system goes in, the residents have no choice – they must hook up. Because of the size of our system and our rural setting, we are allowing a 20-year timeframe to hook up. The current system can handle all the residents in the district hooking up. The Sewer Commission is trying to control the capacity of new users and new growth. We want to know where the growth is taking us so that later on down the years, all the users can hook up.

QUESTION: Did the Sewer Commission model the worst case scenario? If all hookups were done today and then we added in a pub or restaurant, can the system handle that?

No, the Sewer Commission did not do that. But it will probably be the potential reuse of a commercial property that could push the capacity of the system. That is the reason for the growth neutrality clause. There is concern that other properties in the district could change from single family to condos, and if that happened the flows would be greater. The growth neutrality clause is there to allow a process where a decision can be made that is thoughtful yet allow for a vibrant town center.

QUESTION FROM BILLY SALTER: Have we added up the Title 5 gallon requirements in the town center sewer district?

No.

QUESTION FROM RHONDA SPRAGUE: What happens if the sewer system fails or if we get to a place where DEP steps in, what is the plan? Is there money in escrow?

The whole purpose of having rules and regulations is to prevent that. There will always be changes in use or expanding properties. We want to stay away from the problem of not letting people connect to the system. If we don't control what we put through the leach field, we might need to build a second one, so we are trying to avoid future problems.

CINDY RUSSO: Since there are no more questions, I would like to close the public hearing at 8:21 pm. Next we will get an update on the Town Sewer project from Tim Bragan.

Tim Bragan stated that paving is going on today in the trenches. The large equipment was moved out of Still River Road. We finished the Ayer Road sewer connections but there are no connections to houses yet. The wastewater treatment plant itself received provisional approval from DEP, pending completion of nine action items. Two of the action items have been completed to date. When all nine action items are completed, DEP will send a letter to the town saying it is okay to connect. We will find out tomorrow when the remaining seven action items will be done. (NOTE: On 9/12/12 the engineers estimated that it will take two weeks to finish the remaining seven action items for DEP. Letters will be sent to sewer district residents in the beginning of October).

The Town will then send notices to the district residents, and after 30 days the connections will start. The town will advertise for and approve drainlayers to be sure the connections to the town system are done properly. Residents will contract with drainlayers to install their own grinder pump, and will also need plumbing and electrical work. We are working with three pump companies to get the best price, and hope to finalize that within one week. We are also trying to expand their pump warranties and working on having extra pumps available in town.

The list of drainlayers will soon be in place; currently there are four people in town who are qualified. We will be approving up to ten people who will be trained on installing the grinder pumps and act as a general contractor or work with any plumber or electrician chosen by the property owner. Once information is finalized, we will provide cost information to residents.

QUESTION: Do we contract with drainlayers?

Each resident can decide if they want to use their own electrician and plumber or use the ones subcontracted by the drainlayers. The drainlayer will dig the hole and install the grinder pump, and the electrician will connect up to a box on the outside of the house.

QUESTION: What is the official starting date of the first year of connection?

From the approval from DEP. They will give us a letter saying we can proceed; the Sewer Commission will notify property owners that they may begin connecting within 30 days; from the date specified in that notice on, connections can start. Depending on what goes on at tomorrow's Sewer Committee meeting, it will be the end of September or early October. Tim Bragan will put together a list of questions and answers regarding grinder pumps and other issues and will post them on the town website.

QUESTION: How long from the time of DEP approval do we have to finish installation of system?

One year. How many properties get connected depends on the level of frost. Digging will take place in yards, not in concrete, so some connections will happen this fall and winter.

QUESTION: How long will it take to have an application reviewed and approved?

In Section 2.2 Application For Sewer Access Permit, it says the application must include this information: readiness of property for connection; location of property; name of licensed drain layer, electrician and plumber; any change in use or floor area since May 2009; expected date work will begin; and signature of owner. The application will be reviewed and if there are no issues, then the permit will be issued and the connection made.

QUESTION: Section 2.2 Application for Sewer Access Permit states that an approved site plan may be required. Will this take a while?

In some cases the Sewer Commission may request site plans, similar to the ones that would show where a resident would install a septic system. The Sewer Commission will take a look at the wording in this section.

QUESTION: Will drainlayers have to install equipment according to town rules and regulations?

Yes.

QUESTION: Does the grinder pump make noise?

Yes, all pumps make noise; however, the grinder pump will be located about four feet underground.

QUESTION: Section 2.6 Expiration of Permit says that construction must be completed within 90 days following the date of approval. Is that true? There could be delays with the drain layer.

Yes that is true. Construction must cease unless an extension is issued by the Sewer Commission. The reason for the regulation is to avoid someone paying for a connection and putting off construction. If someone needs an extension, they can just come to a Sewer Commission meeting and ask for one.

QUESTION: Are setbacks required for drainage lines? Some properties don't have enough land for setbacks.

Setbacks are not an issue; however, drainage lines must be on each resident's own property. For property owners who live around the town common, the Town has an easement on some land so drainage lines can't go there. If neighbors want to use a common trench, there needs to be an agreement in place.

QUESTION: Does the betterment fee need to be paid before connecting to the system?

No. The Town Treasurer will mail a letter to sewer district residents explaining the betterment fee. Residents will have 30 days to pay in full or the betterment fee will be added to their tax bill over the next 20 years with 2% interest and a lien will be placed on their property. However, the connection fee must be paid before hooking up to the system. The connection fee is totally separate from the betterment fee.

QUESTION: How much is the connection fee?

The connection fees will be \$1000 for the first year; \$2000 for the second year; then \$3000 for third year and beyond. The costs for the connection fees and the grinder pumps and the betterment fees will be set. The cost for the drainlayer to connect to the system will be different for each resident, depending on the work that must be done. The estimated cost for a grinder pump is around \$5000. The estimated cost to replace just the pump itself (and not the cylinder around the pump) is around \$1000.

QUESTION: Can the Town or Sewer Commission put together a document that outlines the steps that sewer district residents need to go through, and a timetable of events and payments?

Yes, we will work on making that information available.

QUESTION: What is the money from connection fees used for?

The monies collected from connection fees will be used to maintain and repair the sewer system. The monies from the betterment fees will go towards paying off the capital investment of the project. The monthly sewer fees will be used for future repairs. This is a way to avoid going to Town Meeting and asking for additional money.

QUESTION FROM BILLY SALTER: If there is a big problem with the system, and not enough money to pay for fixing it, how will the Town handle that?

When we are just starting up, the fund from connection fees will be small. If necessary, the Sewer Commission will ask the town for more money or use reserve fund money. But since the town owns the wastewater treatment plant and the sewer system, the town will have to pay to fix it.

The meeting was adjourned at 8:58 pm.

Respectfully submitted,

Sue Fitterman
Assistant Assessor