

MINUTES OF THE WATER & SEWER COMMISSION MEETING
WEDNESDAY, SEPTEMBER 13, 2017
3:00 P.M.

Members Present: Walter Liff, Chair, Damon Frampton, Ex-Officio Select Board, Steve Tabbutt, Supervisor of Public Works, John Ireland, Member, Richard White, Member, Normand Houle, Member, Chet Fessenden, Alternate, Clint Springer, Alternate

Members Absent: none

Also Present: Christiane McAllister, Accountant, Anne Miller, Secretary, Ben Jankowski, Assistant Superintendent of Public Works

Public Present: Chris Grant, Dave McGuckin, Bill Stewart (partial attendance)

Mr. Walter Liff called the meeting to order at 3:00 p.m.

As proposed by Mr. Walter Liff, the Commission voted unanimously to reorder the agenda to first address the issue of importance to Mr. Chris Grant.

1. 89 Walton Road: Appeal for Relief from Sewer Charge

Mr. Grant, 89 Walton Road, presented his request for relief from a portion of his most recent sewer bill. Ms. Christiane McAllister provided Mr. Grant with historical water use data at his request after he received a \$2000± water bill. Even after accounting for the recent rate increases, Mr. Grant believes the high charge is attributable to the large volume of water used this summer to re-establish his lawn. Because the extra volume didn't go into the sewer system, Mr. Grant asked that the sewer charge associated with the excess water volume be waived.

Members reflected that, although there is sympathy for the situation, there has been a five year effort to encourage customers to add a second meter for irrigation, in order to measure and exempt that water usage (that does not flow through the sewer system) from a corresponding sewer charge.

In special instances, the Commission has provided relief from a sewer charge due to a malfunction (i.e. burst pipe) as long as the water did not go into the sewer system. However, Mr. Grant's water/sewer resulted from intentional irrigation which makes his request a matter of forgiveness. In accordance with precedent, the Commission unanimously voted not forgive the sewer charge. Mr. Liff advised Mr. Grant that he could appeal the decision to the Select Board.

Mr. Steve Tabbutt noted that Mr. Grant chose not to add an irrigation meter, even after this event.

2. Review, Approve and Sign Checks

Mr. Normand Houle asked whether the town had investigated alternate energy suppliers for a lower energy rate than that offered by Eversource. Ms. McAllister did not believe they had but will ask Select Board member, Tom Maher, to look into it.

The City of Portsmouth sewer bill, at \$37,660.18, is lower than last month's.

The City of Portsmouth water bill, to arrive later in the month, will include a credit for the flushing abatement in the amount of \$391.95

Ms. McAllister reported account balances as of August 31, 2017:

Water

August Revenues:	\$58,008.13
- Billing at about 35% of budget v. 33% target	
August Expenditures:	\$14,866.69
Checking Account Balance:	\$115,510.16

For the just-billed four month period, the payment to Portsmouth of \$31,764.70, was for 9482 units. Customer bills totalling \$54,649.92 was for 7697 units. This trimester difference of 1785 units, projects to 5000 units for the year, putting the town on pace for the approximately 5000 units that are normally billed by Portsmouth, but not reflected in customer meters.

Sewer

August Revenues:	\$88,465.42*
- Billing at about 30% of budget v. 33% target	
August Expenses:	\$44,150.56
Checking Account Balance:	\$309,933.09

* includes account receivables--not collections-- for August from Authorities 1 and 4

The August 31, 2017 trust balance has not arrived yet.

Mr. John Ireland motioned to sign the checks as read by Mr. Liff. Mr. Richard White seconded. Motion carried, unanimously.

3. Approve Meeting Minutes of August 9, 2017

The Commission reviewed the draft minutes.

Mr. Damon Frampton motioned to accept the minutes as amended. Mr. Ireland seconded. Motion carried, unanimously.

4. Old business:

a. Update – Water and Sewer Ordinances

Mr. Ireland suggested that the Commission postpone their discussion about the draft Water and Sewer Ordinance until the October meeting in order to allow time for member review. Mr. Frampton asked whether the ordinance could reflect a requirement to tie into the sewer system where it is available, and that, once connected, a customer may not disconnect. Mr. Houle added his request that the ordinance also address the consequences of a tie-in violation. Mr. White suggested that the ordinance reference state law which, he believes, aligns with the proposed connection requirement, and also noted that any new septic system requires state approval, which would be denied where sewer is an available alternative.

Mr. Frampton asked, and Mr. Ireland clarified, that although the draft ordinance sets the sewer violation fine at \$500/day, the existing ordinance lacks clarity about the fines. The recent violation letter set the fine at \$100/day.

Mr. Houle proposed, and the Commission agreed, to reorganize and rewrite the draft ordinance for accuracy, clarity and consistency, including working with Ms. McAllister to address and cite relevant NH RSAs, especially with regard to the Commission's authority. Fines would be addressed in an appendix of the rewritten ordinance so that the amount of the fines can be easily adjusted as the need arises.

In light of extended timeline necessitated by the rewrite project, Mr. Ireland noted the Commission's short term need to impose the \$500/day violation fine (Section 10, p.9 of the draft ordinance) and proposed that the Commission immediately approve the current draft ordinance, and later, upon completion of the rewrite, approve the re-written ordinance, which would supercede the existing ordinance in its entirety. Mr. Houle asked, and Mr. Ireland affirmed, that the proposed draft ordinance is consistent in its description and amount of the sewer violation fine.

Ms. McAllister asked, and Mr. Ireland affirmed, that the current draft ordinance does not indicate where the revenue from the the collected fines is to be deposited. Members agreed that the revenue should accrue to the sewer fund to counteract the added sewer fund expense resulting from the violation.

Mr. Ireland motioned and Mr. White seconded to approved the draft ordinance as presented, titled Town of New Castle Water and Sewer Regulations. Motion carried, unanimously. Mr. Ireland will send a copy of the Commission-approved ordinance to the Select Board. Members further agreed to authorize Mr. Houle to rewrite the ordinance for the Commission's consideration.

Mr. Houle requested that the spelling of his name be corrected and Mr. Springer asked that Mr. Frampton's membership as Selectman Ex-Officio be changed to Commission member. Mr. Ireland will adjust the Certification page accordingly.

b. Update – Water and Sewer

1. Sewer Pumps

Mr. Frampton reported that the proposed pumps have received NH DES approval, and believes they been ordered. Mr. Houle asked for clarification about the NH DES approval, noting that the Commission was never informed by Underwood Engineering or Northeast Integration of the approval requirement and further asked about the nature of the the NH DES objection.

Mr. Frampton believes that the actual added cost for the approval pumps is lower than the previous estimate of \$9000.

Mr. White asked the about change order process for the upgraded pumps. The process is handled for the town by Select Board Member, Bill Stewart.

Mr. Tabbutt noted that the work will now start in November, upon receipt of the pumps. Freezing conditions may affect the work schedule, possibly pushing completion to the spring. Mr. Tabbutt indicated that the first station to be upgraded will be Steamboat Lane, due to its problems.

Mr. Tabbutt reported that he has been in touch with Sunbelt, an on-call contractor who would respond in the event of sewer pump failure within a 4-hour± time frame. While the town would not enter into a contract with Sunbelt, New Castle would be on Sunbelt's list and they would honor the pricing stated in the Underwood Engineering By-Pass Plan. Mr. Tabbutt will also consider proposals from other contractors.

Mr. White noted that the Portsmouth by-pass pump at the Lafayette Road lift station, next to Lenscrafters, is currently active.

2. Water Discussions with City of Portsmouth

Mr. Frampton reported that Select Board Member Stewart is optimistic about the prospect for progress in the discussions with the City of Portsmouth about water line upgrades.

Mr. Houle asked whether an auxiliary pump could be installed near the Shapleigh meter, to be engaged in the event of a fire. Mr. White answered no, the limiting factor being the total water volume available.

c. Update – 17 Walton Road

The residence at 17 Walton Road never elected to tie into the sewer system despite the proximity and availability of the town sewer system that was installed in the 1970's. In 1976, a fee was imposed on all properties that were not tied in to, but were located within 150 feet of, the sewer line. The fees were ongoing until the property connected to the sewer line. 17 Walton Road is believed to be the only remaining residence fitting this description, and the resident asked to be relieved of future non-user fees related to the sewer.

Mr. Houle summarized the confusing opinions from the attorneys. Ms. McAllister suggested that the opinions of both the NH Municipal Association attorney and Kerriann Roman, from the town's law firm, Drummond Woodsum, were consistent with the questions posed to them, and agreed that fees based on usage cannot be imposed on a non-user. However, Ms. Roman added that if the town requires payment for the availability of sewer, it might be able to require that residence be connected to sewer. Hurdles are: 1) there is no agreement that references fees or a waiver, but that in allowing a resident to not tie in, the town has offered a de facto waiver, and 2) the existing sewer ordinance doesn't provide for a general

assessment, however, even if it were so provided for, the assessment could not be tied to sewer rents (archaic term for fees based on metered usage.)

Mr. Houle noted that the sewer system was installed at the expense of the taxpayers so that the cost was borne by all residents, including 17 Walton Road. The current sewer pump upgrade cost is to be borne by ratepayers, which, based on the legal opinion, would exclude 17 Walton Road. Mr. Houle wondered, going forward, if it would be reasonable to impose a “fair share” fee on those properties that enjoy the availability of sewer but are not connected, including 17 Walton Road, for the current costs related to improvements to the sewer pump stations. Ms. McAllister speculated that because there was no agreement in place at the time of the decision, it wouldn’t be allowable.

Mr. White noted that the NH DES fact sheet states that if the septic system for a property that has access to sewer (within 100 feet) fails, then that property must connect to the sewer. Members speculated that although the septic system at 17 Walton Road is sufficient for the current resident, it will likely be overloaded if there are more users.

A bill was prepared for 17 Walton Road as part of the previous month’s billing cycle but Mr. Frampton indicated that payment should be delayed until the Commission decides whether to impose the charge.

Acknowledging the legal advice, members agreed that the 17 Walton Road customer should not be charged for the sewer fee. She should return her bill to be recalculated accordingly. Mr. Houle suggested that a letter be sent to the customer to clarify the status of her sewer bill, both past and future, and to make it clear that should the septic system fail, the owner will be required to tie in to the sewer system. Members wondered whether the Commission could require septic tie in upon the sale of the property. Mr. Dave McGuckin believed that requirement would be contestable. Mr. Ireland suggested that the letter be authored by the town’s attorney and that the question of a tie in requirement upon change of ownership addressed by the attorney. Ms. McAllister summarized that the letter should address the changes to the sewer fees, system failure, and if possible, change of ownership.

The ordinance re-write should address the situation to require tie-ins in the future.

Mr. White motioned to move forward with the adjusted bill and billing policy as well as a letter to the customer that outlines the condition(s) under which the property is required to tie into the sewer system. Mr. Frampton seconded the motion. The motion carried unanimously. Members asked to review a draft of the letter which Ms. McAllister will distribute via email. Mr. Frampton will inform the customer of the billing decision.

5. New business:

a. Letter to New Castle Water Users of Violation Levels – QIII

Mr. Tabbutt described the failure of the most recent water quality test, despite the aggressive flushing of 85,000 gallons of water. The total trihalomethane (TTHM) levels reached .143 mg/L. TTHM levels at Shapleigh Island measured .114 mg/L where the water entered the town from the City of Portsmouth. Testing is done at both Shapleigh and the elementary school. Additionally, Mr. Tabbutt, with Underwood

Engineering, independently tested other sites including the Recreation Hall, Wentworth by the Sea Hotel, and Sagamore Road in Portsmouth. Those readings were elevated but none exceeded the threshold of .080 mg/L. It is believed that the aberrant Shapleigh and school readings result from the dead end main at the intersection of Wentworth Road and Main Street. It would be interesting to take a reading at Town Hall or the Fire Station.

Members discussed the problem of the town receiving dirty water from the City of Portsmouth and hoped that the new aeration system, which will go online this winter, will improve the water quality.

The recent TTHM measurement will influence the rolling average for the next year. The DH DES has been informed that the required customer notice will be posted on September 14, 2017. Mr. Liff asked that a copy of the violation letter be included in the minutes.

6. Any Other Business to Come Before the Board

a. Water and Sewer Flows

Mr. White asked and Ms. McAllister answered, that units of water usage are being tracked, including the metered units purchased from Portsmouth, and the amount of units billed to customers, as are sewer readings (flow meter) for payment to Portsmouth. Mr. White requested that those readings be distributed to members after each billing cycle as a way to monitor and control costs. McAllister reviewed the four-year history and found the 5000 water unit differential (between the Portsmouth bill and the customer bills) to be consistent over time. It is difficult to match the two water meter reading sources because Portsmouth reads the meters monthly and the town reads them 3x/year.

The available data includes the water usage for the town's Portsmouth water customers, which is needed to calculate sewer usage for the City of Portsmouth's customers.

b. Non-Public Session

Mr. Springer asked to invoke RSA 91 A.3.c to go into non-public session noting that the topic, if discussed in public, would likely adversely affect the reputation of people in the town. At the end of the discussion, the group can decide to make the minutes public.

Members agreed to go into non-public session.

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Members voted not to record minutes of the non-public session.

Mr. Liff re-opened the public session at 5:29 p.m.

b. Approve Meeting Minutes of July 12, 2017

Mr. White moved to approve the minutes of the July 12, 2017 meeting as written which indicated that that meeting was cancelled. Mr. Houle seconded the motion. Approved unanimously.

Hearing no further business, Mr. Liff adjourned the meeting at 5:31 p.m.

Attachments:

Water Quality Violation Notice

Draft Water and Sewer Ordinance