

July 19, 2004

**BOARD OF SELECTMEN
MINUTES
JULY 19, 2004**

Present: Arnold Wilson, Chairman
 Charles Blanchard
 Doris Sosik
 Hal White
 David Schmida
 James Malloy, Town Administrator

The Chairman called the meeting to order at 6:30 p.m. following the Pledge of Allegiance.

Approval of Minutes

**MOTION: To approve the minutes of July 6, 2004 as submitted, by
 C. Blanchard.**

2nd: H. White

Vote: Four in favor; D. Sosik abstained.

**MOTION: To approve the executive session minutes of May 17,
 2004 as submitted, to remain confidential, by C.
 Blanchard.**

2nd: D. Sosik

Vote: All in favor.

Dept. Head Monthly Report – Jeff Bonja, Building Inspector

Jeff Bonja, Building Inspector, reviewed his report with the Board (copy on file). He passed the first of the Building Inspector tests, and is currently studying for the IBC 2003 test. He has a new computer, and the building permits are now being generated by the system. The Board of Assessors is being provided with copies of the building permit reports that are issued on a weekly basis. He noted that the lack of manpower is severely affecting his ability to effectively address enforcement issues. He prioritizes and deals with zoning and general bylaw enforcement issues by their immediacy.

Senior Municipal Service Program

July 19, 2004

MOTION: To approve the Senior Municipal Service Program participation for Jerry Suprenant to work at the Senior Center, by D. Sosik.

2nd: H. White

Vote: All in favor.

MOTION: To approve the Senior Municipal Service Program participation for Tina Galati to work for the Veterans' Agent, by D. Sosik.

2nd: H. White

Vote: All in favor.

D. Sosik commented that both of these individuals have done an excellent job, and she is please that they have applied again.

Water Vulnerability Assessment

Veolia Water North America had submitted the Water Vulnerability Assessment to the Board, which complies with the Safe Drinking Water Act.

MOTION: To approve the Vulnerability Assessment for the Sturbridge Water Department dated June 17, 2004, by C. Blanchard.

2nd: H. White

Vote: All in favor.

MIIA Dental Plan

J. Malloy informed the Board that the Dental Blue Plan offered through MIIA has no financial requirement on the part of the Town and has no minimum participation level required by MIIA.

MOTION: To authorize J. Malloy to proceed with the implementation of the MIIA Dental Plan, at no cost to the Town, by C. Blanchard.

2nd: H. White

Vote: All in favor.

Chapter 61 Questions (Cooper Road)

Bev Poirier, Assistant Assessor, indicated that the minimum property requirement for property in Chapter 61 is 10 acres. The Cooper Road

property is 10.65 acres, but the property owner also owns 54 acres across the street, which is considered contiguous under the law. The Open Space Committee, Conservation Commission and Community Preservation Committee have indicated that they are not interested in pursuing this property.

MOTION: To waive the right of first refusal for the Cooper Road property, by C. Blanchard.

2nd: D. Schmida

Vote: All in favor.

Pole Hearing Continuance – Jamieson Road

Bob Strand of Verizon and Paula Ogle of Mass. Electric appeared before the Board. A.Wilson noted that the Board had received a petition opposing the proposed placement of the pole (copy on file).

MOTION: That the application to place pole #6 on Jamieson Road be denied, by A. Wilson

2nd: H. White

Vote: All in favor.

Auctioneer's Permit

MOTION: To approve the Auctioneer's Permit for David Straight d/b/a D.L. Straight Auctioneers for an Antique/Estate Auction to be held on July 31, 2004 from 6:00 p.m. to 10:00 p.m., with police details as deemed necessary by the Police Chief, by D. Schmida.

2nd: D. Sosik

Vote: All in favor.

John Massauro, Waterman Design – Senior Housing Project on Hall Road

John Massauro and Bob Havesey appeared before the Board. A.Wilson summarized the status of the situation from the previous meeting. B. Havesey stated that the project has good access to shopping and medical facilities, the roads will be privately maintained, and it will generate \$350,000 + in revenue to the Town. He requested the Board's approval of water and sewer connections for the project.

A. Wilson recommended that the Board hold action until the members review the information regarding the project's impact on the Town and the sewer system. D. Sosik asked about the status of the other large piece of land at the site, to be purchased for open space. B. Havesey said that they have two units/acre and still want to remain a clustered community, so the balance of the property would be left as open space.

C. Blanchard noted that there is capacity in Southbridge that hasn't been tapped yet. He said that the project would bring \$350,000 to the Town in tax revenue, there would be no impact on the schools, and no need for DPW to maintain or plow the roads. He noted that the project would still be subject to final approval from DPW and the Planning Board. He felt that the impact of the project on the sewer system would be small. He suggested that the Board vote to approve the connections subject to the DPW Director's approval and Planning Board approval.

Carol Goodwin, Chairman of the Open Space Committee, expressed concern about the density of the project, noting that there is no guarantee that the project will stay an elderly housing project, or that additional land will be purchased. She considered clustering to be a good idea. She said that the bylaw requires half an acre per unit and 10% open space, which is a requirement for multiple family dwellings. C. Blanchard said that the motion would specify that the requirements of the bylaw must be met.

Chip Silvestri of the Community Preservation Committee asked about the capacity of the sewer system. He noted that there are a number of projects on the docket, and suggested that that Board come up with a plan to deal with them as soon as possible.

Mary Hoyer of 20 Old Farm Road expressed concern about density in the Fiske Hill area, and said that she would like to see development countered with open space.

MOTION: To contingently grant approval for the sewer connections for a flow not to exceed 11,000 gallons per day; subject to approval by the DPW Director on the sewer extension and the Planning Board on the subdivision plan; and subject to payment of a sewer privilege fee of \$6,128.87 per unit; with the understanding that the final density of the project would have to be consistent with current bylaws, with either the reduction of the number of units or acquisition of open space land to meet that requirement, by C. Blanchard.

2nd: D. Schmida

Vote: Three in favor; A. Wilson and H. White opposed.

The motion carried.

MOTION: To grant approval for water connections for the project, contingent upon the DPW Director's approval regarding the technical ability of the system, by C. Blanchard.

2nd: D. Sosik

Vote: Four in favor; H. White opposed.

Robert Cassim – Class 2 License

Robert and Sineade Cassim appeared before the Board. A. Wilson said that all applicants in the future must provide a detailed plan to scale.

MOTION: To approve the Class 2 License for Robert Cassim for up to 20 vehicles to be stored on the site, as shown of the plan, by C. Blanchard.

2nd: D. Schmida

Vote: All in favor.

Sewer Privilege Fees

J. Malloy provided the Board with an email from Town Counsel indicating legal opinions (copy on file). Mr. Malloy said that Town Counsel indicated that the Board can set a sewer privilege fee with approval contingent upon payment of that fee. It should require substantial changes to the bylaw itself. He submitted a summary of how the Town should assess sewer privilege fees:

- (1) Sewer privilege fees must be assessed based on the original betterment assessment for the sewer line that the new development is connecting.
- (2) The Town may collect sewer privilege fees for developments that connect to the Phase I Sewer System built in 1972 with debt retired in 1992.
- (3) If the Selectmen's vote included a requirement that a sewer privilege fee be paid, the amount stated in the vote is due.

- (4) The amount due on the Preserve is due regardless of whether there was a municipal lien certificate. The Town may also negotiate an agreement to resolve the issue.

Based upon the above, J. Malloy suggested that the following should be the Sewer Privilege Fees for projects that have been approved:

- Brook Hill – There would be no Sewer Privilege Fee due, as this project connected to the Tantasqua Sewer Extension and there was no sewer betterment assessment for this project. Only the \$1,200 sewer connection fee would be due when each permit is taken out by the builder. The sewer extension approval motion does not include any mention of a sewer privilege fee.
- Draper Woods – This project also connected to the Tantasqua Sewer Extension and would have no Sewer Privilege Fee. Only the \$1,200 sewer connection fee would be due when each permit is taken out by the builder. The sewer extension approval motion does not include any mention of a sewer privilege fee.
- Whittemore Woods – This project is connecting to the Phase II (29) and Phase III (7) Sewer Project. The original betterment assessment for the Phase II project was \$9,843; therefore, the sewer privilege fee for the portion of this development that connects to the Phase II project would be \$5,906 ($\$9,843 \times 60\%$) per unit, for a total fee of \$171,275 (for 29 units). The remaining seven properties connect to the Phase III Sewer System, and the sewer privilege fee for these properties would be \$6,591 ($10,985.51 \times 60\%$). Although there was no mention of the sewer privilege fee in the motion, Bill Swiacki and J. Malloy had exchanged emails regarding this issue, and he understood that there was a sewer privilege fee.
- The Highland and The Sanctuary projects are connecting into the Phase I Sewer System; however, the vote of the Board of Selectmen on 2/4/02 contained the condition: “50% up to \$50,000 be credited against the sewer privilege fee assessed at each lot as permits are developed.” The motion did not state a specific dollar amount. The tape of that meeting clearly indicates that Bob Moss was expecting to pay a sewer privilege fee of approximately \$420,000. At that time, it was 70 lots.
- The sewer extension approval for The Preserve specifically included a condition “that the sewer privilege fee be paid as per the Town Administrator’s calculation.” The tape of this meeting and the actual discussion included an actual calculation based on 71 homes, with a sewer privilege fee of \$5,781.99 ($\$9,636.65$ for Cedar Lake Sewer

Betterment Assessment X 60%) per unit, for a total of \$410,521.29 (the amount stated during the meeting). Robert Moss, the original developer, responded by stating: "The fee is for using up infrastructure capacity, that's what this is for, for what the system needs next." Charlie Blanchard's actual motion was that the approval was conditioned on the sewer privilege fee being paid as Jim calculated (\$410,521.29). The current developer claims no knowledge of this fee and has asked for the Selectmen to consider an alternative proposal moving forward.

- Allen Homestead – This project also connected into the Phase I Sewer System, with 43 lots at \$450 per lot (\$750 X 60%); the sewer privilege fee should be a total of \$19,350. Currently at least 19 lots have been connected. No sewer privilege fee has been paid to date. The motion for the Allen Homestead did not include any mention of a sewer privilege fee.

Based upon Town Counsel's opinion and the Town's records, J. Malloy recommended that the Board consider the following:

1. Decide whether the Town will seek to collect for the Allen Homestead project that connected to the Phase I Sewer System where there was no specific motion that included verbiage regarding sewer privilege fees.
2. If the Board determines to collect on the above project, determine an exact equivalent "per unit" betterment assessment for Phase I. In order to do this, the total (aggregate) Phase I betterment assessments would need to be divided among the total properties. At the time, the Town used the frontage method.
3. Determine the appropriate amount for the Highlands and Sanctuary developments.
4. Determine whether the Town will "forgive" the past due amount on The Preserve or seek to collect, and whether the proposal by the current developer is acceptable, and set an amount per permit from 7/20/04 forward. J. Malloy spoke with the developer's attorney, and they would accept simply re-dividing the past due amount on the 20 homes that have been built among the remaining 50 homes; 70 were approved.
5. That the Board discuss sending a letter to both the Sturbridge Retirement Co-op and Kelly Road Limited Partnership that identifies

that their request for extension was approved subject to the payment of a sewer privilege fee in the amount of \$1,018,792 each, so that it is very clear. In the past, letters with the exact amount of the sewer privilege fee have not been sent, but this should be a policy change for the future.

6. A vote should be taken by the Board, directing the Finance Director to place municipal liens in the amounts determined against the properties that will receive sewer privilege fees, to protect the Town's interest in the future.

J. Malloy sent a request to Town Counsel to review/confirm the above interpretations of Deborah Eliason's (Kopelman and Paige) email. Mr. Malloy would like to clarify and get information to Greg Morse, DPW Director, and the various developers as soon as possible. He suggested that motions in the future approving any sewer should include a specific dollar amount due on the sewer privilege fee, and should include language to place a lien on the property(ies) to ensure it's collectable.

A. Wilson said that the Board has already approved some projects, and felt it would be unfair to apply the 60% sewer privilege fee to projects that were approved years ago.

MOTION: To authorize the Town Administrator to enter into the agreement proposed by Brendon Homes for The Preserve subdivision, per the letter from Attorney Marshall Gould dated July 15, 2004, by C. Blanchard.

2nd: D. Sosik

Vote: All in favor.

MOTION: To authorize J. Malloy to proceed with the sewer privilege fees for The Highland and The Sanctuary as shown on the spreadsheet in his update, by C. Blanchard.

2nd: H. White

Vote: All in favor.

It was the consensus of the Board to send the letter that J. Malloy had suggested, to the Sturbridge Retirement Co-op and Kelly Road Limited Partnership.

It was the consensus of the Board to discuss the matter again during the August 2nd meeting.

Old Business

A.Wilson felt that Spaho Corp. has violated a condition of the approval relative to the 15 connections that were granted to them for the proposed development off Farquhar Road. C. Blanchard recused himself from the Board. A. Wilson said that the applicant submitted plans to develop additional lots in the area on septic systems, and has applied to do that, which might be a legal issue. He suggested that the Board vote to reconsider it.

MOTION: That the Board reconsider the granting of 15 sewer connections to Town sewer by Spaho Corp. on the proposed development off Farquhar Road, by A. Wilson.
2nd: H. White

It was the consensus of the Board to send all of the minutes and information regarding Spaho Corp.'s application to Town Counsel for their opinion, before taking action. A.Wilson withdrew his motion; H. White withdrew his second. C. Blanchard returned to the Board at 8:53 p.m.

A.Wilson suggested sending a letter to Gerry Paquin asking for his response by August 30th. It was the consensus of the Board to do that.

New Business

D. Sosik commented that there is a mosquito problem in Sturbridge. J. Malloy suggested contacting the Central Mass. Mosquito Control Project. Mr. Malloy noted that they had sent a notice (which was posted on the cable channel) to contact them directly, and they will come out to do a special treatment in neighborhoods with mosquito problems.

A.Wilson said that the Central Mass. Regional Planning Commission is seeking an alternate as a delegate. D. Schmida has been the alternate for the past year, but his traveling schedule has prevented him from attending the meetings. It will be posted to get applicants.

A.Wilson noted that the Tantasqua School Committee is meeting in emergency session on July 19th regarding the budget. J. Malloy will arrange a conference call on August 2nd.

Ask the Selectmen

July 19, 2004

D. Sosik received a call from Jordan Hoy, who had missed the vote regarding Cooper Road. The Board had voted not to exercise their right of first refusal.

MOTION: To adjourn, by H. White.

2nd: D. Schmida

Vote: All in favor.

The meeting was adjourned at 9:05 p.m.

Respectfully submitted,

Judy Knowles

BOS Clerk

Date