

TOWN OF PROVINCETOWN - BOARD OF SELECTMEN

SPECIAL MEETING – TUESDAY, JANUARY 17, 2006 - 5 PM

JUDGE WELSH HEARING ROOM

Chairman Cheryl Andrews convened this special meeting at 5:00 PM noting the following attendees: Board of Selectmen members: Cheryl Andrews, Sarah Peake, Michele Couture, Richard Olson, David Nicolau

Other attendees: Town Manager Keith Bergman, DPW Director David Guertin, Wastewater Administrative Assistant Ron Gamella, Ron Adams of Metcalf & Eddy and Facilitator John Goodrich.

Recorder: Sarah Peake

The following are meeting minutes, in brief.

1. WASTEWATER FACILITATED MEETING

Led by John Goodrich

Chairman Andrews called upon John Goodrich to facilitate the meeting.

Agenda:

- 1) Waste Water Update
- 2) Sewer Bank Update
- 3) Laundromat Extension
Metcalf & Eddy Analysis
Recommendations
Motion
- 4) Sewer System Planning

The following are notes from Facilitator John Goodrich:

The following topics were discussed at the January 17th Facilitated Meeting of the Board of Selectmen:

- Status of the Wastewater Enterprise Fund
- Implementation of the Sewer Bank
- Proposed Laundromat Extension

The other major topic planned for the evening – a discussion of Metcalf & Eddy’s proposed approach to the sewer system optimization and expansion planning – was deferred to one of the meetings in February.

The following notes summarize (i) the presentation of any new information not contained in the Packet for the January 17th meeting, (ii) the discussion, including questions from the Board, (iii) a summary of the information learned at a meeting with Brian Dudley on January 18th, and (iv) Staff action items, including the information discussed at the follow-up staff meeting held on January 18th.

Status of the Wastewater Enterprise Fund

Town Manager Keith Bergman summarized the current status of the WWEF, which shows that the Town still needs to raise an additional \$69,000 in revenues for FY06. Several strategies were recommended as priorities to meet the target for “further supplemental assessments” before the end of FY06:

- (i) Continuing to encourage additional red-dot delay properties to commit to hooking up to the sewer,
- (ii) Continuing to provide an incentive for early payments of betterments,
- (iii) Identifying unused gallons for the Sewer Bank, and approving connections for additional flows from the Sewer Bank,
- (iv) Assessing the betterment for the Manor connection, and
- (v) Accounting for any assessments from the proposed Laundromat Extension that can be included in FY06

revenues.

It is anticipated that the \$69,000 in revenues will come primarily from “supplemental assessments” for additional red-dot delay properties that make a commitment to hook-up, additional flows as a result of sewer bank swaps, and the Manor connection. Other revenue sources are not expected to produce very much additional revenue for FY06 – this includes the incentive of a 5% reduction in the assessment amount for properties that pay off the remaining balance by March 31st.

The following clarifications were made in response to questions from the Board:

- Sewer use bills are sent out twice a year, while Betterments/assessments are issued only once. For FY05, the betterment bill was issued with the spring tax bill, which meant that any betterment revenues received more than 60 days after the close of the Fiscal Year are counted in FY06. Since the FY06 betterment bills were sent out with the fall tax bill, there won't be a similar situation this year.
- A significant portion of the \$69,000 in additional revenues has already been identified, and therefore, Staff is optimistic that the number can be achieved: (i) about half of the remaining delinquent properties should connect in the next 3 months, (ii) assessments will be billed for the Manor and the Wydah, and (iii) as discussed below, some 8,500 gallons of unused flow can be reallocated from the sewer bank which will result in additional assessments. The sum of these could generate approximately \$50,000 in first-year assessments.

Implementation of the Sewer Bank.

As a result of the recent Fall Town Meeting approvals, a “Surplus Gallonage Pool” was established, as was a new Category 5 of the Growth Management Zoning By-Law. A process for granting “Economic Development Permits” was also approved. The Board would like to see a clear explanation of how these processes will work in conjunction with the proposed Sewer Bank, since there seems to be considerable confusion over all of the different processes.

Staff will prepare a write-up prior to the next facilitated meeting explaining (i) each of these different processes, with a glossary, (ii) how they interact, and (iii) how an applicant has to deal with each of the approval processes. During the discussion period, the following explanations and clarifications were given:

- One distinction may be whether or not a “re-use of gallons” is involved: the “Surplus Gallonage Pool” applies to re-use of previously used gallons from a growth management accounting standpoint, whereas the downtown collection system “Sewer Bank” involves a re-assignment of calculated sewer flows that were never used – there is no “re-use” in such a situation.
- In addition, the sewer system Special Legislation included a provision that the system should be “growth neutral” except for public service uses that are approved by Town Meeting. Therefore, any sewer bank reallocations should be growth-neutral, as well.

The Staff explained that the on-going effort to work with red-dot delay properties to encourage them to connect has identified several situations where a reduction in allowable flow is warranted, resulting in the potential to add significant gallons to the Sewer Bank.

For example, the three Masonic Place properties that have recently committed to hooking up to the sewer will be able to contribute approximately 5,000 GPD to the Sewer Bank. Other properties that are able to contribute gallons to the Sewer Bank include Firehouse No. 2, the new Library, and MacMillan Pier. Table 1 shows the surplus gallons resulting from Masonic Place, Firehouse No. 2, and the Library.

This explanation led to a number of questions and comments from the Board, and the following clarifications from the Staff:

- The Board would like to receive a periodic update for the Sewer Bank, showing any unused gallons in the downtown collection system and how such gallons have been re-allocated. The Board would also like to see a clear written statement of how the process works. Staff will provide this.
- David Guertin explained the following: (i) In most cases, a property is visited or otherwise reviewed prior to

connection which includes either a confirmation of, or an adjustment to the gallons determined by the lot-by-lot analysis. (ii) The numbers determined by the Water & Sewer Board govern, (iii) The appropriate gallons are determined using any available licensing information. (iv) About 30 situations involving a change in gallons have been brought to the Water & Sewer Board, and the net difference has been a wash. (v) The last spreadsheet provided to M&E for hydraulic modeling will serve as the cut-off date - in the future, any reductions in flow that are identified will go into the new "Sewer Bank", including the reductions for Masonic Place and the town buildings.

- The Board would like to see a system implemented that posts the calculation of the gallons for each property on the Town's website, so that the information is available to all Town boards and to the staff in departments such as licensing that need access to the information. David Guertin explained that (i) an Excel spreadsheet exists for each property, (ii) any new data (as a result of a visit or a recalculation) goes to M&E to incorporate into the hydraulic modeling, and (iii) it will take a several hundred-hour staff labor effort to put all the data onto the website. Staff will provide the Board with a write-up on the process that is being used.

- The largest reduction in flow that has been identified is for Masonic Place – when the Health Agent revisited Masonic Place for a walk-through, an error in the original calculation (and in the ACO) was identified. The owner agreed with the recalculation, and the Water & Sewer Board has approved an approximately 5,000 GPD reduction, which will go into the Sewer Bank. The error had to do with the type of seating in one of the buildings: the dance area seating should have been calculated using 20 gals/seat, rather than the 35 gals/seat that was used in the lot-by-lot analysis. Now the assigned flows are consistent with the licensing information.

- A review of the actual water readings for several buildings including the Library that have public bathrooms has resulted in reductions in their assigned gallons, with the unused gallons available for the Sewer Bank. This occurred because the original estimates for public bathroom flows were very conservative. Staff are continuing to use conservative numbers in case use of these public bathrooms increases (with more signage, and more awareness of the new locations for bathrooms, etc.) – only about 60% of the currently unused gallons will be taken out of the assigned flows and transferred to the Sewer Bank at this time. The same conservative analysis will be used for the Pier and the Wydah. Similarly, only about one-half of the assigned flow for Firehouse no. 2 will be transferred to the Sewer Bank.

- The Board is concerned about properties that may be "hoarding" gallons if the owners requested and were assigned more gallons than the use they are actually licensed for. The Board feels that there is no "by-right" use with the Town's Special Legislation, and that the Town is not obliged to adhere to the original betterment calculations. David Guertin explained that the policy is to use the licensing information and apply the appropriate gallons, and that the Water & Sewer Board numbers will govern when a property is connected.

- The Board is also concerned that since flows to the sewer are now worth a lot of money, one of the "new games in town" is to request a reduction in the calculated gallons per seat – either to obtain more seats for the same flow, or to obtain a lower betterment for the same number of seats. Staff is aware of these issues and will continue to use both the appropriate licensing information and the appropriate gallons as determined by the Water & Sewer Board, and will continue to document all recalculations or other changes in the files.

Rob Adams of Metcalf & Eddy explained how the proposed protocol would work for determining how and where Sewer Bank gallons could be re-allocated. In response to questions and comments from the Board, the following clarifications and explanations were made:

- In general, the size of the vacuum main decreases the further you go from the Central Vacuum Station; therefore, gallons can generally be fully re-allocated closer to the CVS, but a reduced amount of gallons would be available for locations that are further from the CVS, and this will need to be determined on a case-by-case basis. If a property much closer to the CVS would like to use unused gallons, it is possible that the hydraulics will allow them to have even more gallons than the amount deposited into the Sewer Bank – again, this will need to be determined on a case-by-case basis.

- Rob Adams will prepare a "zone of influence" for each of the three properties that will be providing unused gallons to the Sewer Bank – Masonic Place, Firehouse No. 2, and the Library – as examples for property owners of how such an analysis will be done using the proposed protocol.

Discussion of proposed Sewer Bank with Brian Dudley of the DEP.

Town Counsel's Draft Sewer Bank Agreement and M&E's Draft Protocol were reviewed with Brian Dudley of the DEP on January 18th. He feels that the Draft Agreement is fine, with the addition of the following item:

- He wants to be assured that there will be a mechanism in place to track all "deposits" and "withdrawals" from the Sewer Bank, with an annual reporting to the DEP. The reporting that the Board would like to see periodically should provide the information that the DEP will want to see annually. This statement will be added to the Draft Agreement.

Two additional steps will need to be added to the list of steps presented to the Board: in certain situations, the property owner will also need to submit an application to the DEP for a "Connection Permit", and the Sewer District will need to be amended by the Water & Sewer Board for any new connections outside the current district boundary.

The situations where a Connection Permit will be required include the following:

- A non-residential property
- Industrial wastes, which include hairdressers
- A pumped connection involving more than one house
- A new valve pit – note that if the Town owns or controls the valve pit, then only a Connection Permit is required, but if a private entity were to own the valve pit, then an Extension Permit would be required.

Staff and Metcalf & Eddy will prepare a more detailed write-up of the situations that would require a Connection Permit, and the specific DEP requirements that will need to be met.

The steps in the staff-recommended process to be followed for each request for additional flows from the Sewer Bank are now as follows:

1. Application to the Water & Sewer Board who will inform all parties
2. Board of Health review and recommendation
3. Metcalf & Eddy review and recommendation according to protocol
4. Water & Sewer Board vote and recommendation to Selectmen
5. Board of Selectmen review and final approval
6. Submission of Connection Permit application to DEP, if required
7. Water & Sewer Board amendment of Sewer District, if required.

Proposed Laundromat Extension.

David Guertin presented a summary of the three options for a Laundromat Extension and explained that a business plan that included only a standalone Laundromat would not provide sufficient revenues from the betterment to cover the engineering and construction costs estimated by Metcalf & Eddy. He explained that the Water & Sewer Board wants to proceed in a fiduciary manner with a business plan that makes financial sense.

The Board was asked to consider a formal motion concerning the proposed Laundromat Extension so as to send a clear message to the Staff, the DEP, and the Laundromat proposer that the Board and the Town is serious about pursuing this matter as soon as possible.

The Board voted 5 to 0 to approve – in an amended form - the Water & Sewer Board's recommendation to approve a Laundromat Sewer Connection Permit for the proposed Shankpainter Road location: subject to (i) the business terms to be brought forward that recognizes the need for additional connections that may be considered in order for this specific connection to be economically viable; further, staff to consider for this analysis, other properties in this immediate or adjacent area, and (ii) the Board of Selectmen, having final authority, shall approve the business terms and co-sign the permit.

The principal effect of the Board's amendment was to broaden the ability of the Staff and M&E to select those adjacent areas and properties that will best ensure that the proposed Laundromat Extension will be economically viable.

The following clarifications and suggestions were made in response to comments and questions from the Board:

- The Staff and M&E will (i) meet with Brian Dudley on January 18th to review the approval requirements and

timetable, (ii) meet with Mr. Silva when he returns to town in two weeks, (iii) determine the estimated wastewater flows for properties in the immediate and adjacent area, and (iv) recommend to the Board those areas and properties that can best ensure that the proposed Laundromat Extension will be economically viable.

- As requested by the Board, Staff will explore with Mr. Silva (i) his commitment to the proposed Laundromat project and his ability to have the facility ready for an early summer opening, (ii) his interest in installing more than the minimum number of machines called for in the Town's RFP, (iii) his interest in constructing housing on an adjacent parcel he owns, and (iv) the commitment of the Grand Union to connecting to the proposed Laundromat Extension.
- If for any reason this Laundromat proposal does not go forward, and the Town has to issue an RFP for a third time, then the Town could consider asking for earnest money or a bond from a proposer. It cannot be required for this proposal because it was not asked for in the RFP.
- If the affordable housing proposal for the Cumberland Farms property is not far enough along to be included as a part of the business terms for an economically viable Laundromat Extension, then some of the necessary flows could be made up by connecting residential properties in the Court Street and/or Brown Street neighborhoods.
- Other properties that were discussed as possible connections included the Police Department, the Fire Station, the former Annex property, and St. Peter the Apostle Church. In particular, Staff and the Water & Sewer Board suggested the Annex as one of the properties to be looked at because it is under an ACO. The Board understands that properties that are in failure or under an ACO should be included in the analysis, but wants to be sure that Staff and M&E can look at all properties in the immediate and adjacent area.
- Some Board members felt that once a sewer line is installed on Shankpainter Road to serve the proposed Laundromat, the Town will have no problem interesting people in hooking up. Others disagreed and would like the Staff to present a plan with a high level of comfort as to economic viability and clear commitments for connections, particularly from the Laundromat and the Grand Union.
- In response to a question, it was explained that the cost numbers for an option that would include just the Laundromat and the affordable housing to be located on the Cumberland Farms property would be similar to Option 3.
- Staff re-affirmed that the pipe or pipes to be used for the Laundromat Extension will allow for additional future connections in the Shankpainter, Brown Street, and Court Street neighborhoods.

Discussion of proposed Laundromat with Brian Dudley of the DEP.

- The proposed Laundromat Extension will require a "Sewer Extension Permit" from the DEP. They will need to know (i) the capacity in gallons per day, (ii) the location of the extension, and (iii) drawings showing the profile of the pipe and other design specifications. They do not need to know specifically which properties will be served in order to approve the sewer extension.
- The DEP approval timetable for a Sewer Extension Permit is generally 90 days. A minimum of 60 days will be needed for approval, since it will take the DEP at least 30 days to review the application for technical sufficiency, and they have to give 30 days for public comment, although no public hearing is required.
- The Town's current permit is for 500,000 gallons, which included an allowance of 10,000 gallons for a Laundromat. Therefore, if the proposed Laundromat Extension is for no more than 10,000 gallons capacity, the Town will not need to submit any information that shows that the plant has sufficient capacity to serve this proposed extension.
- If the permit application is for more than 10,000 gallons of capacity, then the Town will have to submit additional information demonstrating adequate capacity at the plant, and the review period will probably be longer (in addition, it will take longer for M&E to prepare any documentation demonstrating adequate capacity at the plant).
- The EOE thresholds for the filing of an Environmental Notification Form (ENF) will need to be looked at to make sure that the proposed length of the sewer extension doesn't trigger the filing of an ENF, which would add additional time to the approval process. The length that triggers an ENF may be different depending upon whether the pipe is in a public or a private way.
- The Water & Sewer Board has the authority under the Special Legislation to amend the sewer district to include

the Laundromat Extension area – no further approval of the amended sewer district is required by the DEP.

- As a result of these discussions, the Staff and M&E recommend that the Town apply for a Sewer Extension Permit of no more than 10,000 gallons capacity, and if possible, with a pipe length that does not trigger the filing of an ENF. If the Town and M&E can complete the application by mid-March, then the permit can be granted in May and the Laundromat could be on line by the summer. Based on an estimated betterment of \$40 per GPD and the cost estimates already provided by M&E, an extension with a 10,000-gallon capacity can be economically viable. And, as previously confirmed, this proposed extension can be added to at a later date to serve more connections in the area.

Discussion of proposed Manor connection with Brian Dudley of the DEP.

- The Manor will require a Connection Permit (similar to those discussed under the Sewer Bank section) since it will be a pumped connection and is not a residential property. In this case, the Town and M&E will need to submit an explanation that there will be sufficient capacity at the plant to serve the Manor once all of the remaining red-dot delay and delinquent properties are connected.
- Although additional information on available capacity will need to be submitted with this permit application, if the permit application is in by the beginning of April, the permit can be granted before the June 30th deadline for conveying the property.
- The DEP will be looking for the following information that demonstrates that there is available capacity: (i) current flows, (ii) projections for the flows from the remaining red-dot delay and delinquent properties, (iii) projections for the flows from the Laundromat Extension and the Manor connection, (iv) existing mass loadings and design mass loadings, and (v) projections of how these future connections will affect the mass loadings (more residential use should improve the mass loading situation).
- Most of this information was prepared by M&E for the Return to Compliance submittal, and the remaining information can be updated for submission either with the permit or earlier. M&E's report on the current mass loading situation should be available in February, and additional data will be obtained this summer to improve on the accuracy of the information. M&E's mass loading report will be submitted to the DEP prior to the permit submission, so that the DEP has adequate time to review all of the mass loading issues prior to reviewing the Connection Permit for the Manor.
- Since the DEP cannot approve actual flows above the permitted 500,000 gallons capacity and the regulations call for projections that are based on Title 5 flows, the calculations that the DEP will require to demonstrate that there is sufficient available capacity at the plant will continue to be conservative until the remaining red-dot delay and delinquent properties are on line and their actual (rather than projected) flows can be verified.
- The Town has two ways to get beyond the conservative analysis that is called for in the regulations: (i) get more delayed properties on line as quickly as possible (which Brian Dudley strongly encourages for both permit review and operational reasons) and (ii) prepare the necessary paper work to increase the groundwater discharge permit to the 570,000 gallon capacity – the number that Rob Adams of M&E has confirmed the plant was built to handle. At this time, it does not appear that the permit needs to be increased to the 570,000 gallon capacity figure until any additional sewer extensions are requested following the completion of the sewer system optimization and expansion planning process.

MOTION: Move that the Board of Selectmen vote to approve the Water & Sewer Board's recommendation to approve Laundromat Sewer Connection Permit for the proposed Shankpainter Road location in the following amended form subject to (A) the business terms to be brought forward that recognizes the need for additional connections that may be considered in order for this specific connection to be economically viable; further, staff to consider for this analysis, other properties in this immediate or adjacent area; and (B) the Board of Selectmen, having final authority, shall approve the business terms and co-sign the permit.

Motion by: Richard Olson Seconded by: Michele Couture Yea 5 Nay 0

Motion to adjourn by Michele Couture at 7:50 pm.

Minutes transcribed by: Vernon G. Porter

January 23, 2006