

SEWER COMMISSION MINUTES

August 18, 2010

7:00 PM

Mrs. Kane - The regular meeting of the Town of North Smithfield Sewer Commission was called to order on Wednesday, August 18, 2010 at 7:00 P.M at Kendall Dean School.

Roll Call - Mrs. Paul - In attendance was: Mr. DeCelles, Mr. Nordstrom, Mr. Kane, Mr. McGee, and Mr. Connolly are excused from the meeting. Mr. Carpenter, Acting Superintendent and Mr. Wilcox were also present.

APPROVAL OF MINUTES

Mr. Kane requests approval from the sewer commission for the July 21, 2010 minutes.

MOTION by Mr. Nordstrom, seconded by Mr. McGee and Mr. DeCelles with discussion.

Mr. Kane made three corrections/adjustments from the July 21st minutes. The first correction/adjustment is on page 2, third paragraph listed under Gator's Pub, "Mr. Kane indicated that there was a discussion that the town is applying for economic development money which is going to be 80% federal funding and 20% local funding and it would be for infrastructure improvement and

expansion. and that he “Mr. Kane” has talked to the Town Planner. The minutes should read that “He will talk to the Town Planner. And the second correction was he stated that it is in the works and he has asked him to look at that” and the second correction “is that it is in the works and he will ask him to look at that”. The third correction was listed under Old Business, the first paragraph and that there was a discussion regarding usage bills and he was informed at that point that they would not be able to send out use bills per the “Town Solicitor”. The Town Solicitor informed him that the discussion was in general speaking and the Town Solicitor has looked further into it and explained that it is an access fee and because of that they are allowed to send out usage bills as long as there are sewers available and those bills will be sent out once the grace period to connect set forth in the ordinance has passed. In this case it would be October 20, 2010.

MOTION amended by Mr. Nordstrom, second amended by Mr. DeCelles and Mr. McGee and voted unanimously on a 4-0 aye vote to approve the changes made and previously noted and accepted the July 21, 2010 sewer commission minutes.

REPORT FROM SUPERINTENDANT-Mr. Carpenter

Mr. Carpenter apologized for not supplying a written report for the meeting. His main concern currently is concentrating on the sewer project and making sure things are right with the project. He hopes to provide a list of items that he feels he needs for the department to

the town and the commission next month. Mr. Wilcox offered to assist him in putting that together. He stated that Dowling Village has begun to lay the sewer lines for that project. He recently received a call from the engineers yesterday stating that they are ready for inspections on the sewer line. He informed them that they need a 48 hour notice on the start of a project.

Mr. DeCelles asked if they had a permit.

Mr. Carpenter replied that he wasn't sure.

Mr. DeCelles and Mr. Nordstrom informed him that he has the authority to stop the job.

Mr. Carpenter has met with him but mentioned that they would have to wait until he speaks with the commission. He isn't sure where Mr. Alvarez was with the project.

Mr. DeCelles stated that it is an issue for the staff and not the sewer commission. They need the proper permits, if they don't have the proper permits, then the staff has the right to cease the job.

Mr. Kane informed Mr. Carpenter that Mr. DeCelles had requested from Mr. Alvarez what the flows are on his monthly report for each month and provide that number to the commission monthly and would like Mr. Carpenter to continue to provide that information to the

commission to also be included with his monthly report.

Mr. Carpenter agreed to provide that information.

Mr. Kane indicated that there were no payment requests this month. In June the sewer commission recommended approval of payment of final payment request for John Rocchio Corporation for \$38,269.60 which is the final release of the 2 ½% retain age.

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The motion was made contingent on the Town Solicitor reviewing releases of lien which he has. On Monday, August 16, the town council again refused not to approve and payment request yet again. Their reason was lack of backup documentation and was continued by the town council on September 7th. He reviewed the information with Mr. Geremia and he will resubmit the information at the next town council meeting scheduled for Tuesday, September 7.

AMEY MORRIS-Extension Request-295 Victory Highway

Mr. Kane stated that this was continued from last months meeting and are awaiting a letter from Mr. Nordstrom.

MOTION by Mr. Nordstrom, seconded by Mr. McGee to approve the request for a deferment and that a letter is sent from the Chairman of the Sewer Commission with a copy to the Town of North Smithfield noting the approval with discussion. The letter reads as follows:

“Dear Mrs. Morris: At the August 18, 2010 meeting the North Smithfield Sewer Commission reviewed and approved your request for a five (5) year deferral on your sewer assessment for Parcel 2, Lot 102.

This means that you will not have to begin paying your assessment until October 20, 2014. At that time, you will be sent a letter requiring you to connect to the sewer system within a one year time period. If you hook up within that time period, you will be offered a grinder pump and a five year warranty. You will be required to pay all connection fees (sewer permit, town plumbing and electrical, etc.) associated with the hook up. If your property is sold during the five (5) year grace period, the assessment will begin upon the sale of your property.

When you get the initial letter in 2014, should you elect to petition the Sewer Commission for an additional four (4) year extension as noted in section 8.35-8(k), you will be required to provide evidence that your on-site system is still operating as designed by hiring an inspector certified by RIDEM. If an extension is granted, you must have another inspection within three (3) years from the date of your extension. In addition, should you pursue this option; you will be given a credit of \$2,793 which is the current cost of a grinder pump that is included in your assessment. You will be responsible to purchase your grinder pump at the time of your connection at market cost. Your warranty

will be whatever the manufacturer offers at that time.

Should you have any questions, feel free to call the town sewer administrator, Jim Wilcox, at 767-2200 ext. 305. Very Truly Yours, and signed by the chair of the Sewer Commission, cc: Mr. Jim Wilcox, Town Clerks Office, Recording Clerk, Tax Assessor and Town Administrator.”

Mr. Nordstrom clarified the requirements of a deferral that within the past three (3) years a new ISDS system was installed and are current with RI DEM regulations and by the sewer use ordinance and a person under that circumstance qualifies for a five (5) year deferral which means for five (5) years they don't have to pay an assessment or user fees and are exempt from having to pay those fees. At the end of that grace period, there is another section of the sewer use ordinance that provides people the ability to defer to an additional four (4) years.

There was a question of where this letter and information will be recorded?

Mr. Kane stated that for every sewer assessment there is a lien and will be recording at the Town Clerk's office and it will show that there is an assessment and be placed on hold.

Mr. Wilcox indicated that it will be placed on hold in the system. He

stated that in the system, they need to activate the date. In the system he has now, he has to enter in a note stating that in 2014 there will be something saying that they are up for either an extension or a deferment and need to go forward with another letter and feels that the homeowner will not remember that date. There isn't anything to follow up on this. The program is through Opal and the system would need to remind them that in 2014, they need to reassess this account. The note will be in the system under that date, that when bill is done, that note will show up on a report that those need to be reviewed and brought up again for a reminder.

Mr. Kane stated that the deferment maximum is October 20, 2014 and the assessment will begin. If someone applies for an extension and it acts just like the extension for this specific project. The assessment will start on October 20, 2014. If they choose to apply for extension, it does not impact their assessment from that point on. He asked the Tax Collector what happens to assessments, she told him that for assessments there is a lien placed on the property, for usage there is no lien. There are two

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different systems, one is for the tax collector and one is for land evidence in the clerk's office. He will check with the tax collector.

MOTION by Mr. Nordstrom, seconded by Mr. McGee and voted unanimously on a roll call vote to approve the request for a deferment

for Amey Morris of 295 Victory Highway and that a letter be sent from the Chairman of the Sewer Commission with a copy to the Town of North Smithfield noting the approval.

MOTION by Mr. Nordstrom, seconded by Mr. DeCelles and voted unanimously on a 4-0 aye vote to move up on the agenda Mr. & Mrs. Daniel Brennan of 113 St. Paul Street a deferment request.

MR. AND MRS. DANIEL AND MICHELLE BRENNAN-113 ST. Paul Street-Deferment Request

Mr. Kane stated to Mr. Brennan that if the deferment is granted by the commission that he will not begin paying the \$18,292.00 starting on October 20, 2014 and goes for his yearly use bill and explained to him extending his tie-in a little longer.

MOTION by Mr. Nordstrom, seconded by Mr. DeCelles and voted unanimously on a roll call vote to approve the request for a deferment for Mr. and Mrs. Daniel and Michelle Brennan of 113 St. Paul Street and that the same form letter be sent from the Chairman of the Sewer Commission with a copy to the Town of North Smithfield noting the approval.

MR. AND MRS. RICHARD AND MARGARET GONGOLESKI-61 Elizabeth Avenue-Extension Request

Mr. Kane explained the difference between deferments and extensions and it provides residents up to 4 year extension to tie in

on an extension and they are required to pay their assessment and user fee which began August 15, 2010. He referred to a letter received from the Sewer Administrator to the residents with the correct form and a hand written letter from Mr. and Mrs. Richard and Margaret Gongoleski. He asked them if they understood and that they will be notified one year prior to tie in. The Gongoleski's agreed.

They will be provided a credit of \$2,793.00 towards their assessment for the town's cost of their grinder pump which the town will not be responsible to provide when they go to connect; they must purchase the pump at market price. They will receive a standard two (2) year warranty, there will be no extended warranty or extended maintenance coverage from the town and they will be required to pay all the permitting fees that the town or sewer department requires at that time.

MOTION by Mr. Nordstrom, seconded by Mr. McGee and voted unanimously on a roll call vote to approve the request and grant the extension to Mr. and Mrs. Richard and Margaret Gongoleski of 61 Elizabeth Avenue and to recommend to the town council an extension be granted as recommended by the sewer commission and the appropriate letter be sent to the resident notifying them of what their options are.

MR. RON ROY-383 Victory Highway-Extension Request

Mr. Kane stated that Mr. Roy is also applying for an extension. Mr. Kane explained the same provisions to Mr. Roy as he did previous for

the Gongoleski's request and asked if he understood and Mr. Roy stated he understood and agreed. Mr. Roy questioned if he was going to receive any money back for what he has already paid for the assessment for the first quarter. Mr. Kane explained the difference between a deferral and an extension and that with an extension he would have to pay the assessment and their user fee and are paying everything. An extension is an extension of time to tie in and he will receive \$2,793.00 credit off of his assessment for the cost of the grinder pump of the \$27,438.71 entire assessment. He explained to Mr. Roy that the law states that he has to pay the assessment and the user fee and that is the law of the town council.

MOTION by Mr. Nordstrom, seconded by Mr. DeCelles to approve the request and grant the extension to Mr. Ron Roy of 383 Victory Highway and to recommend to the town council an extension is granted as recommended by the sewer commission with discussion.

MOTION by Mr. Nordstrom, seconded by Mr. DeCelles and voted unanimously on a roll call vote to approve the request and grant the extension to Mr. Ron Roy of 383 Victory Highway and to recommend to the town council an extension be granted as recommended by the sewer commission and the appropriate letter be sent to the resident notifying him of what his options are.

Mr. Wilcox invited Mr. Roy to meet with him any time at his office so they can go over everything and assist him so he can have a better

understanding of everything.

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SEWER PERMIT TIME EXPIRATION-Discussion and Recommendations

Mr. Kane explained that currently they are granting permits to connect and had Mr. Wilcox explained that currently he has 101 sewer connections recorded for this project and 30 of the 101 connections are in the permit stage. Those residents who have not tied in yet are a total of 76. His question is that his limitations on getting the documentation submitted for permits before October 19, 2010 and how long would the permits be or the date it would go out to before connection could be made based on the 30 permits that are in house and right now those 30 permits could not be accomplished before October 19th of 2010. How much longer would the permit be issued into either next year or this year after October 19th 2010.

Mr. Kane had a meeting to discuss several issues with the town Administrator, Mr. Wilcox, Public Works Director, Finance Director, Acting Sewer Superintendent, and himself and a question was asked that if residents had a permit by the October 19th date, but not connected by October 19th, would they be considered in violation and he stated no. But there has to be some reasonable time frame

that these permits are valid for where upon expiration of the permit, and then they would be in violation.

Mr. DeCelles feels that it is a question for the solicitor, not a question for the commission.

MOTION by Mr. DeCelles, seconded by Mr. Nordstrom that subject to town Solicitor to investigate the statue that defines the length of a permit and that the date be established as June 20, 2011 with discussion

Mr. Wilcox felt that the end of fiscal year which would be June 30, 2011 would be better.

MOTION AMENDED by Mr. DeCelles, seconded amend by Mr. Nordstrom and voted unanimously on a 4-0 aye vote that subject to Town Solicitor investigating the state statue that defines the length of a permit and that the date be established as June 30, 2011.

CORRESPONDENCE & COMMUNICATIONS

MOTION by Mr. Nordstrom, seconded by Mr. DeCelles and voted unanimously on a 4-0 aye vote to amend item B to read Communications Regarding Connection of Kendall-Dean to System and eliminate Superintendent S. Lindberg.

Mr. Kane stated that Mrs. Wojcik made a presentation to the town

council but that the council did not act on anything.

Mr. Kane reviewed the letters received from Mr. Lindberg and Mrs. Hamilton and requested if Mr. Wilcox could check to see if the North Smithfield school system actually did pay their assessment for Kendall-Dean School.

Mr. Wilcox replied yes and he will check.

Mr. Nordstrom stated that he would recommend that Mr. Wilcox send out the same form letter be sent to the North Smithfield School department that has been sent to the homeowners that if they wanted an extension deferral, here is the steps that they would need to follow.

Mr. Wilcox stated he will do so.

Mr. DeCelles asked if the school department had received all of the notifications and just chose to ignore it.

Mr. Kane's reply was yes.

Mr. DeCelles also stated that they should have been included 15 years ago.

Mr. Kane stated that they should have been included in the School

Street project and were not.

MOTION by Mr. Nordstrom, seconded by Mr. McGee and voted unanimously on a 4-0 aye vote to receive and place on file the following: A.) Diane Wojcik-Submitted Correspondence to TC 8-165-2010; B.) Communications Regarding Connection of Kendall-Dean to System; C.) Phase 1B SSS-Payment Request #16 for E-1 Grinder Pumps.

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OLD BUSINESS

Mr. Kane stated the following from the Town Solicitor to himself was an e-mail that he received from Mr. Nadeau today:

“Per our conversation at the TC meeting the other night, I want to be certain that my statement quoted below (Mr. Nadeau stated that you cannot charge someone for a service they are not receiving) is placed within the proper context.

When I made the statement we were talking about sewer use fees in general. A true sewer use fee involves monitoring actual use through meters much as households pay National Grid a fee for the electricity actually used (along with taxes and other charges but you get the point). If North Smithfield actually metered its sewer customers then the Town would be charging a sewer use fee to the actual users. However, North Smithfield does not meter sewer customers and rather calculates and charges what is more accurately termed an

access fee. The issues and what properties may be charged are different.

It is my understanding that North Smithfield has traditionally charged the access fee (and called it a use fee) to all properties with the availability of sewer connections, regardless of whether the property was connected, once the grace period to connect set forth in the ordinance has passed. It is further my understanding that this procedure has been reviewed by one or more prior Town Solicitors and that it is a legal manner in which to spread the costs of operating the system. I have not looked at this independently as I have no desire to replicate work previously done. I trust this clarifies my comment.”

He stated that the statement he made at last month’s sewer commission was null and void. As of October 20, 2010, they must pro-rate a bill and every user of the system and if they have not connected as of October 20, 2010 to the end of the fiscal year.

Mr. DeCelles asked if there were any grinder pump issues this month.

Mr. Carpenter stated that there was one with Mr. Clem Cote and that it was due to a defect in the installation and that he had to pay \$350.00.

Mr. Kane asked if he could have the address of the resident.

NEW BUSINESS

Mr. Kane that a press release was given out by Mrs. Hamilton, the contact is Louise Tetreault a Sewer District meeting is scheduled for Thursday, August 26 at 6:30 pm at Scouter’s Hall, Main Street. “This

meeting is to being held to continue our discussion with residents on issues they might have with the sewer project, concerns about grinder pumps and to give everyone a chance to hear answers that affect them said Town Administrator, Paulette Hamilton, this meeting is the second to be held as part of an on-going open communication with residents. Members of the sewer commission, sewer department as well as representatives from F.R. Mahoney will be on hand to answer questions.” Mr. Kane stated that he will attend.

Mr. McGee asked if a plumber pulls a permit, do the excavators have to have the insurances to do the digging and who checks it?

Mr. DeCelles responded by saying that they use to and they use to require it.

Mr. Wilcox stated that the drain layer list that they have online right now are approved by the town. He has brought this to Mr. Carpenter’s attention and a few others to find out where the licenses lie with the drain layer and the master plumber. Some of the plumber’s at the master’s level have insurances only for the plumbing and do not have insurances on the dig end. He was asked to look into that and he is still working out those details before he submits his questions of concern.

Mr. DeCelles stated that if the drain layer pulls the permit, then he is responsible for the entire job. He stated that the superintendent

should be approving the new drain layers and should come before the commission for approval.

Mr. Kane has assembled the bid packets for the interceptor cleaning program and will bring them before the commission next month for approval and will go out to bid and recommend bid to the town council.

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Mr. Kane explained that after the September 15 regular sewer commission meeting, there will be if needed several special meetings if there are requests for extensions. There is a September 29 special meeting, the deadline for paperwork is September 22, there is an October 6 special meeting, the deadline would be September 29th, another special meeting would be October 13 and the deadline is October 6. These are only if needed and these are for pending extensions only. On October 20, the regularly scheduled sewer commission meeting, they will have a report of everyone who was granted extensions, connected, permitted etc. since it is the day after the deadline to connect. He was informed that Kendall Dean will not be closed as of now and he will be notified if he needs to change venue for the regular scheduled sewer commission meetings.

Mr. Carpenter requests that he be included when the bid information is put together.

Mr. Kane agreed to include him.

PUBLIC COMMENT

Mr. Kane was told that last month that he should be running public comment like a town council meeting when comments are made; there is no response from members. He has now been informed on Monday, August 16th that the Town Solicitor had attended a forum from the Attorney General's office and that on next month's meeting agenda it will read "Open Forum" Pursuant RIGL Sec. 42-46-6d. Even in the town council's case this allows members to respond to questions. This will begin in September but the commission members are not allowed to respond to questions this evening.

Mr. Ronald Martin, Pacheco Drive is disappointed about the replacement of his pump and his situation. He feels that at June's meeting he thought it was a done deal. In July, Mr. Quann doesn't want to agree to this. The reason to have the pump replaced was so it wouldn't occur a third time. He will be going away again and is displeased with Mr. Quann answer.

Mr. Kane informed the commission that he has no grounds to force him to replace it. He has agreed that if something small or big happens to the pump, Mr. Quann will replace the pump. He told Mr. Quann that if that occurs, he will ask him to have it replaced and he will request that Mr. Quann put it in writing.

Mr. DeCelles feels that it is unacceptable.

Mr. Bob Thurber, 20 Brian Avenue questioned the way public comment has been handled. He thinks that the resident's should have the right to ask questions and it appears that it will be rectified at the next meeting. He asked what the criteria is to inspect existing systems to make sure that they are ok for those resident's who are requesting an extension and asked if it had been provided to the people. He also asked if those people were informed what the penalty is for non-compliance for the payment of their assessment and usage fee for those who do not connect.

Mr. Wilcox responded that they have been given a copy of the ordinance. A letter did go out to every resident on the system about nonpayment of the assessment.

Mr. Thurber also asked if Kendall Dean School has yet paid their assessment.

Mr. Wilcox was asked to look it up from this meeting and he'll check if they did pay or not and inform the commission of his findings.

ADJOURN

MOTION by Mr. Nordstrom, seconded by Mr. DeCelles and voted unanimously on a 4-0 aye vote to adjourn meeting at 8:34 pm.

Meeting adjourned at 8:34 pm.

Respectfully Submitted,

Patricia A. Paul

Secretary