

TOWN OF PROVINCETOWN - BOARD OF SELECTMEN

SPECIAL MEETING WASTEWATER

TUESDAY– OCTOBER 10, 2006 [4 PM]

JUDGE WELSH HEARING ROOM

Chairman Cheryl Andrews convened this special meeting at 4:03 PM noting the following attendees: Board of Selectmen: Cheryl Andrews, Sarah Peake, Michele Couture, Richard Olson, David Nicolau,

Other attendees: Town Manager Keith Bergman, DPW Director David Guertin, DPW, Financial / Administrative Coordinator Dana Faris, Austin Knight Water & Sewer Board, Ron Adams of Metcalf & Eddy and Facilitator John Goodrich, Town Council Jean McKnight

Recorders: Vernon G. Porter and Facilitator John Goodrich

The following are minutes, in brief.

1. WASTEWATER FACILITATED MEETING

Led by Facilitator John Goodrich

Chairman Cheryl Andrews turned the agenda over to Facilitator John Goodrich.

Open discussion ensued.

Sarah Peake – Future agenda Item for Board of Selectmen’s October 23rd meeting - status of Shankpainter Property and Affordable Housing update from Town Council.

David Nicolau - Future agenda item to discuss funds for housing, CPC and affordable housing trust fund.

MOTION: Move that the Board of Selectmen vote to ask staff to develop a zoning by-law amendment with the same skeletal structure of what we did for the EDC permits to do the exact same thing for 100% affordable units for them to be declared public use under the by-law so that we can consider affordable units in the downtown collection system as approved by Water & Sewer.

Motion by: Cheryl Andrews Seconded by: David Nicolau Yea 5 Nay 0

Introduction

The October 10th Facilitated Meeting of the Board of Selectmen was designed to provide the Board with answers raised at previous facilitated meetings and at the September 25th Public Hearing, in preparation for the motion to have the Board place Article 1 on the Warrant for the November 13th Special Town Meeting. The following notes summarize (i) the presentation of any new information not contained in the Packet, (ii) the discussion, including comments, questions, and policy direction from the Board, and (iii) the action items and other information from the Wastewater Team’s follow-up discussions held on October 11th.

Most of the meeting was devoted to questions and discussion concerning how to allocate the available capacity for Phase 2. There were no questions concerning the permitting updates. The following sections summarize the discussions and follow-up concerning the (i) allowable flows and connection procedures, the (ii) downtown collection system, (iii) affordable housing, and (iv) the Warrant Article for the November Special Town Meeting.

Allowable Flows and Connection Procedures

Town Counsel Jeanne McKnight explained how betterments can be determined and assessed and how hook-up deadlines can be enforced for Phase 2 in order to address the questions that were raised by the Board at the September 11th meeting. In general, the same Growth Management and Water & Sewer Board procedures that

are already in place for Phase 1 would be followed.

If a property owner who will be connecting in Phase 2 would like to have more flow allocated to their property now, they will need to come forward with an engineering plan that shows that they could fit a non-varianced Title 5 system on site for the intended use, go through the Growth Management process, and pay the full betterment for the increased flow. The Board and the Wastewater Team agreed that there would be few property owners who will be able to go through this entire process prior to the December 31st deadline for determining the Phase 2 property-specific flows.

Town Counsel suggested several additional procedures that could be implemented for Phase 2 to provide for increases in allowable flows, including the following:

- A new Water & Sewer Board regulation providing for an Existing Connection Expansion Permit to apply to those situations where a property is not currently developed to its allowable capacity and the owner wishes to increase their flows to the sewer at a later date. Such an increase would, of course, be subject to available capacity at the time of the property owner's request.
- A procedure to allow applicants who could increase their allowable capacity to decide how much capacity they want to reserve now, but not use until a later date – once they pass all of the zoning and other hurdles, they would have a reasonable period of time before they would have to use the reserve gallons or lose them.

This approach would require a policy decision by the Board as to the procedures and the length of time that a property owner could hold gallons in reserve. The Board and Town Counsel discussed a number of different approaches to setting deadlines that would balance the Town's need to receive revenue flow from both betterments and user fees, the value that the property owner would receive from having the gallons in reserve, and the deterrent to a property owner if the time frame was too short in relation to when they could reasonably expect to receive all of the approvals and be able to undertake improvements to the property. There are also questions that need to be resolved as to when the "clock" would start, and how long it would run, as well as the relationship to other procedures that are already in place such as the 2-year abandonment of use "clock".

DPW Director David Guertin indicated that there are only a small number of properties that would fall into this category and that the total gallons that would likely be held in reserve is a small percentage of the Phase 2 capacity. The Wastewater Team will review the potential properties and will work with Town Counsel to develop examples that show what would be a reasonable approach to bring to the Board at the November 27th meeting for a discussion of the policy to be implemented.

In terms of the enforcement of hook-up deadlines, Town Counsel Jeanne McKnight suggested that the Town can inform the property owners who want to "willingly" connect in Phase 2 that if they don't connect within a certain time period, they will lose their right to connect, and they will not receive any refund of the betterment that they have already paid if they agree up front to these terms. The written agreement would need to be recorded so that it binds a future owner. Again, there needs to be a balance between the Town's desire to receive revenues from both user fees and betterments as soon as possible, while not deterring property owners from wanting to sign up for a sewer connection. Town Counsel will work with the Wastewater Team on the language for this agreement prior to the next facilitated meeting.

These procedures were not in place for Phase 1 and, hence, a trip to Court may be the only way to enforce the delinquent hook ups for Phase 1. Town Counsel will provide the Wastewater Team with a review of the prior advice concerning the legal options regarding both the delinquent and red-dot delay properties (as discussed in a following section) in conjunction with the recommendations for procedures to be used in Phase 2.

In terms of the betterment rate that can be charged for late Phase 1 connections, Town Counsel explained that the assessment rate can be increased for late red-dot delay or other connections to reflect the actual increase in the Town's costs, but that this is independent from the Phase 2 betterment calculation – the Town cannot assess the Phase 2 betterment rate to late Phase 1 connections.

The Wastewater Team will continue to implement a number of outreach programs and to evaluate the

engineering feasibility of serving properties cost-effectively for Phase 2, in preparation for the November 27th meeting, including the following:

- Individual follow-up to all requests for information from interested property owners resulting + from the recent COA Newsletter mailing and the coverage that is being provided in the Banner. If the interest warrants it, the Wastewater Team will hold another Neighborhood Meeting in the Shank Painter Basin.
- A Notice will be placed in the door of all properties in the Shank Painter Basin that have not yet replied that they would like to have a sewer connection – this notice will clearly state the December 1st sign-up deadline, the benefits of a sewer connection, and how they can obtain additional information.
- Continued follow-up with both property owners and Town Staff concerning any environmentally sensitive properties adjacent to the Shank Painter Basin that should be served by Phase 2 if at all possible.
- Review of the larger users on the edge of Area W-1 to identify those interested properties that could be cost-effectively served by the sewer extension.
- Review of the Phase 1 properties that could be cost-effectively re-directed to the new sewer extension. M&E has estimated that approximately 15,000 GPD of the 27,000 GPD originally identified could be re-directed cost-effectively – this will be confirmed prior to the November 27th meeting.
- Contact with those property owners that have expressed an interest in connecting to the West Main if capacity exists, to confirm their interest so that M&E can analyze which ones can be connected cost-effectively with minimal need for new vacuum system structures.
- Review of the properties adjacent to the proposed Manor sewer connection to determine which ones can be connected cost-effectively to take advantage of the small amount of excess capacity available at the proposed pump station – there is approximately 2,000 GPD of excess capacity that could be used for properties located between the Manor and the Grace Gouveia building and to serve ACOs in the immediate area.

The purpose of each of the above efforts is to be able to assess all of the interest and the engineering options for meeting this interest in a cost-effective manner prior to the December 11th meeting when the Board will be asked to finalize the boundaries of the areas to be served, and the properties to be served. If these analyses indicate the need for any important trade-offs or other policy decisions, the options and the Wastewater Team's recommendations will be brought to the Board at the November 27th meeting so that guidance can be provided.

Downtown Collection System

The Wastewater Team summarized the results of the meeting with Brian Dudley on October 4th and the information in the Board's Packet concerning the capacity limitations for the downtown collection system. Although the proposed Shank Painter Sewer Extension can free up capacity along the West Mains for additional economic development, affordable housing, or other increases in flow – by re-directing approximately 15,000 GPD of Phase 1 flows to the new Phase 2 sewer main – there is no similar solution for Phase 2 for the East Main.

The solutions that are available for the East Main involve either (i) hooking up the remaining red-dot delay properties so that their actual peak flows are known and any actual unused capacity can be documented, (ii) release of unused gallons from properties that have discontinued a use, (iii) re-direction of one or more large users from the East Main to the West Main, or (iv) diversion of the grinder pump properties at the extreme East End to a new force main to the treatment plant in Phase 3. Following discussion and clarification of a number of issues by the Wastewater Team, the Board provided the following direction:

- The Board will re-visit the “carrots and sticks” for the “red-dot delay” properties at the November 27th facilitated meeting. The Wastewater Team will provide the Board with an update on the status of each of the red-dot delay properties.
- The Wastewater Team will also provide the Board with an update on all of the issues related to when

the “clock” started and will end for properties with a discontinued use and the potential for any gallons from these properties along the East Main. The Board is hopeful that some gallons can be made available from these properties so as to help meet the needs of business owners who have come forward to ask for small increases in flows before next year’s peak season begins.

- The Board does not feel that money should be spent in Phase 2 to re-direct one or more large users from the East Main to the West Main.

Affordable Housing

At the November 27th meeting, the Board will be asked to confirm the gallons to be held as a “placeholder” for affordable housing projects. In preparation for that meeting, the Wastewater Team and the Board discussed the following:

- The Board approved a motion 5-0 to request that the language for a future amendment to the Growth Management By-law be prepared that would designate 100% affordable housing projects as a “public service use” as defined in the Special Legislation for the sewer project, similar to the existing designation for year-round economic development Category 5 Economic Development Permits. Town Counsel has drafted the language as requested.

- The Board requested that for purposes of the sewer system planning, they would like to receive an update on the status of the potential affordable housing proposal for 90 Shank Painter Road – this will be provided to the Board at their next meeting on October 23rd.

- In response to a question from the Board as to the status of proposed affordable housing on the DPW Garage site – Area E-10, DPW Director David Guertin informed the Board that the Town has commissioned an architect to prepare a simple concept plan for a shared facility for the DPW and the National Park Service, in order to proceed concurrently with the Park Service’s planning process. The cost for this service is \$1,500 and the firm is A&E Architects, who designed the bathrooms for the Pier.

- In response to a question from the Board as to the process that would be followed for a property owner that would like to add affordable housing to their property and would want a sewer connection to do this, the Wastewater Team explained that any affordable housing sewer extension request will need to be evaluated based upon the expected betterment versus the estimated cost to serve that location, if it is not presently served by the sewer. The Board and the Wastewater Team agreed that a policy will need to be developed by the Board as to what kinds of “incentives” should be offered to encourage such creation of affordable housing.

- The Board was pleased to see in the Packet the suggestion that CPC funds might be available to cover the cost of the betterment for any gallons “reserved” for affordable housing between the time when the sewer becomes available and the time when an affordable housing project actually hooks up to the sewer. The Town Manager will confirm for the November 27th meeting that CPC funds can be used for such a housing infrastructure purpose, as well as the probable timing.

Warrant Article for November 13th Special Town Meeting

The Board approved a motion 5-0 to place Article 1 in the amount of \$6.2 million on the warrant for the November 13th Special Town Meeting. In response to questions, the following clarifications were provided by the Wastewater Team:

- The same language as in previous sewer warrant articles has been used in order to provide some flexibility to the Town for implementation. This is only borrowing authorization: no funds will be spent unless approved by the Board and expended. Following the November 13th Town Meeting, the Wastewater Team will bring forward requests for those elements that are known at that time. The Board will be provided with a “spreadsheet” with each request, showing the total, the amount for the specific request, and the “drawdown”.

- Of the total, approximately \$500,000 is for Area E-10. It was agreed that this amount should be set aside until E-10 is ready to go, and that the funds should not be spent for potential cost overrides on other parts

of the program. It was agreed that the Town Meeting vote will be an important message to the National Seashore that the Town is ready to move forward with re-development of this site, and therefore with the shared maintenance facility.

MOTION: *Move that the Board of Selectmen vote to insert the following article onto the next special town meeting warrant: Wastewater Optimization and Expansion - Borrowing Authorization, in the amount of \$6,200,000.*

Motion by: Michele Couture Seconded by: David Nicolau Yea 5 Nay 0

Motion to adjourn by Michele Couture at 5:35 pm.

Minutes transcribed by: Vernon G. Porter and John Goodrich
October 13, 2006