

**Town of Hillsborough Water & Sewer Commission
January 26, 2016 Meeting Minutes**

Meeting called to order 6 pm. Present were Commissioners Peter Mellen, Herman Wiegelman and Chris Sieg. Also in attendance: Douglas Hatfield, Jack Wells and Kim Wells.

Hatfield addressed the commission regarding the Weatherstone Crossing project. While admitting as owner of the property on which the development was to be sited he “had a dog in the race,” Hatfield said the project would also have a benefit for the Town of Hillsborough. He said when the project was begun as far back as 2008 the hook up fee for the project was \$10,000. He said if the fees as currently proposed by the commissioners were kept in place it would “significantly discourage economic development in Hillsborough.”

Commissioners Sieg asked for a show of hands of those who wanted the project to go through. All in attendance raised their hands.

At 6:07 Joe Damour, Cody Boisvert and Frank Pearsall entered the meeting.

Hatfield said that based on fee information supplied years ago, the developer moved forward with the project. He said there is case law against officials making representations and later changing their minds. He said the commissioners have the authority to grant waivers to their fee schedule.

Hatfield also said the developer would be installing improvements to the existing private sewer system, not only for Weatherstone Crossing but also to allow for additional development further down Route 202.

At 6:09 Michael Pon, Robyn Payson and Leigh Bosse entered the meeting.

Hatfield said leaving the new accessibility fees in place would be a “death blow to development in town,” and without further development, the newly constructed Tractor Supply store could “dry up and go away.”

Kim Wells said the proposed development would “provide jobs for young people” in town.

Commissioner Wiegelman responded that the commission was not intending on preventing development in Hillsborough, but that “our major responsibility is to the users – not the town.”

Wiegelman said that while the new accessibility fee charged \$5 per gallon per day (GPD) of estimated flow based on state flow charts, Wolfeboro charged \$13 per GPD and Milford \$19 per GPD.

Pearsall said the town had held enough meetings on this development and the time had come for approval and construction.

“Where is the end to it,” he said. “This is Hillsborough.”

At 6:15 pm Phyllis Posy of Atlantium Technologies, Ltd. entered the meeting and Hatfield left the meeting.

Posy said she was in attendance to discuss a maintenance contract for the UV treatment systems recently installed at the Loon Pond Water Treatment Plant. Posy said that from the initial installation of the equipment until Sept. 30, 2015, Atlantium had supplied free maintenance and technical assistance, feeling such support was “best for both of us – we feel a personal interest” in the project.

Posy said the expected results were achieved, that the town’s drinking water was now “out of violation.”

She said for the months of November and December of 2015 and January of 2016 the percentage of water flowing through the system was “off spec” was 0.008%, 0.6% and 2%, respectively. Posy said that if data indicating “off spec” water is consistent for a period of 25 seconds, the water is considered “off spec.”

Asked by Wiegelman what causes the inconsistencies in the water, Posy said it was “Loon Pond itself, “explaining that the lake had a “very wide range” of variation in its water quality, particularly due to seasonal changes.

At 6:30 pm Dennis Roberts, Jr. entered the meeting.

Sieg and Posy discussed details regarding sensors on the UV lamps, life expectancy of master sensors and whether sensors were within or separate from the lamps themselves.

Posy listed all of the system checkups included under the proposed service contract , as well as all reporting and documentation. A 10% discount on all parts was also included. Cost of the contract was \$7,100 per year per system, for a total one year cost of \$14,200. Posy said she would email a copy of her digital presentation to commission administrator Penny Griffin.

Damour said that while he and his employees “do more than most operators” in terms of maintenance of the UV treatment system, the service contract is probably a wise investment.

In response to a question from Wiegelman, Posy said the service contract, if accepted by the commission, would be effective Feb. 1, 2016.

At 7:05 pm Posy, Damour and Boisvert left the meeting, after which the commissioners resumed discussion of the Weatherstone Crossing project.

Pearsall asked the commissioners “how clean is the water” coming out of the wastewater treatment plant. Mellen responded that the commission meets twice a month; one month it addresses the water system, the other month it addresses the sewer system. Mellen said this evening’s meeting was focused on water issues; the next meeting would address the sewer system, when WWTP operator Paul Dutton would likely be in attendance and able to answer his question in full detail.

Mellen added that the water coming out of the WWTP is analyzed to ensure it meets state standards.

At this time Bosse left the meeting.

Returning to the Weatherstone Crossing project, Mellen reviewed and discussed the following items:

1. A November 4, 2015 proposal from the engineering firm of Hoyle, Tanner to prepare an evaluation of the commission's sewer and water accessibility fee structure. Quoting from the proposal, Mellen said accessibility fees are "one-time charges levied for a proportionate usage of the Town's sewer (or water) system capacity. These fees are used to fund capital improvements that will substantially benefit new capacity."

2. Section 181-25 of the Hillsborough Code as amended June 28, 1989, quoting the following:

- A. There shall be three (3) classes of permits:
 - (1) For residential (single-family) service.
 - (2) For commercial and multifamily service, not to exceed four (4) dwelling units.
 - (3) For service to industrial establishments and any other complexes.
- B. In any case, the owner or his agent shall make an application on a special form furnished by the Commissioners. The application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Board of Water and Sewer Commissioners. A permit fee of one hundred dollars (\$100.) for a residential (single-family) service, two hundred fifty dollars (\$250.) for commercial and multi-family service, five hundred dollars (\$500.) for industrial establishments and other complexes. The permit fee shall be paid at the time the application is filed."

3. An October 19, 1993 Request for Service Permits from Cricenti's Market, Inc., for construction of a new building at 15 Antrim Road in Hillsborough, N.H. Mellen said the permit was for the construction of the building at the rear of the property now used as a bank and medical offices. The building is served by the same private sewer system that is to serve the proposed Weatherstone Crossing development, with wastewater pumped northerly to the town's sewer collection system on West Main Street. As part of the request, Cricenti's paid \$250 for commercial water service and \$250 for commercial sewer service.

4. Section 181-6 S. of the Hillsborough Code as amended July 1, 2004, in which sewer permit fees were raised to \$2,500 for residential (single-family) service, \$7,500 for commercial and multifamily service and \$10,000 for industrial establishments and other complexes.

5. A May 27, 2015 Request for Service Permits from Rob Estes, representing Bara Dental, for a water service at 60 West Main Street. Mellen said the permit was for a new 6" tap and main to provide sprinkler service and domestic water to a new dental office. As part of the request, a \$7,500 permit fee was paid. The permit also noted that the estimated fee for tapping the main in West Main Street was \$3,500.

6. Section 181-6 S. of the Hillsborough Code as amended September 10, 2015, in which permit fees were revised as follows:

"Fees for Water and/or Sewer Service Permits are \$5 per gallon per day (GPD) of estimated flow for the specific use proposed as listed in Table 1008-1, Unit Design Flow Figures, in Section Env-Wq 1008.03 (c) and (d), of the New Hampshire Code of Administrative Rules,

Chapter Env-Wq 1000, Subdivision and Individual Sewage Disposal Design Rules, effective 2-9-08, or as revised.”

7. A November 3, 2015 Request for Service Permits from Riverside Precision Sheet Metal, Inc. (RPSM), for a water service at 15 Intervale Drive. The water service fee, based on a Unit Design Flow of 280 GPD multiplied by \$5 was \$1400.

Mellen explained that RPSM owner John Kowalski had approached the commissioners earlier in 2015 to discuss the water permit fee for his property. His proposed water use was for a bathroom and kitchen area for employees, and he would not be using any water in the manufacturing process. An on-site septic system would be installed on the property, as no sewer service was available on that portion of Intervale Drive. An 8” water main and 8” service to the RPSM lot had been installed by the developer of the Intervale Drive subdivision.

Under the format approved in 2004, RPSM would have been required to pay a permit fee of \$10,000 for an industrial permit. Kowalski and the commission agreed that such a fee seemed excessive for such a small use, and the September 10, 2015 revision to the permit fee schedule was the result of this discussion.

Mellen explained that the commission wanted a permit or accessibility fee that more accurately reflected the proposed use’s demand on the system, so chose to use the state’s design standards for septic systems as a guide. The \$5 per GPD fee was arrived at by taking the existing \$2,500 fee for a single family dwelling and dividing it by the state’s estimated GPD produced by a typical three bedroom house, 450 GPD. The result, 5.5555, was rounded to \$5 per GPD.

Sieg said the commission applied the formula and the state’s GPD estimates to other possible uses in the community and found that, in the commissioners’ opinion, the resulting permit fee was a more accurate reflection of the demand being placed on the system by the proposed use than the fee schedule approved in 2004.

Mellen noted that at the most recent meeting with Weatherstone Crossing developer Michael Black and engineer Wayne Morrill of Jones & Beach Engineers, Inc., Morrill raised the possibility of the commission waiving the requirement that the entire permit fee be paid at the time of application.

Mellen said Morrill also provided the commission with an estimate of the GPD for Building 1 of the Black project, a 158,583 square foot dry goods store/supermarket. While the state’s design table indicated a flow of 10,200.73 GPD, Morrill said that based on his experience, a building of similar size and use would produce 3,500 GPD. Morrill said an average of the two figures, something in the range of 6,500 GPD, might be a more reasonable number on which to base the permit fee.

8. A copy of a January 14, 2016 letter from the commission to Morrill stating that the commission had decided to apply the established accessibility fees to the project; that a review of the fee structure would likely be completed by April; and that 10% of the accessibility fee for Phase I (four buildings) would be due at time of application, with the remainder due “when the building permit is requested for each building.”

The January 14 letter also included a list of calculated water and sewer accessibility fees. Total combined water and sewer fees were \$223,707.30, with \$22,370.7 due at time of application.

Mellen said on January 19 he received an email from Town Administrator Laura Buono stating that Black had informed Town Planner Robyn Payson that he was pulling out of the project due to the increase in sewer and water accessibility fees. Mellen said that on Thursday, January 21 he called Morrill to state that he did not want the Water & Sewer Commission to be the agent that jeopardized the project and to explore a possible compromise on the accessibility fees. Mellen said Morrill stated that his firm represented the Town of Epping in these types of projects and often took the developer's engineer's estimated flows as a basis for accessibility fees, with the estimates verified by one year's usage once the building was complete and operational. If the usage exceeded the estimate, a surcharge would be applied to the fee. Mellen said Morrill agreed to email him estimated flow numbers for all four of the Phase I buildings, as well as the wording used by the Town of Epping regarding the verification of flow estimates during an ensuring one-year period .

9. A copy of the estimated flows/fees for the four buildings in Phase I as provided by Morrill to Mellen. The fees were as follows:

Super Center 158,583 sq. ft., estimated flow 3450 GPD accessibility fee \$17,250.

Bldng 2 25,000 sq. ft. retail, no estimated flow provided, accessibility fee \$6,250.

Bldng 3, 4,700 sq. ft. restaurant, no estimated flow provided, accessibility fee \$12,750.

Bldng 4 51,000 sq. ft. retail, no estimated flow provided, accessibility fee \$6,250.

10, Copy of a January 21 email from Michael Black to Payson, copied to Mellen and others. The email states,

"Please find attached meeting minutes during which our project was discussed at the water/sewer board. As you can see by the dates, we were there several times before the rate hike on September 10, 2015. I also had discussions outside the formal board with Herm and Robyn regarding hook up fees, water pressure , etc, prior to moving our project forward. These discussions were verified at the board meetings. The minutes are only posted through October 27, 2015. We did appear again in November , 2015 at which time we were notified about the \$5 / gal hook up charge.

Given all the appearances before the board, the fact we were never notified of any impending rate changes to the fee structure, and the Water/Sewer commission never posted any Public Notices related to the change, we feel that since the members are elected by the public, public notice and public hearings for input are required for a change of this magnitude in fee structure. Even though we never made application, we had appeared and introduced our project to all the boards in town, including water/sewer in prior years to gather all the information and fee structures required for a successful project.

A project of this magnitude requires cooperation with all involved. We have numbers set in our proforma from meetings with the town boards for fees to meet all town requirements for permits. We were told at the water/sewer meetings our hook up fee was \$10,000.00. That number went to \$ 477,000.00 if the residential and commercial projects were to be on town water/sewer just in hook in fees without notice to us. This is not acceptable. We hope to find

a viable solution to this issue. This increase places our project, and all future businesses contemplating coming to town in jeopardy.”

Mellen stated that in a meeting prior to the September 2015 change in accessibility fees Black had been provided with the commission’s Request for Service Permits form, but that at no time had he been told by the commission that the hook up fee for four commercial buildings and a possible future residential development would total \$10,000.

Mellen said that according to the state design table, the total GPD of Phase 1 of the Weatherstone Crossing project would be 22,370 GPD, which if divided by the state’s GPD for a three bedroom home (450 GPD), would equal the flow of 50 three bedroom homes. Mellen said that based on the current standards, the accessibility fee for 50 three bedroom homes would be \$225,000.

11. A copy of Section 223-5 of the Hillsborough Code, which read as follows:

“The Board of Water and Sewer Commissioners may modify or amend these rules and regulations or make additional rules and regulations relating to the use of the municipal water system of the Town of Hillsborough that it may deem expedient, provided, nevertheless, that any modification or additional rules or regulations shall not become effective unless there shall have been held a public hearing with due notice thereof not less than 15 days prior to the public hearing and notice of the proposed rules shall be published in a newspaper of general circulation in the Town of Hillsborough prior to the proposed effective date.”

Mellen then made the following motion:

“Revise Section 223-16 B. of the Hillsborough Town Code to read as follows:

“In any case, the owner or his agent shall complete and submit an application on the form furnished by the Commissioners. The application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Board of Water and Sewer Commissioners. A permit fee of \$2,500 for a residential (single-family) service, \$7,500 for commercial and multifamily service and \$10,000 for industrial establishments and other complexes shall be paid at the time the application is filed.”

This motion effectively returns this section of the code to its wording prior to our vote of September 9, 2015, which was taken without a public hearing as required in Section 223-5 of said code.”

Wiegelman seconded the motion. Sieg asked to review a copy of Section 223-5 of the Hillsborough Code. Following Sieg’s reading of the section, the vote on Mellen’s motion was called. Mellen and Wiegelman voted in favor; Sieg abstained.

Wiegelman then made a motion to apply the \$5 per GPD accessibility fee to the estimates as provided to the commission by Morrill. Mellen stated that any such motion should cite actual estimated flows for all four buildings, rather than an estimated flow for the super center and fees for the remaining buildings. Mellen also said he would like to incorporate some wording regarding the verification of estimated flows in an ensuing year, and some

form of guarantee that any additional fee would be paid by the owner, whether it be Black or a future owner.

Wiegelman withdrew his motion.

At this time Payson, Pearsall, Roberts and Pon left the meeting.

Sieg stated that if the commission decided to base the accessibility fee for Weatherstone Crossing on estimated flows, yet used the state guidelines for single family homes and future commercial and industrial developments, it would be unfairly shifting those fees away from Weatherstone Crossing and onto the present users of the sewer and water systems.

Proposed 2016 sewer and water budgets were reviewed. Sieg motioned to accept both budgets. All voted in favor.

Mellen motioned to adjourn the meeting, All voted in favor. Meeting adjourned 9:05 pm

Respectfully submitted,

Peter D. Mellen, Commissioner

Water and Sewer Commissioners Meeting Minutes

Approved by: Date:

Herman Wiegelman

Chris Sieg
Water and Sewer Commissioners
Town of Hillsborough

