

**Town of Hillsborough Water & Sewer Commission
July 18, 2017 Work Session Minutes**

Meeting called to order 6:00 pm. Present were Commissioners Peter Mellen, Herm Wiegelman, and Chris Sieg; and, Penny Griffin, Administrator.

Also in attendance were Selectman Jim Bailey, Selectman Dave Fullerton and various members of the public.

Commissioner Mellen stated that they were having the meeting to review an amendment to the September 27, 2016 Developer Agreement between Beard Brook Realty, LLC and the Water and Sewer Commission. Commissioner Mellen read the following amendment aloud:

AMENDMENT TO DEVELOPMENT AGREEMENT

This Amendment to Development Agreement entered into this ____ day of July, 2017, by and between **Beard Brook Realty, LLC**, a New Hampshire limited liability company, with an address of 25 Recreation Park Drive, Suite 204, Hingham, Massachusetts 02043 (hereinafter "**Beard Brook**") and the **Town of Hillsborough**, a New Hampshire municipal corporation, acting through its Water and Sewer Commission, with an address of 4 Church Street, P. O. Box 2216, Hillsborough, New Hampshire 03801 (the "**Commission**").

WHEREAS, Beard Brook and the Commission entered into a certain Development Agreement dated September 27, 2016, regarding the Project, a copy of which is attached hereto as **Exhibit A** (the "**Original Development Agreement**"); and

WHEREAS, Beard Brook and the Commission wish to clarify details regarding the Original Development Agreement.

NOW THEREFORE, the parties agree as follows:

- A. All of the terms of the Original Development Agreement are hereby ratified and incorporated herein by reference. Capitalized terms not otherwise defined herein shall have the same meaning as in the Original Development Agreement.
- B. The Commission will submit an Application for Sewer Connection Permit to the New Hampshire Department of Environmental Services (Form NHDES-W-09-008) forthwith without qualification.
- C. Beard Brook and the Commission will cooperate in good faith, working with the Hillsborough Selectmen, to insure that improvements are made to the Town of Hillsborough's West Main Street Pumping Station as referenced in a certain letter of Underwood to the Commission dated June 9, 2017 (the "**Improvements**"). The Commission will use its best efforts to insure that the Improvements are

made in a timely manner to accommodate Beard Brook's needs with regard to the Project.

- D. Beard Brook agrees on behalf of itself, and its successors and assigns, that no Project sewerage will be released into the town's sewerage system until the Improvements are complete; unless however, Underwood reports the Improvements are not necessary.
- E. Except as amended hereby, the remainder of the Original Development Agreement shall remain in full force and effect."

Commissioner Mellen noted that amendment needs to be signed by Beard Brook LLC and himself. He noted that Mike Black was not in attendance. Selectman Fullerton stated that Mr. Black was attending another meeting on the Seacoast.

Commissioner Mellen explained that the amendment was worked out between Mike Black's attorney and the Commissioners attorney.

Commissioner Wiegelman motioned to accept the Amendment to the Developer agreement and authorize Commissioner Mellen to sign it. Commissioner Mellen seconded the motion. Commissioner Wiegelman and Commissioner Mellen voted in favor; Commissioner Sieg abstained. Commissioner Mellen signed the Amendment to the September 27, 2016, Developers Agreement. Dennis Roberts Jr., a community member in attendance, was asked to be the witness on the document. Commissioner Mellen noted that the document must be signed by the developer and recorded with the Hillsborough County Registry of Deeds.

Commissioner Mellen then made a motion that if the engineering studies determine that upgrades are needed at the West Main Street pump station that the water and sewer Commission will pay for the entirety of those upgrades with the hope that the Selectmen will follow through with their warrant article at the March 2018 Town Meeting as previously discussed to assist in the cost. Commissioner Mellen explained that in order for the project application to be sent to NHDES without the attachment from the Commissioners as the developer has requested, the situation requires that the funding of upgrades must be addressed. He continued, stating that unfortunately, the Selectman's commitment to put a warrant article on the March 2018 Town meeting does not mean that it would pass and therefore, the Commission is making this motion. Commissioner Wiegelman seconded the motion. All voted in favor.

Selectman Fullerton stated that internal sources with Wal-Mart have stated that they expect to be open for business in Hillsborough in 2020; that gives two (2) years to get the upgrade done. He also stated that there are possible other funding options that Laura Buono will be looking into.

Commissioner Mellen explained that once the developer drops off the final set of plans and checks (one to NHDES in the amount of \$50 and one in the amount of \$3,000 for escrow)

he will review the plans, sign the NHDES Sewer Connection permit application and get it to NHDES. A question was raised as to why he has to look at the plans; hasn't he seen them? Commissioner Mellen explained that we have not received a complete package and he will need to review to ensure corrections have been made.

The question was asked as to why this was not done at the last meeting. Commissioner Mellen explained that the Commission was going to attach a letter to the NHDES Sewer Connection permit application and it was not disclosed to the developer at the July 13, 2017, Commissioners meeting. Commissioner Mellen stated that he takes responsibility for the oversight. He explained that the developer had asked for a letter explaining the issue with the pump station because he had problems with Underwood Engineers letter stating the potential issue and that Wal-Mart would pull out without a letter addressing it. Commissioner Mellen stated that he had concerns, which he expressed to the Selectmen on June 11, 2017, signing the NHDES Sewer Connection permit application without qualification as the statement reads:

“The municipal sewage collection system and wastewater treatment facilities have been demonstrated, pursuant to Env-Wq 703.07(d), to have adequate processing capability for the proposed added hydraulic flow and organic flow at the time of connection. The proposed sewer connection and/or sewerage design meet with the approval of the local jurisdictional authority.”

Commissioner Mellen went on to say that there was a question as to whether NHDES would accept the application with an attachment from the Commissioners and on Wednesday, July 12, the Commission verified with NHDES that an attachment to the application is accepted. He continued, stating that at the July 13 meeting the topic of the letter did not come up until after Mr. Black and his team had left the meeting. Commissioner Mellen stated that after the July 13 meeting the question of the letter being attached to the NHDES Sewer Connection permit application was raised with Mr. Black and at that point, the Commission received a letter from Mr. Black's attorney stating that the Commission was being “disingenuous” in not revealing the letter as Mr. Black and his engineers believe that such an attachment would get their application rejected from NHDES. Commissioner Mellen stated that there was no intent on keeping the letter a secret as he had read it and stated that it was going to be attached to the application at the July 11 meeting, as anyone who was there should recall. After receipt of the letter from Mr. Black's attorney, the Commissioners contacted their attorney and the two began to work it out as the Commissioners attorney has stated that the letter would need to be attached to the NHDES application if the source of funding is not resolved. Commissioner Mellen concluded with the statement that what they have voted to do tonight has resolved the issue of funding and also allows Mr. Black's NHDES Sewer Connection permit application to be submitted without an attachment from the Commissioners.

Selectman Bailey stated that the Selectmen will continue to work with the Commissioners and look at all options available to assist in funding.

A discussion was held regarding the WWTF Discharge Permit application that is currently

with EPA for review. The Commissioners stated that anyone can contact EPA to inquire on the status.

A discussion was held regarding future commercial growth. It was suggested that any upgrades should be done so that they are done when someone wants to come to Hillsborough. Commissioner Wiegelman stated that this planning needs to be a Town wide planning and could start at the Economic Development Committee. Commissioner Mellen read a statement from the Sewer Committee in 2006 which outlined the short term goal of the WWTF upgrade to allow an application for a capacity increase to 600,000 gpd which has been done; and, long term goals of I/I removal through inspections for sump pumps and line maintenance which has been done and continues to be done. It also stated that in about 10 years the growth would warrant a new WWTF with the cost of \$18 to \$20 million dollars. Commissioner Mellen stated that the board has no objection if the Town wants to form another committee to look at future growth and sewer need.

7 pm Members of the public left the meeting.

The next steps for investigation of the West Main Pump Station were discussed. Commissioner Sieg will continue to work on the data collection program.

7:15 pm Commissioner Wiegelman motioned to adjourn the meeting. Commissioner Sieg seconded the motion. All voted in favor.

Respectfully submitted,

Penny Griffin, Administrator

Water and Sewer Commissioners Meeting Minutes
Approved by: Date:

Peter Mellen, Chairman

Herm Wiegelman

Chris Sieg
Water and Sewer Commissioners
Town of Hillsborough