



## Town of Provincetown

Meeting of the

**WATER & SEWER BOARD**

Thursday, January 19, 2017

Veterans Memorial Community Center  
2 Mayflower Street, Provincetown, MA

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**Board Members Present:** Moe Van Dereck (chair), Kathleen Meads, (co-chair) Jean Horner, Gary Palmer, and Bill Worthington

**Board Members Absent:** Mark Collins, Kevin Kuechler, and Zoe Babe

**Other attendees:** Rich Waldo, DPW Director, Cody Salisbury, Water Superintendent, Sherry Prada, Director of Operations, David Gardner, Asst. Town Manager, and Gloria McPherson, Town Planner, Jane Petterson.

**Recording Secretary:** Susan Leonard

**Call to Order:** Mr. Van Dereck, acting as chair, called the meeting to order at 2:04 p.m.

### **Agenda Item 1 – Statements from the Public**

There were no statements from the public.

### **Agenda Item 2 – Proposed Sewer Regulation Amendment – Year-round Housing Public Benefit (David Gardner, Gloria McPherson) [Provincetown Board]**

#### **Discussion:**

Mr. Gardner began by mentioning that he had appeared before the Board in November 2016 when the amendment to the Sewer Regulations was first raised. He explained that an amendment is being proposed to the Sewer Regulations for housing under the State of Limited Capacity for accessory housing units in Res. 1 and Res. 2 zones for properties already on the municipal sewer. This would allow these properties to increase sewer flow that would not technically be eligible for by the current regulations because they are not income restricted "affordable units". This amendment would align the water & sewer Regulations with the previously approved Zoning By-Laws at Town Meeting in 2015 and 2016. These accessory housing units would be by Special Permit for year round housing only with the Special Permit from either the zoning Board or the Planning Board being recorded against the property at the Registry of Deeds. There are 12,000 -15,000 gallons reserved for this category and none of the gallons have been allotted yet.

Ms. Meads reiterated that this is just to make the Water & Sewer Regulations compatible to the Zoning By-laws. Ms. Horner understood that a deed restriction and a special permit achieve the same goal. Ms. Meads asked how would a future "change of use" be handled? Does the by-law restrict to year round use?

Mr. Gardner responded that a special permit is a benefit. It is not be permitted by right. Ms. McPherson added that there are size restrictions also. It could only exist as defined under the "special permit" restrictions. The gallons would have to be abandoned if the use was changed.

**Motion: To approve the amendment to the Provincetown Water and Sewer Regulations to make them in agreement with current Zoning By-laws accessory dwelling units.**

**Motion: Kathy Meads                      Seconded: Jean Horner                      Vote: 3 – 0 - 2**

**Motion: To hold a public hearing on March 9, 2017 regarding the proposed amendment to the Water & Sewer Regulations.**

**Motion: Kathy Meads                      Seconded: Jean Horner                      Vote: 3 – 0 - 2**

**Agenda Item 3 – Water Abatement Requests: [Full Board]**

Acct#	Property Address	Applicant	Usage	Bill Amount	Avg Usage	500% Rule Usage	Avg Bill Amt	500% Rule Amount	Staff Recommendation
<i>Fall 2016</i>									
9047413	633 Commercial St. #4	Office on behalf of Robin Wright		\$ 316.00					Abate: \$315.00, clerical error.
0000410	48-B Bradford St.	Elizabeth Cragg-Judge	147,000	\$ 1,734.50	21,000	105,000	\$ 120.00	\$ 600.00	Abate \$1,134.50 exceeds 500% rule. Underground leak
9000389	3 Knowles Heights Rd., N.T.	Topside Cottages	270,000	\$ 3,702.50	281,000	1,405,000	\$ 2,292.67	\$ 11,463.33	Deny. Underground leak, but does not meet 500% rule.
0007914	372 Commercial	Stephan Reine	177,000	\$ 2,214.50	90,000	260,000	\$ 390.00	\$ 1,950.00	Deny. Fixture leak, if allowed 500% rule would result in abatement of \$284.50
9000304	572 Shera Rd.	Marjellan Serona	03,000	\$ 538.50	13,333	66,667	\$ 67.50	\$ 337.50	Deny. Possible fixture leak, does not meet 500% rule for usage.
9005102	642 Shore Rd. #2	Little Skipper Condo.	318,000	\$ 4,438.50	222,333	1,111,667	\$ 2,639.83	\$ 14,699.17	Deny. Leak was from 9/2016, does not meet 500% rule

**Discussion:**

**a. 633 Commercial Street #4**

This was a clerical error. The property owner was inadvertently charged for a meter that was actually installed at 634 Commercial Street.

**Motion: To accept the abatement for 633 Commercial Street, Unit #4.**

**Motion: Bill Worthington                      Seconded: Jean Horner                      Vote: 5 – 0 - 0**

**b. 48-B Bradford Street**

The homeowner reported the underground leak to the Water Dept. An abatement is recommended by staff because it meets the 500% Rule.

**Motion: To abate the request for 48-B Bradford Street.**

**Motion: Bill Worthington                      Seconded: Kathleen Meads                      Vote: 5 – 0 - 0**

**c. 3 Knowles Heights Road, N. Truro**

This was an underground leak that did not meet the 500% Rule. Staff recommends to deny the request.

**Motion: To follow staff recommendations to deny the request for 3 Knowles Heights Road, N. Truro**

**Motion: Bill Worthington                      Seconded: Jean Horner                      Vote: 5 – 0 - 0**

**d. 372 Commercial Street**

This is believed to be a fixture leak (running toilet). High usage was noted and staff visited the location and left a notice because no one was at home at the time. Staff recommends to deny the request.

**Motion: To deny the abatement request at 372 Commercial Street per Section 3.8 of the Water Regulations.**

**Motion: Jean Horner                      Seconded: Bill Worthington                      Vote: 5 – 0 - 0**

Ms. Meads, in the future, would like to reference the pertinent Water Regulation whenever an abatement request is denied by the Board, both in the vote and in communication with the property owner. The remaining of the board members were in agreement with this idea.

**Motion: To add the reference of the Water Regulations to abatement denials.**

**Motion: Kathleen Meads                      Seconded: Bill Worthington                      Vote: 5 -0 - 0**

**e. 572 Shore Road, N. Truro**

Staff believes it was a possible fixture or high usage in Summer. It does not meet the 500% Rule and is not recommended for an abatement.

The home owner, Mariellen Serena , appeared before the Board to explain her request for an abatement. Her usual water bill is in toe \$90 - \$100 range. She was shocked to receive a \$600 water bill. She questioned if it was a fixture leak since they are all new. There is an outdoor shower however that was shut off the end of September.

Ms. Horner questioned if the owner was living in the cottage in August when the spike in water use occurred? Ms. Serena replied that she had two guests there, who she knows well, and is quite sure it was not extraordinary usage on their part.

Ms. Meads asked if a follow up on usage was done? Do we know what the use was before it was shut off? Ms. Petterson replied that staff checked it again in November and did not find any unusual usage. There was no evidence of leaking.

Ms. Pettersen stated the property has an older style analog meter. Mr. Salisbury added that they have never had any problems with these meters.

Ms. Meads said she was inclined to support staff recommendations, however if an investigation was to be conducted by Water Department when the shower is turned back on and something is found she would be willing to look at it again. Current information shows substantial usage in August. Leaks don't fix themselves; if it was a leak, it should have still been leaking in September. It seems to be use, not a plumbing problem.

**Motion: To deny at this time, per Section 3.8 of the Water Regulations, with agreement by the owner to have the department investigate again when the water is turned back on to the outside shower.**

**Motion: Kathleen Meads                      Seconded Bill Worthington                      Vote: 5 – 0 - 0**

**f. 642 Shore Road #1-2, N. Truro**

This was an underground leak, which was discovered in the Fall of 2015 which was not fixed until the Fall of 2016. The staff recommendation is to deny the request because it was not fixed in a timely manner and it does not meet the 500% Rule.

Ms. Meads asked if the property owners were notified at the time of the discovery of the leak in 2015? Ms. Petterson replied that they had and attempted a repair in the location detected by the Water Department, but it did not fix the problem. The whole service was eventually replaced in 2016, a year later. The second leak was not discovered until the service was turned off and on again. Ms. Petterson also informed the Board that the property owners were denied an abatement in December of 2015.

Ms. Meads feels that the property owner made a good faith effort to repair the leak in 2015 under the advice of the Water department staff and they were denied an abatement at that time. They also moved forward to replace the entire service in 2016. The department does shoulder some of the responsibility because we told them where to dig and repair. She would like to see less of a penalty in this situation.

Ms. Horner asked if the system was so old, how would the department know there was more than one leak? Ms. Meads thinks the situation could have been monitored more closely by the department.

Mr. Salisbury pointed out that the abatement request before the Board is for a leak that is a year old in 2015. It is well past the 30 day period to file an abatement. The original denial of the request for an abatement was December 2015. It has been denied once already.

**Motion: To deny the abatement request for 642 Shore Road, Unit #1 - #2, N. Truro per Water Regulation Section 3.8**

**Motion: Kathleen Meads                      Seconded: Jean Horner                      Vote: 5 – 0 - 0**

**Agenda Item 4 – Sewer Abatements [Provincetown Board]**

**Water & Sewer Board**  
SEWER Abatement Applications

1/6/2017

Acct#	Property Address	Applicant	Usage	Bill Amount	Avg Usage	Avg Bill Amt	Staff Recommendation
<i>Fall 2016</i>							
0001913	411 Commercial St.	Madelyn Carney	301,000	\$ 4,168.85	76,667	\$ 1,061.83	Abate: Leak did not go into sewer, 500% rule would result in \$3,107.02
0007914	372 Commercial St.	Stephen Rome	150,000	\$ 2,077.50	60,000	\$ 692.50	Deny: fixture leak. If allowed 500% rule would result in \$1758.96

**Discussion:**

**a. 411 Commercial Street**

This is the continuation of the abatement request from the last meeting of 411 Commercial Street. Although it was fixture leak, it was determined that the water did not enter the municipal sewer. It is believed that it entered the old system that still exists on the property.

The owner's daughter has been in contact with the Health Department and has also contracted a plumber to remove the toilet.

**Motion: To abate the sewer charge for 411 Commercial Street.**

**Motion: Jean Horner**

**Seconded: Kathleen Meads**

**Vote: 3 – 0 - 0**

**b. 372 Commercial Street**

As discussed in the Water Abatement request, this was a fixture leak. The staff recommends it be denied because it was a fixture leak. The abatement request was filed once he received the bill.

***Motion: To accept staff recommendation and deny the sewer abatement request per Water Regulation Section 3.8***

**Motion: Kathleen Meads**

**Seconded: Jean Horner**

**Vote: 3 – 0 - 0**

**Agenda Item 5 – Staff Updates**

**Discussion:**

Mr. Salisbury sent out the production memo today. The December 2016 withdrawals were 12.2 million gallons; a reduction of 3.4 million gallons. Overall withdrawals for 2016 was 248.2 million gallons which is a 3% reduction. The average annual withdrawal daily rate was 679,982 gallons, which is well below the 850,000/day threshold. Leak detection and conservation efforts are making an impact. So far January 2017 is below last year's withdrawal.

The Water Department has been given a grant from Mass DEP for \$75,000 to purchase leak noise loggers for semi-permanent leak detection zones and also to assess the condition of two miles of asbestos pipes.

Mr. Waldo asked for input from the Board about the information packets that are being e-mailed to them.

Ms. Meads said it hasn't benefited her because her printer is not working and a 60 page document is a lot of ink for her little printer. In order to get through everything she needs a hard copy to look at. It would be better if they can pick it up from the office. Also, Ms. Meads asked if there could be a copy of the Rules and Regulations for reference at every meeting.

Mr. Waldo informed the Board that there has been no request for a sewer connection for Harbor Hill Condominiums. The current Title 5 systems seem to be working as designed. Historical information and potential year round water use has been given to the Committee and the Town for the complex.

Ms. Meads congratulated Water Superintendent Mr. Salisbury and his staff for the outstanding job they have done in water conservation and leak detection and prevention over the last two years. She would like a letter of commendation placed in their files attesting to this fact.

***Motion: To place a letter in the files of the water superintendent and his staff commending them for work resulting in reduction of water use and loss.***

**Motion: Kathleen Meads**

**Seconded: Gary Palmer**

**Vote: 5 – 0 - 0**

Ms. Meads asked if there is any technology available that would notify homeowners of leaks without having to rely on meter readings? Can we look into this? Mr. Salisbury replied that there is technology available that will send information directly to a smart phone and also the new meters do have a 60 day memory and can flag continuous use. Ms. Meads would like to inform homeowners about the technology available for leak detection by putting a note in with the water bill.

### **Agenda Item 6 – Notification of Petition for Abatement at 3 Webster Place**

#### **Discussion:**

This abatement was discussed in December by the Board in December 2016 and was denied at that time. The homeowner claimed he did not have sufficient time to file the abatement on time. In order to go to the Tax Appellate Court he had to be allowed to file an abatement request. There is a docket for sometime this Summer or Fall. Mr. Salisbury informed the Board that it can direct the department staff to enter into negotiations with the owner to settle the case. The Provincetown Tax Assessor has already settled its claim against the property with the Court. He pointed out that if the property owner had filed in a timely manner, he would have met the criteria of the 500% Rule for a water abatement of \$903 and a sewer abatement in the amount of \$1,891.70 The owner claims he was not provided the information he needed to file. However, Anna Michaud had sent several forms of documented communications to him regarding the abatement process.

Ms. Horner asked why would the Tax Appellate Court rule in the property owner's favor if the Water & Sewer Department has done everything correctly? Ms. Meads asked if Town Counsel has an opinion has an opinion? Ms. Meads said she fears setting a precedent. She would bow to Town Counsel if they have a strong opinion about this. Mr. Worthington asked who would negotiate for the Town, Town Counsel or the Water Superintendent?

Ms. Meads would like staff contact Town Counsel and determine what the advantage of a settlement would be versus taking it to Court, so the Board can make a judgment of what would be the best action to pursue. In her memory, she doesn't recall the town has ever lost a case at the Appellate Court.

Ms. Horner believes the Board has done everything according to its regulations. Setting a precedent would not be good. Mr. Van Dereck asked if there is any history that could help direct the Board?

Mr. Waldo advised the Board that if it does discuss the case after speaking with Town Counsel, it may require an executive session at the next meeting.



Ms. Horner thinks an internal grease trap can be monitored more easily.

**Motion: To approve the grease trap variance for 210 Commercial Street.**

**Motion: Jean Horner**

**Seconded: Kathy Meads**

**Vote: 3 -0 - 0**

The Board voted to take Agenda Item 8 out of order by a vote of 3 – 0 – 0.

**Agenda Item 8 – Accept minutes from prior meeting December 8, 2016 [Full Board]**

Ms. Horner mentioned a misspelling of her name that should be corrected.

**Motion: To accept the minutes as corrected for December 8, 2016.**

**Motion: Moe Van Dereck**

**Seconded: Jean Horner**

**Vote: 4 – 0 - 1**

**Agenda Item 7 – Budget Approvals: Water and Sewer budgets that were presented to Selectmen**

**Discussion:**

**Water Budget [Full Board]**

Mr. Salisbury referred to the spread-sheet for the Water Budget. The overall FY18 budget has been increased by 5%. The Personal Services "A" budget is projected to decrease by 0.5% due to the retirement of an eleven year employee. The AFSCME union contract will be negotiated after the FY18 budget is prepared; the FY18 budget includes union step wage increases and assumes no additional cost-of-living increase.

The Operating Expenses "B" budget is increased by 7% which is primarily attributed to budgeting both an emergency capital reserve and an operating reserve at \$150,000 each (line item B-47). An annual incremental amount will be requested each year until there is a minimum of 10% of the operating budget in reserve.

**Motion: To approve the Water Budget as presented by staff.**

**Motion: Kathy Meads**

**Seconded: Gary Palmer**

**Vote: 5 – 0 - 0**

**Discussion:**

**Wastewater Budget [Provincetown Board]**

Mr. Waldo explained that the increase in the budget is only 1.03% mainly due to debt service and the contract with AECOM. There will be future rate studies and discussions in the near future, after the April Town Meeting. The last rate increase discussion was in 2008.

**Motion: To approve the wastewater budget as presented by staff.**

**Motion: Kathleen Meads**

**Seconded: Moe Van Dereck**

**Vote: 3 – 0 - 0**

## 12. Sewer Flow Revisions [Provincetown Board]

### **Discussion:**

Ms. Prada explained that there were bedroom counts conducted by the Board of Health, at the request of the owners, for two properties.

### **202 Bradford Street- Estate of Judith Polay**

This property increased by one bedroom.

### **295 Bradford Street – Jonathan Sinaiko**

This property was increased by one bedroom.

**Motion: *To accept the flow revisions as presented by staff.***

**Motion: Kathleen Meads**

**Seconded: Moe Van Dereck**

**Vote: 3 – 0 - 0**

## **Agenda Item 9 - Statements by the Board**

Ms. Meads suggested that when the letter of commendation for Mr. Salisbury and his Staff is written it should also be put into the Board of Selectmen's boxes so they are aware of it.

## **Agenda Item 10 – Unanticipated business that may legally come before the Board requiring immediate action.**

There was none

### **Adjournment:**

*The Board adjourned by unanimous vote at 4:02 pm*