

Town of Provincetown

Meeting of the WATER & SEWER BOARD

Thursday, November 1, 2007
Grace Gouveia Building, 26 Alden Street, Provincetown

Members present: Jonathan Sinaiko (Chair), Sacha Richter, Kathleen Meads, Moe Van Dereck

Members absent: None

Other attendees: Selectman Austin Knight, Attorney Chris Snow, Health Agent Jane Evans, DPW Director David Guertin, DPW Staff Dana Faris and Anna Michaud; members of the press and public.

Call to Order

Mr. Sinaiko called the meeting to order at 3:05 p.m.

Flow Revisions

Mr. Faris presented the following flow revisions.

Map & Parcel	Address	Orig Flow	Rev Flow	Net Chg	Original Betterment	Revised Total Betterment	Net Betterment Increase (Decrease)	Reason for Change
11-3-057	91 Bradford St.	220	330	110	\$7,409.60	\$11,114.40	\$3,704.80	Revision in accordance with determination by health Agent that property has 3 bedrooms.
11-3-016-0-00H	291 Commercial St., #H	830	1063	233	\$27,954.40	\$35,801.84	\$7,847.44	Revision to reflect temporary parking of 233 gpd in addition to 707 gpd allowed on 11/15/05.
11-3-015-0-00F	293 Commercial St., #F	3600	1980	(1620)	\$121,248.00	\$66,686.40	(\$54,561.60)	Revision to reflect reduction of seating from 180 to 99.
11-3-015-0-00E	293 Commercial St., #E	200	300	100	\$6,736.00	\$10,104.00	\$3,368.00	Revision to reflect 5 additional seats.
11-3-015-0-00A	293 Commercial St., #A	160	320	160	\$5,388.80	\$10,777.60	\$5,388.80	Revision to reflect 8 additional fast food seats.

Mr. Faris pointed out that 291-293 Commercial is one of the properties with so-called surplus gallons that are under a Town-Meeting imposed deadline to either use the surplus sewer gallons or risk forfeiting them. The changes reflected above will result in 1,127 gallons being released to the surplus gallon pool for reallocation. Mr. Sinaiko moved, seconded by Mr. Van Dereck, to revise the flow and betterment for these properties. The motion carried by a vote of 4-0.

Assessment of Sewer Connection Surcharges

Mr. Faris presented the following red dot delay properties on which connection surcharges need to be assessed.

Property Address	Surcharge Amount
166 COMMERCIAL ST	\$42,988.00
434 COMMERCIAL ST	\$9,574.60
571 COMMERCIAL ST.	\$21,494.00

Mr. Sinaiko moved, seconded by Mr. Van Dereck, to assess the connection surcharges. The motion carried by a vote of 4-0.

Appeal of Sewer Betterment – 25 Winthrop St.

Ms. Evans presented the Board with a report stating that the two systems serving this property are both old code and that, owing to depth of groundwater, upgrading them to current regulations would result in mounded systems. She recommended that, in light of the foregoing issues, the property be required to connect to the sewer. However, if the property owners could submit a current inspection report showing that all systems pass inspection, she would drop her objection to their opting out of the sewer system. Mr. Faris advised the Board that, on information and belief, the

condominium association would be holding a meeting within the next few days for the purpose of reviewing the sewer connection issue. Therefore, Mr. Sinaiko moved, seconded by Ms. Meads, to table the item until more information is available. The motion carried by a vote of 4-0. [Although Attorney Snow had requested that the matter be placed on the agenda, he was not present when this matter came up for discussion. Following disposition of the other agenda items, Mr. Snow was advised of the Board's decision to table.]

Orders of Taking

Mr. Faris presented eminent domain orders of taking for 25 Snow's Lane and 35 Court St., where the Town was installing portions of the common sewer on private property. Mr. Faris advised the Board that, in both cases, these were friendly takings and that the Town would provide a sewer connection for the property in question at no charge as damages for the taking. Both property owners have executed waivers of damages and appraisal. Mr. Sinaiko moved, seconded by Ms. Meads, to approve the orders of taking. The motion carried by a vote of 4-0.

Approval of Minutes

Ms. Meads, seconded by Mr. Sinaiko, to approve the minutes, as printed, of the meeting of September 6, 2007. The motion carried by a vote of 4-0.

Other Business – Clarification of Sewer Regulations

Mr. Sinaiko asked that the Board obtain some clarification of the March 1 amendment to the sewer regulation requiring so-called red properties to connect to the sewer under certain circumstances. Owing to a misrepresentation of the subject matter in the local press, several interested members of the public were present seeking to provide public input. Mr. Sinaiko stated at the outset that the Board's rules and regulations may only be amended in the context of a duly advertised public hearing and that, because discussion of this subject matter had not been properly noticed, there was no question of this being a "public hearing."

While the regulations do not state that all building permits shall require a red property to connect to the sewer, at issue is what constitutes "reconstruction, extension or structural change or a structure on the property" [Section 6.D.3(c)] Mr. Sinaiko stated that the Board had never intended that "routine repair and maintenance"—for example, replacement of windows—would trigger the requirement to connect. Mr. Guertin explained that he had discussed the matter with the building commissioner and the assistant town manager in an effort to develop some guidelines that would eliminate subjectivity in applying the regulation. He suggested using a percentage, say, 1%-2% of assessed valuation, as determined by the assessors, as the threshold for requiring a red property to connect. After some discussion, Mr. Sinaiko moved, seconded by Mr. Van Dereck, to send a letter to the building commissioner, with copy to town counsel, setting forth the Board's interpretation that routine maintenance and repair would be excluded from the requirement to connect in Section 6.D.3(c) of the Sewer Regulations. The motion carried by a vote of 4-0.

The Board also asked staff to seek guidance from town counsel regarding possible amendments related to issues concerning compliance with Chapter 91 and the possibility of an appeal process to the Water and Sewer Board in the event the building commissioner should disagree with the Board's interpretation of building permits for repair and maintenance. Once the Board has reviewed the proposed language, then it can decide whether to schedule a public hearing for the purpose of amending the regulations.

Adjournment

There being no further business, Mr. Sinaiko moved, seconded by Ms. Meads, to adjourn the meeting. The vote carried by a vote of 4-0, and the meeting was adjourned at 4:15 p.m.

Respectfully submitted,

Sacha Richter, Clerk