

TOWN OF PROVINCETOWN - BOARD OF SELECTMEN

SPECIAL MEETING WASTEWATER

MONDAY – FEBRUARY 26, 2007 [4:00 PM]

JUDGE WELSH HEARING ROOM

Chairman Cheryl Andrews convened this special meeting at 4:00 PM noting the following attendees: Board of Selectmen: Cheryl Andrews, Michele Couture, Richard Olson

Excused Absence: Sarah Peake, David Nicolau

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

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.

MOTION: Move that the Board of Selectmen vote, pursuant to MGL C.59, §21C(k) to insert a ballot question onto the May 1, 2007 Annual Town Election ballot to read as follows: "Shall the Town of Provincetown be allowed to exempt from the provisions of proposition two and one-half, so-called, the amounts required to pay for Phase II of the Sewer Project? Yes __ No __"; and, further, to vote to insert onto the warrant for the April 4, 2007 Annual Town Meeting an article requesting borrowing authority in the amount of \$175,000.00 for said project contingent upon the voters approval of a Proposition 2½ override ballot question, in accordance with the provisions of MGL C. 59, §21C(m);

Motion by: Cheryl Andrews Seconded by: Michele Couture Yea 3 Nay 0

Introduction

The February 26th Facilitated Meeting of the Board of Selectmen was designed to provide the Board with the information needed to move forward with the implementation of Phase 2 as authorized by the November 2006 Special Town Meeting and the Board's actions and guidance since Town Meeting, as well as to address a number of important decisions concerning the existing downtown collection system.

The following notes summarize (i) the presentation of any new information not contained in the Packet Report, (ii) the discussion, including comments and policy direction from the Board, and (iii) the action items and other information from the Wastewater Team's follow-up discussions held on February 27th.

Important Decisions for Phase 2

Because there had been a number of new developments since the preparation of the Packet Report for the February 26th Meeting, the Wastewater Team summarized the key points for the Board as follows:

- 125,000 GPD of interest including ACOs is all that we have for committed connections for Phase 2. There has been no additional interest since the January 22nd Meeting with the Board, nor do we expect additional commitments to connect.
- In particular, there is only 75,000 GPD of confirmed interest for the Shank Painter Basin, although we

had tabulated over 100,000 GPD from those who had previously said that they were interested. This confirmation rate of less than 75% is very disappointing, given that the Town moved ahead with permitting & design based upon the level of interest documented by the two town-wide mailings.

- In addition to the Shank Painter Basin interest, there is 25,000 GPD from the Seashore Point facility and the nearby properties that have committed to a hook up in Phase 2. The Wastewater Team estimates that an additional 3,000 GPD will come from “late comers” who ask for a connection when they see actual construction in their street, based upon the experience from the Phase 1 construction. We are also expecting that there will be an additional 2,000 GPD of flow as a result of Economic Development Permit requests, as described in a later section.
- Finally, for Phase 2, the Board authorized that 20,000 GPD should be reserved as a placeholder for potential affordable housing projects that could benefit from the proposed Shank Painter Sewer Extension. The 20,000 GPD affordable housing placeholder is a key public service use priority for the Town – The Housing Summit and other housing studies have confirmed both need and potential to use gallons in Shank Painter Basin.
- Without the gallons and the anticipated revenues from this placeholder, there are not enough revenue-paying gallons to go forward with the construction for Phase 2. Since funding for all other betterments has already been identified, securing funding for the betterment for the affordable housing placeholder is the “go, no-go” decision needed for Phase 2 to move forward.
- Based upon the recommendation of the Wastewater Team, the Board has requested that the Community Preservation Committee ask Town Meeting to authorize using \$100,000 of CPA funds to cover the betterment for the affordable housing placeholder for a period of two years. The two year period is recommended so as to provide sufficient time for the town’s housing advocates and responsible Boards to identify (i) specific projects, (ii) permanent funding sources for the housing betterment, and (iii) a timetable for moving forward with each project.
- The Wastewater Team has proposed that once a specific project has been identified and moves forward, then the requested funding associated with the gallons for that project can be repaid into a “revolving fund” so that the funds are available for future affordable housing projects.
- At the request of the Community Preservation Committee, the Wastewater Team has explained the history behind the funding request – including the policy positions that the Town has previously taken concerning how both the sewer and affordable housing should be funded.
- The policy of the Board is that all construction costs for Phase 2 will be covered by revenues from the betterment at no more than \$45 per GPD. 125,000 gallons @45 gives a reduced construction budget of only \$5.4 million after subtracting out the estimate for the police details.
- M&E can meet this reduced construction budget by achieving a number of construction cost savings, and by eliminating a handful of properties at the extreme edges of the proposed sewer area. Any further reduction in construction costs would also have associated reductions in betterments, which would not achieve the desired cost saving results.
- More importantly, in order to meet the reduced construction budget, the Town would have to cut the contingency line item from \$200,000 to only \$25,000. The \$200,000 contingency item has been prepared by Staff – not Metcalf & Eddy – and is considered a prudent “worst case” estimate. In particular, underground construction projects have greater unknowns, and therefore, more contingency costs. These include depth to groundwater and contaminated soils.
- The Wastewater Team will not know for almost a year just how much of this line item will actually be needed. If all of the \$200,000 contingency is needed, then the potential shortfall will need to be made up either from additional late comers – another 4,000 GPD would be needed – or by additional final betterment assessments that would have to be greater than \$45 per GPD, or from other funds, or by some combination of

all of these, in conjunction with additional “value engineering” by M&E to identify any further cost reductions. A \$200,000 “worst case” contingency cost would translate to a betterment of \$46.40 if that were the only possible source of funds for the additional costs.

- Discussions with Brian Dudley of the DEP on February 23rd continue to confirm that a May start date is feasible. A May start date will require the Board to approve the Change Order from Metcalf & Eddy for the Phase 2 construction funds as soon as possible after the April 4th Special Town Meeting, so that costs can be incurred to order materials that have a longer lead time, and for mobilization of equipment and materials.
- Should there be a delay in the start of construction for Phase 2 because of a funding shortfall, the Wastewater Team confirmed that the connection for the Seashore Point facility can proceed on schedule as planned – it is not contingent on a go-ahead for the Shank Painter sewer extension.

Following this introduction and clarification by the Wastewater Team as to the information contained in the Packet Report, the Board provided the following guidance:

- The \$45 per GPD maximum betterment is fixed – the Board will not consider increasing this betterment rate in order to cover any construction cost shortfall.
- The Board wants to ensure now that the contingency costs are properly accounted for and budgeted. Following a discussion of the various options, the Board voted to insert a warrant article into the April 4th Special Town Meeting to cover the anticipated \$175,000 shortfall in the contingency line item budget. This will also require a ballot vote at the May 1, 2007 Annual Town Election to exempt the amount to be borrowed from the provisions of Proposition 2-1/2.

The Board also recommended that the Wastewater Team proceed as planned with the request to the CPC for \$100,000 to fund the affordable housing placeholder. Should the CPC not approve this funding request, then, the Board might have to revisit other funding sources for this placeholder.

The Board, the Wastewater Team, and Town Counsel Jeanne McKnight provided the following clarification and guidance as to how the proposed “revolving fund” approach might be implemented, since this is an important consideration for the CPC, and the Board favors this approach:

- Town Counsel indicated that if the CPA funds are used to cover “start up” costs associated with the affordable housing projects, then the WWEF can reimburse such start up costs once a sufficient surplus has been built up in the WWEF for this purpose. The Town can appropriate funds to pay for a portion of the sewer because the sewer will serve as an aid to proposed affordable housing projects in the Shank Painter Basin. This is the procedure that Town Counsel would recommend, rather than the use of a “revolving fund” per se.
- It is anticipated that all of the 20,000 placeholder gallons will be used for affordable housing projects in or adjacent to the Shank Painter Basin, since many of the best sites identified in the Housing Summit Report are located in this area. However, should some of the placeholder gallons not be needed for affordable housing, it is expected that within the two year period, other property owners in the area will express an interest in a connection, and then any gallons used for such connections could provide for repayment of the CPA funds.

During the discussions held with the Community Preservation Committee on February 27th, the following clarifications to this approach were discussed:

- There was agreement that the proposed Phase 2 sewer extensions could be a very positive benefit for any future affordable housing project because of the potential for higher density of use and/or for much easier site development, when compared to the use of an on-site Title 5 system. Not only will the sewer encourage housing partnerships to come forward, but the sewer will also be an economic benefit to any housing developer.
- Therefore, the Town should expect that any CPA funds that are advanced now should be considered a “loan” that will be repaid by the housing developers. As housing development permits are issued that will use portions of the 20,000 GPD placeholder, the developer will be expected to pay back their share of the \$100,000,

including any interest that the Town has incurred on the funds.

Following these discussions with the Wastewater Team and their required Public Hearing, the Community Preservation Committee voted to insert the following article into the warrant for the April 4th Special Town Meeting:

To see if the Town will vote to hear and act on the report of the Community Preservation Committee, to appropriate from Community Preservation Fund revenues, as recommended by the Community Preservation Committee, the sum of \$100,000 of community housing funds to create a fund to reserve 20,000 GPDs of Title 5 design flow for community housing to be built in Phase II of the sewer project, provided that amounts expended hereunder shall be repaid to the Community Preservation Fund by the developer of such community housing upon issuance of the final betterment assessment by the Water & Sewer Board; or to take any other action relative thereto.

Important Decisions for the Downtown Collection System

Because there had been a number of new developments since the preparation of the Packet Report for the February 26th Meeting, the Wastewater Team summarized the key points for the Board as follows:

- As previously discussed, proposed Phase 2 construction will free up capacity along West Main 2, and the Bradford West Main, as well as create substantial new capacity in the Shank Painter Basin. But, as previously discussed, the Phase 2 construction will not free up any capacity along the East Main – additional flows in this area will need to wait until gallons are released from “discontinued uses” that have been identified, or until major capital expenditures are made that can provide more capacity in this area.
- On February 23rd, for the third time, the Wastewater Team asked Brian Dudley if the Town could have approximately 500 gallons of additional flow along the East Main for EDP requests, and for the third time he said no. He is not willing to allow the Town to have any additional flows in any area along the East Main until the “Red-Dot Delay” (RDD) properties in that area are hooked up and their actual flows are known – until then, all remaining capacity must be held in reserve for the RDDs. In particular, since the smaller requests for EDP gallons along the East Main are located in close proximity to one of the largest remaining RDD properties, he will not consider the Town’s request until this large RDD connects.
- The DEP continues to place top priority on getting all of the remaining RDD properties connected to the sewer system. As a part of the approval for the Ground Water Discharge Permit increase to 575,000 GPD of Maximum Daily Flow (MDP), the DEP has requested an updated table of all remaining RDD properties and their assigned flows. This table – and the total amount of capacity to be set aside for these properties – will be included as a condition of the permit renewal. The DEP will also be requesting regular updates on the progress that is being made to hook up these properties.
- In addition to the priority placed on connecting the remaining RDD properties, the DEP continues to place a high priority on using any available capacity to serve properties that need a connection for public health reasons, including the locally-granted ACOs that are given top priority by the Water & Sewer Board, consistent with criteria established by the Board of Health.
- As reported to the Board in the Packet, the Water & Sewer Board is anticipating that it may be able to approve hook-ups for one or more ACOs in the near future when capacity is made available as a result of the re-calculation of the assigned flow for two “Red-Dot Delay” properties that may hook up to the sewer. In addition, the Water & Sewer Board will hold a Public Hearing on March 1st to adopt a regulation that is designed to provide clear guidance for the increasing number of “Red-Dot Delay” properties that are considering a change in use or transfer of the property.
- Metcalf & Eddy and the Wastewater Team have conducted a preliminary review of the EDP requests from those businesses shown in the table provided to them as requested by the Board at their February 12th meeting. All of the requests on West Main 2 and the Bradford West Main can be met, as can a small request on West Main 1. These include: Crowne Pointe, Hair by the Sea, MoJos, and Perry’s Liquors, for a total of 2,060

gallons of additional flow.

- The Wastewater Team recommends that the Board allocate EDP gallons to all of these requests because that will help to meet the 125,000-gallon target, even though two of the requests are for greater than 500 gallons.
- No modeling would be required for the Crowne Pointe, Hair by the Sea, or MoJo's requests, nor would any construction costs be incurred in order to provide for these additional flows.
- The recommendation includes the request from the seasonal business, MoJos, in addition to the year round business, Hair by the Sea, because they are located on the same parcel and share a buffer tank that has adequate capacity for all the requested flow. The Crowne Pointe is a "Red-Dot Delay" property that will be re-directed to the new Shank Painter Sewer Extension.
- The preliminary review by the Wastewater Team and M&E indicates that the remaining requests may need to wait until future capital improvements are made to the downtown collection system, either because of the large number of gallons requested or because of the specific location. The Board may be able to provide EDP gallons for the smaller requests on the East Main later this year, should some of the over 9,000 gallons of "discontinued use" gallons identified on the East Main be formally released to the Surplus Gallonage Pool.
- Finally, the Wastewater Team stated that there will be substantial unused capacity along both the new Shank Painter sewer extension as well as along West Main 2, which means that additional EDP requests in these areas most likely can be accommodated by the sewer system.

Following this introduction and clarification by the Wastewater Team as to the information contained in the Packet Report, the Board provided the following guidance:

- The Board is very pleased with the proposed Water & Sewer Board regulation that would require any "Red-Dot Delay" property to hook up in conjunction with a change in use or change in ownership. In addition, the Board will require any "Red-Dot Delay" property to hook up if they want to have an Economic Development Permit.
- The Board took the four EDP requests recommended by the Board under advisement and indicated that, in the future, if any of the requests would require significant hydraulic analysis by M&E, then the applicant should be asked to pay that cost.

M & E Review of Options for Future Sewer System Improvements

On February 23rd, Rob Adams and Sandeep Sathyamoorthy of Metcalf & Eddy provided an excellent briefing to Brian Dudley of the DEP in Hyannis concerning their review of the options for future sewer system improvements, particularly the options for increasing the capacity of the Treatment Plant. The following summarizes these discussions:

- Brian Dudley is very pleased with all the options that M&E is looking at for plant improvements and would like to receive additional technical information on some of the technologies. DEP is already looking at using some of the more advanced technologies at other locations on Cape Cod.
- All in attendance at the meeting with Brian Dudley agreed that the key step is to determine the level of interest in additional sewer extensions and connections in other parts of town before deciding which of the several options would be best to pursue further.

Rob Adams of M&E provided the Board with the technical handout that was given to Brian Dudley at the February 23rd meeting.

The Wastewater Team believes that only an aggressive outreach program during the peak season when most of the property owners are in town can determine the level of interest. A decision will need to be made by May as

to whether or not to undertake such an outreach program this year.

The Board did not feel that it was appropriate to discuss future options further until sufficient outreach has been conducted to confirm that there is enough interest to consider any plant improvements or additional sewer extensions, particularly given the recent disappointing experience with confirmed interest for Phase 2. Some of the Board felt that it was important to move forward this summer to confirm interest, while others felt that it may be better to wait until the economy and housing market improves.

The Wastewater Team will provide the Board with a recommendation as to when to proceed with the next outreach program at the March 12th Meeting.

Topics for the March 12th Wastewater Meeting.

The primary topic for the March 12th Facilitated Wastewater Meeting will be a presentation by consultant Mark Abrahams concerning his financial review of the WWEF. In addition, the Wastewater Team and Mr. Abrahams will discuss possible ways to reduce the user fees with the Board.

Unless either the Board or the Wastewater Team identifies a need to discuss any topic further at a future meeting, the March 12th Meeting will be the last facilitated meeting for Phase 2 of the sewer system. Possible dates for any future meeting would be either March 26th or April 23rd. Mr. Abrahams can be available on April 23rd, but not on March 26th.

Motion to adjourn by Michele Couture at 5:44 pm.

Minutes transcribed by: Vernon G. Porter and John Goodrich
February 28, 2007