

**TOWN OF EDGARTOWN
BOARD OF WASTE WATER COMMISSIONERS**

***AMENDED* MINUTES OF THE
REGULAR MEETING OF NOVEMBER 29, 2018
FURTHER REVISED DECEMBER 3, 2020**

WASTE WATER COMMISSIONERS PRESENT:

Mr. Glen S. Searle, Chairman
Mr. Scott Ellis, Commissioner
Mr. Sean E. Murphy, Commissioner

EWWD STAFF PRESENT:

Mr. David Thompson, Facilities Manager
Mrs. Pia Webster, Administrative Assistant

OTHER TOWN STAFF PRESENT:

Mr. James Hagerty, Town Administrator

OTHERS PRESENT:

Ms. Jinane Abounadi, 7 Duarte Circle
Ms. June D. Ameen, 13 Duarte Circle
Ms. Catherine L. Clairmont, 11A/11B Duarte Circle
Ms. Judith A. Conley, 15 Duarte Circle
Mr. Henry R. Fauteux, Jr., 9 Duarte Circle
Mr. Patrick W. Kager, 11A/11B Duarte Circle
Mr. E. Douglas Sederholm, Attorney
Mr. Richard Tressider, 10 Duarte Circle
Mr. William H. Webster, 19 Tower Lane

MEETING CALLED TO ORDER:

The Board of Waste Water Commissioners of the Town of Edgartown held their Regular Meeting on Thursday, November 29, 2018, at 4:00 p.m. at a special location – in the Fred B. Morgan, Jr. Selectmen’s Meeting Room at Edgartown Town Hall, 70 Main Street, Edgartown, Mass. At 4:00 p.m. Chairman Glen S. Searle called the meeting to order. Also present from the Board were Waste Water Commissioners Scott Ellis and Sean E. Murphy.

OLD BUSINESS:

DUARTE CIRCLE SEWER EXTENSION [Continued].

Chairman Searle stated that the Board would be starting with the proposal of the neighbors, that is, the owners of 7, 9, 10, 12, 13 and 15 Duarte Circle (with respective map-lot assignments of 36-15.2122; 36-15.22; 36-15.25; 36-15.241; 36-15.243; and 36-15.242).¹ E. Douglas Sederholm introduced himself as an attorney in Edgartown who was representing the six homeowners on Duarte Circle, apart from the owners of 11A and 11B Duarte Circle, who would be affected by the installation of a sewer extension off Road to the Plains. He had submitted on their behalf a proposal for “an independent sewer line connection to the Road to the Plains sewer.” Although he and his clients were not opposed to the Kager-Clairmont line, he said, “We don’t want to be part of it. Very clearly, very firmly, we don’t want to be part of it.”

“We prefer to install our own line,” Mr. Sederholm continued. “We don’t believe we can work with Kager and Clairmont as their private utility... We are interested in installing a line that will be owned equally by all of the participants, all six participants, will be controlled by all six participants; and there will be complete transparency in the costs, which will be shared equally by all six participants, and no one will make any money off of this.”

Mr. Sederholm then recounted some of the history of the Duarte Circle line, which included: that in February 2018 Facilities Manager David Thompson had approved engineer Richard Barbini’s final plan, commissioned by Patrick Kager and Catherine Clairmont, for a sewer extension down Duarte Circle; that the neighbors received the first written notice of the proposal on September 3, 2018, more than six months later; and that the neighbors were “not comfortable being involved in the Kager and Clairmont proposal.” While Mr. Sederholm was aware that Department staff would prefer the installation of a single sewer line, “[f]rankly, we don’t think there is a basis for us to work with them [Kager and Clairmont],” he said.

Mr. Sederholm then referred to the preliminary plan already received by the Board, prepared by Chris Alley of Schofield, Barbini & Hoehn, which took a plan that the SB&H office had and added the neighbors’ line to it. He understood, Mr. Sederholm went on, that the Board had also received a letter signed by Chris Alley. “I understand that that letter was drafted by Mr. Kager,” he said, “and that Mr. Alley signed it at the request of Mr. Kager after being threatened with being reported to the board of registration for a conflict of interest.”

Mr. Sederholm argued: “There’s *no conflict of interest that exists here*, not that I see. Engineers are always working on plans, building on plans that they’ve used in other matters. When somebody builds a house and the engineer has the plan and the plan is used by someone else to build a house, unless it’s copyrighted, it’s not the property of the people who paid for the plan to be made. And as far as I know, the plan that Mr. Alley used was a plan that’s a public record that was approved by Mr. Thompson and that is in the Waste Water Commission’s files.”

¹ See pages 1-9 of the Minutes of the Regular Meeting of October 18, 2018 for background on the plan of the six lot owners to go forward with a sewer line proposal of their own.

Mr. Sederholm added that Mr. Kager and Ms. Clairmont were welcome to join the neighbors' line if they wanted to, paying one eighth of the total costs for each of their pumps.

Facilities Manager Thompson pointed out that the approval of the Kager-Clairmont proposal by the Board in January 2018 was not a "straight-out approval" but conditional upon his recommendation once the conditions to fulfill the extension had been met. So this was subject to what *Mr. Thompson* thought was appropriate, stressed Commissioner Murphy, for instance, questions of road cuts and so forth. "Just because we approve it," he clarified, "doesn't mean you can put it in the ground." "And there's a dig moratorium that's still in place on Road to the Plains," noted Mr. Thompson, "so it's contingent on that being approved from Highway."

Commissioner Murphy asked Mr. Sederholm whether the owners of the six properties would be willing to waive their rights to tie in to the Kager-Clairmont line, since there could be only a maximum of eight pumps on Duarte Circle, and Mr. Sederholm answered yes. Commissioner Murphy queried Mr. Sederholm as to what Mr. Alley had said to him. "It doesn't matter," said the attorney. "They're [Schofield, Barbini & Hoehn] out of it."

The Commissioners then looked at the preliminary plan. Turning to the Facilities Manager, Commissioner Murphy inquired whether in theory the Board could vote to approve that plan. Mr. Thompson replied, "My personal feeling is, this is ... the plan that we should have had back in January with everybody onboard... I'm not super-happy about running two parallel lines down there. I know Chris Alley isn't super-comfortable with it either. I know that the directional drillers have a lot of problems with it, and the Town would be on the hook for maintenance on two lines instead of one."

Catherine L. Clairmont, co-owner of 11A and 11B Duarte Circle, had a question: "If you approve this plan, wouldn't that also mean you'd have to change the conditions to our plan as well?" "Are you planning on installing the laterals, per your plan?" asked Commissioner Murphy. "Yes," replied Patrick W. Kager, the other co-owner of 11A and 11B Duarte Circle. Commissioner Murphy wondered, if the Board approved the six-lot sewer line plan, did Ms. Clairmont and Mr. Kager still plan to install all of the laterals? Mr. Sederholm argued that they had never intended to install the laterals in the first place, that it was always up to the individual property owners and that he could show the Board members at least two documents in which Ms. Clairmont and Mr. Kager said they did not know whether they would be installing all of the valves.

Mr. Kager requested that he be permitted to speak for a few minutes, and the Chairman agreed. Mr. Kager apologized to Commission staff for dragging them into what he described as a neighborhood conflict. "We really would request your permission to proceed with the project as approved," he said.

Mr. Kager continued that the Commission had approved the proposal in January 2018, and "then we had to figure out how to do it." Mr. Thompson had provided some models as to how to proceed, and the Vickers Street model had turned out to be the most helpful. Mr. Kager had spoken to Kathryn Ham about Dark Woods and to Joseph Giacalone about Vickers Street about how to proceed. Based on what he and Ms. Clairmont had learned, they had created a trust and a

covenant, “and then we were ready to go.” And then they had heard about the neighbors hiring an attorney and meeting with the Commissioners.

Mr. Kager stated that it was false that he and Ms. Clairmont had not talked to their neighbors. They had spoken to them informally before they notified them formally by e-mail, having spoken to Jinane Abounadi and her son and to two of the other lots owners. They could not say much about the project at the time because they did not have all of the details, plus they expected word to spread about the neighborhood, having heard that this was a small place. When they did notify people by e-mail right after Labor Day, they still did not know about costs because they had not selected a contractor yet.

When the neighbors responded to the e-mail, Mr. Kager related, they were told that they should have informed the neighbors that they were going before the Board. Mr. Kager and Ms. Clairmont called every single neighbor and stopped by some homes, had an hour-and-a-half meeting to answer questions, and made up a four-page Q-and-A. On October 1 they issued a draft easement agreement based on the Vickers Street model, asking for comments and a \$500 refundable deposit to get a sense of who was interested in doing the project. They received one response, with two questions, which they answered. The next thing they heard was that the neighbors had hired an attorney and would appear before the Commissioners.

Mr. Kager had then spoken to Mr. Sederholm several times after the October 18, 2018 meeting, which he and Ms. Clairmont had been unable to attend. At the end of the day, they were presented on November 7 with what Mr. Kager described as an ultimatum with three non-negotiable conditions. First, all eight lot owners were to be trustees, which flew in the face of advice given to them by attorney Hamm, Mr. Giacalone and their own attorney, and this was whether a lot owner had paid in or not.

When Mr. Sederholm interjected that Mr. Kager was incorrect in his recollection of this last point, Commissioner Murphy interrupted and said: “With all due respect ... all I know is the part I was involved in. We had the meeting in October. Your representative, Mr. Farrissey, was there. We suggested everybody works together.” Mr. Kager asked for just a few more minutes to finish. He noted that Duarte Circle was hardly Mayberry RFD and said that there had even been challenges getting people to pay for road maintenance. Mr. Kager then turned to the subject of his contractor, Andrew Farrissey, who Mr. Kager believed would do a high-quality job to a municipal standard. Next, Mr. Kager raised the possibility of turning over the sewer line issue to a professional mediator.

Commissioner Murphy wanted to know if what Mr. Sederholm had said about Mr. Alley’s letter was true. Mr. Kager said that he had not threatened Mr. Alley. So Mr. Alley had written that letter of his own accord? asked Commissioner Murphy, adding, “He woke up this morning and decided to write a letter?” Mr. Kager explained that when he had seen the preliminary plan, he had called Mr. Alley and asked him what it was about. “Clearly, he took the work that Mr. Barbini did for us and just drew on this other line,” said Mr. Kager. “I asked him, ‘What is that? How did this get created?’ He told us he was asked to do this by the neighbors, he told us specifically he doesn’t recommend this line being done this way ... he didn’t *know* it was being submitted to the Commission... That’s what he told us.” Mr. Sederholm disputed this account.

“My question was, were you involved in the writing of the letter from Mr. Alley?” repeated Commissioner Murphy. “I sent him a couple of ideas for it,” replied Mr. Kager.

Ms. Clairmont said, “It is a conflict of interest, having one organization represent two parties with the same plan. That is a conflict of interest, and ... we wanted to let you know that we weren’t sure where this was going and it was a concern to us that he could not come to the October eighteenth meeting because he said he could not represent a sewer.” Ms. Clairmont explained that Mr. Alley was not an engineer and that he had told her the preliminary plan was just a conceptual design.

The discussion continued. Commissioner Murphy stated that when the Commissioners approved the line, it was subject to the Facilities Manager’s final approval after a covenant was signed; that it would be done within one year; that there would have be two or more operating pumps on the extension based on the design manual; that the lot owner would fill out the necessary sewer applications; and the owners would get an excavation permit. “It’s my understanding you only have one active pump,” he said.

Mr. Kager replied that his understanding – from an October 22 e-mail from Mr. Thompson – was that all he needed was two completed applications and that he did have two completed applications. “His approval was *two active pumps*,” said Commissioner Murphy. “Well, I’ve never seen that,” said Mr. Kager, who referred to a meeting during which Mr. Thompson had stated it would take only a single active pump on the cul-de-sac.² The Facilities Manager responded that he had said that before he had consulted the table and schedule in his manual for the E-One Extreme Series – *Low Pressure Sewer Systems Using Environment One Grinder Pumps* –which indicated that in fact two active pumps were required for the Duarte Circle line. “The line needs two,” he said. “Well, we were never informed of that,” said Mr. Kager, who added that the first time he had ever heard of that condition was after October 18 of the current year. The discussion continued.

Mr. Kager referred to a letter dated October 17, 2018 from Ed Quann, president of F.R. Mahony & Associates, stating that one active pump would provide adequate flow to activate the line. There was also a report from F.R. Mahony to George Sourati that drew the same conclusion, he said. Furthermore, Chris Alley had called Mr. Barbini before writing the aforementioned letter dated October 18 and Mr. Barbini also agreed with one pump being adequate. “I feel it’s an added condition,” Mr. Kager argued, referring to the two-pump requirement.

Commissioner Murphy said it was his understanding that Mr. Thompson and Mr. Barbini had worked this out almost a year ago and that the two-pump condition had been conveyed to Mr. Barbini. Mr. Kager said that he had requested the record of that and had still not received it. “It was told to Mr. Barbini,” stated Commissioner Murphy. “He [Mr. Barbini] said it wasn’t,” said Mr. Kager.

Ms. Clairmont provided a history of the two-pump/one-pump question, how she and Mr. Kager had gone from Chris Alley to engineer John Lolley to engineer George Sourati, who had then recommended that they return to Schofield, Barbini & Hoehn and get in touch with Mr. Barbini

² See page 5 of the Minutes of the Regular Meeting of December 20, 2017. This meeting took place prior to the decision on the sewer line, which was made in the Regular Meeting of January 18, 2018.

(who no longer lived on the Island). “And I had many discussions with Dick [Barbini] about two pumps or one pump,” Ms. Clairmont related.

Ms. Clairmont noted that while the number of active pumps needed to activate the line was stated in the Vickers Street decision, this was not in the case in the Duarte Circle decision. So Mr. Barbini had told her that this meant one pump was adequate. She said that the first record she had of the two-pump condition was a memorandum written by Administrative Assistant Pia Webster.³

When Chairman Searle indicated that he had heard enough, Ms. Clairmont summed up: “We want to go forward with the approval as approved in February.” That approval showed eight laterals, Commissioner Murphy pointed out. Yes, it does, said Ms. Clairmont. Mr. Kager said they were happy to do that but that if the Commissioners wanted them to install the sewer line as approved and then address the issue of the laterals later, that was fine as well. “The neighbors don’t want to deal with this,” said Chairman Searle. “They’re doing their own thing.”

“I’m unhappy with this for a number of reasons,” stated Facilities Manager Thompson. “First, the primary motivator when all this started was we identified available capacity inside the Great Pond Watershed. We allocated eight pumps with the reasonable expectation that those eight pumps would be used to remove nitrogen from the watershed and most of the houses, not all, on Vickers and on Duarte are also in Zone II. This plan that Kager and Clairmont submitted seems designed to *discourage* participation. I’m not happy about that.”

The Facilities Manager continued: “When these applicants found out that they needed two pumps to make capacity – by the way, this thing was ... conditionally approved in January and the first communication I have on record with these guys is October thirtieth, seven and a half months later. Very complicated thing with the dig moratorium and the engineering. And the provision for the trust to guarantee that we’re notified. That’s all the covenant is about is that the Department is notified when someone has permission to tie in to the line.”

Mr. Thompson went on: “I really hate the idea of running two separate lines down Duarte just to service eight residences, with two terminal manholes... The new plan, as presented, offers equitable participation for everyone involved. *I do not understand* why the original applicants can’t get on board with this. *I just don’t get it.* I have deep reservations about recommending the initial applicants to the Commission, and they’re aware of that. So whatever else they want to do on this, I’m going to remain mum. As I said, I don’t like a lot of things about the first plan, and I like a lot of things about this new plan, as presented.”

The Facilities Manager argued further: “The final approval of the second plan that was submitted would be under the same conditions that when they ... hook that thing up, there are going to be two pumps on that within a reasonable amount of time to charge that line... I contacted the Building Department and told them that they would be getting a second application. It’s not unprecedented ... for people to submit applications for houses that aren’t built and designed based on the fact that there’s a reasonable expectation that sewer is coming.

³ Ms. Clairmont was referring to the answers written by Mrs. Webster to seven questions submitted by June D. Ameen on behalf of the neighbors via e-mail on September 18, 2018. The Administrative Assistant wrote her initial answers on September 21, then amended those on October 11, 2018 based on further data from Mr. Thompson.

However, if there's anything on this that I wish I could take back, that would be one, because it became immediately apparent after we got the application for the vacant lot and the other abutters came forward, that no more pumps were going to be forthcoming."

Mr. Kager related that he and Ms. Clairmont had communicated with Mr. Thompson in February after the decision to obtain information about the Vickers Street and Hye Road agreements. Furthermore, they had been busy with college visits with their son, as well as a long punch list for the project, which would explain the delay in contacting the other residents. As far as the vacant lot was concerned, he said, "we didn't intend to go forward with that until we were told we had to have two applications." He had not known back in March, he related, that he had to have a second house built. "We're doing the best we can here," he said. "We're not professionals. We're not trying to screw anybody here. We're just trying to put a sewer line in."

Mr. Kager also spoke about the costs associated with their project, arguing that their figures were not far off from those of other, similar projects. They were trying to be fair with people, he said, and were not trying to make anything off the project. Ms. Clairmont added that they had not been aware of the one-year deadline until October 16 or 17. So that was new, in their view, and had resulted in a rush. Admin Assistant Webster offered to send Ms. Clairmont the e-mail in which Mr. Thompson told Mr. Barbini the applicants had one year.⁴ "And he copied you and me and one other person," she said. Ms. Kager countered that Mr. Thompson's answer was not clear as to the deadline. Chairman Searle reiterated that he had heard enough.

Commissioner Murphy wanted to know, If two sewer lines were allowed, would the Town be responsible for maintaining both of them? "That's the way that we've done them in the past," replied Mr. Thompson. "Yeah, this isn't anything like the past," responded Commissioner Murphy, to some laughter. Mr. Thompson said that his actual concern was not with the line itself but with the terminal manhole, which could be hit with a snowplow, for instance, and then left "spewing away," with no one taking responsibility for it. "That's what we ran into on Hannah's Way," he explained.

It was agreed among the Commissioners that running a single line would not work (because the two sides seemed unable to work with each other). Commissioner Murphy suggested running one line that the Town would take over and a second line that would remain private. Mr. Thompson observed that if Mr. Kager and Ms. Clairmont wanted to tie in only a single house, then they should run an inch-and-a-half line from their property to Road to the Plains, and the remainder of the lots could use the two-inch line in common. The inch-and-a-half line would not need a manhole because it would be a lateral and not a sewer extension, explained Mr. Thompson.

⁴ The Admin Assistant was referring to an e-mail to Mr. Barbini from David Thompson dated February 20, 2018 and copied to Mrs. Webster, then-Department Assistant Marisa Boniface and Ms. Clairmont. The subject line was "Re: Sewer approvals," and it responded to Mr. Barbini's e-mail earlier in the day, which read in full: "Dave Is there an [sic] time limit on when a sewer has to be installed after it is approved? Dick". Mr. Thompson's response read in part: "Dear Dick, I'm going to give them a year. That will give them sufficient time to do it in the fall or early next spring, and let them see if they can get some others in there on board. If it's not done by then, it will have to be re-evaluated by the Department and the Commission."

Responding to a query from Mr. Sederholm, Mr. Thompson described how through lack of use over a four- or five-year period, the laterals off a sewer line could become packed. He had run into this situation in the Darks Woods subdivision, as well as in Island Grove. A contractor would have been told there was a lateral in place he could use; so the Department wound up “punching it out.” With a terminal manhole, in the case of the worse-case scenario, a pump truck could be hooked up to “Hoover” out the entire line to remove the blockage.

Mr. Kager repeated that he would be happy to hold off installing the laterals. Additionally, he was willing to bring in a professional mediator to settle any differences with the neighbors.

Jinane Abounadi of 7 Duarte Circle wanted to respond to Mr. Kager’s assertion earlier that he had spoken to Ms. Abounadi and her son about their project prior to the e-mail announcement sent out just after Labor Day.⁵ She said that the conversations she had had with Mr. Kager had meant “absolutely nothing” to her, since she knew nothing about how the utilities were handled on the Island. Second, she said, she did not understand “why this proposal of joining with the neighbors is not working for you.” And third, she wanted to know “why you are working hard to block us from doing our work to get our second line, which seems like it’s something you’ve been trying to do.”

Mr. Kager repeated that he was opposed to the idea of having eight trustees governing the trust being a non-negotiable point. As for the reason behind the letter from Chris Alley, Mr. Kager explained that he and Ms. Clairmont found the neighbors’ preliminary plan to be a carbon copy of what they had paid Mr. Barbini a lot of money to draw up for them. He said that he was not trying to undermine the neighbors’ plan.

Next, Commissioner Murphy addressed the group of neighbors, apologizing to them. “We approve these [lines] because it’s a benefit to the [Edgartown Great] Pond and, ultimately, to the Town,” he said. Commissioner Murphy returned to the possibility of Ms. Clairmont and Mr. Kager installing an inch-and-a-half lateral from their existing house at 11B Duarte Circle all the way to Road to the Plains, without a terminal manhole; having the future house at 11A Duarte Circle also go on this line; and this line remaining private. And the line for the other six lots, following submission and approval of a final plan, would have a terminal manhole and would become a Town line. “That’s a new condition,” stated Ms. Clairmont. Yes, said Commissioner Murphy.

Mr. Sederholm said he had several concerns. The main one was this: “Whatever you approve for them, when we come back, I *guarantee* they will oppose it. They will come up with reasons why you should not allow a second line. And then where are we?” Commissioner Murphy noted that the Commissioners could only approve the second line as an extension and not in terms of its engineered elements.

Mr. Kager stated once more that he and Ms. Clairmont wanted to go forward with their plan for the sewer line as approved. They had everything lined up, and they were unable to respond to new conditions; not having counsel at hand, they were at a disadvantage. As long as the neighbors’ plan was sound, he and Ms. Clairmont did not plan to oppose anything. He emphasized that their proposal was not a profitable venture in terms of the time they had had to

⁵ See page 4 of these minutes.

spend on it. “We’ve been advised not to change the terms of our conditions,” Ms. Clairmont said.

That being the case, said Commissioner Murphy, if there were going to be two lines running down Duarte Circle, an engineer should certify that the Kager-Clairmont line, as designed, worked and did not affect the second line, before the Commissioners could allow either line.

A discussion ensued. It was agreed that the next Regular Meeting would be slated for Thursday, December 20, at 4:00 p.m. and that the neighbors’ group would endeavor to have a fully engineered plan ready for submission by then.

The conversation returned to Mr. Thompson’s idea of Mr. Kager and Ms. Clairmont installing an inch-and-a-half lateral from 11B Duarte Circle all the way to Road to the Plains, as a lateral and not as an extension with a terminal manhole. Then the neighbors group would install a 2-inch line with seven laterals, one of which 11A Duarte Circle could use when a house was built on that lot. That was fine with Mr. Sederholm, so long as the owner[s] of that lot adhered to the rules that the owners of the other six lots adhered to.

Mr. Sederholm tried to make it plain that Mr. Kager and Ms. Clairmont were asking for far more than \$10,000 per lot if a lot owner did not sign up by November 1. Mr. Kager explained that they had adopted the model used by the Vickers Street group, and he argued that the figures cited by Mr. Sederholm were in a *draft* document. The discussion continued.

Commissioner Ellis pointed to the advantages of having the participants be trustees, as he was in the Hye Road project. “We were all transparent about how much it cost, we all chipped in, we all paid our share, we had the line done,” he said. “I still haven’t tied in to it, but I have the stub in my yard, and I paid the money.” But from what Commissioner Ellis understood, Mr. Kager was not being transparent with neighbors with regard to the costs.

“The approved plan calls for two active pumps, functioning pumps,” stated Commissioner Murphy. Ms. Clairmont once more wanted to know when they were notified by the Board of that requirement. “From my personal opinion,” said Commissioner Murphy, “unless there’s two active pumps, you do not have authority to tie in to our waste water system at this point. We’ve tried to give you a couple of options, and we understand you want to talk to counsel, and that makes total sense ...” He suggested they continue this discussion at their next meeting.

Mr. Sederholm asked the Board where his group stood, and Commissioner Murphy said the Board was waiting for an engineered plan and reassurances that the second line would not interfere with the first. Mr. Kager referred to an October 22 e-mail from Mr. Thompson in which he had written that if Mr. Kager and Ms. Clairmont had two completed applications, they would be able to install the force main. “We’re not going to be able to build a house between now and February 19, and you know that,” said Mr. Kager. “And this is a new condition. It wasn’t provided to us last year ... back in February of this year.”

Mr. Thompson pointed out that there were six other houses on Duarte Circle, any one of which could be tied in to the Kager-Clairmont line. Mr. Kager answered that now that those six lot owners were being offered their own line, they had no reason to tie in to the first line. “Maybe they would have had the second active pump,” said Mr. Sederholm, “if they’d gone to their

neighbors last February and started having an open and transparent conversation about the costs, the estimates they'd gotten and how this could be *shared* by everyone, maybe it would work." More back-and-forth between Mr. Kager and Mr. Sederholm ensued.

Commissioner Murphy made a motion that until there were two active, functioning pumps on the Kager-Clairmont line or applications for two active functioning pumps, the line could not be connected to the waste water system. Commissioner Ellis provided a second, and the motion carried unanimously by voice vote.

Ms. Clairmont reiterated her arguments regarding the two-pump requirement being a change of conditions. "We feel that you guys are changing the goalpost again and again," she remarked. To be clear, Commissioner Murphy said, his vote was based upon Mr. Thompson's document titled "Mileposts for Duarte Circle Extension." "We have not been given that document," said Mr. Kager. (At this point, the Admin Assistant passed out to all in the audience copies of the document, which had been produced by Mr. Thompson expressly for the current meeting.)

When Ms. Clairmont asked again for the written document which stated the two-pump requirement from the time of the original approval, Commissioner Murphy said that he understood from Mr. Thompson that there was not one and that Mr. Thompson had spoken to Mr. Barbini and that was their agreement.

Admin Assistant Webster pointed to a different packet of three sheets she had passed out to all present, information which Mr. Thompson had already e-mailed to Mr. Kager and Ms. Clairmont. This was the material from Mr. Thompson's manual for the E-One Extreme Series – *Low Pressure Sewer Systems Using Environment One Grinder Pumps* – showing the table and schedule which indicated that in fact two active pumps were required for the Duarte Circle line. The discussion carried on.

Ms. Clairmont repeated that Mr. Barbini had told Chris Alley that only one pump was needed to activate the line. She also reiterated that Mr. Barbini had told her that because a minimum number of pumps was not stated in the decision, it could be assumed only one was required. Commissioner Murphy said that his motion in January 2018 had been *subject to Mr. Thompson's approval* and that was up to Mr. Thompson to set any conditions.

Commissioner Murphy said that if the sense of urgency being felt by Ms. Clairmont and Mr. Kager was being stirred up by the February 20, 2019 deadline, the Board could reconsider the deadline. Mr. Thompson explained that the purpose of the original deadline was to ensure that the potential for those eight pumps would not go unused for two or three years while the lot owners made up their minds as to how to proceed.

When Commissioner Murphy mentioned that Mr. Kager and Ms. Clairmont would have their counsel with them at the December meeting, Ms. Clairmont said their counsel could not attend because of the holidays. Commissioner Murphy then recommended the Board extend the deadline to March 20, 2019, saying he did not want them to feel the Board was trying to stall the matter past any approval deadline.

Mr. Kager wondered if the Board would be willing to extend the deadline for a year. After brief discussion, Commissioner Murphy made a motion to extend the approval to February 1, 2020;

Chairman Searle provided a second. Mr. Sederholm clarified with the Board that at this point the first line required two functioning pumps for activation and that this had not changed. He cautioned, "Keeping in mind that right now ... unless and until you approve the proposal we're going to come back with as soon as we can ... they have a monopoly. And they have a price structure that if we don't sign up by January fifteenth, they'll make us pay eighteen thousand dollars to hook up plus five percent." "My personal position is, I'm going to vote for your line as soon as we get it," said Commissioner Murphy. "Yeah," agreed Chairman Searle.

Responding to a question from Ms. Abounadi, the Facilities Manager said, "The installation of the second line makes it problematically more expensive to do. It's not insurmountable. Looking at this scale in the project, they've still got separation from the water, which is one of the main deals, you need separation from the water line..." The second line, he went on, could not be directionally drilled; it would have to be trenched. There was no way not to hit the first line otherwise. If the directional driller made sure the first line was down seven feet, then the second line could be trenched at about four feet directly above it. He said that he preferred the line with more laterals run on top.

The more problematic part, said Mr. Thompson, was at the juncture with Road to the Plains, where the two-inch line would be hot-tapped into a four-inch line.

Commissioner Murphy withdrew his motion to extend the approval deadline, and Chairman Searle withdrew his second. Commissioner Murphy made a motion that subject to an accurate engineering plan from the neighborhood for a six-pump connection that was subject to Mr. Thompson's approval, the Commissioners approve the six-pump connection, so that the neighborhood group had a comfort level that "this isn't an exercise in futility." Commissioner Ellis provided a second. The motion carried unanimously by voice vote.

Next, Commissioner Murphy made a motion to extend the deadline for the original waste water connection to February 1, 2020; Chairman Searle provided a second. The motion carried unanimously by voice vote.

Mr. Sederholm asked if the Board would consider requiring that the directional driller be required to place the first line in a way that it would not interfere with the second line that would have six laterals. That would be a new condition on our permit, said Mr. Kager. Mr. Sederholm said that it was a technical issue that would be up to Mr. Thompson. Commissioner Murphy said he would renew the original motion, which was that the Board's approval was always subject to whatever conditions Mr. Thompson wanted to place on it. The original plan itself did not change, since it showed no depths.

Mr. Thompson again recommended to Ms. Clairmont and Mr. Kager that they run an inch-and-a-half line as a lateral without a manhole to service 11B Duarte Circle; then when a house was eventually built on 11A Duarte Circle, tie that lot in to the two-inch sewer extension (with manhole) being installed by the neighbors' group.

Mr. Sederholm raised the question of the Town's being responsible for the maintenance of both lines. The covenant with regard to the Kager-Clairmont line held the Town responsible, once the line was turned over to it, even though the extension would have, at most, two pumps on it. "Unfortunately, we can't change that," said Mr. Thompson. Then his group would request, said

Mr. Sederholm, that the Town would assume maintenance of their line as well when they came in with their final plan.

Ms. Clairmont repeated that she still lacked in writing evidence of when she was informed that two active pumps were a requirement to activate the sewer line. “My understanding is that this was communicated to June [Ameen] before it was communicated to us,” she said, “and it was later communicated to us, and ... my counsel does have issues with that point.”

ADJOURNMENT

There being no further business, Chairman Searle made a motion to adjourn the Regular Meeting, which Commissioner Ellis seconded. The motion carried unanimously by voice vote. The Regular Meeting adjourned at 5:39 p.m.

Respectfully submitted,

Pia Webster
Administrative Assistant

APPROVED:

BOARD OF WASTE WATER COMMISSIONERS
TOWN OF EDGARTOWN

Glen S. Searle, Chairman

Scott Ellis, Commissioner

Sean E. Murphy, Commissioner