



TOWN OF EDGARTOWN

WASTE WATER DEPARTMENT
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TOWN OF EDGARTOWN BOARD OF WASTE WATER COMMISSIONERS

MINUTES OF THE REGULAR MEETING OF DECEMBER 20, 2018

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 M. Hagerty, Town Administrator

OTHERS PRESENT:

Ms. Judith A. Conley, 15 Duarte Circle
Mr. Munther A. Dahleh, 7 Duarte Circle
Mr. Yazeed Dahleh, 7 Duarte Circle
Mr. Henry R. Fauteux, Jr., 9 Duarte Circle
Mr. Stuart Fuller, 15 Donalbin Close
Mr. E. Douglas Sederholm, Attorney
Mr. Reid Silva, Vineyard Land Surveying & Engineering, Inc.
Mr. Unknown Who Recorded the Meeting on a Cellphone

MEETING CALLED TO ORDER:

The Board of Waste Water Commissioners of the Town of Edgartown held their Regular Meeting on Thursday, December 20, 2018, at a special time – 3:00 p.m. – at a special location – in the Board Room on the second floor of the Edgartown Public Library, 26 West Tisbury Road, Edgartown, Mass. At 3:00 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.

PRESSING BUSINESS:

RESPONSE TO OPEN MEETING LAW COMPLAINT.

The Board had before them an e-mail from Town Administrator James M. Hagerty addressed to them and copied to Facilities Manager David Thompson and Administrative Assistant Pia Webster with the subject line “WWC Nov 8 OML Complaint Response Procedure.” In the e-mail the Town Administrator quoted the procedure to be followed, which included: distribution of the complaint to the members of the public body for their review; and the meeting of the public body within 14 days of the date of receipt to review the complainant’s allegations, take remedial action, if appropriate, notify the complainant of the remedial action, and forward a copy of the complaint and a description of the remedial action taken to the complainant.

Mr. Hagerty, who was present, explained that the Board could delegate responsibility for responding to counsel or another individual and that it had to meet to do so. In response, Commissioner Murphy made a motion to delegate the response to the open meeting law complaint to the Town Administrator with the assistance of Town Counsel and the Waste Water Superintendent. Commissioner Ellis provided a second, and the motion carried unanimously by voice vote.

Attorney E. Douglas Sederholm, who was representing the Duarte Circle Homeowner Group, asked Chairman Searle if it was possible to get a copy of the notice of violation of the open meeting law. Town Administrator Hagerty invited Mr. Sederholm to submit a formal request to *him*, upon which he would take care of it.

OTHER BUSINESS:

SECOND DUARTE CIRCLE PROPOSAL: PRELIMINARY PLAN.

Attorney Sederholm said he was expecting the imminent arrival of Reid Silva, owner of Vineyard Land Surveying & Engineering, Inc. in West Tisbury.¹ Basically, he continued, the plan that Mr. Silva had submitted has not different in any significant way from the plan the Duarte Circle Homeowner Group had submitted in November. They would like to move forward with their proposal for the sewer line with six of the eight lots on Duarte Circle. “I am not going to belabor this,” he said. “I believe the Waste Water Commission is intimately familiar with the Kager-Clairmont proposal and our proposal from the last two meetings. It would be insulting to you to go through that again.”

At this point Mr. Silva arrived. Commissioner Murphy asked about the source of the F.R. Mahony report titled “E/One Pressure System Design Report for Duarte’s Circle –

¹ For the Duarte Circle Homeowner Group’s two earlier presentations before the Board, see pages 1-9 of the Minutes of the Regular Meeting of October 18, 2018; and pages 1-12 of the Minutes of the Regular Meeting of November 29, 2018. The Group consists of 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).

Edgartown, MA November 27, 2018.” Facilities Manager Thompson replied that it had been given to him by Henry Albro of F.R. Mahony. Commissioner Murphy wanted to know who had requested the report. “My impression at the time was it was Mr. Kager, but it looks to me like it was just straight to George Sourati,” answered Mr. Thompson.

“Doug Sederholm, this wasn’t part of your application, was it?” inquired Commissioner Murphy. “Never seen it before,” replied Mr. Sederholm. “This is the first I’ve heard of it, I think.” Mr. Sederholm clarified with the Facilities Manager that the report being referred to was not the 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 Kager-Clairmont line.

No, said Mr. Thompson, “[t]his is an engineer’s opinion that basically vindicates my initial insistence that ...” Before Mr. Thompson could finish, Mr. Sederholm wondered if he should be requesting a copy of the report from the Town Administrator. No, you can get that from Pia [Webster], said Commissioner Murphy.

Mr. Sederholm brought Mr. Silva up to speed on what he had presented to the Board thus far. Their plan, he said, was based on the public record, the plan that Richard J. Barbini, formerly of Schofield, Barbini & Hoehn, had submitted in January 2018, in terms of the layout of the road and the lots and the location of the existing utilities. Obviously, he went on, Mr. Silva would do a formal engineered plan, once the Homeowner Group had the Board’s approval, at which point any additional fieldwork would be done.

Mr. Silva stated that the engineering behind the plan was not elaborate. “The nuts and bolts of this is pretty rudimentary,” he said. “So the work that I’d be doing to further the design would be basically confirming the location of utilities, driveways and structures we’d want to avoid. The nuts and bolts of the line size, the taps, you know, the cleaning manifold would be essentially the same... We just haven’t been out there to survey.”

Chairman Searle confirmed that a two-inch line would be going in. The drawing shows a two-inch line, confirmed the Facilities Manager. Also, note that it shows, he said, another two-inch line as a pre-existing utility. Which does not exist *yet*, stressed Mr. Sederholm, but if the Homeowner Group’s line went in second, this was their way of addressing that possibility.

Commissioner Murphy prefaced his next statement by saying that what he had to say was in no way a reflection on the Homeowner Group’s proposal. He wanted to move, he said, that the Board send this to Town Counsel to see what rights the Board had with regard to the previous approval and to approving the proposal before them. “I’d like to find out ... if the approval we granted is still valid. If it is, whether we can alter it or amend it. If it isn’t valid, whether we can revoke it. And then based on that, we can make a decision about the best place to put this line. Again, this is not a reflection on the second line. It’s a reflection on where the lines or line [is] going to go.”

Chairman Searle posed a question to Mr. Sederholm: Would the Duarte Circle Homeowner Group let Patrick Kager and Catherine Clairmont, the owners of 11A and 11B Duarte Circle,

tie in to their line? “We see no reason why not, *no. Of course* we would,” stated Mr. Sederholm, adding, “on the same terms that the other six are willing to adopt.” Commissioner Murphy made a motion that the Board ask the Town Administrator and the Selectmen to go to Town Counsel and have them weigh in on this issue. “I’d be happy to bring them up to speed,” he added, “or Dave can, whatever we need to do.”

Facilities Manager Thompson interjected that before anyone went to Town Counsel, he wanted to remind them that the Board had made the decision on Mr. Kager and Ms. Clairmont’s sewer line conditional upon Mr. Thompson’s approval and that Mr. Thompson had not approved it up to that point. “I have withdrawn from the approval process as of last Tuesday,” he stated.

Commissioner Murphy said that he thought he had made a motion at the last meeting that Mr. Kager and Ms. Clairmont were not to tie in to the system until everyone was satisfied.² “I would just like Town Counsel to tell us where we stand,” he reiterated, “if we have the ability to revoke or revise or whatever we need to do.” Chairman Searle provided a second to Commissioner Murphy’s motion, and the motion carried unanimously by voice vote.

Attorney Sederholm wanted to know when the next Regular Meeting of the Waste Water Commissioners could be expected, should Town Counsel return an opinion in the next few weeks. The third Thursday of the month, January 17, was the answer. Mr. Sederholm thanked the Board members.

Commissioner Murphy asked Town Administrator Hagerty if he required a formal request from the Board for the services of Town Counsel. Mr. Hagerty replied that he needed an executive summary with a general timeline, since he was the gatekeeper for those funds.

OLD BUSINESS:

UPDATES.

Facilities Manager Thompson reported that the Massachusetts Department of Environmental Protection had renewed the **Facility’s Ground Discharge Permit** dated November 30, 2018 for another five years. Said renewal had been contingent upon the completion of the Condition Assessment, the Capital Improvement Plan and the **Inflow & Infiltration (I/I) Study from GHD Inc.**

The I/I monitoring had been underway during a string of nor’easters in March, Mr. Thompson went on, when repeated tidal inundations had struck the Dock Street area. “While increased flow was noted,” he reported, “there were not the spikes of high flow indicative of large structural gaps that could overwhelm our collection system. The manhole sealing precautions undertaken in the area by the Facility for tidal events appear to be working, and the sewers are not showing groundwater infiltration. So that was all good news from GHD.”

² *Ibid.*, p. 10. *The motion was in fact as follows. “Commissioner Murphy made a motion that until there were two active, functioning pumps on the Kager-Clairmont line, the line could not be connected to the waste water system. Commissioner Ellis provided a second, and the motion carried unanimously by voice vote.”*

As of two weeks ago, **the UV and the Flow Meters** were back online, continued Mr. Thompson, and “we seem to be in good shape with that,” he said. As for the **Revised FY20 Warrant Article Requests**, the Facilities Manager explained that he had removed the \$6,500 Audit Article, since he had been told by the Town Accountant at the monthly Department Head meeting that those audits had been performed.

NEW BUSINESS:

REPORT: FINAL FY20 OPERATING BUDGET.

After several iterations, began Mr. Thompson, he had finally received the correct Salary & Wages figures from the Personnel Department, showing a 5.8 percent increase over the previous fiscal year’s figures. The size of the jump, he explained, was related to the position reclassifications. “This is without COLA?” inquired Admin Assistant Webster. Yes, replied Mr. Thompson. “Is there a COLA this year?” asked Commissioner Murphy. “There probably will be, eventually,” said Mr. Thompson.

Continuing with the FY20 Operating Budget, the Facilities Manager said that for the entire budget, including Salaries & Wages, the total was 3.9 percent greater than FY19’s. The increase for Expenses for 2.0 percent.

OTHER BUSINESS:

FACILITIES MANAGER’S REPORTS.

Mr. Thompson related that most of what he had included in the Chief Operator’s Report for November 2018 had already been included in the Updates section under Old Business, plus they would be discussing the incident on Donalbin Close when Stuart Fuller arrived.

FINANCIAL REPORTS.

Admin Assistant Webster directed the Board members’ attention to a report titled “FY19 Operating Budget ‘Deficit’ Spending as of December 26, 2018.” “We’re making progress on the so-called Deficit Spending,” she announced, pointing to the chart in the lower part of the page, which indicated that year-to-date expenses spending was currently off by 11.2 percent or \$62,934.79; whereas, six weeks earlier it had exceeded expectations by 12.6 percent or \$69,704.23. They might recall, she said, that the previous fiscal year, they had managed to close a more-than-\$50,000 gap entirely by fiscal year’s end.

However, cautioned the Facilities Manager, that gap does not reflect the \$7,000 invoice we got from Andy Farrissey for the Donalbin Close job. No, no, disagreed the Admin Assistant, we paid that already.³

³ *The invoice from Farrissey Tele-Comm, Inc. for the work on Donalbin Close on November 19 and 20 totaled \$5,754.19 and was paid on Bill Warrant 26FY19, submitted on December 18, 2018.*

APPROVAL OF MINUTES.

The Commissioners turned to the **Minutes of the Special Meeting of November 8, 2018.**

Mr. Thompson noted that these were the minutes about which the open meeting law complaint had arisen. He had explained to the Town Administrator, he said, that he had taken the Duarte Circle Sewer issue off the agenda. However, the minutes being approved at the meeting concerned the Duarte Circle Sewer issue, and the Commissioners had brought up some questions. Commissioner Murphy commented that they had not made any decisions but had only asked some questions. Mr. Thompson said that the argument by the complainant was that they had buried it as some sort of hidden agenda.

Commissioner Murphy made a motion to approve the Minutes of the Special Meeting of November 8, 2018 as written, seconded by Commissioner Ellis. The motion carried by voice vote, with Commissioners Murphy and Ellis voting aye and Chairman Searle abstaining because he had not attended the meeting.

Next, the Board members considered the **Minutes of the Regular Meeting of November 29, 2018.** Admin Assistant Webster directed the Commissioners to the first sentence of the seventh paragraph on page 12, where the word “reasonable” should be replaced with “responsible,” so that the sentence would read as follows: “Mr. Sederholm raised the question of the Town’s being responsible for the maintenance of both lines.”

Commissioner Ellis made a motion to accept the Minutes of the Regular Meeting of November 29, 2018 with the correction as indicated, seconded by Commissioner Murphy. The motion carried unanimously by voice vote.

NEW BUSINESS [*Continued*]:

REPORT: DONALBIN CLOSE REMEDIATION.

Facilities Manager Thompson recounted that a leaky sewer lateral at 15 Donalbin Close was reported by Stuart Fuller on Sunday, November 18. On Monday, November 19, the crew from Farrissey Tele-Comm began digging and found a fair amount of discolored soil. Mr. Thompson, who was in Texas at the time, was sent a picture, whereupon he ordered Mr. Farrissey to get up as much of the discolored soil as possible. “I had no idea it was going to be twenty-five yards,” he said. “It took them basically a day and a half ... to get it all out of there.”

When he returned to the Island on November 26, Mr. Thompson continued, he met with Health Agent Matthew Poole. On December 3, he and Mr. Poole met with the Town Administrator, Water Department staff and Mr. Fuller. Three courses of actions were described: (a) continued testing by the Board of Health of the adjacent lots; (b) solicitation of quoted cost proposals from Water Department and private contractors, with a five-year moratorium on water-user charges; and (c) alternately, having the Water Department lay the on-property lines instead of private contractors and the Town cover the cost of plumbing, and the same five-year user charge moratorium.

There were four parcels affected. Since the setback for a private well from a septic system was 100 feet, it was thought that any parcel within or close to that window should be included. The proposal being favored by the Water Department at this time was (c), where the Water Department would waive its \$1,150 application fee and would install the tap for the cost of materials (around \$300). Mr. Thompson himself had reached out to Tim Creato for an estimate of the cost of installing the laterals for all four properties.

Since he was already out for about \$7,500 for incidental expenses, Mr. Thompson had asked the Town Administrator if the Town had any kind of insurance policy to cover something like this.⁴ But until he had a number to put to this, he could not proceed any further. Mr. Fuller and Mr. Thompson clarified with the Commissioners that the leak had come from a lateral in the front yard of 15 Donalbin Close that was not being used and that this property was not tied in to the sewer system; and further, that the water main was already in the street and the sewer main was already in the street.

Mr. Fuller expressed concern was that he had been buying bottled water since the weekend before Thanksgiving and that he did not want to be doing that forever. Moreover, the Health Agent did not want to be testing the wells in question forever.

Commissioner Murphy inquired whether the cause of the leak was known. It was agreed that age had not been a factor, since the line was only about 10 years old. Mr. Fuller thought that there could have been a problem at installation time, because “the earth around where the break was was *very* dark, and tree roots were down into it and were dark...” “Personally, I think we should do whatever we can,” said Commissioner Murphy. Chairman Searle suggested they go straightaway to the Financial Advisory Committee for the necessary funds.

A discussion ensued regarding the possible costs that could be incurred. They came up with roughly \$4,000 per connection, with \$2,500 for trenching and \$500 to \$1,000 for plumbing. Mr. Thompson reminded them that with the entire amount coming to more than \$10,000, he would have to solicit three quotes.

Commissioner Murphy wondered if the Waste Water Department could simply pay for the project and then get the Town to reimburse the Department afterward. Mr. Fuller and Mr. Thompson also mentioned the possibility of this project qualifying as an Emergency Procurement under Chapter 30B, thereby obviating the need to follow the requirements of the Uniform Procurement Act.

Commissioner Murphy made a motion that Facilities Manager Thompson spend whatever he needed to spend to remediate the problem on Donalbin Close and that the Commissioners go to the Financial Advisory Committee through the Town Administrator to be reimbursed for that spending. Chairman Searle provided a second, and the motion carried unanimously by voice vote.

⁴ Mr. Thompson later realized he had misspoken; the amount he had spent thus far was less than \$6,000.

Mr. Fuller thanked Mr. Thompson and his Department for attending to the emergency so promptly. Commissioner Murphy told the Facilities Manager that the Board members would accompany him to the FinCom meeting when the time came for that.

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 3:40 p.m.

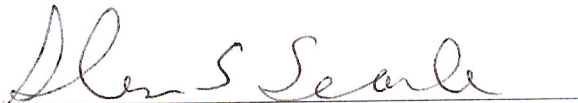
Respectfully submitted,



Pia Webster
Administrative Assistant

APPROVED:

BOARD OF WASTE WATER COMMISSIONERS
TOWN OF EDGARTOWN



Glen S. Searle, Chairman



Scott Ellis, Commissioner



Sean E. Murphy, Commissioner