

Water Commission Minutes
5/17/2021

Called to Order: 6:02 PM

Present by Zoom: Fran Huntoon, David Sander, Bard Hill, Cody Quattrocci
Absent: Don Morin,

Others Present by Zoom: Josh Arneson, Town Manager; Kendall Chamberlin, Water & Sewer; Kathy Daub-Stearns, Admin. Assist.; the meeting was recorded for MMCTV Channel 15, Also present: Maxwell Krieger, Allen Knowles,

1. Welcome by Bard.

Public Comment- None

2. Additions or Deletions to the Agenda. None

3. Items for Presentation or Discussion with those present

a. Consideration of recommending that the Selectboard approve the Clean Water State Revolving Fund application for planning of the Gateway Sewer Expansion Project

Josh reported:

- that this is a small loan with 50% forgiveness

David moved to recommend that the Selectboard approve the Clean Water State Revolving Fund application for planning of the Gateway Sewer Expansion Project; Fran seconded. Roll Call Vote: Fran, Cody, David, and Bard voted affirmatively; Motion passed.

b. Consideration of approving the Engineering Services Agreement for the Gateway Sewer Expansion Project

Josh reported:

- that this is the work for the loan that was just approved.

David moved to approve the Engineering Services Agreement with Green Mountain Engineering for the Preliminary Engineering Report for the Gateway Sewer Expansion Project and to appoint Town Manager Josh Arneson as the duly authorized agent; Fran seconded. Roll Call Vote: Fran, Cody, David, and Bard voted affirmatively; Motion passed.

c. Discussion of excavation bill to repair a water leak that ultimately was caused by a private storm water pipe

Josh reported:

- that in March there was water in the right of way of Route 2 that was thought to be a broken water line. The Water Department called in an excavator to fix it and it turned out to be a stormwater pipe coming from the Village View Condominium Association. It was obvious the pipe was old and did not connect to anything. Attempts were made to contact the condo association, conversations were had with VTRANS, and after several hours and a conversation with the condo

association and VTRANS it was concluded that the pipe should be cut back a few feet and be capped in an attempt to stop the flow of the water. There is now a bill for \$3,752.22 from the excavation company. We requested that the condominium association pay the full amount based on the fact it was water coming off of their property, through their pipe. The condominium association thinks they should have to pay only 50% of the bill based on the reasoning that they had no say in who did the work or what was done for repair work. As of May 5, 2021 it was noticed that water is bubbling up in the same area and it is thought that it is coming from the same line which may have holes in the pipe due to its age.

- that Josh said there was a member of the condominium association present and asked if the commission would provide some time for them to react. Bard agreed.

Discussion included:

- that Bard asked about the precise location of the pipe, Kendall replied that the pipe was removed from the public right-of-way, but the water is still running out into the road
- that Bard said that the water originated in soil and asked the location of the apparent leak, Kendall replied it was beside the hydrant and water valve, Bard asked if it was in the public right-of-way or near some other public infrastructure, Kendall replied, yes.
- that Maxwell Krieger, who is the Secretary for the Village View Condominium Association, introduced himself, he said he would like to challenge an aspect of Mr. Arneson's statement, specifically that the Village View Condominium Association gave permission for the work to be done, he said he believed that there was some adhoc conversation with folks who might have been present that day, but there was nothing in writing or any proposal submitted to the association and that there is a nine unit board that was not notified nor did they approve the work. Bard clarified by saying Josh said that they tried to make contact and did not get approval for the work, Josh said that they (he and Kendall) had tried to make contact with the condo association throughout the day once it was determined that it was not a water leak, that when he was on site later in the day John H. came by and the situation was explained to him letting him know that according to VTRANS the line needed to be capped because a permit would be needed to hook into the stormwater system. Josh said that John H. did not necessarily give permission, but he didn't say no, no, let's wait and try something else. Kendall added that Aaron had gotten in touch with John H. from the beginning saying he was under the impression that he was the condo representative. Maxwell Kreiger went on to say that once that occurred the association did not have a say in how things were excavated, and from the associations view once it was determined that it was not an emergent situation, that it was not a leak in the water main, that there should have been some extra step taken, or a pause taken in the excavation, he said he understood that the ground was already open and maybe it made sense in the moment to make some decisions but then receiving a \$4000 bill out of the blue essentially, for work the association felt could have been planned better with an overall solution, was unreasonable. Bard asked if it was his position that the Town did not have the authority to address leaks in the public right-of-way in a private line, Maxwell Kreiger responded that it was not a leak, there was no leak in the water main,

Bard said it was in your private stormwater line, so the area was excavated, they find the source of the water to be a private stormwater line, Bard then asked if it was Maxwell Kreiger's position that the Town should not take action when they find a private stormwater line leaking water or emitting water into the public right-of-way when adjacent to public infrastructure, Maxwell Kreiger responded that the Town might need to address it but could have taken proper measures to contact the land owners especially if it is not an emergent situation adding that the pipe had been there for thirty or forty years and the town should have taken the proper steps to make sure there was approval or at least consent for the work being done. Bard replied Maxwell Kreiger's characterization of if it is that as something not emergent, that the town should have covered it back up or left it open and pursued approval or directed the homeowner's association to address it, Maxwell Kreiger said, yes. Bard went on to ask Kendall if he would describe the leak as emergent or non-emergent, Kendall replied that as far as he was concerned it was a leak on the main water valve on East Main Street going down and running into the main road and that made it an emergency. Bard then asked if the Town had any experience where other lines had leaked and caused damage to public infrastructure, Kendall asked if he meant a private line, then said yes, Bard responded that this was based on history, if not precedent, asking Kendall to briefly describe what happened then, Kendall said basically the same thing that just happened, as soon as it was discovered it was not a water line he immediately contacted the homeowner which was the Village View, there may be 9 residents but John H. was clearly the representative that got in touch with us as soon as possible, and gave the indication that he was the representative for the property owners. Maxwell Kreiger said he thought the question was about the precedent set, Bard said yes, is there a precedent from damage having been caused by a private leak to public infrastructure in the past, Kendall said there was a private leak at the Sterling House, their line blew out under a culvert and drained the water tank and his department repaired that and billed them. Bard apologized to Maxwell Kreiger for interrupting him saying that he was trying to take one point at a time. Maxwell Kreiger responded that he felt they had covered the bulk of what needed to be covered, that they agreed that the pipe came from the association property and went into the public right-of-way and that was why they were willing to pay for half of the costs but given in their opinion the non-emergent nature of it, knowing that is debated at this time, that it was not a leak in the water main and that this pipe was pre-existing for three decades, that there could have been better communication, and perhaps a plan to fix the issue more permanently instead of creating a billing situation that they were unaware of that did not ultimately solve the issue. Bard asked what, if any, legal advise a town modifying a private line and then billing the owner for the cost of that repair or intervention we had, Josh said he reached out to the town attorney on this who advised "that if the surfacing water was posing a threat to the travelling public by interfering with its safe use and enjoyment of the roadway, then it is arguably a public nuisance that the Town is lawfully permitted to abate, even if doing so requires entry on private property. Title 19 vests the Selectboard with the duty and responsibility to maintain town roads when the safety of the public requires. 19 V.S.A. § 304(a)(1). Those who obstruct or encroach on a highway "so as to hinder or prevent public travel" are liable for a fine of \$1000 "pus the actual costs of repairing the damage. 19 V.S.A. § 1105." Bard thought that referred to the public right-of-way, transportation risk to the roadway or sidewalk or intersection,

Josh said that this was more the sidewalk and threatening of the waterlines underneath, Bard asked if we got a legal opinion about private infrastructure posing a threat to public infrastructure, like washing out a water line or hydrant, Josh said he did not have an opinion outside of the roadway. Bard said that from Maxwell Kreigher's characterization it was a modest leak, it did not look like it was about to blow out Route 2 or the sidewalk, saying that is probably your perspective, Max Kreigher said correct, especially given the history of it, that it had been there for at least thirty years since the association was built in the 1980's. Bard said he did not give a lot of credence to "it did not leak before" and could not explain why it did not result in surface water before but if the first episode of it producing surface water looks like a leak, that the thirty or forty years was dispositive and thought the more compelling issue was what is the response of the town when a water leak appears within the right of way because at the time there is no way to know that it was coming from a pipe that had been installed thirty or forty years ago, Max Kreiger said correct, but as soon as the town found that he thought there was room for a pause in the action, Bard replied that when the town found that the contractor was on site and charging by the hour, Max Kreiger said that is why they were willing to pay for 50% of the bill, Bard asked him who he thought should pay the remaining 50%, Max Kreiger said the Town of Richmond, Bard said that this was at the Water Sewer Commission who that does not represent the Town on Richmond, Max Kreiger said or the Water Sewer Commission might have funds available to maintain its infrastructure, Bard asked him if all the other users should pay for this adding that there are about 400 customers or the town with about 4200 residents they should absorb it, so either the taxpayers or the users should pay for it as long as it is not the homeowners association paying for it, Maxwell Kreiger did not think that was a fair characterization since they were willing to split the bill, Bard asked if he thought it was fair that the either the taxpayers or the water sewer users pay the other 50% for having uncovered the leak coming from the homeowners association area, Maxwell Kreiger said yes.

Kendall said that it is still not resolved, and it needs to be resolved. Bard said the pressing issue is paying the contractor and the second question is who pays or repays the Water Sewer Commission for this whether it is the users, homeowners association, or the town.

- that the proper venue to hear this is the Selectboard, that Bard suggested approving the invoice and ask for further clarity from the attorney. What we have is an offer from the homeowner's association to pay half, do the users pay or do we go to the Selectboard and say that because it was stormwater line should it be the entire town that pays or should it be the water sewer users. Fran asked if when Kendall said this has not been resolved, did he mean the payment or the actual issue, Kendall said both. Fran asked, so whatever temporary fix was made still has to be repaired or the cap that was put on, there is still something else going on with the line that was not uncovered at the time, Kendall replied, yes. Bard said either the cap did not work, that there is pressure that made the cap leak, or it is leaking from another part of the pipe. He said that if we think there is a danger because of an inadequate stormwater line then it would be the Selectboard purview on how to handle it. Maxwell Kreiger said he had a conversation with Mr. Arneson about water bubbling up from where it was capped, there was a temporary berm made to lead the water away from the area where it was pooling originally, he said that the association would monitor that

closely and that they would take steps to cover the other end of the pipe with quickcrete.

- Bard asked if there were any site plans or obligations to have stormwater drainage as opposed to surface drainage in that area, saying it is on a hill, a modest hill, Maxwell Kreiger said there are two existing stormwater drains that are permitted on either side, Bard asked if this was a third line that was not on the plans or permitted, Max Kreiger said he would have to look at the plans, that he personally was unaware of the line until now, Bard raised the question of whether the two lines were adequate adding that it was probably a question for Zoning or possibly the Agency of Transportation if they think your stormwater is a threat to their road then it is something they would be interested in.
- that the Water Sewer commission will discuss this with the Selectboard
- that the contractor should be paid and then work out the details

d. Update on Draft FY22 Water and Wastewater Budget and Rates

Josh reported:

- that after the last review there were two changes made
- that one change was related to the dates used and one related to the CSWD payment that needed to be made
- that the projected rates and fees are still lower and will be presented at tomorrow's meeting

e. Update on West Main St. waterline replacement project

Josh reported:

- that this was to replace a waterline on West Main Street
- that the project is completed last week
- that Josh thanked everyone involved with the work

Discussion included:

- that David and Bard thought the project was well managed, especially traffic
- that Kendall said some wastewater funds were spent to raise a manhole cover that had been paved over at some point by the state

f. Status update on Bridge Street waterline replacement project, Church St. to Volunteer's Green

Josh reported:

- that we are finalizing some items and hope to go out to bid in June
- that construction would begin in the fall
- that bidding this time of year can be tricky and we may get higher bids causing the need to go back out to bid in January
- that a requirement will be that two-way traffic be maintained until 8am due to traffic concerns
- that Kendall is concerned about increases in pricing due to product availability

g. Announcement of receiving the Green Mountain Water Environment Association Facility Excellence - Wastewater Award

Bard congratulated Kendall and his staff on receiving this award saying it is a single award given in the State which has about approximately one hundred fifty facilities and we were declared number one.

h. Superintendent's Report

Kendall reported:

- that they are working on a pump repair
- that the big mixer in the tank is being repaired
- that he thanked the highway department for getting the car inspected
- that Aaron is now a grade two Wastewater and getting ready for grade three, Brad is doing well in the apprentice program and Allen is an interesting employee now that he is a Selectman in his town

4. Approval of Minutes, Warrants and Purchase Orders

Minutes:

David moved to approve the Minutes of 5/3/2021; Fran seconded. Roll Call Vote: Fran, Cody, David, and Bard voted affirmatively; Motion passed.

Fran moved to approve the Minutes of 5/10/2021; Cody seconded. Roll Call Vote: Fran, Cody, and Bard voted affirmatively; David abstained. Motion passed.

Purchase Orders:

David moved to approve PO #4117 to Town of Richmond in the amount of \$30,000 for administrative work; Fran seconded. Roll Call Vote: Fran, Cody, David, and Bard voted affirmatively; Motion passed.

Warrants:

David moved to approve the regular warrant and second warrant as discussed and presented; Fran seconded. Roll Call Vote: Fran, Cody, David, and Bard voted affirmatively; Motion passed.

Discussion included:

- that Fran asked about the Myers invoice, Kendall said because of a price increase a switch was made to Myers.

5. Discuss Items for Next Agenda and Adjourn

Items for the next agenda:

- Annual Water /Sewer meeting is tomorrow at 6PM
- Selectboard is obligated in 45 days to appoint members to the commission, Josh has not received any letters of interest from the public. Fran said she was thinking of leaving the board but will wait to see what happens. Bard thought putting another message out on Front Porch Forum would help and use tomorrow night's meeting to solicit volunteers
- David apologized for missing the last meeting
- Fran asked if more information was needed to deal with the condo association, Bard thought it should go on the next Selectboard agenda for a decision with a follow up on the Water/ Sewer agenda
- Cody said he will not be able to make the meeting tomorrow. Bard was not certain how long the meeting would be, usually an hour for a budget meeting. A quorum will be had with his absence, Cody will join if he can. Josh will find out if Don will be able to make the meeting

Adjourn:

David moved to adjourn; Fran seconded. Roll Call Vote: David, Cody, Fran, and Bard voted affirmatively.

The meeting adjourned at 6:56 PM