

## **Special Water and Sewer Commission Meeting Minutes 1/10/22**

**Members Present:** Jay Furr, Bard Hill, David Sander, Fran Huntoon,

**Members Absent:** Greg Tucker

**Staff Present:** Josh Arneson, Town Manager; Kendall Chamberlin, Water and Wastewater Superintendent;

**Others Present:** The meeting was recorded for MMCTV, Meg Freebern, Shawn Freebern, Gary Bressor, Bob Reap,

**Call to Order:** 5:30pm

**Welcome by:** Sander.

**Public Comment:** None

### **Discussion of wording of Bond Article and process for creating a special assessment district**

Arneson provided the following overview:

A couple of questions about the wording of the Bond Article were raised at the last meeting. They included:

- Can we change the wording of the Article to indicate that this gives the Selectboard the authority to get a bond, but the Town is not obligated to get a bond if this passes?
- Can we indicate in the Article that the bond would be paid back by the future users of the proposed expansion?

The short answer to both questions is no, the Article wording cannot be changed. Attorney Dave Rugh explained that the wording of the Article is standard and formulaic so it is very clear to the Bond Bank.

However, we can provide information about the intent of the Bond in informational documents and in the informational hearing. This would allow us to discuss the “Authority, but not the obligation” topic.

The topic regarding payback of the Bond by only the future users of the expansion is more complicated. Attorney Rugh and Attorney Robert Fletcher held a Zoom meeting with Mr. Sander, myself, and Water and Sewer Superintendent Kendall Chamberlin to discuss this matter. The attorneys explained that if the intent is to have the bond paid back by only the future users, and not by everyone on the water and sewer system, a special assessment district would need to be established. There are two ways to establish a special assessment district:

1. By unanimous consent of the property owners who will be assessed  
or

2. By vote of legal voters in the Town of Richmond.

The first option would involve obtaining letters of consent from all property owners which would be responsible for paying back the bond. In this case it is the owners of the property who need to give consent. Not the residents. So, the Reaps would need to give consent for their property even though they do not live in the district. Also, tenants in the district who do not own property would not be the ones giving consent, it would be the owner of the property.

The vote option would be by vote of all residents in Richmond. This would include legal voters who reside in the water and sewer district and legal voters who reside in Richmond outside of the water and sewer district. This would not include people who own property in Richmond but do not live in Richmond.

In order to get to either option we would need to have a plan for how the assessment would be applied. The assessment has to be applied in a fair manner, based on benefit received. We discussed the plan that we had built which was based on permitted flows. The attorneys said they would have to look at that more to determine if that type of plan would work. Properties which are not able to be developed would not be included in the assessment. Properties that are developable but are not currently developed would need to be included in the assessment. We may also be tied to the formula from the start and may not be able to adjust if a property has more development once the sewer line is in. This really brought up a lot of questions that will take time to answer.

Another option is to move forward without a special assessment. In this case we would have to prove that the annual revenue generated from the new users that are added by the expansion exceeds the annual cost of paying back the bond. This would still achieve the goal of not placing the burden of increased cost of expansion on the existing users. Again, this option needs some more exploration and details.

We can decide to move forward with the Bond vote for Town Meeting and explain in the informational documents and hearing that the bond payback is still under consideration. If we proceed with a Bond vote in March and it fails, we can have another Bond vote in November. You are allowed to go to the voters with the same Bond questions twice per year.

Hill: It is disorienting to be having this conversation so late in the process as we have been discussing the new users paying for the expansion for the past six years. This Commission has not taken a position of having new revenue alone from new users pay for the expansion. The conversation has been about having new users pay for the expansion and pay regular rates.

Sander: I asked how this is different than a power company charging a new user for poles to extend the utility to their property. We are waiting on a response on this question.

Chamberlin: I would note that the only way you can get additional revenue is to look at new revenue exceeding the cost of expansion. The only thing you can charge those customers for is for what is on the property right now, even for a special assessment. The only way to re-coup more costs is to hope that your revenue exceeds the bond payment.

Hill: The idea that a rate structure for bond payback would be locked in place does not make sense based on discussions over the years.

Sander: We are sort of doing this in reverse now with developments where we dictate what developers put in place and the Town takes it over.

Huntoon: They would only pay a special assessment and not regular water and sewer rates?

Sander: They would pay regular rates but for them to pay for the bond they would have to be in a special assessment district. We had been under the assumption that the new users would be paying for the bond with separate payments in addition to regular usage fees.

Hill: What we have said before was that the payback of the bond would be proportionate to use. Now if we do an assessment based on property that is not tied to future use, it does not make sense if a property grows that it would pay the same as when it was less developed when the bond payback started.

Furr: We have done other bond votes for sewer expansions. What did we do then?

Sander: I think we had a different lawyer at that time?

Hill: When we built the water tank it benefited everyone so everyone paid for it. The position that the Commission has had on this expansion was to not increase rates and don't make people pay for the expansion.

Arneson: We can still charge the future users for the bond, but it will take a few more steps to get there.

Sander: If we expanded to the mobile home park in the future, how would we balance those payments?

Arneson: We can move forward on the bond vote and figure out the special assessment, or hold off and figure out the special assessment and hold a bond vote later.

Chamberlin: I don't know if you could add the mobile home park to the initial extension.

Hill: Our work plan has now gotten more complicated. We now have a new set of items to address including rate structure and bond payback. We could create a special district with a separate rate structure within that district.

Furr: I want to make sure the distribution is equitable so no one sues us in the future. Also, what happens if we determine that a property is not developable and then it is developed in the future?

Huntoon: Zoning regulations are changing and that could change the density of development for land. Properties that are not currently developed but which can be developed would have to be included in the assessment. While we could go through with the bond vote I feel like we need to know more about the payback structure. It has to do with if the property owners are still interested.

Hill: I am thinking that now that there are significant changes and questions we cannot properly answer at this point it is hard to move forward with a bond vote without those answers. It makes sense to work on other parts of this project and continue to work on the assessment.

Huntoon: I can't move forward with a straight face not knowing how we will structure payback. We are still waiting for Steve Palmer to give us final costs.

Hill: Yes, we have to know the cost.

Chamberlin: If we look at what is there now and what we have a reasonably accurate idea of what will be there and we look at the revenue and if the revenue is more than the bond payment, would the Commission be interested in moving forward with a bond vote?

Sander: What is the deadline for finalizing a bond vote?

Arneson: January 18.

Sander: Will we have enough information to move ahead by that date?

Hill: Even if the fees exceed the bond pay back it is so different than the conversation we have had for the bond payback. I am not comfortable making that change in such a quick manner.

Sander: It sounds like we are in consensus that we are not going to hold a bond vote at Town Meeting?

Consensus was yes, hold off on a bond vote.

### **Discussion of including a waterline in the expansion project**

Sander: Then we can skip the discussion of the amount of a bond vote. Let's move on to including water.

Hill: It is plausible to include water in the discussion because of the longer time frame to get to the bond vote.

Huntoon: I think that the original intent has changed from the Reaps looking for sewer to come to their property. Now with the Planning Commission adding to the scope, water becomes important to the project in regards to zoning and developability of the land.

Hill: I agree with Fran. Also the mobile home park used to be interested and now they are not. Many parameters have shifted.

Sander: Are we going to discuss water or just decide to discuss it?

Hill: I think if we put it on the same track as sewer we need Phase 1 and 2 updates, rate structures and special assessment district. The scope is more clear than it was in the past.

Chamberlin: Private entities are allowed to build their own private system to town specifications and ask the Town to take over the system.

Hill: We need to be clear on our authority of the special assessment.

## **Discussion of outreach to properties in the expansion area which may have failing septic systems**

We know that one customer currently has a failing septic system and they are considering putting in a mound system. The idea was brought up at the last meeting that we could potentially lower the cost to receive their septage at the wastewater treatment facility and encourage them to pump their septic for the time being so they do not spend the \$20K - \$30K for a new mound system just a year or so prior to being able to hook onto the Town system.

Chamberlin: I don't think reducing the septage fee is the best route to go. Other residents have asked for this consideration. The septage fee is a small part of the cost to pump a tank. Even if they pumped for two years at regular rates it would be a lot less than putting in a mound system.

Hill: I am not sure we have the authority to give a discount to any specific individual. The question has come up over the years for discounts for residents who cannot afford something and we have never been able to do anything for them.

Sander: You would actually be giving the hauler the discount for that one customer and it would be a small offset on their total bill.

Furr: I want to emphasize that it would be less expensive for them to pump even at regular rates.

Huntoon: Kendall and Josh should reach out to the property owner to discuss the option to pump their system with them.

Hill: Kendall, can you quantify how much the septage fee is in relation to the cost to pump a tank.

Chamberlin: The average cost is about \$300 and about \$60 of that cost is for the septage. Customers can set up a schedule with the hauler and they may get a discounted rate from the hauler.

Huntoon: Looking forward will we still meet every Monday? I feel like the fee structure is something we looked at a bit, but now we need to see what that will really look like and look at developable properties.

Sander: I think next meeting we should have some feedback from the attorneys. We may want to wait until the next meeting to see if we need an extra meeting.

Hill: I am fine adding meetings as needed. There may be a holding pattern based on feedback from the attorneys and the engineer.

Bressor: There had been discussion that the new users would also pay back the engineering and planning money that has gone into this. Where does the Commission stand on this?

Hill: To approach that it may be reasonable to come up with an estimate of how much we have spent so far on planning.

Huntoon moved to adjourn. Furr seconded. Roll call vote, Huntoon, Furr, Hill, Sander in favor. All in favor. Motion passed.

Meeting adjourned at 6:20pm.