

SELECTMEN'S WORKSHOP
Minutes of 04/28/08
4:00 p.m.

Selectmen:

Peter F. Brothers, Chairman
Miller C. Lovett, Vice Chairman
Robert C. Flanders
Charles G. Palm
Colette Worsman

Town Manager:

Carol M. Granfield

Recording Clerk:

Karin Landry

The Workshop was opened by Chair Peter Brothers at 4:00 p.m. The Chair introduced the Selectmen, Town Manager, Recording Clerk, and invited guest Ray Korber of KV Partners. He thanked the Board for conducting business in his absence on April 7 and thanked Selectman Lovett for acting as Chair.

W 08-24 Senior Housing of NH Development Agreement

Senior Housing of New Hampshire intends to construct an 85-unit senior housing facility on Upper Mile Point Rd. The Board held several workshops to review the Development Agreement that provides for municipal water and wastewater service for the property. At the last workshop, the Board posed questions regarding the Agreement that are addressed in the latest Staff Report, dated April 28, 2008.

Ray Korber of KV Partners set forth the modifications to the Development Agreement as a result of the items addressed at the previous workshop:

- (i) Article 3.4: Added references to easements and Town's ability to inspect and repair Applicant's services;
- (ii) Articles 3.7 and 4.3a: Deleted references to Town's control over "quality" and "timeliness" of Applicant's work;
- (iii) Article 4.3: Revised "commercial bank" to "financial institution";
- (iv) Article 4.9: Revised text by deleting reference to "water system improvements" as it pertains to the \$100,000 payment;
- (v) Article 4.10.e: Added this paragraph stating Town is not obligated to provide water to third parties.

Dialogue ensued regarding the accuracy of the Maximum Daily Demand ("MDD") calculations due to problems with the water system that occurred during the summer of 2007. Mr. Korber told the Board that the Water Use Ordinance sets forth that the MDD is the highest daily water treatment plant flow (finished water pumped) recorded under normal operations for the previous 36 months of record. The value recorded in May 2007 was 753,000 gallons per day (GPD) and is suspect as the finished water meter was found to be defective and ultimately replaced in June 2007. The largest value recorded in the

past 36 months under normal operations was 669,000 GPD in September 2005. The MDD continues to be recorded monthly and will be updated for the purposes of calculating available capacity. The Town's legal counsel advised that using a number that is known not to be reliable would be incorrect, and that the courts would agree that an accurate number should be utilized.

There was a general consensus by the Board that the MDD should exclude the May 2007 figure of 753,000 GPD because it was an anomaly. It will be taken out of the calculations for the prior 36 months, and will completely work its way out of the calculations in July of 2010. The calculations for the Senior Housing of New Hampshire project have accounted for the May 2007 anomaly.

Selectman Worsman expressed concerns with the potential for expanding the Existing Service Area ("ESA") by extending the terminus. If the Senior Housing Development Agreement is approved, it will expand the ESA by two more service units. She is concerned with future developments using all the capacity in the ESA, creating a disservice to those already in the ESA as defined last summer.

Mr. Korber recommended updating the Water Distribution System Map once the pipes are in the ground for a new or extended water main. Doing so will redefine the ESA. He suggested tying a specific date to the reference to the "latest edition of the Water Distribution System Map" in the Ordinance. He pointed out that Section 321b of the Ordinance provides that "The Department reserves the right to refuse water service to any owner that contemplates building until such time as an occupancy permit has been issued and that adequate water service, as determined by the Department, can be supplied."

Dialogue ensued regarding whether building on the two lots created by extending the terminus would fall under Section 301 of the Water Use Ordinance which requires "A public water main shall be deemed available if approved building is within 100' of water main as measured from the closest part of structure that contains plumbing along or across shortest available easement to center line of water main." There was a general consensus that the two lots need to be included in the Tier 2 allocation for Available Spare Capacity (parcels within the ESA). Those lots must be included in the calculations when redefining the Service Area. The creation of the additional lots within the ESA does not impact the Senior Housing of New Hampshire Development Agreement. The Board agreed that there needs to be an adjustment to Section 301 of the Ordinance.

Dialogue ensued regarding the use of professional engineers. There is no list of acceptable engineers for developers to choose from. The developer chooses the engineer they wish to work with and presents their plan to the Town. The Town has its own engineer review the plan at the cost of the developer. The Town engineer must sign off on any work before it is completed. Ray Korber of KV Partners is representing the Town in the project that is before the Board. There is a different engineer representing the Applicant.

The Board is aware that it is setting precedence for the future. One of its objectives is to periodically review the interpretation of the Ordinance. The Chair expressed appreciation to the Laconia Area Land Trust and Senior Housing of New Hampshire for their patience during the crafting of their respective Development Agreements. The Board agreed that they are prepared to bring up a formal motion for acceptance at the meeting following the workshop.

W 08-25 Varied Items

Dialogue ensued regarding the agenda for upcoming meetings. Selectman Flanders notified the Board that he is requesting a Non-Public session after the regular meeting following the workshop.

Resident Richard Juve commented that he submitted an application to serve on the Water System Committee but has not received a letter of acceptance or rejection. The Chair explained that there were more applicants than positions to be filled. He set forth the criteria for choosing the applicants. The Town greatly appreciates all those who took the time to submit an application.

Selectman Flanders motioned to adjourn the meeting at 5:05 p.m. Seconded by Selectman Palm. 5-0. All in favor. Motion passed unanimously.

Respectfully submitted,

Carol M. Granfield, Town Manager

Peter F. Brothers, Chairman

Karin Landry, Recording Clerk

Miller C. Lovett, Vice Chairman

Robert C. Flanders

Charles G. Palm

Colette Worsman