



TOWN OF KINGSTON
Office of the Sewer Commission/Wastewater Department
26 Evergreen Street
Kingston, MA 02364

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Elaine A. Fiore
Peter C. Cobb
Thomas W. Taylor, Jr.

Minutes
December 9, 2009

A special meeting of the Board of Sewer Commissioners was held today to discuss the possible amendment to the agreement between the Board of Sewer Commissioners and Thorndike Development. Members in attendance were Elaine Fiore, Peter Cobb and Thomas Taylor. Also in attendance was Town Counsel, Lisa Mead, Superintendent/Chief Operator, Kenneth Vandal and office staff Suzanne Richards and Diane Poirier.

The Sewer Commission signed department bills totaling \$6,971.63. Ms. Fiore received the Bureau of Accounts Schedule A-2 and will confirm the figures prior to signing the form.

Lisa Mead began the discussion of the Agreement between the Sewer Commission and Thorndike Development. She stated that the Planning Board Decision was a draft and that they would be discussing it further on either December 21 or 22, 2009. The final Decision will not be rendered until January 2010. The final decision should clearly state all the conditions of the Amendment with the Sewer Commission. Ms. Mead stated that she did not feel that the original Agreement between the Sewer Commission and Thorndike was clear enough. It was unclear as to which party would be procuring and building certain items. The following is a summary of discussion points.

- The Sewer Commission needs to review the plans to make sure that the sewer elements are built to specification. The Agreement needs to be clearly written to state that Thorndike will build and pay for specific items. Thorndike will be funding these items and the Sewer Commission will have their consultant (Peer Review Engineer chosen by the Sewer Commission) review all plans and work.
- Thorndike will provide funding for the design of the plant expansion needs for 1 SBR. Ms. Mead mentioned that this is stated as being capped at 8% of construction costs but the standard is typically 10%. The Board agreed that it should be kept at the standard of 10% and that this item should be changed. Thorndike will provide funding for the expansion at 10% of construction costs and the Sewer Commission will be responsible for the design and construction.
- Regarding the Leaching Fields, Thorndike will be responsible for the design and construction from the WWTF to the Davis site as well as the leaching field at the Davis site. The Board will review all design and construction work and should specify that they will choose the Engineer to review this



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work, whether Thorndike uses the same Engineer as the Sewer Commission or not.

- Ms. Mead asked if the Board had a preference of Leaching plan A or B. Although the Transfer Station site is close to being permitted already a pipe would still need to be brought to the Davis property for additional leaching capacity. Thorndike should at least be responsible for the difference in the cost of the two sites. The Board felt the Davis property was better since it will assure the department that there is the larger leaching capacity for future needs. (A reserve area.) The Board agreed that the Transfer Station should be removed from the Amended Agreement.
- Ms. Mead recommended that the Sewer Commission ask for a firm date for the purchase of the property required for the leaching fields.
- Ms. Mead mentioned that Mr. Geisinger has 3 million dollars in obligations to the Town of Kingston, not including the commitments he has made to the Sewer Commission. His Phase 1 work will not provide enough funds to cover all of these. The Sewer Commission needs to tie his obligations to permits instead of dates.
- The Board stated that the best estimate to bring a third SBR into operation is 2 years from now. The best cost estimate for the WWTF expansion for 1 SBR is about 6 million dollars. Ms. Mead stated that the Sewer Commission needs to know when they can expect to receive the 10% (\$600,000.00) contribution from Thorndike. Ms. Fiore agreed stating that CDM is already working on the design to get ready for applying for Stimulus Funding.
- Ms. Mead also felt it important to know when Thorndike will formally take ownership of the Davis property. Mr. Geisinger needs to give ownership of the leaching field areas to the Town and specify that the land will be under the control of the Sewer Commission.
- The Planning Board decision mentions amendments to utility easements. If there were any sewer easements, they have not been provided to or reviewed by the Sewer Commission.
- Discussion referred back to permitting timelines. The Sewer Commission anticipates it will take 18 months to obtain a Groundwater Discharge Permit from DEP with about 24 months for final permitting to the Town.
- Thorndike is obligated to provide 350,000 gallons of leaching capacity to the Town. As part of the original Agreement, if the Transfer Station cannot give that amount then they have to go to the Davis property for the rest. The Amended Agreement will concentrate on the Davis property in order to keep all of the leaching area on one site.
- The redevelopment of the WWTF site will be redesigned, reconstructed and paid for by Thorndike. The Sewer Commission will have the right to have a



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Peer Review Engineer, chosen by the Sewer Commission, review all of the work. Thorndike is responsible to pay for the Peer Review Engineer as well.

- As an Enterprise Fund, Town Meeting has to give approval to provide land for the roadways. Ms. Mead questioned whether the land swap covered the land needed for all of the 40 R roadway improvements. She also questioned who has control over the land. The deed would state who was given control of the land at the time the Town acquired it. If the Selectmen gave control of the land to the Sewer Commission when the elected Board was established then the Sewer Commission would have to give control back to the Selectmen and the Selectmen would have to seek Town Meeting approval.
- Regarding the control of land, the Sewer Commission needs to make it clearly stated that the land for the leaching fields at the Davis property is given under the control of the Board of Sewer Commissioners.
- Ms. Mead asked for the Sewer Commission to provide her with copies of the Town Meeting vote(s) that allowed the operation of the WWTF on the current site. She also requested the vote that transferred the Selectmen as Sewer Commission over to the elected Board of Sewer Commissioners. There should be a vote transferring the site under the dominion of the elected Sewer Commission.
- The Board briefly discussed the siting of the wind turbine. Ms. Mead stated that the Net Metering regulations have changed but the tariffs have not been set yet. The Net Metering allows for the sharing of credits that would be beneficial to the municipal buildings. A transformer is needed to harness the energy from the turbine (at least a 660KW transformer would have to be placed on the site) and send the energy to a designated building. Previous experience with similar projects indicates that the building would need to be shut down for up to 48 hours to update the wiring.
- Tom Bott should be contacted for the utility easements plans for the 40R project.
- At this time the only thing mentioned in the Draft Decision is that the Sewer Commission Agreement will be incorporated into the final decision and become part of it. If Thorndike did not comply with the Sewer Commission Agreement then they would be in violation.
- What would happen if Thorndike were to sell the project after all permits are in place? Ms. Mead said that page 5 states that the decision would apply to any successor. She was asked if the decision would be recorded at the Registry of Deeds. Ms. Mead was not sure but said she would check on that.
- Page 7 of the decision refers to emergency repairs being done, which would be reimbursed by the developer/40R. If they failed to reimburse the costs then a lien would be placed on improvements to the property.



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- Number 8 states that all invoices for Peer Reviews will be paid within 20 days.
- If there are any appeals filed then the developer would be responsible for the cost of legal fees.
- The Sewer Commission did not want to tie benefits they will receive to occupancy permits. They need their work to be done as soon as possible. Ms. Mead commented that Thorndike must have all of the infrastructure work done before an occupancy permit is issued. They would have to complete Phase 1 work to get an occupancy permit.
- The Sewer Commission needs the Davis leaching fields. The pipe could be run to the property before the property is permitted as a disposal site. This could be tied to a building permit.
- The permitting for the Groundwater Discharge Permit could be tied to the certificate of occupancy for the first unit in Phase 1 stating that the permitting process would begin upon the issuance of the first building permit.
- Number 11 states that as-builts will be provided when all buildings in Phase 1 are complete. This would be 2 buildings. All water, sewer and electrical, etc. work would be done.
- Ms. Fiore questioned number 12. What do they refer to when they say substantial modifications? Ms. Mead explained that it would be something like not being able to build a road where it was planned, omitting a road completely or not being able to place a building where it was planned.
- Ms. Fiore asked that Number 2 be modified to minimize the inconvenience to municipal/town elements.
- Page 11, Number 4 – Improvements to local roads. Does this apply to service roads and driveways? Ms. Mead requested that the Board obtain a copy of the Roadway MOA. The Board also needs to review Exhibit B-1, which they have not seen and Exhibit B-2.
- There is also language related to a sewer connection for the Transfer Station office and a grinder pump being provided. Nobody has approached the Sewer Commission about connecting the Transfer Station to the sewer and it would not be a simple connection.
- The last paragraph of the draft amended agreement refers to leaching fields. This will be taken out of the amended agreement.
- Page 15 Number 2 of the Draft Decision states that one system is a municipal wastewater forced main (to be designed by others). This should be changed because it is to be designed by Thorndike. Letter A under this is not clear. The Sewer Commission needs easements for the sewer lines.
- The Sewer Commission felt the cash contribution should be tied to the earth removal permit. Ms. Mead suggested that it would be better to tie it to the



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building permit as the earth removal will generate the money to pay for it.

The Board compromised somewhat by agreeing to leave it as it is written in the amended agreement and add that in no event shall a building permit be issued unless the payment has been made to the Sewer Commission.

- Ms. Mead asked for a copy of the agreement Thorndike provided to the Sewer Commission dated October 30, 2009. Number 5 of this document refers to paying within 3 months of litigation or appeals of litigation. It also stated that they will pay 8% of construction costs less an allocation for supervision of construction of the upgrade. Ms. Mead will look into this further.
- Number 8 referred to a penalty for the late delivery of benefits to the Sewer Commission. Thorndike will pay a penalty of 10% of the obligation not met. This should be clarified to state they the 10% penalty is paid in addition to the obligation as well as any interest incurred as a result of the Sewer Commission borrowing money because the obligation was not paid.
- Ms. Mead will rewrite the Draft Agreement and would like to get it finalized by the Sewer Commission by the Planning Board meeting in January.

Upon conclusion of the discussion with Ms. Mead the Sewer Commission discussed a request for a sewer connection extension made by Daniel Alves of 11 Leland Road. The Board agreed to give Mr. Alves an extension until April 1, 2010.

Ms. Fiore mentioned Weston and Sampson had provided Tom Bott with turbine site constraints diagrams and that they will be review at a Green Energy Committee at a later date.

There is also another workshop scheduled for January 19, 2010 in Holyoke to provide information about placing wind turbines on capped landfills. Ms. Fiore has signed up for this workshop.

MOTION, by Elaine Fiore, seconded by Peter Cobb, to approve the minutes of December 1, 2009. The motion was unanimously approved.

MOTION, by Peter Cobb, seconded by Thomas Taylor, to adjourn the meeting at 3:30 PM. The motion was unanimously voted.

Suzanne Richards
Administrative Assistant