

December 29, 2009

A special meeting of the Board of Water Commissioners/Water Quality Review Committee was held on Tuesday, December 29, 2009 in the Michael G. MacPherson Meeting Room at the Elm Street Pumping Station and was called to order at 10:00 A.M. by the Chairman, Robert R. Kostka. Present were: Robert R. Kostka, Fred D. Svenson, Jr., Richard W. Loring, Jr., Mark Devine of Coler & Colantonio, Mark Bobrowski of Blatman, Bobrowski and Mead, Town Counsel; Jill Myers, Town Administrator, Matthew J. Darsch, Superintendent and Marylou Joyce, Clerk.

The following invoices were approved for payment:

See Attached

Chairman Kostka stated that the purpose of our meeting today is to try and determine what information town counsel needs from us in order to negotiate a revised agreement with the proponents of 1021 Kingston Place.

There was discussion regarding the board's request that the Water Commissioners want to continue to handle the reimbursement payments for work done by Coler & Colantonio. Mr. Bobrowski had no problem with this but suggested that the board institute an escrow account for this purpose to avoid the possibility of delinquent payments.

Mr. Svenson mentioned the on-going manganese problem at Trackle Pond Well Site and Mark Devine explained how this could affect 1021 Kingston Place and would result in the construction of an additional booster pump to divert water from the low-pressure zone.

There was discussion regarding the \$1,000,000 advance connection fee payment that had been promised in the first agreement. This payment was to be paid when 1-86 received DEP approval, which happened almost a year ago.

Mr. Bobrowski explained that it is unlikely that any developer would make an advance payment when a 3rd party litigation appeal is pending.

Mr. Loring expressed his opinion that he doubts that this project will go forward in any other way than a gravel removal project.

Mr. Kostka disagreed and stated that he believes in this project and supports it since it furthers the goals that were established during the execution of the town's Master Plan. He stated that he does have concerns but has not given up hope that the project will go forward. He stated that he would be comfortable with the gravel removal if any funds in excess of the 1st 200,000 yards in Phase 1 were required to be put back into the project.

Ms. Myers stated that the Board of Selectmen have approved the Phase 1 of the gravel removal project but does not believe there was any requirement to funnel receipts back into the project during this Phase.

Mr. Loring and Mrs. Svenson stated that the permit should have tight controls since the proponent of 1021 Kingston Place is not the owner of any of the property nor the principal listed on the bond.

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Mr. Bobrowski stated that he has already met with the counsel for 1021 Kingston Place in order to begin creating new memorandum of understanding between the various town departments (including ours) and the developer. He identified four areas for discussion: conservation issues surrounding Smelt Brook, infrastructure improvements, the \$2,153 million dollars in connection fees to be paid (\$1,000,000 of which was to be paid in advance) and the proposed conservation measures that the developer could do to defray some of those connection fee payments. He stated that he needs to know what can be kept from the original agreement and what does not.

There was a lengthy discussion regarding the following topics:

Some consideration for the interest the department lost when the \$1,000,000 payment was not made. Perhaps the developer could fund the cost of the reverse 911 system that the town could not keep for financial reasons.

Having the developer replace and relocate the water main under the highway (using directional drilling) from Prospect St. to Cranberry Rd. This work should be done during the construction of the slip ramp.

What costs should the developer should bear in relation to engineering costs related to the construction of well site 1-86. This is mentioned in the first agreement. (The developer has not been billed for any charges). Should these be totaled up and become payable before the first building permit is approved. If connection fees go up during the course of the project – the developer should be required to pay the new fee or should there be a "cola" added to the agreement.

The need for a specific list of in-kind services that would enable the developer to reduce the costs of his connection fees. Some conservation methods listed in the earlier agreement may change now that the approval of 1-86 has been completed. System improvements made outside of the development. The leaching fields adjacent to Smelt Brook.

At this point Mr. Bobrowski stated that he believed the commissioners should concentrate on creating a list of two columns to be discussed with the developer. Column 1 would be required items and Column 2 would be desired items that may be offered with a 50% reimbursement towards connection fees. Mr. Bobrowski stated that he would like to meet with Mark Devine of Coler & Colantonio and the counsel for 1021 Kingston Place prior to our meeting on the 12th. No negotiations would take place then but we could put some of our concerns out there so they are prepared to discuss them on the 12th.

It was agreed that the Board of Water Commissioners would meet again on January 6th. (This was later corrected to January 5th.) Mr. Bobrowski cannot attend that meeting but will try to set one up for the 11th in Boston. Mark Devine will attend that meeting. Mr. Bobrowski and Ms. Myers left the meeting.

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On a motion of Richard W. Loring, Jr., it was unanimously voted to amend the Rules and Regulations of the Water Department effective January 1, 2010 to add:

No new Underground Irrigation system may be connected to municipal water and that a penalty of \$500.00 be instituted for a violation.

UNFINISHED BUSINESS

1. Well Site 1-86
2. Indian Pond Tank
3. R.F.P. – parking at Smith Lane Tank
4. Police Antenna Repair
5. Second Brook Well Site
6. Marty's
7. Manhasset Gardens Easement

NEW BUSINESS

- a. 12/9/09 – Jill Myers, Town Adm. re: FY2011 Preliminary Budget
- b. Bureau of Accounts Schedule A-2 2009/2010
- c. 12/12/09 – MA DCR re: WMA Permits
- d. 12/15/09 – Email from Tom Bott, Town Planner re: 1021 Kingston Place
- e. 12/22/09 - Email from Tom Bott, Town Planner re: 1021 Kingston Place
- f. 12/22/09 – Mark Bobrowski, re: 1021 Kingston Place
- g. 12/14/09 – Elaine Fiore, Sewer Commissioner re: 1021 Kingston Place
- h. 12/8/09 – Jeanne Napolitano, MA Tech. Re: Micro Hydro Study
- i. 12/9/09 – Mark Devine, Coler & Colantonio re: 1-86
- j. 12/3/09 – Sanford Ecol. Re: Ind. Mall Fourth Quarter 2009
- k. 12/22/09 – Copy of letter from Jeff Mathias, Smelt Pond Cranberry re: Bog

APPLICATIONS

None

MONIES RECEIVED SINCE OUR LAST MEETING

None

ABATEMENTS

See Attached

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COMMITMENTS

See Attached

WATER DEPARTMENT CORRESPONDENCE SINCE LAST MEETING

- a. 12/9/09 – Email to Tom Bott, Town Planner re: Kingston Place
- b. 12/29/09 – email to Mark Bobrowski re: Kingston Place
- c. 12/17/09 – Jeanne Napolitano MA Tech re: Micro Hydro
- d. 12/17/09 – Jill Myers, Town Adm. re: Micro Hydro
- e. 11/20/09 – Amy Beard, MA Tech re: Micro Hydro
- f. 12/9/09 – Jill Myers, Town Adm. re: Micro Hydro

WATER QUALITY REVIEW COMMITTEE

No Additional Business

On a motion of Richard W. Loring, Jr., it was unanimously voted to adjourn the meeting at 12:10 P.M.

Respectfully submitted,

Marylou Joyce
Clerk.