

**MINUTES**  
**Dover Utilities Commission**  
**Public Works Facility Conference Room – 271 Mast Road**  
**Monday, February 27, 2006 @ 4:15 p.m.**

**Members Present:** Roland Hofemann, Arthur Hoffman, Rick Hebbard, Roland Belhumeur, Donald Andolina

**Members Absent:** Dan Ayer, Patrick Bowen, Jay Stephens

**Staff Present:** Doug Steele – Interim Director of Community Services, Jamie McCulloch, DUC Secretary, Sharon Lucey, Water Meter Backflow Coordinator, Bill Boulanger, Utilities System Supervisor

**Others Present:** Harold B. McGarry, 8 Dover Point Road, Karl & Janet Heller, 10 Dover Point Road, and other individuals associated with the Dover Point Rod properties. (Only the names of the individuals that spoke are listed).

1. **APPROVAL OF MINUTES**

A. October 17, 2005 – 2B

**Motion:** Belhumeur made a motion to table the minutes until there were enough members that were present at that meeting to vote on the minutes. Andolina seconded the motion. Vote U/A.

B. November 21, 2005

**Motion:** Hebbard made a motion to accept the minutes. Seconded by Belhumeur. Corrections: Page 3, first line, it should read, "Ayer stated that he felt that Finance was making a "good" faith effort to do what they could to estimate the bills", not "food". Page 3, fourth paragraph, the first sentence should read "Hoffman suggested that the doorknockers that are left on customers doors should perhaps be a carbon copy", not "Hoffman suggested that the waivers that would be sent out to the customers when their meter was going to be tested should perhaps be a carbon copy".

2. **ABATEMENTS**

A. **Daniel Sheehan – 109 Rutland Street** – The applicant was not present at the meeting at this time, so staff moved onto the next item.

B. **Stephen & Lee Ann Parks – 6-8 Atkinson Street** – Ms. Parks was present to speak on behalf of the abatement. Ms. Parks stated that the property was an investment property and they receive monthly water and sewer bills. She stated that they do not reside at the property, so if there was a toilet leaking at the property, they would not have had any knowledge of that. She stated that they received the bill in question, which had doubled, and contacted the City. She stated that the Water Division employees found that the toilet on the first floor was leaking, so she and her husband took that toilet out. She stated that no sewer was used and they are hoping to see a reduction on the sewer portion of the bill they received. Ms. Parks stated that no sewer was used

Hoffman stated that unfortunately, because the water did flow through the toilet, it did need to be treated and the water did enter the sewer collection system. Lucey stated that the Water Division employees found a leaking toilet. She stated that the blue dial was still turning after the toilet was shut off, indicating that water was still leaking from somewhere. Hebbard asked how many meters were in the residence. Lucey stated 1. Hebbard asked when the meter was installed and if it was a radio read. Lucey stated that it was installed on 4/34/2003, and it was a brand new radio read meter. Andolina asked if the board had ever issued an abatement for a leaking toilet, and if not, it would set a precedent. Hoffman stated that in the past, the board has required applicant's to pay for the water, however, if there was a situation where there was a broken pipe, or water heater, abatements on the sewer portion of the bill have been issued. Ms. Parks stated that she received an abatement on her property at 16-18 Rutland Street for a leaking toilet in the past. Lucey explained that the only credits that are issued is the 80-unit abatement that was approved by the City Council when there was a discrepancy.

The board asked for the documentation of the sewer credit that was issued to the property at 16-18 Rutland Street for the next meeting.

**Motion:** Hebbard made the motion to grant the 80-unit abatement on sewer only. Belhumeur seconded the motion. Vote 2-3, motion fails.

**Discussion:** Belhumeur mentioned that he would like to hold off on making a decision until the board had a chance to review the documentation concerning the credit given on the 16-18 Rutland Street property. Andolina stated that while he can sympathize with Ms. Parks situation, he questioned why the City should issue an abatement if the City did not cause the problem. Ms. Parks stated that the water was not contaminated, and did not need to be treated, adding that she understands that she needs to pay the water portion of the bill. Andolina reiterated that issuing an abatement would be setting a precedent.

**Motion:** Andolina made the motion to deny the request. There was no second.

**Motion:** Andolina made the motion to table the request until the next meeting where there would be more members willing to vote on the request. Staff will also investigate the abatement that Ms. Parks stated she received in the past for a leaking toilet at her 16-18 Rutland Street property. Seconded by Belhumeur. Vote U/A.

**C. Grover Tasker Jr. – 4 Whittier Street –** The applicant was present to speak on behalf of the abatement. Mr. Tasker stated that he received a \$1,800.00 water and sewer bill, which indicated a usage of 265-units, which would equal 198,000 gallons of water in 3-months. He stated that even with a pool and a hot tub, he could not have used that much water. He stated that the bill went back to normal after the employees went out to his house. He stated that he is disputing the December bill.

Lucey stated that the radio read meter was installed on 11/6/1996. She stated that the meter tested out at 99.3%. She went over the readings with the board. Hoffman asked about the changing of the battery in the meter. Lucey stated that they could receive readings inside Mr. Tasker's house, but she was unable to get a reading at the PW Facility perhaps because of the metal roof, so she replaced the battery. Hebbard asked Boulanger what the water pressure was in that area. Boulanger stated that it was about 55-60. Hebbard asked Boulanger to calculate how many gallons of water could go through a ¾ inch pipe, as a ¾ inch pipe would be similar to Mr. Tasker's, adding that he wanted to see how long it would take for 250,000 gallons to go through the meter. Boulanger left to complete his calculations and returned with the result that at 55 PSI in a ¾ inch pipe, 85 gallons a minute or 230,000 gallons would pass through the meter in one day. See file for Boulanger's calculations/spreadsheet.

Hoffman stated that the bill in question is over a 3-month period. Andolina asked for the size of the pool. Mr. Tasker stated that it was 18,000 gallons.

There was some discussion.

Andolina asked what type of abatement Mr. Tasker was looking for? Mr. Tasker stated that he was looking for an average of his previous usage, or even his current usage. Lucey stated that the City cannot be responsible for the plumbing inside of a residence, adding that whatever was occurring to cause the high bill has stopped.

**Motion:** Hebbard made the motion to re-bill Mr. Tasker using an average usage during that same time period, and to have the meter changed out. Seconded by Hofemann.

Comment: Hoffman stated that the board relies on the meters for billing purposes, whether the readings are high or low.

**Vote:** 4-1 Hoffman opposed.

- The board moved to item 2A

**A. Daniel Sheehan – 109 Rutland Street –** Since the applicant had not arrived at the meeting, the board made the following decision.

**Motion:** Belhumeur made the motion to table the request until the March meeting, as the applicant was unable to attend the meeting. Seconded by Hebbard. Vote U/A.

**Motion:** Andolina made the motion to suspend the rules and move to item **5A** – New Business. Seconded by Hebbard. Vote U/A.

5. **NEW BUSINESS**

- A. **8, 10, 12 Dover Point Road** – Staff requests a discussion and vote on whether to retroactively collect for 3-years of sewer usage charges.

Bill Boulanger spoke on behalf of the City. He stated that he met with Mr. Wood, one of the homeowners involved and has kept in contact with him regarding this situation. He stated that he was contacted regarding a groundwater problem in the sewer easement out behind the above referenced properties and there needs to be an under drain installed. He stated that he was under the assumption that these 3 properties were not tied to sewer, only to find out from the homeowners that they have been tied to the sewer since 1978. He stated that according to the Sewer Easement document, the sewer tie in fees were waived. He stated that he was looking for direction as to whether or not the City should go back 3-years and collect sewer usage fees per the statute of limitations.

Mr. McGarry, 8 Dover Point Road, stated that he was under the impression that the homeowners were waived from having to pay the sewer fees. Boulanger stated that while tving the sewer lines, it brought this issue to light, that they were hooked up to City sewer. Mr. Heller, 12 Dover Point Road stated that he moved into the home in March of 1999 and in June he received his water bill. He stated that he called and asked the neighbors why he was not being charged for sewer usage and they explained to him that they were exempt and have been. He stated that he was also told by a City official that he was exempt from paying sewer usage fees, adding that he did not get that individuals name. He commented on how this was let go for 25-years and then the City approaches the homeowners and informs them that they just found out this was an issue. Boulanger stated that it is up to the board to decide to go back and collect, or to start charging the residents from today. Andolina stated that the bottom line is the 3-years back payment. Heller stated that the homeowners are honest folks, they are not being malicious, and he did inquire about the situation.

Hoffman stated that in previous situations, it has been that the homeowner be charged as of the date of the meeting, adding that he would not be in favor of going back 3-years. It was mentioned that all septic tanks were demolished when the homeowners connected.

There was some discussion on the groundwater problem in the area of the sewer easement.

Boulanger stated that he is confident that the pockets of water out behind the residences is groundwater per all of the testing that they have done. Andolina stated that there are 3 issues, back rent, future rent, and potential contamination.

**Motion:** Andolina made the motion to waive the 3-year passed rent/sewer usage fees. Seconded by Belhumeur. Vote U/A.

**Additional discussion:** Hebbard stated that he did his homework on this subject and he found that Jay Stephens was the Engineer at that time. He stated that he and Stephens had a conversation on the situation as to whether or not there were any side deals made and Stephens stated no, he did not believe so. They also discussed whether or not Pete Bouchard, the Director of Community Services at the time would have made that type of deal and Stephens did not believe that would have occurred. They agreed that the City Council would have been the only authority to agree to such an agreement. Hebbard passed out copies of a resolution he located during his research at the City Clerk's Office that pertained to the situation, however, he found nothing in any minutes that indicated that the homeowners were ever compensated as stated in the resolution. (See file for copy of the resolution). He stated that he spoke with Phil Morrisette, a previous City Clerk about the situation. After their discussion the feeling was that there was a strong possibility of an agreement, but no documentation to support this.

Hebbard stated that he does not see how this could go 28-years, adding that he does not think the homeowners would lie. He stated that if the City wants them to pay in future, to have the City Council vote on it. He reiterated that in his research, he could not find anything that states the homeowners were compensated. Hoffman stated that the resolution referenced Change Order #1, adding that the board would need to see the original change order if it was available. Hebbard mentioned that he did not locate any other change orders in his research. Boulanger stated that the easements and as-builts are the only documents the City has left for documentation.

Hebbard stated that he does not see where Boulanger has the authority to do a drainage easement. He added that the drain would be draining water over someone else's property, and he questioned the legality. He also mentioned that the drainage would be draining into Varneybrook. Boulanger stated that he would have to draw up drainage easements and have the homeowners sign them before starting the drain project.

Mr. Heller stated that he believes there was and is an agreement that was agreed upon. Boulanger stated that there is no sideline agreement letter regarding usage in the files. Andolina stated that there would need to be evidence brought forward and then the homeowners could come back to the board. Mr. Heller stated that if the City can't show us that there wasn't an agreement, he does not feel that they should have to pay. He added that for 25+ years, no one has paid for sewer usage and that should have some bearing on their case. Boulanger suggested having the City Attorney get involved to review the easement.

**Motion:** Hebbard made the motion to pass on the information to the City Attorney. Motion withdrawn as it was not required.

**Discussion:** The board agreed to have the City Attorney look at the easements and go from there. The item would be put on the March agenda to be discussed.

- The board went back in order of the agenda to item 3 – Reports.

### 3. REPORTS

#### A. Utilities Report

##### Sewer

Steele stated that there were no violations at the WWTP. He stated that the Charles Street pump station upgrade has been completed, and the punch list is being worked on. He stated that the Varney Brook force main would go out to bid next month. He stated that Sandy Collucci has retired from the WWTP; and Jessica Cotton from the Finance Department has replaced her.

##### Water

Steele stated that there were no bacteria problems since the last meeting. He stated that the Bouchard Well and Treatment Plant would go out to bid next month. He stated that MTBE levels at a monitoring well at the Cummings Well have been confirmed at levels above drinking water standards.

There was some discussion.

Steele spoke to a situation regarding the Griffin Well. He stated that about 15,000 yards of what the neighboring company Proulx thought to be clean safe fill was brought in from the DOT job in Newington, turned out to be contaminated with petroleum. He stated that the volatile compounds are being removed ASAP. He stated that monitoring wells are being installed between the Griffin Well and the fill site. Hebbard asked why Dean Peschel, the City's Environmental Programs Manager did not inspect every load. Steele stated that Peschel was present to inspect several loads, adding that not all of the 15,000 yards are contaminated, but they cannot say exactly where it's contaminated. Steele stated that the situation is being rectified.

Steele stated that on the north end of town residences are calling regarding water pressure problems. He stated that he, Boulanger and the Planning Department met to discuss the issue. He stated that in the 2008 CIP, a new water main for Old Rochester Road has been added. He stated that the RFP for the design just went out.

Steele added that they are looking at resolutions for bringing up the water pressure, and installing this new water main will insure adequate flow and fire protection. He stated that the City Engineer would be attending a workshop with the City Council on this issue.

#### B. Abatement Review Team

None of the applicant's have chosen to appeal to the DUC as of yet.

#### 4. OLD BUSINESS

None.

#### 5 B. Discussion and vote to approve/deny a change of start time for DUC meetings.

Hebbard stated that he suggested changing the start time of the meeting to get more members to be able to attend the meeting, and for applicant's that have to work. It was agreed that this topic would be put on the March agenda to be discussed when more members were present.

#### Other New Business:

Hebbard stated that he talked to Jay Stephens and they both agreed that even though there may not be abatement requests on the agenda, that the board should still meet every month. Staff mentioned that as long as there were enough voting members able to attend each month, the board would meet.

Hebbard asked that in the DUC Regulations, Section 1-9, under Meter Testing, sentence 5, that the word designee or agent be added after customer. "The customer, **designee or agent** shall be present during the test." Staff mentioned that along with this change, there were additional changes to be made to the regulations and then they would be submitted to the City Council for approval.

Hebbard asked Lucey what was done with the old meters. Lucey stated that they are sent back to the company for scrap metal.

Hebbard asked if the board could change the rate increase timeline. Lucey stated that the rates are set every year on September 1<sup>st</sup>, adding that the setting of the water and sewer rate is part of the budget process and controlled by the City Council.

Hebbard requested that any legal opinions pertaining to the board be sent to the members as soon as it was received by staff, and not sent with the next meeting packet.

Hebbard requested that the meeting packets be sent out to the board members 10-days in advance. Staff stated that they would check on the rules as far as how early the agenda could be set and the packets can be mailed out.

Hebbard requested that Lucey have the information on the types of meters for each abatement. Lucey stated that on the work card, if it has a T before the reading, that means a radio read meter, just for the board's information.

Hebbard stated that he was charged \$25.00 to have his water shut off and \$25.00 to have his water turned back on when his meter was tested and he does not want that to happen to other residences in the future. Lucey stated that the City does not charge residents to turn the water off and on when testing a meter. She stated that it was the staff's impression that the water turn off and on charges that Hebbard received were for when he was conducting valve work.

#### 6. ADJOURNMENT

**Motion:** Belhumeur made the motion to adjourn at 6:17 PM. Andolina seconded the motion. Vote U/A.

Respectfully submitted, *Jamie McCulloch*, Dover Utilities Commission