



CITY OF DOVER

DOVER UTILITIES COMMISSION ~ MINUTES

Meeting Type: Regular Meeting
Meeting Location: Conference Room – 271 Mast Road, Dover, NH 03820
Meeting Date: **Monday, July 16, 2007**
Meeting Time: **4:15 PM**

Members Present: Acting Chairman, Gary Green, Vice Chairman, Rick Hebbard , Art Hoffman, Jay Stephens, Roland Belhumeur

Members Absent: Patrick Bowen, Don Andolina

Staff Present: Bill Boulanger, Utilities System Supervisor, Doug Steele, Community Services Director, Stacey Hager, Office Manager

Others Present: Jim Loomis, Doris Loomis, Chuck Williams of Rainscape, Leonard Small, Mary Hebbard

1. APPROVAL OF MINUTES A. June 18, 2007

Motion: Hoffman made the motion to approve the minutes.

Second: Stephens seconded the motion.

Amendments:

#1 Stephens stated that the motion that was given after Item #3 Reports should have the background discussion prior to it. Text added: **As part of his report Boulanger stated that staff is conducting water shut off's for non-payment. Andolina asked if that was in accordance with the City Council. Boulanger stated it was in accordance with policy. Hebbard asked what the response has been from the shut off's. Lucey stated unhappy customers. Boulanger stated that staff has had three irate phone calls and five people shut off right now. Andolina asked if the shut off's were being conducted in accordance with the City Attorney. Lucey stated that even though we are not bound by the Public Utilities Commission we try to follow their policies. Lucey added that they put out numerous notifications, door hangers on the door, notification to every tenant, and in some cases phone calls also. Hebbard stated that staff is doing what the board has asked of them in the past. Andolina was wondering if anyone had run that policy by the City Attorney. Boulanger stated no. Boulanger stated that the policy has been their past practice. Boulanger stated that based on what information the board has given us as far as direction is what we have been doing. Andolina stated that if the board gets in trouble we are going to go to the City Attorney and if he says he doesn't know anything about it we are not only in trouble, we are in deep trouble.**

#2 Green stated that the recommendation by the board for him to write a letter regarding the board's concerns staffing levels was omitted and needs to be added: **Hoffman stated that he wanted the Chairman to draft a letter to the City Manager relaying this problem and past problems we have had with help going back and forth between the Tax Office and the Water and Sewer Billing Office. He added that the letter could be drafted and reviewed at the next meeting.**

#3 Hebbard stated that the word statement was duplicated in the amendment regarding the minutes and should read as follows: **Hoffman stated that he did not make the statement on page 5 "Hoffman stated that the board is referring the matter to the City Council as we do not feel we have the authority to grant blanket waivers". The board agreed that since the person who made the statement was unknown the statement was not pertinent to the motion and should be deleted.**

Vote: 4-1 Belhumeur abstained.

2. ABATEMENTS A. Doris Loomis – 25 Isaac Lucas Circle

Applicant: Doris Loomis and her son Jim Loomis were present to speak on behalf of the request.

Jim Loomis passed out a handout to the board dated July 16, 2007. (See file). He stated that his mom and dad had overpaid their water and sewer bill since 2002 when an irrigation system was installed by Rainscape at their home at 25 Isaac Lucas Circle. He stated that this over payment amounts to just under \$4,000.00 and he believes that this was not discovered until recently. He stated that his parents had little or no experience with City utilities as they had septic and wells in the past. He commented on the City's lack of following up on not approved permits particularly as it pertains to irrigation systems and the concept of sewer credits because there was no follow up with our family on this open permit. He stated that apparently it is not an approved permit from 2002 and Chuck Williams, owner of Rainscape, the installer of the irrigation system received no notification that there was not approval of the system. He stated that in early December of 2006 his mom called him to ask if he thought a water and sewer bill for one quarter for one person (as his father was in a nursing home) amounting to over \$1,000.00 was excessive. (See exhibit 1 in his handout). He stated that they called the Utility Division and two employees went out to the home to look at the property on December 4th to look at their systems. He stated that the employees showed him the memo meter on the irrigation system and explained the purpose of that and the sewer credit concept, which he had never heard of as he has always had wells and septic systems. He stated that the main meter showed 1,227 units and the memo showed 965 units or in other words 79% of the total water usage was for irrigation. He stated that the employees suggested he contact Jane in the Water and Sewer Billing Office, which he did and Jane explained to him that she would investigate and get back to him. He stated that Jane called him on December 7th and said she would work on a credit and in the meantime to not pay the bill. He stated that on December 11th Jane called him and explained that the memo meter was inspected back in 2002 and did not pass due to a lack of a backflow valve and suggested he contact the Planning Department. He stated that on December 11th he spoke to Jean in the Planning Office who pulled the permit dated August 29, 2002 issued to Chuck Williams of Rainscape. He stated that the permit had a comment on it from the inspector "needs backflow valve". He stated that he asked Jean to have the inspector call him. He stated that later that day he spoke with Chuck Williams who explained that he installed a backflow valve as to the code at that time in 2002. He asked Chuck Williams to check his records for any notification from the town for any work needed or not approved. He stated that he met with Dean Miles, the current Plumbing Inspector at the house on December 13th who explained that they needed a different backflow valve outside and an additional one inside. He stated that they immediately contacted their plumber who completed the work and that permit was approved on December 21st. He stated that having been issued a partial credit of \$749.50 they awaited the final settlement. He stated that Chuck Williams had checked his records and also checked with his sub-contracted plumbers and no one had any records of any not approved status or a failed approval from the Plumbing Inspector in 2002. He stated that Jane contacted him and explained the abatement process. He stated that it was their intent to comply with all building standards and to the best of their knowledge they have always done so. He added that with no knowledge themselves or through their contractor, Rainscape, they really couldn't act on any unknown non-approved status. He stated that the only fair resolution is to reverse the denial and to grant his mothers request for a sewer abatement. He stated that he asked Chuck Williams to come along to answer any questions the board members might have.

Staff & Applicant Discussion:

Stephens stated that the permit should have been followed through at the time of installation; as long as the meter installation is incorrect there is a risk of contamination to the system. Stephens stated that it would seem like the Plumber Inspector should have followed up on the issue since he had found the issue. Stephens stated that what the applicant's are looking at is an abatement from 2002 and that the way the rules are set up the board can only go back three years. Stephens stated that he does not feel comfortable going back further than three years if in fact an abatement is due because if the board is not allowed to do it when we find someone who was not being charged for services (as we can only go back that far) we should only go back that far in this situation. Stephens asked how the process worked when the Building Inspector finds something. Boulanger explained that when a customer requests a memo meter they have to apply for a plumbing permit and they have to purchase the memo meter from the City. Boulanger added that sometimes the homeowner, but usually the plumber picks up the meter and the plumber installs the meter. Boulanger stated that if the plumber has the permit and is the installer, it is up to him to call the Plumbing Inspector to let him know the installation is complete and it needs to be inspected so the meter can be sealed and that portion did not get done. Chuck Williams of Rainscape stated that the inspection of the meter was completed as indicated by the note written on the permit by the Plumbing Inspector. Boulanger stated that even if it came back that the meter did not have the proper backflow preventor, that is all he is going to know and he would fail the meter until it got the proper installation. He stated that a licensed plumber has to install the memo meter and if that plumber didn't fix the backflow preventor and failed to call the Plumbing Inspector back, the inspector would have an open permit and would be waiting for the plumber to call him back to do a final inspection.

Jim Loomis questioned the lack of notification from the Plumbing Inspector to the plumber. Boulanger stated that the only documents he and the board have show that the memo meter failed the plumbing inspection. Green stated that a note on the permit dated August 29, 2002 states that there are no check valves after the meters. Boulanger stated that he does not know where the Plumbing Inspector's responsibility is to notify, adding that he was sure that generally they would call the plumber and inform them that the meter didn't pass. Chuck Williams stated that neither the plumber nor Rainscape were ever notified that there was an issue. Hebbard asked what they were looking for in an abatement. Jim Loomis stated that he had worked up a schedule that went back more than three years, adding that he went back to August of 2002. Hebbard asked what the usage would have been in the last three years. Boulanger stated that the City has already issued a credit of 201 units (\$749.00). Jim Loomis stated that he deducted that from his figures when listing his request on the abatement form. Jim Loomis stated that he was very confused as to how the City got the figure of \$749.00 because that number had the 2002 rate applied to the actual most recent total usage. Jim Loomis stated that he worked out the credit and came up to 965 total units pro rated during the time that the irrigation would run and came up with 537 units for the past three years. Jim Loomis stated that the irrigation system is on for 5 months out of the year. Boulanger stated that 738 units is the total for the past three years usage minus the 201-unit credit that was already issued would come to 537 units.

Motion: Hebbard made the motion to give a credit for three years of 537 units pro rated through three years.

Second: Stephens seconded the motion.

Vote: U/A.

Jim Loomis questioned the rate that this is going to be used to determine the abatement amount. Boulanger stated that the staff would go back to each billing cycle and see what rate would apply. Boulanger stated that a memo will go to City Hall and they will pro rate back on the three years. Jim Loomis asked how he would go about recovering the balance of \$1,200.00, and asked if there was an appeal process. Hoffman stated that he could take it to Superior Court but it would probably cost more than \$1,200.00. Boulanger stated that if Mr. Loomis wanted to appeal the board would have to send the entire abatement forward and not issue any abatement at this time he believes. Boulanger stated that he could take his appeal to the City Council. Hoffman stated that the City Council is supposed to review what the board did as far as procedures, to make sure we did not overstep any procedures. Hoffman stated that the City Council is not supposed to overstep the board or say yes or no, as the next step is Superior Court.

Motion: Hebbard made the motion to bring forward Item 4B.

Second: Hoffman seconded the motion.

Vote: U/A.

4. OLD BUSINESS

B. Leonard Small – 18A Roberts Road

Mr. Small was present to speak on behalf of his case. He showed the board a piece of pipe that came out of the ground on his water service.

Staff & Applicant Discussion:

Hebbard stated that he took a moment and went down and looked at the situation. Hebbard stated that he contacted Frank Wentworth and asked him for a piece of plastic pipe that is now used for services, which he brought to the meeting. Hebbard commented using the plastic and sliding the pipe down into a sleeve, which would give Mr. Small a new service, which would in turn square away the situation. Boulanger stated that he would still have to dig in order to insert the new pipe into the old pipe. Boulanger commented on his estimate to dig up and replace the pipe and it would be approximately \$8,100.00, which includes \$3,000.00 for paving. (See estimate in file). Boulanger stated that the only issue the City may have with the sleeving option is that wherever there is a joint (the glue joint) on the schedule 40, if the sleeve hits that and cannot work it over, we will end up digging a pit.

Hebbard stated that he feels the City should pay for ½ the construction. Hebbard asked Mr. Small if he was willing to pay ½ the cost of the parts for the new water line to be put in. Mr. Small stated that he does not feel he should have to incur any cost. Green asked staff why we keep coming back to the failure occurring at the location or because of the installation of the sewer line, why would this still be occurring after a number of years. Boulanger stated that the sewer line in the street has also sunk. Mr. Small stated that just the other day he noticed up on the street there is a sink hole about 2 feet where the original sewer line is.

Boulanger stated that the service you are referring to is a copper line and it didn't break due to the settling of the sewer it had pin holes in it and it caused the settlement around the sewer line to settle. Boulanger stated that the material that was put across the sewer was copper so it was able to withstand the settlement.

Hebbard asked Stephens if putting stone in the hole would help and Stephens replied not necessarily. Boulanger stated that he does not want to replace the line and it would be subbed out. Hoffman doesn't have a problem with that but he would like to have a not to exceed price. Green stated that the board needs to come up with a dollar amount. Green stated that he contacted the City Attorney on two occasions and he was reluctant to get involved at this level, as he wanted the board to make its determination and if there is a problem, he will review it afterwards. Hoffman stated that the bid should go out for both ways, a price for the slip lining and the replacement. Boulanger questioned what would be done with the driveway, as you need to cross the driveway to get to the house. Hoffman asked if an above ground temporary service would be installed. Boulanger stated yes. Boulanger stated that currently the depth of that pipe is about 7 or 8 feet deep. Hebbard stated that if the line is dug up, the cost to dig is considerable and it will need to resettle. Mr. Small stated that it is still settling.

Motion: Hebbard made the motion to go out to bid for three bids to install a slip line completed.

Second: Stephens seconded the motion.

Discussion: Hoffman stated that the bid needs to have the pavement included. Green stated that there would be a minimum of three places to patch. Boulanger stated that he could contact three contractors and ask for prices. Steele stated that the staff would go through the Purchasing Department to go out to bid.

Amended Motion: Hebbard made the motion to go out to bid for three bids to install a slip line completed and to include paving.

Vote: U/A.

Boulanger asked about the outstanding bill that Mr. Small paid in the amount of \$1,550.00. Stephens stated that maybe that can be included in the repair process.

3. REPORTS

A. Abatement Review Team

There were no appealing abatements to report.

B. Utilities Report

See file for Utilities report.

4. OLD BUSINESS

A. DUC Rules & Regulations

Green stated that the intent of giving copies of the updates made during the sub committee process is to keep the members abreast of what progress has been made so far. He stated that the intent is to get through the entire packet, adding that the changes will go from the sub committee over to the City Attorney for review and then back to the DUC. He stated that the City Attorney called him into his office last week and informed him that there are issues that have arisen because of the investment fee rule changes. He stated that he had a letter summarizing the meeting that he was asked not to distribute it, as the City Attorney would like to meet in executive session on the matter. He stated that the City Attorney would explain the situation to the commission. He stated that the way it will be worded is that the executive session will occur after the sub committee meeting on Thursday, July 26th. Hebbard asked about section 1-8.5, the last part of the statement. Green stated that that was a sub committee issue and could be discussed at the next meeting.

4. OLD BUSINESS

C. George Maglaras - Cochecho Street Properties

Motion: Hebbard made the motion to table the item until the August meeting.

Second: Hoffman seconded the motion.

Steele stated that he spoke with George Maglaras and he stated that he would send a letter and go through the normal abatement process. Green asked if Steele had seen the letter yet, and Steele stated no.

Vote: U/A.

4. OLD BUSINESS

D. Peter & Melissa Leblanc – 189 Central Avenue, Units A, B, C, D – Draft letter to City Council.

Green stated that the board instructed him to write a letter to the City Council concerning this request. The board reviewed the letter from the applicant's insurance company. There was some discussion and the board agreed that upgrades should not be included. Steele stated that it is his opinion that the board is opening up a can of worms by being in favor of granting the applicant's money. He stated that the applicant's are very nice people and they had quite a mess at their home, as he was there the morning following the incident, but if the City's insurance company has determined that it was not due to the City's negligence and that our equipment was operating properly, we are setting a dangerous precedent. Green asked if Steele was bringing up that the board should let the insurance company pay them the \$3,500.00. Steele stated unfortunately, yes. Green stated that the board would have to undo the motion that was passed at the last meeting. Green suggested taking his letter and the previous meeting's minutes and running them by the City Attorney with Steele's comments. Stephens agrees that the situation should be addressed on a case by case basis, but he does feel that this case warrants something. Boulanger stated that initially the board recommended to send the \$14,000 +/- to the Council. After some discussion it was agreed that the \$1,000.00 for the electrical upgrade, \$1,500.00 for the water service and the \$2,080.00 for the bulkhead upgrade be taken out of the request amount to be forwarded to the City Council for a total of \$9,644.04

Motion: Stephens made the motion to reconsider the motion from the last meeting to adjust the figure to \$9,644.04.

Second: Hebbard second the motion.

Discussion: Hoffman stated that he still had a problem with the chimney of \$3,500.00 as he feels it is a code violation and should have been upgraded before now, adding that it didn't meet code now. Green suggested deducting the \$3,500.00 for a total of \$6,144.04. Hebbard was not in favor of the chimney deduction.

Amended motion: Hoffman made an amended motion to reduce the recommended amount to the City Council to \$6,144.04.

Second: None, motion fails.

Vote: Vote on the original motion for \$9,644.04 was 3-2. (*Opposed members not voiced on tape*)

Discussion: Green mentioned the handout that was sent to the board members showing the designers and installers of septic systems. Stephens stated that he thought the original question was at what point does someone have to tie into the City sewer. Green stated that he phoned and asked Roland Hofmann how the City determines if a septic system was working properly. Green stated that Mr. Dwyer of Sixth Street was on the agenda for this meeting but he was unable to attend and he will coming before the board eventually, and he will need to prove to the board that his system is working properly.

Boulanger mentioned that he handed out the MtBE report to the board members for their information.

5. NEW BUSINESS

A. Election of Officers

Hebbard questioned the canceling of a previous meeting by the secretary. Green stated that that decision was done in conjunction with conversations with him, adding that we had notification that by the time one of the applicant's came up on the agenda there was not going to be a quorum. He stated that they barely had a quorum to begin with and Hoffman had to leave the meeting early and would not be present to vote. Boulanger stated that in McCulloch's defense, at what time does the secretary stop making calls for board members to be here. Hebbard stated that it is the board members responsibility to be present at the meetings and if they cannot be present then they should not be members. Boulanger stated that he was looking for guidance from the board as in the future, McCulloch is only going to mail out the packets and that is all she needs to do. Green stated that he agreed with Hebbard that all the members should be present at the meetings, adding that if we know ahead of time that we are unable to attend, we need to contact McCulloch. Steele stated that he can recall many times sitting waiting for a quorum waiting for that added person to come so we have a quorum and after sitting for 15 minutes you have to tell the residents they have to leave and the staff has to deal with the irate people. Stephens stated that if there was one more person that was unable to attend tonight there wouldn't have been a quorum. Hebbard stated that the board would have had to tell the applicant's to go home, adding that he feels for everyone too.

Boulanger stated that staff is trying to be customer service orientated. Green stated that he would like to make it a resolution that all board members agree that we notify McCulloch if we cannot make the meeting. Hebbard stated that that is already in the rules.

Agreement: McCulloch will not have to make phone calls and all members will call her if they will not be attending. **Verbal agreement.**

A. Election of Officers

Green stated that the Mayor would be announcing the vacancy on the DUC to the public at a future City Council meeting.

Chairman

Motion: Hoffman made the motion to nominate Green as Chairman.

Second: Stephens seconded the nomination.

Comments: Green stated that when he took the interim chair position his principal goal was two folded. He stated that the first item was that the rules have been around the board's necks for two or three years so he put a lot of effort into getting that done. He stated that he didn't meet his goal of getting it to the City Council for the July meeting, but he is very pleased with the way that procedure is going. The second item was that the board is governed by City Code and in some cases he feels that the board has not been following that. He stated that he was kind of surprised by some of the past practices by the board. He stated that for example, in the past the sewer rate went up 14% and per the City Code 3-63, the board is supposed to have those types of things reported to them. Nominations were closed.

Vote: 4-1 Hebbard opposed.

Vice Chairman

Motion: Belhumeur made the motion to nominate Hebbard as Vice Chairman.

Second: Stephens seconded the nomination.

Nominations were closed.

Vote: U/A.

Clerk

McCulloch to continue as Clerk: Appointed by Green.

6. ADJOURNMENT

Motion: Belhumeur made motion to adjourn.

Second: Stephens seconded the motion.

Vote: U/A.

Respectfully submitted, *Jamie McCulloch*, Dover Utilities Commission