

**TOWN OF JAMESTOWN
TOWN COUNCIL MEETING
for
TOWN, WATER AND SEWER MATTERS**

Monday, December 15, 2008

A regular meeting of the Jamestown Town Council sitting as the Board of Water and Sewer Commissioners was called to order at the Jamestown Town Hall, Council Chambers, 93 Narragansett Avenue at 6:00 PM by Commission President Julio DiGiando. The following members were present:

Michael White, Vice-President
William Kelly
Robert W. Sutton, Jr.

Also present were:

Bruce Keiser, Town Administrator
Peter D. Ruggiero, Town Solicitor
Steven J. Goslee, Public Works Director
Michael Gray, Town Engineer/Deputy Public Works Director`
Lisa Bryer, Town Planner
Denise Jennings, Water and Sewer Clerk

Absent:

Barbara A. Szepatowski, Commissioner

AWARDS, PRESENTATIONS AND ACKNOWLEDGMENTS

(None)

READING AND APPROVAL OF MINUTES

1) 11/24/08 (regular meeting)

Motion was made by Commissioner White, seconded by Commissioner Sutton to accept the 11/24/08 (regular) meeting minutes. So unanimously voted.

OPEN FORUM

1) Scheduled requests to address:

(None)

2) Non-Scheduled requests to address:

(None)

REPORT OF TOWN OFFICIALS

1) Pumping Report:

The Public Works Director reported the following:

- Pumping was down for the month of November.
- Color level at north reservoir remained constant for the month of November. The clarity continues to be the best that we have recorded in years. This drop in color level makes it easier to treat the water and is due to the improvements to the aeration system.
- Had 5 inches of rain on Friday, 12/12/08

- North Reservoir was @ 50 MG, usable storage-60MG
- South Pond is @ capacity, usable storage-7MG.

2) Town project reports: (See Project Update Report dated November 2008)

The Commission asked for clarification on a few items as reported by the Public Works Director.

LETTERS AND COMMUNICATIONS

1) Memorandum from Tammy & Stephen Fasano (Plat 8, Lot 779; 37 Standish Road) re: Sewer charges 2002-2008

Commission President DiGiando stated that it appears as though the Fasano's were not charged for sewer and now have a bill in the amount of \$2,796.

Town Administrator Keiser reported the following:

- The memorandum indicates this was due to an error on the Town's part and that billing charges had not been made during the course of ownership by the Fasano's.
- In keeping with past practice, where there are oversights and omissions, it is still the responsibility of the homeowner to eventually make payment.
- This would be the same as taxes. If you do not receive a tax bill you are still responsible to make the tax payments eventually.

Administrator Keiser further reported the following:

- Earlier this year we had a case where there was a 15 year history of someone not paying a water bill and the customer alleged that they thought that they were on a well. The conclusion that the Town reached was, whatever the thinking was, no one had approached the Town or had inquired as to why they were not paying a utility bill. This was not relevant to us and there was approximately a \$12,000 charge in that particular case. We have always maintained there is a user fee and if the fee is not paid in time, even if a bill is not sent, eventually that would need to be satisfied.

Commission President DiGiando referred to the memorandum and stated that the Fasano's moved in, in 2000 and it appears as though the sewer portion of the bill stopped being billed and/or paid in 2002.

Ms. Fasano stated that she does not have the bills for the period from 2000 to 2002 and that she does not know what happened during this period. Ms. Fasano further stated that she has received a Water and Sewer Bill (entitled "Water and Sewer Bill") and has always paid it on time and has always maintained a zero balance.

Mr. Fasano stated the following:

- Ironically, his new bill which included many more charges, no longer says Water and Sewer Bill, it just says Water, but in actuality it is a Water and Sewer Bill.
- They have been paying their bill all along, which they had thought was accurate and since the bill said water and sewer, they had no reason to come to the Town to say that the Town is not billing us enough or properly.
- He went into Town Hall a few months ago, to pay the bill and someone looked at it and said that there was something wrong with the bill.
- They did some research and came back to us, with a bill of almost \$3,000.

Administrator Keiser stated the following:

- That he does not think that there is any assumption on the Towns part, that there was an attempt to avoid paying a bill.
- It was clear on the Towns billing, that it was not a part of the invoice, but regardless, there is a user fee that it based upon the consumption of water, which may have gone into the wastewater system and it is an obligation of that property to fulfill the commitment.
- The Town can work out a payment arrangement.

Administrator Keiser recommend that the Commission not waive the fees.

Commission President DiGiando asked Solicitor Ruggiero where the Town stood legally regarding this matter. Solicitor Ruggiero stated that the Town can enforce the collection of the amount owed and as the Administrator stated the Town can work out a reasonable payment plan.

Commission President DiGiando stated that it seems to be Towns fault, that the bill was not charged. Solicitor Ruggiero stated that the customer had the benefit of the service during that time and it was not an error on their part, it was just unknown to them.

Commissioner Sutton stated that he understands the Town Administrator and the Solicitor comments, but that it also seems to him that it is unfair. Commissioner Sutton asked the Town Administrator what his explanation was for the something disappearing in 2002. Administrator Keiser stated that it was a computer glitch. Commissioner Sutton asked the Town Administrator if the previous situation was negotiated.

Administrator Keiser stated that is was negotiated due to the fact that the Town did not know what the actual consumption was. Commissioner Sutton agreed that the customer had the value of the service at this property, but there is also a sense of good practices too and it wasn't anybodies fault and we know that these things happen from time to time.

Commission President DiGiando reported that in the past, we had issue where a line was leaking outside, between the meter located at the street and the house and we have imposed those charges on that particular customer.

Commission President DiGiando stated that he understands and shares Commissioner Suttons sentiment, but the Town is going to cause themselves a problem down the road and that if someone has a leak between the house and the meter and that this customer has used the water, but did not know they were using it, are we going to tell them they have to pay also? Commissioner Sutton stated that this situation is a little different.

Public Works Director Goslee stated that with this situation we know what the actual usage was and with the other situation on Maple Avenue we did not.

Commissioner White stated the following:

- He agreed with Commissioner Sutton and if it was a missed billing we should have a process by which we can negotiate in good faith and that this does not seem fair.
- We billed them and they paid the bill and then 6 years later we say there was an error.
- They received the service, but at the same time we need to take some sort of responsibility for not billing them.

Commissioner Kelly stated the following:

- Being a homeowner in the same situation, he would be more than aggravated.

- There was a service provided and the service should be paid for.
- There are circumstances that exist and he thinks that he would be inclined to put this in the Town Administrators hands.
- Should determine how this happened and check to see if there are there any other cases like this, so that the Town can deal with it.
- He does not want to go into a step by step process of how each bill is handled.
- It is encumbered upon the Town to repair this and we need to look at the glitch and make sure we do not have this problem again.

Town Administrator Keiser stated that he can meet with the Fasano's to discuss different options and try to negotiate something that is mutually acceptable and that he will report back at the next Water and Sewer meeting for the Commissions approval.

Commission President DiGiando stated that it is the consensus of the Commission that there are some inequity issues here and if we can work them out and it doesn't cause us a future problem, then it is in everyone's best interest to do that.

Commission consensus: To ask the Town Administrator to meet with the Fasano's and to report back to the Commission at the next Water and Sewer meeting.

UNFINISHED BUSINESS

- 1) 44 Southwest Avenue (cont. from 11/24/08)
 - a) Responses to RFP

Town Administrator Keiser reported that he had received two responses to the RFP for the purchase of the property located 44 Southwest Avenue as follows:

- One handwritten proposal from Paul T. Andrews to use the site for an office building in the amount of \$500,000. The proposal requests that the Town hold a note for Mr. Andrews in the amount of \$500,000 at an annual rate of interest of 4% for a period of 5 years. The proposal stated that an additional payment of \$500 for principle reduction would be paid monthly.
- One formal proposal from Jamestown Arts Center to use the site for an arts center in the amount of \$550,000 (subject to a new appraisal).

Commission President DiGiando stated that the Commission needs to get the maximum amount for the benefit of the ratepayers.

Commissioner Sutton stated that the Commission needs to set a firm date to finalize the sale. Brief discussion followed regarding the legality of making a vote this evening. Commission President DiGiando reported that he had discussed this matter with the Town Administrator and that the Commission would be able to vote on this matter this evening.

Commissioner White stated that he is in favor of the proposal from the Jamestown Arts Center and that he agreed with Commissioner Sutton regarding setting a firm date to finalize the sale. Commissioner White further stated that this proposal will be a wonderful use of the property.

Commissioner Kelly stated that he wanted to see more of a time table and suggested waiting to make a decision on this matter. Commissioner Kelly further stated that he would also like to know what funds are available.

Elizabeth Congdon of the Jamestown Art Center stated the following:

- JAC is very amendable to setting a time table.

- o JAC members are very busy people and are willing to dedicate their time to this great cause.
- o JAC has many wealthy people that are willing to help.
- o JAC members are 100% confident that they can work with the Town to finalize the sale within a six month time frame.

Town Administrator Keiser suggested that he meet with the JAC and the Town Solicitor to rough out a purchase and sales agreement and report back to Commission.

Commissioner Sutton stated that the Commission authorize the Town Administrator to draft a purchase and sales agreement with a closing date no later than 6/30/2009. Commission President DiGiando suggested that the closing date be set 6 months from the signing of the purchase and sales agreement. Discussion ensued regarding the JAC proposal in the amount of \$550,000 and a new appraisal.

Commissioner Sutton stated that the Town of Jamestown owns the building at 44 Southwest Avenue, and that it was paid for by the ratepayers. Commissioner Sutton stated that he thought that the action on the sale of the property should be made in the capacity as Town Council. Solicitor Ruggerio stated that this action could be made in both capacities. Commissioner Sutton suggested that the Commission authorize the Town Administrator and the Town Solicitor to develop a purchase and sales agreement in the amount of \$550,000 and to report back to the Commission at the next water and sewer meeting.

Motion was made by Commissioner Kelley, seconded by Commissioner White to turn this matter over to the Town Administrator and the Town Solicitor to come up with a purchase and sales agreement for 44 Southwest Avenue and to report back to the Commission at the next water and sewer meeting in January. So unanimously voted.

NEW BUSINESS

(None)

BILLS AND PAYROLL

Motion was made by Commissioner White, seconded by Commissioner Kelly to approve the Water Division Bills and Payroll. So unanimously voted.

Motion was made by Commissioner White, seconded by Commissioner Sutton to approve the Sewer Bills and Payroll. So unanimously voted.

TOWN BUSINESS

(None)

ADJOURNMENT

There being no further business before the Commission, motion was made by Commissioner White, seconded by Commissioner Sutton to adjourn the meeting at 6:55 PM. So unanimously voted.

Attest:

Denise Jennings
Water and Sewer Clerk

xc: Commission Members (5)
Town Administrator
Town Solicitor
Public Works Director
Town Clerk