Waterville Estates Village District

August 16, 2021

Commission Public Hearing

Attendees: Commissioners Maureen Patti, John Herlihy, and Gerry Panuczak; Assistant General Manager Judy Kinney, Harry Bertino, Stan Bujalski, Terry Bennett, Jack Letvinchuk, Ned McElroy, Becky McElroy, Jim Murphy, Arnold Goodman

Attendees via Zoom: Interim General Manager John Scruton, Jaime Oldmixon, Nick Sceggell (employee of Dubois & King, a consulting engineering firm), additional unidentifiable parties.

Call to Order: Ms. Patti called the Public Hearing to order at 9:23 AM.

Roll Call of Commissioners: Ms. Patti, Mr. Herlihy, Mr. Panuczak present at the Summit Lounge.

Review of proposed Water Ordinance: Description of history for Water Ordinance by Jaime Oldmixon. Determination, after consultation with NH DES and NHMA, that WEVD did not have a proper Directive Water Use Ordinance on file with State offices, DES, Campton, or Thornton. "We realized we really didn't have a proper Water Ordinance." The Committee sought assistance from the firm of Dubois & King (a consulting engineering firm) to make sure the Ordinance is completely compliant with state and federal laws and is tailored to our particular community. Per N. Sceggell, from Dubois & King, creating a Water Ordinance provides the municipality the legal basis upon which you can charge for providing water to customer.

Mr. Panuczak asked Mr. Oldmixon how the Water Department will be funded. Mr. Oldmixon described two elements in the water rate. The availability charge which is 60% of the full water department budget and includes all the costs of maintaining the system – the infrastructure and operating the system short of what it costs to pump water through the lines. We take that number and divide it by the 838 properties in the community. Each property will pay the availability charge. Then, if you have a developed lot, you get a usage charge, the other 40% of the budget. We have done a census from the tax records of all the homes in the District and come up with a number of around 1940 occupants for the whole community. You divide that 1940 into the remaining 40% of the budget and that gives you one occupant rate. As an example, using a Water Department budget of $500,000, the availability charge amounts to $300k which, divided by 838 properties, becomes a $358.00 annual charge per property. The usage charge, which is 40% of the total budget amounts to $200,000. Dividing that by 1942, you get $102.99 per occupant. Those with existing wells will be exempted from these charges. But all other properties will be charged the availability charge – that is what is new.

The annual rate schedule breakdown (for a $500k annual budget) is: undeveloped lot $358; 1 bedroom $563.97; 2 bedroom $666.96; 3 bedroom $769.94; 4 bedroom $872.93; 5 bedroom $975.91; 6 bedroom $1,078.90; 7 bedroom $1,181.89.
The methodology for this rate calculation is in Section 22 c on page 13 of the Ordinance.

Mr. Bertino asked if a bedroom is considered two occupants. Mr. Oldmixon explained the first bedroom is calculated as 2 occupants, but each additional bedroom is treated as one occupant. This is using the federal definition of occupancy. A studio is considered a one bedroom living unit.

Mr. Letvinchuk confirmed that a 4-bedroom home would, under this rate schedule, be charged $872.93 and, stated, by his calculation, this is a 436% increase per annum. Mr. Oldmixon explained that property owners were paying, based on the value of their house(s), taxes that were used in the water budget before this proposed change in addition to the $200 annual water fee. Mr. Letvinchuk said, "so that will decrease the tax rate?" Ms. Patti answered, "That is the expectation…we are deleting the $200 water annual fee." Mr. Herlihy thanked Mr. Letvinchuk for his question and said, "it would be inappropriate to compare the $200 dollar water rate which was a figure picked out of the sky with what we are doing today… (the water rate schedule) should be more representative of what it costs to bear the water system."

Mr. Panuczak asked for the plan to have the District and/or WEA pay their share of the water rates for the Community Center and the Lodge. Ms. Patti noted that on 8/21/2021 Commission Meeting agenda is a discussion regarding prioritizing the securing of meters for the Community Center and the Mountain so going forward the municipality is paying its fair share. So, the District facility's water use is not borne in the homeowners' rates. Mr. Panuczak expressed his desire for the District facilities to pay based on usage (measured by meter(s)) and not the occupancy rate.

Mr. Oldmixon noted that in the Ordinance, a metered rate will be developed. Once the metered rate is created, the commercial properties, being the Community Center and Lodge will offset part of that annual budget. Ms. Kinney asked about the rate to be charged for the Real Estate office next door. N. Sceggell suggested the community needs to come up with an equivalent dwelling unit comparison for that building – something that is fair. N. Sceggell said the idea with this initial rate schedule is to come up with a workable budget, knowing that there needs to be improvement of infrastructure in the community. He explained that the rate schedule may go up because there needs to be a bigger investment in the water system. N. Sceggell explained the goal is for a temporary system of generating revenue, and, ultimately, we will come up with a system that meters all properties so people will pay their fair share based on actual usage. Until then, there has to be a kind of sliding scale until we develop a meter rate.

Mr. Scruton asked if, in general, an office uses less water than a residence because there are no showers, etc. N. Sceggell suggested looking at other schedules to get some idea about water use by offices.

Mr. Herlihy mentioned an 8/25/2021 NH DES seminar regarding water systems addressing benchmarking rates, conservation, pricing, and affordability. N. Sceggell said he was already signed up to attend. Mr. Herlihy announced he would post information about the seminar if others wanted to attend (remotely).

Mr. Letvinchuk asked about who bears the cost to purchase and install a meter on a residence. Mr. Oldmixon and N. Sceggell explained the plan is to negotiate for the purchase of meters in bulk and provide the meter and necessary inspection for a small reasonable fee. WMP&R Committee member, Terry Bennett, described that the meters being reviewed could alert owners if there is a water leak when they are not home.

Mr. McElroy expressed concern about installing meters and how the grounding integrity of the older buildings -- relying upon copper or steel – could be affected. This is not an issue for the newer buildings. He noted there may be a change in the grounding system and create fires. Mr. Scruton asked if a licensed plumber would be aware of this. Mr. McElroy said a plumber may not know. Ms. Patti said this is something owners need to be aware of.

Mr. Murphy addressed the Commission regarding a 1974 deed between the Hodgman Condo Association and Snow Base suggesting the terms of that agreement might impact whether Hodgman Condo owners could be charged for the supplying of water by the District. Ms. Patti said the District would consult with legal counsel and respond to Mr. Murphy in writing. Mr. Bertino asked if there were any subsequent documents which changed that 1974 agreement.

Mr. Panuczak addressed the WMP&R Committee and N. Sceggell, thanking them for their work on developing the Water Ordinance. Mr. Panuczak recounted how when he moved to the Estates he was surprised and shocked to learn that water services were partially paid from taxes. This practice was different than his previous experience in municipal operations.

Mr. Scruton summarized the new funding of water as follows: "You are going from a system with a $200 per unit charge plus then the taxation supporting the rest of the fees to a structure in which there is a division in how the rate will be determined. Part of that rate will be determined based upon what I will call overhead, which is the cost of the system if it didn't pump gallon one. And then a differential rate based upon the amount of water which is actually pumped, which is based upon a per unit user type fee. So, the more bedrooms, the higher the costs will be. It is a combination of a fixed charge spread over all units whether they have buildings or not even and a rate structure that is related to the actual number of bedrooms in the unit divided into the 40% that is currently our estimate of what is the differential rate based upon usage."

Mr. Bertino asked about the curb stop policy and sought clarification about what parts of the water system, exactly, the District owns.

Ms. Kinney asked about getting push back from owners who have one or two occupants in a 3bedroom home. Mr. Panuczak answered that the three-bedroom house is what the taxation is built upon. Ms. Patti points out that the rate schedule mirrors how the old tax revenue-based system used.

Mr. Bujalski expressed concern about the building of 6- & 7-bedroom homes to be operated as short-term rentals, essentially running hotels. He noted this is an issue about compliance with WEA regulations. He suggested the practice of short-term rentals hosting many people in these investment properties will impact our water system. He supports the water rate schedule and believes the rates are fair and reasonable.

Ms. Patti initiated a discussion about the definition of "Clerk" in the Ordinance and the reference to General Manager's billing responsibility. Issues raised included obtaining a WEVD embossed seal. Ms. Kinney, Ms. Bennett, Mr. Scruton, N. Sceggell, and Mr. Oldmixon discussed why the Ordinance had certain language, in particular sections and the role of the duly elected WEVD Clerk.

Ms. Patti raised questions about hearings which are specified as "5 work days" but other instances the hearing described "5 days." Ms. Kinney and N. Sceggell suggested substituting "business days" and having all references to hearings to specify '5 business days'.

Ms. Patti noted there are places where there is a "hopscotching" or "daisy chain" of water lines. She asked how we address having a curb stop when houses are connected by daisy chaining. Mr. Panuczak referred to the map in the Appendix and described the situation on Porcupine Drive. N. Sceggell said there is not yet enough information about this issue to address it. Mr. Herlihy said there is no curb stop enforcement for homes that are daisy chained.

Mr. Murphy asked if the District or the Waterville Estates Association has access to, or a copy of, information about why the State discontinued the supply of water from Great Brook to Waterville Estates. Later in the meeting, Mr. Bertino asked about a reference in Association minutes from the 1990s and noted that Reservoir used to be called Great Wood. Ms. Patti said Dubois & King was required to review the historical official / NH records for all of the water system.

Ms. Kinney asked about condominiums because they are set up on one line feeding into multiple units. Mr. Herlihy answered it will be a case-by-case basis. Ms. Bennett suggested the Condo Association may want to pay the rate for the whole complex and then bill the individual unit owners.

Ms. Patti asked about page 13, Section 22 language about 'resolution' instead of "public hearing." Mr. Scruton suggested modifying the section to read "by vote of the Commissioners after a Public Hearing."

Ms. Patti noted that in the Appendix, under the Schedule of Fees, on Page 2, there was language she found unclear. Ms. Bennett and Mr. Oldmixon clarified. N. Sceggell suggested inserting language making clear that a portion ($250) of the new water connection fee is non-refundable.

Mr. Bertino inquired about rates for accessory dwelling units. Mr. Oldmixon responded that that is covered by the WEA Regulations. All lots can only have one dwelling unit and we count the total number of bedrooms.

Mr. Bertino sought clarification about multi-unit structures. If they go to meters, each individual unit will be metered.

Mr. Bertino requested that there be no exemptions - that every house be on the water system. Ms. Patti said that the Ordinance requires every undeveloped lot that is within 100 feet of a District water line. Also, those residences that are not on the District water system (currently 3 residences that have their own wells). They have not paid the $200 a year fee, but their taxes were being spent on the water system. They are exempted from the new water rates under the Ordinance. Mr. Murphy asked if the District had any NH DES reports/records regarding those 3 wells. Ms. Patti said any records the District, the WMP&R Committee, and Dubois & King has regarding our water system will be available.

Mr. Goodman asked how the well owners are assessed their share of the costs of water used to operate District facilities. GP & MP explained that ultimately the District facilities will be metered and everyone's tax dollars will go to sustaining and maintaining the costs for operating the facilities – LPG, Electric, Water.

Mr. Bertino asked about the minimum PSI of the water system, stating if you want payment, there must be the required PSI.

Ms. Patti moved for amendments to the proposed Ordinance.

I. Insert "duly elected" in section 1(a) on page 4 so sentence reads, "The duly elected WEVD Clerk shall file certified copies of the Ordinance, as well as certified copies of any additions and amendments to this Ordinance as may hereafter be adopted in the municipal records and provide the same to the District Water Superintendent and any designated enforcement officers." This motion was seconded by Mr. Panuczak. Roll call vote in favor was unanimous.

II. Modify section 3(c) on page 5 to read " "Clerk" shall mean duly elected WEVD Clerk." " This motion was seconded by Mr. Panuczak. Roll call vote in favor was unanimous.

III. Further modification of section 3(c) "The WEVD General Manager shall send out water bills, receive payment for water charges, issue notices for disconnection of water, and otherwise assist the WEVD in the operation of the water department." AND move this sentence to Page 14, at the end of section 24. Mr. Panuczak seconded the motion and the roll call vote in favor was unanimous.

IV. On Page 11, section 15, line 10 insert "business" between "five" and "days." Mr. Panuczak seconded. Unanimous roll call vote in favor of the motion.

V. On page 12, section 18, line 9, insert "business" between "five" and "days." Mr. Panuczak seconded. Unanimous roll call vote in favor of the motion.

VI. On page 14, section 25, line 5, change "five work days" to "five business days." Mr. Panuczak seconded. Unanimous roll call vote in favor of the motion.

VII. On page 13, section 22(b) at line 12, strike, after "from time to time" the word "resolution" and insert "by a vote of the Commissioners following a Public Hearing." ("…which is authorized by RSA 38:27 and 38:28 to establish or amend said rates, charges and fees from time to time by a vote of the Commissioners following a Public Hearing.") The motion was seconded by Mr. Panuczak. Roll call vote in favor of motion was unanimous.

VIII. Page 11, section 15, line 9 to modify the reference to electronic mail but there was no second for Ms. Patti's motion

IX. Page 2 of the Appendix, under Schedule of Fees, insert after New Water Fee, "a portion of which includes a non-refundable administrative charge of $250: $1000." AND striking line 3 of this section, "Administrative Fee if New Water Connection Fee." Motion seconded by Mr. Panuczak. Unanimous roll call vote in favor of the motion.

Discussion about whether the vote on the Water Ordinance should be delayed while waiting for consult with counsel regarding the 1974 Hodgman Hill Condo Association deed. Discussion included comments from Mr. Murphy, Mr. Scruton, Ms. Bennett, and Mr. Herlihy. Consensus was to proceed with the vote on the Ordinance and, if consultation with District legal means the Hodgman Hill Condo owners are to be treated differently, that could be addressed in an amendment to the Ordinance.

Rate Schedule not yet ready for consideration by the Commission. The discussion in the Public Hearing was using the 'as not yet confirmed numbers' regarding the number of lots not within 100 feet of a water line. WEVD Water Rate Schedule to be addressed at a future Public Hearing.

Mr. Herlihy moved for the adoption of the 19-page WEVD Community Water System Water Ordinance and the 6-page Water Ordinance Appendices as amended. This motion was seconded by Mr. Panuczak. The motion was passed unanimously in a roll call vote.

Ms. Patti moved to continue the Water Rate Schedule Public Hearing to September 1, 2021 at 6 p.m. Seconded by Mr. Panuczak. Motion passed in a roll call vote unanimously.

There is a separate water account. Per the Ordinance, the water department account carries any balance(s) forward to the ensuing year(s). Monies from the water fund cannot be diverted to other uses. All monies received can only be used on the water system.

Review of WEVD Charge for Copies:

Ms. Patti explained that, because no record was found by our AGM that the charge for copying was approved at a (properly noticed, including publication in a newspaper of general interest) public hearing, we must proceed with a public hearing as to this issue.

Ms. Kinney suggested the rate should be $1 a page, consistent with what NH Superior Court and many other municipalities charge. Mr. Scruton suggested it could be either 50 cents or $1 a page. This would address the costs for paper, toner, etc.

Mr. Scruton suggested the Commission adopt a policy that, if the District is providing electronic records and the size of the documents exceeds 5 gigabytes, the District will provide a new portable storage device upon which it will put the files and charge the requesting party the cost of the storage device, plus $2.

As the other attendees and members of the public at both the physical location and on Zoom had left the public hearing at this point, Ms. Patti moved to close the Public Hearing re: WEVD Charges for Copies. This motion was seconded by Mr. Panuczak and passed by unanimous roll call vote.

Ms. Patti moved to adopt an official WEVD policy to charge $1 per page for the production of hard copies to be provided to members of the public. Mr. Panuczak seconded the motion and the motion passed by unanimous roll call vote

Ms. Patti moved to establish a WEVD policy for producing on a portable storage device electronic data which exceeds 5 gigabytes and charging the cost of the storage device plus $2. Her motion was seconded by Mr. Herlihy. Following further discussion and the suggestion of Mr. Scruton, Ms. Patti accepted an amendment to her motion (indicated in italics) as follows: when electronic documents *exist and* are requested by members of the public, and the data to be produced exceeds 5 gigabytes, the District will provide a new portable storage device upon which it will put the files and charge the

requesting party the cost of the storage device plus $2. Mr. Panuczak seconded the amended motion. A roll call vote was taken and the (amended) motion passed unanimously.

Motion to Enter Non-Public Session: Mr. Panuczak motioned to enter non-public session at 11:42 AM, pursuant to RSA 91-A:3, II (a), 91-A:3, II(c), and 91-A:3, II(l). Ms. Patti seconded, and the motion passed unanimously by roll call vote.

Convening of Non-Public Session: Ms. Patti made a Motion to convene non-public session at 8:34 PM, it was seconded by Mr. Panuczak and passed unanimously by roll call vote. Other persons present during non-public session: Mr. Scruton and Ms. Kinney.

Return to Public Session: Ms. Patti made a Motion to exit non- public session, Mr. Herlihy seconded and the motion passed unanimously by roll call vote at 12:15 PM.

Public Session Reconvened at 12:17 PM. A Motion to seal non-public session minutes, due to the fact that it will adversely affect the reputation of any person other than this commission, was made by Mr. Panuczak, seconded by Ms. Patti, and passed unanimously by roll call vote.

Adjournment: Mr. Herlihy motioned to adjourn the meeting, Mr. Panuczak seconded, and the Motion passed unanimously by roll call vote at 12:19 PM.

Prepared by: Ryan Timms, WEVD Clerk