

Minutes of the Board of Water/Sewer Commission
Friday, April 22, 2022 - 2:00 pm
ZOOM Meeting

Present Commissioners: Roger Jones, Owen Smith, William Creelman

Staff:

Business Manager, Julie Spurr Knight

Water Distribution Superintendent, Jonathan Carey

1. Mayor Reardon

Not Present.

2. Appointments/Customer Inquires

- 4-6 Greenleaf St, Carol Zamprogna. Ms. Zamprogna said she had a toilet issue that was leaking. A plumber found the issue, fixed it and there should no longer be a leaking driving our bill from \$150 to \$800. Unfortunately, right after he fixed it he wen to Florida for three weeks. He is a one man shop and I was unable to get the bill to you in time. The initial application was rejected and that was on us because I could not get you a bill in time. It has now been submitted properly so hopefully that is everything you need. Commissioner Jones stated the request was received February 28th and is beyond the 30 days. Ms. Zamprogna said she called in and explained the situation and the guidance was to submit something as she was just waiting for the bill. Ms. Knight said the bill due date was February 15th and the request was submitted February 22nd. Ms. Zamprogna said she did pay \$100 on February 13th just to follow the process. Commissioner Jones asked Commissioner Creelman if he had any thoughts. Commissioner Creelman said he believed at the last meeting the abatement policy was going to be reviewed before we considered any more abatements. Commissioner Jones said we would deal with these open ones before we do that. Commissioner Creelman asked how long the toilet had been leaking. Commissioner Jones said the consumption looks like it is all over the place. Ms. Knight agreed. They commented on the various high cubic feet usage from 2016 to date. Commissioner Smith asked how much the bill was for the abatement request that was made. Ms. Zamprogna said \$843.84. Commissioner Smith said the bill date. She responded January 15th. Commissioner Smith asked if she ever sought an abatement in the past. She responded never on any property. Commissioner Smith addressed Commissioner Jones saying how this is the typical type of abatement we've been receiving which are these toilet leaks which occur for a period of time and the question is how much responsibility does the homeowner have to be aware of it and what they can do to minimize the loss. We want to move away from being as willing to abate these charges when there is a homeowner's responsibility to mitigate the leak but at the same time we have been allowing it for a while until I think we can establish our position by notifying the rate payers. Commissioner Jones spoke to Commissioner Smith by saying this particular one in September of 2019 was 6,785 cubic feet. I'm inclined not to approve this one because of prior use—they are up and down. Commissioner Smith asked if there was an explanation for the spikes. Ms. Zamprogna said the only spike she saw was the bill of November 2019 and there was some outdoor work done that summer so we didn't question that we just paid it. In looking back from 2019 until now I don't see one that is close to this. Commissioner Jones asked if Commissioner Smith wanted to make a motion.

Commissioner Smith made a motion to abate the request. Commissioner Jones asked Commissioner Creelman if he wanted to second the motion.

- Commissioner Creelman said the problem he is having is by doing this are we going to be responsible to pay everybody's leaking toilet. He feels the owner has some responsibility. He stated he is not in favor of rebating the whole amount. I might split it with them. Commissioner Jones said the normal policy is to do 50% of the

overage. The motion would be for this particular bill we would take an average going back through the formula and rebate you 50% of that overage. Commissioner Jones asked Commissioner Smith how he is voting and he replied he is voting no on his own motion. Ms. Zamproga cited the abatement form saying the reason for the abatement request is for leaks including the vendor invoices indicating the leak was found and the appropriate repairs were made. Those are the instructions on the form. Commissioner Jones spoke to her saying we are having a policy discussion anyway on abatements and we are tightening them. She said she understood the policy could change in the future. Commissioner Smith spoke to Commissioner Jones stating why he voted no. He said it goes back to the leaking toilet. It is \$800 over what her average bill was. That is a lot of leaking time. It is one thing if you catch a leaking toilet and you mitigate it within a couple of weeks. Commissioner Jones said the bill is about three times over a three-month period. Commissioner Smith said he is glad they fixed it but we are fixing it because our bill is high. The rate payers should not be subsidizing a leaking toilet that has been leaking for three months. I could compromise and abatement a smaller portion of it to acknowledge that they did repair it while we adjust our policy. This is the hard part about actually making changes. We are going to have rate payers that are going to see a difference in the precedent set but at the same time I just can't get past the severity in the spike of the bill. That tells me that toilet has been running for a while. Commissioner Jones confirmed Commissioner Smith's vote of no. Commissioner Creelman votes no. Commissioner Jones also votes no. Ms. Zamproga said she did give you one piece of bad data. Her bill was for \$712.90. Her neighbor hadn't paid part of the prior bill for \$129. We did try to follow the policy about finding a leak, getting the leak repaired and getting all this to you so I was hoping there would be some compromise instead of just a no. Commissioner Jones said in the future we will be able to alert you faster when you have a leak. Ms. Knight said we have to get funding approved and could take up to 24 months. We changed from semi-annual to quarterly and that helped. The future billing may make this easier and less need for abatements.

- Ms. Knight said 28R Toppans Lane abatement denial appeal notified the office that he was unable to attend. Commissioner Jones said that was an irrigation bill. Ms. Knight said the high bill was 9/15/21 which is coming out of irrigation season. Ms. Knight said the abatement was received on February 28, 2022. Ms. Knight said they do have a repair bill. Commissioner Jones said he is less inclined to be generous with an irrigation leak because he feels they have a responsibility to keep them working properly. Commissioner Smith agreed and it makes that formula impossible to fairly abate because there is so much variability. We can discuss later in the meeting, not on the merits of this.

Commissioner Jones made a motion to not abate this bill. Commissioner Creelman seconded.

Vote: Jones yes, Creelman yes, Smith yes

- Ms. Knight brought before the Board the previous request from Mr. Rossi from 9 Doyle Drive. She stated the Board gave him an extension on his irrigation with a deadline of April 1st to fix his irrigation and he missed the deadline. The invoice shows the repair made on April 15th. He was unable to attend the meeting. This paperwork didn't make it into the meeting packet. I'm leaving it up to the Board or maybe we should table it until next month. Commissioner Jones said to table it until after we have our discussion on the abatement policy.
- Earl Estep, 15 Charter Street autopayment. Ms. Knight said you have all read the opinion the legal opinion and we've had a brief discussion over it. The past owner is in the audience and he would like to address the Board. Mr. Estep said he would like to hear what the legal opinion was and what the Commission has decided before I make any comment. Commissioner Smith said we haven't decided anything except that I will express the legal opinion and my opinion confirms that. Essentially, we were made whole when the bills were paid by an unknown or generous person and the account was in good standing. The City has received payment for the water and although it wasn't

the actual owner that was paying it was basically someone paying on their behalf. I take issue with us acting as a middle man where it seems it should be an agreement between two private parties, the person that accidentally paid for quite a long time, 7 or 8 years and the person who was enjoying the benefit of having a zeroed-out water bill every quarter. It's not in the Water Commission's interest to get involved in a matter between private parties. If we do extend a rebate to this person who paid in error that would be putting public funds out which we don't have a guarantee of ever getting back. I saw the letter you wrote where you promised to pay and that is good but we don't have guarantees on that. I view this as a matter between two individuals. Ms. Knight said just to be clear Earl is the past owner, the person whose funds were coming out of his account. Mr. Shane Cough was unable to attend today and that is where the letter came from that I sent you this morning. Mr. Estep asked if Commissioner Smith was done communicating the opinion or is there any more to add to it. Commissioner Smith responded he was done and if Mr. Estep wants to vet more from the opinion Julie can speak on that better because she has it in front of her. Ms. Knight said regarding the on-line payment portal, customers accept the responsibility to manage their own bank accounts. It is full disclosure when you expressly agree to that when you sign up. The City is not in control of turning on and shutting off people's bank accounts on autopay. The City Solicitor has indicated the City is not liable for that and we provided the service, we have been paid the amount. This is a result of a transfer of property and the past property owner and the current property owner should work together to find a solution outside of the City. The City should not be involved. Mr. Estep said he completely disagrees. This all started with derelict of duty. At the time of the closing the City got a work order to shut off the water and they didn't. It probably dates back to a Water Department employee who we were also victim of and that person at the time was making up water readings. Not that this plays into one or the other but it certainly gives a trend of conduct within the department from this employee. Ms. Knight said that was prior to 2008 when that took place. Mr. Estep said he saw bills that were extremely high and again Ms. Knight said that was prior to 2008. Mr. Estep said we'll put that to the side but nonetheless there was a work order that was not done by the City. That is what started the entire process. It sounds like we are taking the legal position here in liability. What I am going to argue and will argue through counsel if I need to is the work order should have been done, had it been done this never would have happened. It is not my responsibility. The signing up for autopay is true with a property that I am receiving bills and I signed up for autopay on the new property that we bought on 15 Columbus not to be confused with 15 Charter. When I did the electronic signature on that, yes, I signed up for that and accept responsibility for what you just said about the waiver and everything else. On 15 Charter Street the work order never happened, I never received any bills. I own a few properties and I have a lot of money moving in and out of my accounts. I'm not sitting there monitoring everything. I get all kinds of bills, water bills, utility bills that come and go and the work order never happened, the bills were being paid for eight years. The owner there never said once this is strange. How come I never got a water bill. I don't think there is a person in this room that would let that go more than six months. If you did you know you are in trouble. Ms. Knight said there were bills issued on that property. Mr. Estep said he never received a bill. Ms. Knight said when the property transferred ownership the work order was here in the office. Ms. Knight stated she did not work here in 2014. The work order came in, the customer service changed the name on the account. It's the responsibility of the last owner to go in and shut off the autopay on their bank account, I'm taking this from the City Solicitor. Mr. Estep said that is not true. Ms. Knight said this is what I am being told by the City Solicitor. Mr. Estep said I am telling you that is not true I know that for a fact. Ms. Knight said it is on bill pay in your bank account. The City has no way of getting into your bank account and taking that information out of there. Mr. Estep said he closed on many properties and every single time the work order and the paperwork that you do within your offices closes that off, stops it and the new owner then has the responsibility for that payment. That is the way it works. The onus is not on me. Ms. Knight said this is coming from the City Solicitor. Mr. Estep said if that is the counsel you are receiving then I'm telling you that is wrong and I will absolutely argue that because I completely disagree with what is being said here. Mr. Estep said he is expecting to be covered in full and will push forward on that. That is not a threat. I am really disappointed. Ms. Knight said as I told you before this is not an attack on anybody. As the ambassador of public funds, being accountable and being transparent, I had to bring it to legal

counsel and this is what I am getting back from legal counsel. Mr. Estep said Ms. Knight should revisit that again because the dereliction of duty will mean I will be able to collect. I would strongly advise you to go back to him and relook at it. Commissioner Smith said we did talk about some other analogies. Someone paying a bill in someone else's name. We collect the funds that we are authorized to. We don't charge your bank account without authorization. The system was obviously processing that. There is a responsibility too for people to monitor their checking accounts. I do it. I know you said you have a lot of properties but still if you are running a business that took a long time for it to go as well—eight years. Mr. Estep said the order he sees it in is the work order should have happened that's responsibility number one. Responsibility number two is for an owner to not pay, not receive a water bill which is an average of \$150 a month for eight years. The argument where I've got multiple properties and ins and outs that's responsible three. Ms. Knight said Shane has been receiving a water bill. They are being sent to 15 Charter Street. Mr. Estep said marked paid and he never once questioned that. Ms. Knight said he started paying them so he must be receiving them. It is not the responsibility of the City if the post office isn't getting that bill to where it's supposed to be. They are leaving the office. Mr. Estep said what I am saying is they didn't come to me. The sums of money that are coming and going in and out of my account there was no flare. If I saw a bill and questioned it I would have called immediately but I didn't get that. But it all goes back to the work order that didn't happen and that work order would have stopped everything including my account. I'll actually call my closing attorney just to get his historical opinion. I've bought many properties and that work order that happens at the time of closing shuts everything off. It's not my responsibility to go in and make sure auto pay is turned off. I'm not going to turn off auto pays. I've got so many things that are being auto paid. Commissioner Smith said he's had surprise charges and he likes to have a bill so he can reconcile things. The Board has the public trust and we need to be sure we are being paid for our water. I know it is unfortunate that this happened to you. We need to have a plan if we are going to be moving funds in support of this we need to have assurances that we will get our money back as well. Shane is the person who wrote the letter. Julie, I don't know if we want to table it again because the other idea we floated was to lien the property the amount that was refunded which would work but the only issue is if they sell the property for cash. To transfer the funds out without any assurances that we will get something back in that would be us avoiding our responsibilities. I would like to trust everyone for their word but we are going to have to have collateral. Ms. Knight agreed. Mr. Estep said again this started with the City not executing the work order. Commissioner Smith said he is aware that the billing software has been changed to address owner changes so it will close the account. I was involved in a snafu with an early read when I purchased my property. That was four years ago. That was eight years for you. These things shouldn't be happening with the new software that we have. Unfortunately, this was in the time of older technology. Mr. Estep said he is the victim of older technology and you should talk to counsel and tell them that because that's going to argue well for me if it goes that distance. Commissioner Jones said to table this, get further data, Earl we have your input, you paid us. We feel it is the other person's responsibility to compensate you. Mr. Estep said that is where we disagree. Commissioner Smith said people have a responsibility to check their bank accounts and people have a responsibility to check their bills. Mr. Estep said the work order is the domino that started everything. Commissioner Smith asked Mr. Estep if he put a work order in and nobody shut the water off. Mr. Estep said at the time of the closing all of those work orders, all of that is communicated to all of the utilities, Julie you showed me the work order, you had the work order when I visited you in the office and it was never done. Ms. Knight said she had the work order and what occurred at the time was the work order comes in, the office staff generates the final bill and after it is generated they change the name on the transfer of property. Now we tell the customer to go in and make sure your auto pay is shut off. Now we have a system that shuts it off and there is a key that if the customer numbers don't match it kicks you out. In this case the office staffer who doesn't work here anymore, I'm not 100% clear on what happened but it didn't get shut off by the office. Commissioner Smith said a work order is generated and some connection wasn't made with terminating the service in the billing software. Mr. Estep said whether it is fully automatic or manual, the onus is on the City to close it down. Ms. Knight said that is where the City Solicitor disagrees. The City Solicitor is saying it is on the past property owner to go in and shut their auto pay off. Another thing he noted on a phone conversation with

him is you bought a property in the same City and went in and set up a new account in the same software and didn't shut off the old one. Commissioner Smith suggested to Commissioner Jones that we table this and try to get the City Solicitor in at the next meeting and discuss this in executive session. Commissioner Creelman agreed. Commissioner Jones agreed as well to table the discussion. Mr. Estep told Ms. Knight to let him know if the next time the City Solicitor is on he will be present with his attorney as well.

3. Approval of Minutes

Commissioner Jones wanted to make sure the following changes were made to the Minutes of March 16, 2022. Karen Bush confirmed they were.

- The next meeting time should be changed from 12:00 to 2:00.
- Commissioner Smith's vote on the 7 Olive Street abatement should be changed to a yes vote rather than an abstained vote.

Commissioner Jones made a motion to approve the Minutes of March 16, 2022 as amended.

Vote: Jones yes, Creelman yes, Smith yes

4. Warrant and Contract Signing

Commissioner Smith made a motion to approve the Warrants.

Vote: Jones yes, Creelman yes, Smith yes

- **Valve Exercising Program.** Commissioner Jones stated the project was not to exceed \$39,800. He asked Mr. Carey if that was for a person to assist witnessing that. Mr. Carey said correct. Julie sent over the resume of the gentleman who would be running the project and representing the City's interest. He handled the Route 1 directional drill project for the City. He's a licensed water operator in the State of Massachusetts. Right now, with my staffing issues and my own workload there's no physical way we can monitor that program and everything else that is going on. I think it would be very beneficial for the scope of this project to have him supervise, monitor and deal with data collection in the field. This is very similar to how the Highway Department has an on-site person when they are doing paving.

Commissioner Jones made a motion to approve the Resident Project Representative for Valve Exercising Program with a sum not to exceed \$39,800. Commissioner Creelman seconded.

Vote: Jones yes, Creelman yes, Smith yes

Ms. Knight said she will have a signature page for the Commissioners to come in to the office and sign and then she will send it up to City Hall for signatures.

5. Old/New Business

Commissioner Jones asked if the Board wanted to discuss the abatement policy as mentioned earlier. Commissioner Smith said where we left it when we didn't have the quorum was Julie and the staff were going to look at my comments, make a first draft and maybe we could get a couple of comparable neighboring municipalities policies as well and have that in the meeting packet for our next meeting. Ms. Knight said Sandy would be here too so that is a good idea. Commissioner Smith said in reading the policy a few times I feel the formula we use is a bit too liberal. An example would be when you have a running toilet with a variable water bill history. We can't capture that. We need a better way to estimate the wasted water and decide. I don't think past use is necessarily fair. The question is do we want to

abate running toilets, faucets and things like that. I think the intent of the abatement policy has always been something that happened beyond your control and you rectified it immediately upon notice. For example, a burst pipe in your basement while you are visiting family for Christmas when you come back if it wasn't already discovered by someone else. Commissioner Jones said a lot of the abatements have been irrigation system failures. Some of them are new and they fail. I don't see how our abatement policy can fit that. Either we don't abate for failed irrigation systems period or how do we do it. Ms. Knight said she feels that should be on the homeowner. It's their due diligence to maintain their property. I think it is irresponsible to leave your irrigation on until January and I feel we are getting a lot of irrigation abatements due to freeze ups. Commissioner Creelman said every running toilet and faucet has a shut off and they should be shut off instead of leaving it running.

6. Executive Session – Possible Litigation

Commissioner Smith made a motion to move into Executive Session at 3:03 pm. Commissioner Jones seconded.

Vote: Jones yes, Creelman yes, Smith yes

Commissioner Jones made a motion to move out of Executive Session at 3:13 pm. Commissioner Smith seconded.

Vote: Jones yes, Creelman yes, Smith yes

7. Next Meeting

- Wednesday, May 18, 2022 at 3:00 pm.

Respectfully Submitted By: Karen Bush