

Newington Sewer Commission 1/6/16 APPROVED MINUTES

Meeting called to order at 9:06 am

Present: T. Cole Chairman, T. Field, J. Richardson. D. Messier Plant Operator, A. McEachern Shaines & McEachern, M. Murray Vachon Clukay & Company

Meeting at the Town Hall with the Town Auditor and Legal Counsel to discuss the Surplus Fund Account.

J. Richardson began the discussion by asking if the fund was created is the Sewer Commission spending money from the operating fund and then asking the Trustees of the Trust Fund for reimbursement or will the Commission be asking the Trustees to pay the expenses directly? What is the process that the Commission should use? M. Murray, Town Auditor, advised that either method is acceptable since Newington has separate funds for municipal and sewer, and not a single municipal fund. The Commission would notify the Town Hall to request reimbursal or payment from a Capital Reserve Account. All expenditures are reported as cash to the account so it is transparent.

D. Messier added he had spoken with Mr. Vachon who had advised that our present method is acceptable, as long as it is clear, open and transparent.

S. Cole asked about access to the account and T. Field if any other town entity would have access to this new Capital Reserve Account. M. Murray advised that the RSA specifically states what the account can be used for and by whom. Another municipality in NH had an issue with their Trustees not issuing payments from trust funds when directed to do this, but this was an issue within this one town, it is not the case here in Newington.

A. McEachern advised the Commission on RSA 149-I:10 on Sewer Funds.

149-I:10 I. The funds received from the collection of sewer rentals shall be kept as a separate and distinct fund to be known as the sewer fund. Such fund shall be allowed to accumulate from year to year, shall not be commingled with town or city tax revenues, and shall not be deemed part of the municipality's general fund accumulated surplus. Such fund may be expended only for the purposes specified in RSA 149-I:8, or for the previous expansion or replacement of sewage lines or sewage treatment facilities.

III. At the option of the local governing body, or of the board of sewer commissioners if any, all or part of any surplus in the sewer fund may be placed in one or more capital reserve funds and held in the custody of the trustees of trust funds pursuant to RSA 35:7. If such a reserve fund is created, then the governing body, or board of sewer commissioners if any, may expend such funds pursuant to RSA 35:15 without prior approval or appropriation by the local legislative body, but all such expenditures shall be reported to the municipality pursuant to RSA 149-I:25. This section shall not be construed to prohibit the establishment of other capital reserve funds for any lawful purpose relating to municipal water systems.

The RSA specifies that the Sewer Commission is the body to expend funds from a Sewer Capital Reserve Account.

Discussion ensued on duties of the Trustee of the Trust Funds and the Town Treasurer.

S. Cole asked what the benefit of switching to a Capital Reserve Account. A. McEachern advised that our current surplus fund was set up under the old statute. The current law was established in 1994 and is applicable now. Sewer surplus funds must follow specific steps, which includes having a Capital Reserve Account managed by the Trustees of the Trust Funds for us to be in compliance with the law.

Discussion turned to the upcoming sewer upgrade and how this fund would be used to help with that expense. J. Richardson advised that we are looking at project cost that may exceed the bond vote. Payments made towards construction from the Capital Reserve Account will not fall under town appropriation. Under our current system the Town Treasurer is writing all the sewer checks and we are expending more than our appropriation. With a Capital Reserve Account any funds expended above and beyond our appropriation would come through the Trustees of the Trust Funds. If we don't fix this, then we are open for someone to call out the error.

A. McEachern prepared a motion for the commission to vote on. Intent is to take existing surplus fund (the Enterprise Fund) and convert to a Capital Reserve Account under RSA 35:15. RSA 35:15 IV specifically states the Sewer Commission shall determine when expenditures are made from the fund. J. Richardson also advised that this RSA prevents the Capital Reserve Account being changed at Town Meeting. M. Murray suggested for transparency purposes consider having a vote at Town Meeting to pay overages from the Capital Reserve so that everyone knows what the total costs of the sewer upgrade are.

D. Messier advised it may be too late to put on the warrant for this year's Town Meeting. We are not going to expend the entire bond this year. We'll have a clearer idea of the total costs after the bids come in. He has also applied for other grants to help fund the upgrade. This Capital Reserve Account will give the Commission more control and is more transparent. J. Richardson spoke on the project account, expenditures from the bond proceeds and from the surplus account. He asked the auditor how should the Commission annotate this in the annual report when they do their financial statement? M. Murray advised that the way the article is worded it is bonds or state revolving loan funds. We will pay expenses and receive reimbursement from the State through wire transfers. J. Richardson advised we are only borrowing up to what we appropriated, funding the remainder from the surplus. D. Messier advised we have one request for reimbursement in so far. The loan has been approved through the borrowing authority. We cannot borrow beyond that amount. The remainder to be paid from the sewer surplus. D. Messier will be setting up binders to track all expenditures and reimbursals. We can only hope that the bids come in under 8 million. If we have a change order or something comes up, the Capital Reserve Account give the Commission the authority to have more to cover the cost of the project without having to come back to the town to ask for more money. It will all be transparent. The Commission will vote at their public meeting and then the request for expenditure will go to the Trustees of the Trust Funds. T. Field noted this creates a transparent paper trail.

S. Cole asked when and how do we put monies into the fund? M. Murray advised at the end of the fiscal year when the surplus for the year is determined. J. Richardson advised that by waiting any surplus accrued during the year is on hand for any unforeseen situation, for example if the mall closed. The Commission also controls the sewer rate and can raise and lower as needed to cover the expenses of the plant. Our rates are based on water usage, which can fluctuate with the weather. T. Field asked if a million in the account was enough. M. Murray advised it was. The fund has been accumulating since 1982. D. Messier noted that we go to Town Meeting with an appropriation to spend so much and we can't overspend that from the operating budget, unless there is a true emergency – with DRA approval. We do watch our budget. But in the event of a major repair, such as a new centrifuge, we will have the monies in the Capital Reserve Account and we request the Trustees of the Trust Fund to pay for it. This meeting has clarified the requirements and need for the Capital Reserve Account.

Discussion moved to billing. Many communities have gone to monthly billing. We voted to go to quarterly at a previous meeting.

Moved by J. Richardson for the Newington Sewer Commission to establish a Surplus Capital Reserve Account and to transfer funds as noted.

I. VOTE TO ESTABLISH A SURPLUS CAPITAL RESERVE ACCOUNT FOR SEWER AND TRANSFER ACCUMULATED SURPLUS

I VOTE to establish a CAPITAL RESERVE ACCOUNT FOR SEWER, pursuant to the provisions of RSA 149-I: 10, III and RSA 35:7, using accumulated surplus sewer rentals from the Town of Newington Sewer District's fund, to be held by the Trustees of the Trust Funds of the Town for the purpose of construction, reconstruction, major emergency maintenance, and/or acquisition of capital improvements and/or equipment used in the operation of the District's sewer system and all legal, engineering and other costs related to such allowed purposes; Said surplus capital reserve account for sewer established hereby shall be held by the Trustees of the Trust Funds and expended by order of the Board of Commissioners for the Town of Newington Sewer District as provided for by RSA 35:15;

AND FURTHER to authorize the Treasurer to transfer the entire currently held accumulated balance of \$997,179.85 (as of November 30, 2015) in the Town's existing Enterprise Fund established under the Laws of 1981, Chapter 87, to the Surplus Capital Reserve Account for Sewer, upon its establishment, and thereby bring the Town's existing Enterprise Fund into compliance with the requirements of RSA 149-I:10 and RSA 35:7.

Roll call vote taken. S. Cole – yes, T. Field – yes, J. Richardson – yes.

Signed copy of the vote attached.

D. Messier will request the Town Treasurer attend the next Sewer Commission meeting. TD Bank had some questions about our accounts. In February we'll need to discuss contractors. Some have asked to extend out bid opening until January 28th from January 20th. The SRF has requested we stay on schedule so he will be conferring with E. Leonard from Wright-Pierce.

Adjournment at 10:04.