

**Town of Hillsborough Water & Sewer Commission**  
**May 27, 2025 Meeting Minutes**

The meeting was called to order at 6:00 p.m. Present were Commissioners Peter Mellen, Dave Lewis and Dana Clow; and Penny Griffin, Water and Sewer Administrator.

Also present were:

Richard Pelletier, Selectman  
Laura Buono, Town Administrator  
Chad Branon, Fieldstone Land Consultants  
Jack Franks, Avanru Development  
Terry Thomas

1. Commissioner Dana Clow raised a point of order. He stated that in the weeks between the last Commissioners meeting on May 8th, and this one, Penny Griffin forwarded the Commissioners' information, some of which included a legal opinion from 2016 when prior members of the Commission were dealing with the proposed Mike Black development. Commissioner Clow opined that the 2016 legal opinion directly relates to the conversations currently happening with Chad Branon and Mr. Franks regarding their development. Commissioner Clow stated that he is concerned that the Commissioners have not had an opportunity to discuss the information together, especially whereas Jack Franks made it very clear at the last meeting that if certain proposed ordinance changes were adopted, he would pursue litigation. Commissioner Clow suggested that Chad Branon make his presentation, but the Commission will not make any representations until they have had an opportunity to review the information and get clarification from counsel of what the information meant and how it applies to what is before them now. Both Commissioners Mellen and Lewis concurred.
2. Chad Branon of Fieldstone Land Consultants gave a brief overview of previous discussions between the Commission and themselves regarding the developer's request to waive the water connection fees and the sewer System Development Charge for their proposed Phase 2 development. Mr. Branon declared that the Commissions had offered to only waive the \$22,500 for the water connection and to not waive any of the \$148,000 sewer System Development Charge does not work for the project so alterations to the original plan have been made.

Chad Branon presented the altered plan to the group. Chad explained that whereas they were not able to negotiate away all the fees they wanted to for the project, they looked into installing a septic system, as previously suggested by the Commission. The original plan included an 80-unit senior housing building (16 x 2-bedroom and 64 x 1-bedroom), a building with 30 x 2-bedroom condo units, a building with 24 x 2-bedroom condo units, 4 single family residential lots and a non-residential lot for a future community center. The original Phase 2 plan also showed the development extending the water main to the existing water main on Harvey Way to create a short loop. Mr. Branon showed the new plan which includes the 80-unit senior housing building, 11 single family lots, a septic system and no connection of the developments water main to the water main in Harvey Way. Chad pointed out that the two condo buildings and the future community center lot are not included in this proposal. Mr. Branon stated the septic system requires a nitrate set back which will extend over the property

line onto a Town owned parcel. Chad stated that he has already met with the Selectmen to obtain the easement which the Selectmen granted but also requested that Mr. Branon appear before the Commissioners again in a final attempt to negotiate the waiver of the fees so that the project will go forward as originally planned.

Commissioner Peter Mellen asked Mr. Branon how much the construction costs for water and sewer would be to install as proposed originally. Chad estimated the cost to be about \$355,000. Jack Franks opined the estimate to be closer to \$400,000 to \$450,000 as it doesn't include things like additional engineering, monitoring, or third-party engineers.

Commissioner Mellen then asked Chad Branon if he had an estimate to install the infrastructure for their option 2. Chad Branon said that they have looked at the costs, but he did not have the dollar numbers with him tonight that he could share. Mr. Branon offered that the benefits of constructing a septic system is that there aren't long term fees like user fees. Jack Franks stated that with the current user fees they would break even with the cost of the septic system in 7 years.

Chad Branon stated that unless there is going to be further consideration by the Commission, they are ready to move forward with the altered plan.

Laura Buono asked what the reason is the Commission wasn't interested in working with the developer so that the whole development could be presented and led to them suggesting they look into a septic system.

Commissioner Peter Mellen reiterated the issues the Commissioners face with a leaky sewer system where portions must be replaced to remove inflow and infiltration as the clean water is taking up capacity. Commissioner Mellen went on to review information presented in the sewer asset management plan that outlined 2 ways for the Commissioners to raise funds to do the required work, raise user rates and create the System Development Fee for all new users and expanded services. Commissioner Mellen reminded the group that prior to implementing the System Development Charge the Commission met with and received approval from the Economic Development Committee, the Planning Board and the Board of Selectmen.

Commissioner Peter Mellen produced a list of all System Development Charges collected in 2024.

Commissioner Mellen concluded that the benefit of the initial Phase 2 project was with the water system looping and that is why the Commission agreed to waive the water connection fees. He further explained that the Commission's focus is fixing the leaky sewer system and not extending the sewer system, which is what this project does, it is of no benefit to the sewer users and the Commission chose not to waive the System Development Charge.

Laura Buono countered that if the water loop does not get done, the Commission loses out on user fees and the Town will lose out on increased property valuation that could in turn help reduce Tax impact to pay for some of these sewer issues. Ms. Buono asserted that the Selectmen have voiced their interest in helping with the sewer issues with a bond.

Commissioner Dave Lewis noted, and asked Jack Franks to confirm that in Newport when Mr. Franks had an issue like this on his project, the Selectmen made an agreement with Mr. Franks that he pay 50% of the fees and the Selectmen paid the other 50% of the sewer fees. Chad Branon and Jack Franks confirmed the information.

Chad Branon lobbied that even though there is no benefit to the sewer system there is a benefit to the water system and would think the Commission could take the cost to construct the water loop into consideration and waive the sewer System Development Charge. Chad went on to say that in theory, they will not be making the exiting sewer conditions worse as they will be installing all new infrastructure and the system will be taking on new multiple users with fees.

Jack Franks stated that he understands the predicament that the Commissioners are in and doesn't fault them for trying to raise capital to upgrade the leaky system as there is only limited capacity.

Commissioner Peter Mellen stated that he has a question for the Selectmen and asked Selectman Pelletier and Laura Buono if the Commission should attend the Selectmen's meeting the following night to discuss. Both Laura and Selectman Pelletier stated they would relay the question to the rest of the Selectboard members. Commissioner Mellen stated that with Ms. Buono's statements that this Phase 2 project will increase the Tax base and generate valuation to assist in addressing the sewer system issues, what kind of a commitment would the Selectboard be willing to make to the Commission?

Selectman Pelletier restated his commitment to support the Commission by moving forward with the plans of obtaining a bond. He noted he is not speaking for the entire Selectboard.

Commissioner Mellen clarified that, using the currently Park and Whittemore Street project as an example where the cost responsibilities are about 50/50 between the drainage/roadway and water/sewer categories, he is asking if the additional property tax income the Town receives from this development are going to be applied only to the Selectmen's 50% or will also be used to help offset the Commission's 50% portion?. Selectman Pelletier stated that he is looking to consider a project with separate elements; he would like to consider the project as a whole to be paid for with bond funds and have the Selectmen and the Commission split the bond payment 50/50 less whatever the State contributes. Laura Buono stated that it is definitely a conversation the boards should be having. Ms. Buono suggested that the bond payment shouldn't be paid by both the users and the taxpayers as users are taxpayers too.

Selectman Pelletier asked what the Commission would use the monies collected from System Development Charges if they are able to obtain the bond to address the leaky pipe issues.

Commissioner Mellen stated that at this time, the Commission is working to complete main replacements in a system portion every 3 years. Commissioner Mellen agreed that the bond is a great idea but at this time it is still an idea, and the Commission must continue with their schedule to eliminate I/I.

Chad Branon offered that collaborative discussions such as this is looked upon favorably by the State. Mr. Branon opined that their project offers housing diversity which is also important to the State. Chad acknowledged that the Commission is faced with serious issues however, these workforce housing and elderly housing projects that are getting funding from NH Housing aren't projects that are suited to backbone infrastructure fees like these.

Commissioner Dana Clow stated that he would like to have Jack Franks as a partner in our Town and our enterprise here but that doesn't mean that he gets everything that he wants, and the users get nothing.

Commissioner Dana Clow reiterated that the Commission can't count on the bond, and they must continue to move forward with their plan because on a wet year they can exceed permitted capacity.

Penny Griffin advised the group that the sewer capacity limit was exceeded in April and Paul Dutton, WWTF operator, indicated to her today that May is on track to exceed the limit again.

Commissioner Peter Mellen explained that the permit capacity went on a 5-year rolling average on the old permit, but it was changed to a 1 year rolling average with the new permit. It was explained that if capacity is violated 3 months in a row EPA and NHDES will issue a violation and request to know what the plan is to address the issue.

Commissioner Peter Mellen asked Chad Branon if he had reviewed the System Development Ordinance in its entirety. He admitted he did not. The Commissioners told him that there is a provision in the ordinance that allows the applicant to produce actual bills with actual usage of a comparable building, which both Chad and Jack have said they have in other communities, that the Commission can review and take into consideration that may significantly lower the SDC if the actual usage is lower than what listed in Table 1008-1, Unit Design Flow Figures.

Commissioner Peter Mellen suggested that maybe the Selectmen want to contribute to Jack's project with the money the Selectmen received from Jack's previous project, if they feel that strongly about this project. Commissioner Mellen continued that he feels that knowing what they know about the current capacity the Commission would be delinquent in trying to reduce fees when they are in the situation they are in.

7:00 pm Jack Franks and Chad Branon left the meeting.

The group continued their conversation regarding future projects and the funding. Selectmen Rich Pelletier stated that it is going to be very difficult for the Selectmen to come up with a million dollars every 3 years. Commissioner Mellen stated that he had several conversations with Selectman Bailey regarding the importance of putting money away for future projects.

Selectman Pelletier stated that unfortunately, the conversations were not had with the entire board, and he did not understand that expectation in the beginning but now he does understand it and he agrees fixing sewer problems is not a problem of the Commission alone; it's a Town problem.

Commissioner Dave Lewis shared a graph showing the impact of rain on the system capacity.

Commissioner Peter Mellen explained that in the past, the Commission had tried to discuss combined water-sewer-drainage-roadway reconstruction, but the prior road agent only gave a few months' notice of the streets he was going to redo the next year and that did not leave sufficient time for the Commission to plan and complete any work that needed to be done in the affected street area. Commissioner Mellen then spoke of the sewer main replacement project that was done on Butler Street which included the repaving of the entire road paving per the requirement of the prior Highway Foreman. Commissioner Mellen suggested the Selectmen and Commissioners should discuss the expectations of future projects, if the Selectmen want to continue in that direction.

Commissioner Mellen stated that he is uncomfortable with the situation that it puts the Commission in if they do make a deal for the Phase 2 project and the sewer system takes on all their flow and the WWTF starts to violate. He queried where the Commission is going to get the money to help them continue with their endeavor of addressing I / I.

Commissioner Dave Lewis noted that the West Main pump station will also need to be re-evaluated for the impact of any new proposed discharge as it will be conveyed through the pumpstation and the gravity sewer system.

Selectman Rich Pelletier suggested that the Phase 2 project is only about \$75,000 to \$100,000 off from the project moving forward with their (Jack & Chad's) original proposal. Commissioner Pelletier admitted that the Commissioners had brought the proposed fee structure to the Selectmen before they implemented it and the Selectmen did approve of it; however, Selectman Pelletier opined that there is difference when dealing with individual homeowners and small businesses as opposed to large developments. Selectman Pelletier suggested that between the Selectmen and the Commission they come up with \$100,000 towards the development fees and the developer would accept that negotiation. He also stated that he believes the new development would not impact the existing infiltration issue as their discharge will be clean flow. The Commissioners disagreed and stated that it is an increase in discharge which takes up sewer capacity, "clean" or not.

Commissioner Peter Mellen stated that the Commission is not interested in shortchanging the Town and they aren't looking to stop the Town from development, but the Commissioners have a commitment to the system.

A discussion was held regarding sump pumps discharging to the sewer system as well as the leaky sewer pipes. Selectman Pelletier asked the Commission if they fine violators with sump pumps connected to the sewer service. The Commissioners outlined the processes they have for inspections and the difficulty of people removing the connections for the inspection and then re-connecting them to the sewer when the inspection is completed. The Commissioners stated that the ultimate goal is to have the issue resolved and they have historically waived the initial fine if the issue is remedied in the appropriate time frame.

Selectman Pelletier stated that the 6 of them, i.e. 3 Selectmen and 3 Commissioners, should do their homework, put a plan together and bring it before the Taxpayers. He also stressed the importance of making sure the community members know this issue exists.

Laura Buono suggested that maybe if the Commissioners had stated that they can't approve the project of that size as it would be a capacity issue, rather than just stating the Commission would not budge on waving the fees, it would have been better received.

The group discussed the advantage Chad Branon could have by utilizing the alternate way to calculate the proposed usage of the Phase 2 project discussed earlier tonight.

The Commissioner Peter Mellen addressed an article in the May 23, 2025, issue of the Messenger that stated that Selectman Pelletier stated that "the Selectmen have given the Commission all this money and have gotten nothing in return". Commissioner Mellen stated that the comment was very misleading. Selectman Pelletier agreed and stated it was taken out of context. Selectman Pelletier stated that he has essentially stated the same thing at a previous Commissioners' meeting when he has stated they wish they could take their foot off the gas, but he also can understand why they can't.

Selectman Pelletier stated that he would hate to see this project "go down the drain" over potentially \$100,000; there is too much money that would be coming into the Town. Commissioner Lewis reiterated that the Commission does not get any revenue from Taxes, only from user fees.

Commissioner Mellen conceded that if the sewer system was a "tight system" there would be more room for negotiations but given the system condition now, continuation of replacing old leaky pipes is the best action moving forward

8:00 pm Laura Buono and Selectman Rich Pelletier left the meeting.

3. Water and Sewer Change of Use/Occupancy applications for 166 West Main Street were reviewed.

The Commissioners approved the Water Change of Use application as submitted.

The Sewer Change of Use/Occupancy application was reviewed. The Commission determined the proposed use category of recreation on Table 1008-1, of the New Hampshire Code of Administrative Rules, Chapter Env-Wq 1000 does not increase the current approved discharge so there is no System Development Charge.

Commissioner Dana Clow motioned to approve the water and sewer Change of Use applications as submitted. Commissioner Dave Lewis seconded the motion. All voted in favor.

4. The Commissioners reviewed and authorized the following authorizations to move funds:
  - a. 2025 AP Voucher #10 W= \$375,624.67 S= \$735,517.14
  - b. May 8, 2025, meeting minutes
  - c. Timecards

5. The Commissioners reviewed and authorized the following:
  - a. 2024 water unspent funds \$43,433.42 to NHPDIP account
  - b. 2024 sewer unspent funds \$231,580.03 to NHPDIP account
  - c. 2024 unspent water system repair and maintenance \$43,411.22 to water line rehabilitation capital reserve
  - d. 2024 unspent sewer system repair and maintenance \$37,967.48 to sewer I/I reduce capital reserve
  - e. \$84,000 from PDIP reserve funds to I/I Reduce Capital Reserve – Park & Whittemore St Project
  - f. Create Lead & Copper Rule Revision (LCRR) Capital Reserve - \$240,000
6. Chairman Dana Clow motioned to go into nonpublic session at 8:30 pm under RSA 91A:3 II (I) Consideration of legal advice. Commissioner Dave Lewis seconded the motion. Motion passed unanimously.

The group discussed legal information provided to the Commission.

Commissioner Mellen motioned to come out of nonpublic session at 8:50 pm. The motion was seconded by Commissioner Lewis. Motion passed unanimously.

Commissioner Dave Lewis motioned to adjourn the meeting. Commissioner Peter Mellen seconded the motion. All voted in favor.

Meeting adjourned at 8:50 pm.

Respectfully submitted,

Penny Griffin, Administrator  
Water and Sewer Commissioners Meeting Minutes  
Approved by:

Date:

Peter Mellen, Chairman

Dana Clow

Dave Lewis  
Water and Sewer Commissioners