

Town of Hillsborough Water & Sewer Commission
May 8, 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
Riché Colcombe
Jack Franks
Kim Opperman
Terry Thomas
Adele Michaelides Thomas
Keith Cobbett

Commissioner Peter Mellen opened the public hearing for proposed revisions to the Water Ordinance at 6:00 p.m.

Commissioner Dana Clow confirmed with Penny Griffin that the proposed ordinance revisions were posted. Ms. Griffin confirmed that the proposed changes were posted on the Commissioners website for public access and the public hearing notice was published in the April 18, 2025, Messenger Newspaper, and posted on the bulletin boards at the Town Hall and the post office.

Commissioner Peter Mellen advised the attendees that one of the major proposed changes to the ordinance is the billing for the sprinkler service lines, changing it from billing by the square footage of the serviced building to billing by the size of the sprinkler service line. Commissioner Mellen advised that under the current billing structure \$13,000.50 would be billed for sprinkler lines this coming billing quarter and as a result of the proposed changes, \$3,650.00 would be billed for the next quarter. He noted that for the year it would result in a \$37,000 reduction in sprinkler fees.

Kim Opperman stated that he was happy to hear that and feels it is good for the Town. He opined that the change would encourage more people to get fire sprinklers systems.

Laura Buono asked what the purpose of charging for sprinkler system is as there is a charge for the water if they use it. The Commissioners stated that usage is not charged for water usage on a sprinkler line as no meter is installed.

Commissioner Dave Lewis stated that how other communities charge for sprinkler service lines was investigated, and it was found that the general consensus is that they charge by the diameter of the pipe.

Commissioner Dana Clow stated that what was obvious was the existing way of billing is excessive, and the Commission came up with a way that is more consistent to the way neighboring Town's bill for sprinkler service lines.

Jack Franks asked why a meter cannot be put on in order to track the actual water used. Jack stated that with the fees he estimates that his workforce housing project will pay about \$50,000

in 15 years and he thinks it's egregious. Mr. Franks opined that some mechanism should be in place regulating the flow and measuring the water used so the Commission can be compensated for that. Mr. Franks named off several communities he works with, Newport, Swanzey, Keene and Walpole, that he claims do not charge for sprinkler service lines.

Commissioner Dana Clow asked Mr. Franks how he figured the \$50,000 over 15 years. Mr. Franks stated he was using the \$828 per quarter that he was quoted by Penny Griffin in an email. Commissioner Mellen stated that the new proposed rates would change the \$828 per quarter to \$200 per quarter. Mr. Franks stated that it is still \$800 per year, resulting in \$12,000 over 15 years and it's not viable. Jack stated he has never had this in any of the buildings he has built, and he has asked NHDES and state officials to look into it as it is uncommon.

Commissioner Dana Clow reiterated that the Commission reviewed fees charged by other communities throughout New Hampshire.

Kim Opperman stated that he does not believe meters can be put on fire suppression lines. He also stated that he has owned property all over this country and he has never not been charged a flat fee for sprinkler lines; he just thought the fee was excessive and it was holding people back.

As a follow-up to Jack Franks' claims, Penny Griffin provided a copy of the Schedule of fees for the City of Keene that was obtained from their website during the research of how other communities bill and noted that there is a category for "fireline charges" that are billed quarterly. Comparably, a "6" fireline, the size of the sprinkler line installed at Mr. Franks workforce housing structure in Hillsborough, would be charged at the rate of \$1,127.46 quarterly.

Laura Buono asked if comments were limited to the sprinkler ordinance. The Commission stated any questions pertaining to the proposed ordinance revisions were welcome.

Laura Buono stated that she was concerned that ordinance 223-3 states that "notice of the proposed rules shall be published in a newspaper of general circulation in the Town of Hillsborough..." but what was in the newspaper was that they could see the changes here at the Commissions office and she believes a summary of the changes have to put in the newspaper so that the people who are reading the paper know what is going to be discussed. Commissioner Mellen reviewed the ordinance and stated that the ordinance reads that "...any modification or additional rules or regulations shall not become effective unless there shall have been held a public hearing with due notice thereof not less than 15 days prior to the public hearing and notice of the proposed rules shall be published in a newspaper of general circulation in the Town of Hillsborough prior to the proposed effective date". Also, the notice published in the paper stated that copies of the proposed ordinance changes are available for public inspection at the Water & Sewer office during business hours and available on the Town website. Commissioner Mellen also stated that the public notice had been reviewed and approved by their legal counsel.

Laura Bouno suggested that the proposed change to ordinance 223-3 to remove the words "their Selectmen" should be replaced with the RSA that governs the Commission instead of the words "the Commission"

§ 223-3 Authority to adopt rules and regulations.

The rules and regulations herein are adopted by the Town of Hillsborough by their ~~Selectmen~~ **the Commissioners**, duly authorized, and pursuant to the authority granted to the Town of Hillsborough as a municipal corporation under the laws of the State of New Hampshire.

Commissioner Mellen confirmed that the revisions had been reviewed and approved by their attorney.

Ms. Buono continued that in various places throughout the ordinance it states that the Commissioners are going to own infrastructure, however, the Town owns infrastructure. The Commission concurred; Commissioner Clow clarified that the Commission maintains and operates the infrastructure but does not own the infrastructure. Proposed ordinances 223-49, 223-51 and 223-52 were given as examples. Ms. Buono asked that those be corrected to say, "the Town" rather than "the Commissioners". The Commissioners agreed to review.

Laura Buono referenced the proposed ordinance change 223-48:

§ 223-48 Engineering Review

Extensions will be made to the main line of the system upon application of the prospective customer(s) to the Commissioners and will be subject to all rules and regulations of the Commissioners. The Commissioners may require the developer/contractor to extend the water line to an existing portion of the system to provide better service to the areas being served (i.e. completing a loop in the system). Any such extensions are to be determined upon review by the Commissioners engineer and at the developer's cost.

She asked what criteria is going to be used to determine if a loop is needed and how is the Commission going to make sure that is consistent across the board? Commissioner Clow stated that it is standard engineering practice that, where it is feasible, you complete a hydraulic loop, and the Commission relies on the advice from the engineering consultants review to make that determination. He went on to say that there are financial implications that are taken into consideration as well as the need and the desirability and willingness of the parties to work together. Laura Buono asked who makes the determination of a financial feasibility request? Laura further commented that from what she has seen, the Commission does not negotiate with anyone. Her concern is that there is a fair way to make the determination.

Commissioner Mellen stated he thought that there was reference to this in the existing ordinance. After discussion and upon review it was determined that it is a new proposed ordinance to clarify what is expected of a developer extending the water main system.

Commissioner Clow stated that the Commissioners rely on the consulting engineer reviews to make recommendations on individual proposals presented to them and unfortunately, there is not one, hard, fast rule to make a determination.

Laura Buono reiterated that she does not see any desire from the Commission to negotiate with developers, and she was disappointed that these proposed regulation changes were not brought to the attention of the EDC who is in the process of implementing a TIF (Tax Increment Financing) district. Ms. Buono stated she would like to see a sentence in the ordinance that states the Commission is open to negotiations.

Commissioner Clow stated that he is taken aback at her notion that the Commission is unwilling to negotiate and he's not sure where that comes from. He went on to say that just because a particular party does not get everything they asked for does not mean that a reasonable and credible negotiation has not taken place.

Jack Franks stated that he asked to come negotiate but he was told not to attend the meeting. He stated that the sewer fees increased 25% and the Commission was well aware that he was coming in to talk about a Phase 2. He went on to say that he will be attending the Commissioners meeting later this month to discuss changes he has made to the Phase 2 development which will show that they will not be able to put in 54 condos which is a direct impact to the Town. Jack Franks stated that the Commission wants him to install the infrastructure and pay to connect it and that is not the way it's going to work. Jack Franks warned that if the Commission adopts the ordinances regarding the extensions of main lines he will litigate as the Commission is not going to compel him to install infrastructure on private land that the Commission deems fitting. He reiterated that his projects don't have unlimited funds as they are federally funded and federally regulated. Jack stated that he feels targeted.

Riché Colcombe asked the Commissioners if they tell applicants that there is room for negotiation and do they allow it on the developers' schedule or are the applicants under the impression that what the Commission says is rule and they must follow it?

Commissioner Dave Lewis stated that since the ordinance says "may" then yes they can negotiate and that "may" is sufficient.

Laura Buono asked for instances that the Commission has negotiated.

Selectman Rich Pelletier weighed in on ordinance 223-48. He stated he feels it a bit arbitrary, and he finds it problematic for a developer, and not helpful for the town to grow.

Commissioner Peter Mellen asked Jack Franks if he has submitted an application for Phase 2 to the Commission? Jack Franks replied that he submitted an application to the Zoning Board but acknowledged that he has not filed an application with the water and sewer Commission yet. Commissioner Mellen confirmed that there is no application, and no plans submitted to the Commission for review. Mr. Franks stated that plans were submitted to the Planning Board to which the Commissioners provided the fee structure for and the reason they had the meeting to discuss the proposed fees. Commissioner Mellen stated that the fee structure has nothing to do with completing the water main loop. Commissioner Mellen stated that the fee structure for the water infrastructure has not changed since he built the first workforce housing structure; it is still \$7500 per building. Jack Franks stated that the fees totaled about \$205,000 for Phase 2 and they had requested that the Commission suspend or waive the fees as they were installing the infrastructure. Commissioner Mellen stated that the Commission reviewed their request and responded to Mr. Franks that they agreed to waive the Phase 2 water connection fees of \$7,500 per building: \$7,500 for the 80-unit senior housing building, \$7,500 for the 30 unit 2-bedroom condo building and \$7,500 for the 24 unit 2-bedroom condo building -a total of \$22,000. Commissioner Mellen went on to say that what they did not waive was the sewer system development charge. Commissioner Mellen stated that the Commission has not required him to complete the loop to Harvey Way as they do not have plans to review to make that determination; the loop was shown on the plans that Mr. Franks submitted to the Planning Board.

In response to Laura Buono's previous question about instances where the Commission has negotiated, Commissioner Clow told of a laundromat that has been approved by the Planning Board, that contacted the Commission to negotiate the estimated \$55,000 (round number as Commissioner Clow did not have the exact dollar figure in front of him) sewer system development charge. Commissioner Clow explained that the applicant has a comparable laundromat in Peterborough and was able to provide 2 years of flow record data from actual bills from Peterborough as there is a provision in the adopted System Development Charge ordinance to provide data from an existing equivalent facility for review. The Commission reviewed the data and negotiated the system development charge to be \$17,000 (again, round dollar number as Commissioner Clow did not have actual figures accessible) for their new sewer service application. Commissioner Clow reiterated that there is a provision for an alternate way to figure the flows for the System Development Fee within the ordinance.

Laura Buono said that is good to know.

Laura Buono asked if a sentence could be added to the proposed ordinance § 223-56 to give an opportunity to request an extension beyond the 2-year limit as stated.

§ 223-56 Will serve letters.

Letters of availability of water (otherwise known as will serve letters) to developers, contractors and individuals are valid for two years only from the date of issuance.

Commissioner Dana Clow stated that they could look into adding a sentence to address.

Riché Colcombe asked for a point of order. Ms. Colcombe asked, "Who is the Chairman of the Water Commission?" Commissioner Mellen affirmed that he is the Chairman. Ms. Colcombe stated she is getting confused as Commissioner Dana Clow seems to be making decisions about what can and can't be done and handling a lot of the questions, but she is not hearing from the Chairman. Riché stated she is confused as to who the decision maker is.

Commissioner Peter Mellen stated that they make decisions as a Commission. Commissioner Mellen advised that he is the Chairman, however, he does not have an issue with other people, who may be more qualified in certain areas, answering questions. Not all questions have to go through the Commission Chairman.

Commissioner Mellen commented that one of the issues with the Will Serve Letter is that it guarantees we have the capacity to provide a specific project; and, while it is not an issue with the water, it might be with the sewer as there are sewer capacity issues. Commissioner Mellen cautioned that extending a Will Serve timeframe could limit available sewer capacity for another project application. Laura Buono stated that she wasn't suggesting they take out the 2-year limit but rather address the possibility of requesting an extension. Commissioner Dave Lewis acknowledged that she has a valid point.

Riché Colcombe questioned the reference to RSA 252 within the existing water ordinance. Ms. Colcombe stated that there is no RSA 252 on the books for the State of NH and therefore, she feels that negates any of this. She continued that upon further investigation back when RSA 252 did exist, she found that it was strictly for sewer. She questioned why it is in the ordinance. Commissioner Dave Lewis stated that he agrees with her comments and there needs to be valid current RSA that applies to water, and they will be addressing it. Riché stated that she glanced through the rest of the ordinance and doesn't see where it states that other applicable laws apply except for in one area that doesn't pertain.

Commissioner Mellen stated that the Commission did consult with their attorney regarding this issue and the attorney felt that the reference to "...inclusive and any other applicable general laws" in ordinance 223-32 was sufficient and should not hold up from moving on with the hearing. Ms. Colcombe opined that the reference to an RSA that does not exist means the ordinance is meaningless and does not exist.

Commissioner Dave Lewis noted that in review of other communities' ordinances it was noted that most don't reference specific RSA's. Riché suggested the Commissioners take it out of theirs. The Commission stated that they plan to address it but it is not a part of these proposed changes. Laura Buono stated that the Commission can vote to make the amendment during the hearing.

Jack Franks asked if the record drawings referred to in proposed ordinance § 223-50 is requesting complete project as-builts or just the as-builts for the main extensions, because the entire project as-builts don't come for several months afterwards and he can't wait that long for water service. The Commission added that only as-built data on water and sewer elements is required – not sitework-related information.

§ 223-50 Extension record drawing (As-Built).

The Commissioners will not provide water service until final, accurate record drawings are provided to and approved by the Commissioners.

Commissioner Mellen noted that the Commission hasn't received the Phase 1 as-builts for Mr. Franks workforce housing project yet and the water service has been on since October 2024.

Jack Franks stated he would email his consultant to get the as-builts to the Commission right away.

Commissioner Mellen asked if there were any more questions on the proposed ordinance. With no more questions, Commissioner Mellen concluded the hearing by stating that the Commission will not move forward with the proposed revisions tonight. They will make some revisions and hold another hearing at a later date. He noted that all existing fee structures will remain in place.

Kim Opperman asked if the Commissioners will be fully revising the sewer ordinance in the near future. The Commissioners stated that they don't plan to as the sewer ordinance was recently revised.

7:10 pm Commissioner Peter Mellen closed the hearing. The following left the meeting:

Riché Colcombe
Jack Franks
Kim Opperman
Terry Thomas
Adele Michaelides Thomas
Keith Cobbett

The Commission continued with their regular scheduled meeting.

1. Commissioner Dana Clow advised the group that he has learned through conversations that there were 2 very different expectations regarding the Park and Whittemore Street project. The Commission thought of the project as a joint road reconstruction project where water and sewer paid for their respective elements of the project and the Town would pay for the drainage and road elements of the project. It has come to his attention that the Selectmen did not view the project in that way, and rather that they were just providing a dollar amount for it. Commissioner Peter Mellen stated that unfortunately due to the fiscal situation there is not much they can do to address that except to communicate better with the next project as we learn from the process.

Commissioner Mellen stated that the project bid came in very favorable and it would be advantageous to be able to move forward with the project. However, in view of the recent email from Laura Buono explaining that the Selectmen do not meet the criteria to hold a special town meeting to vote to expend money the town received from the Hillsborough Heights project for the Park and Whittemore Street project, that he would like to propose that the Commission cover the cost of the Town infrastructure that the Town is currently unable fund, with the provision that the Selectmen assure the Commission that they will include the article on the March Town warrant to reimburse the Commission for those costs. Commissioner Mellen confirmed that the Commission has sufficient funds to cover the shortage. Laura Buono said that the Selectmen are scheduled to meet next week, and they can discuss it. It was agreed that the Commissioners would attend the meeting in case there are any questions.

Commissioner Dave Lewis questioned what would happen if the Town voting public did not vote to allow the Selectmen to expend the money the town received from the Hillsborough Heights project funds. All agreed that would be a risk the Commission would be taking.

Selectman Pelletier reiterated that he believes the sewer I/I issue is a Town-wide issue and that they should move forward by trying to obtain a bond which will take several joint meetings over the next year and it would also take planning documents which can cost a lot of money; for instance, the Park and Whittemore Street project has cost several thousand dollars. The Commission confirmed the Park and Whittemore Street project design has cost \$176,000.

Laura Buono queried whether the Selectmen should hire a Public Works Director first. Commissioner Clow asked if that is something that is in the works to which Ms. Buono replied that it is on the wish list. She went on to say that she has spoken to the Selectboard about it as she feels they are at the point they need a Public Works Director with all the projects she is involved with and that is not her strong suit or what her role should be. There was a discussion on what a Public Works Director would do.

A discussion was held regarding the need for a Selectperson liaison during the remainder of the Park and Whittemore Street project. Ms. Buono and Selectman Pelletier stated they could discuss that at the Selectmen's meeting.

7:45 pm Laura Buono and Selectman Rich Pelletier left the meeting.

2. The group discussed available funds for the Park and Whittemore Street project. Should the Selectmen approve the proposal of the Commission to cover the cost of the Town infrastructure that the Town is currently unable fund, with the provision that the Selectmen assure the Commission that they will include the article on the March Town warrant to reimburse the Commission for those costs, some funds will need to be moved from the reserve funds to the I/I Reduce Capital Reserve account. The group will continue discussions at the Commissioners next meeting after meeting with the Selectmen.
3. The group discussed the WWTP Blower replacement project. The Commissioners reviewed and approved the proposals from RH White in the amount of \$110,000 to install the 3 new blowers and EII in the amount of \$5,800 to integrate the controls of the 3 new blowers to the existing SCADA system. The Commissioners authorized Penny Griffin to move \$350,000 from the sewer reserve account to the Sewer System Improvement Capital Reserve to cover the costs to replace the 3 blowers.

4. Water and Sewer Change of Use/Occupancy applications for 12 Myrtle 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 on the Table 1008-1, of the New Hampshire Code of Administrative Rules, Chapter Env-Wq 1000 to be "Dwellings – Apartment – studio or one Bedrooms – 225GPD".

- The application requests 1 new 1-bedroom apartment.
- Apartment 1 – 1 x 225 GPD = 225 GPD
TOTAL projected flow for new apartments = 225 GPD
The Commissioners determined the total proposed change of use increase to be 225 GPD and calculated the SDC to be \$1,509.75.

Commissioner Dana Clow motioned to approve the water application as submitted and the sewer application conditional upon payment of the SDC. Commissioner Dave Lewis seconded the motion. All voted in favor.

5. A New Water Service application for 13 Myrtle Street requests a new 2" multifamily sprinkler service line. The Commissioners approved the New Water Service application contingent upon receiving the \$7,500 application fee. The Commissioners also noted that the applicant will be responsible for the costs to have EJ Prescott tap the main which EJ Prescott has estimated to be \$2,000.
6. Correspondence from the owner of 11 Walnut Street requesting clarification of water and sewer service line responsibility was reviewed. Penny Griffin will respond to the inquiry with the following excerpts from both the water and sewer ordinances as each has their own rules:

Water service line responsibility information from the Code of the Town of Hillsborough
CHAPTER 223 WATER ARTICLE IV Owner's Service Pipe Connections

§ 223-9 Responsibility of owner/developer.

A. In the event of any development or construction which will be requesting or required to use the municipal water system for use on the premises, the developer/owner will, at its expense, initially construct each water main service pipe to the curb or property line (where the service pipe ends) and all costs and expenses of construction of the remainder of the owner's service pipe, including connection to the structures served, shall be borne by the developer/owner of the improved property to be connected; and such developer/owner shall indemnify and save harmless the Town of Hillsborough, its officers and agents, from all loss or damage that may be occasioned, directly or indirectly, as a result of construction, or its connection to the water system. Waterlines constructed shall be guaranteed by the developer/owner for two years from date of first use.

ARTICLE I Definitions and Word Usage

§ 223-1 Definitions.

"OWNER'S SERVICE PIPE - The pipe between the curb stop at the curblineline or property line and the building or other place of use".

"SERVICE-PIPE - That part of the water system extending from a water main to the curblineline and/or curb stop or, if there is no curblineline, to the property line, whichever comes first. If no such "service-pipe" is provided, then "service-pipe" shall mean that portion or place on a water main which is provided for connection of such".

Sewer service line responsibility information from the Code of the Town of Hillsborough
CHAPTER 181 SEWERS ARTICLE II General Sewer Use Requirements

§ 181-5 Use of public sewers.

G. During construction of a new sanitary sewer, the HW&SC may construct the service connections for existing buildings to the curb or the property line or the edge of a right-of-way. Construction of the building sewer, including connection to the structures served, shall be the responsibility of the owner of the improved property to be connected; and such owner shall indemnify and save harmless the HW&SC, its officers, and agents from all loss or damage that may result, directly or indirectly, due to the construction of a building sewer on his premises or its connection to the service connection. The owner shall thereafter be obligated to pay all costs and expenses of operation, repair and maintenance, and of reconstruction, if needed, of the building sewer and service connection.

ARTICLE I General Provisions

§ 181-4 Definitions.

"BUILDING SEWER - The extension from the building drain to the public sewer or other place of disposal, also called "house connection."

7. A follow-up discussion was held regarding the purchase of a vehicle to replace the 2008 Ford Ranger. The Commissioners discussed a proposal from Dennis Roberts at Hillsboro Ford for a 2024 Ford F150 for the amount of \$40,758. The Commissioners asked Penny Griffin to verify that the proposed truck has an 8ft. bed. Commissioner Dave Lewis motioned to authorize Penny Griffin to move forward with the purchase of the 2024 Ford F150 proposed by Hillsboro Ford contingent on the vehicle having an 8 ft. bed. Commissioner Dana Clow seconded the motion. All voted in favor.
8. Penny Griffin advised the Commission that the owners of 16 Butler Street have discontinued the apartment by removing the kitchen from the area and turned the home into a single-family home; Paul Dutton has inspected the removal. The number of sewer units being billed to this property will be reduced from 2 to 1 for future billing.
9. The Commissioners reviewed and authorized the following:
 - a) 2025 AP Voucher #9 W= \$18,437.44 S= \$19,957.27
 - b) April 22, 2025, meeting minutes
 - c) Timecards

Commissioner Peter Mellen motioned to adjourn the meeting. Commissioner Dana Clow seconded the motion. All voted in favor.

Meeting adjourned at 9:00 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