



## **TOWN OF HOPEDALE**

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**Board of Water & Sewer  
Commissioners**

Ed Burt, Chr  
Christine Burke  
James Morin

### **Hopedale Board of Water & Sewer Commissioners Minutes of August 5, 2020**

The Hopedale Board of Water & Sewer Commissioners met on August 5, 2020 at 7:00 P.M. in the Draper Room of the Town Hall. Members present were Chairperson Burt, Commissioner Burke and Commissioner Morin.

#### **Consent Items**

Minutes of the July 9<sup>th</sup> meeting – held off on approving until next meeting

**Correspondents: Wastewater lab results** – the Board was informed that all the wastewater tests passed. It was a good month the low flows were very helpful.

#### **New Business**

**A. West Street Land Purchase** – Chairperson Burt explained that we have some updated information, yet still have questions and due diligence to do. He would like to organize tonight's discussion around 4 topics. Please use the chat, ask questions, make comments as we work our way through each topic.

- 1) **Why is this area important to Hopedale Water/Sewer** – As the watershed, this property is important to the existing water supply and as a potential source for future water supply.

Tim presented the details covering watershed, wildlife, current and future water supply, potential development and difficulty of regulating RR development.

In summary, this is an environmental sensitive area, a forestry and wetlands system, hydrologically connected to Hopedale's existing water supply.

Commissioner Burke stated the railroad does have preemptive rights and we cannot interfere with the transport of goods. The issue has been raised questioning if the preemptive rights would overrule the Chapter 61B laws. Preemptive rights are limited, case specific, do not apply to wetlands protection act, Federal Clear Air/Clean water regulations. Commissioner Burke does not feel their preempted rights out rule Federal laws and that this area clearly has wetlands

Before opening it up to general questions, comments, Commissioner Burt asked if the Town Administrator, Diana Schindler, or the Board of Selectmen would like to comment, have we missed anything regarding this property?

Town Administrator Schindler stated the importance of the property was well covered. She also noted that the Board of Selectmen did not post meeting in time in order to attend/comment as a Board and that we are looking at protecting the area for the long term.

A question from the 'chat' asked if the Town were to acquire the land, and develop it with a different developer, would the Town have more control over the development? Yes, as the landowner the Town would be in a much stronger position to protect the area. Environmental laws make a large portion of this undevelopable.

- 2) **Right of first refusal 61B** –Since this land is forestry, town has right of 1<sup>st</sup> refusal to match the purchase and sale, Chapter 61B law.

Normally there is a 120 day time period to execute the Town's right of first refusal. There is a question if the Governor's executive Covid orders have put that clock on hold. While that is being confirmed, we are proceeding as if the clock is running, per normal procedures.

Chairperson Burt stated he spoke with members of the Conservation Board, Planning Board and the Parks Board and all would like the town to hold on to right of 1<sup>st</sup> refusal. Chairperson Burt asked if Town Administrator Schindler had heard from any of the other Boards and she stated her Board has not met yet but had not heard from other Boards. She did state she has received many letters from constituents and has heard of the petition.

Discussion regarding the clock, which would normally set an end date of Nov 7, Commissioner Burke feels we should continue as if that is in fact the end date.

Discussion regarding written notice to the BOS resulted with Commissioner Burke's motion to make a recommendation to the Board of Selectmen to purchase the 155 acres off of West Street, seconded by Commissioner Morin and made unanimous by Chairperson Burt.

Purchase and Sale with railroad has a tentative date of October but at the last meeting sounded like it may get moved up. Town Administrator stated last time she spoke with the railroad there was no mention of a change of date. Via zoom, Ken from Patrick Rd. asked if the railroad has to give a closing date?

Commissioner Burke stated it is a private deal we can not stop them. She does not feel they will close without a clear title.

Abutter commented about concerns that the clock runs out, may even be the RR's strategy. Our approach is to try and cover all basis, prepare for all situations. Commissioner Burt relayed the very positive feedback he has received regarding the Peter Durning and his firm that is providing our legal representation.

- 3) **Financial aspects** – the price for the 155 acres off of West Street is approximately 1.175M plus back taxes of about \$25,000, total of approximately 1.2M.

Because the Town is in the process of approving a \$1.3 million override. The Board wanted to explain the difference between these 2 financial items. The override is an annual budget expense issue.

The property would be a one-time cost, covered by borrowing. A loan of approximately \$60,000 per year for the loan payment. And that's before outside funding sources, private and/or grants.

A grant may be coming up this fall which would be 20% or up to \$350,000. Tim stated the grant would be a percentage with a max of \$350,000. Chairperson Burt stated he has had some contact with conservation groups and conservation lending groups. They offer lower rates and want to help towns achieve purchase of land. Commissioner Burke emphasized that once acquiring the land, the Town now owns an asset. We could keep what we need and sell what we don't, including selling a portion to the RR. So, the net expense may not be 1.2M.

Question, would using a conservation funding group trigger conditions or restrictions? Most likely, that is exactly what we would have understand before partnering.

Commissioner Morin asked would we have to purchase within the 120 days or just tell them we want to purchase? Commissioner Burke feels once we inform them, we want to purchase, we would have a little time after the 120 days. Per a resident's comment, believe it is an additional 90 days

- 4) **Working with the railroad** - A land swap was mentioned but very limited information was given regarding this. RR has also raised the point that the town will receive additional tax revenue from RR. Commissioner Burt ask the Town Administrator if any written details have been provided by the RR as requested during the BOS meeting?

Nothing in writing, verbal description.

Commissioner Burt explained that the Water and Sewer Board has had a contentious relationship with the railroad. We are not against them in general but haven't experience a very good working relationship. At our last public meeting with the railroad, the owner stated, "I don't give a damn about your wells". So, we are not optimistic that we will receive details. If other boards have a better experience, relationship, maybe they can extract and explain the RR plans and any related benefits to the Town.

Commissioner Burke reiterated that we are not against development. In this specific case, owning the property puts the Town in its best position.

Resident M. Bresciani appreciated the information especially the importance of the property and clarity regarding borrowing to fund the purchase of the property.

The Town Administrator stated we may have the opportunity to borrow, but do not have the money to purchase outright. Commissioner Burke asked about the time frame and possibly putting something on the ballot. Town Administrator Schindler stated we would need a town meeting vote first before it could be put on the ballot vote if a debt exclusion approach was to be used.

Commissioner Burke stated there is a handful of Board members and residents that are invested, should a committee be formed. Town Administrator mentioned possible starting a committee, open space overall, not just for this issue. Commissioner Burke stated for sake of time, group would be on their own, nothing formal, nothing appointed.

Representative Murray highlighted that the Town does have 120 days to analyze this, no need to rush through the analysis.

It was noted that 130 of the 150 acres is considered wetlands and forestry and that is why it is considered a 61B.

The ownership of the pond was brought up, Tim stated he doesn't know who owns the pond, but his understanding is that Mr. Shwachman owns the water rights.

Wells on Hopedale Country Club were brought up and Tim explained that a lot of that area is ledge. There is one area within the 110 acres of the country club that we are interested in analyzing for a potential well source.

Someone asked how the community can get involved with fundraising and was told there were steps before we could get there. Chairperson Burt stated he was glad to see so many grants out there that are available for this type of thing.

General questions, comments regarding what happens, who is responsible related to a catastrophic issue, and existing contamination. The landowner is responsible for cleanup.

Next few questions pertained to wetlands violation and the fly ash. Wetlands is confusing because although there is a DEP violation, there was a drainage issue with the Town. Regarding the FlyAsh, RR claimed their exemption, built the silos before WS knew anything about this. The BOS/RR agreement included a geotechnical engineers signoff once the foundation was built. We have requested the information related to this signoff multiple times but have yet to see anything.

- B. GURR/IRAF discussions** – Chairperson Burt believes we can amend what was sent in, highlight issues, just discussed, that we are having with the railroad.

Commissioner Burke made a motion to amend IRAF, seconded by Commissioner Morin and made unanimous by Chairperson Burt.

## **Old Business**

- A. Secondary Tank Painting** – it is currently being worked on

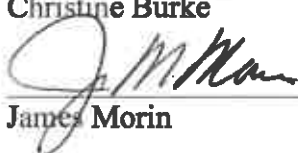
**Manager's Report** – everything is going well. Regarding the I & I study, Tim spoke about Northrop Street being an area of concern. Would like to have all corrective actions done prior to paving.

Last question – is there/will there be a plan, tasks to be done, when, by who. Tim responded that Diana has started this and expect her to carry that forward. Diana confirmed this, stated some of the next steps that area in process.

Commissioner Burke made a motion to adjourn at 8:26 P.M. seconded by Commissioner Morin and made unanimous by Chairperson Burt.

I attest to the best of my knowledge that this is a true and accurate recording of the minutes of August 5<sup>th</sup>, 2020.

  
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Ed Burt – Chairperson

Christine Burke  
  
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James Morin