

**CHERRY VALLEY SEWER DISTRICT  
BOARD OF SEWER COMMISSIONERS' MEETING**

**VIRTUAL MEETING MINUTES**

**September 10, 2020**

**7:00 P.M.**

- I. CALL TO ORDER Chairman Manseau called the meeting to order at 7:01 P.M. with the following present:

Donald Manseau, Chairman	6 - Subscribers
Robert H. Lemieux, Sr. Commissioner	1 - Non-Subscriber
Michael DellaCava, Commissioner	LCAC – Arthur Paquette
Benjamin J. Morris, Superintendent	
Jennifer Wood, Treasurer	
Cheryl Balkus, Recording Secretary	

II. APPROVAL OF MINUTES

- A. **August 13, 2020** – Commissioner DellaCava motioned to approve the minutes of August 13, 2020. Seconded by Commissioner Lemieux. All in favor. Approved.

III. FINANCE

- A. **Approve the Warrant of August 27, 2020** – Commissioner DellaCava motioned to approve the warrant of August 27, 2020. Per Commissioner Lemieux the Warrant is for \$149.87 for TI Sales Sudbury, MA it is for water main and repairs. Seconded by Commissioner Lemieux. All in favor. Approved.
- B. **Approve the Warrant of September 10, 2020** - Commissioner Lemieux motioned to approve the warrant of September 10, 2020. Per Commissioner Lemieux the Warrant is for \$28,228.00 consisting of bill for \$186.00 to the Water District for repairs to a main, \$123,00 for national grid for electricity, TI Sales for \$342, and the Upper Blackstone \$27,575.50. Seconded by Commissioner DellaCava. All in favor. Approved.
- Subscriber Badosa asked what is the Upper Blackstone?  
Per Treasurer Wood the Upper Blackstone is where the sewer is sent to be treated. The Sewer District does not have their own treatment plant.  
Commissioner Lemieux has paperwork regarding the transfer of water to sewer in the amount of \$39.43. Per Treasurer Wood since this is not on the Agenda it will need to be tabled to the next meeting. Commissioner Lemieux motions to table the Water to Sewer transfer to next month meeting. Seconded by Commissioner DellaCava. All in Favor. Approved.
- C. **Treasurer Report** – Per Treasurer Wood for August 2020 the amount of revenue brought in was \$74,138.37. The expenses were \$8,454.53. The Operating Budget (does not include debt service) we need to collect \$445,607.06.  
There were no Betterment Payments received this month, we did receive one in July in the amount of \$74.46. Betterment Loan Payments due \$310,028.00. Payments collected the Sewer District is short \$308,144.26.

Aged Receivables – Is what is due from customers

As of June 30, 2020 was \$40,035.94, As of July 31, 2020 was \$15,973.38 and as of August 21, 2020 \$56,009.32.

Commissioner Lemieux for the future, if we can be given a number of how much is outstanding of Betterments is to the District and that it is reflected against what we owe. Per Treasurer Wood yes, we are estimated to get in \$80,000.00, but not everyone pays the Betterment and not guarantee the \$80,000.00. It includes Principal and Interest. If people pay off ahead of time we lose out on the interest.

Per Commissioner DellaCava it always different it is not \$80,000 every year it is a certain percentage. Some only owe \$3,000-\$4,000.00 stretched out for 30 years. Per Treasurer Wood has the amount due this year and does not have the accumulative over time. She can request it from the Town Hall.

Per Commissioner Lemieux we would like as much detail as possible at each meeting. We are running at such a deficit and the Subscribers need to understand were the deficit came from, how it happened and how it will impact the District overall. This is for transparency and understanding of where the District is. We can refer to the RCAP Study and moving forward to show where we are at where we stand every month.

**D. Late Fees** – Per Chery Balkus, Billing Representative previously the Board voted to temporarily suspend late fees since COVID-19 began. Governor Baker has extended for the State to hold such items till October. Does the Board want to follow this temporary suspension till October?

Per Commissioner Lemieux motions to continue to temporarily suspend late fees till 10-31-2020. Seconded by Commissioner DellaCava. All in favor. Approved.

**E. Pyne Deferral Application** - Commissioner Dellacava motioned to approve the Betterment Deferral Application. Seconded by Commissioner Lemieux. All in Favor. Approved.

**F. FY20' Sewer Rate Relief Fund** – Per Treasurer Wood each year she files an application with the State. There is a fund established that is set up with the Commonwealth named Sewer Rate Relief Fund. The Sewer District received \$751.00. There are no other additional funds available.

#### IV. ADMINISTRATION

**A. USDA Update** – Per Superintendent Morris we have in the works on having the USDA defer our loans. A copy of the letter was drafted and sent it directly to Secretary Purdue of the USDA. Congressman McGovern had Senator Markey and Senator Warren cosign the letter with him on his behalf to push some of the options forward to get more immediate relief to the ratepayers. Asked to give us at least a three-year deferral and refinance and while the ongoing Town Wide Study. The Superintendent has heard that they did receive receipt of the letter last week and he is to follow up next week to see if there has been further movement. He wanted to make the Board aware that this is in the works and an avenue that has gone to the top to see what we can get. Local USDA does not have control and would need to go to the top.

## V. OPERATIONS –

**A. Superintendent Report** – We have been working on multiple avenues to find aid to the District for the ratepayers.

Working on I/I issue targeting all manholes on Redfield Rd. There have been concrete repairs and work on all frames & joints. Next working on Sargent St. They found an actual broken manhole cover that has been replaced. Few others to work on and then to move to the Boyd St neighborhood before winter.

Commissioner Lemieux asked to explain to those on the call what is I/I (Inflow and infiltration) – This is the water getting into the system other than your toilets. Example sump pumps, ground water. Each drop that goes through is charged to the District from the city and the Upper Blackstone. We have been dealing with a lot of effort pinpointing in a lot of areas pinpointed based off a study from 2015 and going along finding other problems. The system is 20 years old and repairs are needed. We do not have control of sump pumps discharging into the system, this adds and is spread out to the rate payers.

Sewer flows for month of August have been low because technically in drought period of the state. I & I is down. We saw 2.1 million gallons of sewer flow with 6 inches of rain fall. A few days there was a spike with the torrential rains notice of spike of an additional 20,000 – 30,000 gallons of water which leads to I/I issues that are being addressed to seal up where these issues are. Where we are historically, we are still in decent shape as far as our overall costs for the sewage going to Worcester. Next month will end the quarter and he will be able to determine we were are for expenses for the City of Worcester and what we budgeted for.

Last meeting, we were in discussion of a definition of a District and being a municipality and not in our eligibility within the bankruptcy code. A copy of the research has been provided to the Commissioners and Subscriber Peter Cosolito. The research was done by Attorney Bachrach as we were having difficulty and getting in a response from the bankruptcy Attorney Wingfield to do this research and Attorney Bachrach took it upon himself to do this research. Theoretically the District could file under for a reorganization under Chapter 9 but the prerequisite filing under the bankruptcy codes must be authorized under state law. Massachusetts has not adopted this.

To research more we would be require hiring someone and pay to do further research to pursuit. It is up to the Board to decide how to pursue. As previously spoke about that there would be minimum of a \$20,000 retainer fee.

Subscriber Peter Cusolito 93 Willow Hill Rd – The definition that Attorney Bachrach provided included the definition and some clarification language that is not in the US Code. The US Code has a one line definition of a municipality and is the term municipality is defined as in the bankruptcy political subdivision of a public agency or instrumentality of a state.

The organization of entities such as CVSD are unique to Massachusetts. Nowhere else in the country do they create organizations through acts or body politicking. It is strictly a Massachusetts terminology. One of the documents is an opinion from Suffolk Appeals Court that addressed this same of a similar situation of Boston Water & Sewer and had to determine on a case by case basis if the entity is public or private. In the case of Boston Water & Sewer had nothing to do with bankruptcy and found them to be private.

Looking at two things at the same time. Is if the District is a municipality or is it a private entity and Chapter 9 filing? Several people say Massachusetts is not authorized to filing Chapter 9. He spoke with the AGA office and cannot find

anything that it is not authorized. In Springfield & Lawrence the State Legislature stepped in instead of allowing them to go through bankruptcy and assigned a receiver.

His point is that is fine if the State appoints a Receiver the State is going to be far more in tune with the needs of the District as than a USDA appointed Receiver if the District defaults. They will come in and raise the rates as high as they want to pay off the debt as fast as they can to what they should be, they will leave and they will not care what is left. A State appointed Receiver will care to help address the issue.

Commissioner Lemieux the summary from Attorney Bachrach is only sighting Federal law and not Massachusetts and should we be looking at MGL (Mass General Law).

Per Mr. Cusolito from the Bankruptcy Attorney Wingfield his notes are that the State would appoint a receiver and if the District is considered a municipality. The state legislature would not let it go to bankruptcy and to assign a receiver and help address. Mr. Cusolito stated that he is not an attorney of no kind but as far as protecting the District that does not solve the District money problems, but it protects it from the USDA come in, take over and do what they want.

Commissioner Lemieux appears to be opportunity for us to do some restructuring and force USDA and work with us and make our situation to pay them back a little more manageable. Thinks we are still trying to decide whether we are if we are a municipal entity eligible under Chapter 9.

Peter Cusolito the focus should not only be Chapter 9 if we are not a municipality than Chapter 11 provides the same protections to put a freeze on the debtors. Bankruptcy is to provide protections to prevent debtors from taking over & allow restructure

Per Superintendent Morris which is the same thing we are trying to do with the USDA now and not go down the bankruptcy route.

Mr. Cusolito sent a letter to the Attorney General Office August 22, 2020 asking the legal opinion of what the status of what the District is. Does not expect to get a call from Attorney General Healy but perhaps from her assistant.

Per Superintendent Morris we have a contact at DOR (Department of Revenue) and follow up on and involve Representative Leboeuf to assist.

Greg Buteau commented Mr. Cusolito & Lemieux were not at the meeting when Attorney Wingfield met with us. If handed over to the Receiver they are going to do what is best. He did not make any distinction of a State Receiver or a USDA Receiver.

Per Chairman Manseau if State involved, they may be a little more heartfelt as opposed to the USDA and Superintendent Morris will reach out to Representative Leboeuf for leverage to get clarification. Mr. Cusolito stated if we could avoid any type of receivership that would be great and if not proactive then USDA will move in and we do not want to do this.

Per Superintendent Morris and Treasurer Wood with the rate increase we should be fine at this time. If it stays where it is at and will take care of all expenses. The rate increase where it is now is to cover the debt and covers expenses for the Sewer District as long as everyone pays, and all our bills are paid on a monthly or annual basis. People are concerned with the potential of increases. We are not going to know if that will happen until the Spring when we find out from vendors and other entities that we purchase from or pay too such as if the City of Worcester or the Upper Blackstone what those increases are to us and how we can work them into

our budget to try to keep any future increase down. The way the rate is now with no relief the rate would be where it is at.

## VI. COMMUNICATIONS

### A. 8-31-20 Customer Request – Aquino

Caller was on the call in the beginning of the meeting and left at 49 minutes 54 seconds into the meeting before discussion. Per Chairman Manseau the customer sent an email to file a complaint about their high bill that she received for \$653.50. A portion of the bill is for the water charge \$198.25 and \$465.25 for the sewer charge. Per Cheryl Balkus/ Billing Representative there was 1,377 cubic feet recorded on the meter beginning July 2, 2020 through August 3, 2020. When the Subscriber called, she indicated that she has not been living in the home, that it is vacant, she has contractors doing work while home is undergoing renovations and there is no way that the bill is correct or that much was used. It was explained to her that this property has a meter that we can, and the homeowner can view daily or hourly usage and instructions had been emailed to her. It appears there were period when there was ongoing consumption for long periods of time. This occurred in July and in August. In August there was a leak code at 8.1 gallons per hour. An email and a phone message had been left with her. We did not hear back from the customer however the leak code stopped.

Per Chairman Manseau if she used the water, that we have proof that she had and if she does not pay for it then we have to pay for it. Unless she can come up with went wrong then we should not have to pay the tab for it. If the contractors are there, then she can ask the contractors to pay for it. She can go online and has proof of what times of day what was being used. What was using it we do not know, and it was used that water it was going through the system and going through to the sewer. Commissioner Lemieux to Superintendent Morris asked if this is one of the newer water meters and there is no way to be defective to this degree. Per Superintendent Morris highly doubts it to be defective. This is the E-Series that is being installed in everyone's homes that has the cellular data points to transmit out the signal. The biggest concern here is strictly that there were people in the house, and she cannot prove what was being used at the time. If there are painters or sheet rock being done water is being used. Someone could have left the hose on and we can assist with this because it did not go thru the sewer system, but it still recorded the usage for the water. It shows that the meter is working because she was emailed with a leak code. If we have contact information for these customers, we give a courtesy phone call and that they will be charged for the exorbitant amount water. To say the meter is faulty is highly unlikely in his opinion. If we test the meter, we will take out the existing and put in the same style until the other comes back from being tested. Per Commissioner Lemieux the Subscriber should pay for the testing and the change out if it is found not defective. He does not feel that it is defective.

Unfortunately, this person may be a real estate investor not unlike himself. This happens and knows that this leak detection software and process of calling is effective from his own experience prior to the new meter was installed. He knows how much can impact the bill and rack up a significant bill. It is unfortunate and their responsibility to pay it. If they wish the District to spend the money and time, then they should pay for it in addition to the bill.

Chairman Manseau also reviews the usage to see it vary and Commissioner DellaCava has witnessed on going work at the property and suggests that she speak with the contractors and have them reimburse her. We cannot forgive the usage as it will fall on the other Subscribers and this would be unfair to them. Per Commissioner DellaCava and Commissioner Lemieux motions if the Subscriber

feels that if there is something wrong with the meter we can change and test at her expense. These expenses would require that this be paid up front before the work is done. Chairman Manseau seconds. All in favor. Approved.

VII. PERSONNEL - Nothing to Report

VIII. DATE OF NEXT MEETING

**A. Approval of Next Meeting Date** – Commissioner Lemieux motioned to hold the next Virtual meeting October 8, 2020 at 7:00 P.M. Seconded by Commissioner DellaCava. All in favor. Approved.

IX. ADJOURNMENT – Commissioner Lemieux motioned to adjourn the meeting. Seconded by Commissioner DellaCava. All in favor. Approved. Meeting adjourned at 8:13 P.M.

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