

City of Keene
New Hampshire

MUNICIPAL SERVICES, FACILITIES & INFRASTRUCTURE COMMITTEE
MEETING MINUTES

Wednesday, August 26, 2020

5:30 PM

Remote Meeting via Zoom

Members Present:

Janis O. Manwaring, Chair
Michael Giacomo, Vice Chair
Randy L. Filiault
Bettina A. Chadbourne
Robert C. Williams

Staff Present:

Elizabeth A. Dragon, City Manager
Thomas P. Mullins, City Attorney
Elizabeth Fox, HR Director/Assistant City
Manager
Kürt Blomquist, Public Works
Director/Emergency Management Director
Don Lussier, City Engineer

Members Not Present:

Chair Manwaring called the meeting to order at 5:30 PM and read the executive order authorizing a remote meeting: Emergency Order #12, issued by the Governor of the State of New Hampshire pursuant to Executive Order #2020-04. Pursuant to this Order, Committee members stated their locations and whether they were alone.

1) Petition – Deteriorating Conditions on Thompson Road

Chair Manwaring recognized petitioner Patricia Walker of 17 Thompson Road. Ms. Walker explained that the deteriorating conditions on Thompson Road have been reported to the Public Works Department for years but said that little had been done in response. She said there are presently 11 jersey barriers placed on the road making it one-way, with a stop at the top and bottom of the hill. She believes those barriers did little to fix the drainage issues and might be weakening the roadsides further.

Vice Chair Giacomo stated that he visited Thompson Road, and said it was hard to believe it is a road in Keene, and that the photos did not do it justice. He added that the guard rails have been undermined and the jersey barriers are protecting cars from going off the road there.

Chair Manwaring welcomed the City Engineer, Don Lussier, who explained that Thompson Road is in the southeast corner of Keene off RT-101 near Swanzey Factory Road, where the Ciardelli Fuel Company facility was built recently. Thompson Road is a dead end road, approximately 1/3-mile long. The road is most notably the steepest road slope in the City, with the lower section of most concern at approximately 23% grade. It was built in 1826. For comparison, today's City Code allows a maximum street grade of 7% and therefore construction of Thompson Road as it exists would not be permitted now. Mr. Lussier could not deny the rough conditions have there for some time, which have become an ongoing maintenance concern for the City, as it is hard to plow and prone to icing. In addition to the unusually steep slope,

Thompson Road is extremely narrow, laid out at 33 feet but in some cases today is as narrow as 12.5 feet due to the deterioration, barriers, and guardrails. There are currently five residential properties on Thompson Road, but 13 parcels with frontage, several of which are protected for conservation and not subject to development. Therefore based on the parcels, topography, and road conditions, Mr. Lussier anticipated Thompson Road was as near to, if not developed fully.

Mr. Lussier explained that City Staff first heard concern about Thompson Road in January 2018, when a resident visited the Public Works Department with information of leaves blocking a catch basin there, plowing not as wide as it should be, and cracking on the road edge. As a result, in the spring 2018 after the ice melted, the Highway Division patched cracks and cleaned catch basins. After a snow event in fall 2019, the Highway Division notified Mr. Lussier of their concern for the road condition and guardrail. Mr. Lussier used photos from fall 2019 to confirm the concern that the pavement surface has dropped six to nine inches, demonstrating possibly both erosion and soil settling under the roadway. As a result of those conditions, Mr. Lussier was concerned at the time that more traffic close to the guardrails could cause a section of the roadway to slough off and down the hill. The jersey barriers were placed to not only secure the guardrails, but to also move traffic further from the roadway edge and closer to the uphill side of the road, thus stabilizing the slope temporarily.

The City hired a geotechnical engineer to bore in the middle of Thompson Road on April 1, 2020 to determine whether the primary concern is erosion or global slope stability. The resulting preliminary geotechnical report documented the slope having a Factor of Safety of 1.0. Typically, Mr. Lussier said geotechnical engineers seek a Factor of Safety of 1.3 at minimum, which provides some redundancy in the system. Therefore, anything weakening the roadway and causing more soil settlement and instability – poor soil conditions, high groundwater table, heavy trucks, or loads close to the edge – could overload the slope and cause more sediment failure. This report proved concerns about Thompson Road and preempted placing the jersey barriers. The geotechnical engineer was tasked to analyze the options and respective costs for fixing the slope. Within the next month or so, Staff would report back to Council with those costs and long-term recommendation. Unfortunately, Mr. Lussier said those costs would be very expensive, with Staff anticipating figures in the hundreds of thousands.

Vice Chair Giacomo noticed that the adjacent conservation land on the right side heading uphill on Thompson Road is owned by Antioch University New England and asked if that land being protected would factor into repair types and costs. Mr. Lussier said it could be a factor and that the long-term solution might require encroaching onto abutting private property. Staff awaits further geotechnical information before beginning conversations with Antioch.

Councilor Chadbourne asked whether this extensive work could be performed in-house. Mr. Lussier said no, this work (e.g., driving steel sheet piling or building concrete cast retaining walls) is beyond the Highway Division's capabilities and therefore this project would be advertised to bid. An additional issue would prove to be temporary access for residents and crews with the roadway already so narrow.

Chair Manwaring asked whether this work was anticipated in the Capital Improvement Program (CIP) and the City Manager, Elizabeth Dragon, said no.

Mr. Lussier explained that the Highway Division would do some temporary work in-house before the upcoming winter season, particularly patching sections near to RT-101 and making clear to the public that a corner of the RT-101 intersection is not drivable. Staff would have to revisit with Council the longer-term costs in the hundreds of thousands within the context of the CIP or whether Council would want to expand the road program, and if so, which roads prioritized in that program would be demoted.

Chair Manwaring recognized Councilor Terry Clark, who said there are four vacant house lots on Thompson Road and a new road would benefit the City by opening more land for future residential growth, and he urged Council to consider that as this project moves forward.

Ms. Walker asked who provided Antioch permission to use the top and bottom of the hill next to Thompson Road and why that land was not taken by the City's because of this situation. The Director of Public Works, Kürt Blomquist, recalled that Thompson Road was constructed in the 1820s and said that Antioch is a relatively new owner of that parcel. Ms. Walker thought Antioch bought the parcel in the last 5-10 years and asked why this issue was not considered then. Chair Manwaring said the City does not have control over the sale of private property and she suggested that the petitioners contact Antioch with questions. Chair Manwaring recognized Councilor Clark, who said records show that Antioch bought the property in 2004 from the Harris Center for Conservation Education, and before that it was owned by Paul Luthier.

Vice Chair Giacomo moved to recommend that this matter be placed on more time, which Councilor Chadbourne seconded, and the motion passed by unanimous roll call vote.

2) Ashuelot Court Sewer & Water Main Replacement – Amendment to Property Owner Agreement – Public Works Director/Emergency Management Director

Chair Manwaring recognized Rich Kalich of 15-17 Ashuelot Court. Mr. Kalich recalled this matter before the MSFI Committee previously and summarized the situation on Ashuelot Court, a privately owned street. The water and sewer mains under Ashuelot Court date to the 1930s as a part of the original Faulkner-Colony complex. He said there are three parcels on Ashuelot Court, though one has been subdivided into two residential properties in use. Dating back to 1993, residents of Ashuelot Court have requested assistance from the City to replace water and sewer lines there, but never reached a final agreement. In 2018, residents of Ashuelot Court returned to City Council again requesting that the City work with them to replace the deteriorated mains, which would involve turning the infrastructure over to City ownership for continued upkeep. On June 27, 2018, the MSFI Committee voted unanimously recommending that the request to have the City partner in water and sewer lines on Ashuelot Court, a designated private road, be placed on more time. On October 23, 2019, the MSFI Committee voted unanimously again recommending that the City Manager be authorized do all things necessary to negotiate and execute agreements with the property owners of Ashuelot Court for the purpose of financing the replacement of the existing sewer and water mains and to accept the mains after work is completed. Any payment plan was to be up to 20 years with an annual interest rate of 2.25%. Further, the City Manager was authorized to do all things necessary to use Water and Sewer

Fund unallocated fund balance to fund the design and construction of the sewer and water main replacement work. The City Council affirmed this recommendation in November 2019.

Mr. Kalich recalled that when approaching City Council in 2018, the property owners on Ashuelot Court offered to contribute \$10,000 upfront to be split between the water and sewer components, and thus showing their willingness to participate in this with the City. In 2019, the Director of Public Works, Kürt Blomquist, provided an estimate of what residents would see in cost on top of their normal water and sewer bills. Based on Don Lussier, the City Engineer's, preliminary design, estimated the sewer costs at \$33,800 and the water costs at \$50,500 for a total cost of \$82,000. A 20-year loan with the 2.25% interest rate negotiated for the highest of the City Engineer's estimates would result in an annual monthly payment for each property ranging from \$995-\$1,300 annually for 20 years. These estimates were dependent on ultimate construction costs. Mr. Kalich said that since this agreement in October 2019, the City put this project out for bid and the final contract selected was for a total cost of \$115,000. Thus, in addition to the initial \$10,000 they offered to contribute, the owners would now owe an additional \$1,300-\$1,700 annually, which is \$130-\$150 added to their normal water and sewer rates monthly for the next 20 years. Mr. Kalich reminded the Committee that these property owners have paid water and sewer bills to the City since the pipes were placed, despite Ashuelot Court being owned and maintained privately by the citizens. With all this in mind, Mr. Kalich said the residents of Ashuelot Court requested that the City lower the agreed upon 2.25% interest rate to offset the ultimate construction bid.

Chair Manwaring recognized Beth Ann Barrett of 27 Ashuelot Court, who agreed with Mr. Kalich and added that with this final construction bid, homeowners are projected to pay \$40,000 each over the next 20 years, in addition to their \$10,000 initial contribution to the project and their continued monthly sewer and water bill payments to the City for those 20 years, as they have to-date. Having bought the home from her parents – who paid City water and sewer bills for 34 years despite the road being owned privately, Ms. Barrett questioned where the incentive is now for residents to execute this agreement with the City at a quote much higher than residents received to remain a private road as individual home owners. Mr. Kalich agreed, saying what began as a \$10,000 contribution, with the logic that the City could take ownership of the street, is now quite different and has implications for any property owner there, from financial hardship for young families, to a deterrent to resale. The residents sought minimally a reduction in the agreed upon interest rate.

Chair Manwaring requested comments from the Director of Public Works, Kürt Blomquist, who added to the history that Mr. Kalich provided. He recalled that there is no evidence whether the City installed these sewer and water mains, because the two-inch black pipes located under Ashuelot Court are not historically common in the City; more likely they were laid by the Faulkner-Colony Mill. There are other private streets in Keene dating to the 1980s when the City still allowed their construction. He said that paying water and sewer rates is based upon connection to the City's distribution and treatment system, as Ashuelot Court is. He added that per City Code, for the City to accept a private roadway, it must first be improved to meet City street standards. He recalled that in 2019, in response to the most recent property owners' request, City Staff explained to this Committee that City Code allows for acquisition of private streets and utilities when they are at City standard. He referenced the section of code for sewer

improvements, which allows the City to act as a bank for a loan for sewer improvements that can be repaid over 20 years; that section also creates a lien on the property if not repaid.

He referenced NH RSA-38 for water utilities, with similar language allowing City Council to assess on persons served by the water system and for those assessments then to create a lien on the property. Upon completion of agreed upon work, the City would obtain ownership of Ashuelot Court. In November 2019, the City Council affirmed this Committee's recommendation and Staff proceeded to advertise the project, which received bids ranging from \$115,000-\$230,000. The Director of Public Works recalled that the 2.25% interest rate agreed upon in 2019 was based on the City's general investment/financing process. He said that this Committee could recommend that City Council reduce the interest rate and it is Council's purview to do so at any rate they choose. He stated that lowering the interest rate to 0.25% would return the residents' long-term costs to what would have been for the initial \$84,000 estimate; and this was his recommendation to the Committee. He agreed that the residents can still deny to execute this agreement, to remain private, and contract this work themselves. That decision needed to happen soon though, as the City's preferred bid was expiring and they would be requesting an extension. It is a straight-forward project estimated to take 30-days.

Councilor Chadbourne asked whether property owners of a private street have ever before requested that the City take ownership and if so, what the process was. The Director of Public Works said yes, particularly for subdivisions off Darling Road, usually due to a dislike for paying full property taxes while still having to maintain the road themselves. The typical process is the one taken by the Ashuelot Court residents, which is to petition City Council to take ownership of the utilities with the requirement per City Code that the street be brought to City standard, at which point the City would take over ownership and maintenance of the road and utilities. A challenge for property owners is that the cost of bringing infrastructure to City standard can be significant, which is why this lien option was established. No resident or association has gone through this process during the Director of Public Works' tenure.

Councilor Williams asked how many homes are on the Court. The Director of Public Works said there are three buildings on four separate properties, and two of those buildings have two units. Mr. Kalich added that there are only three owners of the four properties. Councilor Williams asked whether there was information on how private versus City ownership of the utilities would impact the assessed property values. The Director of Public Works deferred to the Assessor but he imagined the impact to be minimal because the properties are already connected to the City distribution/treatment system, but that connection happens to be through private facilities. Councilor Williams questioned why this matter was before this Committee and not the Finance, Organization & Personnel Committee. The Director of Public Works said that the MSFI Committee addressed this matter historically and so he continues bringing it here.

Vice Chair Giacomo made the following motion, which Councilor Filaault seconded, and the roll call vote proceeded.

With a vote of 5-0, the Municipal Services, Facilities & Infrastructure Committee recommended that the November 6, 2019 Ashuelot Court property owners' approved payment plan for the

financing of the replacement of existing sewer and water mains be amended to decrease the annual interest rate to 0.25%.

There being no further business, Chair Manwaring adjourned the meeting at 6:31 PM.

Respectfully submitted by,
Katryna Kibler, Minute Taker
August 30, 2020