

FRANCONIA WATER DEPARTMENT PUBLIC HEARING MINUTES October 30, 2018

Hearing came to order at 4:30PM in the Town Hall Meeting Room

In Attendance: Darrel Dietlein, Commissioner; Joan Hartford, Commissioner; Meaghan Caron, Water Department Secretary

Public in attendance: Kevin Johnson, Gale River Motel; Deane Haskell, Hillwinds Lodge; Cort Roussel, Franconia Notch Vacations; Barbara Ford, MBFF LLC; Cathy Strasser, Franconia Chiropractic; Edward Rolfe, Dow Academy; Kenneth King, BGI Acquisitions.

Darrel welcomes the public and gives an explanation of the hearing. He states that The Franconia Water Department Commissioners have called for this public hearing because questions have been raised regarding both the process by which the new 2018 fees were adopted, and the basis for the fees. These fees were adopted by the Commissioners on April 11, 2018, though without a documented formal vote, with the intention of building a strong budget so as to keep a sustainable system for our water customers now and as we move forward. The purpose of the new vote is merely to ratify the adoption of these fees and to remove any doubt as to the procedure used to adopt the fee structure.

In 2016 our predecessor Commissioners reduced the access fees and increased the water usage fee at the request of certain ratepayers. Unfortunately, the changes resulted in a \$38,000 deficit for 2017; an issue which needed to be addressed by increasing the fees, though not as high as they originally were. Therefore, in 2018, the Commissioners undertook research to determine what amount would need to be charged to defray the costs of operating the water system. That research resulted in the 2018 rates and fees structure which was adopted, and which is being ratified today. Those rates reflect the larger burden that non-residential and multi-family properties place on the system, as well as the larger burden on the system from larger meters.

Darrel reviews the classifications and definitions based on current industry standards in other communities and other systems and Franconia's unique customer demographics. The rates and fees page had been passed out to public in attendance as well.

Darrel opens to public comment at 4:35pm.

Mr. Edward Rolfe Speaks: In regards to Franconia being unique, Mr. Edward Rolfe states that he is a resident of Dow academy and has been for 10 years. He states that it is a residence, not otherwise. He compares his building of residents to houses that are larger in the area that may use more water. Darrel replies that there are possible changes that are in the works. He states that this ratification is not the end all or be all of the state of the water department's rates. This is a first step towards gaining some control and a handle on the rate situation.

Darrel reads his statement regarding Stephen St. Cyr:

We are in communication with Stephen St. Cyr and Associates out of Biddeford, ME for a system wide rates evaluation. This is a professional in the industry who will give us skilled insights. Until we get guidance from his organization we do not intend to make changes from where we are today in terms of the rates that are set. The reason for that is that we could be going in the wrong direction, possibly too high or too low and we want to stay the course in that regard. If the research shows that changes are necessary, up or down per the rates to best suit the needs of the system, then those adjustments will be made in another public hearing that would be pre announced. Our hope is to have forward motion with Mr. St. Cyr soon. The study itself will require time including a review of the system and looking over the system etc.

Mr. Rolfe says that he is fine with Darrel's response and then asks if there will be an appeal process if after the system evaluation the rates do not change. Darrel says that we are listening to our constituents and trying to do our level best. We are picking up pieces from the past. These things require research and time.

Mr. Rolfe states that he believes that (water) is a common resource that we should all be paying equal shares of for what is used.

Mr. Deane Haskell speaks: He gives a statement on paper and reads them to the commissioners and the public.

*(**Mr. Haskell's statement insertion to the minutes are included as attachment to the minutes at the end**)*

Darrel thanks Mr. Haskell, states that his concerns have been brought up at prior meetings but that we do appreciate the time he puts in and his input. In regards to "ratification" he states that the past mistake made was the improper voting, The board in its state at that time was presented with a \$38,000 deficit in its budget and was instructed to find solutions to that deficit. This deficit was the result of arbitrary rate reductions by commissioners here-to-for.

Mr Haskell objects to "arbitrary" saying that the (2016) rate change was discussed at a public meeting and voted on.

Darrel lets that be Mr. Haskell's opinion and states that those rates were also not properly voted on and they did not follow any of the proper protocols for adopting rates. It was a haphazard uneven representation of rate reductions for some and not for others. We are attempting to correct that. Not to correct just the deficit, which would be detrimental to the system, because we must keep good clean potable water for our customers, but also because we must be solvent in moving forward. He explains that the reason why, as Mr. Haskell characterized "we are rushing" to ratify the rates system is because the missing protocol has been called into question legally and therefore we are attempting to answer that correctly and in a timely way. Therefore it is not because we are trying to push something through rather we are trying to correct the misstep made in the past. Finally, this study by the St. Cyr Company will render a great deal of light on the situation and Darrel welcomes his insight. He asks that people be patient with our inexperience in the field and we want to make sure that we consult with an expert.

Kevin Johnson: Regarding the residential to non-residential classification changes, will we be approaching those customers to retroactively charge them the appropriate fees from this change? Darrel states that we have yet to discuss this and we will follow up with the list after changes are address at the hearing. Mr Johnson states that the property at 73 Main street (Mac Enterprises) was brought into question by him at the June 14th meeting and that at that time it was classified as residential. He asks if the new definition of "non-residential/multi-family" will be the new classification for this property. Darrel states that it has not yet come up as that category. Mr. Johnson states that he believes it should fall within the new category because (the business within the home) provides a service (landscaping and snow plowing) and that the water is used to clean equipment to remove salt etc at the end of the plowing season. Darrel says that that will be under review.

Kevin states, given that this meeting is being held to ratify the rates, were the rates used since April 2018 legally introduced and are rate payers impacted by the increased rates eligible for an abatement? Has this been discussed with council? Darrel states that this has been discussed with council, abatements have not been authorized yet and these rates are legal. This ratification is a formality. Mr. Johnson again questions the legality of the implementation of the rates. Darrel states that he has given him his answer and that he has discussed with council. Council never said that the rates had been adopted illegally rather that protocol had not been properly followed at that time. This being the reason the rates needed to be ratified today. Had we not called for the hearing today we would be repeating the history of not having followed that precedent. We are trying to correct that. Kevin says he understands that we are trying to make right what has been done incorrectly over the last 9 months (Darrel states 6 months).

Cort Roussel interjects and begins by stating that public input seems to have no impact in this situation. His concern is the equitable disbursement of the expense that is there. He questions that disbursement and the public's input to that process. He doesn't feel there was any request for public input. He wants to know how his small office (using a 5/8" meter and approx 6000 gallons per 4 month period) puts more bearing on the system? Darrel states that these (classification) definitions are a stop-gap measure to try and hone in on something tangible because we didn't have anything prior and until we can get a formal recommendation for the professional and the deficit was still there. He wants to see equitability and equal share. Doing business in town has grown increasingly difficult and remarks that this situation is adding to that difficulty.

Kenneth King: He is not sure why we can't provide cursory or simple answers for today. He asks how the rates were brought to bear. As a consumer, he feels that he is being taken advantage of. He feels there is an unequal burden on some. He wants to know how these preparations were made for the hearing. How did the discussions happen?

Joan states that in January of 2017 the residential base rates did in fact increase. From \$60-\$80 per mater fee. For example, 1.5" rate was decreased 78% in 2016....

Mr. Haskell interjects stating that he doesn't see any equity and that he feels Joan is saying the commissioners felt it was ok to go back to an inequitable rate. Joan says no, she trying to give an example and that the research was done...

Mr. Haskell again states that he sees no reason why the rates differ so much...Darrel stops Mr. Haskell and asks that he give Joan the time to finish her explanation.

Joan continues, stating how we were in a \$38,000 deficit, the larger meters had been greatly reduced after October of 2016. The larger meter, for example went from \$2750 a year to \$600 a year. Trying to look at the customer base that had been originally established by the engineering company from the 2009 project, we tried to make a balanced budget. Now, even with the current rate increase these rates are still 45% less than the 2016 rates.

Mr. Haskell states that there isn't any logic behind the breaking down of the rates/the differences between the rates is drastic. He doesn't feel that there is a larger burden on the system by larger users of the water system

Mr. Haskell remarks that he believes that the rate change for the budget was an accounting issue, not the rate decrease. That it had to do with whether the department "expensed the depreciation or not". He feels it was a totally separate issue and that the rate increase is now put on the backs of the businesses.

Darrel responds: We have scoured communities all over the US and how they categorize their rates. These definitions are used wide spread and the commercial enterprises and the larger meters, with higher usage do in fact add more labor and maintenance on the system due to the added flow. This is industry standard.

Kevin Johnson remarks that (the department) is basing the demand not on the volume of water that passes through that meter, rather on the size of the meter. He makes a comparison of one old lady vs. a family of six—the demands are disproportionate. He believes that the demand based on meter size is a fallacy. He says that rates should be based on the total volume that comes through the meter, regardless of the meter size. He says that had we held a public forum, the public's input could have had an influence on the decision. He states that if the people sitting in the room wish to pursue a class action suit for violation of RSA 91A that they could ask for a nullification of the rates up to this point in time. We owe them as rate payers, those who have been wronged eligible abatements.

Mr. Rolfe speaks, He doesn't care what other states or other people do. He recommends that the commissioners take a closer look at Franconia as a small town and what really is the best way to go about this. He wants to get back to the basics.

Cort Rousell asks for an answer as to how does he put a higher burden on the system in his small business/one bedroom house.

Darrel states that he recently went to a financing small water systems course that used small communities as examples. Some were similar to our system and its rates, some had flat rates, some had 25 different rate categories for size and use. Examples included some that had higher volume and lower rates due to that high volume. We could create a long list of rates based on nuances in use. Darrel doesn't feel that the current state that we are in is a state to identify each and every single property. We are, as a board, trying to do things the right way. We want to make it right. He believes that making a change for one caused us to get into the \$38,000 deficit to start with. There were 1 to 2 complaints that didn't get vetted properly which caused some favoritism in the past. This happened before the 3 of us (2 current commissioners and secretary) were here and we are trying to make it right from today forward. We have specific customers, some currently in this room, who we are currently reviewing to see if we can approach their situation differently in terms of their categorization and the logistics of their situation. Some of it is an engineering question, not just a paper thing.

Mr. Rousel will become a part of the list of customers to be vetted as we move forward with our process. We are not going to drop this question. He realizes there is frustration here but we're not going to give up until its right.

Mr. Haskell speaks again saying he doesn't believe the input made tonight, the voices heard at the meeting will make any difference.

We will have another public hearing in a much more meaningful way.

Mrs. Ford: states that she understands that we are ratifying these rates to correct the problem (the deficit) and this doesn't mean that we can't change the rates moving forward. Darrel reiterates her understanding and says that without ratification we would become under the scrutiny of RSA 91A. Therefore, it is imperative that we follow the protocol so that we can then address the rates with the professional insights of the St. Cyr Company. The deficit will not go away by itself. Mrs. Ford says that she understands and hopes that we are taking all of the public comments into serious consideration and that we try to make fair and equitable decisions.

Darrel states that all of this will not be lost in the shuffle. We will be held accountable to our promise. Mrs. Ford says thank you.

Darrel remarks that we can't please everyone all the time. There will always be someone who is unhappy with a decision that is made and likely there will be unhappy people but never the less we are going to give it our very best.

Public Hearing closed at 5:22pm

Darrel moves to vote to adopt the new fees and rates structure. Joan Seconds the motion.

**rates and fees structure attached to minutes

Darrel makes a motion to change the rate classification from residential to non-residential on the following properties:

RESIDENTIAL to NON-RESIDENTIAL/MULTI-FAMILY

NAME	ADDRESS	ACCOUNT	OLD CLASS	NEW CLASS
Bassett, Scott	491 Main Street	13	5/8" Res	5/8" Non-Res/Multi (5 units)
Grant Family Revoc Trust	69 Main Street	174	5/8" Res	5/8" Non-Res/Multi (3 units)
Guay, David	263 Lafayette Drive	149	5/8" Res	5/8" Non-Res/Multi

				(2 units & office)
Luscutoff, James	158 Church Street	55	5/8" Red	5/8" Non-Res/Multi (4 units)
Luce, Kirk	49 Dow Ave	141	5/8" Res	5/8" Non-Res/Multi (4 units)

Joan seconds the motion

Joan makes a motion to change the rate classification from previously "commercial" to the newly adopted "residential" on the following properties:

COMMERCIAL to RESIDENTIAL

NAME	ADDRESS	ACCOUNT	OLD CLASS	NEW CLASS
Johnson, Kevin	9 Main Street	18	5/8" Comm	5/8" Res (single)
TTW, LLC	114 Dow Ave	140	5/8" Comm	5/8" Res (duplex)

Darrel seconds the motion.

With no further business to attend to, Darrel moves to adjourn the meeting at 5:25pm. Joan seconds and the meeting closes.

Respectfully submitted,

Meaghan Caron
 Administrative Secretary
 Franconia Water Department

These minutes of the Franconia Water Department have been recorded by its Secretary. Though believed to be accurate and correct they are subject to additions, deletions and corrections by the Board of Commissioners of the Water Department at its next meeting when the Board votes its final approval of the minutes. They are being made available at this time to conform to the requirements of New Hampshire RSA 91-A:2.

October 30, 2018

Deane Haskell
33 Dow Avenue
Franconia, NH 03580

Co-Owner of Hillwinds Lodge.

Before I begin my formal statement, I wish to strongly object to a public hearing in which each speaker is allotted only three minutes. This restriction is an absolute disgrace for a public entity supposedly seeking input to what appears to be an already determined outcome as the notice on the web site says ***"The purpose of the hearing will be to ratify the rates and fees originally adopted on April 11, 2018 during a public meeting."***, and not to seek input into the matter.

I appear today to speak in opposition to the proposed ratification of the water rates adopted without public notice and without a formal motion or recorded vote by the Commissioners of the Franconia Water Department in May, 2018. I oppose this ratification action for a number of reasons:

1. The Commissioners should not try to retroactively approve rate increases. Any action taken should be for future rates only;
2. At a recent public meeting of the Commissioners, I remember one commissioner saying that no action should be taken on rates until an expert had been consulted on rates, particularly as the rates include meter fees. Why the rush to "ratify" these rates?;
3. There has been no justification for the rate changes provided, and the changes appear to be arbitrary and capricious. For example, 5/8" commercial meter rates increased by **50%**, 1" Commercial Meter rates increased by **12.5%**, 1½" Commercial meter rates increased by **250%**, 3" Commercial meter rates increased by **175%**, non-profit 5/8" meter rates increased **50%** and 2" non-profit meter rates increased by **300%**, all while residential meter rates increased by **0%**. NH State law RSA 38:29 provides that ""The amount of such rates may be based upon the consumption of water on the premises connected to the water system, or the number of persons served on the premises, or upon **some other equitable basis**" (emphasis supplied)." How can rates that change anywhere from 0% to 300% at the same time be considered equitable or reasonable?; and
4. Finally, at an earlier Commission meeting, I asked the Commissioners to consider eliminating all meter charges and base the water rates on water consumption only. The changes to the rates made in May of 2018 were unfair to businesses, but the overall rate structure using any sort of fixed rate for meters and "meter end point fees" (whatever they are) is extremely unfair to residential users. The most extreme example of this is a water customer who recently was billed \$80.00 for a meter fee, \$3.56 for a meter end point fee, and \$00.12 for water usage. How can this be considered equitable?

I urge the Water Commissioners to not "ratify" their past mistake, and instead seek to move forward toward a truly equitable billing system. Meanwhile, I also urge the Commissioners to refund all of the improperly gained increased revenues raised from businesses in any billings since May 2018.

Thank you for this opportunity to be heard, and for whatever consideration you may give to my suggestions. I also ask that a copy of my statement be included in its entirety as an attachment to the minutes of this meeting.