

## ***DRAFT MINUTES***

# **CORPORATION OF SHEPHERDSTOWN, WEST VIRGINIA WATER BOARD ~ SPECIAL MEETING**

FRIDAY, JANUARY 8, 2021

**Attendees:** **Water & Sanitary Board** – J. Auxer (Mayor, Ex Officio), J. Bresland, J. Ford (Council Member), M. Godfrey, A. Slater, C. Stroech (Council Member)  
Excused: S. Kemnitzer (Water Board Chair)  
**Town Council**- J. Haynes, M. Amerikaner  
**Members of the Public**- Mary Fortuna, Jennifer Gerholdt, Steve Pearson, Barbara Stiefle  
**Town Staff** –C. Coe, D. Nickerson, C. Painter, K. Shipley, F. Welch  
**Professional Independent Consultants** – S. April (environmental scientist), J. Ekstrom (engineer), David Decker (accountant/rate analyst), Hoy Shingleton (regulatory counsel)

Note: this was a virtual meeting held on the Zoom platform as a health precaution due to the COVID-19 pandemic.

### **1. CALL TO ORDER.**

The Special meeting of the Water Board was called to order by J. Auxer at 12:30pm.

### **2. WELCOME AND PURPOSE OF THE MEETING.**

Mayor Auxer welcomed members of the public, council members, water board members, staff and independent consultants to the meeting. He then stated that the express purpose of the meeting was to discuss the pending 5% water rates increase, hear from members of the public, and to answer questions and consider any and all such relevant matters.

### **3. RECOGNITION OF GUESTS.**

Mayor Auxer invited the members of the public to introduce themselves and share their thoughts and raise questions on the proposed water rate increase.

The first commenter was Ms. Jennifer Gerholdt of the Willow Dale neighborhood. Ms. Gerholdt noted that she was not necessarily against the rate increase but had concerns regarding the real or perceived transparency of the notification process. She suggested a step-back now is in order to share additional information to the public, provide justification for the rate increase, encourage public engagement, address potential concerns about Rockwool threatening the Town Run supply, address the basis for the returned check charge, and consider the optics of a rate increase during the Pandemic.

Next to speak was Mary Fortuna of West Washington Street. Ms. Fortuna echoed Ms. Gerholdt's comments and referred to emails and Facebook correspondence related to questions she had raised with Council Member Stroech, noting that there remain some outstanding questions. She stated she is concerned about the cost and the timing of information, safety of the Town Run as a primary source and the associated Source Water Protection Plan and Water Protection Plan being available to the public on the Town's website.

Barbara Stiefle, another member of the public, was recognized but had no further comments.

Mayor Auxer thanked the members of the public for taking the time to join the meeting and express their thoughts and questions.

#### **4. DISCUSSION AND PRESENTATIONS BY STAFF AND INDEPENDENT CONSULTANTS**

Mayor Auxer then referred all participants to the detailed Question & Answer document that was distributed by Council Member Stroecht, that addressed many of the questions raised by the commenters.

Mayor Auxer noted that there has been the suggestion that the rate increase, and therefore the water plant improvement project, be deferred for six-months. In that regard, he then called upon Water Plant Manager C. Coe to share some details regarding the water plant renovation project (which is the basis for the rate increase). C. Coe shared that a six-month deferral would place the Town at risk of meeting a July 2021 West Virginia State regulatory compliance deadline to meet ultra-violet (UV) disinfecting system installation and operation. C. Coe noted that this element of the project was of the highest priority to ensure safe drinking water and to avoid violating an important State mandate. He further noted that the plant is aged and failing, many components being so old and out of practical use that replacement parts are no longer being manufactured. He shared an experience with a recent valve failure that cost \$25,000 to replace, which would otherwise have been avoided with the planned project improvements. He noted that pumps, valves, actuators and other equipment are constantly needing costly repair and jeopardize the safe and reliable provision of water to our residents. C. Coe also discussed the criticality of replacing current filter media, detailing the decline of the first layer of anthracite due to long-term backwash, contributing to “mud-balling” over time; as a result chemical soaks have lost their effectiveness.

Mayor Auxer then recognized Jeff Ekstrom, independent consulting engineer, who has been retained by the Town for his professional services since 2007. J. Ekstrom addressed questions raised concerning the Source Water Protection Plan, noting that a chemical spill in the Potomac River (primary water source) in 2013 highlighted the critical need to develop a safe and reliable secondary water source. He advised that the Town Run has proved to be a safe source of water, which was relied upon for 12-days to supply water to the Town during the Potomac chemical spill. He advised that another key component of the water plant improvement project is for the installation of intake devices for the water from the Town Run. He further observed that consistent sampling of the Town Run has proven it to be a good and safe source.

The Mayor then introduced David Decker, accountant/rate analyst, to discuss the basis for the rate increase. D. Decker advised that his calculations showed that the 5% increase is necessary to exclusively meet debt service coverage (DSC) on the loan required to finance the water plant improvements (no pro forma operating or maintenance expenses included). He noted that the DSC on net loan required takes into effect a \$1-million funding contribution from the Town, absent which the rate increase would have been in the 12-13% range. D. Decker observed that the last water rate increase was in 2016 driven by increased operating costs. The instant 5% increase was also impacted by a new West Virginia Public Service Commission (PSC) requirement that a Cash Working Capital reserve of 0.125% of Operating and Maintenance cost be added to the proposed rates to ensure positive cash-flow. Mayor Auxer asked D. Decker to opine on the timing of the rate increase, to which he responded that the increase must be effective with loan approval and funding, which is anticipated around the end of the second quarter of 2021.

On the matter of project timing (financing, rate increase, project commencement) the Town’s independent regulatory counsel, Hoy Shingleton, stated these factors will be driven by regulatory rules, loan covenants, and legal statute. He noted that once the Town Council has formally adopted the new water rates those rates will then be filed with the PSC for approval. He noted that the filing will be subject to appeal. Following that process the Town will need to make another filing with the PSC for approval to construct the water plant improvements, known as a Certificate of Public Convenience and Necessity (CPCN). He shared that the CPCN process also opens the matter to intervenors to participate. The PSC staff (accountants, engineers, attorney) will all participate in investigating the merits of the application for the CPCN. All told, this process will, at the very least, take approximately four-months to conclude. H.

Shingleton stepped through the various steps and filings necessary (including statutory suspensions and appeal periods) resulting in a best-case scenario of reaching the phase of bid-openings and construction in July 2021. He noted that no loan may be closed until the PSC approves the rate increase request. He cautioned to all participants in the meeting that this process will likely mean a July or August 2021 project start.

Mayor Auxer, noting that the experts having shared their opinions, asked for comments from the Town Council members in attendance. Council Member M. Amerikaner asked the amount of the loan needed for the project, D. Decker responded \$977,000. M. Amerikaner reflected on the expression of public concern regarding notification and communication of the rate increase and emphasized the importance of achieving public buy-in. He then raised questions about what could be done at this point to address those concerns, including a delay in the process previously outlined. Mayor Auxer noted that the Town has exercised its traditional communication efforts and has noticed the First and Second readings of the proposed rate increase as published on the Council agenda, and proffered opportunity for public comment. J. Bresland then asked what the legal requirements of the Water Board are, H. Shingleton responded that the board has no legal authority, that all such authority resides with the Council.

In response to the inquiry of M. Godfrey regarding future infrastructure projects and rate increases, Mayor Auxer responded that important infrastructure projects are always being examined as a part of the mission of the Water Board, and that enhancing the notification effort around such projects will be emphasized. J. Ekstrom stated that specifically the Water Board is looking into water distribution system improvements in Mecklenburg Heights and other small pockets of underserved communities, and related fire protection measures over the next couple of years, emphasizing that much more study was necessary and will take time. He observed that we may be qualified for special grant funding and reserve funds such as the West Virginia DWTRF (Drinking Water Treatment Revolving Fund), low interest loans, and other grants and financial resources that will reduce any rate impact. J. Ekstrom went on to observe that in his experience Shepherdstown goes above and beyond to communicate and keep rates to a minimum.

Mayor Auxer then specifically asked H. Shingleton when the proposed rate increase would likely take effect, H. Shingleton responded that the earliest it could be is July 15, as rates should go into effect one-month prior to the initiation of debt service as water bill payments are approximately 20-30 days in arrears.

M. Amerikaner asked how can we give more time to the public? What do Ms. Gerholdt and Ms. Fortuna want? In response, C. Stroecht then offered the following observations: (1) The 5% increase will not take effect for six or seven months, possibly later, (2) the \$30 returned check charge is a pass-through of the actual charge imposed on the Town by our bank, no more no less, (3) State water quality compliance obligations of the Town require we move forward now, and (4) the Town Council needs to address how to improve communications with our residents, and to go above and beyond legal notice requirements.

A. Slater thanked Ms. Gerholdt and Ms. Fortuna for their engagement and advocacy, and as a Water Board member he has benefited from their sharing of concerns and questions. He noted that effective communications on such matters are a challenge for even the larger and more sophisticated utilities and is not limited to small municipals. He suggested that the Town consider converting the postcard billing to an enclosed envelope styled bill to offer a conveyance vehicle for such notifications and other important communications (e.g., newsletter) to the residents.

J. Bresland appealed that there are six-employees in the water department and that it is imperative that they be given priority for the COVID vaccination to ensure adequate staffing of our critical water supply.

**ADJOURNMENT.** On unanimous consent Mayor Auxer adjourned the meeting at 1:45 p.m.

Respectfully Submitted: Austin J. Slater, Jr.

