

*The charge of the Special Committee is to develop a policy position that can be applied by the Town when approached with a request to provide water and/or sewer services outside of Exeter. Issues to be considered by the Special Committee include water and sewer capacity; water and sewer system life and infrastructure; the tax impact on Exeter and the town provided with water and/or sewer services; the impact of providing out of Town properties with water and sewer services on in-Town residents not provided with public water and sewer; and the vitality of the downtown and the Town's existing industrial base in light of the provision of out of town water and sewer services. The Special Committee is encouraged to look to additional impacts for consideration.*

The charge to the Special Committee, Exeter Board of Selectmen, April 26, 1999

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**Summary of report recommendation:**

*Based on the numbers presented (peak water use is 1.3 MGD, and at 80% the water treatment plant can produce 1.6MGD), the shortcomings of the distribution system and the water treatment plant, and based on growth projection, the Committee recommends that the Selectmen not sell water outside of the town of Exeter at this time.*

*Based on the lack of capacity in the existing sewage collection system, (pipes and pumps), now being partially addressed by the sewer separation projects, ( separating storm water from sewage), and concerns for infiltration in the remainder of the collection system, the Committee recommends that the Selectmen not sell sanitary sewer capacity through the existing collection system outside of the Town of Exeter at this time.*

*Given the difficulty of complying with EPA requirements with copper and ammonia treatment at the plant and in the absence of a solution to these problems, even though the sewer treatment plant otherwise has treatment capacity, the Committee recommends that the Selectmen not permit additional discharge to the plant from out of Town at this time.*

*That the Board of Selectmen, when it is determined to be in the best interest of the Town to provide water and/or sewer services to a neighboring town, do so only via an intermunicipal agreement with the neighboring town and not through an agreement with the land developer.*

*Prior to entering into any such intermunicipal agreement, the Selectmen should investigate tax sharing opportunities.*

*At the time the Town is considering major investments in water and sewer utilities, the Selectmen should carefully review opportunities for sharing water and sewer services with other municipalities.*

**Background**

Exeter's history of providing water and sewer services outside of Town is very limited. With the exception of Phinney Lane in Hampton, the Stratham Industrial Park, the Cooperative Middle School and Stony Brook Lane in Stratham, Exeter's water and sewer utility only serves customers in Exeter. Approximately once a year the Water and Sewer Advisory Committee receives a request from a development in a neighboring town requesting that water and sewer services be extended. None of these requests has received a favorable review from the Committee based largely on the fear that to provide water and sewer outside of Town may lead to an inability to provide services in Town. In addition to these infrequent

requests. the Chairman of the Water and Sewer Advisory Committee was approached in late 1998 by the Exeter Area Chamber of Commerce's Economic Development Committee and the Rockingham Economic Development Commission regarding the potential for Exeter to provide water and sewer service outside of Town.

### **Organization**

In the winter of 1999, the Water and Sewer advisory Committee received 2 letters from developers outside of Town looking to connect to the Town's system. The Minutes of the Water and Sewer Advisory Committee of February 11, 1999 speak to the issue:

"Chairman Brabant turned to correspondence provided with the agenda from 2 individuals looking to have water and sewer service provided; one requesting service to Stratham another to Hampton Falls. The Chairman suggested that the Committee approach the Board of Selectmen requesting that the Board appoint a special committee to look into establishing policy on the Town providing water and sewer service outside its boundaries. He noted that there are issues other than capacity and infrastructure that need to be considered in reviewing such requests. He suggested the committee be composed of a Selectman, a representative of the Water and Sewer Advisory Committee, the Planning Board, the Conservation Commission, the Exeter Development Commission and the Chamber of Commerce.

Following discussion it was agreed that the Chair would take the request to the Board of Selectmen and that Mr. Olson would correspond with the 2 individuals requesting service explaining the Committee's action"

At the Board of Selectmen's meeting of March 1, Chairman Don Brabant of the Water and Sewer Advisory Committee addressed the Committee's concern over the issue of the sale of water and sewer services outside of Town.

The minutes of the meeting note that the Committee had received "...correspondence from the Wal-Mart (Stratham) and developers in Hampton Falls requesting permission to hook up to Exeter's water supply. He noted a year ago they had opposed sending the Town's natural resources out of town. The Committee suggested the Selectmen appoint a committee to study why or why not this should be approved"

Discussion followed on who would sit on such a committee. Suggestions included a Selectman: representatives of the Water and Sewer Advisory Committee, the Planning Board, Conservation Commission, Exeter Development Commission, the Chamber of Commerce, the Rockingham Economic Development Commission, the Rockingham Planning Commission and a private citizen.

"Mr. Rowe moved to create a committee to study use of Exeter Water out-of-town sources, second by Mr. Scafidi." By unanimous vote, the Board agreed to establish such a committee and to send out letters to the boards and committee's noted to obtain the names of prospective representatives.

Following the mailing and the return of names of individuals interested in serving on the committee the matter was brought back before the Board of Selectmen in April of 1999. The minutes of the April 26 meeting read as follows:

#### "Appointment of the committee to look into provision of water and sewer outside of Town"

"Mr. Olson explained that the Board had called for the creation of a special committee to be composed of representatives of boards and commissions with an interest in the issue of establishing policy on the provision of water and sewer services outside of Exeter. The Chair had sent letters to these boards and commissions requesting that they each nominate an individual to serve on the special committee. Names had been received from all of the boards and committees, thus the Selectmen were now in a position to make the appointments. Mr. Olson read the names of the boards and committees solicited.

Mr. Rowe asked what the charge of the special committee was to be? Mr. Olson responded with the following recommendation:

*The charge of the Special Committee is to develop a policy position that can be applied by the Town when approached with a request to provide water and/or sewer services outside of Exeter. Issues to be considered by the Special Committee include water and sewer capacity; water and sewer system life and infrastructure; the tax impact on Exeter and the town provided with water and or sewer services; the impact of providing out of Town properties with water and sewer services on in-Town residents not provided with public water and sewer; and the vitality of the downtown and the Town's existing industrial base in light of the provision of out of town water and sewer services. The Special Committee is encouraged to look to additional impacts for consideration.*

**Moved by Mr. Binette, second by Ms. Bailey, to appoint the representatives of the boards and committees and to approve the charge as proposed. SO VOTED.** Mr. Scafidi abstaining. Mr. Scafidi read the names of the appointees and their affiliation. Exeter Water and Sewer Advisory Committee, Don Brabant; Conservation Commission, Don Clement; Exeter Development Commission, Mike Dawley; Rockingham Economic Development Corporation, Warren Henderson; Planning Board, Phil MacDonald; Rockingham Planning Commission, Cliff Sinnott; Exeter Area Chamber of Commerce, Charlie Tucker; citizen representative, Rick Sawyer; and Paul Scafidi representing the Board of Selectmen."

Each of the members of the committee were notified of their confirmation as members and a first meeting was called by Selectman Scafidi for 7:00PM June 3, 1999 in the Nowak Room in the Exeter Town Office Building. At the meeting Mr. Scafidi read from a prepared statement describing the significance of the committee's charge and the importance of acting "...both expeditiously and thoughtfully."

The committee then organized itself through the election of a Chairman, Don Brabant, and a Vice Chair, Don Clement.

#### **Research - Capacity**

At the first meeting, the Chairman asked the members to share their thoughts on the charge to the committee as authored by the Board of Selectmen. The consensus was that the charge "...was in the correct order and that the issue of capacity had to be determined first before there could be any discussion of providing water and sewer outside of Town" (Tucker, 6/3/99) and "...after the Committee answers the question "can we?" it will need to address the question of do we want to provide water and sewer service outside of Town?" (Henderson, 6/3/99).

It was agreed at the June meeting that the next meeting be set aside to address the issue of capacity.

At the meeting of June 10, the Committee heard a presentation on the issue of water and sewer capacity from Keith Noyes and received information on a build out analysis as prepared for the Planning Department. This analysis describes what future water and sewer demands would be if Exeter's developable land was "built out"

Mr. Noyes stated that while there is excess capacity at both the water and sewer treatment plants, there are instances right now when each is stressed in terms of capacity. He gave the example of the main sewer pump station not being able to handle inflows during heavy rains and the decline in treatment capacity at the water treatment plant when the raw water becomes highly colored and/or very warm. He also stressed, in terms of sewer treatment, that it is not just quantity, but that the quality of the discharge that is of concern, referring to industrial discharges. Mr. Noyes also related concerns he had over applying the Exeter's water and sewer regulations outside of Exeter, and the ongoing problem of not meeting the federal permit for treatment of ammonia and copper at the waste water treatment plan.

At the same meeting, the build out analysis for Epping Rd. was reviewed. (attached)

The Committee ended its meeting of June 10th requesting that a meeting be set up with the Town's sewer engineers, Camp, Dresser, McKee, for the next meeting so that future research could be done on the matter of sewer capacity.

At the June 24 meeting Virginia Roach of Camp, Dresser, McKee, discussed the sewer study prepared by her firm that takes a comprehensive look at Exeter's municipal sewer system. The report substantiated Mr. Noyes' earlier comments describing capacity problems the Town experiences during wet weather, notably problems of storm water infiltration/inflow. Ms. Roach stated that CDM's report concludes that "...the system runs at approximately 50% to 75% capacity during dry weather." but that "...Exeter has no capacity to share until these infiltration problems are resolved."

While problems of storm water inflow will be partially addressed through current projects, (Water St and Court St.), other steps will need to be taken to address infiltration. It will take some time to determine the impact of all of these improvements on capacity.

Mr. Dan Laning, also of Camp, Dresser, McKee, addressed the issues of water line extensions into neighboring towns and the role of the Public Utilities Commission in such a situation. He noted that only if Exeter charged more for water to customers in the receiving town would the PUC regulate the rate charged.

Victoria Abbey, Water and Sewer Superintendent described the current situation in terms of water supply, stating that running the plant 24 hours a day generated approximately 2M gallons of water, while demand can average 1.3M gallons a day. She reported that the Water and Sewer Advisory Committee was considering the preparation of a comprehensive water study of the Town aimed at looking at all of the issues relating to water supply and distribution, a study that is necessary to answer many of the questions that are raised over these issues.

At the Committee's next meeting, held on July 21, the issue of providing policy direction to the Board of Selectmen was discussed based on the research done to date. The Committee agreed to "...craft their response to the Board of Selectmen in terms of the facts in place, the known demands and to provide the Board with specific recommendations."

#### **Recommendations:**

*Based on the numbers presented (peak water use is 1.3 MGD, and at 80% the water treatment plant can produce 1.6MGD), the shortcomings of the distribution system and the water treatment plant, and based on growth projection, the Committee recommends that the Selectmen not sell water outside of the town of Exeter at this time.*

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#### **Research - Providing Water and Sewer Services Outside of Exeter**

With recommendations in place as to the immediate issue of capacity, the Committee next turned to policy issues surrounding the selling of water and sewer services outside of Town, assuming that capacity existed. As was the case with the issues surrounding water and sewer capacity, the Committee agreed to invite outside experts to discuss the matter.

At the Committee's meeting of September 9, Jeff Taylor, Director of the New Hampshire Office of State Planning addressed the Committee. He was asked for New Hampshire examples of one community providing water and/or sewer services to a neighboring community, and the experiences of these communities. He was asked to address this topic in terms of issues other than treatment capacity and water and sewer infrastructure.

Mr. Taylor provided some examples (Manchester to Bedford, Manchester to Londonderry, Portsmouth to New Castle and Laconia to Gilford), noting that there are a number of impacts on both the sending and receiving communities. Examples include increasing the developability of the served land in the receiving community, added income to the sending utility, and creating commercial competition by allowing development in the receiving town.

During the question and answer period, following up on Mr. Taylor's comments on commercial competition, Mr. Brabant questioned why one town would ever provide water/sewer services to a neighbor? "Mr. Taylor responded that it depended on the kind of deal that Exeter negotiated to provide the water and sewer."

The issue of "soft" economic reasons to provide water and sewer outside of town was discussed. Examples brought forward included good will between the donor and recipient towns, the creation of new jobs on the newly developed land, and the "critical mass" needed to generate and spin off development, with drug stores associated with hospital used as an example.

Also discussed now were some of the negative impacts such as further stressing the environment, additional traffic, and the potential for ill will between communities if agreements to share water and sewer were not reached.

Mr. Henderson, following up on concerns over commercial competition between sending and receiving Town's questioned if the sending town could limit the kind of development that was allowed to connect in the receiving town? (Subsequent research showed that who received water and sewer in a receiving town was controlled by the intermunicipal agreement between the towns or the agreement between the sending town and a particular development. There are no federal or state requirements to share water and sewer services sent out of town.)

Mr. Dow, a resident attending the meeting "...asked if doing nothing better protected Exeter's interests in playing a role in how land was developed through the provision of water and sewer?"

There still being several issues associated with federal funding of Exeter's water and sewer facilities and the role of the NH Public Utilities Commission the Committee decided to meet once again and invite guests in to discuss these two matters.

At its October 7 meeting the Committee heard from Brad Foster of the New Hampshire Department of Environmental services and Susan Chamberlain, an attorney with Donahue, Tucker and Ciandella.

Mr. Foster noted that there are a number of communities across the state that hold intermunicipal agreements whereby water and sewer services are shared between communities. The agreements call out the details of the arrangements between the communities. The DES has a checklist for such agreements to help insure that all of the issues are addressed. He went on to describe that there are also agreements between municipalities and private firms, but DES recommends that intermunicipal agreements be held between communities since this allows for better enforcement of the agreement.

Mr. Foster confirmed that there were no state or federal incentives to become involved in an intermunicipal agreement, nor was there any obligation for Exeter to serve a neighboring town with sewer service because Exeter had received a 20% grant from the state to upgrade the sewer treatment plant. He also pointed out the state does not become involved in disagreements between towns. He stated that the intermunicipal agreements are written to cover most all contingencies.

Mr. Tucker asked, "If Stratham wanted to build a treatment plant across the Squamscott from Exeter's plant, and the same level of treatment could be achieved for less by expanding Exeter's plant, would the State require Exeter to expand to serve Stratham?" Mr. Foster responded that this was not the case.

Mr. Brabant asked, "If the review of intermunicipal agreements by DES covered the fees to be charged?" Mr. Foster responded yes, and any difference in fees charged from town to town had to be justified in terms of investments made.

Mr. MacDonald asked, "If the decline in water quality resulting from a Stratham treatment plant could lead to Exeter having to upgrade its plant?" Answer: No, the issue is the quality of Exeter's discharge to the river and not anyone else's. If Exeter is meeting its discharge limits, what Stratham does in terms of discharge has no impact.

Ms. Chamberlain was asked to address the Committee's charge from the point of view of her experience with the Public Utilities Commission. She noted that the PUC would become involved only if Exeter decided to provide water and sewer service outside of Exeter. If Exeter wanted to serve, say Stratham, the PUC must be contacted and its approval solicited. The PUC is looking to determine if the provision of water and sewer service outside of town is in the public good, and that the sending town can indeed provide the service. Even if Exeter does serve its neighbors, the PUC will not be involved in rates so long as customers in the neighboring towns pay the same for water and/or sewer as Exeter residents. The PUC's concern is insuring that customers are not "ripped off", that the service is adequate, and that there are not over-laps of service.

Mr. Tucker asked Ms. Chamberlain if the PUC would allow Exeter to provide sewer services to residents and industry in an abutting Town, but not businesses? Ms. Chamberlain responded that this would be hard to do unless it was controlled by zoning. The PUC would not take into consideration Exeter's concerns over protecting its downtown from competition.

Mr. Tucker opined that it appears that Exeter would have greater control over the provision of water and sewer services if it holds an intermunicipal agreement with the Town served, as opposed to holding an agreement with a developer.

Ms. Chamberlain responded that the PUC does not get involved with what Stratham bills its customers even if the sewerage ends up in Exeter, but would be involved in looking at rates if Exeter wanted to charge a higher rate to development in Stratham.

It was the consensus of those present that this was a significant point and that any future thought of providing water outside of Town would require an intermunicipal agreement.

Chairman Brabant asked, "If the Town built the utility up to the Town boundary, would the PUC require that the Town connect a property immediately adjacent in a neighboring town?" Mr. Foster responded no, though State law requires that people within 100 feet of a municipal sewer line connect to the line. He stated that he "... did not know of an example where this requirement had been enforced over a Town boundary."

The Committee determined that the Town could charge neighboring towns a capital recovery/improvement fee, as well a charging end users, should services be provided outside of Town.

Following a review of the minutes of the October meeting, clarification was sought on the issue of charging a higher rate for water/sewer usage in neighboring towns if the cost could be justified, or having the served town charge its residents a higher rate and turn the proceeds over to Exeter. In both instances, it appears that any additional charge to the neighboring town must be approved by the PUC. While the PUC will likely approve a higher rate if both Exeter and the neighboring town agree on what the rate should be, it would put Exeter under the purview of the PUC for any subsequent rate adjustments.

Based on the information received the Committee agreed to the following recommendation to the Board of Selectmen:

**Recommendation**

*That the Board of Selectmen, when it is determined to be in the best interest of the Town to provide water and/or sewer services to a neighboring town, do so only via an intermunicipal agreement with the neighboring town and not through an agreement with the land developer.*

*Prior to entering into any such intermunicipal agreement, the Selectmen should investigate tax sharing opportunities.*

*At the time the Town is considering major investments in water and sewer utilities, the Selectmen should carefully review opportunities for sharing water and sewer services with other municipalities.*

**Note:**

In regard to the charge to the Committee, the Committee discussed the tax sharing enabling law, but was unable to determine the magnitude of any impact on the town provided water and sewer.