

**Meeting Minutes**  
**Charlton Water and Sewer Commission**  
**Date: August 18, 2014**

Location: 8A Worcester Road, office at the sewer treatment plant

Attendees:

<u>Members</u>	<u>Present</u>	<u>Members</u>	<u>Present</u>
Paul Gagner	Y	Robert Lemansky	Y
Joseph Spiewak	Y	Shabana S. Gagner	Y
Alex J. MacKenzie	Y		

Mr. Gagner: I'd like to call the meeting to order. It is August 18, 2014 and it is 6:30 p.m. We have two members coming in later. We will start with the reading of the warrants and commitments. **Mr. Spiewak: I make the motion to approve the following warrants: Verizon: \$450.07; Poland Spring Direct: \$2.59; Total: \$452.66; Woodard & Curran: Contract operations for the month of August: \$40,151.75; and R & M \$2,500.00: total: \$42,651.75; total: \$42,651.75; Commissioner payroll for the month of August: \$400.00; Commitment warrant for 1<sup>st</sup> quarter FY 2015 for sewer user fees: \$212,290.10; seconded by Mr. Lemansky. Vote: Unanimous. Mr. Spiewak: I make a motion that we approve the minutes of August 4, 2014 at the plant; seconded by Mr. Lemansky. Vote: Unanimous.**

Steve gave his office report: Masonic Home manhole: We had one of the top 12 worst days today. I have a sample of what was found in a bag outside the plant. Latex gloves, rubber gloves, and diapers – in the top 12 for stuff. Steve has spoken with George at the Masonic Home about this. Steve: We have billed them 15 or 20 times \$100.00 each time. A bill will go out tomorrow. Mr. Spiewak: At what point do we start accelerating the fines? Steve: Anytime now. Mr. Gagner: Should we have a schedule of fines. We should have a list of fines. Steve: We have set the precedent, but where we go from here—2x or 3x? I talked to George about a cost savings of \$30,000 or \$35,000 as a result of putting in a grinder pump at the facility. Mr. Lemansky: What we're receiving isn't going through a pump station. It is just gravity. Steve: At the pump station we are talking \$1,000 or \$1,200. The manhole which we have been cleaning out is at a cost of \$400.00. Since we started cleaning that manhole, we haven't had a problem on North Main Street. Mr. MacKenzie arrived at 6:42 p.m. The one coming down Route 31 has been spotless. Mr. Lemansky: It is the one that goes to the pump station. It is checked every Monday. Mr. Gagner: Any change in management? Steve: I do not know. I have heard rumors. I send copies of photos to George regardless of results. Mr. Gagner: The idea was to have this cease before winter comes. Steve: I told George it becomes dangerous in winter and difficult to check these locations. Steve: If a grinder pump is installed for the Masonic Home, it would be their responsibility to clean it. The Main Street pump station needs to be protected. Mr. Lemansky: I would be against a grinder pump up on North Main Street. We've got to make a strong point to George. If this doesn't straighten out soon, we'll be considering a factor of 2x the fine after the third instance; after another instance, 2x that. We need to grab their attention. George is a good manager. Mr. Lemansky: I would suggest that our administrator make another plea to George; make sure signs are in place. Steve: The MTA stations 5 East and 6 West agreed to put up signage. Mr. Gagner: We should put something in place that would be fair under a variety of conditions. Mr. Lemansky: And we should give them a credit for being good. Steve: Yes, because sewerage dumps into our system from the Masonic Home and the MTA stations. Mr. Spiewak: The intention is not to punish them, but just to clean up their system and not have to go through this. Mr. Lemansky: Would it be back to the original fine or move forward? Ms. Gagner arrived at 6:50 p.m. Mr. Gagner: Mr. St. George is not doing his report this evening. He is ill. Mr. Spiewak: This is the monthly report for July authored by our plant manager

Jody, a copy of which is attached to these minutes. Steve continued his report: Peter Starkus went to several properties for us to check meter connections. He has serviced 11 of them. Some had to have batteries replaced; others had broken wires; some were disconnected and reconnected and then they worked. Steve indicated that Mr. Starkus advised that the spool of wire we have at the office may not be thick enough, and that we should consider a thicker diameter wire for hooking up meters. Water privilege fees west of Route 169 on Route 20. Mr. Gagner: We talked about using the same formula that they used for the privilege fees that were just assessed for the center of time. Steve: When I had approached the town administrator, she said the Water & Sewer Commission needs to take a vote and define the fines and the privilege fees. Mr. Spiewak: We've only assessed a half a privilege fee. Mr. Lemansky: We've only assessed half a betterment fee. I'm thinking we need to do something. Is there any reason why we can't have the privilege fee for that area be a carbon footprint of our current betterment? The privilege fee stands right now not to be more than 50% of what the privilege fee will be; and that the remaining amount will come at a future date. Mr. Spiewak: I did research on that, and I don't know that we can do that legally. We got Special Legislation that allowed us to do the 50% betterment followed by the 50% betterment. That Special Legislation didn't touch privilege fees. Mr. Lemansky: I'm feeling that we're better off having something quoted as far as a privilege fee so that we have something. If it's incorrect, then wherever it was applied in this regard, let them show us why it was incorrect. The current privilege fee for sewer is \$8,200 per edu for Phase 2. This is what we should be doing for the water. The water should mimic what we have already applied to our current service area so that we have it in place. Something is better than nothing. We can't give them 100% of the privilege fee. The people who connect who are unintended are in the same boat as the people who were part of the betterment group to where an amount no greater than 50% was assessed; and the remaining amount will be determined at a future date. Mr. Spiewak: I don't see anything in the law that allows us to do that. Mr. Lemansky: There's nothing in the law that says we can't do the same thing as the privilege fee. Mr. Spiewak: Should we seek an opinion? Mr. Lemansky: I think we should put it in place and after it is in place, then seek an opinion. Mr. Gagner: We should do it in the other order--get the advice of McClure and/or Abraham first. Mr. Spiewak: Question: Can we assess a privilege fee of 50% now and 50% later; or is a privilege fee a one-time transaction? Mr. Gagner: Ask that question specifically to him. Steve: I can write something up and send it to Jeanne McKnight. Mr. Spiewak: We don't know what the final bill will be. Mr. Lemansky: We do know that the amount charged initially was \$4,700 per edu. The law says we can't assess greater than 2x that. Mr. Spiewak: The \$4,700 could be 20% of the final betterment. The law says that we can't assess greater than 50%. Mr. Lemansky: Let's get another opinion on it. Steve was asked to talk to Jeanne McKnight.

Mr. Gagner to Steve: We were trying to determine what laterals run across Route 20 because some of them were on prints and some were not. What did you conclude? Steve: You all have color photos I sent to you. The one that we were looking to find but did not because of the topography up there was the one that goes to the property just after Howlett's on the right at the top of the hill. We checked the breakdown lane on the eastbound lane and we looked on the other side of the guardrail, but we haven't found it. Mr. Lemansky: According to reading the map and the dotted line that crossed Route 20, 4 out of 5 times, that dotted line proved to be an existing main lateral. Steve: Yes. Steve and Steve Blanchard were onsite. Steve: Anything over 4 feet we won't find -- we're using a wand. Mr. MacKenzie: They're not scoping the mains? Steve: Define scope. Mr. MacKenzie: You send a signal underground. Steve: No, they are using a wand. All we confirmed was there was a 2" line by the hair salon. Mr. MacKenzie: A wand has to be metal, and is good for 8'. I'd like to find some time and come out here and scope it. Steve: This looks like it's bigger (referring to a plan: 'unless otherwise stated, they are 1" laterals'). Mr. Lemansky: When you turn east of CVS, there are dotted lines with no swings

or turns; and there is an 8" lateral there. Steve: In this case we found the 2" line by the hair salon and an 8" line. These are pictures I have. Mr. Spiewak: This was done after Mr. Dugas visited us to see if there was a lateral to his property. What was the purpose of putting in the 8" line? Mr. Lemansky: I have personal knowledge on the one east of CVS. The landowner had come to our commission and explained he was planning a huge project and he wanted a large water service. Mr. Spiewak: So we believe Mr. Dugas is all set. Steve: We confirmed the fact that they were 2" lines up by the hair salon, and there's also an 8" line; but uncertain whether the lines were PVC. Mr. MacKenzie indicated that he could scope the line.

Steve 15 Hollywood Drive. There was a grinder pump clog that was dealt with in the middle of a blinding rain – had to be dug up. The tank was under the garden so digging had to be done. We have to have clear access to the chambers when we address these. Mr. Spiewak: We talked about lightening strikes. Are these pumps independently grounded? Steve: They are supposed to be. In the time I have been here, I know in some cases they are grounded; and some people have put in a 5/8" copper rod, and they haven't had any more issues. Mr. Lemansky: Are we having any hits on the new ones? Steve: No, but with the old style, we would lose the electronics.

7:17 p.m. Mr. Gagner: Mr. and Mrs. Theriault had met with the commission on August 4, 2014 regarding 5 Main Street. They took their betterment fee over 20 years. It is a two family house. After 10 years it became a one family house; and they are looking for a break on the second half of their payments. Issues: If somebody paid in full, they wouldn't be entitled to such a break. Why is that fair to one and not fair to another? To Mr. Spiewak: You couldn't find anything anywhere that said we could give a negative privilege fee and reduce the amount they owed; and also you said that nothing was found that said we couldn't do that. You gave the example of if you pay a mortgage on your house – it is no different, you can't go back to the bank and get your payment reduced. At the time you accept the mortgage, that's what you have to live with. There was an example given where if someone owned a car wash; and one year after being in business, they got assessed a betterment fee for the car wash; the husband died and the woman had 19 more years to pay a betterment on her own. She didn't continue to run the car wash. It seemed unfair. I don't know if we have any abilities to have a way for people to appeal. Mr. Lemansky: I think it's best we wait for them in case there is some new information that comes out, we can let them know. Mr. MacKenzie: We're talking about property getting bettered. You are talking about people changing their mind. The property is the property. Mr. Lemansky: The applicants need to hear all of the discussion.

Steve: There is an all boards meeting on September 23<sup>rd</sup> at the Town Hall in the Senior Center. I will post it anyway in case two or more of you plan to go. It will be at 6:30 p.m. Mr. Gagner: Why does it have to be posted for our commission if we aren't voting or making any decisions? Posting meetings seem to only be required if decisions and voting is involved. At the All Boards Meeting there are no votes are taken. There is usually just general discussion at those meetings. I would like some clarification on those meetings. Steve: My approach is that we can't get our hands slapped if we post a meeting. Mr. Lemansky to Steve: When you went to post today's meeting Thursday, the meeting could not be posted on Friday. Steve did not get an acknowledgment back. Steve: We are posted for six months. We just didn't have the agenda. Steve: I had three people at the window here on different Fridays who wanted to pay sewer bills. Mr. Lemansky: Did they go to the town hall and couldn't get in so they came here? Steve: Yes.

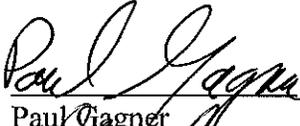
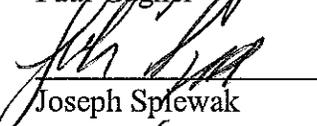
Mr. Gagner: With respect to the Theriaults and their request for an abatement discussed earlier, we need clarification with respect to reducing privilege fees. Mr. Gagner to Steve: Has there been any

feedback as to whether there has been any savings with the Town Hall being closed on Fridays? Steve: I have heard nothing. Mr. Spiewak to Carol: Has it had any negative affect on us? Carol: I usually go to the Town Hall on Tuesdays and Thursdays. Steve: I had three people here at the window on different Fridays wanting to pay sewer bills. Mr. Lemansky: Have they gone to the town hall to pay them? Steve: Yes. Carol: There was an article in the local newspaper on the front page about the Friday closing. Mr. Lemansky: do you want to act on this this evening. Mr. Spiewak found out that we don't have the means to give money back; and there's nothing that says we can't do it. We need the reasoning behind it. Mr. Gagner: To be fair—it is up for discussion here. Ms. Gagner: If someone is eligible, it has to be specific. If someone can get their property reassessed and get a change of use implemented; go through the process; you don't give any money back; just reassess the bill so that it isn't negative but is accurate to what the new assessment is. Justify it as a hardship. Going forward, you get a readjustment for a smaller payment. Mr. Gagner: Should we be calling our state representatives to see if they can do something at the State House? Has anyone here heard the term "manifest injustice"? Do you think it applies to this case or not? Mr. Lemansky: This goes way back. It's a phrase that came out of Title V. As far as when this property was assessed, I wanted to see the assessors' card. It has been listed as a two family since 1955. When the betterment assessing committee assessed it, I believe it was properly bettered in accordance with the use of the property. It is the property that gets assessed, not the people. According to the current property assessment, this is a 2,384 square feet building which has two full baths and one half bath. The statute is written for a reason. When the assessments go out, it is no different than when your tax bill goes out in February. You have 30 days from when the tax bill goes out to appeal it.

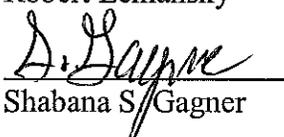
7:42 p.m. Mr. and Mrs. Theriault arrived. Mr. Gagner: I suggested contacting Peter Durant – it is out of the hands of this board. Mr. Theriault: I kind of expected that. Mr. Lemansky: The decision on this particular property, based on the information and in reviewing the assessors card – it goes back to 1955 and was assessed as a two family. At the time when the Water & Sewer Commission issued the betterment for this property, it was a proper betterment. A betterment goes to the property, not to the homeowner. The property was assessed as a two bedroom property with two bathrooms and a half bath. The bathrooms have nothing to do with the use of that building. It was assessed as a two family. Chapter 83 is clear: Once the betterment is issued, you have six months to act. I was using an analogy: Once your tax bill goes out, you have 30 days to act. For here, it is a six month factor. We can go forward but not backwards. The huge problem is once we go backwards, if we don't have a clear cut specific situation that was totally unfair, we would have an avalanche of people coming in here. I would be here because I have two betterments on my property at 157 Sunset Drive. I chose to come in and appeal it. I still have the option of taking advantage of that benefit by using a building on my property for habitation. For me, I don't see where we can go with this to help you out. Mr. Gagner: I don't think we would have an avalanche of people. The point is that it had to be a change of use. Where I still have the problem is if you get a betterment fee, you have six months to appeal it. What if you have a one family house and now they want to put a two family house in, isn't that original assessment locked in like the other one would be? Mr. Lemansky: The reason you have privilege fees, where there is a use and someone goes for an unintended use--there's nothing in the statute that allows us to go backwards. Mr. MacKenzie: You can only better a property once. That would become a privilege fee. Mr. Gagner: The week you weren't here, I tried to get someone to make a motion to issue them a negative privilege fee, since this board does have the right to do privilege fees. Mr. Spiewak could not find anything in the statute that allowed us to do that, or a statute that forbid us to do it. You had a two family house for ten years, and it was bettered as a two family house so you are even there. For the next ten years you will have a one family home. I don't know where to go from here. I don't know who can help us. Can the wording be changed? Mr. Theriault: Just let us know if anything

changes. Mr. Gagner: Before you arrived I asked if anyone had heard of “manifest injustice”; and both Mr. Lemansky and Mr. Spiewak said yes. Mr. Spiewak: If you look at the betterment fees, I think we have done due diligence on inspection. According to our building inspector, that home is still on record as being a two-family. Have you pulled a permit? The Theriaults indicated yes. They had completed paperwork. Mr. Lemansky: The property hasn’t changed. The homeowner has chosen to use it for a different purpose. Mr. Spiewak: The chair is using the 20 year period as if the betterment is spread over each year and it’s not. You calculate what the costs are, assess the fees; and then complete the process within 6 months. At the end of the day the bill has to be paid for the project. The town vote said we will pay for this project via betterments. The reality is that the law is the law. We would have to change the law. We would have to petition the general court. We have talked to the assessors. They can’t do a negative privilege fee. I don’t think the DOR would allow us to do that. Mr. Lemansky: Our Phase 3 improvement here was approved by town meeting to be paid for through privilege fees. We didn’t do a betterment. We need some economic, positive times in order to getting the bill paid. Mr. and Mrs. Theriault appreciated the time of the commission. Meeting with them ended at 7:54 p.m.

Mr. Gagner: Anything else? **Mr. Spiewak: I make a motion to adjourn; seconded by Mr. MacKenzie. All in favor: Unanimous.** The meeting adjourned at 7:55 p.m.

  
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