

Council Minutes

January 8, 2024

A duly warned meeting of the Newport City Council was held on Monday, January 8, 2024, in the council room in the Newport Municipal Building. Present were Mayor Linda Sullivan, Council President John Wilson, Council members Kevin Charboneau, Chris Vachon and Clark Curtis, City Clerk/Treasurer James Johnson, Comptroller Rebecca Therrien, Police Chief Travis Bingham, Public Works Director Tom Bernier, Recreation Director Mike Brown, Zoning Administrator Francis Cheney III, Mark Hinton, Chuck Newton, Andrew Touchette, Jason Booth, members of the Press and Public.

Mayor Sullivan called the meeting to order at 6:35 PM.

Additions/Deletions to the Agenda

None

Approval of Minutes

Mr. Vachon moved to approve the minutes of December 18, 2023. Seconded by Mr. Wilson, motion carried unanimously.

Mr. Vachon moved to approve the minutes of December 27, 2023. Seconded by Mr. Curtis, motion carried unanimously.

Comments by the Public

Jennifer Hopkins conceded her two minutes to Jennifer Bjurling.

Jennifer Bjurling commented on the bonding of the mayor and audit discrepancies.

Pam Ladds commented that filming for NEK-TV is a public service.

Wildflower Way

Janice Luce gave a presentation on the pump station at Wildflower Way (attached)

Aldrich & Elliott Water Tower Engineering Agreement (attached)

Mr. Vachon moved to approve the Engineering agreement amendment with Aldrich & Elliott. Seconded by Mr. Wilson, motion carried unanimously.

Fire Truck & New Equipment Approval

Mr. Vachon moved to approve the final contract change order for the new Fire Truck and authorize the mayor to sign the documents. Seconded by Mr. Wilson, motion carried unanimously.

Discover Newport Grant Program Funds

Mr. Curtis moved that the City request that the remaining Discover Newport Funds, in an amount up to \$40,000, be provided directly to the City of Newport for the purpose of strategic planning for redevelopment of the cities downtown and Main Street Development site, which was left vacant by the failed EB-5 projects. And all receipts for expenses related to such planning shall be provided to the Agency of Commerce and Community Development for reimbursement. Seconded by Mr. Wilson, motion carried unanimously.

Budget Review

Mr. Vachon moved to review the proposed 2024-25 budgets. Seconded by Mr. Charboneau, motion carried unanimously.

The council continued to review the proposed 2024-2025 budgets.

New Business

Mayor Sullivan noted that she has had a meeting with the Commissioner of Housing

Mayor Sullivan commented on the Cappello vs City litigation.

Mayor Sullivan noted that a policy regarding campaign signs will be on the future agenda.

Old Business

Mr. Curtis requested that sidewalk handicap accesses were cleared after each snowstorm.

Mr. Charboneau moved to approve six Special Event Permits for Eden Ice and Shelbourn Vineyards. Seconded by Mr. Vachon, motion carried unanimously.

Mr. Charboneau moved to approve Tobacco Licenses for 802 Vapor, LLC. Seconded by Mr. Wilson, motion carried unanimously.

Mayor Sullivan noted that Tax Map updating will be on the next agenda.

Mayor Sullivan noted the process for a City Manager is moving forward.

DRAFT

Next Meeting Date

January 22, 2024, at 6:30 PM.

Adjournment

Mr. Charboneau moved to adjourn at 8:50 PM. Seconded by Mr. Vachon, motion carried unanimously.

Attested _____ This _____ Day of January 2024

_____ Mayor

To: The City Council of Newport, VT
From: The Residents of Wildflower Way, Newport, VT.
Subject: Wildflower Way Pumping Station and Water Main System

January 3, 2024

We, the below listed residents of Wildflower Way in the City of Newport, VT, respectfully submit this letter to the Newport City Council on this date of January 3, 2024, in advance of our attendance at the upcoming January 8 Council meeting, regarding the wastewater pumping station and water main system on Wildflower Way that serves our small neighborhood, a subdivision of eight properties, upon which seven families presently reside.

Our subdivision was developed in the 1990s under an Act 250 Permit covering the overall development of the Memphremagog Views Subdivision. Our pumping station was permitted as part of this development in 1990 and completed by 1992.

For reasons unknown to us now the roads of the Memphremagog Views Subdivision, and the pumping station for Wildflower Way, were not held to and developed to the official standards of city roads and pumping stations as they existed then and now. We think that it odd that this was not a requirement at the time, given that we are a normal type of subdivision of adjacent small home lots located in the City, and an official part of one of the largest new contiguous subdivisions of the City in recent decades.

Moreover, some members of our community say they recall informal representations being made to them over the years that the City would, or at least would likely, be taking over the pumping station and/or Wildflower Way at some point in the future.

Since the time our subdivision was completed in fact, the City has taken over some formerly private infrastructure in other subdivisions. The roadways in the upper part of the Memphremagog Views Subdivision were taken over, for example, apparently after being brought up to code after the fact. The residents of the upper part hence now enjoy both the services of road plowing and wastewater services completely covered by the City taxes they pay. We, on the other hand, are obligated to continue to fully pay for our own road maintenance and plowing, and for all of the maintenance and electricity consumption of our pumping station.

We are also aware that the City has similarly facilitated other subdivisions over the years in lowering their wastewater burden. For example, the Lakemont Road Subdivision was originally constructed with septic tanks, which was obviously a dubious proposition in the first place given the proximity of those tanks to the Lake. It is our understanding that the City subsequently, and quite appropriately, constructed a pumping station for that community to remedy these environmental concerns, which had the added benefit of removing the financial and logistical burden on those homes of having to periodically empty those tanks.

We believe that our current pumping station is actually in a similar situation to those original septic systems in the Lakemont subdivision: Because it is not maintained by the City, and because it may be lacking various features that the City requires for its pumping stations, there is a significantly greater chance of an adverse incident occurring, such as an accidental overflow, that would have significant environmental impacts, as well as very deleterious effects on both the residents of our neighborhood

and those around us. And similarly, as already mentioned, we are subject to an additional financial burden of maintaining and powering our system, even though we pay our regular share of the City's wastewater processing costs.

These concerns, and the expectation as well that the City would eventually take over the station, have led our neighborhood in the past to request that the City consider taking over the pumping station, for example, in 2010. At that time the City had estimated a cost of this at \$26,200, although it was not clear if the improvements associated with that estimate were really enough to meet City requirements. Official records show that City officials had then agreed to look into the issue further, but nothing else appears in the record after that.

In 2020 it became apparent that certain equipment in our pumping station had finally reached the end of its expected lifetime, and we, the residents of Wildflower Way, collectively paid \$14,249 out of pocket to have it reequipped. It is now functioning well, such as it is.

Our concerns remain, however - in particular the prospect of having a small and professionally unequipped and essentially random and changing group of homeowners being required to maintain a wastewater pumping facility into perpetuity. This just doesn't make sense to us, and also strikes us as simply being unfair.

We therefore respectfully request the following things of the City Council:

First, we request that an account be provided to us as to how other private infrastructure in the City has been taken over and/or superseded with new installations in the past. As the foregoing demonstrates, we have attempted to determine this for ourselves, but we are not satisfied we have a full understanding yet.

Secondly, we request that the Council resolve that a thorough technical evaluation of our pumping station be conducted to definitively determine what the City would require to take it over. We have already recently made a similar request verbally to the City Water Department (specifically to Mr. Jason Hermann), but we are requesting that the Council officially resolve to have this carried out as well to ensure coordination between the Council and the Water Department in these matters.

Thirdly, we request that, once this evaluation is in hand, the Council formally consider taking over Wildflower Way's pumping station, and have the City bear the cost of making any required upgrades. We ask that this consideration be made not *only* on the basis of what is officially required in the current code and current budgetary constraints, but also how this request relates to and may be responded to in light of:

1. Upgrades and infrastructure take overs made in the past in other Newport City subdivisions, with an eye towards fairness and equity to all.
2. The possible environmental benefits to the Newport community as a whole from upgrading and taking over maintenance of our station.
3. The general perspective of evolving the City of Newport towards a fully integrated and properly functioning modern city, with a sound and properly managed infrastructure.

Finally, we request that the City clarify for us what the current status of our water main (water supply system) and associated fire hydrant is. For example: Are these public or private? What are the City's obligations for these presently? What is the Wildflower Way community responsible for? Does the status of the water main bear on the status or functioning of the wastewater system?

Thank you very much for considering these requests.

Sincerely yours,

The below-listed Residents and Property Owners of Wildflower Way, Newport, VT:

- Adam Brault: chevyltz08@yahoo.com
- Douglas Flint & Lynn Leimer: dflintms@yahoo.com, qnekproductions@yahoo.com
- Amy Gillespie: amyrg44@gmail.com
- Robert Green: greeney34@gmail.com
- Ben & Janice Luce: benluce137@gmail.com, janice_a_luce@yahoo.com
- Darlene Potvin: darlpotvin@gmail.com,
- David & Denna Rondeau: David.Rondeau@outlook.com, denna1687@gmail.com
- Kayla and Jeremy Wright: kaylamarie_305@hotmail.com

This is **EXHIBIT K**, consisting of 2 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated August 15, 2020.

AMENDMENT TO OWNER-ENGINEER AGREEMENT
Amendment No. 3

The Effective Date of this Amendment is: 1/15/2024

Background Data

Effective Date of Owner-Engineer Agreement: August 15, 2020

Owner: City of Newport

Engineer: Aldrich + Elliott, PC

Project: Eastside Water Storage Tank

Nature of Amendment:

- Additional Services to be performed by Engineer
- ~~Modifications to services of Engineer~~
- ~~Modifications to responsibilities of Owner~~
- Modifications of payment to Engineer
- ~~Modifications to time(s) for rendering services~~
- ~~Modifications to other terms and conditions of the Agreement~~

Description of Modifications:

INTRODUCTION

This scope of services under Amendment No. 3 includes Construction Phase Services for the East Side Water Tower and Booster Pump Station, Contract No. 2.

EAST SIDE WATER TOWER AND BOOSTER PUMP STATION CONSTRUCTION PHASE SERVICES

Construction Phase Services are added by this amendment in accordance with *Section A1.05 Construction Phase* in the original agreement. The phase includes both Construction Administration and Limited On-site Observation.

The Construction Administration (CA) portion of this phase covers the entire construction duration of 365 calendar days and includes but is not limited to submittal processing, clarifications, partial pay requisition

review, change order review and preparation, contractor/owner coordination, monthly meetings, site meetings, substantial and final completions, and warranty efforts.

Full-time on-site Resident Project Representative portion of this phase includes observation of all active construction while the contractor is on-site (refer to the original agreement). The RPR efforts in this scope of services is limited to 2,080 manhours.

East Side Water Tower and Booster PS Construction Administration Total Fee: \$111,600.00 Lump Sum

East Side Water Tower and Booster PS Resident Project Rep. Total Fee: \$250,100.00 Not-to-Exceed

EAST SIDE WATER STORAGE TANK AND BOOSTER PUMP STATION SPECIAL SERVICES

Special services are added by this amendment in accordance with *Section A1.06 Post-construction Phase* in the original agreement. This phase includes preparation of record drawings and tie records, preparation of an O&M document for the booster pump station and tank as applicable, attendance at start-up services and owner training provided by suppliers and vendors.

East Side Water Storage Tank and Booster Pump Station Special Serv. Total Fee: \$25,600.00 Lump Sum.

Agreement Summary:

Original Agreement amount:	\$ <u>143,300</u>
Net change for prior Amendments:	\$ <u>70,500</u>
This Amendment amount:	\$ <u>387,300</u>
Adjusted Agreement amount:	\$ <u>601,100</u>

Change in time for services (days or date, as applicable): 465 calendar days to include the 1 year warranty for the water tower and booster pump station.

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment. All provisions of the Agreement not modified by this or previous Amendments remain in effect.

OWNER:

ENGINEER:

City of Newport, Vermont

Aldrich + Elliott, PC

By: _____
Print
name: _____

By: _____
Print
name: Jason R. Booth, PE

Title: _____

Title: Vice-President

Date Signed: _____

Date Signed: 12/18/2023