

**Minutes from NSBG Meeting May 23, 2024
The Hollman Home, 87 Anchor and via Zoom**

Notice was given on May 19, 2024, for this NSBG meeting on May 23 at the home of President Steve Hollman, 87 Anchor Road. Members of the community were invited to attend by Zoom.

Attendees;

In-Person

President Steve Hollman
Secretary Michael Timmeny
Board Member Felice Friedman

Via Zoom

Treasurer Helen Hoart
Board Member David Antonelli

Community Members

8 Via Zoom
1 In-person

Agenda:

Ratification of Board votes since January 16, 2024 Board meeting, as listed in Agenda under Item 2.

Discussion of the Sewer Rate issue

Preparation for Annual Meeting of Community May 25, 2025

Actions:

The meeting began at 3:02pm

A motion was made to ratify Board votes adopted unanimously by electronic mail subsequent to the January 16, 2024 Board meeting. The motion was seconded and approved without objection.

Main discussion: City Sewer Rates

President Hollman previewed the discussion he planned to have with the entire community at the Annual Meeting, which would take place 2 days after this Board meeting.

He gave a thorough report on this issue and the numerous actions he has undertaken on behalf of North Shores. He noted the substantial increase in sewer rates charged by the City, which appears largely to be attributable not to any significant increase in wastewater flows but instead to the outflow project that diverted the sewer treatment discharges from the canal to the ocean once the canal discharges reached their environmental maximum as the City expanded capacity based on all the development in Sussex County that relies on the City system for wastewater treatment.

Reflecting on the view within North Shores, President Hollman identified questions about the City's methodology, and how it compared to other outside-the-City communities like Henlopen Acres and Dewey that rely on the City's water treatment plant for their sewer service. He reviewed historical documents related to the issue, and he contacted former Board members Bruce Wilson and Debbie Director for additional background.

Research of North Shores records reveal that in 1982, the City entered into an Agreement with the North Shores community, approved at a community meeting, under which the City agreed to expand capacity by building a new Treatment Plant and to reserve a portion of that capacity for North Shores in exchange for the agreement of North Shores for its residents to pay quarterly fees equal to 150% of the actual audit costs as determined by the City's CPA, adjusted as necessary to reflect increases or decreases in operating costs. The annual estimated costs per "Equivalent Dwelling Unit (EDU)" in 1982 were \$144, and 150% of that amount was \$216, so that was the annual EDU charge, or \$54 per quarter.

A City ordinance, Section 220-38, provided that the sewer charges to North Shores would be calculated as provided under the 1982 agreement. A separate ordinance, Section 220-28, provided that other properties located outside the corporate limits of the city would be charged at the rate of 250% of the water service charge, paid quarterly.

By its terms, the 1982 Agreement provided that the Agreement would be terminated once the bonds floated to fund the new Treatment Plant were retired. That occurred in 1997.

Since that time, the City apparently continued charging North Shores residents as though the Agreement were still in place. For many years, that seemed advantageous to North Shores, because it resulted in charges that were considerably less than 250% of the charges to North Shores for water. But that may no longer be the case.

Technically, it appears that the City currently has no statutory authority to be charging North Shores more than 250% of the North Shores water charges, but it appears that the City has been charging North Shores more anyway on account of the outflow project expenses being so much greater than had been anticipated.

Armed with this information, President Hollman wrote to the Rehoboth Finance Director and the Rehoboth City Manager on April 23 to request the following specific information (his questions on behalf of North Shores residents):

- I am aware of the June 17, 1982 Agreement between the City and NSBG concerning sewage collection and treatment, which was to remain in effect "for so long as the City has bonds Outstanding on the Project" (Agreement, § 3.01), defined as the construction of the facilities as contemplated by the City and as set forth in Section 2.01 of the Agreement (Agreement, § 1.01(n)). Does the City agree that the referenced bonds have been retired, and that the 1982 Agreement therefor no longer is in effect?
- Was the 1982 Agreement ever renewed in writing or formally replaced? Is there an existing written agreement between the City and NSBG?

- Sussex County appears to have approved in 2017 an expanded agreement with the City for sewer collection and treatment. Was NSBG covered under that agreement?
- I have a copy of 2019 correspondence between you and Bruce Wilson, then President of NSBG, indicating that “the methodology to compute the total cost to the community will continue unless the agreement is modified.” What agreement is being referred to, and is that methodology still being used by the City?
- What is the current methodology for setting rates?
- What accounts for the significant increase in rates? Is the increase attributable to the ocean outflow project, other capital infrastructure improvements, or a measured change in flows?
- Can we get information on the arrangements between the City and the other non-City users of the Waste Water Treatment Plant, including methodology for setting rates paid by Sussex County, Dewey Beach, Henlopen Acres, and other users, so that we can compare rates and see that the NSBG rates are consistent with those paid by users in other communities?
- Can we receive a copy of the annual audit report showing the calculation of the North Shores proportionate share of the actual wastewater treatment costs (the last audited report we appear to have in the North Shores office is from 2004)?

President Hollman followed up with a call to the Finance Director requesting a meeting to go over the information once it had been provided. To date, the requested information has not been provided, and the meeting therefore has not been scheduled. Separately, he wrote to Henlopen Acres to request information about the methodology being used to calculate its rates. To date, the Henlopen Acres City Manager has not responded to his request.

Jeff Sellman also contacted Sussex County about the possibility of having the County negotiate rates for North Shores with the City, as it apparently is doing for other outside-the-City users of the system whose communities are in Sussex County. The County declined to do so “based on the existing contract” between the City and North Shores.

Bruce Wilson observed that charging North Shores residents according to individually measured water usage probably would not be that difficult, but the City’s current billing system apparently would not accommodate that change. The 1982 Agreement methodology takes North Shores water usage collectively and looks at that usage as a percentage of the entire system water usage. That percentage then gets applied to the total system operating costs, which are audited on an annual basis.

President Hollman stated that the question for today is whether the community would like the Board to pursue the information requests, obtain answers to its questions, and then decide whether it wishes to press for a new agreement or other arrangement with the City. It also would be useful to know whether communities outside of the City which rely on the County to negotiate for them have struck a better deal than North Shores has under the current regimen.

President Hollman stated his intention to poll the entire community at the Annual meeting (on May 25, 2024) about his engagement with the City of Rehoboth and efforts to ensure a fair and non-discriminatory arrangement with the City.

The Board unanimously agreed with his approach.

Board discussion on the Sewer rate issue

David asked about engaging an outside party to help us with the issue; Steve replied that we are seeking advice from Bob Valahara, the Board's outside counsel, with respect to these issues.

There was discussion about individual parties within the community asking the City for remedies versus the entire community; the Board agreed it seemed more advantageous to act collectively.

There was also discussion about understanding the sewer rate and the impact of water usage on it. It is believed that the increases are not related to increased water usage per se but rather they are attributable to increase in the costs of infrastructure for the new ocean outflow project.

The Board agreed with the questions, that have been posed to City officials and to other affected communities (Henlopen Acres, Dewey, etc.) Politically, it was felt that North Shores has limited impact on the City but obviously greater impact on Sussex County, inasmuch as we are a legal entity within the County. There was also discussion about new leadership in both the City of Rehoboth and Henlopen Acres (both have new city managers), which has made communicating with them more complicated.

Other Business

There was a very brief discussion about arrangements for the annual meeting on May 25, 2024.

Questions from Community Members

There was a question about the impact on individual charges due to the sewer rates being determined collectively based on operating costs, including the cost of capital infrastructure.

There being no further business, the meeting was adjourned at 3:50 p.m.

Respectfully submitted,
Michael Timmeny, Secretary