Outlook

Dec 19th Hearing - Applicant Comments

From William Russell <wruss14@gmail.com>
Date Fri 12/20/2024 7:30 AM
To Jordan Velozo <jordan.velozo@capecodcommission.org>; Jeffrey Ribeiro <jeffrey.ribeiro@capecodcommission.org>; Tim Pasakarnis <tim.pasakarnis@capecodcommission.org>

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Jeffrey and Tim - I used to work with a sales guy who would say that his job was to either convince or to confuse his customers to buy our products and he was fine with the outcome either way.

I was beginning to think last night that you were running the same play. Or maybe it was just a filibuster approach that was being taken, because you sure did a great job of muddying what should be a simple conversation about nitrogen fee.

And your approach to Town manager feedback - the person who has ultimate authority for town funds use - of which, along with taxes these fees go to - stated very clearly in his followup email that " Mr. Russell is correct in that my intent was to apply a fee not to exceed $160,000". which he replied to as follow up when I clarified "the $160k comment reflects an upper limit of a fee range that I outline on the bottom of the nitrogen fee page (I show as $158k) and he was stating his support of such."

Where on earth do you think such a specific fee proposal came from? And he stated "Not to exceed", for he and the town are supportive of a lesser fee too, because they have detailed knowledge of the work going on to remediate Popponesset and Waquoit estuaries. and, he has the technical staff in Health, Conservation and Sewer Departments to assess this specific project relative to town specific needs and actions, and they have been doing such on his (and my) behalf.

In my opinion, you not only dismissed his comments, but you also barely had them projected on the screen, and you offered no context other than not being sure of the feedback when he could not have been more direct...

> " Mr. Russell is correct in that my intent was to apply a fee not to exceed $160,000".

And this was the **second time you presented in an offhand way** the feedback of the town - which you yourselves asked for. The first was when he suggested that leniency be applied in a recommendation to the subcommittee. At this first instance, because no specific fee reduction was offered, you suggested that his opinion could not be used. Yet when he gives one, you dismiss it as confusing.

I will speak with him today and ask yet again, to explain further his points because of the confusion that **you, the staff,** left the commission with. The town manager is afterall **the one person ultimately responsible** for both the ramifications of the clean water plan sewer installations, all town residents and their public safety, and the use of all town funds - including commission collected fees. But I now must interrupt his busy schedule yet again to discuss this matter, **due to how you two represented him last night**. I do not expect him to be too happy with me - or you for that matter - but the money at stake is too large for me not to attempt a third correspondence.

Guys, I'll continue to ask for my fee to be based upon phase 5 sewer connection timing and actual flow output. Please stop explaining why the equation is what it is. I have no issue with the equation. And I have no issue with the fee basis of $8290 per kg for 20 years of remediation.

I have issues with the assumptions that are plugged into the equation. Less effluent, fewer years, less fee. It's that simple. The more you argue for the accuracy of the technical bulletin that defines the assumption set the more I am left to argue their inappropriateness and the more you give the chance that you are actually going to set precedent.

I have no axe to grind to set a precedent and I have now given you three opportunities to make a concession based upon my specific and unique circumstances.

The language that I used last night - "all decisions have their own unique circumstances and therefore do not set a precedent" came from what Jeffrey said in the 12/16 hearing when dismissing my five relevant cases. And once he went on to speak on one of them as his example, I knew there was no chance of winning that argument - even though examples like tractor supply in Hyannis - which does sit on land that impacts nitrogen impaired water bodies - was given a hall pass on the 6.38 kg/N/Yr groundwater that flows to those estuaries and paid no fee.

Why? I really don't know but I suspect because Tractor Supply would connect to the sewer within five years that the exemption clause was granted. Yet, that stormwater nitrogen is greater than 2.3 times my stormwater and does not flow to town sewer and therefore does impair the estuary. But I told you in my prior "not for record" email (this one is too) that I conceded that argument. Just like I conceded 32% of Design Flow as more appropriate than actual flow because I realized that commissioners would never endorse it. Or like I conceded that zero water urinals will make the 32% even further reduced and because the septic system will ensure that that reduced effluent will be at 10ppm the impairment nitrogen will be lessened. less water, less nitrogen. It's that straightforward. Valid Points, but beyond the ability for a commissioners to be asked to comprehend, so I conceded them when I got no support from staff. But I will not concede actual flow and phase 5 timing assumptions drive a lower fee than the tech bulletin assumptions.

And Jeffrey - please stop saying "it's technical and maybe the applicant blah blah blah" I know an extensive amount of information on all matters being discussed. I have spent hundreds of hours researching all elements of Title V, it's validity to your tech bulletin, local estuary flows, town sewer installations, numerous septic solutions, relevant costs and so on. I am a highly experienced, highly analytical mechanical engineer with over 30 years of practice in highly technical positions, and applied my technical expertise to my research on this project.

Don't attempt to make an argument by dismissing the person making the counter argument. The first two times you made that comment at prior hearings I was greatly annoyed. But when you said it yesterday I came to realize that perhaps there simply is not a defensible reason as to why my proposed assumptions are bad ones so you choose an unprofessional means to dismiss them. Please stop that practice. With me, and with future applicants. (Stating things like "Ad nauseum" in a public hearing is unprofessional too).

There are a lot of ways that this discussion will go and I simply am lobbying for a fee basis that is fair and appropriate, not one that is based on assumptions that are neither fair nor appropriate, nor aligned with my unique circumstances. My proposal, just as Rodney stated clearly " ... a fee not to exceed $160,000".

Jordan - Thank you for the logic you stated at the hearing. Your statements on "fee reductions in and of themselves not being precedent setting, but should be based on good reasons" is a fair and appropriate statement by staff. It's unfortunate that Jeffrey and Tim chose to spend their time defending the fee that the tech bulletin calculates versus taking such an approach. If they had, perhaps the deferral of a decision to Jan 2nd would not have been necessary as we could have wrapped it all up last night.

Happy Holidays and I will see you at the hearing on January 2. I will have a revised set of pages to present to argue for "a fee not to exceed $160,000."

Thank you,
Bill



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