
Memo

DATE: April 7, 2020

TO: Williston Selectboard

FROM: Erik Wells, Assistant Town Manager

RE: CONSECUTIVE WATER SYSTEM EXEMPTION APPEAL PROCEDURE

An appeal hearing before the Selectboard has been requested by the Oak Hill Estates Homeowners' Association for a staff decision to deny its request to enter into an agreement for a public consecutive water system exemption. Such an agreement between the owner of the consecutive public system (Oak Hill) and the water wholesaler (the Town) is required for the State to then consider the exemption.

The Town's Water Use Ordinance describes regulations for use and connection to the Town's Water System. It is the Town's understanding that entering into such an agreement is the equivalent of the Williston Water Department taking over Oak Hill Estates' water system. The Association has a different opinion on the matter. To follow due process, staff has brought this appeal before the Selectboard acting as the Water Commission as a separate level of authority to render a decision.

In the absence of an administrative protocol in Town to hear this type of appeal I offer the following procedure to be considered which follows similar quasi-judicial decision-making processes by the Selectboard in Town matters.

1. The Chair of the Selectboard opens the appeal hearing. Any person providing testimony is sworn into the proceedings by the Chair with the following oath:
"Do you swear or affirm that the evidence you are about to give will be the truth, the whole truth, and nothing but the truth?"
2. Representatives from the Oak Hill Estates Homeowners' Association are provided an opportunity to outline the issue and present any evidence to the Selectboard as they see fit. The members of the Selectboard can ask questions and seek clarifications from the Association.
3. Town staff members are provided an opportunity to present any evidence as they see fit. The members of the Selectboard can ask questions and seek clarifications as necessary.
4. The Chair of the Selectboard asks for a motion to close the appeal hearing.
5. The Selectboard may then deliberate in open or deliberative session. To enter a deliberative session the Board does not need to make a formal motion, rather if by straw poll Board members would prefer to deliberate on the matter in private the discussion can be held at any point in the evening. The final decision should

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be in writing and signed by a majority of the members of the Selectboard. The written final decision that results from the deliberative session may be drafted by a member of the Selectboard for review by the body before endorsement, or the Assistant Town Manager may be tasked with that duty. It's recommended the Town Attorney also review the draft decision before signature occurs. Signature by a majority of Board members on the written decision serves as the legislative action.

6. Upon signature of the final decision the matter is closed.