



**TOWN OF HOPKINTON
BOARD OF PUBLIC WORKS**

September 10, 2008

John Craycroft
Cedar Swamp Conservation Trust
9 Grindstone Court
Westborough, MA 01581

Dear Mr. Craycroft:

This is in response to your letter to the editor dated September 8, 2008 and published by HopNews. Due to the numerous inaccuracies of your letter, a response is in order. I have repeated your claims in bold below followed by my response.

Thank you for the invitation to speak with you about this opportunity tonight. While the Elmwood Park site may not have been the chosen location for the Town's WWTF the support for the Nyanza project potential funding would seem to have only benefits and no risk to the Town you represent.

Response

While it is true that the Fruit Street site was selected over many sites, including Elmwood Park, we are currently in litigation with you about this very issue. To date the Courts have rejected your arguments in each appeal. Revisiting the CWMP process would result in further delays to this important project and ultimately increase expenses to the Town.

If the DPW Chairman has the data and analysis of soils, soil grain size, test pits, boring logs and depth to groundwater for the Elmwood Park site which were not included in the MEPA filings it would be beneficial to all parties if it was supplied. During our site visit we saw no signs this work had taken place. Many from this organization and others have studied the MEPA filings and do not believe they exist.

Response

The Town retained professional consultants to prepare and complete a Comprehensive Wastewater Management Plan (CWMP) that analyzed the Town's sewage needs and evaluated sites to meet those needs. As mandated by DEP, this process was a public one and took many years to complete. A number of sites for this facility were evaluated, including Elmwood Park, using a variety of criteria. The recommended solution of the CWMP was for the Town to construct its own wastewater treatment facility on Town owned land. This analysis is well

documented in the CWMP and was reviewed and accepted by DEP. Based on the positive outcome of the CWMP and MEPA process, Hopkinton Town Meeting authorized proceeding with detailed design of the Fruit Street Facility.

Early in the appeal process both Cedar Swamp and Mr. Morrison offered a solution to the DPW Chairman which would have resolved this matter immediately. The solution was simply to locate the WWTF and its disposal beds a minimum of 500 feet from the wetlands and waters of the Whitehall Brook. While this is not the best environmental resolution we felt this would offer both parties an agreeable solution.

Response

The settlement offer actually started out at 200 feet to stay out of Whitehall Brook's Riverfront Area. The Town evaluated the request, agreed it could be done and in fact changed the plans to accommodate this request. Your demand then changed to 500 feet. The Town evaluated this proposal; however it is not possible to accommodate this request because, in addition to the wetlands, the Town must comply with state regulations regarding separation distance from existing and future water supply wells located on the site.

I hope that you realize by now that the soil characteristics are not as has been represented at the current site and hundreds or thousands of yards of soil will need to be brought to the site. This depth to groundwater at the site can be gleaned from the MEPA reports.

Response

This claim is false and totally unsubstantiated. As you admit, the soils and groundwater data for the Fruit Street site are available in the CWMP and MEPA filings. This data has not changed since these filings and in fact were used in the detailed design of the wastewater treatment facility, a facility that has been fully permitted through the Hopkinton Planning Board, Hopkinton Conservation Commission, DEP Wetland Division and DEP Wastewater Division.

The DPW Chairman has refused to consider this option so now the DPW has the Town about eighteen months into a multi-year appeal process.

Response

Even with these continued threats, the Town has been more than willing to consider all options to resolve concerns of appellants as indicated above. Consider the first appeal of the Conservation Commission approval. The Conservation Commission agreed to allow use of the existing wetland crossing, with some improvements, for access to the facility. This was appealed by a group of residents because these wetlands, although already filled, were considered significant. As a gesture of cooperation the Town agreed to remove the existing fill, restore the wetlands and bridge this area at a significant additional cost. As we now know this was not good enough for the opponents and a second appeal was filed. This appeal was recently decided, in the Town's favor, and a third appeal was filed with Superior Court. It appears that this pattern of appeal after appeal is not in the interest of environmental protection but to delay the project by any means.

As you should be aware the DEP has stayed the two appeals filed by CSCT pending the resolution of the wetlands appeal filed by Mr. Morrison and the Hopkinton residents so I would expect we are four years or more from completion if no additional court action is taken at a federal level.

Response

It is difficult to take your conciliatory offers seriously at the same time you make such threats. The DEP has not stayed the appeals. They are in the legal process.

You should also know the Outstanding Resource Waters are protected under federal statutes as well as state regulations.

Response

Outstanding Resource Waters (ORW) are a state designation. The latest appeal that was resolved in the Town's favor included review of the ORW issue and it was determined the facility design will protect these resources. Federal permits are not required for this project.

On August 14 a follow-up email was sent by CSCT to the Chairman and the entire Board and on August 21 an additional email was sent to the Chairman. The emails to a great degree detailed the opportunity, a potential funding of \$200,000 to \$500,000, the time line for application and the project outline. The proposal, which would bring wastewater recharge to the previously short listed site at the rear of Elmwood Park, would bring benefits to the watershed, activities at the Hopkinton State Park Reservoir and the Municipal Water Systems of Ashland and Hopkinton.

Response

The Fruit Street site, as substantiated by the permits the Town has received for the treatment facility as well as the recently constructed H2 well site, brings benefits to the watershed by recharging groundwater base flows down gradient of where the Town extracts most of its water. If, as you claim in your appeals, the Fruit Street site would be detrimental to Whitehall Brook and Cedar Swamp, you and others may have the same concerns about a site that discharges to a reservoir used for recreation and water supply.

On August 25 an invitation to speak at the BOS meeting on the 26th was forwarded to CSCT from the Town Manager at the request of the Chairman. It is unfortunate that no response to this opportunity has been received as the deadline is rapidly approaching. During the BOS meeting the Chairman of the DPW made statements regarding the alternative study for the proposed WWTF site, which have still not been supported.

Response

The alternatives analysis is supported in the CWMP and MEPA filings and the approval issued by the Secretary of Executive Office of Energy and Environmental Affairs. As you know, without this site approved alternatives analysis, the Town would not have been able to proceed with detailed design and permitting of the Fruit Street Wastewater Treatment Facility.

It is unclear if the BOS was informed of the proposed appeal settlement made to the DPW Chairman in a negotiations meeting many months ago.

Response

Each party was obligated to keep settlement discussions confidential while the litigation was ongoing. Since you broke this obligation, and after consultation with our attorney, we believe we are now free to set the record straight. The allegations brought to our attention by the various appeals were:

1. *Degradation of wetlands by use of the existing access crossing. We attempted to settle this claim by restoring the previously filled wetlands and constructing a bridge. Your response –another appeal.*
2. *Work in the Whitehall Brook Riverfront Area. We attempted to settle this concern by moving the facility out of the Riverfront Area. Your response –another appeal.*
3. *Degradation of Whitehall Brook and Cedar Swamp by nutrient loadings in the groundwater discharge. We attempted to address your concern that the discharge would pollute the Whitehall Brook by voluntarily increasing the treatment levels of the facility to greater levels than required by our DEP permit. Your response – move it to Elmwood Park.*
4. *In addition we offered to use this facility as an educational tool to inform people, especially our school children, of how the water cycle works, the importance of recharge and wetlands protection. Although public education is a goal of CSCT, this too was rejected.*

It is also unclear to us what the real reason is why Mr. McIntyre does not want what would be a free study of the Elmwood Park site completed as the cost savings to the Town for the construction and the operation of a WWTF at that site would be in the millions of dollars.

Response


Again, these are unsubstantiated claims about free studies and millions of dollars in savings. Appeals by CSCT and Mr. Morrison put us in a state of litigation. In these appeals you consistently bring up Elmwood Park, which the Town, DEP and MEPA have already reviewed during the CWMP process. To agree to your proposal while in litigation would be foolish and lead to further project delays at great expense to taxpayers, sewer rate payers and the businesses that are counting on this project. Offering your proposal in one hand while threatening further appeals in the other is not conducive to settlement. Dropping your appeals would go a long way to taking this proposal seriously.

There is no reason to believe that EPA would channel Nyanza Funding to study relocation of a legally permitted wastewater treatment facility that will actually recharge the Sudbury River Basin. The Nyanza Fund was established because of a contamination issue that severely affected the environment and people's property and lives. To take money from that public health threat to move a facility that actually improves flows in the Sudbury River because

you do not want it on the Fruit Street property is an example of pursuing a personal agenda in the name of environmental protection.

The site selection of a wastewater treatment facility to serve our community was made after public reviews and was intended to meet the best interests of the Town. We understand that every site selection process generates opposition and this process is no different. A small number of opponents remain who offer solutions that have been considered by professionals and state agencies in public reviews and have been rejected.

Respectfully,


Daniel McIntyre, Chairman
Board of Public Works