



CITY OF WASILLA

290 E. HERNING AVE.
WASILLA, ALASKA 99654-7091
PHONE: (907) 373-9050
FAX: (907) 373-9085

COUNCIL MEMORANDUM 96- 60

From: John T. Felton, Public Works Director/City Engineer

Date: June 4, 1996

Subject: Sewer Loan/Grant Program

I am requesting that the Council establish a policy and give the administration some guidelines as to the operation and funding of existing sewer loan/grant program. The fundamental questions are:

Does the Council wish to extend the program past its present level of funding?

If so, at what funding level is the program going to be maintained?

Is there going to be a yearly limit on the funds available for this program?

Is the program going to be limited to residential construction only?

Only \$48,000 of the funding that has been appropriated for this program is reoccurring. The loan portion of these monies, \$24,000, will come back and be available for future loan/grants. The rest of the loan payments are directed to the general fund. This program issues half of the funds as grant and half as a loan; therefore, the reoccurring funds will be halved each time they are reissued. With this type of implimentation, the fund is not self generating and will decrease with use.

There are five applications presently awaiting funding. These applications require a funding need of \$48,000. These monies are only for one commercial and four single family connections. During a meeting with the Lakeview Terrace Association this morning, an eligible need was shown for from \$256,000 to \$504,000. That is, the total that would be eligible for funding would be in this range. The actual construction is estimated in the \$125,000 range. This is a real need that will shortly be coming before

the Council. Any other large business development or subdivision project could request funding in this range.

We have no way of predicting what the rest of the summer will bring in the way of building adjacent to the sewer system. More and more developers are realizing the benefits of city water and sewer. I see an increased need for these services within the City limits.

RECOMMENDATION:

The Administration recommends that the Council continue the sewer loan/grant program. The program should be available for all potential customers as they will all benefit the City as a whole.

The Council should set an annual capital funding limit for this program. Any funds not used in the previous fiscal year plus any payments would be brought forward to the next fiscal year and the City would fund the difference to reach the established level.



John T. Felton
Public Works Director/City Engineer



CITY OF WASILLA

290 E. HERNING AVE.
WASILLA, ALASKA 99654-7091

June 20, 1996

- Area Code (907)
- Administration
Ph: 373-9055
Fx: 373-9085
- Clerks Office
Ph: 373-9065
Fx: 373-9085
- Finance
Ph: 373-9070
Fx: 373-9085
- Library
Ph: 376-5913
Fx: 376-2347
- Museum
Ph: 373-9071
Fx: 373-9072
- Planning
Ph: 373-9074
Fx: 373-9085
- Police
Ph: 373-9077
Fx: 373-9051
- Public Works
Ph: 373-9095
Fx: 373-9085
- _____
Ph: _____
Fx: _____

Paul E. Pinard, P.E.
Area Supervisor
Alaska Department of Environmental Conservation
Mat-Su Public Service Office
P.O. Box 871064
Wasilla, Alaska 99687

Dear Paul:

Re: Individual septic systems within the City of Wasilla

It has come to my attention that some people may be trying to avoid connecting to the City sewer system. These individuals are installing conventional leach fields rather than connecting to the STEP system. I am requesting that the department assist the City in the enforcement of WMC 5.20.020 A (a copy is attached for your reference). I realize that in many cases your staff does not see pre-construction plans; however, the City requests that you inform us if certification of a system is requested in an area served by the City STEP system. We also request that the department not issue any approval or stamp for any project in question.

I realize that your staff is constantly being asked to rush approvals for property sales and/or loans; therefore, my staff will be available to your staff to answer any questions at any time. The determination of service is a very quick process and we should be able to assist your staff in a very short time. I will forward the latest map that we have for water and sewer service as soon as they are available.

The City will require that the proper connections be made even if a leach field has been constructed. There will be no "Grand fathering" if a system has been constructed without our written permission.

Thank you for your time and help in this matter. If there is anything that I or my staff can do to help the department, please let me know.

Sincerely,

John T. Felton, P.E.
Public Works Director/City Engineer



CITY OF WASILLA

290 E. HERNING AVE.
WASILLA, ALASKA 99654-7091

June 19, 1996

Colleen Carter Scott
643A West Lakeview
Wasilla, Alaska 99654

Dear Ms. Scott:

Re: Sewer Service Required for the home being developed under Zoning Permit Z-9577

The Mayor has forwarded your letter dated June 10, 1996, hand delivered to City Hall June 18, 1996, to me for action. I am taking action on your letter with the understanding that you are the authorized agent of May Carter, the owner of the subject parcel. If you are not May Carter's authorized representative, please notify the City immediately so that we can communicate with the proper party in this matter.

I shall first address Mr. Schadt's three main points:

1. The ambiguity of measurement: As I have stated to you many times, there is only an ambiguity in the measurement if two independent individuals simultaneously using this ordinance arrived at two different measurements. This is clearly not the case. The ordinance is specific in the method of measurement. An example may best illustrate the operation of the ordinance. There are many lots one acre in size that were created with two to one width to depth ratios. This would yield a lot of approximately .150' wide x 290' deep. It makes no sense for one lot owner to locate their home in the front of the lot and be required to connect to the system; while the neighboring lot has a home located in the back of the lot and is not connected to the system. Wasilla is unusual in that the City consists of many lots one acre or more in size. We believe that the ordinance was properly drafted to reflect the unusual requirements of this City.

2. The question of Lot vs Tract: There are "Tracts" within the City limits that are less than half an acre in size. It surely was not the intent that these parcels of land were not included in the ordinance. The City's interpretation is that a "Lot" in WMC Chapter 5.20 is a parcel of land upon which a structure is being erected that requires or desires sewer service. Neither the size of the parcel nor its plat designation as a "lot" or a "tract" make any difference as to application of the sewer ordinance requiring connection to the public sewer system.

3. The ambiguity of my memo: Mr. Schadt failed to mention that the "waiver" was actually a stay. This was done to relieve an operational hardship and with specific guidance from ADEC. The property in question will be connected to the sewer system as soon as there is enough flow in the line. Your request is for completely different

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Fx: 373-9085

Police
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Fx: 373-9051

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Colleen Carter Scott
June 19, 1996
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reasons with none of the same substantiation. There are no similarities and there were no precedents set by the City.

The action that was agreed to at the City Council meeting of January 8, 1996 was that you connect to the line that is the discharge from May Carter's home, located on the same parcel. This placed a City owned sewer line within 120 feet of your home. Any argument that your "structure" is more than 150 feet from a sewer line is now moot.

I am inferring from your letter that it is your intent to install a conventional septic absorption field to provide sanitary sewer disposal for the home being built under Z-9577 permit. If this is your intent, you are hereby notified that neither ADEC nor the City of Wasilla will accept this as an approved system. I have spoken with Paul Pinard and we are in agreement that this property is presently served by the City system and any additions on the property must be likewise served. The City will take all necessary steps to assure that any development on the Carter property requiring sewer service will be connected to the City's system.

The issue addressed by this letter - connection to the public sewer system - may be better understood by recognizing the environmental issue. The public sewer system was initiated, in large part, by reason of the risk of pollution to Lake Lucille threatened by the private septic systems on parcels located near the lake. As the land parcel at issue was adjacent to the lake and in the original sewer district, a public sewer connection was constructed in the mid-1980's and is operational on this parcel for the residence used by the owner - May Carter. Now that another structure, needing sewer facilities, is planned on the same parcel, the ordinance properly requires connection to the public system. The City's insistence on connection to the public sewer system is consistent with past actions on this parcel and is consistent with the intent of the ordinance - environmental protection.

Sincerely,



John T. Felton, P.E.
Public Works Director/City Engineer

c: May Carter
John C. Stein, Mayor
City Council
Duane Dvorak, City Planner
Richard Deuser, City Attorney
Paul E. Pinard, Mat-Su District Office ADEC

643A West Lakeview
Wasilla, Ak. 99654

June 10, 1996

The Honorable John Stein
Mayor, City of Wasilla
290 E. Herning Street
Wasilla, Alaska 99654

RECEIVED

JUN 13 1996

CITY OF WASILLA, ALASKA

Re: City of Wasilla Ordinance 5.20.020 (A) Defining the requirements to hook up to the City of Wasilla Sanitary Sewer System

Dear Mayor Stein:

Attached please find a letter of opinion from Gordon Schadt, Attorney at Law. I contacted Mr. Schadt requesting research and opinion on the sewer ordinance after meeting with the City Council as well as the City Engineer. As his letter states, he is of the opinion that the ordinance as written does not pertain to the property in question.

I also researched the recordings of the council meetings when this ordinance was discussed and it appears that the council had subdivision lots in mind when this ordinance was created. I also have spoken to previous Council member Ken DeCamp who, in answer to my questions, listed three issues relevant to the matter which are as follows:

- 1) "The ordinance is clearly self explanatory.
- 2) The intent is that the ordinance, as written, refers to platted subdivisions where it speaks to "exterior lot line." And,
- 3) your location (subject property) is definitely not within a platted subdivision."

In conversation with Dorothy Smith, former Council member during the development of the sewer ordinance, she stated it was designed for lots in a subdivision rather than large tracts of land.

I would like to thank you and your staff for their assistance in this matter. Mr. Jack Felton, City Engineer, was particularly helpful in trying to resolve this matter. However, I still feel my position is correct and plan to proceed with construction of an approved sewer system now that the ground has thawed.

Sincerely,



Colleen Carter Scott

Encl:

cc:Jack Felton, City Engineer

The Law Offices of Gordon F. Schadt

P. O. Box 112809 - Anchorage, Alaska 99511

Telephone (907) 522-2622 - Facsimile (907) 522-2623

Gordon F. Schadt
Tracy A. Tillot

Legal Assistant
Colleen Day, CPA
Ginger Swanson

December 28, 1995

Colleen Scott
643 W. Lakeview
Wasilla, Ak. 99654

Re: Sewer System/Compliance with Ordinance No.
5.20.020 - City of Wasilla

Dear Colleen:

Per your request, I have reviewed the following documents and offer this legal opinion based upon that review.

1. Ordinance No. 5.20.020 Use of Public Sewer Required
2. December 1, 1995 letter from Colleen Scott to Wasilla City Council
3. Information Memorandum 95-47 from the City of Wasilla to Colleen Scott dated December 6, 1995 and written by John T. Felton, Public Works Director/City Engineer

The question that has arisen is whether the requirements detailed in Ordinance No. 5.20.020 pertain to your property and, therefore, impose upon you the requirement to hook into the city sewer system. For numerous reasons explained below, I do not believe your property falls under the authority of Ordinance No. 5.20.020 and I believe Mr. Felton's arguments to be incorrect.

The ordinance as it is written is ambiguous at best. It begins dictating a distance from the STRUCTURE to the sewer system and ends by measuring from the sewer system piping to the nearest exterior LOT LINE. An ambiguity of this nature is construed against the drafter of such language and in favor of the affected party. The greatest clarity of purpose in this ordinance states that the structure must be connected to the city public sewer system "unless the structure is more than one hundred fifty (150) feet from any portion of the sewer system . . ." I have not independently measured this distance, but you have assured me that the structure is more than 150 feet from the sewer system.

Colleen Scott
December 28, 1995
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In addition, it is my understanding that your structure is actually built on a tract as opposed to a lot. Again, this would appear to not be included in this ordinance as it references lots.

Mr. Felton's memorandum is also pointedly ambiguous. He first states that he could find no authority in the code to allow the city to waive the connection and in the next paragraph indicates they have already granted a waiver in one instance at least. If the city has shown a precedent of allowing waiver of this ordinance as suggested in Mr. Felton's memorandum it seems to me that other situations and circumstances should also allow authority for waiver.

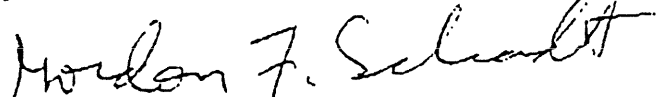
Mr. Felton also states that the city agreed to the creation of this ordinance and suggests that a waiver might jeopardize agreements with ADEC. If the agreement was as Mr. Felton states to, create the ordinance, a waiver based upon the circumstances that exist here would hardly seem sufficient to harm relations; the ordinance was created, waivers and special circumstances are accommodated everyday in government entities and could be accommodated here.

In conclusion, from the documentation I have reviewed it does not appear to me that your property should be required to comply with Ordinance No. 5.20.020 and that the city, based upon prior action, does have the authority to waive this provision.

Please feel free to contact me if I can provide any additional information or if you have any questions. I would be happy to speak to Mr. Felton or other city officials if you feel that would be advantageous to your cause.

Best regards,

LAW OFFICES OF GORDON F. SCHATZ


Gordon F. Schatz

GFS:hs