‘Corruption at its highest level’

Report on Mansion House illegal hookup preceded firing of town employee who blew the whistle.

By **George Brennan** - December 16, 2020

The Mansion House has been pumping groundwater into the town's sewer system, with what the town referred to as an illegal hookup. — Ralph Stewart

1 of 5

Several people said select board member Jeff Kristal applied pressure to keep the Mansion House issues quiet. Kristal did not respond to multiple messages seeking comment. — Gabrielle Mannino

It took the pandemic and the corresponding shutdown of the Mansion House Inn in April and May to uncover an illegal hookup pumping thousands of gallons of groundwater from the Vineyard Haven hotel into the town’s wastewater treatment plant. The illegal hookup was then kept quiet under pressure from select board member Jeff Kristal, in deference to Josh Goldstein, co-owner and manager of the Mansion House and a member of the town’s sewer advisory board.

Less than two months after alerting the town’s select board to the illegal hookup, wastewater superintendent David Thompson was fired — an act that former select board member Melinda Loberg, who was on the panel that recommended Thompson be hired, called “corruption at its highest level.”

"I was dismayed when he was let go," Loberg said this week. "I believe he has a legal case against the town that there isn't any reason I can think of that's legitimate for him to be fired. I wasn't there to plead that case."

Her thoughts were shared by John Best, a member of the town's sewer advisory board, who told The Times Thompson was "doing a great job."

Loberg said she was kept out of the loop about Thompson's six-month probation period being extended through August prior to the town election. After she lost to Larry Gomez, Thompson was terminated. "I'm just sad for Tisbury that people with expertise are not valued unless they conform in their work and their opinion to the [select board]," Loberg said.

Select board chair Jim Rogers told The Times he initially erred in telling The Times his recollection was that Thompson resigned. Later, he said his hands were tied talking about Thompson's dismissal because it's a personnel issue. Rogers rejected the idea that Thompson was retaliated against. "I would never be vindictive against any town employee for telling us about something like this," he said.

Thompson, who had been reluctant to speak out for fear it would be seen as sour grapes, agreed to an interview to set the record straight. He did not resign. He shared a letter sent to him by DPW director Kirk Metell, who became his supervisor through a change in job description midway through his probationary period, which was extended beyond that because of the pandemic.

The letter, dated July 8, states, "During this period, your performance has been assessed against the town of Tisbury standards of conduct, attendance, and job performance, and I regret to inform you that you did not pass your probationary period."

It's easier to fire an employee during a probationary period.

After receiving Metell's letter, Thompson asked for a face-to-face meeting with town administrator Jay Grande, but was never given one.

Prior to his dismissal, Thompson knew his job was in jeopardy. He'd been told by Metell to stop communicating with anyone other than him.

Metell did not respond to a message seeking comment.

"It wasn't just Mansion House. There were a number of things I brought up that made the selectmen uncomfortable," Thompson said. He had researched the town's allotment of flow for the sewer treatment, and found the town was over-allocated. He also brought up an issue with the pumping of sewage from the Steamship Authority ferries and odor problems it was creating for the police station and Main Street businesses.

Now that he's gone, he's relieved. "On one hand, it was really unpleasant. It's like hitting yourself on the head with a hammer; it feels so good when you stop," Thompson said of his termination. "It was really unpleasant while I was there, but it was really an immense relief to be out of there. Every day was uncomfortable."

Blowing the whistle

In his report to the select board (who act as sewer commissioners), DPW, and the sewer advisory board on May 18, Thompson, who had been on the job since Dec. 8, 2019, provided the first report on the detective work that led back to his Mansion House discovery. The Times obtained Thompson's report through a public records request.

"On May 8, 2020, we had already noted steadily increasing pump run hours at the Mansion House pump stations on our high tide cloud reporting. Upon inspection, with the building mostly empty due to the quarantine, substantial flow was still occurring to the station, estimated then at 3 [gallons per minute], conservatively. This would have likely escaped notice under normal conditions, as this site is one of the largest users in town," Thompson wrote.

Thompson added that the maintenance person at the hotel was asked to check for open valves to account for the excess flow. There weren't any.

"Shortly thereafter, a valve somewhere in the building was closed, and the flow to the station ceased. Within a few minutes, the geothermal heat exchanger nearby began to overflow and discharge groundwater into the alley. Standing water appeared in the dirt lot nearby," Thompson wrote. A leaching field where the hotel's sump pumps were supposed to pump the water failed, the report states.

In his report, Thompson pointed out that discharge of groundwater or catch basins into a sewer system is prohibited. "How long this connection to the dewatering pumps has been in place, and how long and at what times it has been in use, and how it was introduced into the plumbing, are relevant questions," he wrote. He attached a document showing the flows from the hotel in 2019 and 2020. "Even factoring in the reduced flows to the facility due to the quarantine, a substantial amount of inflow, previously disguised by the sewer flows from this large sewer customer, is indicated," he wrote. "The flow directed to the storm drain system at present has created another set of concerns for DPW, now that the flow to sanitary sewer has been halted."

The amount of groundwater pumped to the plant was estimated at 15,000 gallons per day — just about the same amount that Nelson Mechanicals, installer of the hotel's geothermal system, said infiltrated the Mansion House basement on a daily basis. In 2010, the company saw an opportunity to redirect the water through a heat exchanger for heating and cooling, and was hired by Mansion House to install a system that was heralded as a green solution.

Brian Nelson, a principal with that company, told The Times his understanding was the groundwater was being pumped into a dry well. He said he had no knowledge of the illegal hookup, and wouldn't jeopardize his license as a master plumber to do something like that. "That is not by us. That is a highly illegal thing to do. That's naughty, naughty, naughty," Nelson said. He later emailed a copy of the state plumbing code that prohibits such hookups.

Despite Thompson alerting the select board on May 18, the illegal hookup at the Mansion House remained mostly under wraps for six months until a Nov. 17 select board meeting, and the hookup remained in place because the brief attempt to have it pumped into that leaching field caused street flooding.

The Mansion House was discussed at a sewer advisory board meeting in May, even though Loberg, then the chair of the sewer advisory board, said she was pressured to keep it quiet by select board member Jeff Kristal.

"I was urged not to put it on the agenda, and I said, I'm not going to collude with this," Loberg told The Times. "We did take it up, only as an informational thing. There was very little discussion."

Thompson said he was also pressured not to talk about it, and to give Goldstein time to come up with a remediation plan.

The Mansion House was also discussed at a June 24 meeting, the day after the town election, but there are no minutes from that meeting, and the Zoom video was erased within a week of it, John Best, a member of the sewer advisory committee, told The Times.

The illegal sewer hookup didn't bubble to the surface publicly until that Nov. 17 meeting, and even then it was discussed cryptically in an apparent attempt to keep it quiet. The Mansion House was referred to as "9 Main Street inflow and infiltration update" on the agenda. That night, Rogers said, "I don't want to spend a long time on this, because we have the letters on this, and everyone is acting cooperatively."

Rogers, in an interview this week, said there was no attempt at a cover-up.

During that meeting, Kristal corrected Grande's characterization of a letter sent to the state Department of Environmental Protection (DEP). When Grande called it a notification of the illegal hookup to DEP, Kristal bristled and called it an update. However, there is no record the town notified DEP, the state agency that regulates wastewater treatment, previously.

A Times public records request asking for any and all documents having to do with the Mansion House illegal hookup showed no prior notification to DEP.

Best said he was the first to alert DEP, and that was in November.

Prior to his termination, Thompson had been doing "a great job for the town" by cataloguing sewer allotments that showed the plant would be maxed out if all of the property owners tied into the system, Best said. To him it's clear that blowing the whistle on the illegal hookup and providing scrutiny on sewer allotments is what cost Thompson his job.

"From my perspective, he wasn't toeing Jeff Kristal's line. Jeff wanted to see flow go to new projects downtown. However it was done, he wanted it to happen," Best said. "When Ralph Packer said he had 3,000 gallons [per day] he couldn't use, [Kristal] was there pounding on the table to let [developer] Sam Dunn buy that flow." Dunn is a partner in the mixed-use development planned for the old Hinckley's property on Beach Road.

The town's attorney has offered an opinion that having one property owner giving flow to another isn't allowed. The town can provide increased flow, but it "must be based on a particular, identifiable concern affecting an object of public planning policy or the need to provide for additional capacity in the event of emergencies or other stresses on system capacity."

Once Loberg was out as a select board member, Kristal became the board's appointee to the sewer advisory board, named himself chair (boards typically elect a chairman), and convinced a majority to increase the sewer flow for the former Santander Bank, where Dunn is working on another project that's before town boards.

Kristal has not responded to repeated requests for comment by phone, text message, or email.

How long has this been going on?

Goldstein and his parents, Mansion House co-owners Sherm and Susie Goldstein, have declined to answer how long groundwater had been diverted into the town sewer system.

"It could have been years. It could have been months. We have no idea and they're not telling," Best said.

In a previous interview, Josh Goldstein was unable to say how the hookup to the town system came to be. "I had no idea," Josh Goldstein said at the time. "As soon as it was found, we've come up with plans."

But Thompson says Goldstein knew how to divert the system, and pointed it out to him in the hotel's basement. "He knew exactly what it was," he said. "It was with a Fernco; a person could literally take a screwdriver, undo the two bands that hold it, put it in a different location, and the water would go to a different place."

A Fernco is a rubber sleeve, about eight inches long, that tightens with clamps.

Reached on his cell phone, Goldstein asked The Times for questions in writing. He responded with a statement that didn't address the specific questions asked.

"With so much going on, as the pandemic closed our inn and health club, as we tried to keep staff hired, filled out all sorts of forms and loans, we were completely open about what we were doing with the groundwater," Goldstein wrote. "Since 1985, when my parents bought the inn, they have been diligent in following all the rules and regulations of all the town boards. There is no adversarial relationship with the town, or with the town leaders. Like all taxpaying citizens, we have a partnership with our town — citizens and businesses pay taxes, the town provides services, to which we say thank you. Your questions imply that someone did something nefarious, or I had anything to do with the hiring and firing of town personnel. That certainly is not the case."

Goldstein went on to point out a comment made by Ana de Souza on a previous Times story online. "One could argue that the situation at the Mansion House was actually doing the town a favor, given that the plant keeps track of its daily flow numbers at the plant, and is nowhere near a critical peak-flow concern. That water infiltrating the Mansion House was groundwater, akin to well water, which needs no treatment, save for potentially thermal cooling," she wrote.

Finally, Goldstein pointed out that Tuesday was the anniversary of a devastating fire that destroyed the hotel in 2001. "I was home from college when we got a call," he wrote. "A very scary night, and I am so proud that my parents were able to figure out a way to recover and rebuild."

The Mansion House pays a lot in sewer fees, records show. But it's a lot less than the hotel would have paid had it been charged for the excess flow they were pumping to the treatment plant from their sump pumps.

Town records show the Mansion House paid $89,653 in sewer fees in 2019, an average of $22,413 per quarter. During the quarter of 2020 when the hotel was shut down, that amount dipped to $4,773 for 136,579 gallons of flow. Customers are billed on water usage, which is metered.

The flow from the Mansion House didn't match the reduced activity at the hotel, which caught the eye of Thompson, and the illegal hookup was discovered.

With the estimated 15,000 gallons per day of groundwater being pumped from Mansion House, the hotel would have actually pumped 1.2 million gallons of additional flow to the plant over the 81-day period from April 9 to June 9, and the hotel's bill should have been an additional $49,815 for that quarter.

The town has made no attempt to recoup any money from Mansion House, according to the records obtained by The Times.

Rogers told The Times Monday that eventually the town will seek restitution from the Goldsteins. "I understand that somehow that has to be addressed. That it's not fair to the rest of our ratepayers," Rogers said of the additional flow the Mansion House was pumping without paying the town. "I think we do need to work something out with Mansion House long-range, but I'm not looking to tax any businesses in Tisbury right now that are struggling because of the pandemic."

Goldstein was asked if the hotel would make restitution, but didn't respond directly.

The Tisbury plant operates close to its 104,000-gallon capacity, and on some days in the summer it surpasses that capacity. Meanwhile, town leaders are trying to free up space to add some businesses in the downtown area — Dunn's Santander project, for example. In Wareham, where the sewer plant is nearing capacity and sewer commissioners have made commitments that go beyond that capacity, the town is threatening to fine people with illegal sump pumps connected up to $300 per day, according to a news website called Wareham Week.

While the Goldsteins have faced no repercussions from the town for pumping undetected and unpaid-for sewer flow for periods that may stretch back more than a decade, Thompson is out of a job.

Edgartown town administrator James Hagerty told The Times he was sorry to see Thompson leave Edgartown because it's difficult to find a sewer plant operator with his credentials on the Island. "He left the town on good terms," Hagerty said, noting that Thompson told him the Tisbury job was a better opportunity.

Thompson is a Tisbury resident, and said he was interested in the Tisbury job because the town is looking to come up with a comprehensive wastewater management plan (CWMP). He said he wanted to play a role in protecting Lake Tashmoo and Lagoon Pond, which both face nitrification issues — mostly from private septic systems.

He now works as a consultant for Oak Bluffs on its CWMP and wastewater treatment plant.

Asked about a rumor that's been circulated that Thompson left Edgartown under a cloud of investigation, Hagerty poured cold water on that. Hagerty said there was an investigation into septage haulers dumping at the Edgartown plant a year prior to Thompson's departure, but a police investigation and forensic audit found no validity to the accusation by one of the haulers that there was a discrepancy in how they were being charged. Hagerty said no one from Tisbury town government has asked him about that investigation.

"I had 16 years of exemplary reviews in Edgartown, and then I got to this place and I got one negative one, which they used as a pretext to dismiss me," Thompson said. "I think I'm the same guy."

Thompson has consulted an attorney, but is not pursuing legal action at this time because he's been advised the best he can hope for is to get his job back — something he's no longer interested in. "There are no damages, per se, that you can have that's demonstrable," he said the attorney told him.

Records show slow response

Most of the public records released by the town are emails between Josh Goldstein, Grande, and other Tisbury officials providing updates on the slow progress toward a solution.

In a May 20 email, Goldstein wrote that he had reached out to an engineer, Reid Silva, to install a new leaching field to accept the water. "One