

REPRESENTATIVE TOWN MEETING MEMBERS:

PLEASE REVIEW YOUR RTM PACKET FROM THE FEBRUARY 1 MEETING. THIS MEETING WAS POSTPONED DUE TO INCREMENT WEATHER. ALL AGENDA ITEMS WERE MOVED TO THE MARCH 1 SCHEDULED MEETING.

THE FEBRUARY RTM PACKET INCLUDED THE FOLLOWING DOCUMENTS:

AGENDA ITEM 1:

- A. CONSERVATION DEPARTMENT REQUEST FOR FEES REVIEW**
- B. CONSERVATION DEPARTMENT SUMMARY OF FEE SCHEDULE**

AGENDA ITEM 3: (WAS ITEM 2 ON FEBRUARY'S AGENDA)

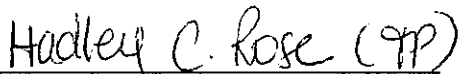
- A. FINANCE DIRECTOR REQUEST & BOF APPROVAL FOR \$1,200,000 OPEB PLAN FUNDING**

RTM Meeting
March 1, 2011

REPRESENTATIVE TOWN MEETING NOTICE

All Representative Town Meeting Members and inhabitants of the Town of Westport are hereby notified that a meeting of the Representative Town Meeting members will be held at Town Hall, 110 Myrtle Ave., on Tuesday, March 1, 2011, at 8 p.m. for the purposes listed below. If necessary, the meeting shall reconvene on Tuesday, March 15, 2011 to deal with any agenda items not disposed of at the adjournment of the March 1, 2011 meeting.

1. To take such action as the meeting may determine, upon the recommendation of the Conservation Director in accordance with Section 2-57(b) of the Town Code, to amend Section 2-55, Land Use Fees-Schedule, to the extent it relates to fees for land use applications reviewed by the Conservation Commission and the Conservation Department. (First reading. Full Schedule of Fees available in the Conservation Department).
2. To take such action as the meeting may determine, upon the recommendation of the Board of Finance and a request by the Public Works Director for an appropriation of \$300,000 to the Capital and Nonrecurring Expenditure Fund (C&NEF) Account (Richmondville Ave Culvert Construction) for the construction phase of culvert replacement on Richmondville Avenue as described in the Willow Brook Stream Improvement Project.
3. To take such action as the meeting may determine, upon the recommendation of the Board of Finance and a request by the Finance Director for an appropriation of \$1,200,000 to the General Fund Pension Budget Account (OPEB Plan Funding) for the cost of the Town of Westport's planned contribution to the OPEB Trust Fund for the 2010-11 fiscal year.
4. To take such action as the meeting may determine, upon the request of the Finance Director, to authorize the issuance of refunding bonds in an amount not in excess of Thirty Million Dollars (\$30,000,000) to be issued in calendar year 2011 for the purpose of refunding all or any portion of the general obligations bonds issued by the Town in the years 2004, 2006 and 2009.
5. To take such action as the meeting may determine, upon the recommendation of the Personnel Director, to amend Section 7.1A of both the Police Pension Plan and the Fire Pension Plan by adding the words "...but less than twenty (20)" in the fourth line of each of the Plans in order to provide that terminated Participants who had completed 10 but less than 20 years of credited service will be entitled to a pension at the earlier of (i) age 65, or (ii) after they would have completed 34 years of credited service if they had remained employed. (Full text available in the Personnel Office.)


Hadley C. Rose, Moderator

This is to certify that I mailed a copy of the above notice, properly prepaid, to each Representative Town Meeting Member on Tuesday, February 22, 2011, and that I caused a copy of said notice to be published in the Westport News in its edition of Friday, February 18, 2011.

Patricia H. Strauss

Patricia H. Strauss, Town Clerk

RESOLUTIONS

(1)

RESOLVED: That upon the recommendation of the Conservation Director an amendment to Section 2-55, Land Use Fees-Schedule, to the extent it relates to fees for land use applications reviewed by the Conservation Commission and the Conservation Department, is hereby approved. (First reading)

Full text of amendment is as follows

Sec.1 Schedule of fees.

Description

Fee Amount

Chapter 2 Administration

2-55 Land use fees

I. Conservation [Commission]-Department
[Wetlands and Watercourse Regulations]

Inland Wetlands and Watercourse Regulations and the Waterway Protection Line Ordinance

A. Administrative Approvals for those activities located outside all regulated areas:

A separate fee will be assessed for each permit issued

Declaratory Ruling (AA) and Waterway Protection Line Ordinance Exemptions (WPL/E);

[Projects costing &75,000.00 ————— \$75.00]
{Or less.}

[Projects costing more than ————— \$125.00]
{\$75,000.00}

| | |
|---|-----------------|
| <u>Projects costing less than \$10,000.00</u> | <u>\$50.00</u> |
| <u>Projects costing between \$10,000.01 and \$25,000.00</u> | <u>\$75.00</u> |
| <u>Projects costing between \$25,000.01 and \$100,000.00</u> | <u>\$225.00</u> |
| <u>Projects costing between \$100,000.01 and \$500,000.00</u> | <u>\$300.00</u> |
| <u>Projects costing > \$500,000.00</u> | <u>\$525.00</u> |

Declaratory ruling (AA and WPL/E) \$15.00 for legal advertisement

B. Conservation Commission

A separate fee will be assessed for each permit issued

Summary ruling (IWW) Flat fee, plus \$45.00 for legal advertisement Plus \$50.00 per half acre or portion thereof.

Plenary ruling (IWW) Flat fee, plus \$45.00 for legal advertisement, Plus \$75.00 per half acre or portion thereof.

Waterway Protection Line Ordinance (WPL) Flat fee, plus \$45.00 for legal Advertisement, Plus \$50.00 per half acre or portion thereof

Activity Class *Flat Fee.*
The flat fee for applications proposing more Than one activity class shall be equal to the sum of the flat fees for each applicable Activity class. Flat fees include activities with encroachments within the WPLO

New commercial structures (Non-Residential Structures)

~~And related amenities; clubs; utility
Companies; and other
Nonresidential structures
Additions or modifications \$625.00
Of existing commercial
Condominiums, clubs, utility
Companies and other
Nonresidential structures.~~

New buildings, including commercial buildings, and related amenities, utility companies and other non-residential structures, non-profits clubs, condominiums

\$950.00

Alterations or modifications of existing structure, including commercial buildings and related amenities, utility companies and other non-residential structures, non-profits, clubs, condominiums

(Residential Structures)

New residential Dwellings: {~~\$475.00~~}

(Single Family Dwelling) \$600.00

Two-family dwelling, multi family dwelling accessory building, addition, deck, greenhouse, or other modifications greater than 100 sq. ft. \$950.00
\$475.00 per unit

Accessory building, addition, deck, greenhouse, air conditioning unit, pool equipment, generator, or other modifications equal to or less than 100 sq. ft. \$125.00

Tennis court \$475.00

Swimming pool

\$475.00

Subdivision. For those
Subdivision lots and/or
Condominium units that
Encroach on wetlands,
Watercourses, and/or
Setbacks from wetlands
And watercourses.

\$475.00 per lot

~~Residential condominiums~~ ~~—————~~ ~~\$475.00 per dwelling unit~~
~~multifamily dwellings.~~
~~For those subdivision~~
~~lots and/or condominium~~
~~units that encroach on~~
~~wetlands, watercourses, and/~~
~~or setbacks from wetlands~~
~~and watercourses.~~

~~Tennis courts and~~ ~~—————~~ ~~\$475.00~~
~~swimming pools.~~

~~Modifications to existing~~ ~~—————~~ ~~\$475.00~~
~~residential structures~~
~~greater than 100 square~~
~~feet, including, but not~~
~~limited to: accessory~~
~~buildings or additions,~~
~~decks, patios and green-~~
~~houses.~~

Land alteration,
including stockpiling, fill-
ing, dumping, transferring of materials,
removal of material, \$400.00
Clearing, pond construction or dredging,
Stream channel/embankment
Work, septic systems, retaining walls, drainage
improvements, trails and bridges and
Retaining walls

~~Property maintenance~~ ~~—————~~ ~~\$250.00~~
~~Involving alteration of the~~
~~Natural character of the~~
~~regulated area or~~
~~setback, including but not~~
~~limited to docks, piers,~~
~~floats, etc.~~

All activities within a waterway including but not limited to:
Installation of docks, piers, floats, bridge abutments and piping of \$400.00
watercourses

~~Modifications to existing~~ ~~—————~~ ~~\$125.00~~
~~residential structures less~~

- _____ Than or equal to 100 square
- _____ Feet, including but not limited
- _____ To accessory buildings or
- _____ Additions, patios, decks,
- _____ Greenhouses, air conditioning
- _____ Units, pool filters, pool heaters,
- _____ Generators and other
- _____ Mechanical equipment.

C. Corrective Action Permits

This work covers work performed without a permit or work exceeding the original permit:

Double the fees required for a Regulated Activity Permit

{Waterway Protection Lines
(WPL):
Exemption and
Maintenance: }

{Projects costing _____ { \$75.00 }
\$75,000.00 or less. }

{Projects costing greater _____ { \$100.00 }
Than \$75,000.00 }

Prohibited activity within _____ A flat fee of \$400.00
WPL and directly
involving a waterway.

Prohibited activity within _____ A flat fee of \$200.00
WPL and not directly
involving a waterway.

Request of permit
Modification. The fee for a request for a
Permit modification shall be
Equal to the present fee for
An application for the same.

Modification of or amendment to an existing permit

| | |
|---|-----------------|
| <u>IWW and WPLO projects < \$75,000.00</u> | <u>\$150.00</u> |
| <u>IWW and WPLO projects > \$75,000.00</u> | <u>\$225.00</u> |
| <u>IWW projects > \$75,000.00</u> | <u>\$125.00</u> |
| <u>WPLO projects > \$75,000.00</u> | <u>\$100.00</u> |

Fees for outside consultants: See Section 2-56.

Cease and desist and
Conformance orders. See Section 30-123.

For violations pursuant to
The Inland Wetlands and
Watercourses Regulations of
The Town of Westport,

Connecticut.

For violations pursuant to
The Waterway Protection
Line Ordinance.

See Ch. 30, Art. IV.

Request for amendments to
Conservation Commission
Regulations:

Map amendment (based on
Parcel size):

Number of acres

Fee

0 to 1

\$650.00

1.01 to 3

\$750.00

3.01 or greater

\$350.00 per acre

Regulation amendment.

\$175.00

Sediment and erosion control Plan:

For commercial, non-
Residential activity.

\$200.00, plus \$75.00 for
Each one-half acre or
Portion thereof.

For subdivision.

\$175.00, plus \$75.00 per lot.

For multifamily and two-
Family residential dwellings.

\$125.00, plus \$75.00
Per unit

New single-family residence.

~~(\$50.00)~~ \$100.00

For additions to single family
Residence and modifications
Of residential property.

~~(\$25.00)~~ \$50.00

Certificate of Compliance:

Projects costing less than \$10,000.00

\$25.00

Projects costing between \$10,000.01 and \$25,000.00

\$50.00

Projects costing between \$25,000.01 and \$100,000.00

\$75.00

Projects costing between \$100,000.01 and \$500,000.00

\$100.00

Projects costing > \$500,000.00

\$150.00

[Residential projects under _____ \$25.00

\$75,000.00.

Residential projects over _____ \$75.00

\$75,000.00, excluding new
residential homes.

New residential house. _____ \$125.00}

Commercial, multifamily \$150.00

(per unit).

The above fees shall be reviewed by the Conservation Director at least every three years and recommendations submitted to the Conservation Commission and the RTM.

(2)

RESOLVED: That upon the recommendation of the Board of Finance and a request by the Public Works Director, the sum of \$300,000 to the Capital and Nonrecurring Expenditure Fund (C&NEF) Account (Richmondville Ave Culvert Construction) for the construction phase of culvert replacement on Richmondville Avenue as described in the Willow Brook Stream Improvement Project is hereby appropriated.

(3)

RESOLVED: That upon the recommendation of the Board of Finance and a request by the Finance Director, the sum of \$1,200,000 to the General Fund Pension Budget Account (OPEB Plan Funding) for the cost of the Town of Westport's planned contribution to the OPEB Trust Fund for the 2010-11 fiscal year is hereby appropriated.

(4)

RESOLUTION AUTHORIZING GENERAL OBLIGATION REFUNDING BONDS.

RESOLVED: that General Obligation Refunding Bonds of the Town (the "Refunding Bonds"), in an amount not in excess of Thirty Million and 00/100 Dollars (\$30,000,000) are hereby authorized to be issued in calendar year 2010 for the purpose of refunding all or any portion of the general obligations bonds issued by the Town in the years 2004, 2006 and 2009 (the "Refunded Bonds") provided that the Committee designated below determines that the refunding of Refunded Bonds selected to be refunded generates a present value savings.

BE IT FURTHER RESOLVED, that the First Selectman, the Selectmen and Finance Director are hereby appointed a committee (the "Committee") with full power and authority to cause said Refunding Bonds to be sold, issued and delivered, to determine their form and the aggregate principal amount thereof within the amount hereby authorized; to fix the time of issuance of such bonds, the rate or rates of interest thereon as herein provided, to determine the maturity thereof (provided that no Refunding Bonds shall mature later than the final date of the last maturity of the Refunded Bonds refunded); to select the maturities of the Refunded Bonds to be refunded, to establish and maintain a reserve, escrow or similar fund for the payment of the Refunded Bonds, and to pay all issuance costs incurred in connection with the authorization, issuance, and sale of the Refunding Bonds including, but not limited to, financial advisory, legal, trustee, escrow, verification fees, printing and administrative expenses and underwriters' discount. The Committee is authorized to sell the Refunding Bonds by negotiation. The net proceeds of the sale of the Refunding Bonds, after payment of costs of issuance, shall be deposited in an irrevocable escrow or similar account and invested in investments authorized by statute and approved by the Committee in an amount sufficient to pay all amounts that is or may become due on the Refunded Bonds from the date of issuance of the Refunding Bonds including interest thereon, the principal of, interest and redemption premium, if any, on the Refunded Bonds at maturity, or to redeem at the redemption price prior to maturity, pursuant to any plan of refunding. The Committee is further authorized to appoint an escrow agent or trustee, to appoint a firm of certified public accountants or arbitrage experts to verify the sufficiency of the escrow investments, and to execute and deliver any and all escrow, and other agreements necessary to provide for the payment when due of the principal of and interest and redemption premium, if any, on the Refunded Bonds; and

BE IT FURTHER RESOLVED, that the Committee shall have all appropriate powers to provide for the issuance of the Refunding Bonds as tax exempt bonds, and comply with the state and federal tax and securities laws and the Committee shall have all appropriate powers to take such actions and to execute

such documents, as deemed to be necessary or advisable and in the best interest of the Town by the Committee to issue, sell and deliver the Refunding Bonds.

(5)

RESOLVED: That upon the recommendation of the Personnel Director, Section 7.1A of both the Police Pension Plan and the Fire Pension Plan is hereby amended by adding the words "...but less than twenty (20)" in the fourth line of each of the Plans in order to provide that terminated Participants who had completed 10 but less than 20 years of credited service will be entitled to a pension at the earlier of (i) age 65, or (ii) after they would have completed 34 years of credited service if they had remained employed.(Full text available in the Personnel Office.)



WESTPORT CONNECTICUT

DEPARTMENT OF PUBLIC WORKS

TOWN HALL, 110 MYRTLE AVE.

WESTPORT, CONNECTICUT 06880

Approved BDF 2/2/11
\$300,000 Appropriation to
C+NEF Account (Richmondville
Ave Culvert Construction)

To RTM 3/1/11 RECEIVED

DEC 16 2010

TOWN OF WESTPORT
SELECTMAN'S OFFICE

December 15, 2010

The Honorable Gordon F. Joseloff
First Selectman
Town Hall
Westport, CT 06880

Re: Request for Appropriation – Willow Brook Culvert Replacement at Richmondville Avenue, Construction Phase

Dear Mr. Joseloff:

In 1974 the Flood and Erosion Control Board determined that development of a detailed flood relief plan was necessary to address the severe flooding experienced in Westport, particularly during the disastrous floods of 1955. To address this concern, Leonard Jackson Associates was hired to conduct an evaluation of the major watersheds within Westport and to determine those areas most susceptible to flooding from inland storm events.

In 1997 we initiated the first phase of the Silver Brook Stream improvement project and we have completed the fifth of six structures comprising the project. Permits are currently being sought for the sixth and final culvert, thereby delaying completion of this project. Based on the considerable flooding recently experienced on Willow Brook at Richmondville Avenue, and our inability to attain two easements necessary to complete the Muddy Brook culvert at Hillandale Road, it was determined to initiate the Willow Brook Stream Improvement Project. Willow Brook was one of nine major inland streams identified by Leonard Jackson Associates in their 1980 report.

The scope of the Willow Brook project extends from the confluence of Willow Brook and the Canal up to Bushy Ridge and the Merritt Parkway, a total distance of approximately 8,000 linear feet. Along this course the brook passes through twelve (12) undersized culverts. The overall project calls for the replacement of these culverts with culverts appropriately sized to handle a design storm event. This large stream improvement project will be approached through a number of smaller projects that are less invasive to the neighborhood which in turn makes acquisition of the necessary easements more attainable.

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Mr. Gordon F. Joseloff

December 15, 2010

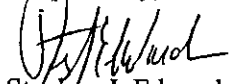
In August of 2006 this office requested and received funds for the design of the first replacement structure which is located on Richmondville Avenue near Carlisle Court. The design is now complete and the necessary easements have been acquired. We have received the permits from the CT DEP and the Army Corps of Engineers for the project. We also have the necessary WPLO and Inland Wetland Permits.

The following budget estimate has been established for this project (See attached breakdown):

| | | |
|---------------------|---------------------|------------------|
| Culvert Replacement | \$ 275,890.00 | |
| Contingency (10%) | <u>\$ 27,589.00</u> | |
| TOTAL | \$303,479.00 | SAY \$300,000.00 |

This office, herein, requests an appropriation of \$300,000.00 from the Capital & Non-Recurring Expenditure Fund for this project. The C&NREF forecast shows the project in the 2009-2010 year with an estimate of \$325,000.00.

Respectfully,

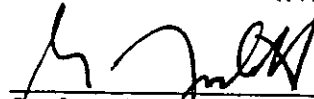


Stephen J. Edwards
Director of Public Works

cc: John Kondub, Finance Director

G:APW_OFFSJEVFSVAPPWillowbrook-const

Approved for submission to the
Board of Finance (2/2/11)



Gordon F. Joseloff
First Selectman

| PROJECT: | 200805 | | | | |
|-----------------|--------------------------------------|----------|------|-------------|---------------------|
| AT: | Willow Brook at Richmondville Avenue | | | | |
| DATE: | 7/15/2010 | | | | |
| ENG/ARCH: | BLH | | | | |
| ESTIMATE: | | | | | |
| ITEM # | DESCRIPTION OF ITEM | QUANTITY | UNIT | | |
| 1 | Site Prep & Mobilization | 1 | LS | \$17,000.00 | \$17,000.00 |
| 2 | Remove/Dispose Trees >12" | 4 | EA | \$500.00 | \$2,000.00 |
| 3 | Excavate/Dispose existing surfaces | 1 | LS | \$8,000.00 | \$8,000.00 |
| 4 | Stream channel reconfiguration | 1 | LS | \$10,300.00 | \$10,300.00 |
| 5 | Pond Dredge, excavate, disposal | 350 | CY | \$100.00 | \$35,000.00 |
| 6 | 3'x12' box culvert, installed | 41 | LF | \$1,300.00 | \$53,300.00 |
| 7 | Install 2 CL catch basins <10' depth | 14 | VF | \$250.00 | \$3,500.00 |
| 8 | Install 15" Class IV RCP | 50 | LF | \$70.00 | \$3,500.00 |
| 9 | Install Sewer Manhole | 1 | LS | \$2,500.00 | \$2,500.00 |
| 10 | Install 8" SCH 40 Sewer pipe | 50 | LF | \$200.00 | \$10,000.00 |
| 11 | Install woven glass fabric | 60 | SY | \$40.00 | \$2,400.00 |
| 12 | Install cement rubble headwalls | 70 | CY | \$700.00 | \$49,000.00 |
| 13 | Install concrete weir inside culvert | 1 | LS | \$2,100.00 | \$2,100.00 |
| 14 | Install subbase | 60 | CY | \$50.00 | \$3,000.00 |
| 15 | Install processed aggregate | 60 | CY | \$40.00 | \$2,400.00 |
| 16 | Install Class I bituminous conc. | 45 | TN | \$140.00 | \$6,300.00 |
| 17 | Install Class II bituminous conc. | 45 | TN | \$140.00 | \$6,300.00 |
| 18 | Install stone slope paving | 130 | SY | \$100.00 | \$13,000.00 |
| 19 | Install stone cobble rip rap | 18 | CY | \$140.00 | \$2,520.00 |
| 20 | Install crushed stone | 10 | CY | \$40.00 | \$400.00 |
| 21 | Install Parapet Walls | 2 | LS | \$4,000.00 | \$8,000.00 |
| 22 | Install/Maintain Sed. Control bales | 150 | LF | \$7.00 | \$1,050.00 |
| 23 | Install/Maintain fabric fencing | 300 | LF | \$4.00 | \$1,200.00 |
| 24 | Install erosion control blanket | 200 | SY | \$5.00 | \$1,000.00 |
| 25 | Install coir filter fabric | 50 | SY | \$13.00 | \$650.00 |
| 26 | Install/Maintain traffic control | 1 | LS | \$5,000.00 | \$5,000.00 |
| 27 | Rock excavation/disposal | 10 | CY | \$75.00 | \$750.00 |
| 28 | Unclassified excavation | 20 | CY | \$15.00 | \$300.00 |
| 29 | Install add'l compctd granular fill | 20 | CY | \$26.00 | \$520.00 |
| 30 | Install top soil | 60 | CY | \$35.00 | \$2,100.00 |
| 31 | Turf establishment | 600 | SY | \$3.00 | \$1,800.00 |
| 32 | Planting Mitigation Plan | 1 | LS | \$5,000.00 | \$5,000.00 |
| 33 | Site restoration/demobilization | 1 | LS | \$6,000.00 | \$6,000.00 |
| 34 | Easement Restoration | 1 | LS | \$10,000.00 | \$10,000.00 |
| BID TOTALS= | | | | | \$275,890.00 |
| 10% Contingency | | | | | \$27,589.00 |
| TOTAL | | | | | \$303,479.00 |

MEMORANDUM

To: Representative Town Meeting
From: RTM Finance Committee
Date: February 18, 2011
Re: Appropriation Request of \$300,000 to the Capital and Nonrecurring Expenditure Fund (C&NEF) Account (Richmondville Avenue Culvert Construction)

The RTM Finance Committee met on Tuesday, February 15th to consider a request by Steve Edwards, Public Works Director to approve funding for the first phase of the Willow Brook Stream Improvement project. Since current projects along Muddy Brook and Silver Brook are being held up because of delays in obtaining the necessary easements and permits, the town is ready to move forward and replace the first undersized culvert along Willow Brook at Richmondville Avenue near Carlisle Court. Funds were initially obtained in 2006 for the design phase of this project and all needed easements and permits have been acquired. The expected construction cost is \$275,890 plus a contingency bringing this request to \$300,000. If the funds are approved, the bidding is expected to take place in May with the actual construction occurring in the late summer during the dry season. The committee members present voted unanimously to recommend that the full RTM approve the funding request.

Respectfully submitted,

RTM Finance Committee

Michael Rea, Chair
Allen Bomes, Reporter
Mike Guthman
Dick Lowenstein

Lois Schine
Cathy Talmadge
Jeff Wieser

RTM Public Works Committee Report
February 15, 2011

Re: Willow Brook Culvert Replacement at Richmondville Ave

The committee met with Public Works Direction Steve Edwards on Monday February 7th, at 7:30pm. The committee did not have a quorum. This is an informational report. Attending - Jay Keenan, Mike Guthman and Matthew Mandell, acting chair.

Mr. Edwards outlined the history and need for the replacement. The entire process has been decades in the making. This is the last stream in the process. All town and state approvals have been received as well as private property easements. The Richmondville culvert is the first of five or six on Willow Brook that will be replaced. They won't know the full need until they make their way upstream with each replacement.

Completion of this first replacement will be in the fall and the next phase will begin with seeking approvals.

There is no outside government money to cover this project. The sum requested is \$300,000, less than the \$325,000 original sought. Bids which might come in less, will go out upon RTM approval.

Motion by Mr. Guthman to approve, seconded by Mr. Keenan. 3-0 to approve (Keenan, Guthman, Mandell)

Report by
Matthew Mandell

MEMORANDUM

BACK UP MATERIAL
RTM ITEM # 3

To: Representative Town Meeting
From: RTM Finance Committee
Date: January 27, 2011
Re: Appropriation Request of \$1,200,000 to the General Fund Pension Budget Account (OPEB Plan Funding)

The RTM Finance Committee met on Tuesday, January 25th to consider a request by the Finance Director upon the recommendation of the Board of Finance for an appropriation of \$1,200,000 to fund the Other Post-Employment Benefit ("OPEB") Trust Fund for the 2010/2011 fiscal year. Presenting for the Finance Department was Ken Alexander. The town ended its fiscal year (June 30, 2010) with an undesignated general fund cash balance of \$19.1 million which was an increase of \$2.9 million over the prior year and was larger than anticipated. While the original budget for this year did not include a contribution to the OPEB account, the plan is to take part of this surplus and fund it now. As you may recall, while we previously set-up a trust to hold and invest the OPEB assets, the actual funding of the trust has been sporadic. Our actuaries estimated in June 2007 that our OPEB accrued liability was \$50 million. They calculated an annual required contribution ("ARC") level that if funded annually, is projected to cover the normal cost each year and to amortize any unfunded actuarial liabilities over a period not to exceed thirty years. The town recognizes that OPEB expenses should be recorded as an obligation during the years of employment rather than wait until after retirement when the benefit is received. The cumulative amount of this unfunded obligation was \$7.6 million on June 30th (up from \$3.6 million two years before) – so you can see that while our obligation continues to grow, our funding of the OPEB trust has not kept up as we have funded a total of only \$3.1 million to date.

The committee unanimously voted to recommend that the \$1.2 million funding request be approved by the full RTM, but we are concerned that Westport will still have a substantial unfunded OPEB obligation that continues to grow. A minority opinion of the Board of Finance wanted to double the appropriation to \$2.4 million now, but even that would not have fully funded the \$7.6 current actuarial deficit. While the town is fully funding its pension ARC, there has not been a similar commitment to fund the OPEB trust. We realize that there is substantial pressure on maintaining current services while minimizing our tax increases, but we can not continue to ignore the future commitments to our employees. We will eventually be paying these benefits out and if not planned for properly, this will negatively impact taxpayers down the road.

Respectfully submitted,

RTM Finance Committee

Michael Rea, Chair
Allen Bomes, Reporter
Linda Bruce
Mike Guthman

Dick Lowenstein
John McCarthy
Cathy Talmadge
Jeff Wieser

Report of RTM Finance Committee Meeting
Tuesday, January 25, 2011

Members Present: Michael Rea, Chair; Alan Bomes; Linda Bruce; Michael Guthman; Richard Lowenstein;
John McCarthy; Cathy Talmadge; Jeff Wieser (Reporter)

Also Present: Kenneth Alexander, Deputy Finance Director

Ken Alexander began by pointing out that the RTM has on many occasions agreed to this sort of authorization which is meant to allow the Town to enter the bond markets at advantageous times and reduce our future debt service. Usually we are requested in rushed, special sessions due to the nature of the markets. The Finance Department is asking us this time for an authorization to issue refunding bonds AT SOME UNCERTAIN TIME in calendar year 2011 so that they will be able to move more quickly should the bond markets open up. The bonds expected to be refunded would be from the issues of 2004, 2006 and 2009. The Finance Department expects to make a similar request of the Board of Finance and RTM each January going forward to provide flexibility in their ability to reduce the town's future debt service.

When the refunding bonds are issued, typically, the funds go into an escrow account and the escrow is used to pay interest and principal on the previously existing debt until it is contractually allowed to be retired. Through this type of refunding, called "defeasance," we do not increase the size of our overall debt, but reduce the debt service of the town.

We are being asked for the authorization leaving the timing subject to the market and with the approval of the "Bond Committee" made up of the Selectmen and the Finance Director. In the past we have been advised of a targeted savings to be achieved. While that is not the case this time, the goal is to create a 3-4% NPV of savings over current debt service. The Finance Dept. has targeted the following bonds for potential defeasance:

2004- \$10,250,000
2006- \$ 8,910,000
2009- \$11,800,000

Total- \$30,960,000

(If they are able to defease the entire \$30 million authorized, the targeted NPV savings would be \$30 million x 3-4% or \$900,000-\$1.2 million)

On further discussion, the committee wondered why the committee appointed to decide timing did not include a member of the BOF. While some expressed concern that this might impact the agility of the committee to meet the necessary timing of the markets, we generally agreed that it might be a good idea to review this question separately. Subsequent investigation revealed that the State statute governing refundings, SGS 7-370, allows a wide scope in the makeup of this committee.

On a motion by Mr. Lowenstein and seconded by Mr. Guthman, the Committee voted unanimously, 8-0, to approve the resolution attached.

Jeff Wieser (Reporter)

RESOLUTION AUTHORIZING GENERAL OBLIGATION REFUNDING BONDS.

RESOLVED, that General Obligation Refunding Bonds of the Town (the "Refunding Bonds"), in an amount not in excess of Thirty Million and 00/100 Dollars (\$30,000,000) are hereby authorized to be issued in calendar year 2011 for the purpose of refunding all or any portion of the general obligations bonds issued by the Town in the years 2004, 2006, and, 2009 (the "Refunded Bonds") provided that the Committee designated below determines that the refunding of Refunded Bonds selected to be refunded generates a present value savings.

BE IT FURTHER RESOLVED, that the First Selectman, the Selectmen and Finance Director are hereby appointed a committee (the "Committee") with full power and authority to cause said Refunding Bonds to be sold, issued and delivered, to determine their form and the aggregate principal amount thereof within the amount hereby authorized; to fix the time of issuance of such bonds, the rate or rates of interest thereon as herein provided, to determine the maturity thereof (provided that no Refunding Bonds shall mature later than the final date of the last maturity of the Refunded Bonds refunded); to select the maturities of the Refunded Bonds to be refunded, to establish and maintain a reserve, escrow or similar fund for the payment of the Refunded Bonds, and to pay all issuance costs incurred in connection with the authorization, issuance, and sale of the Refunding Bonds including, but not limited to, financial advisory, legal, trustee, escrow, verification fees, printing and administrative expenses and underwriters' discount. The Committee is authorized to sell the Refunding Bonds by negotiation. The net proceeds of the sale of the Refunding Bonds, after payment of costs of issuance, shall be deposited in an irrevocable escrow or similar account and invested in investments authorized by statute and approved by the Committee in an amount sufficient to pay all amounts that is or may become due on the Refunded Bonds from the date of issuance of the Refunding Bonds including interest thereon, the principal of, interest and redemption premium, if any, on the Refunded Bonds at maturity, or to redeem at the redemption price prior to maturity, pursuant to any plan of refunding. The Committee is further authorized to appoint an escrow agent or trustee, to appoint a firm of certified public accountants or arbitrage experts to verify the sufficiency of the escrow investments, and to execute and deliver any and all escrow, and other agreements necessary to provide for the payment when due of the principal of and interest and redemption premium, if any, on the Refunded Bonds; and

BE IT FURTHER RESOLVED, that the Committee shall have all appropriate powers to provide for the issuance of the Refunding Bonds as tax exempt bonds, and comply with the state and federal tax and securities laws and the Committee shall have all appropriate powers to take such actions and to execute such documents, as deemed to be necessary or advisable and in the best interest of the Town by the Committee to issue, sell and deliver the Refunding Bonds.



WESTPORT CONNECTICUT

PERSONNEL DEPARTMENT
TOWN HALL, 110 MYRTLE AVENUE
WESTPORT, CT 06880
TELEPHONE (203) 341-1090
FAX (203) 341-1093

BACK UP MATERIAL
RTM ITEM # 5

February 4, 2011

TO: All RTM Members

FROM: Thomas Hamilton, Personnel Director

RE: Amendment to Police Pension Fund of the Town of Westport
Amendment to Fire Pension Fund of the Town of Westport

We request that you approve amendments to the Fire and Police Pension Funds so that the plans will reflect what the Town and the police and fire unions had negotiated in 2005.

Your packet includes the relevant section entitled "Vesting" of each plan.

The amendment would add the words "...but less than twenty (20)" in the fourth line of Section 7.1A of each of the two plans in order to provide that terminated Participants who had completed 10 but less than 20 years of credited service will be entitled to a pension at the earlier of (i) age 65, or (ii) after they would have completed 34 years of credited service if they had remained employed.

At least as far back as 1985, police officers and firefighters who completed 20 or more years of credited service have been entitled to a vested pension benefit:

- For a police officer employed before January 1, 1985, or a firefighter employed before July 1, 1985, the pension benefit has been payable following termination of employment at any age if at least 20 years of credited service had been completed, in accordance with the Normal Retirement Date applicable to this group.
- For a police officer employed on or after January 1, 1985, or a firefighter employed on or after July 1, 1985, the benefit has also been payable following termination of employment after completing at least 20 years of service. However, the benefit would not begin earlier than the July 1 following the date age 49 is reached, in accordance with the Normal Retirement Date applicable to this group.

When the two plans were renegotiated in 2005 the unions and the Town agreed that a police officer or firefighter terminating employment on or after November 1, 2005 who had completed at least 10 years of credited service would also be vested in a pension benefit. That benefit would only be payable at the earlier of (i) age 65 or (ii) when he/she would have completed 34 years of credited service if he/she had remained an employee. The renegotiated plans were approved by the RTM on November 1, 2005.

When the new 10-year vesting provision, Section 7.1A, was added to the plans in accordance with the 2005 negotiations, it should have been limited to participants retiring before their Normal Retirement Date with "10 but less than 20" years of service. However, the words "...but less than 20" were inadvertently omitted. Without those words, the new section had the effect of nullifying the existing provision in Section 7.1 that entitled a police officer who was employed on or after January 1, 1985, or a firefighter who was employed on or after July 1, 1985, to receive a pension beginning not earlier than July 1 following the date he reaches age 49, if he/she terminated with at least 20 years of credited service.

Included in your material are two memoranda of agreement signed by the Town and the police and fire unions affirming that the new vesting provision (Section 7.1A) was intended to apply only to plan participants who terminated on or after November 1, 1985 after completing 10 but less than 20 years of service.

Thank you.

FIRE PENSION PLAN

SECTION 7
VESTING

- 7.1 If the employment of a Participant shall be terminated otherwise than by Retirement under Section 4, death under Section 5 or permanent disability retirement under Section 6, and before he has completed twenty (20) years of Credited Service, he (or his eligible surviving spouse or children) shall be entitled only to receive his contributions accumulated with 3% interest per annum through June 30, 1985 and 5% interest per annum beginning July 1, 1985 to his date of termination over the sum of the monthly pension payments previously made to him if any. After twenty (20) years of continuous Credited Service the Participant (or his designated heirs) shall be fully vested as to the total of benefits accrued to date, other than in the event of death as described in Section 5 or disability in Section 6.

Participants who were employed prior to July 1, 1985 and who terminate employment with twenty (20) or more years on continuous Credited Service (other than under Section 5 or Section 6) will receive pension under Section 4.

Participants who were employed on or after July 1, 1985 and who terminate employment with twenty (20) years of continuous Credited Service (other than under Section 5 or Section 6) will receive a pension computed under Section 4.1 and paid under Section 4.2 provided that no pension payment shall be made earlier than the July 1 following the date the Participant attains age 49 or would have attained age 49 if he dies prior to the commencement of benefits.

Each Participant who qualifies for a pension under this Section 7 shall be entitled to continue coverage under the Medical Plan in effect on the date of his termination in accordance with the provisions of Section 4.6.

- 7.1A This Section 7.1A shall apply in lieu of Section 7.1 to all Participants who terminate employment on or after November 1, 2005.

If the employment of a Participant shall be terminated for any reason before his Normal Retirement Date and after completing ten (10) years of continuous Credited Service, he may elect to receive his contributions accumulated with 3% interest per annum through June 30, 1985 and 5% interest per annum beginning July 1, 1985 to his date of termination. Alternatively, he may elect to receive a pension determined in accordance with Section 4.1(b) payable beginning the earlier of (i) the July 1 coincident with or next following his 65th birthday or (ii) the July 1 following the date he would have completed thirty-four (34) years of continuous Credited Service had he remained an Employee. Such a Participant shall not be entitled to Pension Adjustments or medical benefits under Article 4.

but less than twenty (20)

POLICE PENSION PLAN

SECTION 7
VESTING

- 7.1 If the employment of a Participant shall be terminated otherwise than by Retirement under Section 4, death under Section 5 or permanent disability retirement under Section 6, and before he has completed twenty (20) years of Credited Service, he (or his eligible surviving spouse or children) shall be entitled only to receive his contributions accumulated with 3% interest per annum through June 30, 1985 and 5% interest per annum beginning July 1, 1985 to his date of termination over the sum of the monthly pension payments previously made to him if any. After twenty (20) years of continuous Credited Service the Participant (or his designated heirs) shall be fully vested as to the total of benefits accrued to date, other than in the event of death as described in Section 5 or disability in Section 6.

Participants who were employed prior to January 1, 1985 and who terminate employment with twenty (20) or more years on continuous Credited Service (other than under Section 5 or Section 6) will receive pension under Section 4.

Participants who were employed on or after January 1, 1985 and who terminate employment with twenty (20) years of continuous Credited Service (other than under Section 5 or Section 6) will receive a pension computed under Section 4.1 and paid under Section 4.2 provided that no pension payment shall be made earlier than the July 1 following the date the Participant attains age 49 or would have attained age 49 if he dies prior to the commencement of benefits.

Each Participant who qualifies for a pension under this Section 7 shall be entitled to continue coverage under the Medical Plan in effect on the date of his termination in accordance with the provisions of Section 4.6.

- 7.1A This Section 7.1A shall apply in lieu of Section 7.1 to all Participants who terminate employment on or after November 1, 2005.

If the employment of a Participant shall be terminated for any reason before his Normal Retirement Date and after completing ten (10) years of continuous Credited Service, he may elect to receive his contributions accumulated with 3% interest per annum through June 30, 1985 and 5% interest per annum beginning July 1, 1985 to his date of termination. Alternatively, he may elect to receive a pension determined in accordance with Section 4.1(b) payable beginning the earlier of (i) the July 1 coincident with or next following his 65th birthday or (ii) the July 1 following the date he would have completed thirty-four (34) years of continuous Credited Service had he remained an Employee. Such a Participant shall not be entitled to Pension Adjustments or medical benefits under Article 4.

but less than twenty (20)

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT is entered into this 28 day of December, 2010 by and between the TOWN OF WESTPORT (the "Town") and Westport Police Local 2080 (the "Union") (the Town and the Union are sometimes referred to collectively as the "Parties" or individually as a "Party").

WHEREAS, an issue has arisen concerning the application of Section 7.1 and 7.1A of the Pension Plan document between the Parties (the "Plan Document") as it relates to the pension benefit payable to a Participant retiring on or after age 49 who has at least 20 years of service; and

WHEREAS, a review of Section 7.1 and 7.1A of the Plan Document, as they relate to the situation presented, has revealed an error in the drafting of the current Plan Document; specifically, it was not the intent that Participants terminating employment on or after November 1, 2005, who have at least 20 years of Credited Service, would be subject to Section 7.1A; rather they would be subject to Section 7.1; and

WHEREAS, the Parties wish to correct the Plan Document to reflect the intent of the Parties.

NOW, THEREFORE, the Parties agree as follows:

1. Subject to approval of the Westport RTM, the Parties agree to amend

Section 7.1A to read as follows:

- 7.1A This Section 7.1A shall apply in lieu of Section 7.1 to all Participants who terminate employment on or after November 1, 2005.


If the employment of a Participant shall be terminated for any reason before his Normal Retirement Date and after completing ten (10) **but less than twenty (20)** years of continuous Credited Service, he may elect to receive his contributions accumulated with 3% interest per annum through

June 30, 1985 and 5% interest per annum beginning July 1, 1985 to his date of termination. Alternatively, he may elect to receive a pension determined in accordance with Section 4.1(b) payable beginning the earlier of (i) the July 1 coincident with or next following his 65th birthday or (ii) the July 1 following the date he would have completed thirty-four (34) years of continuous Credited Service had he remained an Employee. Such a Participant shall not be entitled to Pension Adjustments or medical benefits under Article 4.

TOWN OF WESTPORT

WESTPORT POLICE UNION
LOCAL 2080

By


Gordon Joseloff
First Selectman

By


President

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT is entered into this 28 day of December, 2010 by and between the TOWN OF WESTPORT (the "Town") and IAFF Local 1081 (the "Union") (the Town and the Union are sometimes referred to collectively as the "Parties" or individually as a "Party").

WHEREAS, an issue has arisen concerning the application of Section 7.1 and 7.1A of the Pension Plan document between the Parties (the "Plan Document") as it relates to the pension benefit payable to a Participant retiring on or after age 49 who has at least 20 years of service; and

WHEREAS, a review of Section 7.1 and 7.1A of the Plan Document, as they relate to the situation presented, has revealed an error in the drafting of the current Plan Document; specifically, it was not the intent that Participants terminating employment on or after November 1, 2005, who have at least 20 years of Credited Service, would be subject to Section 7.1A; rather they would be subject to Section 7.1; and

WHEREAS, the Parties wish to correct the Plan Document to reflect the intent of the Parties.

NOW, THEREFORE, the Parties agree as follows:

1. Subject to approval of the Westport RTM, the Parties agree to amend Section 7.1A to read as follows:

7.1A This Section 7.1A shall apply in lieu of Section 7.1 to all Participants who terminate employment on or after November 1, 2005.

If the employment of a Participant shall be terminated for any reason before his Normal Retirement Date and after completing ten (10) **but less than twenty (20)** years of continuous Credited Service, he may elect to receive his contributions accumulated with 3% interest per annum through

June 30, 1985 and 5% interest per annum beginning July 1, 1985 to his date of termination. Alternatively, he may elect to receive a pension determined in accordance with Section 4.1(b) payable beginning the earlier of (i) the July 1 coincident with or next following his 65th birthday or (ii) the July 1 following the date he would have completed thirty-four (34) years of continuous Credited Service had he remained an Employee. Such a Participant shall not be entitled to Pension Adjustments or medical benefits under Article 4.

TOWN OF WESTPORT

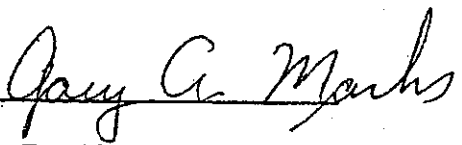
IAFF LOCAL 1081

By



Gordon Joseloff
First Selectman

By



President

Joint report of the RTM Finance and Employee Compensation Committees
Meeting of February 15, 2011 re: Changes to Police and Fire Pension Plans

BACKGROUND

Prior to negotiation of the 2005 fire and police pension agreements, an employee was required to have a minimum of 20 years service to earn a pension. If the employee had the required 20 years service, retirement could begin at the July 1st following attainment of age 49. However, any employee, who terminated with less than 20 years service, received only the return of his pension contributions (plus interest).

The 2005 agreement (which runs until 2016 and was retroactive to 2001) instituted a pension benefit for employees who terminated employment with at least 10 years service. This provision specified that such employees would receive their pension benefit at the earlier of age 65 or the date they would have completed 34 years service had they remained employed.

THE CURRENT SITUATION

The problem currently being addressed is that the wording in the 2005 agreements is problematic in one particular situation.

There is **no problem** in the agreements regarding an employee terminating with less than 20 years service. The pension commences at the earlier of age 65 or the date the 34-year test is met. Likewise, if an employee retires with 20 or more years of service and is age 49+, the pension commences at, or close to, the time of retirement.

The **problem** is an employee who retires with 20 or more years service but is younger than age 49. A strict reading of the language in the pension agreement indicates that this individual would have to wait until age 65 or the date at which he would have had 34 years service to receive a pension, despite the fact that he has 20 years service.

The Town and the two unions agree that the intent of the 2005 provision was that only employees with "more than 10, but less than 20 years service" should have to wait until the age 65 or 34 years date to receive a pension. They agree that an employee with 20 years service should start to receive his pension at the later of the July 1 after age 49 or the date of retirement.

The Town's position is supported by the minutes of the RTM meeting at which the agreements were approved. At that meeting, the Town's labor negotiator described the operation of the new provision in the way that the Town and the Unions want to implement it today.

ACTION SOUGHT AND DISCUSSION

The RTM is being asked to approve a change to the pension plans to clarify the wording so that the age 65 (or 34 years from hire date) provision apply to only the terminated employees with between 10 and 20 years service.

The Committees discussed this subject at length with Floyd Dugas the current Town labor negotiator, Tom Hamilton, and Nate Gibbons who had been on Fire union negotiation committee in 2005. These three individuals indicated that they believed that the proposed change was consistent with the intent of the Town and the Unions at the time of the negotiations.

The Committee members briefly discussed whether the request for this change should be used to try to force early negotiations of the two pension plans. In the end, the Committee members felt that the correct course of action was to approve the proposed changes to make the plans consistent with the intent at the time they were negotiated. This was described by one Committee member as being a “good faith” action.

Both committees voted to recommend that the full RTM approve the amendments to the pension plans. All members voted in favor of the recommendation except for Linda Bruce who voted no in both Committees.

Finance Committee

Michael Rea
Allen Bomes
Linda Bruce
Mike Guthman
Dick Lowenstein
Lois Shine
Cathy Talamdge
Jeff Wieser

Employee Compensation Committee

Mike Guthman
Linda Bruce
Jay Keenan
Michael Rea

Respectfully submitted

Mike Guthman

RTM Meeting
January 18, 2011

The Call

1. To take such action as the meeting may determine, upon the recommendation of the Board of Finance and a request by the Registrar of Voters for an appropriation of \$23,798 to the Elections Budget Account #10101142 (Primaries, Democratic) in order to finance the cost of the Democratic Primary held on August 10, 2010.
2. To take such action as the meeting may determine, upon the recommendation of the Board of Finance and a request by the Registrar of Voters for an appropriation of \$23,956 to the Elections Budget Account #10101142 (Primaries, Republican) in order to finance the cost of the Republican Primary held on August 10, 2010.
3. To take such action as the meeting may determine, upon the request of at least 20 electors of the Town of Westport pursuant to Section C10-4 of the Town Charter, to review the action taken by the Westport Planning & Zoning Commission on December 9, 2010 amending the Westport Zoning Regulations by adding and modifying multiple sections regarding residential structures and coverage as more particularly set forth in Text Amendment #621 Appl. #10-037 (Full text of Text Amendment #621 is available in the Town Clerk's office).

Minutes

Moderator Hadley Rose:

This meeting of Westport's Representative Town Meeting is now called to order. We welcome those who join us tonight in the Town Hall auditorium as well as those watching on cable channel 79 or those watching us streaming live on www.westportct.gov. My name is Hadley Rose and I am the RTM Moderator. On my right is our RTM secretary, Jackie Fuchs. Tonight's invocation will be given by Julie Belaga.

Invocation, Julie Belaga:

I have been honored to be asked to open 2011 with the invocation. I wonder if it is possible to start the new year with a resolution for you guys, the RTM. Here's my idea...Westporters are more connected to what you do than ever before. I think the local access TV (79) has been an important vehicle for you. And watching that channel, as I often do, allows me to see a body that practices its public service with an important level of civility. Your dialogues and debates are a testament to your commitment to the town of Westport. Is it possible that you, as leaders, along with the rest of the elected and appointed officials in town can set an arena broader than just the contours of this building here and reach out because it's an historic time in Westport. Certainly, it is the theme of the airwaves today, but I had thought this well before the horror of Tucson. You have a unique and, in fact, historic opportunity to lead Westport to an elevated level of tolerance...to stimulate rational dialogues going beyond the confines of this Town Hall Auditorium. When constituents look to you for individual guidance, you can urge them to take care when they write op-ed pieces; when they send a Letter to the Editor or when they testify before any board or commission or even you tonight. And, in addition, perhaps, you can also explain to people that hostility and vitriol is unacceptable even in emails. May people foolishly believe that emails are private. They are not private. They get forwarded and forwarded and, when they are full of anger, that toxic language diminishes us all. So, if you do make a New Year's resolutions, one of them could be to make Westport head and shoulders above communities across the country. Your proactive leadership would

be a model of civility and substantive debate over issues. And with the enormous and painful decisions that will need to be debated in 2011, you will have set a stage for all of us. So, the resolution would be to continue doing the exemplary job that you now do and to teach the others the power of civil discourse. Because any decision making in an environment of listening, learning, caring and collaboration is a model worth fighting for. I wish you a successful year. I am dumbstruck by the enormity what you are going to have to deal with this year. I thank you for the opportunity of addressing you.

Mr. Rose:

Before we call the roll, if I can get Patty Strauss up here and Heather Cherry, please. As many of you know, Jon Steinberg reluctantly left us for the State Legislature. I'm sure he's pining away every evening that he's not here. Heather Cherry is going to be his replacement. Heather qualified by charter. She will now be sworn in as the newest member of the RTM.

Town Clerk Patty Strauss administered the oath of office to Heather Cherry representing the eighth district of the RTM to fill the vacancy left by Jonathan Steinberg. She will be filling in until this November when there will be a general election for all members of the RTM.

Mr. Rose:

Congratulations. Ms. Cherry, thank you for joining us. This goes under the category of... be careful what you wish for! With this meeting, you're off to a pretty good start, too.

There were 33 of 35 members present. Dr. Cunitz notified the Moderator he would be absent. Mr. Lowenstein notified the Moderator that he was recusing himself from item three and he would be absent. Ms. Milwe, Ms. Ancel, Mr. Galan, Mr. Wieser, Dr. Green and Dr. Heller notified the Moderator that they would be late.

Correction to the minutes of December 7, 2010:

Diane Cady, district 1:

page 1, last paragraph "take off your HAT to nothing known".....

Announcements

Mr. Rose:

There are a number of birthday greetings this month: Mr. Timmins, Ms. Schine, Mr. Klinge, Mr. Rubin and Mr. Galan.

The next RTM meeting will be Tuesday, Feb. 1.

Committee Meetings:

Mike Rea will be setting up a Finance Committee meeting.

There will be a meeting of the Library, Museum and Arts Committee, Wednesday next week.

For the public's knowledge, we also have one other vacancy at the moment in district 6. We had a resignation from Ann Marie Flynn who we all thank for her service. I think she was a member for nine years. According to the charter, any interested electors in district 6, if they would submit their names and a little bit of information about themselves to Patty Strauss, that will then be forwarded to the three remaining members of district 6. They will hold interviews

and they will select a new member for the body. The timeframe we are looking at, it is unlikely we will get that done for the February meeting but I would like to have somebody in place for the March meeting. So, anyone who is interested who lives in district 6, please get your information in to Patty Strauss.

RTM Announcements

Bill Meyer, district 3:

Another Westport success story...Great First Night. I want to thank Allen Bomes, our treasurer, George Underhill. It's the best one we've had in a long time. Steve, the best volunteer in Westport. Thanks for your help.

Second, Jack Klinge is our Chairman of the Friends of the Senior Center. This Sunday is another concert, the Frank Vignola Trio. We usually have about 200 people. Free food, great concert. It starts at two o'clock at the Senior Center. See you all there.

Lois Schine, district 8:

I want to commend Steve Edwards and the Department of Public Works for the magnificent job they have done on our roads in these storms. The roads have been absolutely clear.

Mr. Rose:

I will remind you of this when we turn to the public. Please refrain from applause or boos, if your road wasn't plowed, because it can be intimidating to the people who are up at the microphone. So, if you can please refrain, I'd appreciate it.

The secretary read item #1 of the call – To appropriate \$23,798 to the elections budget account to finance the cost of Democratic Primary. By show of hands, the motion passes unanimously, 28-0.

Presentation

Marla Cowden, Democratic Registrar of Voters:

It's good to be back in this august body. It's great to see many members who I served with. We would like to beg your indulgence to allow us, because it was a dual primary, although it is, in effect, counted for separately, it is not accounted for separately. There are economies of scale that we are able to bring to bear in a dual primary. The expenses are split so that it pretty much ends up the same amount in each of the accounts; however, a dual primary is really run as one single primary. The expenses, therefore, are incurred and accumulated on that basis. What we would really like to do with the permission of this body, is to speak to both of the primaries at once.

Judy Raines, former Republican Registrar of Voters:

Since I was in charge of the primary this past summer and my successor, Bob Losporgato, was not involved, he and I both felt it would be wise for me to see this process through, through all the boards.

Ms. Cowden:

The cost of the dual primaries, as you have received in your packets, entitled "August 2010, Primary Cost Analysis", was approximately \$47,800. This compares to, when we looked at comparing costs, we looked at the most recent primary, the 2009 Republican primary. There

are differences in those two primaries that you need to note: One being, in the 2009 Republican primary, we were, in effect, primarying nine districts because of the fact that it was a local primary and we have nine RTM districts. Although, in our case, it was a dual primary, in effect, you can say because of the way a primary needs to be run, it was 12 districts. We had six of the state districts which were being primaryed but we were running both a Republican and a Democratic primary. We were able, thinking through, as far as personnel goes, at our polling places, we were able to share positions during the primary so that we would be able to reduce the costs and not have it be a full Democratic complement plus a full Republican complement. That is, basically, where we are at with the dual primary that occurred in August.

Ms. Raines:

I just want to add a few things. We had an audit for both primaries and that's something that the state no longer covers the expenses for. They used to but they don't anymore. That was an additional expense and we had to do it for both primaries. Also, we did have some cost savings. Fortunately, I'm not sure why, our food bids were lower this year. I'm pleased to say that so we saved some money in that area given the number of districts and the people working that we had to recruit. Also, we had an assistant mechanic who has not yet been certified. We are trying to determine with our current mechanic whether it would be appropriate to be the assistant mechanic. Therefore, we were able to pay him at a lesser rate than the assistant mechanic usually earns. Once he is certified, then he can be in a separate vehicle and he can go to different polling places than the mechanic to troubleshoot issues.

Ms. Cowden:

We would be happy to answer your questions and we would ask that you approve the funding for the August 2010 primary costs for the dual Republican and Democratic primaries.

Ms. Raines:

Just one more thing. We prepared a legal memo because last year there were questions about the legal basis for these costs. It was reviewed by the Secretary of State attorneys, Ted Bromley, to be specific as well as the Deputy Secretary of State who is Lesley Mara, at the time. They both agreed with what was cited and the phrasing and the contents.

Committee Reports

Finance Committee, Linda Bruce, district 2:

Overview: On December 14, 2010, the RTM Finance Committee listened to a joint presentation by Judy Raines and Marla Cowden, Registrars of Voters. The August primary was run as a dual primary, allowing some cost sharing. The Registrars shared a position, lower food bids were received, used supplies were available and, at the time, a lower pay rate was in effect for an assistant mechanic. The detailed cost analysis was reviewed comparing August 2010 and the 2009 Republican primary which is all included in the RTM packet. The perennial discussion ensued regarding the particulars and necessities of running the primaries per the dictates of the state. The committee again suggested that given the regularity of primaries, the Registrars of Voters budget for the inevitable, perhaps providing a "think number" or "contingency number". The committee felt that budgeting for the inevitable was a fiscally responsible path. The committee acknowledged the frustration of the Registrars in that during past budget cycles, the Registrar of Voters budget has been cut when such contingency was included. Past practice has been, and continues to be, request for appropriation after the fact. The committee seeks to

discourage that practice. Recommendation: I am presenting for items #1 and #2. Mr. Moderator, the items were voted on separately and we voted unanimously to approve items #1 and #2.

Mr. Rose:

We are not going to repeat that report for the Republican primary. We'll save a little time this evening.

Members of the Westport electorate – no comments

Ms. Flug read the resolution and it was seconded.

RESOLVED: That upon the recommendation of the Board of Finance and a request by the Registrars of Voters, the sum of \$23,798 to the Elections Budget Account #10101142 (Primaries, Democratic) to finance the cost of the Democratic Primary held on August 10, 2010 is hereby appropriated.

Members of the RTM – no comments

By show of hands, the motion passes unanimously, 28-0.

The secretary read item #2 of the call - To appropriate \$23,956 to the elections budget account to finance the cost of Republican Primary. By show of hands, the motion passes unanimously, 27-0-1. Mr. Rubin abstains.

Mr. Rose:

We have already heard the report both from the Registrars and from the RTM.

Members of the Westport electorate - No comment

Ms. Flug read the resolution and it was seconded

RESOLVED: That upon the recommendation of the Board of Finance and a request by the Registrar of Voters, the sum of \$23,956 to the Elections Budget Account #10101142 (Primaries, Republican) to finance the cost of the Republican Primary held on August 10, 2010 is hereby appropriated.

Seconded by Mr. Rubin

Mr. Rose: It has been moved and seconded to approve the preceding resolution.

Members of the RTM – no comments

By show of hands, the motion passes unanimously, 27-0-1. Mr. Rubin abstains.

The secretary read item #3 of the call - To review the action taken by the Westport Planning & Zoning Commission on December 9, 2010 amending the Westport Zoning Regulations by adding and modifying multiple sections regarding residential

structures and coverage as more particularly set forth in Text Amendment #621 Appl. #10-037. (Attachment 1). By roll call vote, the petition is approved 32-1 and the amendment is overturned. Ms. Cady is opposed. All other members in favor.

Presentation

Valerie Seiling Jacobs, 11 Compo Parkway:

As most of you know, I am the lead petitioner in this appeal. The first thing I'd like to do this evening is to summarize the arguments why I believe amendment 621 should be overturned. Then I will go into more detail. First of all, I believe it creates too many nonconformities. By my estimate, over 1100 houses in town or properties in town will become nonconforming. Secondly, it will impose financial and other hardships on many homeowners. Third, it will have a disproportionately harsh impact on smaller lots. Fourth, it will negatively affect property values (especially for long-term residents). Fifth, it will increase our taxes as our grand list slows. Lastly, it will result in taller houses that are closer to the street. Part of my argument is that, in addition to causing all of these negative consequences, there is no compelling reason to adopt Amendment #621. The environmental objects, namely controlling runoff and drainage, are already regulated and any improvements can be accomplished in more targeted and less onerous ways to homeowners. In addition, the risk of over-development is not as great as P&Z would like us to believe. Third, there is little to no support for these regulations in the community. Fourth, wetlands and steep slopes are already protected areas. Fifth, these new regulations will not prevent big houses or oversized patios. Sixth, the current experts and other towns recommend more generous coverage rules. I put together this chart after the P&Z came out with this proposal because I was concerned about the number of nonconformities that would be created. I want to go on record that P&Z originally estimated at the very first hearing that there would only be 213 nonconformities created by the rule. That, in fact, turned out to be wrong by about 50 percent. Three hundred fifteen houses will definitely become nonconforming solely because of the 15 percent building test. In addition, however, these new regulations create nonconformities in other ways. By adding patios and terraces to total coverage, I estimate an additional 300 properties will become nonconforming. I note, however, that it is very difficult to come up with this data and this is an estimate only. What I did was I went through 179 pages of data that was prepared by Glen Chalder from Planimetrics and I found houses that were extremely close to the 25 percent coverage test as it was and estimated that those houses would be in trouble if we had to add patios and terraces to the calculation. I also made some estimates based on the nonconformities that would be created because of the new application of the building coverage test using net lot area for wetlands and steep slopes. In addition, I made a calculation on how many properties would become nonconforming because of the change in the way we are going to measure tennis courts and pools. Tennis courts will now be measured at 100 percent instead of the 50 percent that they formerly enjoyed. Pools will now include coping. That means for the average 800 s.f. pool, it now grows, in a sense, to 920 s.f. It's a 12 to 15 percent increase solely because of this change. I also note that when Planning and Zoning adopted these regulations, they had no idea how many tennis courts there were in town or how many pools there were in town. My estimates are based on 10 percent of the pools and tennis courts will create nonconformities and 10 percent of the wetlands and steep slopes; by the way, 40 percent of the 9,500 properties in town have wetlands on them. The reason I used such a low percentage, 10 percent, is because I figured there might be some overlap between these categories. This was actually my estimate. When you add all this up, this is 1,119 new nonconformities. We already have 1,461 nonconformities. When you add them together, it's

an 80 percent increase, which I think this graph shows pretty dramatically. The red area are all the new nonconformities, pre-amendment and post-amendment...almost doubling. As I said earlier, these nonconformities will hit the people on the smaller lots the hardest. This graph, along the bottom axis is the square footage in the lot. It goes up to about a half acre. The red line is the 15 percent building coverage test. Any little blue dot above the red line is nonconforming. This chart includes the existing nonconformities. This shows it as it will be if Amendment #261 is not overturned. As you can see, solely because of the 15 percent rule, people on a half an acre or less, more than half of those people, will be nonconforming. This is before we even take into account steep slopes, tennis courts or patios. By comparison, you can see how it starts to taper off. This chart shows what happens if you go up to one acre. About half way through to 24,000 s.f. you can see that the little blue dots become less frequent above the red line. This chart shows what happens in a AAA Zone. Of the 315 houses that become nonconforming because of the building coverage rule, only 15 of them are in the AAA zone. What I'm trying to show you is that this is really unfair to the people who own the smaller lots. It has very little effect on the big lots. Those people will still be able to build super sized houses and super sized patios. The other impact of this amendment is that it is going to impose financial and other hardships on homeowners. Nonconforming houses cannot be modified without a variance which is an expensive time-consuming and uncertain process. Lots of people think that they will be able to get a variance because of a financial hardship or because the rules have been changed on them. That's not necessarily the case. Proving a variance requires a legal hardship which is a whole separate criteria and it's hard to prove. In addition, because these new regulations require people to get A2 surveys and engineering reports just to build their patios, we are driving the cost of home projects up, in my opinion, needlessly and we are diverting dollars from other projects that might be more environmentally friendly like building rain gardens and swales to control runoff. In addition to the hardship in terms of getting a variance, being nonconforming also negatively affects your property values. Let me take a minute to explain how this works. If your house requires a variance, when a buyer comes to look at it, the buyer doesn't want to touch it because they know, just like you, that they can't make any changes unless they go to the ZBA. It's unreasonable to ask a buyer to close on a house, to pay the purchase price, pay the lawyer, pay the architect, pay the engineer and then carry the house for anywhere from four to six months, sometimes, longer, while they get all their plans drawn up and then go before the ZBA with absolutely no assurance that they can ever get the variance. By the way, by creating so many nonconformities, we are actually encouraging teardowns. It's a lot easier for someone to come in and tear the building down then for somebody to come in and plead before the ZBA to get a variance. If you reduce the buildable footprint, you also reduce the value. Even if you find a buyer, a builder, let's say, who is willing to take on the project, because he can't build as large a house, it means he is going to pay less for the lot. In 1998, the Westport Tax Assessor was asked this very question in the context of another Planning and Zoning proposal and he was absolutely clear on this point. What he said was:

Every addition, alteration, new single family construction, pool, tennis court, dock or anything else that is done to someone's property adds to the value of their property and to the Grand List. If these regulations are passed, (granted, they were different regulations but they impacted on the size of the house) there will be a direct impact on the growth of the list. Not only the growth associated with the construction, but there will be an impact on the land values as well.

Who does this hurt? This is a photograph of a house on the street where I live on Compo Parkway. The people who own this house are good friends of mine. They have lived there

since the 1970's. They raised their two children in this house. They paid taxes on this house for 40 years. This is a modest house. It has no basement. It has a small patio and a small deck. This house is the kind of house that is getting caught in this new regulation. This house becomes nonconforming because of the 15 percent building coverage test. Even if you don't care about the senior citizens in town, because this is going to hurt them the hardest, maybe you care about taxes. Again, what the Tax Assessor said is that the person who has the moderate dwelling on the market will not achieve its true value because if a builder comes in to purchase it and take it down, he is now restricted to what he can build which, in turn, restricts the amount he can make for profit on the house which in turn will affect the growth of the Grand List. If you don't care about taxes, maybe you care about aesthetics. This is a picture of a house on Webb Road. Webb Road is one of those streets which, at least in my experience, people complain about. They say, 'Look at all the big houses on Webb Road. The character of the street has been ruined, etc.' Webb Road already has a 15 percent building coverage test. This is what happens when you put a 15 percent test in. The houses get taller and they come as close to the street as possible which is why, in part, the Architectural Review Board has come down opposed to these new regulations, as well. What they said was:

We feel that much more information is needed to properly evaluate this subject and determine the impact these changes will have on Westport homeowners.

I'd like to interject here that Planning and Zoning did absolutely no modeling, no analysis, they computed no numbers on what impact this would have on the town. Back to what the ARB said:

Without studies and model analysis, there is no way to judge ramifications of the proposals.

The ARB is opposed to this amendment. What are the compelling reasons that we might say outweigh all the hardships? I can't find any. P&Z has cited controlling runoff and improving drainage as two of its prime environmental objectives but, the fact is, we already have mechanisms in place to deal with those issues. First, all new construction has a zero runoff policy. All the water from the gutters and from the roof have to be tied into leaders and put underground. So, in terms of runoff, it is not the houses that are causing the runoff. Second, we already require drainage studies and plans for all new construction. It's part of the permitting process. Third, during the hearings, there was ample evidence that the real culprit when it comes to flooding and runoff, may be the clear cutting of trees, illegal re-grading and the scraping of the land. It's not necessarily the size of the house or the size of the patio. The following experts have said we don't need to count patios in coverage: The Director of Conservation, the Town Engineer, the Director of P&Z and the staff of P&Z. On Oct. 14, they all stated that we could simply require permits and require drainage calculations and perhaps require other water treatment components such as rain gardens and swales but that we didn't need to actually include the patios in coverage. Now, I know that there has been a bit of back-pedaling on this lately and that some of the people may be here tonight to speak to this point so I felt that it was important that I actually give you the quotations from that meeting. I also have clips of them if this becomes an issue later on but I'm not going to play them in the interest of time. This is a quote from Larry Bradley from Oct. 14:

Staff, in conjunction with the Conservation Director and the Town Engineer are making a recommendation...that patios not be counted in total coverage, but that they might be required to get a zoning permit. This is a collective recommendation of the staff and the Town Engineer and the Town Conservation Director.

This is what Pete Ratkiewich said, our Town Engineer:

I guess what I'm saying is to let the drainage requirements be dealt with where they belong, in the Engineering Department where we evaluate drainage every day and sort of separate that from the coverage when you come to patios and terraces.

Last, but not least, Alicia Mozian, Director of Conservation said:

I support the idea that patios and terraces not have to be counted in coverage as long as they are required to have drainage, as Peter outlined, and they have water quality—or they have a water treatment component as well, such as a rain garden or vegetative swale, for example.

P&Z's other rationales also fail. P&Z started this process by telling the public that there were 99 million s.f. of land still yet to be developed, with the potential to be developed in Westport. What they didn't tell the public was that number included town-owned property, Audubon property, Aspetuck property and land that had already been dedicated as open space. In addition, for all that space to be developed, every single person in town would have to knock down their house or put an addition on and reach the 25 percent coverage limitation which I think is unrealistic. At our current rate of teardowns, it would take 133 years to reach that point. Secondly, there is little or no support for these regulations in the community. I think I heard three people, perhaps, speak in favor of this, one of them a former Planning and Zoning member. The public has been outspoken. Hundreds and hundreds of letters and petitions have been signed. Look around the room tonight. It's hard to get people to come out especially on a night like this. We have standing room only in the back. The Greater Bridgeport Regional Planning Agency is also against this amendment. They believe that 15 percent building coverage is too restrictive. As I said, the ARB has also come down against it. Another rationale is the wetlands and steep slopes. The fact is, people can't build on those already. We already have big buffer zones to those areas. In fact, David Press, one of the commissioners, this was the reason he wouldn't vote in favor of this amendment 621. In fact, during the work session, it was actually discussed by the Planning and Zoning Commissioners that there appeared to be no "science" behind requiring people to use net lot area and multiply it against the 15 percent rule. Some of the commissioners noted that they are ambivalent about the issue. I can assure you that homeowners in town are not ambivalent about the fact that their property rights are being diminished. Another rationale that fails is that P&Z keeps comparing us to other towns. They keep saying, 'Fairfield has this percentage and Darien has that and Greenwich has this' but the problem is they are not always comparing apples to apples. Fairfield, for example, does not include pools or driveways in their coverage calculation. Darien does not count driveways. None of the towns count patios. I note that Fairfield had a similar provision some years ago and there was such an outcry again because of the number of nonconformities that would arise that they tabled the entire proposal. I also want to note that our own U. Conn. Law School did a complete survey of every town in Connecticut and came up a model set of zoning regulations in conjunction with a land use expert from Hartford. They used a lot of Westport's definitions. I counted 35 or 36 times they used the Westport definitions or terminology. They did not accept Westport's coverage recommendations. Instead, this is what they are proposing. This is from January of last year: Forty-five percent on a 10,000 s.f. lot, 30 percent on a 40,000 s.f. lot. For those of you who do not know the numbers, 40,000 s.f. is not quite an acre. So why do we need these regs if they won't solve the big houses or large patios? During the hearings, some of the commissioners kept saying we have to do this because so many people, we have seen proposals for 8,000 s.f. patios. The purpose of this slide is to show you that, even after these regulations, people can still build very, very large houses and very large patios, still have room for a pool and still have room for a driveway. These new regulations won't impact that. They are not going to

stop those super-sized houses or super-sized patios. The only thing they are going to do is create more nonconformities mainly for the people on the smaller lots. This photograph was pulled from some of the materials that I believe Ms. Lowenstein was circulating. This is a photograph that P&Z provided of a patio on Owenoke. I can't vouch for this myself. It is something that Planning and Zoning circulated. It represents the middle column. This pool and patio is on a lot that is 1.35 acres. I don't know the size of the house. My guess is that the house was built after the Chalder data was compiled and I didn't want to rely on it but I went through the calculation. That homeowner could actually build almost a 17,000 s.f. house and still have, as you can see, room for a pool and a 2,700 s.f. patio. These rules will do nothing to change these kinds of houses or patios. In summary, amendment 621 will create an 80 percent increase in the number of nonconformities, will create financial hardships for homeowners and make it harder for people to sell their houses. It will reduce property values and, ultimately, increase our taxes. These new rules do not address the real culprit when it comes to runoff and drainage, namely, the clear cutting of trees or illegal regrading. This amendment is ill-conceived, poorly timed. I want to just stop there for one second. We're in the middle of a recession. Our real estate values have already been hammered by what's happened. This is possibly the worst time to be changing the rules when people are trying to sell their houses. This will definitely disrupt the market and they will not solve the problems that P&Z purports to be concerned about. The benefits of these new rules do not outweigh the burdens. Amendment 621 will cause more harm than good. I urge you to overturn it.

Mr. Rose:

Once again, I will remind you and ask you, please refrain from applause. When you are up there and somebody disagrees with you, you are not going to want to hear them criticizing you. So, please, refrain from applause. That is something we honor very highly here.

Ellie Lowenstein, Vice Chair, Planning and Zoning Commission, 172 Green's Farms Road: The regulations you have before you tonight were developed in response to the 2007 Town Plan of Conservation and Development. The commission has been working, as other departments and commissions have, to fulfill its recommendations. In fact, Westport Planning and Zoning Commissions have been looking to modify their residential regulations since 1998, more than once, in what was an attempt to control house size. This present regulation grew out of the firm, Planimetrics, data generated between 2006-2008 when we hired them to help us with residential regulation changes to help fulfill the Town Plan recommendations. Of course, you probably know, they helped us write the Town Plan also. The commission was unable to follow through at that time because of our work backlog and the fact that some of the applications it was reviewing were extremely complicated and drew significant commission resources. Nonetheless, residential regs. were on our A list of goals for 2010. In the last four years, we have discussed this topic at about 57 meetings. Building on this work and driven, for the most part, by coverage data which surfaced in the Planimetrics work, the commission focused on the fit of homes on the property, especially small lots and on the environmental impacts associated with the coverage regulations. In the RTM P&Z Committee meeting, someone mentioned that only 40 people in the Town Plan survey had mentioned big houses as a concern. I just want to point out that on page 5-3 of the Town Plan, in relation to the telephone survey of 400 residents, it is noted that "... 79 percent of the respondents felt that Westport needs to do more to limit the size of residential homes"...that is 316 out of 400 respondents. This chart is just to show you, in a lot, any sized lot in Westport, we have a total coverage. The total coverage in a B Zone lot, a B Zone lot has a minimum acreage of 6,000

s.f., the total coverage is 35 percent. In all other lots in Westport, the total coverage is 25 percent. In the A and the B zones, A zone is a half-acre minimum lot, they also have a building coverage which is 15 percent. The rest of the property, you have to make sure you have enough room for your drainage system, your septic system, a reserve septic system, the building setbacks and the patios. This is existing today. In the building coverage, all the buildings, it's the deck, the pool, the shed, the garage, porches, that's your building coverage today. The total coverage is anything else that's counted in coverage...driveways, including the building coverage. The patios are not counted. The essence of the regulations that we've written is to establish a building coverage of 15 percent in the other two zones, the AAA and AA. Most of you probably do not know the history of some of the zoning but in the 1950's when Westport population was much smaller and contained many farms and available land, there was an influx of people looking to live here. In order to control the ultimate population, the Zoning Commission up-zoned to larger lots, first to one acre and, a couple of years later, they up-zoned to two acres. Thus areas that were once zoned at a smaller size became nonconforming as to size. In fact, 40 percent of the lots in Westport are nonconforming as to size. There are lots less than half acre in an acre zone and lots of one acre, or even less, in a two acre zone. A house in a one-half acre zone, the A zone, has a building coverage. That same size lot, one-half acre, in a one acre zone has no building coverage. In order to make the use of a lot more fair, we established this building coverage in all the zones. It's the same building coverage percentage in all single family residential zones in Westport, 15 percent. In order to enhance the look of a house and to compromise because we were adding building coverage in the one-acre and two acre zones, we changed what was considered building coverage by moving pools, decks and open porches out of building coverage into total coverage. Patios, which have never been counted in coverage and not figured in drainage calculations, are now to be included in total coverage as well as 100 percent of tennis courts. Right now, we count 50 percent of tennis courts. They are impervious surfaces just as driveways are. Yet, driveways are counted in coverage at 100 percent and drainage control is required for them and all other surfaces on the land except for the patios. Presently, any sized patio less than three feet high can be built with no permits and no one department overseeing its placement. In fact, you can legally cover your entire property with patios, as long as you are not placing them in the setbacks. No open land has to be left to absorb rainwater and filter nutrients which are then sent into rivers, streams and the Sound. Patios are coverage. They take up areas of the property that should be absorbing water and chemicals. If we have unlimited patios, we have little open space to absorb these chemicals and where do they go? Into our rivers and streams. Unless you live in a wetland area or coastal area where either the Conservation Commission or Department or the P&Z Commission or Department is able to require vegetated buffers, rain gardens or swales to capture nutrients, they are not being taken care of very well. We expect the open land to do this at this point and the drainage from those patios is not being accounted for. No one ever sees them. You can cover as much of the property as you want and drain to your neighbor, possibly. The P&Z saw patios on one lot recently that covered 8,000 s.f. That was on a 1.2 acre property. That patio was 15 percent of the total coverage of the lot. So, with a house and other amenities such as pool, tennis court, deck or porch taking up 25 percent of the total coverage. This is an extra 15 percent in coverage but unaccounted for. Their total coverage is really 40 percent. In this new regulation, because we had never counted patios, we compromised. We gave a bonus in counting patios, terraces and decks in coverage. The new regulation says that two percent of the net lot area or 500 square feet, whichever is less of patios, decks and terraces is not counted in coverage and permeable decks and patios can

be counted as 2/3 for coverage. But the total square footage must have drainage. I just want to show you how this relates in the zones. This is the existing in the AA and AAA zones where everything is in the total coverage. There is no building coverage. This is our proposal for all of the zones. It looks something like the first sheet I showed except that the building coverage now will be the buildings, which are your house, your garage, your shed and an enclosed porch. The total coverage will be open porches, decks, pool, driveway, tennis courts, patios and all of the other, the buildings, also. We have moved some of the items out of the building coverage. There is some confusion as to what we are changing and not changing. What we are not changing:

Total coverage percent stays the same. It hasn't changed. We didn't add anything to the total coverage. It is only the building coverage that changes. By the way, the calculation of wetlands and steep slopes stays the same as it has been for years.

The Planimetrics data has been criticized. They do calculate including the wetlands and steep slopes for the net lot area. Planimetrics worked with us. We have gone a step further and taken additional items out of the calculation for building coverage. The changes the P&Z has made are an important step in addressing crucial environmental water quality and runoff in Westport by accounting for all coverage and efforts to describe these regulations as something other than that is an effort to obscure the real value of the changes. The water shed at 10 to 25 percent coverage becomes impaired. We start to pollute our streams, rivers and the Sound. Impervious surfaces impair rainwater from entering the soil where it is cleansed before it enters streams, rivers and, eventually, the Long Island Sound. According to the 2004 DEP Storm Water Quality Manual:

Numerous studies have documented the cumulative effects of urbanization on stream and watershed ecology. Research has shown that when impervious cover in a watershed reaches between 10 and 25 percent, ecological stress becomes clearly apparent. Beyond 25 percent, stream stability is reduced, habitat is lost, water quality becomes degraded and biological diversity decreases.

Ms. Mozian, Conservation Director, indicates that, and I quote her:

Westport is broken up into 14 different watersheds and each has its own unique characteristics as far as land use is concerned: the zoning district lot sizes; the allowable uses—residential, commercial or a mix; septic or sewer, steep topography, wetlands, floodplains, soils, high groundwater. Still I would venture to guess, (she says,) that since our estimates have indicated that we are approximately 95 percent developed that our watersheds are already at the 10 to 25 percent threshold where water quality is impaired. In fact, the Planimetrics report dated Sept. 14, 2007 proves that out in that it says the range between the total coverage in the B zones all the way to the AAA zones is between 10.07 percent and 25.87 percent.

We all chose to live in Westport for different reasons. I bet one of those reasons was living near the Sound. It is our duty as citizens to protect that water, not only for our enjoyment, swimming and boating, but also for the aquatic life. The Planning and Zoning Commission is responsible for development of the entire town. We look at broad aspects and know that sometimes, individual owners can be affected by our changes to the regulations. We try to make the best choices for the town and, in this case, because there is evidence that coverage of land does affect the water quality flowing into our rivers and streams and does affect our own neighbors' properties if it is not properly handled, we have chosen to limit coverage of land. This way, we can attend to the coverage at hand while leaving reasonable areas uncovered so that they can absorb pollutants and rainwater. No drainage device is going to handle all of the rainwater. We need open land as part of the mix. Some say, we have not

gone far enough in reigning in coverage. We are all part of a community. In a family, we make sacrifices every day for the good of the family as a whole. The P&Z has made adjustments to control building coverage to make homes fit better on the property, especially on the smaller lots, those that were nonconforming in the AA and the AAA zones, and we controlled all coverage for the health of the environment; to keep waters from entering our neighbor's property; to help assure clean water in the streams, rivers and the Sound so that, now and in the future, we can enjoy those waters and be able to fish and clam in them. Westport is a community and these rules may require some sacrifices individually, but are for the benefit of the whole.

Howard Lathrop, 10 Pond Road:

I am on the Planning and Zoning Commission and I am an architect so I have some knowledge of building. We spent a great deal of time working on this and as Ms. Lowenstein stated, there were numerous compromises. I don't tend to come up here and rebut Ms. Jacobs presentation about which I have to complement her. It was quite professional. Unfortunately, when we come up here, we don't take any oaths to tell the truth. I feel that there were many exaggerations. It is true that there will be some additional nonconformance created by this new amendment. Some are large. Most are extremely minor. Also, I'd like to say that the current nonconformance in my opinion, I'm not a real estate agent, really do not decrease the value of houses. In fact, if you are interested in selling your house, if you have a half acre lot in a one acre zone, because people are buying, generally, per square foot of lot area, that lot per square foot is actually much more valuable today because you can build a house on it up to 25 percent of the lot, or almost 25 percent because you do have to get a driveway and maybe a porch. But what we tried to do is to level this out. Contrary to what she was saying, this was an attempt to decrease the so-called big houses, large houses in areas of smaller houses. What I want to do tonight is do an example. We did not, on the Planning and Zoning Commission, look at examples as the ARB had suggested. We talked about it but in some ways we felt it was a futile exercise because people want to do different things with their property. The only thing that would have sort of made sense was if you had just maxed everything out but we didn't see a point to that. Some people want to add an additional bedroom or go up or go out. In fact, the changes that we've made don't really affect that particularly. I'm going to use this lot that is in orange here which is 18 Compo Parkway which is a nice ranch built in the late 50's or early 60's. It's an actually rather large house, around 3,700 s.f. It's on a very, very nice street, I think, one of the nicest streets in Westport. There are many larger houses on this street. Most of them, I believe, are rebuilds or additions. They are generally all roughly 30 feet back from the street as they were initially built. This is the house next door and one around the corner which is on a much smaller lot. So, let's look at the lot as it is shown in our GIS. It shows .34 acres. In fact, it's not .34 acres. It's exactly a half an acre. This is one of the complications that we have in looking all over town is that much of the data that the town has, through no real fault of the town, is incorrect. Any individual lot needs to have additional scrutiny. We have a half acre lot, dimensions of 150 by 150, roughly 150 square. Actually, the setbacks here, because it's over 21,000 s.f. are the 30 feet, 25 and 15 feet on each side so that begins to control what you can do, anyway. As Ellie had stated, there is septic that might have to be put on and other requirements. This lot doesn't have any wetland requirements. What there is is a house, a garage that was added in 1977, a small screened porch and a bit of a patio. Currently, the building coverage is just over the 15 percent but the lot coverage is under the 25 percent. They have an additional roughly 400 s.f. that they can play with in additional lot coverage. With the new regulation, if they made some

adjustments, let's say, reduced the size of the paved area around the driveway, the screen porch is now no longer considered building coverage, it goes into lot coverage. The patio could be increased from the roughly 400 into 438 or it could go to 575 if they made it pervious and they could add a pool. None of these things, they could do before this amendment. With these modest additions, they would be up to their 25 percent. The addition of the pool is something we, on the Planning and Zoning Commission, have heard a lot about from the public in that, currently, you have plenty of room on your lot but the pool being in building coverage, if your building coverage is maxed out, you can't add it and they say you can't see the pool anyway. What this does is moves the pool from building to lot coverage. The other thing they could do, if they wanted to cash out, was simply to take the house down. This is the size of house under the new regulations that they could build. In the older regulation, they could build a house that is almost 25 percent of the lot area, considerably larger than this. This house would be more in keeping with the others on the street. In this one, with two stories, you could have a 6,500 s.f. house, the building coverage of 15 percent because we've taken porches out of building coverage and moved them to lot coverage. They could have a generous front porch. They could have a back porch. They could have a pool, a driveway, a 438 s.f. patio or, if they made it pervious, a 575 foot patio, almost 600 s.f. which is 20 by 30 which is generous, in my opinion. So, I don't see that these people, their pocketbook, have probably not been affected one way or the other. If they wanted to sell the house and put this house up which would fit well within the new regulation. My point being is that for the most part, while we are adding the 15 percent across town, it affects very, very few people negatively, if any. We already have major constraints on our properties. We have the setbacks off the property line, we have setbacks off water courses and wetlands. We need space for septic systems, those away from the sewers. The point is, I hope that you would overturn this. The Planning and Zoning Commission is certainly more knowledgeable about these issues than most people in town. We have listened carefully to the Conservation Department, Pete Ratkiewich, the Town Engineer, and I thank you very much.

Committee Report

Planning and Zoning Committee, Matthew Mandell, district 1:

It's the tradition of the RTM to read the report in its entirety into the record. It's not just there for someone to read but if they are here in the audience or at home on television, they can hear what the report is so that they have a better understanding of what's going on. I want to thank my committee for working diligently, nine hours of hearing and meetings, listening to nine hours of tapes of work sessions and hearings, reading the record and coming up with this report. Ms. Bruce, Ms. Cady, Ms. Colburn, Mr. Galan, Mr. Keenan, Ms. Schine, Ms. Starr, you did the RTM proud and I thank you for working on this. This report is a true collaborative effort. All voices are in this report.

The committee met on Wednesday, Jan. 5 and Wednesday, Jan. 12, 2011, to review the Planning & Zoning Commission decision on text amendments 621 (Residential Structures/Coverage) under section C-10 of the town charter at the request of at least 20 electors. Attending both meetings: Committee – Linda Bruce, Diane Cady, Joyce Colburn, Bob Galan, Jay Keenan, Matthew Mandell, Lois Schine, Judy Starr. Along with a number of RTM members. Planning and Zoning – Ellie Lowenstein, Ron Corwin, Larry Bradley. Lead Petitioner – Valerie Jacobs. Public – over 70 residents attended.

Ms. Jacobs, along with many members of the public, presented the residents' case for why the text amendment should be overturned. The first was the number of nonconforming properties that would be created by this amendment. P&Z originally presented the number as 200 properties that would fall into this category by reducing building coverage from 25 percent to 15 percent for AA, one acre, and AAA, two acre, properties. Upon her research though, found in the data created by Town hired consultant Glenn Chalder of Planimetrics, the number was actually 315, over 50 percent more. It was noted by Ms. Jacobs that this data was not originally available to the public, but with persistence became available for analysis. It was also noted that the P&Z was working with this incomplete data and this is what they related to the public. Ms. Jacobs went on to outline further how the change of adding patios into coverage would add another approximately 300 properties in this nonconforming category. It was noted that P&Z never provided and never sought to research how many such properties would be affected. She then provided information that another 300 properties would also become nonconforming due to the how steep slopes and wetlands were applied with the new 15 percent coverage. Finally, another 204 houses would become nonconforming when coverage for tennis courts was changed from 50 percent to 100 percent. Again, the P&Z never sought to find out how many properties there were with tennis courts or what the impact would when that coverage changed. Note: Although tennis courts currently have been calculated at only 50 percent coverage, for drainage purposes they have been calculated at 100 percent. This was an incentive given years back to promote private tennis courts. Tennis courts are about 7400 square feet. This total came out to be over 1100 new nonconforming properties created solely by the implementation of this amendment - almost doubling the number that already exists in Westport. She reiterated that P&Z never did their own research prior to proposing this amendment on how many properties would be adversely affected - especially smaller lots which would bear the greatest burden. She noted, as well as other members of the public, that according to state statute the P&Z is supposed to create conformity, not the other way around. Ms. Jacobs explained why nonconformity decreases property values, primarily due to a decreased ability to modify. In addition, this decreased ability makes nonconforming properties more difficult to sell than conforming. As to the issue of being able to seek relief from the ZBA, she, as well as other members of the public outlined the expense, time frame, and uncertainty of the process. Members of the public stated that those who have not acted yet to sell their properties or build a bigger house should not be penalized and older citizens specifically would be hardest hit. It was pointed out that one of the P&Z's duties, per state statute, is to protect and preserve property values. Ms. Jacobs and the public rebutted the P&Z's position that these regulations were needed to control development and protect the environment. First, the total build-out numbers included lands that are currently considered open space and held by trusts and/or the town and should therefore not be included. Second, that at the current rate of development it would take more than 133 years to see a full change-over in housing. Third, that most people and developers don't max out their coverage and thus the numbers were circumspect. Fourth, that the Town survey noted in the Town Plan only sampled 400 people during the daytime with only 40 of them saying that big houses were an issue. Ms. Lowenstein noted the Town Plan says about 79 percent, but in the original survey, it mentions 10 percent, saying big houses were the top issue. Statistics can be looked at many ways. Ms. Jacobs also gave an analysis that on bigger lots this regulation had no effect on the bigger houses there, and that it was possible that these regulations would actually create bigger houses in some cases. In addition, people constrained from building out, due to tightening coverage, would instead build up, thereby creating the exact aesthetic problems that make people wary of bigger houses in smaller lot

neighborhoods. As to the issue of runoff, Ms. Jacobs, as well as other members of the public, pointed out that Westport currently has a zero runoff policy overseen by the zoning enforcement officer and by P&Z staff, and the engineering department is part of the permitting process for new construction. It was never proven that the only part of property not mandated to account for drainage, namely patios, cause the problems implied by the &Z's amendment. It was also noted that P&Z Staff, the Conservation Director and the Town Engineer in a memo at the hearing on Oct. 14, all recommended that patios not be included in coverage, but instead be allowed only through a permitting process that would then require proper drainage. Ms. Jacobs pointed out that there was no public support for this amendment. At the P&Z hearings, petitions were submitted and person after person spoke and submitted letters in opposition. She pointed out that the Greater Bridgeport Regional Planning Agency and the Westport Architectural Review Board both opposed the amendment. The GBRPA believes that the new 15 percent building coverage is too strict. The ARB said there is no research or modeling for this amendment and recommended that not only coverage, but also height and setback be included in an amendment to how it would work out for all. Planning and Zoning was initially represented by Ellie Lowenstein. She gave the background on why the Commission moved forward with the amendment. She mentioned the desire to have buildings in scale with neighborhoods and with the goal of having better water quality by decreasing coverage and promoting the use of impervious surfaces for decks and patios. She noted that an amendment to remove pools from building coverage was presented to the commission last year, but was put off and is addressed in this amendment. Note: Some support for this amendment publicly was related specifically to this issue alone. She said this was not just a "big house" amendment and that we needed to "take control of coverage." Times have changed and P&Z moved forward on it. She said that this amendment had the biggest effect on house size on smaller lots as opposed to bigger lots. This was not just a big house regulation. When asked if this would do it all in terms of water quality the answer was, "No, coverage alone would not do all that is necessary." When asked why the commission did not heed the staff, Conservation and Engineering Departments' recommendation not to include patios in coverage, she said, "We felt it should be in coverage." The committee then heard from numerous members of the public, all opposed to the amendment. Most backed up the petitioner's contentions while some gave personal accounts of how this amendment will affect them. On the second night, Conservation Director Alicia Mozian was to attend, but could not, due to the storm. Mr. Mandell spoke to her on the phone to get her thoughts to impart to the committee. Ms. Mozian said that she was supportive of the P&Z amendment approved. That the idea of not including patios in coverage was for her a compromise position due to what she saw as large public opposition. She did not want what she saw as something good to be thrown out with the bath water. Ms. Mozian will be attending the full RTM meeting and I see her here tonight. Pete Ratkiewich, Town Engineer, did attend and spoke about runoff issues and town policy. He made note to correct the record, that many letters and emails which quoted him were incorrect. He referred to his Oct. 9 memo and his public comment. Note: While his exact wording might not have been attributed correctly by these letters, the essential gist of his comments was captured reasonably, he had, in fact, made comments at the Oct. 14 hearing similar to what was synopsised in letter and emails and included in the P&Z staff memo recommending that patios be removed from coverage. Mr. Ratkiewich made it clear he supported the new regulation in the face of not having anything. Patios being included in coverage would make it easier for his department to analyze and approve proper drainage. He also said that alternative scenarios to deal with runoff on patios could be created and that the permitting concept would work, as well. He said, in answer to a question about

runoff and drainage, that there is a difference in soil qualities in different areas of town. What he also explained was that the runoff policy needed to be changed, whether or not this regulation was upheld, and that the DPW was working on it. An ordinance, absent this amendment, would be another way to give the DPW enforcement powers. Some form of bio filtration was the next step in removing pollutants from storm water collected from houses. He also explained that the neighbor-to-neighbor flooding that people rightly complain of is due, not to patio runoff, but to land clearing and excavation and fill. On the second night, Ron Corwin, Chair of the P&Z spoke primarily for P&Z. He was asked an assortment of questions related to public, staff and other board's comments. He defended the P&Z actions saying that it was in the best interests of the environment. He stated that dealing with runoff and coverage and decreasing the size of houses would benefit the environment. He said, regardless of what the staff suggests, it is up to the Commission to make the decision. As to the ARB opposing the amendment, he said their position is only advisory and this was not an issue about aesthetics; big houses are essentially an environmental issue. When asked about a technical decision made by P&Z to not remove patios from coverage, as suggested by staff, because that would liberalize the regulation, he said they chose to keep it in. (If a change makes something less restrictive, the P&Z must re-notice.) When asked if they had consulted with the Town Attorney regarding this, he said they did not seek his opinion. As to the impact of nonconforming properties he offered two answers: (1) a chart showing that Westport real estate has moved similarly as in other towns, and (2), that hardships could be taken to the ZBA. Mr. Corwin was asked about two comments he made during the work sessions.

1. "What if it never makes sense to the public?" Referring to whether the reasoning and solutions would be grasped.

2. "We don't know that, we only know (garbled) the people who came to speak..." Said in response to a question about the public's opposition.

Mr. Corwin responded that the Commission was in the best position to make the determination for the town, not the people, and that the true feelings of the greater public were unknown. Again, the public unanimously opposed the regulations, again saying nonconformities will hurt property values and harm nest eggs.

Committee Discussion: The Committee voted 6-2 to recommend to the full RTM that it overturn Amendment #621. There will be no minority report. The two concerns voiced by the minority were:

1. That many homes are already nonconforming and that it does not seem to matter. That people choose a home for personal reasons and that nonconformity would not matter.

2. That the environmental issues addressed make the amendment, while not perfect, a step in the right direction. That the petitioners did not address these environmental concerns voiced by the P&Z, and that no reasonable alternative existed to accomplish their goal.

The majority felt there were myriad reasons to overturn Amendment 621. The basic thrust was two-fold, but included numerous reasons:

1. That harm to the community caused by the amendment was too great compared with the perceived benefits and that too many unintended consequences exist.

2. That alternatives, presented in the P&Z record, existed that would accomplish the goals outlined, but with little or no impact to the community.

The List of issues related to "Big Houses":

1. The public does not want this amendment. It is clear from the P&Z hearings and from the RTM P&Z Committee meetings that this amendment has touched a nerve with the

community. The committee, upon last count, has over 200 petition [signatures], emails and letters in opposition and maybe a handful in support and those were for keeping pools out of building coverage.

2. The 2007 survey, which was the basis for the P&Z moving forward on the "big house" issue only surveyed 400 people during the daytime and a mere 10 percent, or 40 people, out of a town with 10,000 homes cited this as an issue. This pales in comparison to what we have seen in the hearings and meetings. It was also noted that this survey was taken prior to the economy's downturn in 2008.

3. The Greater Bridgeport Regional Planning Agency (GBRPA) was asked their opinion, as part of the amendment process, and opposed it saying:

It was the consensus of the Board to not recommend the proposed change limiting building coverage to no more than 15 percent of the Net Lot Area, commenting this low of a threshold is overly restrictive. (Dated 8/27/10)

4. The Westport Architectural Review Board was consulted, and they, too, were opposed to the amendment:

The ARB asked if the P&Z Commission had performed model analyses of their recommendations and compared it to the current regulations to confirm that the desired results were achieved. We were told that no such analyses were done to test out the proposed coverage changes. We were told that Text Amendment #621 was the first of three text amendments that the P&Z Commission plans to propose in an effort to address big house, water protection and runoff concerns. The ARB was told that the issues of setback and building height would be addressed at a later date. The ARB questions how the P&Z Commission could consider proposing changes to one of three inter-related criteria (coverage, setback and building height) without studying all three simultaneously? While the ARB is very concerned with the big house issue and the environmental impact that construction has on our community, we feel that much more information is needed to properly evaluate this subject and determine the impact these changes will have on Westport homeowners. The ARB strongly requests that all three components (coverage, setback and building height) be addressed simultaneously and that model analyses be performed to determine the impact they have on each other. It is important that this information be made available to other land use boards as well. The Westport Architectural Review Board does not support proposed Text Amendment #621. (date 9/29/10 and submitted and read into the P&Z record by Chair Masumian)

The RTM P&Z Committee agrees with this analysis. It should be noted that the members of the ARB are professionals in this area. An ARB representative attended the committee meeting to reiterate their position that proper research and modeling must be done to know what would actually occur with this amendment. You cannot look at coverage in a vacuum without evaluating other future changes (height and setback) at the same time to see the combined impact. Residents need to be able to evaluate the changes to their property. Furthermore, without such modeling being done, in some cases, these regulations will actually allow for larger houses in areas where they might adversely impact the environment, specifically along the shore, thus making it counterproductive. This possibility was presented to the committee, and also mentioned during the hearings by the Conservation Director.

5. There was a lack of due diligence by the P&Z Commission. Primarily, this is shown by the miscalculation and lack of research in knowing how many properties would become nonconforming. The Commission first submitted to the public that the number was only 200 when actually it was over 50 percent higher at 315. It is also very disturbing that research into how many houses would become nonconforming due to the new inclusion of patios was

never done, that number has since been estimated to be over 300 additional. How can a commission or the public reasonably assess or address such an issue with such a lack of data? Removing the 50 percent coverage allowance on tennis courts adds another 200 properties to the nonconforming list. The original reason to grant the 50 percent allowance was to promote tennis courts. Is it fair to penalize those who bought into this program? Furthermore, no calculations were made for how the new amendment would affect properties with steep slopes and wetlands, approximately 300 more properties to this nonconforming category.

6. The P&Z never did any research into the effect of creating such nonconformities. Instead they seemed to simply accept that nonconformity was part of everyday business. This lack of due diligence, we believe, is questionable, especially considering the evidence brought by the public both in the P&Z hearings and at our committee meetings showing the numbers of nonconformities that would be created, and that that nonconformities cause financial hardship.

7. The ZBA is not the answer. The P&Z said numerous times that people could simply go to the ZBA to seek relief. This is not an acceptable answer and does not adequately consider the burden this places on residents. First, why enact a piece of legislation where a circumvention is openly advocated?. What does this suggest about the enacted rule? Second, why place such an onerous requirement on residents by requiring them to seek relief? Going to the ZBA is expensive, time consuming, and uncertain. While the current ZBA, who was invited to the committee meeting, but none could attend, might understand this issue, future ones might not. It is not a hardship to want to build your house over an existing maximum amount, nor is financial hardship considered grounds for a variance, so why would such requests qualify? Furthermore, given the vast numbers of households affected, what kind of a backlog would this create for the ZBA and for all applicants?

8. A house is the biggest asset held by most residents. Often they are used to mortgage for college tuition. They represent security for seniors and pending retirees. Decreasing its value harms them.

9. This regulation unfairly places a burden on those who have not yet developed their properties. This specifically has a greater impact on our senior citizens who have lived here the longest in houses not yet renovated or sold for reconstruction. These residents, who have kept their homes scaled down and modest, should not be penalized.

10. This regulation unfairly places a greater burden on smaller lots in smaller zones with tighter coverage, and on nonconforming smaller lots in larger zones. Because a patio requires a certain "critical mass" of space, and that amount of space represents a larger percentage of the land in a smaller lot than in a larger lot, the patio rule is likely to cause many nonconformities in zones with smaller lots, such as A zones. The RTM P&Z committee heard from numerous residents pointing out how they will specifically be harmed.

11. This regulation unfairly places a burden on homes with steep slopes and wetlands where there are already heavy regulations. This further constrains them from building, while showing no environmental benefit. There is currently a 50 foot setback from wetlands so why constrain more? The use of net lot vs. gross lot in such determinations is questionable and, again, adversely affects those properties in AA, one acre zones where the property is smaller than the zone amount, i.e. a ½ acre property in such a zone.

12. The economy has already taken a toll on home values, in some cases a 20-30 percent decrease. This regulation will only exacerbate this at a time when our residents can ill afford such a hit.

13. The P&Z presented a comparison to other towns to justify their proposal. The information was insufficient to make a good comparison, essentially comparing apples to oranges. While Fairfield might not allow as much coverage, they don't include driveways and pools as we do.
14. The numbers presented by P&Z on possible build out of the town is circumspect. Open space was included when it shouldn't. Also the entire concept was based on everyone building out completely to their 25 percent maximum. Most people have not and there is no evidence to show that they would.
15. The current economy, the free market and green thinking and building practices have already changed the face of construction practices for the better and smaller.
16. It is unfair to change things so dramatically in such a short period of time. If this regulation moves forward, many projects in the pipeline will have to be stopped and redesigned creating an unfair burden on those residents.
17. Many question what is a big house. There is no set definition, so how can you regulate it? Besides, after all these years, "the cow is out of the barn."
18. The one size fits all approach does not work. A scalable concept based on lot size rather than zone might well accomplish the intended goals without punishing those on smaller lots.
19. The Committee is concerned that the Big House issue is being disguised as environmental in nature. What has long been presented as an aesthetic problem with our town is now being presented as something else to move it forward and that should not be.

List of issues related to "Runoff": Many of the prior mentioned concepts also apply here as well.

1. The P&Z never proved that the inclusion of patios into coverage would create any substantial decrease in runoff overall. This, especially in the face of how many houses would become nonconforming. It must be noted that P&Z never sought to find out how many houses would become nonconforming or what that financial impact would be.
2. How many egregious patios are there? P&Z is worried about controlling the size of patios but, again, there was no research done to show that there was a problem in town with such oversized patios. Yes, they showed a few photos of such patios, but how many and proving a trend was never shown. No patio can be so big as to prevent the building of septic systems and drywells and cannot encroach into setbacks. So, ultimately, there is a constraint.
3. Should we be legislating for the egregious or the norm? Again, in the face of the huge number of nonconformities created, mostly in small lot properties, and the financial impact that will result, the answer is to regulate for the norm.
4. It must be noted that this regulation will do nothing for water quality per se. While water from new patios may be captured, without any bio filtration, there will be no improvement in that quality. There must be a future revision in the DPW's runoff policy and technological improvement before this can occur. The water captured from patios will be done the same way as all the rest of the house.
5. There is a zero runoff policy in Westport for all new construction. This currently retains runoff from all impervious surfaces, except patios. Patios just need to be included as part of the policy, but that does not have mean inclusion in coverage.
6. In the future proving that what has become a nonconforming property due to the patio coverage rule was actually conforming before it, could be quite problematic and costly to resolve when sale or improvement to the property is sought.
7. While we commend the commission on trying to promote the use of permeable surfaces, the Town Engineer explained that all permeable surfaces within a few years become

impermeable due to silt, dirt and compaction. Even gravel driveways sought after to be permeable are no longer after a few years.

8. The new drainage policy from the Engineering Department should have preceded any regulation from the P&Z. This new policy and an accompanying enabling tool such as an ordinance will be needed regardless of a possible overturn. In any case pollutants are unlikely to be removed until some future technology is instituted.

9. Ultimately, the answer to this issue is an alternative to placing patios in coverage that would still capture the runoff. All the amendment needed to do was to state that all impervious surfaces needed to be included in all drainage calculations. This would include patios and would have removed all the issues and burdens related to including patios into coverage. This option was suggested, on the P&Z record during the P&Z hearings, by the P&Z's own staff and backed by both the Conservation and Engineering Departments. It was offered both in memo form and orally at the October 14th hearing. Memo by P&Z Staff dated 10/14/10:

Staff Recommendation on Patios & Terraces. The Planning & Zoning Staff, along with the Conservation and Engineering Departments are jointly recommending that the Commission not require patios and terraces to be included in total coverage but still require that obtain a Zoning Permit for the purpose of a through drainage review by DPW Engineering. Also, any credits for Permeable Surfaces would now be based upon an engineering review and a reduction in the formal drainage system can be done at that time. This will greatly simplify the application of the regulations.

Mr. Bradley said at the hearing at approximately 20:18 minutes into the stream of the October 14th hearing:

"You have a supplemental package from me today dated the 14th with a recommendation from Staff. As this application has progressed, Staff has given input along the way and there was a most recent input from Staff having to do with the recommendation of the definition of patios and terraces. Planning and Zoning Staff, in conjunction with the Conservation Director and the Town Engineer are making a recommendation to change the proposed definition of patios and terraces with respect to Total Coverage. The recommendation is that they not be counted in Total Coverage, but that they be required to get a zoning permit without being counted in coverage; and thus, be reviewed by the Engineering Department as a drainage initiative, but not as a coverage initiative. This way, that [sic] the Town Engineering Department can ensure that the permeability factors are reviewed, that the drainage is properly handled for these structures and Section 45 already has the language in it that makes the recommendation for them to be counted in the drainage calculation, but for a number of reasons, everything from the ease of administration of the regulation, to the impacts to how the regulation has to be administered, through applicants getting surveys, we're recommending that not everything requires a survey—that we may be able to do this through more of a sketch plan. And I have the Town Engineer and the Conservation Director who may speak to this a little bit further. But this is a collective recommendation of the Staff, and the Town Engineer, and the Town Conservation Director." [ends at 22:03 minutes]

The committee finds this to be a clear and concise alternative to adding patios into coverage and thus relieving the unneeded burdens associated with it on the property owners of our town.

The Town Engineer, Pete Ratkiewich did follow up on this issue at the hearing starting at about minute 56:

I guess what I'm asking is to let the drainage requirements be dealt with where they belong, in the Engineering Department where we evaluate drainage every day, and sort of separate that from the coverage when you come to patios and terraces." [ends at 57:10]

He also said, during discussion of an example patio of 400 s.f. patio:

"I think what we're—our concept is—is not to include that in the, the coverage figure but to account for it in drainage. And I think that you'll find that it is a negligible amount for drainage. In fact, it may, it may amount, depending on the type of patio, it may not even require a drainage system."

Director of Conservation, Alicia Mozian, also agreed when she spoke at the hearing (approx. 1:04 into the stream):

"I think I came to the conclusion that the P&Z Staff did somewhat on my own, and then when it was given to my attention, I kind of was, I guess, glad in a way, because from the meeting I attended previously and what I read in the paper there were lots of concerns of how these reg changes would render properties nonconforming, and a lot of that would happen through the patios and terraces being now counted in coverage. I had supported the changes all along because I believed they would help to protect water quality and drainage, but if that can be achieved in a different way, then I'm OK with that. Therefore, you know I support the idea that patios and terraces not have to be counted in coverage as long as they are required to have drainage (as Peter outlined) and they have water quality—or they have a water treatment component as well, such a rain garden or a vegetative swale, for example." [ends at 1:05:40]

In Ms. Mozian's October 14, 2010 memo she wrote:

"From the meeting I attended previously and what I have read in the paper, there are lots of concerns about how these reg changes will render properties nonconforming. I had supported the changes because I believe they would help to protect or improve water quality and drainage, but, if that can be achieved in a different way then I'm ok with that. Therefore, you know I support the idea that patios and terraces don't have to be counted in coverage as long as they are required to have drainage and a water treatment component such as a rain garden or vegetative swale, for example."

While since these hearings some positions have tempered, but what is in the record and offered publicly is clear. The committee understands and sympathizes with the position these staff members are in. The weight of this amendment rests on their shoulders. We acknowledge the hard work and dedication to our town. Regardless, this committee believes that the recommendation of removing patios from coverage and instead requiring permitting to accomplish the goal of capturing runoff is the most prudent and least harmful solution for the entire community of Westport. We note that during the work session that this recommendation was not given due consideration by Planning and Zoning, if not actually ignored and circumvented by use of a technicality in zoning law. We believe that mandatory permitting and drainage would have been equally restrictive, certainly not less so, and the Commission could have moved forward with it. It is hard to believe that in the 39 days between the two work sessions that the Town Attorney was not contacted for his opinion, when his consult is the norm. It appears as if the commission only wanted to use coverage as the means to capture runoff and did not seek out reasonable and prudent alternatives. We are concerned that, in the face of a recommendation from zoning staff, environment and engineering professionals, such an alternative was summarily dismissed.

10. The committee heard no compelling argument to uphold this amendment when there are alternatives which will not render 1,100 homes nonconforming, reducing their value and hurting our community.

Summary and Recommendation : This is a major amendment affecting potentially 1,100+ homeowners, but there is not even an approximate baseline assessment of the size of the problem or scope of the “unintended consequences”. A great number of nonconformities will be created across different zones, and these nonconformities will cause significant financial burdens to be placed upon affected homeowners. These nonconformities would stem from a number of changes in the regulations that would take place as a result of Amendment #621.

While the environment was presented as the major rationale for this amendment, we concur with the ARB’s assessment that homeowners and the town itself are better served when changes to coverage, height, and setbacks occur in combination. A property owner needs to know what to expect, both now and as far down the road as feasible, and regulations should not create uncertainties. It has not been clearly stated whether a height or setback regulation would be forthcoming, although one or both may. We also concur with the Greater Bridgeport Planning Agency’s view that the 15 percent building coverage on AA and AAA zones is “overly restrictive.” The application of net lot area, though not a new practice, would exacerbate the impact of that new rule. Additionally, we believe that lowering values of an unknown but potentially large number of properties is an undesirable effect and to be avoided wherever it possibly can. We support dealing with runoff in an environmentally sensitive way, but note that runoff from patios as well as buildings and other structures can be accounted for in drainage calculations. Coverage and drainage are different concepts. Pending clean water rules from the Department of Public Works would apply regardless of the RTM’s disposition of Amendment #621. Water runoff and quality can be treated without creating nonconformity from patios. Overall, we believe that this amendment, while well intentioned, will create more harm than benefit, especially when there is a prudent alternative to the runoff issue. It was clear from the public input during both the P&Z hearings and from our meetings that there is overwhelming opposition to this amendment. Public participation at the hearings of the P&Z and this Committee was far greater than usual, and the case made by the petitioners and the public was well researched, cogent, and sound.

On a resolution offered by Ms. Schine and seconded by Ms. Starr to recommend the RTM overturn Amendment #621, the vote passed 6-2. Voting yes – Bruce, Galan, Keenan, Mandell, Schine, Starr; Voting No - Cady, Colburn. (Resigned - Flynn.) Submitted by Matthew Mandell, Chair, RTM Planning and Zoning Committee. The report is sitting on the stage and is also available online.

Mr. Rose:

Thanks to Mr. Mandell and thanks to the committee for a really comprehensive job. We are now going to turn to the public. A couple of guidelines before I call people up...Make sure you identify yourself. Spell your last name, please, for the record. Give your address. Also, try to limit your remarks to three minutes. Try not to be repetitive with what somebody else has said. You can certainly get up and say you agree with the person who said 'such and such' but you don't have to go through the same logical progression that they have already gone through.

Members of the Westport electorate

Mark Jacobs, 11 Compo Parkway:

I had a couple of points to make with respect to Mr. Lathrop's presentation. It's good that he acknowledged that the data that was used is not only different but inaccurate from what was finally made available to the public. If we take 18 Compo Parkway which apparently has a lot size of 21,904 and currently has a building and driveways of 3,818 s.f. and patio of 398 s.f. and we ignore the patio, the building is already over 15 percent of the lot so the minute 621 becomes effective, it's a nonconforming house. Mr. Lathrop went on to make exactly the point that my wife made which is that this will encourage them to tear the house down and build something bigger and taller on a lot that's already on a hill. With respect to Mr. Lathrop's characterization, there is no such as a minor nonconforming. There is nonconforming and conforming. If you're nonconforming, it doesn't matter how much. You have to go to get a variance. That means you get to hire a lawyer, hire a surveyor, you get to hire an architect. You need to spend a lot of money that could easily be spent on something more productive if this amendment were not adopted. As Mr. Mandell pointed out, what is the rationale for adopting regulations and then saying, 'Never mind, you can go get a variance.' This is completely beyond the realm of logic. All of that having been said, there has not been any kind of cogent explanation or support presented for these amendments. Yes, I'm in favor of clean water. Who's not? But, we've seen these amendments before. We've seen them under various guises before. This is the first time it's come up as an environmental issue. The bottom line is, however, that no case has been made for these. In that regard, I would like to thank Mr. Bradley for calling my wife a couple of times to try to collect the numbers since it hadn't been done before the amendment was adopted. I am opposed to this. I think that this is the worst kind of attempt to control things for an unspoken, irrational, unsupportable purpose.

Alicia Mozian, Conservation Director:

I just want to go on record that the Conservation Department is supportive of amendment 621 because of the positive effect it will have on the water quality. Some of these regs. tackle issues that we have urged the P&Z to take on for a long time. Research has shown that a water course becomes impaired when 10-15 percent of the water shed it is located in is covered with impervious surfaces. We have scientific data to show all of Westport's water sheds exceed this threshold. Therefore, these changes should guide the redevelopment of the town in a way that will protect our ground and surface water which ultimately drains to our aquifer, the Long Island Sound. The idea that impervious cover is connected to water quality is nothing new. This is the spring 1996 issue, 15 years ago, of the *Journal of the American Planning Association* and it appears in an article entitled "Impervious Surface Coverage, the Emergence of a Key Environmental Indicator." It is written by Chester Arnold and James Gibbons, who now work at U. Conn., solely on this issue educating municipal officials about it. When you start to cover more of the natural landscape, you start to interrupt the natural hydrologic cycle by interrupting the way that water is transported and stored. As impervious cover increases, several things happen. The velocity and the volume of surface runoff increases and infiltration decreases. With less water infiltrating the ground, there is less recharge to our ground water and our water table lowers which threatens our water supply and stream flow. More runoff causes increased erosion of stream banks and loss of habitat; loss of tree coverage leads to warmer water in the summer which contains less oxygen. More intensive land use leads to an increase of pollution sources. Non-point source pollution is now the number one cause of water quality impairment in the U.S.A. Such non-point sources

include pathogens, nutrients, toxic contaminants and sediment. Examples of the consequences of these pollutants include excess pathogens which close beaches and shell fish beds, nutrients contaminate well water supplies and lead to algal blooms. Toxins like heavy metals and pesticides threaten human and animal health. Sediment overload dustups our ecosystems and many of the other pollutants attach themselves to the sediment. What P&Z did through this regulation change was try to address one of the causes of non-point source pollution. It is not the whole answer, for sure, but it is a great start. Impervious cover from a simple residential property may not be a big generator of pollution but collectively covering the watershed with so much development results in several things. It alters the natural hydrologic patterns and functions. It usually contains the type of uses that do generate pollution like driveways and roof runoff in the form of nitrogen and toxics like oil and antifreeze. It prevents natural pollutant processing in the soils by preventing percolation and expedites conveyance of pollutants into a waterway. By reading my Oct. 14 memo, it could be said that I would be satisfied with just providing draining for patios. Please note the timing of my comment. It was before P&Z passed the regulation. I said that because, at that point in time, I really didn't think P&Z was going to pass the regulation and it concerned me. I was hoping for this change for a long time and I saw it going down in flames. In light of what I thought at the time was that reality, I was willing to settle for at least getting the patios to be accounted for in drainage system design. I was proven wrong. The P&Z passed the regulation which, again, I am happy about and with this petition, I have an opportunity to explain to you why it is a good thing for the environment which I hope I just did. Unfortunately, I was not at the P&Z RTM Committee meeting because of the weather and I apologize for that, to clarify my position. So, I welcome the opportunity to be here tonight. To those that say, 'Why won't just providing drainage for patios be good enough?' Or to those that say '...but home construction already requires our roof runoff be collected in underground galleries...' I answer with the following: The upper 18 inches of the soil horizon is where all the microbes live that process the pollutants. Most drainage systems are three to four feet below grade. Secondly, in urban runoff, nitrogen is a big problem and a big source of that is from roof runoff. A drainage system doesn't have all the necessary biological components to address that. Nitrogen removal has to be done through a living process which only occurs in that top 18 inches. Three: Rain gardens are a solution but they are not appropriate everywhere. It depends on the soil conditions. Four: Paved surfaces, like driveways, carry hydrocarbons like oil and toxins like antifreeze. Drainage systems don't address these pollutants. Five: Drainage systems are only as good as they are maintained. Six, very importantly: Drainage systems address the volume of surface runoff but they don't address natural ground water flow direction. When you dig for a house or a pool, you are disrupting the natural flow pattern. Our no net increase in runoff policy does not address this. Do you know how many complaints we get from people all over town complaining about flooded basements. Usually, it is associated with some building project or projects in their neighborhood. It is not because the Engineering Department isn't doing its job, but because there are no rules in place to address depth to ground water. Even the State Building Code doesn't address it. In my department's opinion, this regulation does not go far enough because, even though the P&Z would now be counting patios in total coverage, they are also moving decks and pools from building coverage to total coverage which means you can have a bigger house than you could if building coverage were defined as it was before this reg. was adopted. So, in fact, you could view this as a balanced compromise though not perfect from an environmental point of view, it is far superior to doing nothing or simply only counting patios in drainage calculations. On one extreme, the P&Z could have stuck with its old way of counting building coverage and added

patios to it and, on the other extreme, would be to leave everything alone and just provide drainage for patios. I see the middle as what was adopted by P&Z. You still get a bigger house because less is defined in building coverage plus if you have a patio that is less than 500 s.f., it doesn't even count. Of course, I am viewing this as your Conservation Director. I would hope that you would not expect anything less from me than to be a champion of the environment. I can tell you that our waterways are not in pristine shape. We are involved in water quality testing activity in nearly all the major waterways in this town and they all have problems. The water classification of our shellfish beds by the Bureau of Aquaculture has recently been downgraded, yet again. The State DEP lists a portion of six of our water courses on that State's list of impaired waterways. As they get more data, more could be listed. The more we dig, the more vegetation we remove, the more we pave, the more our natural patterns of handling all of this water are disrupted and the more pollution we can expect. Why do people move to Westport? They say it is the schools and that could be true at first. But why do they stay. I would think a big part is the natural beauty of the Long Island Sound and the Saugatuck River, for example. Water quality is not something you can see but when beaches start getting closed and you can't eat the shellfish, which we have some of the most prolific beds in the world, then you will notice. These coverage regs do not do all I'd hoped for but they are an important piece of the puzzle to help solve our water quality problems and I hope you vote not to overturn it. Hadley, if it's okay, could I have Pete follow me. I just wanted to show you a picture...

Mr. Rose:

Alicia, how long will this take. You have far exceeded your time.

Ms. Mozian:

Never mind. I think you all have gotten this. It was in the RTM packets. It just shows how much of the land in Westport is developed which, again, goes back to what I was saying about how I think we're already at that threshold point.

Pete Ratkiewich, Town Engineer:

I am not going to deny what's been shown as to the record; however, I do want to say, as ultimately passed by the P&Z and, in concept, I, too, am in support of amendment 621. Storm water management is a necessary thing in this town and in all towns but storm water management is changing rapidly. Storm water management used to mean just insuring that no average surface flooding effects occur on downstream properties. We gave this a term a long time ago, "zero impact". Today and with increasingly stringent environmental regulations, storm water management also means insuring that we are doing the best that we can to insure water quality. Zero impact for pollutants, at this point, is only an illusive goal. A certain amount of impervious surface in the water shed has a direct effect in both the total volume of runoff during a storm and level of water quality. More impervious surface is more storm water volume to deal with. That's also equivalent to more pollutants to deal with running into the ground or into the receiving waters. Diversion of storm water underground does not necessarily get rid of the problem. It simply converts it to ground water. Any pollutants that are in the runoff are also sent underground and, without infiltration, simply add to the ground water pollution. The amendment, as written, attempts to get a handle on the total amount of impervious surface and, as such, the total amount that we need to deal with. By doing so, it helps us in striving for less volume, less flooding, less pollutants and less impact on ground water. The total volume of runoff from impervious surfaces can only be controlled by

controlling the amount of impervious surface. The total volume affects ground water levels, pollution and flooding. This amendment as ultimately decided by P&Z gives us an additional tool to work towards these goals. There's been some discussion about what's coming down the line from my department, from DPW. Right now and since about 2004, Westport and all the towns in Connecticut have been under state and federal mandate to enact regulations that both manage storm water quantity and quality through Clean Water Act. These can be enacted through land use regulations or separate storm water ordinances or both. We respectfully suggest that both are needed. To that end, I assure you that DPW will be proposing a storm water management ordinance for consideration by this body that will seek to establish a set of rules that all land use activities in the town must follow; however, the only thing this ordinance cannot do is control the amount of impervious surface on a property. That is solely in the realm of land use regulations and #621 is an amendment that takes us in the right direction. The ordinance that I referred to will impose more stringent requirements for design, construction and maintenance of drainage facilities and management of same as well as requirements to attain the mandated goals of storm water quality. We will be proposing this ordinance whether 621 is overturned or not but the ordinance will not be effective in limiting the amount of runoff that needs to be managed without an associated land use regulation. This town can decide to start tightening the regulations today or we can push it off to tomorrow. Our receiving waters, as my colleague just mentioned, are already impaired as proven by ongoing testing. Without a concerted effort to reach the goals of water quality and storm water management, this task will only get more difficult and will be pushed off to our next generation. This problem is not unique to Westport. It's a problem that is occurring all over the country. Some communities are stepping up to the plate, have already stepped up to the plate to address the problem. Probably in 90 percent of the communities throughout the country, the land use regulations themselves are used to enact these regulations. This ordinance is just another tool that can be used. Environment-driven regulations are always difficult to enact because the beneficial effects are not immediately measurable. They are only going to be measurable 10 or 15 years down the line. So, I urge you to consider the future of your town and, more importantly, the environment that you live in when you decide whether or not to overturn this amendment.

Jo Ann Davidson, 519 Harvest Common

I'd like to speak for myself after I read Ann Gill's comments.

Ann Gill has eight comments:

I served on the Planning and Zoning Commission for eight years, two as Chair. As a result, I have some experience with the efforts over the years by the commission to control water run and its effect on the surrounding properties. I have a few thoughts as to why you should uphold this amendment.

1. Westport is an alluvial flood plain as all the streams and brooks to the north flow through the town. As a result, we also have a lot of wetlands.
2. Even though drains and dry wells are constructed, the amount of water introduced into the soil still can cause trouble for the owner as well as the neighbors.
3. I am glad that the P&Z has taken steps to lessen coverage on a site and to help control the issue of water runoff.
4. We have, in the past, had terrible rains and, if you are not familiar with some of the storms, take my word for it, it isn't pretty!

5. Just because someone wants to build to the maximum, it is not necessarily in the best interest of the owner, neighbors or town. Bigger is not always better!
6. Oversized patios may be nice for parties, etc., but are not always nice to the land.
7. The P&Z is charged by the Connecticut State Statutes to be responsible for the "Health, safety and general welfare of the town." That includes drainage. The Statutes also say that you cannot put water on a neighboring property nor add drainage into the streets.
8. This amendment is not onerous just because some properties will be nonconforming. I live on a nonconforming lot due to the up zoning that took place in the fifties. That doesn't mean I can't put on additions as long as the addition does not exceed the coverage allowed. This amendment will allow more pools to be built as the coverage has been changed from building to lot coverage, a 10 percent increase in allowed coverage.

I hope you will uphold Amendment #621. Ann Gill.

Jo Ann Davidson comments:

I am a former member of the RTM and the Conservation Commission and I am in support of Amendment 621. It addresses drainage problems and protects our watersheds. It gives incentives for owners to use permeable paving materials. It allows building coverage so the mass of the house fits the lot but also allows for more pools. I am not convinced that properties will lose value. Twenty-five percent total coverage is still a lot of coverage for an acre. Fifteen percent building coverage for a house gives you 6,000 s.f. and that's just the first floor. It's hard for RTM members to sort out those complex coverage and environmental issues in such a short time. P&Z Commissioners and town staff have studied and discussed them for at least two years. After extensive work, they passed 621 as the best solution for the town's development and environment. Amendment 621 should not be overturned.

Kristin Hamlin, 21 Compo Parkway:

I think some of the changes that are being proposed today are along the lines of suggesting that we could do better if we had no roadways in the town because there are runoff problems with roads. It would be better if we didn't have cars because there is pollution from cars. I come from a perspective that can see things from both sides in many respects. My ancestor was one of the bankside farmers who founded Westport 360 years ago. I can't help but run around Compo Parkway sometimes and thinking about how beautiful it would have looked 360 years ago. Life in Westport is not a national park. We are a town that requires we have a tax base, that we have places where we can work, that we can generate enough money so we can have a great education system so I think the touchstone in the debate should be balance. I think balance requires here 25 percent, not 15 percent. If anybody has tried to build on a lot, a tenth of a lot down on the Danbury Road area, it would require 1000 s.f. on first floor, 1000 s.f. on the second floor. You can't go to a third floor. You essentially have a 2,000 s.f. house. If we instituted the 15 percent, people would only be able to have a 1200 s.f. if they ever had to tear down, 600 on first floor, 600 on the second floor. That would be without a driveway and without any patio. I think the Archimedean point here is 25 percent. Fifteen percent is extreme. It puts an undue burden on people in zones A and B. I think that, arguably, you can take down all the roads and there'd be no runoff. It's not the pristine environment it was 360 years ago but we have to have a rule of reason. Balance should be our touchstone. Balance requires that we don't impose undue burdens on the folks who live

down in Zones A and B and that we balance economic development, a tax base with concerns for the environment.

David Press, member of the Planning and Zoning Commission:

Before I start, I would like to request that the slide show put up by the petitioner be put up there again.

Mr. Rose: I don't know if we are going to be able to do that..

Mr. Press: How can I respond to testimony that I can't see?

Mr. Rose: Do you have notes?

Mr. Press:

If we are going to respond to a Power Point presentation that will be handed in tomorrow, it doesn't do much good.

Mr. Rose:

I am going to give the P&Z and the petitioner the opportunity to correct factual errors at the end of the public session. Why don't you hold it until then.

Mr. Press:

I did vote no on this application but not for any of the reasons that the petitioner said. I supported everything that stayed in the amendment as it was passed but I wanted something more and had been making a case about that for the previous three years. That's the issue of the difference between gross and net and changing it in some way from the present 20 percent haircut. When that was not agreeable to the rest of the commissioners, I decided to vote no. Everything else that is in the amendment now, I supported then and I support now. Let me go over a few of those. One of the things that neither the petitioner, the letter writers or the RTM P&Z committee did not address was decks. Decks were always included in building coverage prior to this amendment. Just as Mr. Lathrop showed, if you had a deck, it was considered part of building coverage in whatever zone you are in. Now with this text amendment, it is the same as it is going to be in total coverage which makes it the same as patios. Since I have been on the Planning and Zoning Commission, which is over seven years, I have heard that the Conservation Commission prefers that people build decks because you can put a pervious surface underneath. Because of the building coverage, it was always more advantageous for people to put patios. We have gotten the two to conform with this text amendment. I would like to talk, also, about something that one of the previous speakers, Ms. Hamlin, said. The change of building coverage that was passed in this and the inclusion of building for the first time is in the AA and AAA zones. The 15 percent has existed all along in the other zones. So, that is not going to change if you overturn this or let it stand. That 15 percent that was addressed about the small properties down by the beach, that remains. Just think about what you are being asked to overturn here. Let me get to the question of what I raised and which seems to be, the reason I wanted to have the slide presentation, I think the issue of gross and net is misinterpreted by people in their discussion. Right now, there is only one kind of measurement of lot area if you want to build a house. That is the net lot area. It exists today; it exists with 621. That is, the upland area plus 20 percent of steep slopes and wetlands and rock out croppings. I felt with the change in what

was going to go into building coverage and what was going to go into total coverage, there might not be time to revisit the question of the difference between gross and net. The issue of gross lot coverage is something that is not in the existing regulation so if you overturn it, you don't get the bite of that apple. If you let it go, it's not there either. Let's just be clear about what we're talking about. The thing that I would like to know is, since there is no difference in the net lot area calculation, where the 315 nonconforming lots come from. That was something that was in that table. If we didn't change the calculation, then I think that has to be addressed by the petitioner because that was the petitioner's point of view. The consultant's tables, the blue dots with the red line running through it, the first one which had blue dots above the line and blue dots below the line, most of those are the existing conditions with the exiting regulations. It's not a matter of everything is below the red line if you overturn. This is not a green field town where everything is starting from scratch. You've got existing conditions on the ground. Some of the tables ended up on the cutting room floor. We started dealing with Len Chalders while we were doing the Town Plan and, afterwards, when we were doing the preliminaries on this amendment. Some of the tables that were in the earlier ones, we bypassed because they were no longer the calculations that we were going to begin considering. I would like to ask Mr. Mandell if I may. He raised something that you were reading from the draft or the final. What came out over the weekend made reference to a recommendation.

Mr. Rose:

I understand where you're going here but one thing I will tell you is that, typically, the public doesn't have the right to call up the RTM during the public session. What I am saying is if you can hold those questions to the end when the P&Z has a chance to get up...

Mr. Press: I am speaking as a member of the public.

Mr. Rose:

I understand that. You can ask the question but you can't get him up here now. You can pose the question.

Mr. Press:

The version that was distributed on line made reference to having the coverage relate to lot size, not to zone. I don't know whether that got dropped in the final version. Because, if it is included in the recommendation, we thought about that. That was let go a long time ago as an idea because that is the real killer of property values. That would mean if you own a property and the lot next to you comes on the market, it's worth more to a developer than it is to you because if you increase your lot size, the amount of coverage you have would decline. We called it "the parabolic function" and it was in quite a few of the earlier works that we had with the consultant. It's not a panacea to the issue. One of the things that was mentioned by the petitioner as one of the bullet points is "overdevelopment is not as great as the P&Z thinks it is. I presume if that is endorsed by the RTM Planning and Zoning Committee, they will also be looking to the sewer avoidance policy since that was also designed to avoid overdevelopment." I would like to make one suggestion and then I will be done. That is, if you turn down the petitioners and allow the amendment to stand and I am speaking to the RTM members here, these are the ones that had the power to vote tonight just like I have the power to vote on Dec. 9, I will personally propose a draft, an amendment to the amendment, to clarify, to clear up some of the issues such as the tennis courts and the change in coverage

that went along with that to build into the regulations some of the requirements or avoidance of requirements to have a survey for small decks and patios and to work on modifying the gross vs. net which I think, in the aftermath of this, there may be room for. Also, walkways and the definition of walkways and how they fit into all of this and other fixes that can come from the discussion that is had here tonight. Let me tell you, if this is overturned, this is going to be the last time you are going to see anything like this in a generation. All of you are going to be gone from Westport. I still don't see the Power Point presentation to address. A lot of work went into this, four years of work on the part of a lot of people. Just because I voted no in the end, we work collegially. We don't have to have seven nothing votes. We have our reasons for voting away from the majority sometimes. I feel they passed a very good amendment and I believe you should sustain it with your vote tonight. I would like to see that up.

Mr. Rose:

Just an explanation, so you understand...When the public is speaking, they are not part of the debate. That is the reason I said to Mr. Press that he can't ask a question of an RTM member and expect an answer. The public is here for discussion to inform us of their opinions and give us information. The debate on the issue occurs when the RTM is actually speaking. As both the P&Z and the petitioner know, unlike our normal RTM procedures, they will both have the opportunity to correct any misstatements of fact that they hear during the public presentation. I hope we understand the difference.

Bill Blaufuss, 12 Charcoal Hill Road:

I have a few avocations in my life, kind of related. One is I am a State Chairman of Trout Unlimited, 3,500 members in Connecticut alone, of a national coldwater conservation organization. It happens to be made up of trout anglers. Trout are nice fish to fish for but, by the way, something you don't know about trout...they are the most finicky fish in terms of water quality. They require absolutely unpolluted water, clear water, cold water, oxygenated water, no siltation and no pollution. I am also a member representing Trout Unlimited to the Summit on Clear Water Partnership of which Westport is one of 13 member towns. I am also a volunteer on the Septic Education Task Force of the Town of Westport. Finally, I have been a member of the Conservation Commission for the last seven years. I am speaking in favor of this resolution. It does deal with controlling runoff and improving drainage. It relates to water quality and hydrology. Let me talk a little bit about hydrology and amplify some of the things that Alicia Mozian said, perhaps a little bit different spin, so you hear it from a different voice with a different intonation. Hydrology is the physics of water moving through the ground. Water falls into the ground and flows into things like aquifers. People with wells for their drinking water aren't the only people that get water out of the aquifer. Do you know that Aquarion, in addition to serving the public with waterfront reservoirs, also operates wells? There is a well field right by Fort Apache. Whatever goes in the aquifer affects all of us. That has to do with water quality. The water that we drink. The physics of hydrology are impacted by how we deal with water runoff. It seems that there is a feeling here tonight that as long as you deal with the water that comes off of a building or structure or other impervious surface and get it into the ground, that it is enough. It isn't enough for two reasons: One, because the more tanks you put into the ground, the more you disrupt the flow of water flowing through the ground. Water doesn't necessarily flow straight down. It flows around obstructions and different kinds of soils depending how pervious they are and depending on what's in its way. If you build a big basement in the ground, you are going to have a big obstruction. Not only

can't the water flow through the basement, it also, the basement, takes up the space that the water could have flown into. Likewise, other types of drainage devices such as septic tanks, a necessary evil, such as galleries to collect runoff so, saying, 'Oh, we're going to take the water off this patio; we are going to put it into a detention basin and then let it runoff into a field' is not really all that great. One reason is it affects the hydrology as I just said. It compounds the water that is already falling over there. The water is not falling. It can't go through the tennis court. It can't go down through the roof of the house. It's going to be added over here where there's already ground water flowing into the ground. It is kind of compounding things. It's not the ideal thing. The ideal thing is not to do any building at all. Nobody is suggesting that. We're talking here about a degree and that's what the P&Z is trying to accomplish here by changing the degree so we have less of an impact. When we change the hydrology by taking water and treating it into other underground water systems as Alicia Mozian pointed out, we are not getting it into the stratus, the level of the earth, oftentimes, where it does the most good. The best water treatment comes when water flows into the first 18 inches of soil because that's where most of the microbes are. Most water treatment systems are below that level as Alicia Mozian pointed out. She also pointed out that, unfortunately, we don't have greater regulations that deal with that. The regulations that we have simply say put it into the ground into a gallery and distribute it and that will take care of it. The fact of the matter is the P&Z is trying to correct some of this by saying, the less runoff we have, the less coverage we have, the less problem we have. I think I have pretty well covered it. I want to make one comment that's an anecdote that I personally witnessed. I live in a house. Across the street was another house, an older house. The couple moved away. The house was knocked down and another house was put in its place, conforming, a new modern house. All the water runoff was dealt with. They put in the galleries, and so on... Yet, the house next to that house which was slightly down hill, had a few trees on its property, five single oak trees, 100 years old. A few years later after this house was built, I see these trees were being taken down. I know these people. The trees weren't covering a lot of shade. Why would someone take these trees down. I asked him. He said, 'They are dying. They are drowning.' The reason they are drowning can be from a lot of water not being able to go into its natural hydrological float because a big house was put in there and a big basement was put in there. It can be from trees being cut down which is not part of the purview of this set of regulations. It can be other things but it does have to do with coverage. When you alter the hydrology, you have deleterious effects, water quality and water treatment, the two points of the P&Z's effort. RTM members, I urge you to sustain this resolution.

David Royce, 387 Main Street:

I thought this regulation was about big houses until I read it. This regulation is about punishing people who can afford to build pools, tennis courts and patios. It will actually make the big house problem a whole lot worse by squeezing construction into a smaller footprint, squeezing the house into a smaller footprint, pushing the house up to two stories and even up to three stories. It used to be the style in Westport to have a one and a half story house such as a true colonial or a cape cod or a one partly or a two partly story house, like a raised ranch or a split level. The styles are changing now partly because they are being squeezed into ugly cubes, two full stories with an attic or three full stories, I've seen. I don't like the looks but my taste doesn't matter and your taste doesn't matter. We have to try for a good town. What really is basically wrong with a big house? Only one thing that I can see...that a big house destroys a neighborhood. I don't like a big house on a small house street. Those little cancers

are growing on small house streets all over this town. I don't mind the street after its been completely block busted. Roseville used to be a normal looking street. Then two or three big houses came and, all of a sudden, the block was busted. Now Roseville is big house row. I think it looks fairly nice. As long as it's been busted, I like a big house next to a big house. Beachside Avenue is beautiful but I don't like big houses destroying small house neighborhoods. We should not be controlling big houses by tradeoffs and penalties aimed at their yards. We should go straight after the houses like this: *No lot owner shall build or remodel a house to more than 125 percent of the average TLA of all houses on lots within 100 feet of that lot*, TLA being the total living area shown on every assessor card. This regulation is a big step in the wrong direction. I'll leave a few copies of my suggestion here.

Robin Coleman, 13 Burnham Hill:

For the RTM members, I am the author of the long memorandum I sent you via email. I won't repeat it tonight in the interest of time. I hope you all had the chance to read it. I'd just like to comment a little bit on the environmental issues. We all know we have environmental issues. You could sit here and say we need to be better. We need to improve things. There are a lot of things we need to do. Tonight, several things have been said. One is it's pollutants. Two, it's the top 18 inches and, three, we're talking about big basements sunk into the ground. We're talking about patios. Patios don't have basements. They don't, for the most part, go down 18 inches. I'm a builder. Most patios are set in stone dust. Stone dust is, in fact, a natural absorber of water. The cracks between the flagstones are more than enough for the water to drain away. If you don't believe me, I quote our Town Engineer who said at that same Oct. 14 meeting :

(Talking about patios) I think you will find that that it is a negligible amount of drainage. In fact, depending on the type of patio, it may not even require a drainage system.

That's correct. I have patios. I build patios. Most of them drain very well. I do agree there are some that don't and they should have drainage. Where you do put a big tank that goes into the ground, it does disturb the flow of the water; however, most galleries only go down two feet. So, I think we are allowing the environment issues to over weigh a discussion of patios. Patios hurt the small houses. Let's get back to what we've been asked to do in this amendment. I also would like to challenge Mr. Lathrop in his statement. When he made his example of the house on Compo Parkway, he was suggesting the porches in the new regulations are no longer in building coverage. That's now how I read the regulation. That's not how I read the words in the new definition of structure. I would ask him to check his wording because when I read it, it defines a structure as including porches and covered porches. It then goes on to say, as an exclusion, swimming pools, decks, tennis courts and on-grade sports courts are deemed to be structures, shall be included in total coverage but not building coverage. It makes no mention of porches.

Ron Corwin, 20 Grove Point Road, Chairman of the Planning and Zoning Commission:

Text amendment 621 was developed to address important environmental issues of water quality, drainage, house size for Westport now and for the future. These issues, especially on the environmental side, have been on Westport's agenda for many years. Our 1997 and 2007 Town Plans of Conservation and Development noted critical issues of drainage deficiencies, flood control and water quality. In moving forward with 621, the P&Z Commission is fulfilling its commitment to the town as a whole to address this important issue in the context of the health, safety and welfare of the entire community and we are fulfilling our commitment to our children, our grandchildren and ourselves to take the difficult steps now to protect their and

our heritage. This amendment does, indeed, place some restrictions on what some folks can do with a portion of their properties. We believe that these modifications are balanced allowing benefits to property owners currently not allowed, and normalizing definitions that have the effect of increasing outside living space more consistent with current trends in how folks want to live. Today, 40 percent of Westport's homes are nonconforming. Property values in Westport have risen spectacularly in the last 50 years across both conforming and nonconforming properties. Recently, property values have dropped in response to broad economic factors but over the longer time period and in recent years, Westport's property values have moved generally in tandem with those of the surrounding communities of Weston, New Canaan, Darien and Wilton, all of which have differential numbers of nonconforming houses. I might note that Darien that has the highest values of those communities, has 25 percent of its properties as nonconforming. Some have argued that the new nonconformities will reduce home values. A memo from Mr. Friia, which I don't have time to refer to but is now in the record, the Town Assessor, appropriately addresses this matter. The P&Z's mandate is to serve as a town-wide body to address the needs of the whole town. To argue that it is our role to allow each individual land owner to improve the value of his or her property without regard to the overall impact on the community as a whole is inconsistent with our mandate. We cannot be indifferent to the deterioration of the town's water quality and the negative impact of increased flooding on streets, neighborhoods and in basements. We are pledged to endeavor to address these issues. These environmental issues have enormous impact on the quality of our lives and on our property values. One thing that has been lost in this discussion is that 621 does not affect anything that is already on the ground. What has been built is built. Going forward, it is true that for some, the "hardship" of the nonconformity has been created but there are mechanisms in place for addressing individual cases. The Zoning Board of Appeals is set up by state law precisely to do that. By definition, when a commission enacts a town-wide regulation, inevitably, if there are restrictions there, it will create some nonconformities. We know that this is a process that 40 percent of the town already lives with. It must be said, Mr. Moderator, that statements have been made regarding 621's impact in general and in particular on properties, some of which are simply not true. It is difficult to get at the facts. The RTM, in this kind of context, so much is being said so fast and sometimes without foundation and sometimes simply wrong, that it is impossible to know how to address it and how to deal with it. We simply hope that we will have adequate time for rebuttal and for questions. Many of those opposed have vested interests in not restricting what can be built or what can be sold. For some, bigger is better. Though some have expressed concern about the environment, their preferred position is just let me do what I want. Sometimes attitudes towards zoning and environmental issues are similar towards public transportation, basically, that it is a very good idea for everyone else... My schedule simply doesn't allow me to use public transportation. We don't have the luxury of applying zoning environmental protections to only some people. We all need these protections and we must share the responsibilities. Time is running out. At the RTM P&Z Committee, Mr. Mandell asked the following question:

Can't we accomplish these things without any impact on the community?

The answer is, in a word, no. Saving the environment and preserving our natural resources will have some costs. Yesterday, we celebrated Martin Luther King's birthday, a man who understood deeply the difficulty of bringing about social change. In his famous letter from a Birmingham jail, Dr. King observed:

Progress never rolled in on the wheels of inevitability. It comes through the tireless efforts of people willing to work hard and that without this hard work, time works against us.

We realize that for many in this room, this is a tough vote but it is the right vote. We are asking that you join us in this hard work and vote to sustain text Amendment 621.

Ward French, 485 Riverside Avenue:

I come to you with the perspective of a potentially impacted home owner, a local builder and an 11 year member of the Architectural Review Board. I think it is fair to say that I have an above average understanding of the potential negative impact of 621; however, I am most fearful that there are 1100 potentially affected property owners who are not equally versed in the potential impact on the property rights and values. I want to emphasize something here and I don't think I've heard it at all. I think there is the ability here to discount the fact that I believe in my mind and soul that we have rights as home owners. I think this is being disenfranchised and I think it's being done in a terrible manner. I'd also like to dispel the common myth that we are not already held to high standards whether we are building a home or adding onto our own personal property. We currently have strict standards for all the things that we've spoken about in terms of how we regulate water, what's done with it when it is discharged from the houses, whether it's a patio or not. We take this all into account in the new construction. I would also like to make a statement of the fact that while right now while we account for the 25 year storm in our drainage calculations to get our approvals through engineering, we are held to higher standards than the Town of Westport currently holds for itself. When you look at the roads, when you look at the 10 percent drainage that they are required to account for in the 10 year storm, we actually are held to a higher standard. I'm not saying we should be held to a high standard. I believe that there needs to be a cost benefit analysis to the citizens of this town. If a cost benefit analysis was done, I would say that we all agree, I believe, that the benefit to the town with this resolution was yes, we could improve water quality but I don't really think they've looked at what the cost is. I think the cost is high. I would also like to say with more restrictive measures coming down the pike, should we not be able to assess the total impact of all regulations. What we have not heard tonight is that there are setbacks, there is height. Pete Ratkiewich did address the fact that there are very substantial ordinances mandated by the State of Connecticut that are coming down our way. When you leave out the fact that those things in sum will have a devastating impact, much greater than 621, we are only hearing part of the story. If we let 621 go forward, then the next piece will come into the equation. There has to be a better way to address the concerns for the environment, which I share. I share them deeply but I also think the last 25 years, as just an aside, I've been told to rip out decks because they are coverage. Build patios. We have houses that were built with patios where decks have been removed of thousands of square feet on two acres. Let's just say that they are over 25 percent. It seems to me, to address the ability of making houses nonconforming, if you want to do even the smallest thing, there is too much work involved. There has to be a better way without counting patios. I ask the RTM to take that into consideration. I also have to say, because I have been involved with this for many, many years, over 11 years and I have heard this come back in many shapes and forms, this big house issue, how many times and how much energy do we have to expend to tell the P&Z for the most part from the hearings that I have seen that we don't want this legislation. I think we care about the environment but I don't believe that all the people who have been to all these different meetings on all these evenings are in support of 621. The number of people I've spoken to that have reached out to the RTM members are asking the

RTM members to remember their vow to their constituency to think about their property rights. How can we allow an amendment to move forth that has never taken into consideration the request of the ARB for modeling. How can we move forward with 621 and have failed to accurately assess the very real financial impact to so many homeowners. I would like to remind you that, should you vote to repeal 621, you are not placing a vote against the environment as some would lead you to believe. You are placing a vote to protect your constituencies against an amendment that has many unintended consequences. You are placing a vote that says we believe in the environment but let's address it in a sensible and holistic way.

Mike Gilbertie, 360 Main Street:

Mr. Moderator, members of the RTM, members of the public, I want you to vote to overturn this regulation because it just doesn't impact a few homeowners, whether it is 360 or 1,100 or 11,000 what ever the figure is, It impacts everybody, all our property owners, all the taxpayers. What it does is it restricts the increase in our Grand List. Everybody knows our Grand List finally determines what our taxes are. Based on the budget, you take the Grand List and it determines the mill rate. Let's face it, our commercial base is saturated. We have very little vacant land. The only way our Grand List can increase is through additions of tearing down smaller houses and building bigger houses. This restricts our ability of the Grand List to grow. It impedes it and it takes away the ability to reduce our tax burden by spreading it out over the increased Grand List. It just doesn't affect those houses. It affects everybody. At this economic time, it is bad timing and, like the gentleman said, nobody has determined what the cost is. It's going to cost everybody because there is no way for the Grand List to increase or very little ability to. You have to get a variance for everything you want to do. This will affect the ability to spread out our taxes and relieve the tax burden a little bit. That's why I'm against it. I'm not against conservation although I wonder why the Conservation Commission approved the YMCA at Camp Mahackeno with all its runoff. I can never figure that one out to this day.

Don Bergmann, 32 Sherwood Drive:

We moved to Westport in 1979. After our children were grown, we looked for a smaller house down by the beach. The house we found was 32 Sherwood Drive. It was constructed in 1930. It was rather run down and it had a sort of mishmash of changes over time. The house is in a AA zone. The lot size 9,979 s.f. I went to P&Z in advance of purchasing the house to analyze what 32 Sherwood Drive confronted. I read regulations. I met with an architect. I met with Mel Barr. I met with the ZBA Chair, Jim Ezzes. I spoke with the Tree Warden. I looked at the 25 percent rule. I looked at the height rules. I looked at the excavation and fill rules. I looked at a rule pertaining to basements that it could cause it to be a third floor. I looked at the steep slope rules. I concluded that this house would work under the existing zoning rules as we hoped to make it. We rebuilt the home, renovated it. We kept the basic footprint. We added a lovely front porch. We did some regrading. We preserved a lovely Japanese maple tree in the front. We added a detached garage for which had to get a zoning variance because on corner yards in Westport, you have two front yard setbacks. Our setback which was 30 feet pertained to both sides of our property and it posed a problem for a detached garage. Fortunately, we were able to get a variance. That meant the garage could be closer to the street which also meant that the driveway would be much shorter. We finished our work in 2002. We accomplished all that we had planned. Our home and our property completely conformed to AA Zoning regulations as to total coverage, as to anything else. We did get the

variance to allow the garage closer to the street. The result was charming. The neighbors and many who walk up Compo Hill Avenue tell us how tasteful our home is. People stop by and ask the name of our architect, our builder and our experience with P&Z and other town building departments. My response is always the same. Plan well and be optimistic. Also, the neighborhood youngsters play in our front yard especially when the snow is there and they can play along with our dog. If P&Z Amendment #621 is not reversed by a vote of 24 members of the RTM, our house, 32 Sherwood Drive, will become nonconforming as to building coverage. Our building coverage is 16.7 percent, 1.7 percent over the 15 percent limit being established for the first time for AA zone and applied to a lot less than 10,000 s.f.. I believe that outcome is wrong; yet, for my wife or for me, wrong does not really capture our feelings. Annoyed, even angry does not. The right words that came to me a few days ago when I looked out at my property with the kids playing in the snow and our golden retriever playing out there, as well, I realized how hard we tried to do the right thing and how we had succeeded. I noted to myself that we had addressed everything Westport had demanded and yet still, now, we would become nonconforming. I really felt abused, almost violated. I hope you reverse the P&Z and vote to cause 621 not to go into effect.

Ira Bloom, Westport Town Attorney, 20 Pleasant Valley Lane:

I am here, not to talk about the merits of 621 but rather, I'd like to address some of the arguments that have come up, I think some overstatements and I say this from the perspective of somebody who has practiced law in this community and has done a lot of real estate and has familiarity with the ZBA for the last 32 years. I'd like to clear up some issues from my perspective so I hope this will give you some perspective as you debate this tonight. I'll do this in the form of questions and answers.

1. Do buyers of homes consider the nonconforming nature of a house when they buy it? Some do but many don't. In many cases, it just is not something that comes up for a lot of buyers. For some, it is important particularly those people who intend to add to their property in the immediate future. They are particularly concerned about what options they have, whether they have to go to the ZBA, etc. but for a lot of people, it is not the first consideration they have when they buy a house. They are looking at other factors, the location. People want to live at the beach area where it is nonconforming throughout. They want to live there and they are not concerned about it. That's my perspective. We should be careful when we attach the stigma of nonconforming. There are 40 percent of the properties in town which are nonconforming in some respect. People just deal with it.
2. We hear a lot about the Zoning Board of Appeals. That's a body created under state law. We have a Zoning Board of Appeals as every town does. The question I would pose is, are variances from the ZBA slow, costly and difficult to get? My answer would be, again, sometimes they are but sometimes they are not. It's very hard to generalize in this business. These cases do vary from situation to situation. In many cases, a person can apply for a variance and get it in a month or two months, tops. Some variances do drag on for a while. Are there costs involved? Of course, there are costs involved. There are filing fees. There is a need for a survey. Is it hugely costly? Not for everybody. Sometimes, it's very costly depending on the situation but not for everybody. Not everybody hires a lawyer to go to the Zoning Board of Appeals. Sadly, I may add. A lot of people go on their own. Here's another important fact. Last year, 87 percent of variance applications were granted. Historically, if you look back, not just in Westport, probably, 2/3 were granted. That doesn't mean that it's easy to get. The

legal standard for hardship is a difficult standard. It is not easy to pass the legal criteria. As a practical matter, those are the percentages and that's what happens in the real world. I just wanted to walk through that so you have some perspective on what happens before the Zoning Board of Appeals.

3. Can changes to zoning regulations affect property values? The answer is of course they can. You can come up with any number of regulations which will affect property values, perhaps even dramatically, depending on what the regulations says. A different question is, does this regulation, 621, cost property values to go down. I don't think we can answer that right now. I don't know how to answer it fully. Each case would have to be analyzed. You would have to know the data. I think it is difficult to generalize. That's the point of my commentary to you on these three or four areas.

I hope, as you debate this, there are some important policy arguments behind this. There is an important debate to be had on this. It is not a simple question. I fully recognize, it strikes a real chord when regulations pass that affect our most important asset, our home. I understand that. That is why this is an important debate. I just hope you will sift through this and get to the heart of the issue and make the proper decision.

Kimberly Lake, 57 Kings Highway North:

I am up here personally and I am also up here as the past Chair of Westport Green Task Force. In my capacity as the past chair, I'd like to say that the mission of the Westport Green Task Force is to educate, encourage and assist Westport residents, businesses and the town to adopt sustainable practices. There's probably few people in this room that aren't thinking about ways to make the world a greener place. The Task Force looked at this amendment in September and submitted a letter to the Planning and Zoning Commission on Sept. 29. It said:

The Westport Green Task Force hereby recommends that the Planning and Zoning Commission defer action on the proposed amendment 621 regarding coverage until additional information is provided to the boards and commissions of the Town of Westport. We believe the proposal is flawed because, as written, while it may discourage one type of development, it may encourage another less desirable form of development and, therefore, its potential environmental impact is unknown.

The letter goes on to ask for additional information and studies. We discuss many of the same concerns that the RTM Planning and Zoning Committee listed in their report. We think that much more needs to be done to look at some of these issues to address them effectively and that there are too many unintended negative consequences as many people have said. Also, I, personally, request that you vote to overturn.

Garson Heller, 5 Harbor View Road:

I hadn't planned to come to the meeting and I didn't even plan to speak but I have been thinking, as I listen to the various comments, that a main part of what the P&Z commission is trying to accomplish is relating to water runoff. I have a question really directed to the various departments in the town. Has the town studied bringing in a water runoff water system which is typically not what we have in New England to separate runoff water from storms from the sewers which tend to overflow in the sewer plant creating all sorts of problems? It's part of what would be an alternate way of providing, particularly in the areas of town where there is greater coverage and higher density, a way of dealing with the water that would probably be good for the environment, good for the community and would allow the town to take a very different look at the impact of what 621 does. It wouldn't be cheap. There might be federal

and/or state money to help doing this but I think it's something that has to be considered because, as you look at the future, the whole older part of the United States which is the northeast seaboard is going to have most likely continued greater and greater problems with water runoff. In the central part of the country, they dealt with this a long time ago. They have dual water systems to get rid of the water. They have a sewer system and storm water system. They are separated and handled differently. I think that has to be looked at as part of the solution and I just think that maybe this would help in deferring what the town is looking at right now until they have a better total solution for what they're talking about.

Mike Krawiec, 18 Treadwell Avenue, Planning and Zoning Commission:

I did not sit on this application. I was away on business travel. I, too, did not plan to speak tonight. I am going to make a couple of quick points. When I was elected to the commission, 2007, this was being talked about then so it's been batted around for over three years now. It is a pretty complex issue. It's not easy to understand. There are a lot of times when I didn't understand it. It takes a lot of time to figure things out. I want to correct a couple of things. First of all, Commissioner Press made a comment tonight that the definition of net lot area does not change. That is not correct. I would suggest that the RTM look carefully at the words. It does change. I believe tidal wetlands are being changed here. I don't know the impact. I don't know how many lots are affected but there is a change there. That was misinformation that was provided before. There have been comments that this is about big houses. I don't think it's about big houses. In fact, there are some unintended consequences that will result from this. If you are in an A lot or smaller and you have a porch, a deck and you have a pool, all those things are being removed out of building coverage. If you have any total coverage left, you are now going to be able to build a bigger house. A lot of the concerns have been about big houses in small lots so there are some unintended consequences here. I don't buy into the big houses argument. This is something that I raised several times in work sessions up to this application becoming live and the discussions about the unintended consequences and my views did not prevail. Patios, that's kind of a wildcard here. I don't know what the impact is going to be but it is going to impact anybody whose got a patio. When you work on something for three years, sometimes you get some tunnel vision and I think it's healthy to take a step back sometimes and listen to some other views. I believe sometimes it's best to approach these things with what's called "KISS", keep it simple stupid. People need to be able to understand it. If it's difficult to understand, people are going to push back on it. That's all I am going to say.

George Masumian, Chair, Architectural Review Board:

I am not going to rehash or go over all of the references to the ARB comments that the ARB wrote. What I do want to do is to remind the RTM members that when the Text Amendment 621 came to us, it was presented to us as a big house amendment to address the big house issues. In our comments, we do recognize the need for water quality, water runoff, water control, all of that, but our main concern with this text amendment and why we wanted more time to be put into it by the Planning and Zoning Commission is that it only addressed coverage. That was referenced many times this evening. We have five architects, a developer and a builder on our board. If we all felt that it wasn't appropriate to isolate one of the components, coverage, without taking into effect all three, setback and height, I think there should be some thought given to that concern. As a case in point, one of the presenters for the Planning and Zoning had a Power Point presentation in which he showed how the house on Compo Parkway could be made larger by developing it out to the setback line. That's only

one of those components. That's not even coverage being looked at. We're talking about setbacks there. All I can ask you to do is to think carefully. Yes, water quality and runoff is very important. We agree with you that it has to be dealt with but please look at this text amendment as not having been thoroughly thought out as to how the other two elements fit into the puzzle because I am afraid you can't just take one at a time and then hope that they are going to work together. We were told that the other two elements were going to be addressed later because to take them all on at one time would have been too much for the public to absorb. We didn't think that was true. I don't think it's true. So, please, I ask you to consider rejecting the adoption of Text Amendment 621.

Tim Wetmore, 14 Guyer Road:

I am a former member of the Planning and Zoning Commission. I've been an architect for 22 years doing residential projects. I'll be as brief as possible. Six twenty-one should be repealed. It does little or nothing to improve water quality or deal with drainage issues in ways that can't be dealt with in simpler or better means. I'd like to thank the RTM's Planning and Zoning review committee. I think they did a great job in summing up the issues and identifying ways to actually solve the problem. For their work, I think we should thank them. I think they put this in the right perspective and identify the issues at hand. This isn't about the environment. Everyone here wants clean water. Everyone wants to see drainage issues dealt with. This does neither.

Elaine Schanzenbach-Campbell, 12 Mayflower Parkway:

For the past 16 years, I have lived at 12 Mayflower Parkway. I help administer an informal block association in my area of Mayflower, Mayfair, Jenny Lane and Narrow Rocks, approximately 60 plus houses. I became involved with 621 because people came to me and asked what were the ramifications as I'm a realtor in town for the last 14 years. I would like to say also that I respect everything, every elected official here. I know that you give a lot of time and energy and you give your best. But I also know that good plans with the best intentions can sometimes have flaws and unexpected results. I think that's what we're coming down to. I salute the efforts of going after some of our water and environmental issues, this amendment tries to address them not in the best way. We have talked about that there are other ways that could give us better results. There is too much collateral damage to this amendment. The amendment, as it stands now, will affect probably 10 percent of the town's property owners by reducing their property value with the stroke of a pen. I give you some examples. As I said, I am a realtor and I have several clients that I am advising because they are close to the borderline financially. One owner will go under water by having this amendment. These people had to take out an equity loan several years ago to cover hospital costs. This devaluation of their asset, which will happen next Thursday, this loss is more than the loss of their hospital bills. Another is ready to move to an assisted care facility and will need all the assets that are available to them to sustain them the next couple of years. Again, this is somebody right now who needs to go to some additional care. The third will not have the equity to pay for their child's college education, something these people always thought was there that many people in this town have used for their education. But this time, this family will not have it. All of us were affected by the economic realities of the past few years but they were universal and we can't really say what caused them. This is a home-grown issue. The hardships of 621 are inflicted by the Westport elected officials, those that we have entrusted to do the best for us and are mandated by law to uphold our property values. What is so disappointing me is that, to the public, this went and came within two months. You people on

the P&Z had several years to absorb this, to try to talk about this. You talked amongst yourselves. Tonight, someone came up with another possible thing to look at. Maybe it needs to be open to a bigger audience so that we can understand this. All of us care about our water, about our town but don't take people's bread off their table and this is what this does rather immediately. Six twenty-one does not resolve the environmental issue and just has too much collateral damage and that's how I see it. I ask each RTM member to please remember you were elected to represent the people of your district. What are they telling you? They are saying they want amendment 621 overturned. I do not hear anyone really speaking from the public. Everyone that has talked has been involved in the P&Z, has been involved. This is the public. This is our town as much as people that run this town. Do not damage probably 11 percent of your neighbors. This is an additional 11 percent. Allow better regulations to be created to address the environmental issues. I implore you. Vote to overturn amendment 621.

Indy Goldberg, 12 Rice's Lane:

I am here tonight, not because my property will be affected directly by amendment 621, but because amendment 621 is just not good for Westport. I don't believe that the P&Z did a good enough job in creating it and I am hoping that you will not let it stand as it is. I only became aware of the amendment when the petitioner Valerie Jacobs brought it to my attention. The more I became educated about it, the more I realized how many things were wrong with it. I attended the Jan. 5 of the P&Z Subcommittee and have read the excellent report published by that committee and I agree with all that's been said regarding the new regulation's inability to accomplish what P&Z intended and the fact that other less drastic measures can be taken to preserve the environment and deal with runoff. I also agree that there will be an undue burden placed upon those who immediately become nonconforming over night if the amendment stands and to those who could become nonconforming if they choose to enhance their property. One of the most troubling aspects is that the P&Z did not properly research what the results might be if they pass such an amendment. I think that the P&Z did not vet this amendment with the public, they did not advertise or educate the public on what would be taking place or really attempt to involve the public in a discussion in order to make the best regulation possible. While the P&Z has been working towards this amendment for a number of years, the public is just now learning about it and, mostly, because Ms. Jacobs began circulating information about it. There were no newspaper articles until the week of the first P&Z hearing almost as if the P&Z was trying to pass this under the radar. To me, the lack of transparency and the unwillingness of P&Z to involve the public or listen to us at their own hearing was the very first mistake in this process. It has resulted in our coming before the RTM tonight. The 'better than nothing' argument is not a reason to uphold a bad regulation. Neither is Mr. Press' threat that this won't be dealt with again. That's a whole other conversation. I believe that tonight's turnout, although it's dissipated, is evidence that Westporters do not want this regulation imposed upon them. While many people won't come to the microphone to speak, I think if you took a show of hands of the general public to see how many of the people are here because they want amendment 621 overturned, you would likely find that most, if not all, are here for that reason. Please overturn amendment 621 and ask P&Z to go back to the drawing board and come up with something that works better for the people of this town.

Eddie Anderson, 29 Hyde Lane:

I want to first of all thank Mr. Mandell and his committee. I went to both meetings. I did manage to make it out in the snow because it was important to me and I did speak at those

meetings. I thought the committee worked very hard to get all the facts out very quickly under a lot of pressure. Thank you so much for doing that. I want to speak to you tonight from two perspectives. First of all, I want to speak as a homeowner and a property owner. I have lived in Westport since 1977. I think that's 34 years. I hate to think of myself as one of those senior citizens but I guess I'm getting there. I have owned my home for 27 years. We built our house. It does have wetlands on it. It is also a flag lot. You put the two together; we have a very long driveway. We decided to build a very nice but modest house. It's 2800 s.f.. within all the regulations that were there at the time. When the regulation to move the wetlands line back from 35 to 50 feet, we thought for a minute, this is going to impact us. Maybe we should, before the regulation goes in, sneak in another bay on our garage and increase the size of our house but we decided we really didn't want to do that right then and we didn't do it and we have never sought to do it. What this regulation does is it now puts my property in a nonconforming property. What that means is, not only I can't expand this house, but now I am going to speak to you with my other hat on. I am also a realtor. A lot of people tonight have spoken as if they take people around town showing them properties day in and day out. I can tell you from experience that today's buyer is very savvy. They are very careful. They do not buy houses without fully exploring all the angles. One of the first questions out of their mouths is, what are the hindrances, when they zero in on a property that they like, what are the implications of that wetlands? What if I want to expand the kitchen a bit? What happens about this and that and the other thing? As a realtor, it is my obligation to give them the answers or to send them to Town Hall to find out the answers and they do. If they have the opportunity to compare two houses which they always do and, often, two or three towns which they often do. They will go where there is the course of least resistance. So, back to my property. I am getting to the point, my daughter is gone. That was our nest egg. Now I have to bring one of those buyers to my house and I have to tell that buyer, yes, it's only 2,800 s.f. You're not going to be able to make that 12 x 12 kitchen any bigger, to be able to add any more bedrooms. You aren't going to do anything without going through a very rigorous process of getting a variance and maybe you will get it and maybe you won't get it. That uncertainty, right there, if you want to know what the crux of the value argument here is, it isn't about something you can measure. It's when I'm showing a house and people see obstacles to buying this house versus that house, they will go for that house and they will pay more for that house for the simple reason that they don't know and they don't have six months to figure it out. This law will make sure that properties that are now nonconforming that were conforming before have that question mark over them. As a result of that, their value will be diminished. I say last, but not least, I sat through the meetings. I must say I came to this party a little late but I echo the prior speaker's sentiment that it really wasn't a big discussion in town, very strangely for Westport because we are a town that tends to be a little noisy. I think that's a good thing. That makes this town vibrant and we really do care about our town. But I sat through those meetings in the snow the past few weeks. What I did learn really upset me. What upset me most was that no one really cared that they were going to pass a law that would hurt my nest egg that was going to hurt at least 1,000 other people's properties in a way that they can't quantify. Worse than that, I still have not heard a concrete scientific argument that proves that if you change the coverage you improve the water quality. I don't see anything that is so persuasive that you would hurt 1,000 or more people and their most important asset without giving them back proof that you are doing something important.

Jim Kickham, 9 Fresenius Road:

I am one of those people who doesn't look to profit from the homes here in Westport but I hit the trifecta with wetlands, some steep slope and a swimming pool so, to echo comments that were made by others before me, the only thing that bothers me about this process is the lack of transparency on the part of P&Z where, if you have been talking about this for four years and 57 meetings, I think you've said, and the first time I hear about it is in October and then in November. There were several issues raised by the public and instead of taking a few months to think about it a little bit more, go back, figure out what's going on, they passed the amendment in the middle of the holiday season three weeks later. There were comments that were made at the beginning of tonight's session speaking to we need more civility in our politics and our town meetings. One of the reasons there is so much vitriol in today's society is because of this lack of transparency, this sense of being violated without due process. I don't understand how we can put this through when experts have spoken to the fact that there is no concrete data that suggests one way or the other that we are going to improve water quality. We will improve water quality, obviously, but by how much? We'd also improve water quality if we all took up biking to work instead of a car. In summation, I urge you to overturn this.

Bart Shuldman, 14 Broadview Road:

I was going to talk about a couple of things but then Ira stood up and I was really blown away by our town lawyer standing up and saying 'Don't worry. Go get a variance. Eighty-seven percent pass.' Well then, why pass this? What have we accomplished? 'Don't worry about property values. It might not go down.' Then don't pass this amendment. The one thing I did want to bring up is I went to the Westport.gov website and I looked up what the mission of P&Z is. I was amazed to read a sentence. They accomplish what they do "with a service-oriented staff that provides active and consistent enforcement in a fair and equitable manner in order to maintain property values." ...in order to maintain property values. Is that what is happening here? Are we maintaining property values? I don't think so. Hundreds of people have written letters. Hundreds of people have made phone calls to the RTM. People have said it is the most vocal Westport has become. There must be a reason. We don't like this. We don't like P&Z trying to take over. We don't like the amendment and we don't like the fact that you're not maintaining our property values. I attended one of the meetings, the last one, and our Town Engineer was there. He's right here. He was asked to make a statement about some of the things that supposedly he said or didn't say and he talked for about 20 minutes. So, I was rather curious. How does he feel? I'm going to quote him. He was talking about 621:

I don't think it's bad but I don't think it's good. There are a lot of other ways to do it, a myriad of other ways to do it.

If that's true, if that is what our Town Engineer is saying, why affect people's lives? Why affect people's property values. Go research these myriad of ways and see if things can be done without affecting peoples' property values. RTM members, the subcommittee did a great job. Matt, you summarized it great. We're your friends. We're your neighbors. We beg you to overturn 621.

Gerald Romano, 38 Saugatuck Avenue:

Good evening ladies and gentlemen and RTM members. I would like you to know I have been to all these meetings to speak against any taking of people's property and their rights otherwise known as P&Z amendment 621. I do not want to repeat what Valerie Jacobs and Mr. Mandell said and which Mr. Minkowitz will say when he comes up and others have said. I would say to you as an American and a patriot who served his country, government should

not dictate where, why and the size of house one chooses to live in. We, the people, who live, work, vote and pay taxes in Westport are the people who informed the P&Z they are infringing on my and our rights. Those Americans who fought, died and are still fighting and dying to keep America free, let us enjoy our home no matter what size we choose to build them. Let us live our dream. As I've become older and wiser, I've learned the hard way that the pen is mightier than the sword. Would it not be more rewarding if your boss wrote you a bonus check of \$1 million than to rob a bank at gunpoint for a \$1 million? In conclusion, I ask you RTM members to use your pens and overturn P&Z amendment 621 forever.

Phil Dabice, 4 Half Mile Common:

Good evening everyone. Thank you to all those who have stayed so late. We're hitting midnight now. What I want to be sure to remind everyone, particularly the RTM, is that your committee on this P&Z 621 did quite a hard amount of work on it. I sat through two of the sessions, basically to listen and to learn how things work, what was being considered. They did work very hard. I heard some comments on who were the experts and who were the professionals. Certainly, they are far more expert on this than most folks because they have been looking into for a while. They also tapped other experts, some of whom would be on the P&Z's expert team who are basically the town's staff folks who have offered less onerous ways to at least address what is, we're being told, the key issue here which is clean water. We're all for clean water. That I'm sure of but there's less damaging ways to achieve it, possibly even simpler and that might get into control over pesticides and fertilizers which certainly are running into the water supply as opposed to attacking people's financial nest eggs. Their homes are. What I keep hearing is the reference to when some folks have gone up is that some folks will be affected, a few will be affected. We're talking 1100 new homes to be affected. We have to stop thinking of it as properties. These are homes with families in them. The other 40 percent that is already nonconforming, we just might have dug them into an even deeper hole to be able to do whatever it is that they have been planning. We just made it harder for them. It goes beyond a brand new number of 1100. I got into the property values. You get into the possibility, you got to ZBA. Maybe, maybe not, you get approved. This is making things tighter. The ZBA is being put in the position of saying, 'If I keep giving people carte blanche to go and do this, what's the point of having the law written in the beginning?' There is none. I have heard there are faster ways, possibly less onerous ways to tackle the water issue. Your RTM Committee did very hard work on this. I sat through, never asked a question. I listened, learned. I would hope you would all vote against this and overturn 621 as the committee has suggested.

Michael Calise, district 2:

I would like to elaborate a little bit on the effect of nonconformities on values. I come to you as a real estate expert. I have been a real estate broker since 1967 and real estate appraiser for over 30 years. I have testified in state and federal court on real estate values. The process of value being determined on nonconforming properties works in this fashion. When people decide they want to buy a house, they develop a framework of what they are looking for. It might revolve around price or location. It might revolve around house size. It might revolve around the necessary amenities they need or some combination thereof. But as they go through that process and as they work with the professionals that are assisting them, real estate brokers or attorneys, they begin to concentrate on a specific group of homes. They begin the process of looking at these homes. This may be a very long process or a very short process. At some point in time, they find themselves needing to quickly make a decision and

close on a house. That could have come about because they have sold their own home; it could be because they are in the midst of a job transfer; it could be because of some change in their life circumstances. Maybe they need to take on parents within the home or some change with their children. When they reach that point in time, they need to find a home, make a decision and they need to close on it relatively quickly. When they narrow down their house search and begin to look at the individual homes, and look at what their needs are, if they discover a home that they need to make a change to, maybe they need to put a small addition on it, or some other provision, one of the things that will come up is how hard it will be to accomplish those tasks. If it does come up that the house is nonconforming and the issue comes up of the necessity to go before the various boards and commissions to get approval, the one thing that creeps in is the uncertainty of the process, the time and the expense. I can assure you that all of those are very real. It's very uncertain, the process. It's exceedingly expensive. We are talking about site plans. We're talking about bringing in professionals. We are talking about attorneys. We are talking about land use consultants and we're talking about the time factor. When a buyer is faced with all of those demands knowing that they have to move quickly because, again, they've sold their house or, in another instance, maybe they've got a mortgage approval and they've only got 30 days or 60 days on the guarantee of the interest rate, they are going to move away from the house that is nonconforming to a house which is conforming, a property that will allow them to do what they want to do or is satisfactory in some other way. When that occurs, the property that is nonconforming gets put aside and it becomes a part of that inventory of nonconforming houses. The buyer base decreases because someone has bought a house but the nonconforming base increases. The old law of supply and demand, less buyers available to make a purchase and more product available because there is another nonconforming house in the inventory; therefore, a reduction in value. There's a flip side to this. If you are a homeowner that has a nonconforming property and it takes longer to sell or, in effect, has a lesser value than you thought it might have, you might find that you have insufficient equity to move forward in what you wanted to do. So, in fact, someone in a nonconforming house might see the need to take their property off the market, not sell it, not move forward and buy a house somewhere else, maybe in the same community. It creates a circle of problems which has a dampening effect on the market. Am I saying that this happens in every instance? As Mr. Bloom gave testimony that some people don't care, of course, it doesn't happen in every instance but it doesn't take a great percentage of problems to create a larger problem. When we talk about unemployment at eight or nine percent, it's devastating. We are in the same situation here. If three or four or five percent of the houses get rejected because of nonconformities, it rolls through the whole marketplace and it has a dramatic effect as it escalates. One thing we don't need in Westport is more nonconforming houses. I ask you to please overturn this.

Joan Burry, 27 Partrick Road:

I have been a resident of Westport for 41 years. As a retired real estate appraiser and bank review appraiser, I wish to point out to all of you on the RTM that it is a federal requirement that an appraiser inform prospective lenders that a property is nonconforming whenever a mortgage loan is requested. This holds true for refinancing, reverse mortgages sought by seniors and mortgages when a property is sold and purchased. I provided you all with a report dated July 2010 written by an absolute expert in the appraisal and assessing business from California that explained that when a municipality changes zoning regulations so that some properties become nonconforming that had been conforming, the newly nonconforming

property loses part of the value of the bundle of rights that adheres to every real estate ownership. The loss of part of the bundle of rights prevents the highest and best use of the property from being available for those parcels. That causes loss of values in sales prices that translates upon the next municipal revaluation to a lower assessment of all the nonconforming properties. The Grand List is impacted and the tax burden that is carried by those properties that have now become nonconforming is shifted to all the other owners in the community; hence, changing a conforming property to nonconforming poses a hardship for the homeowner who wants to refinance or sell but, it can potentially can cause a hardship to the other members of the community whose taxes will increase as the Grand List impact hits them. In order to protect all of our residents from potential hardship in a time of financial uncertainty and fragile real estate market, I am against permitting Amendment 621 to take effect. I encourage you all to overturn it.

Amber Llorens, 2 Thomas Road:

I'm not an expert. I'm just a mom of four who lives in Westport. I raise my kids here. I am the financial end of this that everyone is talking about that this effects. I don't have a giant house. I have a nice house to raise my kids in. It's a two story house not four stories. It has a nice piece of land. I bought this property, an old 1930's home. I love it and it's falling down. The ceiling caved in through the kitchen last week and the pipes burst in the other bathroom. The attic roof is leaking and I can go on and on and on. But we didn't knock the house down. We kept the house because we love the house and we want to raise our kids here. If you pass this, the process we have gone through with the architects and the engineers, with the survey we already have, with the builder and all the people we have already paid to find out before we bought the house and now trying to renovate the house and add a couple of hundred square feet to bump the kitchen out...what we want for our children is to have a nice kitchen. We don't have a playroom. Everybody has toy boxes in their room. We don't have an office for my husband to work out of. He has a table and a chair right next to the bed in the bedroom. We don't have fancy schmancy anything. But if you pass this, everything we've saved for, a young family, we don't have a nest egg, we don't have a lifetime of savings. We have four children ages one through 13 and we have a stay at home mom with no income. One income. We saved every penny to buy this house. We will not be able to change things that need to be done. This isn't right to do. It's not about water conservation. The people you are affecting financially, the dreams you are ruining, the young children. You are not just affecting one house. There are six people who live in my house. Six. I am one person. You are talking about 10,000 residents. Let's get the real scope of who this is affecting. How many young people have bought houses in this town? How many families? How many children go to school? How many people don't have five million dollars to buy the new house that they have to buy the old house and save their life savings to fix it up room by room and make it livable and deal with it. A lot. Every one of my friends that is raising children has to do what I'm doing. They buy a small house that they plan to build on, that they plan to someday have a pool. Is it right now? I can't answer that. I shouldn't have to pay 20 more people to give you the plans now when I have a one year old. I shouldn't have to decide my future right now for my children today. I should be able to do that as time moves on and as my children grow. It should be in Westport. I shouldn't have to move to another town to make that happen. This is affecting more people than I think you realize. There's not a lot of young people here to speak on this behalf. I can tell you, count the children in the schools. Count the families are busting out at the seams because they are having more children. They need a bigger house. They need an addition. They need these things. You will put them out of that. You will force them to

leave. Not only will you force families to leave, you will bar families from coming in because they cannot afford the big houses that they need for their families. You are one and two people, maybe one child in the home. I have four. Most families have three or four children. They live in small houses and we add on and we make it work for us. Please do not pass this. You are affecting more lives than just the number of 9,500, the 431 or the 300. All those numbers don't mean anything because in every single household, there are many, many children that this will affect in the future.

Shelly Minkowitz, 25 Broadview Road:

The new amendment that we are discussing here was purportedly passed by the P&Z in order to "...address significant environmental issues in Westport especially water quality issues and drainage." (Quoted from the Chairman of the Planning and Zoning Commission in his latest newspaper article.) This is certainly a valid and proper goal but this amendment does little or nothing to help with that effort. Primarily, it imposes a loss of Westporters use of and equity in their property resulting in a future reduction of the Grand List and higher taxes for other residents. There are approximately 9,600 existing residential properties with homes, pools, driveways, tennis courts and other coverage which presumably must be responsible for generating the runoff that creates the "issues" with drainage and water quality. But these new regulations do not require the elimination of a single drop of water, not one drop of water that is currently running off of any of those properties. That is an astounding realization. These regulations address only new construction. New construction is already required by our Engineering Department to retain all the runoff within the property. That is, there must be zero incremental runoff from any newly constructed house and all of its improvements. New patio coverage requirements do nothing to control drainage from existing patios, only mandating that they be added to the total percentage coverage of the property. That will require everyone with a patio to acquire a \$3,000 to \$5,000 A2 survey to establish proof that this patio existed prior to these regulations going into effect. An example of the negative aspect of the new coverage regulations is the real effect of the change in coverage of a tennis court from 50 percent, which it has been for several decades, in order to relieve the town of providing equivalent facilities, to the now specified 100 percent. Tennis courts, existing and proposed, will now be required to be counted in full for coverage making, probably, every AA zone, one acre lot with an existing court nonconforming, again, resulting in a loss of value and a reduction of the Grand List; however, existing courts will not be required to retain any of their drainage runoff while new courts are already required by the Engineering Department to retain 100 percent of their runoff even though they count as 50 percent coverage. What is the purpose of that new regulation? Certainly, not to solve any drainage issue. It is, once again, to restrict peaceful enjoyment of the property by making the property nonconforming, a goal of the Westport P&Z for the past 12 years, believe it or not. A tennis court covers 7,200 s.f. so that the additional 50 percent or 3,600 s.f., an amount larger than the footprint of most houses in town, will now be added to the property's total coverage, again, severely restricting further use. An interesting note about tennis courts is that the P&Z Commission during the public hearing process not only did not know how many courts existed in Westport prior to doing this, but the staff testified that a tennis court's coverage was only 2,800 s.f.. We would hope that proper information would be gathered before approving new regulations. Apparently not. With regard to a second stated P&Z Commission purpose, "It will also help neighbors who live next to potential new building construction by addressing excessive rain water runoff." (From the same newspaper article.) This is very difficult to understand since it is actually the new building construction that must exhibit zero incremental runoff and it is the neighbor, in fact,

who provides no control of the runoff. One must wonder who is being affected here. Certainly, not the person that it states in the article. Lastly, if drainage control is the real motivation in this amendment, as Ms. Mozian stated and Pete Ratkiewich stated, driveway paving is probably the worst offender with regard to runoff. How is it, there is no drainage control for the paving of existing permeable driveways in town which average 2,000 s.f. and sometimes as large as 5,000 s.f. which contribute considerably more intensive runoff than our "most environmentally unfriendly coverage" as our houses were labeled by and P&Z Commission member. If the aim of these new regulations is to restrict homeowners from enjoying their properties and reducing future tax collections, it accomplishes that purpose very well. But if we are really interested in controlling drainage and water quality, these regulations do very little or nothing in that regard. Thank you for your time and we hope that you will overturn this amendment.

Craig Burry, 27 Partrick Road:

I wasn't going to say very much and I'll keep it kind of clear and concise. I am hearing a lot about runoff and conservation, of water problems, yet, people are still allowed to cut down trees, 300 of them, and cause nothing but runoff onto major roads and private roads and I don't know why. The conservation problem should be separate from what this is. This is a real impact of us homeowners and potential homeowners of nonconformity of property. I have seen regulations. I am a Coast Guard captain. I run under the CFR which is Code of Federal Regulations and, believe you me, they are tough regulations to work with, the United States Coast Guard. This is nothing compared what I am watching tonight seeing all this going on. What you need to do, P&Z, is go back to the drawing board, review it all, you have taken three years now so why don't you go ahead for another six months, figure out what you want to do and overturn 621. Please. It is going impact Westport severely and us homeowners.

Kenneth Konkos, 6 Easton Road:

I moved here in July. I never would have moved here if I had known about 621. This 621 is economic suicide. There is no possible way. Your property values are definitely going to drop. I never would have come here. I used to live in Norwalk. Just to put in a small renovation, you have to get surveyor here. You have to get an architect just to put a little room in your place. This 621 is just going to make everything even worse. In Norwalk, I didn't have to go through any of these things. You go in Norwalk and draw up your plans and they have plumbers and engineers that work for the town. They take a good look at everything and they approve what is done. I never had to go through any of this. You already have the most restrictive laws here. To put through 621 would be a total nightmare. I did attend two of the committee meetings. Mr. Corwin said at the end of the second meeting that I attended that even though we had an open forum, it was up to these members who were elected to make the final decision because they were so elected. I never elected any of these members. There's no possible way I ever would. A five year old child would have known better. Come on. Right is right. The thing about all of this is the people do have rights. It seems like none of the citizens here who are paying these taxes have anything to say. Everything is done before you have anything to say. My vote would be to overturn it immediately and to look at what is really going on in this town. Who wants to pay taxes or be in a town like this when you don't even have a voice. Your property values go down overnight. No way. Also, I also brought this up in the committee meeting. They are saying with this new regulation that they have to build the home closer to the road. You have electro-magnetic radiation from those lines. Has any health department been brought in at all to address this issue? I live on a busy road. What

about the lead in the soil? Is the health department doing anything here about this, the impact on young children? I have a nine year old. What is the impact? Are the rates of Leukemia going to go up in the town? Is the town going to set aside millions of dollars to pay these claims quickly? Is Mr. Bloom, the attorney for the city, going to set aside and pay these claims immediately? I would like to see millions of dollars set aside for these claims.

Mr. Rose:

Seeing no further electors who wish to speak, we are going to give the petitioner and then the P&Z an opportunity if they want to rebut any of the statements that were made factually.

Ms. Jacobs:

I have one comment. There is a lot of confusion about the size of the patio that is "exempt" and I'm not talking about the permeability portion. Alicia Mozian said that you get a free 500 s.f.. That's not true. You get the lesser of two percent of your lot or 500 s.f.. That makes a big difference if you are on a 6,000 s.f. lot. I know that there is not only confusion among the public but Planning and Zoning actually put out a memo that had it exactly backwards. They said it was the greater of two percent or of 400 or 500 s.f., whatever the number was at that point. That was still posted on their website as late as Jan. 4. I just want to say, this might be separate legal grounds for a challenge but I wanted to correct the misperception.

Ms. Flug read the resolution and it was seconded by Mr. Rubin.

RESOLVED: That upon the upon the request of at least 20 electors of the Town of Westport pursuant to Section C10-4 of the Town Charter, the action taken by the Westport Planning & Zoning Commission on December 9, 2010 amending the Westport Zoning Regulations by adding and modifying multiple sections regarding residential structures and coverage as more particularly set forth in Text Amendment #621 Appl. #10-037 is hereby reversed. (Full text of the amendment below, Attachment 1)

Mr. Rose:

Before we go anywhere, it is now 12:30 a.m. My estimate, I'm just taking a wild guess, is that we have at least another hour and a half ahead of ourselves, possibly longer. The question is, do you want to slog through it this evening and I know all of us get very bright at about one o'clock or do we want to come back tomorrow night for discussion and the vote. I'm going to leave it up to the body.

Point of order, Allen Bomes, district 7:

Should we first ask how many people can't come back tomorrow?

Mr. Rose:

First I want to see if anybody even wants to come back tomorrow. If they don't, it's a moot point.

By show of hands, a majority voted to stay this evening.

Ms. Flug read a letter into the record from Jonathan Cunitz, district 4:

To my fellow RTM members:

It is with regret that I am unable to join you this evening to vote for overturning P&Z Text Amendment #621. I realize that my absence has the same impact as supporting the

Amendment, but that is directly opposite to my views on this issue. The two basic objectives of the P&Z Commission in preparing the Amendment are worthy. There is a need to preserve the character of neighborhoods by assuring that new homes and modifications are in scale with surrounding properties. It likewise is important to assure that water drainage and runoff for homes do not have any negative environmental impact. Having said this, it is my opinion that Text Amendment #621 is ill-advised and creates much greater harm than any of its perceived benefits. I am disappointed that the P&Z Commission crafted an Amendment with insufficient research and inadequate due diligence. It apparently disregarded the opposition to the Amendment by residents, the Greater Bridgeport Regional Planning Agency and the Westport Architectural Review Board. As many individuals have mentioned, there are alternatives that will work toward the cited objectives without having such unrelated adverse consequential effects. Several years before joining the RTM, I had the honor of serving on the Westport Zoning Board of Appeals. During my time on the Board, I reviewed numerous applications related to coverage issues. It is important to know that the ZBA cannot grant variances solely as a result of the impact of Text Amendment #621. The underlying justification for variances must be hardship related to the land. Reduced coverage as a result of this Amendment does not justify a variance. The enormous increase in nonconforming properties will translate to a corresponding huge increase in applications for variances and work for the ZBA. Minor home additions or changes that otherwise would not require variances, will now cause unnecessary costs, efforts and time delays for homeowners. I encourage all members of the RTM to vote to overturn Text Amendment #621. Respectfully submitted, Jonathan Cunitz

Members of the RTM

Joyce Colburn, district 6:

I respect Planning and Zoning and I voted to sustain 621 in the Planning and Zoning Committee meeting of the RTM; however, I have been inundated with emails and letters talking about hardship to people that live in the town. I've sat here and listened to the public and I am going to vote to overturn.

Diane Cady, district 1:

I am the RTM Environment Chair and a member of the RTM P&Z Committee who did an admirable job; however, as Chair of the Environment Committee, I think it is really important for me to let you know that I am going to vote to sustain 621. Thirty-four years ago, I bought a ramshackle little beach cottage down on Danbury Avenue and I had no idea that it was nonconforming because I didn't know about things like that. After a big flood, I decided that my house needed elevating. It was scary but I had to go before the ZBA which I did myself and then Planning and Zoning which was also scary. Approval came and my house went up and I was able to build a room onto the side of my house. It is still nonconforming and probably now non-nonconforming but it's a real nice house and it hasn't lost any value. Thank you Ron Corwin and Ellie and Ira Bloom.

Velma Heller, district 9:

First, I want to acknowledge the hard work of the RTM Planning and Zoning Committee and, certainly, the efforts of the Planning and Zoning Commission to address the proliferation of big houses and protect water quality by decreasing coverage and promoting the use impervious materials to control runoff and drainage. Having reviewed video streams, P&Z meetings, workshops, attending RTM P&Z Committee as well as reading memos from staff

and listening to input from the community, lots of input from the community, there appears to be little confidence in the amendment's capacity for accomplishing its goals. Furthermore, there is very strong feeling that the negative impact on the community of sustaining this amendment is far greater than its potential positive impact on the environment. You have heard from previous speakers representing opposite points of view, offering a variety of complex technical reasons to support or reject this amendment. Overwhelming opposition to this amendment seems to be focused on one major issue, the potential negative impact on property values of increasing the number of nonconforming properties. Recognizing that any attempt to change zoning regulations may have negative impact on some property owners at any time, it is also critical to note that as in many other aspects of life, timing is everything and perception is as important as reality. Even for community minded, environmentally savvy people, in these economic times, any threat to the status of property values, whether perceived or real, leads people to ask if there are other ways to address drainage and runoff issues that don't create the threat of nonconformities for property owners. As to the big house issue, it has been suggested that any discussion of big houses should consider not only coverage but height and set back as well as all of these other interrelated factors that clearly have a critical impact on both the surrounding neighborhood and the broader community. Less onerous alternative means of resolving drainage and water runoff to protect water quality should be pursued utilizing all environmentally effective new technologies. This is a very complex amendment that may be attempting to accomplish too many goals in one fell swoop. While the intent was commendable, I feel that the unintended consequences of this amendment, as currently written, outweighs its benefits and I will not support this amendment.

Heather Cherry, district 8:

I'll be quick. I was an outsider looking in just a day or so ago and I have been to a bunch of earlier RTM meetings. I know that there were some discussions previously about a standard of review of some of the P&Z discussions. Given that I was just sworn in tonight, I just wanted to make known to my fellow members of the RTM and to the community that, obviously, I knew I was going to be sworn in, or, hopefully, was going to be sworn in, and have spent many hours reviewing the record and doing everything that was required of me as a member of the RTM. I am going to vote to overturn the amendment but I did want to just put on the record that I did spend the appropriate time and effort that is necessary.

Bill Meyer, district 3:

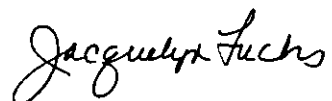
Along with Steve Rubin, I have been on the RTM for 17 years. I have not had one email in favor of this. You have to certainly vote for what your constituents want.

By roll call vote, the amendment to overturn Planning and Zoning Amendment 621 passes 32-1. (A majority of 24 members is required to overturn the amendment.) Those in favor: Mandell, Milwe, Starr, Bruce, Guthman, Keenan, Timmins, Ancel, Galan, Meyer, Seidman, Underhill, Wieser, Levy, Rossi, Suggs, Colburn, Talmadge, Urist, Ashman, Bomes, Klinge, Rubin, Batteau, Cherry, Rea, Schine, Flug, Green, Heller, McCarthy, Rose; Opposed: Cady.

The meeting adjourned at 1:01 a.m.

Respectfully submitted,
Patricia H. Strauss

Town Clerk

A handwritten signature in cursive script that reads "Jacquelyn Fuchs".

by Jacquelyn Fuchs
Secretary

ATTENDANCE: January 18, 2011

| DIST. | NAME | PRESENT | ABSENT | NOTIFIED MODERATOR | LATE/ LEFT EARLY |
|--------------|-----------------------|-----------|----------|-----------------------|---------------------|
| 1 | Diane Cady | X | | | |
| | Matthew Mandell | X | | | |
| | Elizabeth Milwe | X | | X | 8:15 p.m. |
| | Judith Starr | X | | | |
| 2 | Linda Bruce | X | | | |
| | Michael Guthman | X | | | |
| | Jay Keenan | X | | | |
| | Sean Timmins | X | | | |
| 3 | Amy Ancel | X | | X | 8:45 p.m. |
| | Robert Galan | X | | X | 8:40 p.m. |
| | Bill Meyer | X | | | |
| | Hadley Rose | X | | | |
| 4 | Jonathan Cunitz, DBA | | X | X | |
| | Gene Seidman | X | | | |
| | George Underhill | X | | | |
| | Jeffrey Wieser | X | | X | 8:50 p.m. |
| 5 | Barbara Levy | X | | | |
| | Richard Lowenstein | | X | X | recused |
| | Paul Rossi | X | | | |
| | John Suggs | X | | | |
| 6 | Joyce Colburn | X | | | |
| | (vacant) | | | | |
| | Catherine Talmadge | X | | | |
| | Christopher Urist | X | | | |
| 7 | Arthur Ashman, D.D.S. | X | | | |
| | Allen Bomes | X | | | |
| | Jack Klinge | X | | | |
| | Stephen Rubin | X | | | |
| 8 | Wendy Batteau | X | | | |
| | Heather Cherry | X | | | |
| | Michael Rea | X | | | |
| | Lois Schine | X | | | |
| 9 | Eileen Flug | X | | | |
| | Kevin Green, Ph. D. | X | | X | 8:40 p.m. |
| | Velma Heller, Ed. D. | X | | X | 8:22 p.m. |
| | John McCarthy | X | | | |
| Total | | 33 | 2 | | |

Roll Call Vote: Item #3 – Vote to overturn Text Amendment #621

| DIST. | NAME | ABSENT | YEA | NAY | ABSTAIN |
|--------------|-----------------------|-----------|-----------|----------|---------|
| 1 | Diane Cady | | | X | |
| | Matthew Mandell | | X | | |
| | Elizabeth Milwe | | X | | |
| | Judith Starr | | X | | |
| 2 | Linda Bruce | | X | | |
| | Michael Guthman | | X | | |
| | Jay Keenan | | X | | |
| | Sean Timmins | | X | | |
| 3 | Amy Ancel | | X | | |
| | Robert Galan | | X | | |
| | Bill Meyer | | X | | |
| | Hadley Rose | | X | | |
| 4 | Jonathan Cunitz, DBA | X | | | |
| | Gene Seidman | | X | | |
| | George Underhill | | X | | |
| | Jeffrey Wieser | | X | | |
| 5 | Barbara Levy | | X | | |
| | Richard Lowenstein | X recused | | | |
| | Paul Rossi | | X | | |
| | John Suggs | | X | | |
| 6 | Joyce Colburn | | X | | |
| | (vacant) | | | | |
| | Catherine Talmadge | | X | | |
| | Christopher Urist | | X | | |
| 7 | Arthur Ashman, D.D.S. | | X | | |
| | Allen Bomes | | X | | |
| | Jack Klinge | | X | | |
| | Stephen Rubin | | X | | |
| 8 | Wendy Batteau | | X | | |
| | Heather Cherry | | X | | |
| | Michael Rea | | X | | |
| | Lois Schine | | X | | |
| 9 | Eileen Flug | | X | | |
| | Kevin Green, Ph. D. | | X | | |
| | Velma Heller, Ed. D. | | X | | |
| | John McCarthy | | X | | |
| Total | | | 32 | 1 | |

RESOLVED: That upon the upon the request of at least 20 electors of the Town of Westport pursuant to Section C10-4 of the Town Charter, the action taken by the Westport Planning & Zoning Commission on December 9, 2010 amending the Westport Zoning Regulations by adding and modifying multiple sections regarding residential structures and coverage as more particularly set forth in Text Amendment #621 Appl. #10-037 is hereby reversed.

Full text of Amendment #621 follows:

Amendment #621

Submitted: 8/6/10

Received 9/14/10

Public Hearing: 9/23, 9/30, 10/7 & 10/14, 2010

Adopted: 12/9/10

Effective date: 2/14/11

Deleted language is [~~struck out and in brackets~~]; New language is underlined.

§5 DEFINITIONS 5-2 Specific Terms

TERM

DEFINITION

Balcony: See Porch

Building: A Structure having a roof supported by columns or walls along whose outside face can be traced an unbroken line for the complete circumference of the building which is affixed to a lot or lots for the housing or enclosure of persons, animals or chattels, and shall include each of the independent units into which it is divided by common walls.

A building which is connected to a Principal Building by a carport or garage, or by a porch, breezeway or passageway with a common wall of less than 8 feet in length, shall be deemed to be an Accessory Building.

Any structure, such as a [~~deck or~~] Covered Deck or covered Porch with Floor Area above or below, attached to a building shall be deemed to be part of the building.

A building which is connected to a Principal Building by a fully enclosed above ground passageway with a common wall of 8 feet or more in length, and having a finished floor, walls and ceiling shall be deemed to be part of the

TERM

DEFINITION

principal building.

The following shall be excluded from the definition of building:

- Decks, Patios, Terraces, Porches
- Swimming Pools, Sports Courts
- Temporary Portable Structures

**Coverage,
Building:**

The percentage of a development site in a Non-Residence Zoning District, or the percentage of the Net Lot Area of a lot in a Residence Zoning District, occupied or intended to be occupied by all buildings and structures. Building coverage shall include the building area. (See Appendix D)~~[No more than 20 percent of the land covered by waterbodies, water courses, wetlands, and land of severe topography having slopes of twenty five percent (25 percent) or greater shall be included in the lot area used for computing the maximum allowable building coverage.]~~

Coverage, Total:

The percentage of a development site in a Non-Residence Zoning District, or the percentage of the Net Lot Area of a lot in a Residence Zoning District, occupied or intended to be occupied by all buildings, structures, parking areas, driveways, swimming pools, tennis courts and similar improvements. ~~[Patios and terraces, as defined herein, shall be excluded except if the terrace or patio is 3 feet or more above the adjacent grade at any point, such as with a retaining wall. Parking on unpaved surfaces provided by places of worship, in excess of the minimum number of parking spaces required by §34-5 of these regulations, shall be excluded. Total coverage shall include one hundred percent (100 percent) of the building area [and] parking areas, driveways, and similar improvements, but only fifty percent (50 percent) of a tennis court. No more than 20 percent of the land covered by water bodies, watercourses, wetlands, and land of severe topography having slopes of twenty five percent (25 percent) or greater shall be included in the lot area used for computing the maximum allowable total coverage. Calculations shall be made on forms approved by the Planning and Zoning~~

TERM**DEFINITION**

Commission-] The provisions with respect to Total Coverage shall not apply to the following:

Deck:

- Parking on unpaved surfaces provided by religious institutions, in excess of the minimum number of parking spaces required by §34-5 of these regulations, shall be excluded if approved by the P&Z Commission. Total coverage shall include one hundred percent (100 percent) of the building area [and] parking areas, driveways, and similar improvements;

Gross lot area:

- One third (1/3 or 33 percent) of Patios, Terraces and Decks that are constructed of a permeable surface;
- All Patios, Terraces and Decks on the lot which cover up to two (2) percent of the Net Lot Area or 500 square feet whichever is less.

(See Lot Area, Net and Appendix D).

A flat floored, roofless area attached to a building and elevated from the ground. Deck floors must be permeable. The area under the deck must be of a Permeable Surface. The provisions with respect to Total Coverage shall not apply to the following:

- One third (1/3 or 33 percent) of Patios, Terraces and Decks that are constructed of a Permeable Surface, if approved by P&Z in consultation with DPW & Conservation. 66 percent of these areas will count in coverage;
- Patios, Terraces and Decks which cover up to two (2) percent of the Net Lot Area or 500 square feet whichever is less.

see Lot Area, Gross

Lot Area, Gross

Lot area in square feet based on a Class A-2 survey of the lot lines, not including the area of the accessway for a rear lot per §31-2.2.4, herein. Gross lot area shall be measured up to the Mean High Water Line (MHW) in areas of tidal influence. [The horizontal area contained within the property lines of the lot as calculated below. In determining compliance with minimum lot area and shape requirements land subject to easements for underground utilities may be included but land subject to easements for above ground utilities which forbid buildings or structures within the area of the easement or, where no such

TERM

DEFINITION

Lot Area, Net:

~~easement exists, the minimum area recommended by a utility company for public safety shall not be included. No part of any public or private street nor any easement which grants exclusive surface use of the property to other than the owner (except drainage easements) shall be included in the lot area. In determining compliance with minimum lot area requirements, net lot area shall be utilized land of severe topography having slopes of twenty five percent (25 percent) or greater, and land covered by waterbodies, water courses and/or wetlands may be used to satisfy no more than twenty percent (20 percent) of the minimum lot area requirements.~~ Calculations shall be made on forms approved by the Planning and Zoning Commission (See §31- 2.2.4 and Appendix D – Lot Area Worksheet)

Net Lot Area

Lot Area, Gross minus the following:

- above-ground utility easements;
- public or private streets or roads; other exclusive surface easements, which grant exclusive use of the property to other than the owner (except drainage easements) and;
- 80 percent of the land area on the lot which is covered by water-bodies, water courses, wetlands and land of severe topography having slopes of twenty-five per cent (25 percent) or greater.

Permeable Surface

Underground utility easements shall count towards Lot Area, Net

Porch

Calculations shall be made on forms approved by the Planning and Zoning Commission (See §31- 2.2.4 and Appendix D).

Structure:

See Lot Area, Net

Ground cover material and associated substrate, other

TERM

DEFINITION

than natural soil or vegetation that effectively allows for water to penetrate through it into the ground below. The determination of effectiveness shall be based upon a) a soils investigation, b) system and substrate design and c) verification of the installation as approved by the Town Engineer.

1. A covered (roofed) or uncovered unenclosed, unheated & uninsulated space attached to the outside of a building,
2. A platform projecting from the wall of an upper floor of a building and enclosed by a railing (balcony.)

Swimming Pool:

Tennis Sports Courts:

Anything constructed or erected which requires location on the ground and or/ attachment to or placement on something having a location on the ground. Except as otherwise indicated, "Structures" as used in these regulations shall be deemed to include buildings, parapets, turrets, ground-mounted and roof-top mechanical units, light poles, swimming pools, tennis courts, towers, paddle or platform tennis courts, balconies, open entries, Porches, covered Porches, Decks, signs, permanent awnings, ground mounted antennas, ground mounted solar panels, satellite dishes, flagpoles and fences or walls more than eight (8) feet in height and a gas or liquid storage tank that is principally above ground. (See §32-7.4 for rooftop dishes)

Terrace or Patio:

Any structure, such as a ~~{deck or}~~ Deck, Porch or Covered porch with Floor Area above or below, attached to a building shall be deemed to be part of the building.

Swimming pools, decks, tennis courts and on grade sports courts are deemed to be structures and shall be included in Total Coverage but not Building Coverage, except as noted in the exceptions section in Total Coverage.

Walkway:

Ground-mounted mechanical units, such as air conditioning compressors, shall not be deemed structures for purposes of coverage, for permitted uses, (as distinct from special permit uses) in residence districts. ~~[Patios or terraces shall not be deemed structures for purposes of coverage but shall adhere to all required setbacks. If the patio/terrace is 3 feet or more above adjacent grade at any point, such as with a retaining wall, it will be included in~~

TERM**DEFINITION**

~~total coverage. (See patio or terrace definition).]~~

Handicapped ramps are not considered structures, are excluded from all coverage calculations, and may be located in the setbacks if uncovered. Temporary portable structures shall not be counted in all coverage calculations and may be located in the setbacks.

An arbor or pergola is considered a structure if it has any type of roof or covering or a deck or patio floor or is over 8 feet in height. See Appendix D, Coverage Chart to determine type of coverage for each structure.

Swimming pool as defined by the State Building Code, shall be deemed a structure. The coping around the pool shall be considered a portion of the pool and shall be computed in Total Coverage.

A specially prepared level playing surface which may have either a full or partial enclosure surround or fence protecting a playing area ~~for the game of tennis.~~ A tennis Sports court shall be deemed a structure. [but only 50 percent of]its surface area shall be used in computing Total Coverage. Examples include but are not limited to: Tennis Courts, Basketball Courts, Hockey Rinks, etc. A raised elevated Paddle Tennis Court shall be considered a structure and counted in Building Coverage and Total Coverage.

An improved or graded area located on the ground with no structural/supports other than subsurface base material and retaining walls. The concrete or other paved areas around a swimming pool which is the pool apron is considered a terrace/patio. ~~[A patio or terrace shall be flush to the ground with no air spaces beneath.]~~ A terrace or patio shall be computed in [not be deemed a structure for purposes of] T[otal C]overage [except if the terrace or patio is 3 feet or more above the adjacent grade at any point, such as with a retaining wall.] Terraces and patios shall always adhere to all required setbacks except as otherwise provided in section 24A of these Regulations and shall require a Zoning Permit.

The provisions with respect to Total Coverage shall not apply to the following:

- One third (1/3 or 33 percent) of Patios, Terraces and Decks that are constructed of a Permeable

TERM**DEFINITION**

Surface, if approved by P&Z in consultation with DPW & Conservation. 66 percent of these areas will count in coverage;

- Patios, Terraces and Decks which cover up to two (2) percent of the Net Lot Area or 500 square feet whichever is less.

An improved pedestrian sidewalk, path, or trail at least three (3) feet ~~in width~~ and a maximum of five (5) feet in width.

§6-2.2 Coverage

If an existing building or structure does not conform to the building coverage requirements in a residential zone A, B, AA, AAA or any non-residential zone ~~[or the total coverage requirements in a residential zone AA or AAA]~~ it shall not be expanded or extended

§11-2.4.3 Outdoor recreational uses, ~~[paddle tennis courts and tennis courts except that only 50 percent of the surface area of the tennis court]~~ Sports Courts, (except an elevated paddle tennis court that is included in Building and Total Coverage) shall be used in computing total lot coverage. ~~[Tennis courts and paddle tennis]~~ Sports Courts [accessory to a dwelling] shall not be lighted. Any ~~[tennis court or paddle tennis]~~ Sports Court located closer than 50 feet from a side or rear property line shall be screened along said property line in accordance with §35-2.4 (Buffer Strip), herein

§11-6 Coverage AAA Zone

The Building Coverage shall not exceed fifteen percent (15 percent) of the Net Lot Area. The [Total Coverage] shall not exceed twenty-five percent (25 percent) of the Net Lot Area [of the lot]. A patio, deck or terrace may increase Total Coverage up to twenty-seven (27 percent). [Total coverage shall include 50 percent of the surface area of tennis courts.]

§12-6 Coverage AA Zone

The Building Coverage shall not exceed fifteen percent (15 percent) of the Net Lot Area. The [Total Coverage] shall not exceed twenty-five percent (25 percent) of the Net Lot Area [of the lot]. A patio, deck or terrace may increase Total Coverage up to twenty-seven (27 percent). [Total coverage shall include 50 percent of the surface area of tennis courts.]

§13-6 Coverage A Zone

The B[~~b~~]uilding C[~~e~~]verage shall not exceed fifteen per cent (15 percent) of the Net L[~~l~~]ot A[~~a~~]rea. Total C[~~e~~]verage shall not exceed thirty-five per cent (25 percent) of the Net Lot A[~~a~~]rea [of the lot]. A patio, deck or terrace may increase Total Coverage up to twenty-seven (27 percent). [~~Total coverage shall include 50 percent of the surface area of tennis courts.~~]

§14-6 Coverage B Zone

The B[~~b~~]uilding C[~~e~~]verage shall not exceed fifteen per cent (15 percent) of the Net L[~~l~~]ot A[~~a~~]rea. Total C[~~e~~]verage shall not exceed thirty-five per cent (35 percent) of the Net Lot A[~~a~~]rea [of the lot]. A patio, deck or terrace may increase Total Coverage up to thirty-seven (37 percent).

§16-6 Coverage MHPD Zone

The building coverage shall not exceed 20 percent of the total of each mobile home lot. The total coverage shall not exceed 50 percent of the total of each mobile home lot [~~of the Mobile Home Park District.~~]

Where MHRUs are proposed, total coverage and building coverage shall not exceed the criteria set forth in §16-6 above, or the existing total coverage and existing building coverage on the Park District site, whichever is greater.

§45-3.5.3 {Drainage Requirements for Zoning Permits}

If new any construction, including the construction of any deck, patio or terrace regardless of a Permeable Surface or Total Coverage exclusion on a property, increases the Total Coverage by at least 100 square feet an on-site drainage system for water retention will be required, unless deemed unnecessary by the Town Engineer. In cases where total coverage will both be removed and added, total coverage for new construction shall be determined based on the total coverage after the proposed removal of any building(s), structure(s), driveway(s), or any portion thereof, and then adding the total coverage associated with new construction.

| | | |
|----------|----------------------------------|------------|
| Example: | Existing Total Coverage = | 5,000 S.F. |
| | - Coverage to be removed = | 1,000 S.F. |
| | Coverage post removal = | 4,000 S.F. |
| | +Coverage for new construction = | 2,000 S.F. |
| | Proposed Total Coverage = | 6,000 S.F. |

Drainage to be provided for total coverage associated with new construction = 2,000 S.F.

- a** *Where construction on a property increases the total coverage due to new construction by 100 square feet, but less than 850 square feet, the Zoning Enforcement Officer may issue an administrative approval for an on-site drainage system, subject to approval by the Town Engineer.*

- b** *Where construction on a property increases the total coverage due to new construction by 850 square feet or greater, a site plan and drainage calculations, prepared by a Licensed Civil Engineer, must be submitted to the Zoning Enforcement Officer, and is subject to approval by the Town Engineer.*

LOT AREA COVERAGE WORKSHEET

| [BASE] NET LOT AREA CALCULATION (All entries in square feet--do not write in shaded areas) | | |
|---|---|-----------------|
| 1. | GROSS LOT AREA | = |
| 2. | Above-Ground Utility Easements | + |
| 3. | Streets and Roads | + |
| 4. | Other Exclusive Surface Easements | + |
| 5. | TOTAL EASEMENTS AND ROADS (Sum of lines 2, 3 and 4) | = |
| 6. | Wetland area | + |
| 7. | Steep Slopes of 25 percent or greater | + |
| 8. | TOTAL WETLAND AND STEEP SLOPES (Sum of lines 6 & 7) | = |
| 9. | Wetlands/Slopes reduction | 0.80 x line 8 = |
| 10. | [BASE] NET LOT AREA Lines 1, minus line 5 and line 9) | = |
| MAXIMUM LOT AREA COVERAGE CALCULATION | | |
| 11. | [BASE] NET LOT AREA (Copied from line 10, above) | |
| 12. | Square feet of Total Coverage(<u>see Coverage Table</u>) | |
| 13. | Line 12 divided by line 11 for a percentage | |
| 14. | Square feet of Building Coverage (<u>see Coverage Table</u>) | |
| 15. | Line 14 divided by line 11 for a percentage | |
| IF LINE 13 and LINE 15 ARE EQUAL TO OR LESS THAN THE PERCENTAGE FOR MAXIMUM PERMITTED BUILDING AND/OR TOTAL COVERAGE WITHIN THE ZONING DISTRICT, THE COVERAGE COMPLIES | | |