

Westport Board of Selectmen
February 22, 2017
APPROVED MINUTES

The Westport Board of Selectmen, Traffic Authority and Water Pollution Control Authority held a public hearing on Wednesday, February 22, 2017 at 8:30 a.m. in Room 307/309 of the Westport Town Hall. In attendance were Jim Marpe, Avi Kaner, Helen Garten, Gail Kelly, Steve Edwards, Jen Fava, Gary Conrad, Eric Woods, Peter Gelderman, presenters as noted in the minutes, members of the public, and Eileen Francis, recording secretary.

MINUTES

1. Item #1 was presented by Avi Kaner. There were no revisions. Upon motion by Helen Garten, seconded by Jim Marpe and passing by a vote of 3-0, it was:

RESOLVED, that the minutes of the Board of Selectmen's public hearing of February 8, 2017 and the Water Pollution Control Authority's public hearing of February 8, 2017 are hereby APPROVED.

APPROVE USE OF TOWN PROPERTY KNOWN AS JESUP GREEN AND TAYLOR PARKING LOT, AND AS TRAFFIC AUTHORITY APPROVE CLOSURE OF CHURCH LANE FROM POST ROAD TO INTERSECTION AT ELM STREET FOR MAKER FAIRE ON APRIL 22, 2017

2. Item #2 was presented by Mark Mathias, representing Remarkable Steam. Lieutenant Woods spoke about public safety measures that will be necessary for the event. Mr. Mathias requested that the approval include the closure of Church Lane due to increased public participation. Mr. Mathias agreed to employ additional traffic detail due to the expansion of the location to Church Street and the necessity for foot traffic to cross the Post Road. All determined that this year would be considered a "trial" and if logistics deem the locations and number of participants are detrimental to public safety, future Maker Faire events will require either limiting the number of participants, utilizing only Jesup Green and Taylor Parking Lot, or moving to a different location. Upon motion by Helen Garten, seconded by Jim Marpe and passing by a vote of 3-0, the original item was amended to include the closure of Church Lane on the requested date. Upon motion by Helen Garten, seconded by Jim Marpe and passing by a vote of 3-0, it was:

RESOLVED, that the request to use Town-owned properties known as Jesup Green and Taylor Parking Lot from Tuesday, April 19 (for set up on Jesup Green only) through Saturday, April 22, 2017 and, acting as the Traffic Authority, the request to close Church Lane from Post Road East to its intersection at Elm Street on April 22, 2017 from 6 a.m. to 6 p.m., for the Mini Maker Faire sponsored by Remarkable Steam, contingent upon compliance with comments from various Town Departments and in accordance with Procedures for Use of Town Property, Facilities and Public Roadways is hereby APPROVED.

APPROVE USE OF PARKER HARDING PARKING LOT ON SATURDAY, JUNE 3, 2017 FOR THE GREAT DUCK RACE

3. Item #3 was presented by Bob Galan, representing the Westport Sunrise Rotary. As the current president of the Sunrise Rotary, Helen Garten recused herself. The set-up is the same as the 2016 event. There were no concerns from the Police Department. Upon motion by Jim Marpe, seconded by Avi Kaner and passing by a vote of 2-0-1 (Jim Marpe and Avi Kaner in affirmative, Helen Garten abstaining), it was:

RESOLVED, that the request to use a portion of Town- owned property known as Parker Harding Parking Lot on Saturday, June 3, 2017 from 7:30 am to 2:00 p.m. for Westport Sunrise Rotary 21st Century Foundation's Great Duck Race and accompanying activities, contingent upon compliance with comments from various Town Departments and in accordance with Procedures for Use of Town Property, Facilities and Public Roadways is hereby APPROVED.

APPROVE USE OF TOWN ROADS FOR 2017 WEEKLY ROAD RUNNERS SERIES AND FURTHER APPROVE REQUEST PERMISSION OF STATE ROADS FROM THE CT DOT

4. Item #4 was presented by Parks & Recreation Director Jen Fava. Ms. Fava explained that the series is in its 55th year; that 6 of the races will require police presence, and; there is an average of 120-200 runners. Upon motion by Helen Garten, seconded by Jim Marpe and passing by a vote of 3-0, it was:

RESOLVED, acting in its capacity as the Traffic Authority, that the use of town roads for the weekly Road Runners Series (including the Annual Labor Day Weekend Road Race) contingent upon compliance with comments from various Town departments and in accordance with the Procedures for Use of Town-owned Property, Facilities and/or Public Roadways is hereby APPROVED; and

FURTHER RESOLVED, that the request for permission from the Connecticut Traffic Authority for the use of certain state roads for the August 5, August 12 and September 2, 2017 races is hereby APPROVED.

APPROVE REQUEST FOR PERMISSION TO USE TOWN ROADS FOR THE ANNUAL MEMORIAL DAY PARADE ON MONDAY, MAY 29, 2017 AND FURTHER REQUEST PERMISSION FROM THE CT DOT TO USE CERTAIN STATE ROADS FOR THE EVENT

5. Item #5 was presented by Parks and Recreation Director Jen Fava and Bill Vornkahl. Upon motion by Helen Garten, seconded by Jim Marpe and passing by a vote of 3-0, it was:

RESOLVED, acting in its capacity as the Traffic Authority, the use of Town roads for the Annual Memorial Day Parade to be held Monday, May 29, 2017, contingent upon compliance with comments from various Town departments and in accordance with the Procedures for Use of Town-owned Property, Facilities and/or Public Roadways is hereby APPROVED; and

FURTHER RESOLVED, that the request for permission from the Connecticut Traffic Authority for the use of certain state roads for the event is hereby APPROVED.

APPROVE FEES FOR 2017 PARKS & RECREATION PROGRAMS

6. Item #6 was presented by Parks & Recreation Director Jen Fava. Ms. Fava indicated that the Parks & Recreation Commission voted unanimously at its January meeting to recommend the fees noted below. She explained further that of the 170 Summer Parks & Recreation programs, these 10 warranted a fee increase or decrease. Upon motion by Helen Garten, seconded by Jim Marpe and passing by a vote of 3-0, it was:

RESOLVED, that the fees for 2017 Parks and Recreation Programs are hereby APPROVED as follows:

<u>Program</u>	<u>2016 Fee</u>	<u>Proposed 2017 Fee</u>
• Age Group Track	Weekly Resident \$6 Season Series – Resident \$24	Weekly Resident \$8 Season Series - Resident \$25
• Camp Compo	\$160 per week	\$170 per week
• RECing Crew	\$185 per week	\$195 per week
• Swim Instruction	\$30 per session	\$40 per session
• Junior Tennis Team	\$225 per person	\$275 per person
• Ladies Tennis Team	\$225 per person	\$275 per person
• Youth/Adult Tennis Clinics	\$78 per person	\$80 per person
• Adult Tennis Camp	\$104 per person	\$110 per person
• USTA Tournaments	\$15 discount for Premium Tennis Handpass Holders	
• Standing Tennis Court Reserv.	\$25 per court per month	\$50 per court per month

APPROVE CONTRACT BETWEEN THE TOWN OF WESTPORT AND INTRINSIC RISK SERVICES, LLC.

7. Item #7 was presented by Finance Director Gary Conrad. Upon motion by Helen Garten, seconded by Jim Marpe and passing by a vote of 3-0, it was:

RESOLVED, that the contract between the Town of Westport and Intrinsic Risk Services, LLC, as it relates to performing safety inspections of the Public Works and Parks and Recreation departments is hereby APPROVED

APPROVE FINAL BENEFIT ASSESSMENTS FOR THE EXTENSION AND INSTALLATION OF PUBLIC WATER MAIN (CONTRACT No. W5)

8. Item #8 was presented by Director of Public Works Steve Edwards. Mr. Edwards explained that the project has been completed and he recommends that the benefit assessment be applied to those properties now hooked up to the service. Upon motion by Helen Garten, seconded by Jim Marpe and passing by a vote of 3-0, it was:

RESOLVED, that the final benefit assessments for the extension and installation of a public water main (Contract No. W5) to be levied on those affected properties located on Big Pines Road (as attached) is hereby APPROVED.

AGENDA ITEMS 9 AND 10 ARE NOTED IN THE WPCA MINUTES OF FEBRUARY 22, 2017

Upon motion by Helen Garten, seconded by Jim Marpe and passing by a vote of 3-0, the meeting was adjourned at 9:40 a.m.

Eileen Francis
Recording Secretary

Water Pollution Control Authority
February 22, 2017
APPROVED MINUTES

The Westport Board of Selectmen, Traffic Authority and Water Pollution Control Authority held a public hearing on Wednesday, February 22, 2017 at 8:30 a.m. in Room 307/309 of the Westport Town Hall. In attendance were Jim Marpe, Avi Kaner, Helen Garten, Gail Kelly, Steve Edwards, Jen Fava, Gary Conrad, Eric Woods, Peter Gelderman, presenters as noted in the minutes, members of the public and Eileen Francis, recording secretary.

MINUTES

1. Item #1 was presented by Avi Kaner. There were no revisions. Upon motion by Helen Garten, seconded by Jim Marpe and passing by a vote of 3-0, it was:

RESOLVED, that the minutes of the Board of Selectmen's public hearing of February 8, 2017 and the Water Pollution Control Authority's public hearing of February 8, 2017 are hereby APPROVED.

APPROVE SUPPLEMENTAL SEWER CONNECTION AT 793 POST ROAD EAST

2. WPCA Item #2 (BOS Item #9) was presented by Director of Public Works Steve Edwards. The request involved a change in use/capacity relative to Pump Station 9. Upon motion by Helen Garten, seconded by Jim Marpe and passing by a vote of 3-0, it was:

RESOLVED, the supplemental sewer connection request for the proposed commercial/residential development at property known as 793 Post Road East, contingent upon compliance with the WPCA Coordinator's letter of February 3, 2017 is hereby APPROVED.

DENY APPLICATION OF SUMMIT SAUGATUCK, LLC FOR EXTENSION OF PRIVATE SEWER FROM DAVENPORT LANE TO HIAWATHA LANE EXTENSION AND ALLOCATION OF SEWER CAPACITY, DATED NOVEMBER 29, 2016, RESOLUTION AS ATTACHED

CONTINUED WPCA HEARING FROM FEBRUARY 8, 2017

The public session portion of this hearing is closed. The public is invited but may not speak or introduce information into the record.

3. WPCA Item #3 (BOS Item #9 – cont'd from Feb. 8, 2017) was presented by Attorney Peter Gelderman. Attorney Gelderman presented a draft of the proposed resolution based on his knowledge of the WPCA members' discussion during the work session of February 8. The Resolution is attached.

Attorney Peter Gelderman presented to the WPCA a draft of the proposed resolution based upon his knowledge and belief of the members comments provided during the public hearing of February 8, 2017.

Upon motion by Helen Garten, seconded by Jim Marpe and passing by a vote of 3-0, it was:

RESOLVED, that the Application of Summit Saugatuck, LLC for Extension of Private Sewer from Davenport Lane to Hiawatha Lane Extension and Allocation of Sewer Capacity, dated November 29, is hereby DENIED for the reasons set forth in the attached resolution.*

*full resolution available online and in Town Clerk's Office

Upon motion by Helen Garten, seconded by Jim Marpe and passing by a vote of 3-0, the meeting was adjourned at 9:40 a.m.

Eileen Francis
Recording Secretary

RE: Application dated November 29, 2016 from Summit Saugatuck LLC (Applicant) pursuant to Conn. Gen. Stat. §7-246a for Extension of Private Sewer from Davenport Lane to Hiawatha Lane and Allocation of Sewer Capacity.

This is to certify that at a meeting on February 22, 2017, the Westport Water Pollution Control Authority (WPCA) voted 3 (Marpe, Kaner and Garten) to 0 (unanimous) to DENY the above request for the following reasons:

FINDINGS:

1. This application, the third filed by the Applicant, was received by the WPCA at their meeting of December 2, 2016. In accordance with the provisions of C.G.S. §7-246a, the WPCA shall make a decision within 65 days of receipt of such application. Said 65 day period would have expired on February 5, 2017. However, on January 24, 2017, the applicant agreed to an extension of said time period “to and including February 8, 2017 for the WPCA consideration of the request.”
2. Pursuant to the Policy Regarding “Private Sanitary Sewer Main-line Extensions, effective November 1, 2000, Revised July 13, 2005, a request was made by First Selectman James Marpe for a report from the Planning & Zoning Commission (P&Z) pursuant to Conn. Gen. Stat. §8-24.
3. On January 19, 2017, the P&Z conducted a meeting pursuant to this request and issued a negative report dated February 3, 2017. The P&Z provided four (4) reasons for its negative report. Those stated reasons are:
 - a. The sewer extension is not necessary to create the conceptual subdivision proposed. The project area contains soils suitable for the development of additional lots. Clustering may maximize the use of good soils for the creation of additional lots.
 - b. The conceptual subdivision is not yet fully designed. Allocation of sewer capacity for conceptual projects is not a good use of the town resources.
 - c. The proposal is counter to the 2007 Plan of Conservation and Development (POCD) which recommends that the Town “continue to provide a sewage treatment system which meets local needs but does not promote more intense development”. Provision of a sewer extension to eighteen (18) existing parcels, from Davenport Avenue to Hiawatha Lane Extension could have the effect of creating more intense development.
 - d. The proposal if approved may open the door to potentially high density development in this B-Zone contrary to the 2007 POCD.
4. By way of background, the Applicant made his First Application to the WPCA for a sanitary sewer extension on October 24, 2014. A request for §8-24 report was then made. After conducting a hearing on the request, the P&Z issued a negative report on January 26, 2015 pursuant to §8-24. The First Application proposed 186 residential units. At that time, the WPCA retained an engineering firm, Weston & Sampson, which filed a report dated December 29, 2014, analyzing the impact of the proposed sewer extension. Pump Station #2 serves as a collection point for all of the existing and future sanitary sewer connections which are located on the west side of the Saugatuck River. The Pump Station collects all of the flow on this side of the river and then discharges it through a pipe (Force Main) directly to the Town of Westport’s wastewater treatment facility located on the east side of the river on Elaine Road. The Force Main goes directly under the Saugatuck River. The Weston & Sampson report concluded that the projected sewerage from the First Application would put the pump station over its allowable

capacity. In addition, the January 26, 2015 §8-24 report outlined the deficiencies with the 50-year-old Force Main and the anticipated repairs that could take up to five (5) years. This negative report characterized the application as “premature as any proposed improvements or increases in capacity for pump station number 2 will require state and federal permits and will take a substantial amount of time to obtain and implement...” At that time, Stephen Edwards, Director of the Department of Public Works (DPW), testified that plans to replace the Force Main were just getting started. After issuance of this negative report, the Applicant withdrew its WPCA application.

The Applicant returned with a Second Application dated April 11, 2016. This Second Application requested the same sewer extension; an allocation of sewer capacity; and a conditional approval to connect the proposed residential development. In the Second Application, the residential development proposed 155 units, which for sewer connection analysis purposes, was effectively the same as the First Application. During the public hearing on the Second Application on July 21, 2016, testimony from Mr. Edwards revealed that there had been no changes to Pump Station #2 since the First Application. Mr. Edwards testified that with regard to the Force Main replacement, funds for the design of the new proposed pipe were in place and the design work had commenced. However, Mr. Edwards testified that there were multiple approvals and steps that needed to be taken. Several permits were required (DEEP, DOT, local approvals for financing from the Board of Finance and RTM). In addition, a firm to construct the pipe must still be selected and a contract negotiated. Mr. Edwards identified a target completion date for the new Force Main of September, 2017. However, he also clearly stated to the WPCA that there could be delays and other unexpected contingencies which would push out the completion date an additional one to three years. Until the Force Main was replaced, and the Pump Station #2 pumps upgraded, Mr. Edwards strongly recommended that no sewer connection be approved. He also advised against a conditional approval, as requested by the Applicant.

5. The current application seeks the same sewer extension as the first two applications, but seeks an allocation for a conceptual or “preliminary” 29-lot subdivision.
6. The WPCA has reviewed the following documents: Application from Applicant dated November 29, 2016; P&Z reports pursuant to the §8-24 meetings from January, 2015, July, 2016 and January, 2017; Weston & Sampson report dated December 29, 2014; a packet of information submitted by the applicant at the hearing; letters and emails from residents and other concerned parties. In addition, the WPCA has considered evidence and testimony received at its public hearing on February 8, 2017.

RESOLUTION: Upon the motion made by Helen Garten and seconded by James Marpe, the Applicant’s request to extend the sewer line and allocate sewer capacity to service a preliminary 29-lot subdivision located on Hiawatha Lane and Hiawatha Lane Extension is hereby DENIED for the following reasons:

1. Mr. Edwards has acknowledged that the present condition of Pump Station #2 and the Force Main under the Saugatuck River could accommodate thirty (30) new residential units. As such, the Applicant’s proposal seeks to allocate all (except one unit) of the current remaining capacity to its project. There is no evidence that the Applicant has the present intention to construct the proposed 29-lot subdivision. In fact, the Applicant acknowledges in its application that the proposed 29-lot subdivision is NOT an alternative to the 155-unit development discussed in the Second Application. As such, the Applicant is seeking an allocation of the final available sewer

capacity to a project that may or may not go forward. If the remaining available sewer capacity is allocated to Applicant, then no other persons could obtain extensions to the system served by Pump Station #2 until all repairs to Pump Station #2 and the Force Main are completed. The WPCA believes that, at this time, this would be an inappropriate allocation of the current limited available sewer capacity. In addition, allocating limited sewer capacity to hypothetical projects could establish a dangerous precedent of encouraging applicants to file applications for allocations of sewer capacity for non-existent or “hoped-for” projects. Such an allocation could eliminate sewer availability for a real or perhaps vital project.

2. As to the repairs to Pump Station #2 and the Force Main, as of today’s date, the Town of Westport has not yet received necessary permits from DEEP to conduct the work, has not appropriated the funds to conduct the work, and has not determined a contractor or released invitations to bid to perform the work. It is possible that all such conditions precedent to the Town’s ability to effect repairs to Pump Station #2 and the Force Main will be satisfied within the next several months, but it is also possible that such conditions will not be satisfied, in which case, repairs could not be made until August, 2018 at the earliest. Applicant’s request is therefore untimely. At such time that the numerous contingencies have been satisfactorily met, the Applicant has the option to renew this request. It has never been the practice of the WPCA to grant approvals based on conditions not in existence at the time of the WPCA’s decision. The WPCA believes it is prudent to withhold approvals for extensions where the effluent will be directed to Pump Station #2 and the Force Main from Pump Station #2 under the Saugatuck River until the needed repairs are complete, except in the case of emergency or where the public health may be adversely affected.
3. Notwithstanding the fact that the proposed extension lies within the “blue line”, where soils are good, public water is available and the Westport Weston Health District reports no significant health issues or risks, as is the case for the subject application, septic systems are an adequate method of sewerage disposal. In the subject application, the Westport Weston Health Director, Mark Cooper has found that the proposed 29-lot subdivision could be serviced effectively through septic systems. The “blue line” designates an area in the Town of Westport where the use of sewers may be more appropriate than areas of the Town not within the “blue line” rather than an area of Town where sewers are mandatory. Allocation of capacity should be based, at least in part, on a priority of need, whether within or without the “blue line”.
4. The Policy Regarding “Private Sanitary Main-Line Extensions” has been violated. The Policy requires a positive report under §8-24 as a prerequisite to proceeding with this application to the WPCA. The Applicant has in fact received a negative report. The WPCA has never issued an approval for an extension in the absence of a positive “8-24 report”. Nevertheless, the WPCA has heard the subject application “on the merits”.
5. Beyond the Policy, the WPCA takes note that Conn. Gen. Stat. §8-24 itself prohibits “exten[sion]” of “public utilities...for...sewerage” without a positive report from the P&Z unless a “subsequent approval” is obtained by the Representative Town Meeting, which has not occurred. Specifically, §8-24 states in part, “...a proposal disapproved by the commission shall be adopted by the municipality...**only** after the subsequent approval of the proposal...by a two-thirds vote of the representative town meeting...” (emphasis added). Accordingly, a statutory prerequisite to the sewer extension remains unfulfilled.

VOTE: J. Marpe: Aye
A. Kaner: Aye
H. Garten: Aye

Eileen Francis

Recording Secretary