

RTM Meeting
April 5, 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 Town Attorney for an appropriation of \$57,221 to the 2010-11 Insurance Budget Account Workers Compensation Settlement Account to settle claims relating to Louis Gentile.
2. 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. (Second reading. Full Schedule of Fees available in the Conservation Department).
3. 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 \$332,000 to the Capital and Nonrecurring Expenditure Fund (C&NEF) Account (Roof: Police HQ) for the replacement of the roof at Police Headquarters.

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 us streaming live on www.westportct.gov. watching on cable channel 79. We are on ATT now as well on channel 99. 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 from Mr. Woog.

Invocation, Dan Woog:

Though I am the son of an RTM representative, like most Westporters, this body seems like the air that's all around us. We know it's there. We know it's important to our lives and that, in fact, we could not live without it, but we seldom think about it. Like most Westporters, I do not stop to appreciate the countless hours the men and women of this body spend in service to others. I do not sit, as you do, in meetings talking about topics that range from the future of Westport to the future of one homeowner or renter or one homeless person. Like most Westporters, I am happy to let representative democracy be done by others. I will occasionally make my voice known on an issue that is important to me but, by and large, nearly all the time, I will trust my representatives to make decisions for all of us that are, I hope, in the best interests of myself, my neighbors, my district, my town and all who follow us. Like most Westporters, I love this town. I pick and choose my areas of involvement as so many of us do. Thank you RTM members for picking this as part of your service. May you have an interesting meeting tonight. I am sure that you will speak articulately and listen well. Let us hope that you will adjourn at a reasonable hour.

Mr. Rose:

I'm just wondering if maybe we have an interesting meeting is the same as the Chinese proverb about living in interesting times.

There were 33 members present. Mr. Guthman, Mr. Underhill and Ms. Schine notified the Moderator that they would be absent.

There were no corrections to the meeting of March 1. If anyone has anything, please get in touch with Jackie Fuchs, Hadley Rose or Patty Strauss.

Announcements

Mr. Rose:

We have a number of birthdays this month, busy month: Ms. Cherry, Mr. Suggs, Mr. Lebowitz, Ms. Ancel, Mr. Meyer and Patty Strauss, our Town Clerk.

Next RTM meeting, we start the budgets. We meet Monday, May 2, at 7:30, not 8 o'clock. Please remember that. The first night will be the Town budget. The second night, Tuesday, will be the Board of Education budget. We are also going to probably have two other items on Tuesday night. If we need a third night, we will go to Wednesday. Please note, if we need a fourth night, we will go to the following week. I will also be sending out an email to everyone reminding you what we can and cannot do with the budget, what our options are.

Upcoming committee meetings:

- Long Range Planning on the 13th at 7:45 in room 307
- Environment on the 25th at 7 p.m. in room 309
- Planning and Zoning on the 25th at 7:30 in room 201
- Library Museum and the Arts on the 13th at 7:30 in room 201
- Ed Committee on the 26th at 7:45 in room 309
- Parks and Rec. on the 14th 7:30 in room 102
- Public Protection on the 14th at 7:30 in Police Department headquarters
- Finance Committee will be announced by Mr. Rea.

There are also a couple of committees that have not yet scheduled meetings.

- Public Works will be at 7:30 April 13, room 102

Everybody knows that there was a little bit of a mix up on the RTM packets. That will be resolved in the future. It has to do with the fact that it was outsourced and there was a little bit of a problem on that end.

RTM Member Announcements

Bill Meyer and Jeff Wieser:

Jeff Wieser, district 4:

On Saturday, April 30, Westport Sunrise Rotary will be hosting *Forbidden Westport* which is the third time they've done this. You may be asking, 'Well Jeff, you're not in Sunrise Rotary, why are you here?' They have very generously

agreed that all the proceeds will be given to the wonderful Westport organization, Homes with Hope, so I've got some skin in this game. I'm really excited about it. As I said, it's the third time they've done this. The first two times it was great success. It's Westporters making fun of Westporters. That's why it's going to be great fun. The RTM is going to make fun of the RTM and some of our other town bodies. I've communicated with most of you about it. At the moment, I am kind of hoping that we will have a full turnout of the RTM. I'm aware of 19 RTM members who are going to take part in the RTM skit. I'd love to hear from everybody and love to have as many people up there because it is going to be very funny. Hopefully, we won't get in too much trouble.

Bill Meyer, district 3:

Fifteen percent of the RTM are in Sunrise Rotary. Stand up. All five of us. What a great group. The money is going to Homes with Hope. What a great organization this is. They serve 30,000 meals annually, 2,000 bags of groceries, Bachrach Community Center. It is one of four upscale towns in the United States that has a homeless shelter. Who is the president of it? Here he is. We had great fun last time. One of the great things was Elliot Landon singing "I'm a Big Spender". We're getting him back again. We had Diane Farrell singing "I'm a Brown Bag Lady." What did Gordon do? We have 12 groups in town who sent in sketches. All the money will go to Homes with Hope, only \$55 a piece. Bring all your friends to watch it.

Mr. Wieser:

The first rehearsal of the RTM, we're really going to do as little talent part as possible but we are going to have a rehearsal next Wednesday at 8 o'clock. There will be one the following Wednesday for those who can't make it at the Seabury Center next to Christ and Holy Trinity Church. I'll be sending out notices on that.

Mr. Meyer:

Fifty-five years, Westport Community Theater, the next three weekends, "Mixed Couples." Great show. This is for Jack. Jack is the heart and soul of our Friends of the Senior Center, on April 17, Jamie Bond, jazz music. Jack just handed me a new one, Eric Burns will speak, April 15, 1:30, award winning author. Things are really rolling.

Liz Milwe and Jonathan Cunitz::

Liz Milwe, district 1:

We are giving you the update tonight on the spreading of the bag ban around our country and in our state. In Darien, two women are spearheading an amazing campaign there to ban plastic tote bags. Right now, they have a contest for a town-wide reusable bag. They sponsored a movie that was attended by over 150 people, a documentary called "Bag It". When that comes out, you should see it. It's a great movie. It's not just about plastic bags, it's about plastics, in general. They are talking to the Cub Scouts, Chamber of Commerce, the League of

Women's Voters. They've gotten full support from the major environmental committee in town. They are reaching out to our RTM to say that on April 11, they are doing a Power Point in front of their Board of Selectmen. It is at 7 p.m. and they would love for Westporters to come.

Jonathan Cunitz, district 4:

I should add that the Power Point was inspired by our own Gene Seidman. It is the same general approach. The other very exciting news is that I have been working with the Mayor of Chestertown, Maryland who, just last night, on their second reading, approved the second ban on plastic bags on the east coast. This is a small little community on the eastern shore of the Chesapeake.

Matthew Mandell, district 1:

I have a few comments and announcements. Also, on April 30, before you go to Forbidden Westport, from 11 – 4 p.m. at Earthplace is the Green Earth Fair, a traditional outing at Earthplace where we have music, food, education, demos on how to be green and good to the environment so, come on out to Earthplace on Saturday, April 30. The next thing that is happening at Earthplace later that week after we have concluded the budget, hopefully, on May 5, Thursday evening, is A Taste of Westport benefiting CLASP Homes at Earthplace. Come on out. You get to taste all the different foods that all the Westport restaurants have to offer. It's for a good cause and you can fill your stomach with some good stuff. It's May 5, Thursday night, at Earthplace. You can get tickets: Earthplace has a link. CLASP Homes has a link on their site to buy tickets. You can get tickets at the door for a little extra fee but it's for a good cause. The other thing I'd like to talk about...Clearly, we've seen a lot in the papers about bullying in our schools. It's good that this information is coming out but bullying doesn't just stop in our schools. It permeates through our entire society. Our 36 member body, every month and every week, we put our names and our faces to every opinion we have. In Cyberspace, there are people who don't put their names to what they have to say. This anonymity allows them to hide their cowardice and be able to attack people unnecessarily. I would hope that all of us and the other elected people in town would try to stand up and make sure that there's no more anonymity when there are comments on blogs in Cyberspace . I think that would help out this process.

Paul Rossi, district 5:

You may have stumbled upon the new town website. If you haven't, just take a look. It's been a year in the making. It's much more user friendly and much more current from a technology perspective. A year ago, Eileen and Carrie sought input from the RTM IT Committee. It was one of the few times they actually sought our input before making a decision and going in a direction. I think you will find it interesting. There's still more to come but it's a far cry better than the old one. So, take a look.

Gene Seidman, district 4:

On March 26, we had a day of films at the Westport Country Playhouse, four films, well attended. The program and the initiative to build a theater downtown is well underway. So, if you want a theater in downtown, get on board. Call me. There's a lot of things to do, so many ways to participate. We are aiming, the next big event will be on July 4. It will be a big sing-along with the movie "Grease" at the Levitt Pavilion on the weekend of July 4...a big town sing-along with the movie. See you there.

Linda Bruce, district 2:

Mark your calendars, May 6. You know it's spring when it's the Garden Club plant sale taking over the Saugatuck great lawn, May 6, 9 – 12.

Arthur Ashman, district 7:

I have no charity to plug. Basically, I have spoken about jazz at the Westport Art Center. I have to say, we started with 25 people and three artists. Last time it was 125 people and 12 to 15 people came to play. We are having tremendous success. There is one next Thursday, April 14, once a month, jazz Thursdays so come and let loose. One sad word...on our last jazz Thursday in May, we are honoring Max Wilk who just passed away. Those of you who are familiar with the town and what he has given the arts will appreciate coming. We are trying to get the Fairfield Jazz Ensemble to come down and have some fun. At any rate, you are welcome so please come. It's Thursday, 7 p.m.

Mr. Rose:

Anybody else have an announcement? Anyone else who doesn't know what district they are in?

Before we move onto the call, just two comments. As some of you people in this part of the audience may have noticed, I wasn't here last month. People who were watching on television who had never watched would never have known that anything was missing because Ms. Flug just did a tremendous job picking up the ball. I just want to express my gratitude for what she did. The other good thing that came out of that meeting was I got a chance to watch an RTM meeting on television. I've never seen us on television because I've always been here. I just want to throw kudos to George in the back. You have no idea how good we look on television. The cuts are great. He is always going to the right person. He's got the names up even when you don't identify yourself with the right district. He's got the right district on. So, George, thank you very much.

The secretary read item #1 of the call - Request for an appropriation of \$57,221 to the to settle claims relating to Louis Gentile.

Presentation

Attorney Bryan Le Clerc, Bercham, Moses and Devlin:

This is a fund we are seeking in order to enter into a full and final stipulation with Mr. Gentile on all his outstanding workers compensation claims against the town. There are about 26 of them altogether including a heart and hypertension claim as well as a number of other claims for various body parts he has made over the years as an employee of the Town of Westport.

Committee report

Finance Committee, Dick Lowenstein, district 5:

On November 10, 2009, the RTM approved up to \$190,000 to settle Mr. Gentile's claims. Our good intentions, at that time, were not matched by the claimant; he reneged on a verbal commitment made to the Town through his attorney, Mark Carron. To refresh our memories, Louis Gentile was hired in 1980 as a firefighter. On January 1, 2007, he retired with workers compensation disabilities totaling 43 percent, based on back, neck, and knee (both) injuries dating back to 1992. He also made claim under the Heart and Hypertension Act and was given a 14 percent disability rating by the Town's assigned cardiologist. Because the Town assessed his heart and hypertension disability at a minimum of 14 percent, he was paid weekly benefits totaling \$22,794 from May 2009 until November 2009, at which time it was assumed that the \$190,000 we had approved included those past payments. Since Mr. Gentile refused to accept this full and final offer of \$190,000, the Town resumed the heart and hypertension payments, which it would have had to pay eventually, in order to avoid a 10 percent interest charge. These resumed payments, which totaled \$34,427, complete our minimum legal obligation under the Heart and Hypertension Act. Together, both payments come to \$57,221 which is the amount we are being asked to approve tonight. We have two choices:

- Resolve all claims (heart and hypertension, and neck, back, and knees) , fully and finally, by paying the claimant \$247,221, of which \$57,221 is the additional amount we are asked to approve.
- Take our chances by going to the Workers' Compensation Commission and risk even higher payments. Our attorneys estimate that the most likely scenario could expose us to an additional \$400,000 above the \$57,221 we have already paid. Our legal fees would add to our exposure.

The only surprise was to learn that we had already paid the claimant \$57,221, our acknowledged minimum obligation. For any future heart and hypertension or workers' compensation requests, we will make sure the Finance Department tells the RTM how much, if anything, has previously been paid to a claimant. Without any enthusiasm, the Finance Committee voted 4-0 to recommend that the RTM approve this appropriation. Three members abstained. If the RTM approves this additional appropriation, it will become a full and final settlement only after the Workers' Compensation Commission approves it and the claimant signs on the dotted line. Voting Yes: Bruce, Guthman, McCarthy, and Schine; Abstaining: Bomes, Lowenstein, and Talmadge

Members of the Westport electorate – no comments

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

RESOLVED: That upon the recommendation of the Board of Finance and a request by the Town Attorney, the sum of \$57,221 to the 2010-11 Insurance Budget Account Workers Compensation Settlement Account to settle claims relating to Louis Gentile is hereby appropriated.

Members of the RTM

Bob Galan, district 3:

As we have already been through this once and approved something that was supposed to have been signed off on and it wasn't, what exactly will transpire here? If we approve this, what are we approving?

Mr. LeClerc:

We are approving the financing in order to fund a full and final stipulation of all the claims. We have already had a hearing before the commissioner. We have had it on the record with the commissioner's canvas to the claimant which consented to settlement in this amount upon the RTM approving it. The commission has indicated their intention to approve it, as well, upon the funding by the RTM.

Mr. Galan:

So, if the RTM approves it, we will not be up here again in another year or two or something.

Mr. LeClerc: That is correct

Allen Bomes, district 7:

I'm not opposed to paying Mr. Gentile the \$190,000. After all, we already approved that. What I object to is the way we are doing it. It seems we approved \$190,000 in 2009 but before that, he already received \$22,000. Where did it come from? It came out of a reserve account that is on the books. The additional \$35,000 or so came out of the full and final settlement so his weekly payments that he received came out of a full and final settlement. I don't think that meets the definition of that. The point is, he should get the \$190,000. It should come out of the funds we already approved. The additional \$57,000 should come out of a reserve account which, if we had not approved the \$190,000, he would still have received the \$57,000. It would have come from, there is a hypertension reserve account. My feeling is he should get the \$190,000. We should not approve the \$57,000 and let the town come back and ask for \$57,000 to the reserve account which is the way it should be handled.

Mr. Lowenstein:

Allen, I think that is exactly what we are doing. In other words, we cannot take money out of the reserve account without an appropriation. Mr. Kondub is here. Maybe he can add to that. We are doing exactly what you said. The \$57,000 and change is going to come out of the reserve that the town has established. Just

like with heart and hypertension cases, there is a reserve for heart and hypertension but it doesn't get spent until we agree to take the money out of that fund and give it to that person. This is me talking. John, is that correct? [Yes.] I'm not the Finance Department. Maybe you could respond to Allen's point.

John Kondub, Finance Director:

The question is the \$57,221 we are appropriating tonight, right? That is correct. That is coming out of the general fund, fund balance, to fund the rest of this settlement that corporate counsel has negotiated to make Mr. Gentile's claims go away. It's coming from the general fund. It is not coming from the heart and hypertension reserve fund.

Mr. Lowenstein:

Thank you John. I was wrong. I'm glad I asked you. I don't know how many members are here tonight, 32...33... I abstained on the vote we had on the committee level as did three other members of the committee. Were this motion to pass by 1-0-32, it still would pass. I intend to abstain. I think that voting no is against the town's best interest. Voting yes is against what I think is the appropriate way to handle this but it is the only way to handle it. I intend to abstain and urge everyone else to abstain who had difficulty with this thing to abstain and, hopefully, one person will vote yes.

By roll call vote the motion passes 25-1-7. In favor: Milwe, Starr, Bruce, Keenan, Timmins, Ancel, Galan, Meyer, Cunitz, Seidman, Levy, Rossi, Suggs, Colburn, Lebowitz, Urist, Ashman, Klinge, Rubin, Cherry, Rea, Flug, Heller, McCarthy, Rose; Opposed: Mandell; Abstaining: Cady, Wieser, Lowenstein, Colburn, Bomes, Batteau, Green.

The secretary read item #2 of the call - To amend the Land Use Fees-Schedule, for land use applications reviewed by the Conservation Commission and the Conservation Department. Full Schedule of Fees listed in Attachment 1. By show of hands, the motion passes unanimously.

Presentation

Alicia Mozian, Conservation Director:

I was here last month and I think you all have the packet information. Hopefully, it is self-explanatory but I'll just point out a few points. I have with me tonight two of my commission members so I just want you to know that these fee increases have the full support of the Conservation Commission and the staff. The commission felt strongly about the fact that our department serves individual interests that should not be shouldered by the whole community. Specifically, the fee increases only effect those properties with wetlands, water courses or lie within the WPLO area, the Waterway Protection Line, and then, of course, if the property owner elects to do something on the property that requires a permit. Our analysis and compliance costs will be covered by the individuals we are serving.

We took the existing fees and adjusted them according to the effort it takes to process the application. As Mike Rea was heard saying when the Finance Committee reviewed the figures, this effort is truing up of our fees. This is especially true when looking at small projects. Those homeowners doing small projects, for instance, less than \$25,000, will now be paying less than before. We are trying to make the fees more commensurate with the project costs, as well. We did look at surrounding communities, Greenwich, New Canaan, Norwalk, Weston, Wilton and Fairfield, though it was very hard to compare apples to apples when comparing communities and their fee structures. I'd say we are probably middle of the road in terms of all of the communities and what they charge. Also of interest is a new fee to be assessed for those applications which are asking forgiveness rather than permission. These fees will be double what they would have been if permits were gotten as they should have been before the project started or was completed or went beyond the scope of what had been approved. We have also added the cost of the publication of legal ads which is required by statute and we have made the cost of a WPLO application to be commensurate with the cost of a wetlands application since it is the same review process. I'd be happy to answer any questions that you have.

Committees report

Environment and Finance Committees, Diane Cady, district 1:

The RTM Finance and RTM Environment Committees met February 15, 2011. Present from Finance Committee: Michael Rea, Chair, Allen Bomes, Mike Guthman, Dick Lowenstein, Lois Schine, Cathy Talmadge, Jeff Wieser. Present from Environment Committee: Diane Cady, Chair, Wendy Batteau, Michael Rea, Cathy Talmadge, Chris Urist. Also Present: Lynne Krynicky, Conservation Analyst for Conservation Department and members of Conservation Commission: William Blaufuss, W. Fergus Porter, Chair. Alicia has certainly covered what is really important. I would only add an interesting piece that we are talking about 40 percent of Westport's land areas and the funds go into the general fund of the town. Votes were taken by committee. Each committee was unanimous in their approval.

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

RESOLVED: That upon the recommendation of the Conservation Director, an amendment to Section 2-55, Land Use Fees-Schedule, is hereby approved. (Second reading) Full text below.

Corrections to the resolution by Ms. Bruce

Section 2-55 1A, add 0:

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

Section 2-55 C, Certificate of Compliance, add 0:

Projects costing less than \$10,000.01

There is unanimous consent from the body to approve these corrections

Mr. Galan:

This chart that says Westport Conservation Department, Fiscal year '09-10, Comparison with Current and Proposed Fees Summarized By Project Description, do I understand correctly that the total proposed fees, that this is an apples to apples comparison, that jobs that brought in \$46,855 last year would this year cost \$87,365. You are proposing an 86 percent increase in the fee structure which grossly outstrips, from the last revision, what inflation has been. Why are we increasing that much?

Ms. Mozian:

I guess I would answer two ways. One is that we took what we felt was the time and effort to review a project that requires meeting with applicant, visiting the site, writing the staff reports, attending the meetings, going out to the site as many times as appropriate while it's being constructed and then, at the end of the job, making sure conditions of approval have been met. So, we came up with the idea of what the hourly rate is for that and came up with a number based again, too, on the people doing the work and what their fees are. The other thing is, right now, the Waterway Protection Line charges only \$200 for work that's not directly in the watercourse and \$400 in the watercourse. Usually, that's a dock or a culvert. That \$200 is for houses, pools, decks and that is not very much money when you compare it to the same application fee for an inland wetland application. You can see and hear in the existing fee structure that inland wetland fee applications charge more. It's interesting that, I would say, over the last couple of years, especially in this economic downturn, that the majority of applications that go into the Conservation Commission are purely WPLO applications. I don't know if it's just demographics but it seems like a lot of work is concentrated in the southwest corner of our community and, yet, we're not getting the same fees in that area. That covers the tidal areas and the southwest corner of our town is mostly tidal wetlands. I think that is maybe why you are seeing a big increase because in here are those WPLO applications. I hope that covers your question.

Mr. Galan:

Not precisely. I guess the question I have is if you are charging based on what it costs to do these things, the general tax base pays for the department so, if you are going to charge what the department's costs are, would the department's costs come out of the tax base?

Ms. Mozian:

We are actually not allowed to charge for the running of our whole department. The state statutes specifically say that we are only allowed to charge what it costs to analyze an application. It's section 22A-42AE of the Connecticut General Statutes. It says:

The inland wetlands agency may require a filing fee to be deposited with the agency. The amount of such fee shall be sufficient to cover the

reasonable costs in reviewing and acting on applications and petitions including but not limited to the cost of certified mailings, publication of notices and decisions and monitoring compliance with permit conditions or agency orders.

So, we cannot charge enough to cover the costs of the operation of my entire department.

Mr. Galan:

You had commented earlier that you had tried to make an analysis of what the cost of doing this was and the fees normally charged by whom. When you talk about analyzing, making the analysis and coming up with these figures, in that comment, you had commented on what is normally charged.

Ms. Mozian:

In my introduction, I was talking about the cost that we added by people who illegally do things.

Mr. Galan:

My understanding was that you utilized a fee base that independent people doing the job would charge.

Ms. Mozian:

No. I take the hourly rate of the people in my office. Consultants charge a lot more than the people in my office.

Gene Seidman, district 4:

In the event a property owner builds, moves forward without a legal permit, there's a penalty for this. What I heard is that you are suggesting that you double if they build it and if someone in your office finds out about it is they are billed double. Is that accurate?

Ms. Mozian:

If somebody builds something illegally, there are several remedies. One of which includes, they have the legal right to apply to keep what they've done. If they apply, the fee that we would charge for that application would be double what it was.

Mr. Seidman:

That's what I thought I heard you say. I would like to suggest, if that scenario occurs, that we actually quadruple not double the fees. The reason for that is twofold. One, It's an economic incentive to obey the rules and the laws. Two, if, in fact, someone does it and tries to get away with something, it would derive more revenue for the town. Is that something that we could discuss? Why not quadruple? It's an economic incentive not to break the rules and get around the system.

Mr. Rose:

We can discuss it. The question I would have is whether or not we would have to have a new reading on this. It now changes the text. I'm not saying no. It's something we would have to find out. Gordon, would you know?

First Selectman, Gordon Joseloff:

In the 20 years of my RTM experience in various positions, if it's a minor change, it's permissible.

Mr. Rose: I'm wondering if it's minor or substantive. That's my concern, frankly.

Mr. Joseloff:

I think, if you're doubling something that's already in there, it's not minor.

Mr. Seidman:

I'd like to make a motion that, instead of doubling the fees if someone is caught breaking the rules, that we quadruple it. That's my motion: to double, not quadruple the fees.

Mr. Rose:

We'll take a five minute recess to write this up.

I'll explain what's going to happen now. Mr. Seidman is going to make a motion to change the word from double to quadruple. If that motion passes, we're then going to send it back for a first reading because I feel it is substantive enough to do that. The public has a right to come back and discuss it. If it doesn't pass, then we'll go on and debate this normally. For some reason, there is no effective date in this legislation, so, Ms. Flug will come back and make a motion for an effective date of July 1. The first thing is back to Mr. Seidman to make the motion.

Mr. Seidman:

The effective date of July 1 if this motion passes and it goes back for a first and second reading, it will still be in place?

Mr. Rose:

If we bring this back for another reading, then, at that time, we'll address the date.

Mr. Seidman:

In section 2-55 IC, I move to substitute the word *quadruple* for *double*.

Members of the Westport electorate – no comments

Members of the RTM

Mr. Mandell:

When did you anticipate the prior one to go into effect? How many applications do you anticipate in the next couple of months while this is being debated?

Ms. Mozian:

When I came to this meeting at the first reading, I remember that I did need help from the RTM in establishing an effective date. In my own mind, I thought July 1 might be good because it is commensurate with the start of the fiscal year and it would give the public enough time to know about it. I did contact the press. Unfortunately, they did not have enough time to publish it before this meeting. As to how many applications, our office is extremely busy. There are many projects in the hopper.

Mr. Mandell:

I was just saying it doesn't matter. The one that came up today is July 1 and we're looking at July 1 for this new one, then it doesn't matter. I was wondering if the delay is going to cost us anything. That was my only issue other than I have no objection to quadrupling. My only concern is whether that not going to be considered more punitive. I would like to hear what the Town Attorney has to say. My view is that I would like to pass this, get this on the books. If we want to come back and modify it, that's okay too.

Mr. Meyer: Alicia, how do you feel about this?

Ms. Mozian:

We did survey the other towns and probably three out of six have such a fee and they all double. Nobody goes as far as quadrupling. Yet, when you look at the cost of some of the projects, they are multi-million dollar projects and even quadrupling is a drop in the bucket. Maybe it really is an incentive. There also is a fine but the maximum that you can fine somebody is \$2,000. Often the hearing officer will reduce that because the person will plead ignorance or it wasn't egregious. So, even though we have the fine capability, we are constricted by statutes as to how much that fine can be. So this is another way of trying to curtail the violations. Quadruple is more than the other towns but might actually be an incentive.

Mike Rea, district 8:

I appreciate the sentiment about people who are in violation. I think, all in all, nothing is to be gained by putting this off. I know, sitting on the Finance Committee, after we reviewed it, we considered the increases were reasonable. The last increase was in 2004. We asked Alicia and the commission to be every vigilant. They don't have to wait four or five or six years. Considering further increases in other areas, it could be done on a regular basis. There is no restriction for us to wait two or three years. We could do it on an annual basis. These fees that are raised go into the general fund. I think it's important to talk about revenue to the town, eventually. This is one way of doing this. We should monitor it. We should vote on it tonight. Let's approve it. If there's a reason to

adjust it in the future, we can do it. Let's not postpone this. We are going into the budget season. We have a lot on our agenda. Let's get this done while we can.

Paul Lebowitz, district 6:

My question comes about what is the correct action. If someone buys a house and they discover they are in violation, which category of fee do they get? Do they get the correct action and quadrupling or is there something which says it may not have been your fault.

Ms. Mozian:

A lot of what I do or my department does requires judgment and common sense and looking at the whole picture. We really try to work with people to correct things when they're not right. We don't always issue a cease and desist order. We don't always issue a fine. You have to look at the circumstances surrounding each property, each property owner, each situation. So, can I say that a homeowner who bought a property and unbeknownst to them there is a violation, probably, I can't say this for sure but I'm not sure I'd be as willing to apply this fee. I'd have to look at the situation and use my judgment.

Wendy Batteau, district 8:

Just to put a real life face on it, this is information that Lynn Krynicki gave us at the Environment/Finance Committee meeting. The new rate scale would bring us slightly above Wilton and Norwalk and less than Fairfield and Greenwich and New Canaan is now looking at its fees so, it does seem in line. As a practical matter, roughly how many events would you think this would apply to? How many violations do you come up against per year? Of those, how many would you say, are made out of ignorance?

Ms. Mozian:

I would say, on average, this would affect between five and 10 applications per year out of 250 permits we issue a year, a pretty small percentage.

Ms. Batteau:

How many of those would be that they really made a mistake, they just didn't know?

Ms. Mozian: About half.

Ms. Batteau: About two or three a year.

Mr. Wieser:

To put this another way, looking at your chart here, the average fee per application, the biggest number is \$1,093 average fee. That's one of nine to legalize the additions. Presumably, the number could get quite a bit bigger than that if it is a big addition. Still, we are talking about \$638 as an average fee and, if someone went ahead and did it, the penalized rate twice that, it is \$1,200. You

would still have the opportunity to fine them \$2,000 on any of those. If that were a really big number, \$4,000, if you double it, it would be \$8,000. You could still add the \$2,000 for \$10,000. So, we are not talking about a lot of money. We might be but we might not be. My next question is, to beat this dead horse a little bit more, if we pass this tonight, the effective date is July 1 or you haven't set an effective date.

Ms. Mozian: No you haven't set an effective date.

Mr. Wieser:

If we did pass this, could we have an effective date of tomorrow?

Mr. Rose:

We have to publish it and a certain amount of days. I don't recall. We have somewhat agreed to move to make it July 1.

Mr. Wieser: It will be July 1 no matter what we do tonight.

Mr. Rose: We will move to make it July 1.

Mr. Wieser:

I think we raise more money for the general fund if we make it effective as soon as possible, keep it two times. I don't think we'd be giving away a lot of penalty. As Mike Rea says and Alicia said in committee, it should be reviewed more than once every seven years and probably will be going forward. If there is an increase in penalty, we could change that at some point.

Ms. Mozian:

The way our applications work that go to the commission, because we only meet once a month, there is a submission deadline for the next month's public hearing, so, maybe make an effective date that is compatible, if not July 1, then by one of those submission deadlines because there are a bunch of people that are in the hopper right now that think they are paying a certain fee. I don't want to be unfair.

Mr. Wieser:

If we were then were to wait and vote on this amendment next month or the following month, could we do it next month?

Mr. Rose:

We've got the budget meetings next month. We might have to start with a first reading and then the second reading. I'd have to check with the Town Attorney.

Mr. Wieser:

We might run the risk of getting this going in June and then maybe miss your July 1 deadline.

Mr. Rose:

If we did it in June as a first reading and came back in July as a second reading, we might be talking about August 1.

Mr. Wieser:

If we don't pass it tonight, July 1 might not be a feasible date. I think the penalty rate that might be gained by doing this might be less.

Mr. Rose:

The other thing I'd like to point out, two people have addressed this, reviewing of the fees, as part of this ordinance, it specifically says the above fees shall be reviewed by the Conservation Director at least every three years.

Ms. Mozian:

Just to note, I have tweaked it a couple of times so that it is commensurate with changes in state statutes to up the fees.

Ms. Flug:

Alicia, can you tell us whether there has been an effect on the environment from the violations? Are there violations resulting from work that has been done that's not consistent with the regulations that can't be remediated? Is there an environmental impact on the violations that would be deterred by a higher fee?

Ms. Mozian:

I think that most of the violations that I can think of in the past, there were several stone walls, there was a major project that went beyond the scope of the permit. Was it irretrievable? Not without having to significantly alter what they had done in order to make it less egregious to the environment. They didn't necessarily have to remove the walls that they built but they had to remove part of them.

Ms. Flug:

So, you do require mediation if there is a violation? Or do you just accept the fee and let it go?

Ms. Mozian:

No. We never accept a fee and let it go. There's always some mitigation that has to be done to undo what they did.

Ms. Flug:

So there hasn't been a permanent impact on the environment because of a violation?

Ms. Mozian:

I really can't say there's been no permanent damage because of a violation. There have been degrees of impact on the environment but never do we just take a fee and walk away.

Velma Heller, district 9:

When we think about this fee, what is the purpose of this fee? Is it punitive or does it cover the cost of whatever you may have to do in the course of remediation?

Ms. Mozian:

Good question. Yes, I would like to think of it being an incentive but also, when there is a violation, there is so much more work. There are inspections and a ton of phone calls between the person who made the complaint. There is a protocol list of what you do when there is enforcement action. You have to have notices of violation, show cause hearings. There is a ton of extra paperwork to do.

Dr. Heller:

Does doubling the fee help to pay for the time that people put into it?

Ms. Mozian:

It just barely covers it then you'd lose the incentive part.

Dr. Heller:

This is reminding me of a story that I tell everybody, my kids, my classes when they say, 'How long does this paper have to be?' I will tell them the story of my grandmother who was a wonderful baker. I would ask my grandmother, 'Please tell me grandma, how do you make this cake?' She had a very unorthodox measuring system. It was a glass of this and a handful of that and a pinch of that. She went through the eggs and the nuts and all the other things. I said, 'Grandma, don't you need flour for this? How much?' And she said, 'As much as you need!' I'm kind of trying to relate this. How much do we need not only to cover the cost but to make it an incentive because it makes sense not just to nail a number on it. I think it would be helpful if we had a logical explanation of what would both be an incentive not to do the wrong thing but also cover your costs. I don't know that we have come up a figure that does that.

Ms. Mozian:

I don't believe we did that analysis. I know that we talked about the staff that definitely there is more work involved when there is a violation. Yes, I would say that doubles the work but does that double the permit fee as opposed to doubling or quadrupling it? I can't say.

Dr. Heller:

I guess there's not an absolute and specific mathematical equation that defines this. On the other hand, I think we could put into the hopper this concept that clearly you need an incentive and clearly you really need to cover. The other piece of my question is that there is also a penalty, a fine that could be charged for something beyond. When does the fine come in?

Ms. Mozian:

This is a matter of using the judgment of the staff and, sometimes, the commission. The fine comes in with someone who has a history of violations. These are general guidelines. They have a history of not following the rules. They have been told repeatedly not to do something and they do it anyway. There is enough communication between the staff and the owner that they should have known better.

Dr. Heller: I still have to think about it.

Mr. Lowenstein:

The last set of questions raised some interesting ones for me. Earlier in your presentation, you said that state statutes allowed you to charge reasonable fees to cover your expenses. Since the fines are designed to be punitive and the fees are designed to cover expenses, the question really is, if the doubling was reasonable, could you quadruple and still justify that it was still reasonable as opposed to your answer to Mrs. Heller's question that doubling was reasonable, plus or minus. The question really is, you have to separate the punitive part of the law from the fee part of the law. That was the point you did make, really. I think the punitive part is the fines and the cease and desist, the court actions. The fee part is the doubling because it does cost the Conservation Department more to process an application when there is a violation whether it was intentional or otherwise. I will not support the amendment because in terms of the explanation we received this is a reasonable fee.

Judy Starr, district 1:

Dick, I think you said that very well. As our new member, Paul Lebowitz asked his question, what if someone inherits a problem and wants to correct it? Then there's a punishment. We are looking for incentives but we also might wind up punishing somebody. Certain amounts of money might mean more to some people than to others. Quadrupling it could be punitive and actually might end up discouraging somebody from reporting something. So, I think separating the concept of the fee which covers expenses from the fine, which is discretionary, is a really good way to go about this. I think that Alicia and her department have worked hard to come up with this. I think it is good as it came to us tonight. I am in favor of keeping it as it came to us tonight. There are good intentions behind this amendment but it is much better to leave it the way it is and there wouldn't have to be a delay.

Ms. Flug:

I'm going to support the amendment. I think the timing issue can be resolved because if it comes back as a first reading at May meeting, it would come back as a second reading at the June meeting and be adopted for a July 1 effective date. The question of whether the quadrupling is punitive can be determined by the Town Attorney's office so that issue can be resolved before it comes back as a first reading. I like the idea of quadrupling the fee for violations or for corrective

action permits because of the fact that when people take the action without getting the proper approvals, it's a lot of extra work for Alicia's office. There's a lot of good work that Alicia's office could be doing. They could be applying for grants. They could be out doing inspections. They could be educating the public. It is an extremely small but very busy office that has a lot of very good work that people could be doing if fewer people were violating the regulations and ordinances. I think there should be a strong deterrent to taking action without proper approval.

Dr. Cunitz:

My first comment is, thank God we didn't cut that extra person in Alicia's budget last year. I have a technical type question. For these fees on the correction action where we are doubling or quadrupling it, is it regardless of when the violation took place or does the violation have to start after July 1. Should we clarify that with language in the regs?

Mr. Rose:

What I would say, reading it as it is currently written, is the fees and therefore the corrective actions will take place after July 1. Let's say the violation took place June 15. This goes into effect July 1. My thinking is the new law would take effect, doubling of the current fee.

Dr. Cunitz:

My question is what does this body want and do we need to clarify that?

Mr. Rose:

If someone wants to make a motion clarifying it, they can. In all honesty, as Alicia said, I think we are talking about four or five cases a year. I don't know that we have to clarify that much that is going to fit into a 10 or 20 or 30 day time frame.

Mr. Mandell:

Although I like the idea of quadrupling it, I do think it needs to be looked at by the Town Attorney as being punitive rather than just a fee. I think it would not be beneficial to hold up the process that we have in place. Since we can review it again, I suggest that we don't vote for the modification now. We vote for the current one that came to us. We put in an effective date whatever day after the time that you need to have people apply for the next Conservation Commission hearing. So if you make it May 1, they start paying fees for the June meeting. I think that would be reasonable. Then we go to the Town Attorney and ask her about quadrupling. If quadrupling is a possibility, then we bring the process back next month or the month after but we do have the fees in place.

Dr. Heller:

So, I asked a bunch of questions and really I was trying to get some clarity in terms of purpose and intent and everything else. I think, as much as I would like to see a strong deterrent to people taking advantage of the town, on the other

hand, the more I listen to Alicia, the more I feel she has a handle on what's going on. I trust her initial judgment on this. I would like to go with her proposal. If the time comes as we look into this that we determine that a stronger deterrent should be in place, depending on the numbers, we can always look at that but I think it would be very wise for us to support this right now.

Mr. Meyer:

This is one of the few times I've seen in my 16 years in the RTM that both committees were unanimous on this. Since it's only four instances a year, I think I will go along with the vote of the two committees.

Voting on the amendment in section 2-55-C substitute the word *quadruple* for the word *double*. By roll call vote, the motion fails 4-29. In favor: Seidman, Rossi, Suggs, Flug; Opposed: Wieser, Levy, Lowenstein, Colburn, Lebowitz, Talmadge, Urist, Ashman, Bomes, Klinge, Rubin, Batteau, Cherry, Rea, Green, Heller, McCarthy, Cady, Mandell, Milwe, Starr, Bruce, Keenan, Timmins, Ancel, Galan, Meyer, Cunitz, Rose.

Ms. Flug:

I move that we amend the motion to add the effective date July 1, 2011.

There was a second by Dr. Cunitz.

Members of the Westport electorate

Bill Blaufuss:

I am speaking as a member of the electorate. I tried to be recognized earlier as a member of Conservation Commission. I was acting as staff to the staff because I worked on the project. It is very, very important that this change of fees be seen as anything but an increase in fees. It is a truing up of fees.

Point of order, Mr. Galan: We have a motion on the floor for the date.

Mr. Mandell

I'm not sure why July 1. Why not May 1? I'm not sure why we just don't institute the fees. It's not like there is a change of use that people have to get their applications in by. If you don't do this, you won't be able to build a dock. It's just a fee. Alicia, what would be the best date for you in terms of expediting the change?

Ms. Mozian:

I guess what I was trying to do in not coming up with an arbitrary date is that, to be fair to the public, we have a pre-application process. We meet with applicants well before they submit applications to the Conservation Commission. We have a fee schedule that we review with them. So, they know what their fees are. The deadline for submission is a month before the next month's hearing. If you say May 1, then I have a bunch of people who have already gone through this pre-

application process who know what their fee is. If I say, 'Sorry May 1, we just doubled your fee? I think that's unfair. So I don't want to make it unfair. I guess June 1 would be more fair because I guess there are less people that we've met with, It's a fairness issue.

Ms. Batteau:

I agree with Matthew. I think this is the time that people file their applications for doing work. I wonder if we could say June 1 and then add an addition line that says all applicants that have filed their pre-applications by April 15 shall be subject to the former fee structure.

Mr. Rose:

I would say, could you do it? I would say yes. Is it making this unnecessarily complicated, I would say yes. You can make the motion. If you want to make the motion, make the motion.

Ms. Batteau:

I don't need to make the motion. I felt we over talked the last issue. It was a matter of a few thousand dollars and this is probably less. So, I take it back.

Mr. Wieser:

Wendy just made my point. The increase is an annual \$41,000 that the fees will bring in the course of the year. The interest between June 1 and July 1 is \$3,500 that we are talking about by changing if from June to July. In the interest of fairness and that Alicia doesn't have to explain too much to too many people, I would strongly go with July 1 as a good, honorable, fair date.

Point of order, Ms. Starr: Is this an ordinance or a fee structure?

Mr. Rose:

It is a fee structure that is part of an ordinance. The effective date would be July 1.

Point of order, Allen Bomes, district 7: What if we vote down the amendment?

Mr. Rose:

If we vote down the amendment, we will pass an ordinance with no effective date. That is a point of information, by the way.

The amendment passes unanimously. The effective date if the main motion passes is July 1.

Mr. Rose: The public had their opportunity to speak.

Ms. Flug:

I would like to invite Dick Harris to come and make a comment. I mean Bill Blaufuss.

Mr. Blaufuss:

That is an inside joke. We know each other from Rotary Club and have admitted to each other, we get each other mixed up with other people we know. I am a commissioner on the Conservation Commission. When all this came up, I was a volunteer commissioner who volunteered to assist the department in creating this structure. I speak in that capacity, not as a member of the public. I just want to say, look at this as reflective of the costs of what it takes to do the work. Do not construe this as a fee increase. The public will go nuts about it. Some fees will go down. Simple projects will go down because they cost less to do. We realized that through the process we went through. Major projects will go up because they consume a lot of resources of the town. The town's revenue generation structure needs to cover things that are commensurate with the cost of doing business. We collect taxes for things like paving roads which we can do and everybody gets served by it. We collect fees for the processes that are required by individuals. Those fees need to reflect the resources that are consumed by the town for those projects. Looking back, when the commissioners got talking after one of the meetings a couple months ago about the fee structure and the pressure on the Town in terms of the financial condition of the town, the commissioners including myself said, 'What is our structure? When was it last looked at? How is it arrived it?' In all honesty, the department said we update it every few years but we haven't scrubbed it down so much because we have been so busy processing applications. We commissioners know that these people in this department work their tails off because we are the receivers of their work when we meet for commissions. The commission structure that we have been working on all these years so something that has gone back so long. The numbers certainly were not reflective of the costs. This attempts to set that straight.

Ms. Flug: Thank you, Bill.

Mr. Meyer:

I just want to say our good friend Bill Blaufuss is much younger and better looking than Dick Harris.

By show of hands, the motion passes unanimously.

The secretary read item #3 of the call – Appropriation of \$332,000 for replacement of the roof on the Police Department. The motion passes unanimously with Green abstaining.

Presentation

Steve Edwards, Director Public Works:

Hopefully, this will be a bit quicker than the last one. This is a replacement of a roof. The older section of the roof is 59 years old. This is a slate roof on the Police Department. Unfortunately, the cornices, decorative molding, copper gutters, all that material is really corroded, deteriorated and is leaking. We have put it together many times over the last several years but that building had been slated for roof replacement in 2005; however, with the uncertainty of the buildings and the development aspects, we held that off. We can no longer hold it off and we are going forward with it. The police station is not going anywhere. It is a long term investment. We are looking to take the existing slate roof off and go with a 40 year architectural asphalt shingle roof. The downside of waiting this long is that the new roof which was put in in 1988 has come to a 23 year life and now we will replace that one also. So, now we will replace the newer sections and the old sections for a total roof replacement on the building. The budget figure on that is \$332,000. The good news is that the competitive market right now is in our favor so we hope to get it in somewhat under that number. Obviously, anything we don't need will go back to the town.

Committee reports

Public Works Committee, Ms. Starr:

The Public Works Committee met on Tuesday, March 10, 2011 with Steve Edwards. There were only three members were present, Kevin Green, Jack Klinge, and myself, so this is an informational report. The roof consists of nine sections, built at three separate times. I am going to tell you about it because this is a major appropriation and I think that anybody at home would be interested in knowing what \$332,000 of their tax money is going towards. This is a really big project and is necessary if there are not going to be any more leaks in the building. The original portion was built in 1952; the addition was completed in 1988, and the new EMS garage roof, which was added in 2009. Repair work would be made on eight of the nine sections; no work would be required on the roof over the new EMS garage, which is only two years old. Over the past 10 years, two studies have been made of the roof; both found significant problems. In 2001, H. B. Fishman & Co. identified a number of deficiencies including blisters (pockets of tar) and bare felts (areas of the stone surface that were worn down). In addition, some areas of flashing had come uncovered. A study three years ago by M. A. Tome, an architect retained by the Town's Maintenance Study Committee, found numerous leaks (notably at many of the gutters), moss on one undrained corner, and mold on the underside of another part of the roof. One portion of the roof drained directly onto the roof area below, rather than to the ground. It is clear that there have been problems, including leaks in the basement electrical room, and the infiltration of water into the roof over the shooting range where mold had to be (successfully) remediated a few years ago. For the past ten years or so, the roof has been repaired as needed. Since the decision has been made that the Police Department will be staying there, now is a good time to do the sections that need to be fixed. There will be a 40 year warranty on the work. Since the work is of varying complexity, the Public Works Department may send out two separate bids: one to seek a more generic

contractor, to do the "easier" work, and another for a contractor to do the more specialized, more difficult work. If we approve this appropriation, the plan is to seek bids late this spring, with construction running from late summer through mid-fall. I don't know if we've had a chance to check all our materials with the delay receiving the packets but, if you will note, there is a contingency fee of 15 percent, higher than the usual 10 percent. Steve explained it is because of the age of certain portions of the roof, the amount of sheathing (the base beneath the shingles) to be removed and replaced, and the work to rebuild the cornices, which are an important architectural feature of the building. The condition of the roof is deteriorated. The proposed repairs seem to be the best way to effectively address that condition in a way that will assure the long-term preservation of the roof, and, in so doing, also protect the interior of the building itself.

Finance Committee, Mr. Rea:

I am giving this report on behalf of Lois Schine, our recorder.

On March 8, 2011, the RTM Finance Committee met with Public Works Director, Steve Edwards. In attendance were Mike Guthman, Dick Lowenstein, Allen Bomes, Lois Schine, Cathy Talmadge and John McCarthy. The Public Works Director has requested an appropriation of \$332,000 from the Capital and Nonrecurring Fund Account for the replacement of the roof at the Police Headquarters. This project has been on the agenda for several years. There have been numerous repairs and there are now new leaks. Interior gutters are failing and the slate roof is degrading. Some of the roof is flat and some is sloped. The flat portion will be done with rubber membrane and the sloped portion with a 40 year shingle roof. All six of the RTM Finance Committee members in attendance voted unanimously to recommend this appropriation.

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 Public Works Director, the sum of \$332,000 to the Capital and Nonrecurring Expenditure Fund (C&NEF) Account (Roof: Police HQ) for the replacement of the roof at Police Headquarters is hereby appropriated.

Members of the RTM:

Amy Ancel, district 3:

Steve, I have a couple of questions. First of all, I want to preface what I'm going to say is I have no problem with the re-roofing of Police Headquarters and all of the reports and all of that stuff. What I do want to ask you about is materials. Have you looked into cool roof materials versus traditional architectural asphalt shingles?

Mr. Edwards:

Yes. The issue here is going to be the architectural roof; obviously you can get different values with the architectural shingles based on your color. We have put on the high reflectivity roof on the public works garage, that white roof down

there. Different sections of this roof will be used in accordance with the best heat reflectivity and with the best insulation. That is part of the design.

Ms. Ancel:

It used to be that the cool roofs were white but now Owens Corning and GAF have come out with colored shingles. You don't want to use those instead of regular asphalt?

Mr. Edwards

They will definitely be a design consideration. We have yet to come up with the final components on it. We wanted to get the final appropriation. The design engineer is working on that now. We have given him the marching orders to come up with the most energy efficient component but it would not be appropriate in that location to come up with a roof that is unattractive. So, we will have design considerations on it and everything else. They actually have some very nice energy efficient slate like roof right now which is what we are considering.

Ms. Ancel:

I just want to make sure that the roof is replaced with the most energy efficient materials because, for those of you who don't know what cool roofs are, it is a new technology. They are highly reflective. They used to be white but they don't have to be white. They can reduce cooling costs in the summer by 10-15 percent. On average, the additional costs of the cool roof...

Mr. Edwards: The costs have come down considerably.

Ms. Ancel:

They have. Sometimes, it's less than traditional asphalt but it can be as much as 20 percent more. Given that \$45,000 for the new shingles, I just really think that we need to do this in the most forward thinking manner. Asphalt shingles are virtually obsolete now.

Mr. Edwards:

I concur that the traditional roofing materials are being replaced by the new state of the art materials. What we look at when we go through any of our projects, the same as I did in the Parcel Public Works garage, we go in and we look for investment, the payback on it. In this case here, if I can get a payback within five to eight years, that is certainly well worth the investment. That is what we look for. This will include additional insulation, weather shield, foam insulation, so yes, we will be looking at all those things.

Ms. Ancel: You do a great job. Thanks.

Stephen Rubin, district 7:

Steve, the roof has been leaking for several years. It has suffered significant damage and that's why we're replacing it. There has been some water damage. The outside envelope of the building has been compromised. What kind of damage inside and what are your plans to address those problems? I ask this question not only as an RTM but also as a member of the Maintenance Committee.

Mr. Edwards:

First of all, the leaking inside has been minimized by a number of repairs. Each time we have identified a leak, we have repaired it. In most cases, the extent of damage is ceiling tiles. The outside shell has not been compromised. We had leaking back into the pistol range years ago and that was repaired. We have been aggressive on repairs. It comes down to a point that, obviously, you can only move the bucket around so many times. We have been doing the repairs. When I have a repair of ceiling tiles, I replace the ceiling tiles. I think if you look at the Police Station inside, it does not reflect a tremendous amount of leaks. They are problematic and keep popping up. We open another bucket of tar and track it down. The main problem we have is the cornices where you get the infiltration. Those are areas that are coming down and are causing problems. As we uncover one, we do caulk it.

Mr. Rubin: Has there been any mold that has been detected?

Mr. Edwards:

No. We have not detected it. We tested in the pistol range. An issue came up and we tested two or three times just to make sure. We have not found it.

The motion passes unanimously. Green abstains.

The meeting adjourned at 10:08 p.m.

Respectfully submitted,
Patricia H. Strauss
Town Clerk



by Jacquelyn Fuchs
Secretary

ATTENDANCE: April 5, 2011

DIST.	NAME	PRESENT	ABSENT	NOTIFIED MODERATOR	LATE/ LEFT EARLY
1	Diane Cady	X			
	Matthew Mandell	X			
	Elizabeth Milwe	X			
	Judith Starr	X			
2	Linda Bruce	X			
	Michael Guthman		X	X	
	Jay Keenan	X			
	Sean Timmins	X			Arr. 8:05 p.m.
3	Amy Ancel	X			Arr. 8:07 p.m.
	Robert Galan	X			
	Bill Meyer	X			
	Hadley Rose	X			
4	Jonathan Cunitz, DBA	X			
	Gene Seidman	X			
	George Underhill		X	X	
	Jeffrey Wieser	X			
5	Barbara Levy	X			
	Richard Lowenstein	X			
	Paul Rossi	X			
	John Suggs	X			
6	Joyce Colburn	X			
	Paul Lebowitz	X			
	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	X	
9	Eileen Flug	X			
	Kevin Green, Ph. D.	X			
	Velma Heller, Ed. D.	X			
	John McCarthy	X			
Total		33	3		

Roll Call Vote: Item # 1 – Louis Gentile claims

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
	Paul Rossi		X		
	John Suggs		X		
6	Joyce Colburn		X		
	Paul Lebowitz		X		
	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			25	1	7

Roll Call Vote: Item # 2 – 2-55 C: Change “double” to “quadruple”

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	
	Paul Rossi		X		
	John Suggs		X		
6	Joyce Colburn			X	
	Paul Lebowitz			X	
	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			4	29	

Attachment 1

RESOLVED: That upon the recommendation of the Conservation Director, an amendment to Section 2-55, Land Use Fees-Schedule, is hereby approved. (Second 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]~~

Projects costing less than \$10,000.00 **\$50.00**

Projects costing between \$10,000.01 and \$25,000.00
\$75.00

Projects costing between \$25,000.01 and \$100,000.00
\$225.00

Projects costing between \$100,000.01 and \$500,000.00
\$300.00

Projects costing > \$500,000.00 **\$525.00**

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 Advertisement, Plus
 half acre or portion thereof

Activity Class *Flat Fee.*
more The flat fee for applications proposing
the Than one activity class shall be equal to
applicable sum of the flat fees for each
activities Activity class. **Flat fees include**
 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.		
	<u>New buildings, including commercial buildings, and related amenities, utility companies and other non-residential structures, non-profits clubs, condominiums</u>	<u>\$950.00</u>
	<u>Alterations or modifications of existing structure, including commercial buildings and related amenities, utility companies and other non-residential structures, non-profits, clubs, condominiums</u>	
	<u>(Residential Structures)</u>	
	New residential Dwellings.	[\$475.00]
	<u>(Single Family Dwelling)</u>	<u>\$600.00</u>
	Two-family dwelling, <u>multi family dwelling accessory building, addition, deck, greenhouse, or other modifications greater than 100 sq. ft.</u>	\$950.00
<u>unit</u>		<u>\$475.00 per</u>
	<u>Accessory building, addition, deck, greenhouse, air conditioning unit, pool equipment, generator, or other modifications equal to or less than 100 sq. ft.</u>	<u>\$125.00</u>
	<u>Tennis court</u>	<u>\$475.00</u>
	<u>Swimming pool</u>	<u>\$475.00</u>
	Subdivision. For those Subdivision lots and/or Condominium units that Encroach on wetlands, Watercourses, and/or Setbacks from wetlands And watercourses.	\$475.00 <u>per lot</u>
	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, filling, **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

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
0 to 1
1.01 to 3
3.01 or greater
Regulation amendment.

Fee
\$650.00
\$750.00
\$350.00 per acre
\$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).

-Effective date- July 1, 2011

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.