

RTM Minutes  
June 14, 2011

**The call**

To take such action as the meeting may determine, upon the request of at least 20 electors of the Town of Westport pursuant to Section C10-4 of the Town Charter, to review the action taken by the Westport Planning & Zoning Commission on May 5, 2011 to modify various sections of the Westport Zoning Regulations as they pertain to a Senior Residential Community as set forth in Text Amendment #625 Appl. #11-001. (Full text of Text Amendment #625 is available in the Town Clerk's office.)

**Minutes**

Moderator Hadley Rose:

This meeting of Westport's Representative Town Meeting is now called to order. We welcome those who join us tonight in the Town Hall auditorium as well as those watching us streaming live on [www.westportct.gov](http://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. Gavin Anderson.

Invocation, Gavin Anderson:

Good evening. As a past member of this body, it is an honor to stand here and offer you this invocation. Representation, either by election or appointment of your community's peers, is, perhaps, the greatest honor that any one of us can be afforded. It is the bestowing of a trust, an affidavit of values and confirmation of faith in you as individuals willing to serve unfettered by the bonds of party or politics. You have all, each and every one, earned that right as honorable members of the RTM and have a right to the respect that it affords; however, with that pride, and the honor that is justly due, there are other factors that accrue and must never fall into the pocket of discarded notion...These include respect for each other, respect for the opinions and arguments of your peers and other members of the community you serve. Such are the elements of values to which you must aspire---and I hope and pray that, in the back of your minds, these standards will always enjoy the prominence they deserve. Your tasks are rarely easy ones. There are ever-prominent arguments, alternatives and, as you all know, acres of research effort demanded to discover the correct, or best, solutions. These efforts alone deserve respect and credit and the ultimate in civility of debate but they can never replace the appreciation of duty and integrity I pray you will always apply to the endeavors and bases of consideration in the decisions you render. May you be blessed in your service, your labors and your efforts to improve and lead this community whose trust rests in you all. Amen.

There were There were 31 members present.. Ms. Bruce, Mr. Guthman, Mr. Keenan, Mr. Lowenstein and Mr. Rossi all notified the Moderator that they would be absent. Ms. Ancel arrived late.

## **Announcements**

Mr. Rose:

The next RTM meeting will be Tuesday, July 12 at 8 o'clock. The reason it is July 12 is the rain date for the fireworks is July 5.

RTM Committee Meetings:

RTM Ordinance Committee will meet June 20 at 10 a.m., room to be announced, to discussed the COG ordinance.

Finance Committee may have to be rescheduled. The regularly scheduled meeting is the second Tuesday of the month, tonight.

## **RTM Announcements**

Mr. Rose:

I think Mr. Meyer is the only one who really likes two meetings a month because he gets in an extra announcement.

Bill Meyer, district 3:

The eloquence of Gavin Anderson is really something. Westport Community Theater, how many people have seen a play there?

Allen Bomes, district 7 (from the audience): I have and it was great!

Mr. Meyer:

That wasn't rehearsed. It's our last play of the year. I have two complementary tickets for anybody who wants to come. You'll see how great it is. If you come Saturday or Sunday, I'll usher you to your seat. I don't take any tips for ushering.

Eileen Flug, district 9

Steve Edwards is our Director of Public Works. I'd like to congratulate Steve for leading 10 towns in our region for the opportunity to do single stream recycling. Single stream recycling is coming to Westport July 1. This is amazing. There are flyers up here explaining what we can recycle now. Starting July 1, you don't have to separate your paper from your cans and glass. It all goes into one bin. You can recycle all the plastics, numbers one through seven. You can recycle aerosol cans. You can recycle juice boxes, a lot more items than you ever could before. My hope is that your big garbage can will become your recycling bin and your little recycling bin will become your garbage can because you are recycling so much more. So it's really exciting. There are pictures and a list of everything you can recycle and everything you can't but it's exponentially greater than it was before. I want to thank publicly Steve Edwards for making it all happen for us and for nine other towns.

Jack Klinge, district 7:

I just have a question for the chair. Did we decide a date for the discussion of the COG meeting? Will it be August?

Mr. Rose:

It certainly won't be September. I would prefer it to be July if at all possible. If it can't be done, we'll push it to August.

Mr. Klinge:

You are not going to push it to September so we should assume July right now.

Mr. Rose:

Before we read the only item of the call, a little bit of an explanation of how we will work tonight because it's a little different from a regular RTM meeting. We are going to have the petitioner come up to make their case. Following the petitioner, we will have P&Z come up. They will explain their reasons for voting as they did. If they choose to have the applicant elucidate why they asked for the amendment, they will do that. We will then go the public. I will remind you as to what our time limitations are and the information you should give us when you get up. At the end of the public session, all of the petitioner, the P&Z or the applicant can get up and correct what they see as factual errors that were made during the public session but only factual errors. This is not going to be an opportunity for somebody to remake their case. They should make their case initially.

**The secretary read item # 1 of the call – To review the action taken by the Westport Planning & Zoning Commission on May 5, 2011 to modify various sections of the Westport Zoning Regulations as they pertain to a Senior Residential Community as set forth in Text Amendment #625 Appl. #11-001.**

### **Presentation**

Bart Shuldman, 14 Broadview Road:

I thank you for the opportunity to speak to you tonight. I have been a Westport resident for 17 years. I have two daughters, Allie and Avery attending the public schools here in Westport. Just a little background: I am the Director of the Westport Travel Soccer Association, having been reelected last night. My wife, Sue, is the Co-Director of the Westport Girls Lacrosse program in town. So, we are somewhat active in town. What I'd like to do first is address the senior citizens so we get this off the table. This presentation is not against senior citizens but it is an issue of what is right for all Westporters and with that, who will benefit from this project. Again, the RTM is allowed to review something like this for the health and benefit of the community so that's why we're here. It's our belief that Baron's South will hurt senior citizens the most as taxes and expenses go up without any end in sight. RTM members, you'll be asked to make a huge decision tonight which can and will impact all of us for a long time. This isn't a text amendment that might deal with 100 people or 200 people. This is every

taxpaying citizen in Westport who will get impacted by this. I appreciate the opportunity to speak with you tonight. My presentation will touch on the subject of the difficult financial condition that Westport finds itself in, the fact that Baron's South has no plan so we are going into this learning as we go and, how many Westporters will not benefit from this. In fact, I like to say that the process that we're going through is just wrong. Westport is in somewhat difficult financial condition. The employee benefit costs are going up. The other post employee benefit costs, as we just found out, are skyrocketing. The town had approved for 450 employees in the town on OPEB and now we are being told it is over 1,000 employees. We are \$7.7 million under-funded today with a \$50 million liability. That's 120 percent below what the true count of employees should be so, the end of the story will be that taxes will go up. That's inevitable. When taxes go up, who gets hurt the most? Senior citizens that are on fixed income. Let's remember that this isn't just about a home or a house, it's about the town and the effect on all of us. The day I announced the petition, this was the headline in the Westport News: *New Normal for Westport Finances. Tight Purse Strings Ahead*. Then, of course, Helen Garten, the Board of Finance Director, put out an editorial regarding the condition that we're in and it read: "...Higher taxes, fewer services or both". In there, it says, if we don't address these costs, we won't have to choose between higher taxes for fewer services, we will have both. That's the Board of Finance Chairperson who's telling us what kind of problems we're in and, yet, we want to go ahead with a project where we have no idea what the costs are and, truthfully, no idea what the benefits are. Just to give you a sum, the town is \$170 million in debt. That's about \$50 million in interest costs on top of that. We believed that the OPEB was unfunded by \$50 million. It's now got to be \$100 or \$110 million unfunded because it's more than double the employees that they didn't approve for. Our pension plan is \$25 million under-funded. We have the third highest debt per capita in the State of Connecticut, twice Fairfield. So, that's the issue that we face. We've got a \$23 million piece of property that we are going to potentially just give away. On our balance sheet of the town, the land is listed as \$33 million and this is \$23 of it. And we're just going to do something without understanding what we're getting from it. Westport is in a difficult financial condition. We have rising costs for pension and benefits. Our program costs are rising. Our costs are rising. Again, I believe the senior citizens will get hurt the most. If you need a home today and this program takes years to go through, what are you going to do when the taxes go up July 1? They are going to continue to go up because we have these unfunded issues. We don't even know the cost of this program is. Remember, not all of you are going to benefit from this program. Baron's South has no plan. The committee gets together to discuss what they are going to build. There's no report on the costs that this will impact Westport. In fact, at the hearing, we heard the town's not spending money and the next day we found out the town is spending money on this program. There is no independent study or opinion on the preferences and priorities that can be given to Westport. There are documents going back and forth. They basically say you cannot guarantee the benefit to everybody but there is not independent study to say, what are we getting from this? What is the

implication of the 60 percent affordability requirement in the text amendment? We have no idea how many Westport citizens will actually meet the affordability test; yet, we are earmarking 60 percent of this text amendment to affordable homes. That alone should get you to stop text amendment 625. There's no scientific study that says that Westport actually has these needs. In fact, the Baron's South Committee never even went to the nursing home in Westport to see what's going on today. We have a nursing home in Westport. The Baron's South Committee has never gone there. It tells you something about what's going on. The writings appear to direct the bidding process to not for profits. What does that mean for us then? What are the benefits for us? Are there any real revenue benefits for Westport? We don't think so. What is our responsibility once we build this? We don't know. If we give the land away, are we responsible if somebody builds something on that piece of property that if that doesn't work out, that we're responsible for it? We don't know. What are the costs that Westport will incur to run the property effectively, efficiently, to meet government requirements, mandates? What are our liabilities? Before approving text amendment 625, shouldn't we know all this before we allow this to go forward? As I said, Baron's South has no plan. They are actually meeting to decide what the plan is. Sad to say, they meet 9:30 Friday mornings when most of us can't attend to know what they're actually discussing. There is no plan. They are actually going and visiting different nursing homes and thing like that to decide what they want to do. Why don't we stop text amendment 625, let's overturn it. Let them go to work. Let them put the plan together and come back and tell us all this. Then we can resurrect text amendment 625, text amendment 635, whatever we want to do. We could resurrect it but let's get the facts on the table first. There's no guarantee for Westport residents. Let's remember that. There's no guarantee. Preferential treatment does not guarantee Westport benefit. Remember, in remarks on the affordability equation, there is an asset and income test. How many Westport residents actually qualify? Why don't we get a study telling us. How many is it? How many in Westport, based on an asset and income test, actually qualify for the affordable homes? Sixty percent of that project is going to affordable homes. Why don't we know? What happens if not many qualify when we build this? Who gets to use the property? Not Westporters. If we're wrong, this is a monumental mistake with our property that we all purchased. Everyone in this room purchased this property. The Baron's South might benefit 100 people. If you add up all the rooms and all that and realize you can't guarantee all Westport residents so we can take a shot and say 100 people, that's .38 percent of Westporters can actually benefit from this program. A \$23 million piece of property, .38 percent of Westporters. I, for one, would like to see a field up there. I wouldn't mind seeing indoor fields up there. But, this project, .38 percent of Westporters. In fact, if you think about it, the Y might have been a nice project but the Y was turned down because, supposedly, it was too big for the property. This project is twice the size. I'm at a loss. The Y would have benefited a lot of people in town even senior citizens. Can you imagine a nice Y with the Senior Center next to it? Yet, they were told they couldn't do it because the Y was too big. Now we have something twice the size,

three stories, I think. That's the text amendment, three stories tall. This project, if it goes through and benefits 100 people, it's \$230,000 per person. If we have to give it away as part of this non-profit 60 percent affordable homes and all that, it's \$230,000 per person. One hundred people divided by a \$23 million piece of property. If we really felt for the senior citizens, let's give a tax break. Let's figure a way to monetize that property. Let's do the right thing and figure out a way to give a tax benefit to the senior citizens, to all the senior citizens. Remember, taxes are going up in July. Preferential treatment, this document, Ira [Bloom, Town Attorney, gave this to us last week:

At this time the preference being considered is a residency preference. We have previously stated that the specifics of the administration of a residency preference will vary depending upon what, if any, state or federal funding sources are used to build the houses. Those specifics are not available at this time. It is not timely to respond to the question and is more appropriate for the operator or developer of the project to provide these answers.

Is that what we want? Do we want a developer or operator telling us about the preferences in town? Or should we understand it before we approve this? I'm not making comments about developers or operators but I sure would like our RTM and our officials in town to understand what the preferences are before we go ahead and pass this thing and let it go to wait for an operator or developer to tell us what the right thing is. It could be the wrong thing. If we build a nursing home, if we want preferential treatment for a nursing home, there is a statement in the documents; this is in Ira Bloom's letter:

If we want to get preferential treatment, we have to give financial assistance through grants or donations from the municipality in which it is located.

Does that mean we have to donate money to this? Are we putting more money into this project? What grants does Westport have to make? What is the cost to Westporters? That's the situation with nursing homes. Look, what's the definition of a Westport resident? The Supreme Court has ruled, they interpreted the 14<sup>th</sup> amendment to protect the right of individuals to establish residency wherever they choose without being treated differently than longer-tenured residents. So, what's the definition of a Westport resident? Someone who moved here six months ago gets to use this? That's right out of a document I provided to everybody. Fourteenth amendment, Supreme Court, you cannot be treated differently than longer-tenured residents so what's the definition of a Westporter then? Some of you might find someone who moves to town, rents an apartment, that's a Westporter. They get to use the facilities. Is that what you want? We should have these facts now. The process is wrong. Let's stop the process. Let's get these facts. If it all works out, great, and it's all what the town wants to do, then let's do it. But we don't have these answers. In an editorial, a piece that Steve Daniels wrote, the Chairman of Baron's South, we asked about the issue of who is going to use this facility. We were told it's going to be a healthy majority of Westporters. A healthy majority, is that 60 percent? So that means 40 percent outsiders are going to use it. There's a moratorium in Connecticut. You can't

build new nursing homes. We're going to have to move nursing home beds from an existing facility into Westport. There are people in those beds. Who's going to move to Westport? It's not going to go to senior citizens. We're going to move nursing home beds from another facility to Westport. In fact, there was a comment that Steve made, "Whoever is occupying the beds on a short term basis, will most probably be discharged in the time that permits can transfer." He can't guarantee that. Come on. They are in a nursing home for a reason. Supposing they are in a nursing home for two more years. He can't say that. We have to trust him that people who are going to move into town that take the beds because there is a moratorium on nursing homes are going to somehow die or leave. We're going to bet on that? Many Westporters are not going to benefit. When asked about who would get the priority housing, one statement he said is, "In Canal Park, for example, 40 or 50 units house a person who either worked or lived in Westport." Worked or lived in Westport. Worked. They are not residents. How did they get into Canal Park? Who lived or worked in Westport got this housing. Maybe we should take the people who worked out and put the people who lived in Westport in. Maybe we'll have enough. That was his response. Look, the affordable housing test, 60 percent has got to be affordable; 8-30g says it. We have to follow 8-30g. This alone should overturn 625 because what is the affordability test and how many people in Westport can actually afford it? There is an income test and you've got to add the assets to it. In fact, during the second day of presentations, the guy in front of me who is a developer, when I said you've got to add two percent of their assets, he turned around and said, 'You're right.' So, if you have income from Social Security or a 401(K) plan or anything like that, you add that in and then you take two percent of your total assets. So, if you've got a home, even if it's in a trust, it's right on the document. You take two percent of it. Well, most homes in Westport are what, \$1 million? That's two percent, that's \$20,000 that goes to your income test. Can a Westporter actually meet this? We have no details on how many people in Westport meet this criteria. Yet, we are willing to give away Baron's South. I think we, as a town, deserve these answers first. Stop text amendment 625. Let them go to work. It won't stop it. I've heard the contractors won't bid on the project. Contractors will bid on this project, especially in this time and age. In fact, in a document I supplied to the RTM, there is documentation on the issue of not having all the permits and all that to get state aid because they believed that they weren't going to get everything done in time. In fact, Rick Redniss is part of that document so he knows that you don't need P&Z approval before going, even to the state for aid. It's right in that document. I'm just about done. I think we've raised serious concerns with Baron's South. Westport has its financial issues. I don't think we can hide it. We know now that we've passed a budget. The taxes haven't been set. We've got an issue with OPEB. It's big. It's huge. We should stop right now because of that, alone, and understand what's going on in town. Let's not make this town not affordable to all senior citizens, let alone all citizens. How are you going to feel with it being a nine or 10 percent tax increase? Baron's South has no plan. There is no detailed plan. They are working. They wanted to do this to get this done. Let them go back and get the plan done. Overturn text amendment

625. Let them go to work. They can always bring it back if everything is right. Remember, many Westport residents won't benefit. If 100 people get it, it's .38 percent of the population. That's \$230,000 per person. There's no guarantee. We have no idea if we'll make the affordability test. Let's get the process right. Do the work first. Let's get some answers. As a town, we deserve that. Think about what's going on around the world today. Think about what's going on around the country. We've got all kinds of financial difficulties. The State of Connecticut just passed the highest tax increase in the history of the state retroactive to January 1. Now we're going to have tax increases here in town. I thank you for your time. I appreciate the conversation and I look forward to answering any questions you may have later.

Mr. Rose:

Thank you Mr. Shuldman. One thing I should have mentioned before, if you could refrain from applause or jeering. Not only is it impolite, but it could be intimidating to people who have not spoken before in public. So, I'd appreciate if you could sit on your hands and nod a little bit if you want to.

Ron Corwin, Chair, Planning and Zoning Commission:

Thank you Mr. Moderator and ladies and gentlemen of the RTM. I'll make some opening comments and then Mr. Bradley, Director of the Planning and Zoning Office, will take you through the text amendment itself. I understand the applicant will have an opportunity to discuss the substantive issues that have been raised here as they are for the most part not truly land use issues. I'd like to begin by reviewing the history of this amendment and how we got here. This amendment began, from the commission's point of view, with a pre-application hearing. Pre-application, for those of you who are not familiar with it, is a non-binding opportunity for conversation with the commission on land use that is not in the context of a formal application. State statutes provides this provision as it is intended to allow exploration of ideas between potential applicants and the commission before major resource commitments are undertaken. The pre-application question before the commission was how might the commission respond to a proposal, similar in many ways, to what you are seeing tonight. That hearing was almost a year ago in July, mid-July. The general tenor of the discussion was favorable. At the same time, there were questions raised, a presentation about the proposal and that's the purpose of the pre-application facility. Sufficiently encouraged and taking some of the elements of the pre-application conversation into account, the First Selectman's office next tendered an 8-24 conceptual application to the commission and asked for a favorable report. The 8-24 was conceptual in nature. The question that was asked then was, might the commission, in principal, look favorably upon the proposal for a senior facility to be located on Town-owned land, probably Baron's South, consisting of independent living facility and a skilled nursing facility to complement the existing Westport Center for Senior Activities already located on the Baron South site. That was in the fall of last year. It was approved. I should note that this whole process is a process of successive approximations. You start



very, very generally and you move, over time, through the process to more specific plan and site plan recommendations. The next step was earlier this year in the winter, Text Amendment 625 for a senior residential community including independent living facilities, assisted living facilities and full-care living facilities was proposed and approved by the commission. That is why we're here this evening. I should note that if the amendment is sustained and the project goes forward, it still requires a positive report from an 8-24 regarding the lease or financial terms of any facilities or proposals and a specific site plan and special permit application which has stringent standards and broad discretion from the commission in the application of those standards. These last two steps are described in just a few short words but we all understand that these processes are drawn out over time with considerable public governmental agency discussion and input required. What I have described is the regular normal order of development of land use programs. To ask for a specific plan before a text amendment is an inappropriate way to proceed. The first question any developer would ask is what am I allowed to do there? How tall can I make the facility? How many units can I put there? What coverage will I be allowed? What are the setbacks? None of these questions can be answered without a text already in place. That is why land use development matters are sequenced in this fashion. This amendment is about land use. The amendment itself, a few words. Unquestionably consistent with the Town Plan. There may be elements of the amendment with which some folks disagree. Indeed, some folks on the commission who voted in favor of the amendment disagreed with some of the elements of the proposal. They may prefer other alternatives but a senior residential community with appropriate support system for seniors is entirely consistent with the Plan of Conservation and Development. As proposed, it furthers the goals of the Town Plan by, among other things providing a richer mix of housing and living choices for citizens, in this case, senior citizens. Not merely affordable, which is our mandate to create, but market rate housing as well. As a whole, it enriches our community. The commission did not take the amendment simply as it was presented and approve it. As is normally the case, the commission made modifications and adaptations and changes before it was adopted. The major changes are:

- We established a requirement to build some of the affordable units first to assure that our first priority, housing for seniors, would be addressed. We could not end up with a nursing facility and no housing. This adjustment with consistent with the applicant's original intention, just to clarify.
- We established that such a facility could be built on either public or private land.
- We modified some of the height proposals to better accommodate the potential facility without constraining architectural design. As one of my colleagues on the commission said, 'What do I care if they have a peaked roof or not?'
- We did not accept the initial proposal from the applicant regarding changes to the excavation and fill requirements, retaining our current regs in that regard.

- We provided additional definition to the affordability requirements to assure Westport gets credit for the affordable housing that is built which we also believe is the applicant's original intention. We wrote language to strengthen the case.
- We strengthened language around preferences for Westporters in the complex which we also were assured was the applicant's original intent.

In short, we believe we have provided a very sound basis and regulation for achieving the good purposes of this amendment. To wit and I quote, "To allow a senior residential community which provides residential opportunities and services in order to allow seniors to maintain a maximum level of independence to reflect the continuing concern of the community for the special needs of seniors and to provide for their safety, health and general welfare." Mr. Bradley will now take you through the text amendment itself.

Larry Bradley, Planning and Zoning Director:

I have been asked to basically take you through the text amendment as it was adopted by the Planning and Zoning Commission. I am going to do a quick run through of the different sections that are now part of this regulation. In the first part, we adopted the definition for what is a Senior Residential Community which is what this activity is all about.

Senior residential community shall consist of dwelling units and may include facilities intended to support and enhance the lives of seniors including but not limited to service-enriched residential opportunities and other uses aimed at providing a continuum of care, hospice services, housing, recreation, senior centers, education and socialization of seniors in independent, assisted or full-care living facilities.

That is the basic premise of what is a Senior Residential Community. Consistent with that, we adopted three definitions, assisted living facility, full-care living facility and independent living facility. I'm not going to read all those through but those are in the text which was attached to the petition which you all received. Part of this amendment, actually, we did some word-smithing within the regulations. We used to call the term, "elderly" and now we've changed any references in the regulations to elderly to the more politically correct term of "senior". What is a senior? A senior is any person age 62 years or older. So that is the market that this regulation is targeted towards. Then we made changes throughout the regulation, changing references of elderly to senior. We did that in a number of sections including chapter 19 which is Affordable Housing Zone, chapter 20, Municipal Housing Zone, chapter 32-2, Senior Municipal Housing Zone which is different than the Senior Residential Community and the Group Home for Seniors. With that, that brought us to a new section of the regulations. As alluded to by Mr. Corwin, we kept existing section called Managed Residential Communities which would allow a very similar type of development on privately owned land. The Senior Residential Community is limited to town property so there is an opportunity to do this type of development either on private land or on town-owned land. The Senior Residential Community is limited to town-owned land and there are a number of criteria which I will get to and tell you where this

could land within town. The uses that are permitted, as I mentioned earlier, for a Senior Residential Community include the independent living, the assisted living, the full care living facilities and/or senior centers within the project. A minimum of 35 percent of the independent dwelling units must be constructed before any full-care living facilities can be constructed so you have to build the housing first and then you can build the full care facility and not less than 60 percent of the independent dwelling units must be affordable dwelling units as defined in Connecticut Statutes 8-30g. We have a section about accessory uses which allows for recreational and maintenance and utility uses to be on the same site as the Senior Residential Community. With respect to the location requirements, the first one, obviously, is that it has to be on town owned land. In certain zoning districts, the larger districts, residence AA, residence AAA which is two acre, residence AA which is one acre and residence A which is half-acre requires a minimum four acre property and 200 feet of frontage on an arterial street. In other commercial districts, it requires a minimum of two acres and again 200 feet frontage on an arterial street. When the Planning and Zoning staff did the analysis with information supplied by the applicant, we found 13 town owned properties where this could be applied. The next section that the commission focused on was, in terms of the affordable units, how were they defined? We defined them again that they have to meet the 8-30g affordability requirements which is about \$60,000 to \$70,000 for a family of four. It doesn't have to be a family of four but that is the normal standard number that the state uses for defining affordability. The affordable units can't be clustered. They have to be dispersed throughout the development. The affordable units cannot be any smaller than 75 percent of the market-rate units. I'm talking about the independent living facilities now. The application requires a submission of an affordability plan. As part of the affordability plan, there is a requirement that the income derived from assets should be computed as part of income. That was alluded to earlier in the presentation by the petitioner. The affordability plan also has to specify that income meets the state statute requirements for affordability. The Planning and Zoning Commission also has in this section that there are preferences for Westport residents to the extent allowed by state and federal applicable regulations. That was language that the Town Attorney helped the commission draft to say that there will be preferences for town residents, the Town Attorney has said, both at the P&Z meetings and at the RTM Committee meetings that preferences are allowed and they will be part of this application as they are part of the zoning regulation. The preferences apply not only to the affordable units but also all other dwelling units, non-affordable units, on the site. With respect to density, this regulation allows for a density of 15 dwelling units per acre in the zoning districts where this is applied. When you calculate density for the assisted living, two beds count as one living unit or one dwelling unit. With respect to setbacks, within the development itself, there is no setback between properties within the development but in the underlying zone, say it's the A zone, it will be double the minimum setback for whatever zone it's in. Say, it's a 15 foot setback, it would be 30 because it would be double if it's next to a residential property. With respect to building height, this is one where the

commission had a lot of discussion. Because of the nature of the facility and the types of activities that would go on, the commission approved a building height of three and a half stories and 45 feet for the facilities in this regulation. The floor area ratio which is a percentage of floor area to the size of the lot which is .35 which is slightly higher than some of our commercial zones but, again, not out of line with other things that we have in the Town of Westport. Coverage requirements, 15 percent building coverage and 30 percent total coverage. That's pretty much in line with what we have in a lot of other zones in town. The size of the dwelling units, the gross interior for the dwelling units shall not exceed an average of 1250 s.f. There is a requirement that we have a minimum of 450 s.f. of open space for each unit available on site. With respect to parking and loading, there is a requirement of one parking space for each of the independent units and the commission may require up to an additional .25 parking spaces per unit so the commission can up that by .25 parking spaces if they deem it appropriate. There are landscaping and buffering requirements similar to what we have in our other in our other special permit uses. There is a requirement that they have refuse collection areas suitably screened from view and that exterior lighting be down directed and not exceed a height of 16 feet. There are some architectural requirements. There was a requirement for pitched roof buildings but the commission modified that requirement on the idea that you could have rooftop recreational areas on flat roofed buildings so they thought that was a good idea to have the ability to have flat roofed buildings. There is a requirement that all utilities be placed underground, that this facility be connected to sanitary sewer and public water and that all drainage facilities be approved by the Town Engineering Department. There is another requirement that if there is a subdivision within the site, where this activity takes place, only the lots that are part of the original approval get the benefit of this regulation. So, if you subdivide the property and access land that is not part of the development, it does not get the benefits of this regulation. The last part is that there were some parking requirements, one parking space for independent living units and half space for the full care and assisted living units. That is essentially a rundown on the amendment and with that I will turn it over to the applicant, Mr. Joseloff.

First Selectman Gordon Joseloff, Applicant:

I believe we have about two or three minutes left in this portion so I'll be very brief and come back as a member of the public. I am delighted to be here tonight because it's an opportunity to explain what we've done, why we've done it and to refute some of the mistruths that have been spread about this project. I have spent 20 years off and on in this auditorium, 14 years on the RTM, 10 years as the Moderator. I have great respect for the RTM and its ability to separate the truth from the untruths. This is not a project that will hurt seniors. This is not a project that will raise taxes. Taxes, indeed, will go up not because of Baron's South but because of rising expenses. What we are trying to do is to get a return on Baron's South that you and I paid for in 1999 when it was purchased. What we are trying to do is aid a section of the population that is the most needy among our seniors. The figures are that about 850 people will qualify for the

affordable portion of this project. The last census showed that about 4,200 people aged 65 or over, seniors, 16 percent of our population, and growing. Seniors, by the way, who vote will take note of how RTMers vote. We have 628 residents 85 and over. Six hundred and twenty-eight is a 40 percent jump in 10 years. Guess what, when you're 85, you need a little health care. I've got lots more to say about this but I'm going to end this now to make sure we're within the time period. I'll be back during the public portion. Thank you Mr. Moderator.

### **Committee reports**

Majority report, P&Z Committee, Matthew Mandell, District 1:

Before I give the report, I'd like to thank my committee again for doing a phenomenal job of taking their time and effort to do what's best for this town by going to two hearings and spending over 10 hours and how much extra time they spent going through the videos and reading all the information. My hat's off to the committee and I thank you again. It's the tradition to read the entire report. It's six pages so bear with me as I read through the report.

RTM Planning and Zoning Committee Report, Review of Planning and Zoning Amendments 625, submitted June 13, 2011.

The committee met on Tuesday May 31 and Wednesday June 8, 2011 to review the Planning & Zoning Commission decision on text amendments 625 (Senior Residential Housing) under section C-10 of the town charter at the request of at least 20 electors. Attending on different nights of both meetings: Committee – Linda Bruce, Diane Cady, Heather Cherry, Joyce Colburn, Bob Galan, Jay Keenan, Matthew Mandell, Lois Schine, Judy Starr. Along with a number of other RTM members. Planning and Zoning – Ron Corwin, Ellie Lowenstein, Larry Bradley. Lead Petitioner – Bart Shuldman, Applicant - First and Second Selectmen Gordon Joseloff and Shelly Kassen Public – 30 residents. A website was created for RTM and public review of video and documents associated with this appeal at [www.westportd1.com](http://www.westportd1.com). As there were two nights of hearings the information being reported is not always in

chronological order. Mr. Shuldman presented the residents' case for why the text amendment should be overturned. He first made it clear his appeal was not about being against senior housing, but about finances, access by Westport residents and what is best for all residents. Mr. Shuldman pointed out that Westport, along with the rest of the country, is in a financially difficult time. That the Baron's property is a valuable resource and its use and or sale affects the entire community. The Town has pension issues, Other Post Employment Benefit (OPEB) obligations and that taxes would be going up. He pointed out this OPEB obligation could now be well over \$100 million with the addition of employees not counted prior. He also said that Westport had one of the highest per capita debts in the entire country and that seniors would be most affected by such tax increases. He went on to say that there is no plan on the table, other than use of the land for senior housing and a nursing home. That without a plan it was unknown what the impacts to our infrastructure would be and in turn the costs to increase these or to supply them for this future project. He questioned what the

costs would be for us to administer this as well. He called this "putting the cart before the horse." He also thought that meetings, held by the appointed committee (Baron South Committee (BSC)) on this project, should be held in the evenings when everyone could attend and observe rather than during the day when interested parties are at work. He argued that most Westporters would not benefit from this plan. First, that only a minute number of residents would get to live there or be helped by the nursing facility. That money they have already spent and will spend through their taxes will not benefit them, but instead this small minority. He added that there was no way to guarantee that Westporters themselves would get to live and benefit from this project. That fair housing laws make such guarantees impossible and that was reason enough not to have us give this land away. He continued to say that the 60 percent affordable housing aspect would preclude many Westporters, as their biggest asset, their home, would be used in a calculation for a test of need - that two percent of assets are calculated as income. He also wondered how this would work since there was a moratorium on the creation of new nursing beds. He also questioned what the need is here in Westport and in other communities as well as whose beds would these be. Planning Zoning was represented by Chairman Ron Corwin. He said they were responding to a request by the First Selectman to address use of Town Land and to look at a land use issue. He stated that the use proposed was consistent with the 2007 Town Plan of Conservation and Development. That it met the needs of seniors and increased the mix of housing options, specifically affordable. The commission made changes to the proposed text to improve and strengthen it. It allowed for private development, subdivision and sale, but that these issues would have to be looked at separately in the future. He pointed out that they deleted the proposed waiving of excavation and fill requirements, mandated that affordable units came first and that 35 percent of the housing units had to be built before any other subsequent additional aspects of the project are begun. It was discussed that §32-15, Managed Care, was left in place, instead of being modified, which allowed for private development on private property and that 32-15a was created through text 625 to allow for a senior facilities on Town Land. First and Second Selectmen Gordon Joseloff and Shelly Kassen, as the applicants, then spoke to explain their reason for bringing this to the P&Z and to defend the approval of text #625. Their main contention was that to move forward with any project the Town had to show prospective developers that the Town was serious and having a property legally zoned for such activity was needed. That 625 was enabling legislation to then allow the Selectman's appointed committee to seek a Request for Proposal (RFP) from interested parties. They said that no money had been spent to date on this concept, though in a subsequent press release the First Selectman corrected that statement, saying that the committee was right when it was pointed out that the Weston and Sampson Report, being used as the basis for selecting Baron's South as the primary property, cost the town \$50,000. In further discussions it was disclosed that the Town Attorney had billed possibly \$25,000 for services related to this project, but that was within Town side budget parameters. Other town staff had also spent time, but they are salaried. The rest of the work was

done by volunteers. Mr. Joseloff said that he believed there could be a tax benefit in the long run from the proposed project and the property now in decay would be rehabilitated. They said this would benefit seniors and it was time to give back to members of our community who have lived here, contributed their time and paid taxes all these years. The additional concept of a skilled nursing facility being added to the housing was in keeping with the idea of aging in place and was needed and would put Westport ahead of the game in elder care. During a long Q&A, different people represented the Selectmen. Town Attorney Ira Bloom reiterated that different forms of preference for Westport residents were allowed and that funding sources often dictated the outcome. A memo was produced on this issue at the request of the RTM committee which could not outline specifics, as time and cost would be factors, but said that anyone responding to the RFP would have to outline their process to prove preference. The Town Attorney also said that the Board of Finance (BOF) had a charter given opportunity to review the lease and that, if they rejected it, the First Selectman could then bring it before the RTM for approval, with a 70 percent affirmative vote. A memo on this was requested by the committee and delivered. In an email from Ms. Kassen to the Chair of the RTM committee in response to a question about further Board of Finance involvement, she said the board would be involved in the shaping of the RFP. Mr. Joseloff was asked if he concurred and his answer was yes. During a 25 minute interchange, specifically concerning future RTM involvement beyond that of the lease, RTM members pressed Mr. Joseloff for a future RTM say in the process. The answer was not initially forthcoming as he placed the burden of involvement and participation on individual RTM members outside of the Baron's Committee and RTM structure. Finally, the First Selectman agreed to bring the RFP to the full RTM for a vote. This is in addition to RTM Committees offering their own input into the RFP if they so chose. While the full RTM vote would be non binding, by charter, he said he would not ignore it, especially if there was a clear position taken. As to financial issues, Rick Redniss, a planning professional and a volunteer to the project, outlined how a demonstration site plan would allow for parcels of the property to be subdivided and built along side in kind or sold off to cover costs. He also reiterated that the text amendment was needed to be able to move forward with the RFP. He also explained that most people in such developments are from the community where they are built. The issue of the mandated 60 percent affordable was questioned as being too high. Ms. Kassen said that it could be modified post-RFP if needed. She also said that they have had interest in this project from both for profit and non-profit organizations and the BSC would be doing site visits of both in Connecticut and out of state. Barbara Butler, Director of Westport's Health and Human Services, explained the need for the full care facility, which had been called a nursing home or skilled nursing facility. A memo on terms was requested by the RTM committee and was delivered. It was all about aging in place and convenience for Westporters who now have to use out of town facilities. The RTM P&Z Committee heard from the public on both evenings. There was both support and opposition for the project as well as questions and requests. Some of the requests were:

1. That the RTM have a future say. That this bite of the apple was not specific to the project itself.
2. That only senior housing be built and not the full care facility. That there was no study or survey to support the latter.
3. That the property be left as open space.
4. That other properties, not so valuable, be considered instead.

Other comments:

- Time to do something for the seniors; the Town does for kids now it's their turn. We need both housing and nursing.
- Deny it and have the Baron's Committee figure out what is needed and then come back for a new text amendment.
- Baron's is not right for seniors, too hilly. Full care is not what is needed, but assisted instead, that models are changing.
- YMCA should be considered instead or in conjunction with senior housing. This proposal lacks a full vision for the needs of the town.

The RTM Committee heard closing comments from Ms. Lowenstein, representing P&Z, saying that they support what they passed and it lays the foundation for a future project. Ms. Butler, for the applicant, said it optimizes a community asset and will serve many who we'd never know need it. Mr. Shuldman reiterated the lack of planning and potential costs, especially since OPEB has become an issue of concern. The committee closed comment and began to discuss the amendment. The P&Z did a fine job fielding this amendment and the committee thanks them for a job well done. Specifically, they removed a requested waiver of excavation and fill requirements which would have given the opportunity for excessive modification of the natural hilly terrain. The P&Z mandated that the affordable housing be built first and that no other parts of the project could commence until the housing was built. One issue specific to the text that could be tightened is the discretion given to a future P&Z on the height requirement which leaves open what is the height to any and extra stories of any building. While the P&Z might have performed admirably and the text passed muster, it is in the purview of the RTM to look beyond those issues as this is a legislative decision. The general health and welfare of the Town of Westport must be protected and, thus, the RTM can look at issues such as finances, impacts and other uses of the land, and whether or not Westport residents would benefit or not from any outcome fostered by the amendment. Mr. Shuldman brought up reasonable issues which fall within that purview and the committee thanks him for taking the time as a citizen to air these issues in a public forum. That once again the Town Charter offering the RTM oversight of the P&Z when in their legislative capacity works as part of the checks and balances of our democracy. The committee agreed with many of the points offered by Mr. Shuldman and others opposed to the text amendment, that future costs are unknown and that it is unclear whether Westport residents will get to live there. That sale of the property or a lease to a for-profit may be better, though some believed sale to be unacceptable. During the discussion it was believed the 60 percent affordable number might well constrain the RFP to be only accepted by a non-profit and thus limit options and possibly stunt



competition and not give Westport its best option. Some also deemed that this number might be too high to give enough Westporters, who do have the means, to be able to live there as the number of market rate units might be too few. It was pointed out that, indeed, there is no evidence other than anecdotal, backing the need for a nursing facility. In fact, the Weston and Sampson report discusses housing, nothing more. It was also pointed out that Weston and Sampson along with the First Selectman said the YMCA could not fit, yet the demonstration site offered for housing and nursing far exceed that of the YMCA. But a majority of the committee also felt there was a demand and need for senior housing, that a full care facility, while the need and process unclear, was something to look into. The committee understood that this was not an approval of any specific project, but an approval of a text amendment that would enable the pursuit of a number of possibilities. The Committee, while concerned with many of the unknowns, felt that the Selectman's committee would not be able to proceed without a legal zone that would show the Town's interest to a developer or operator. A minority believed that the result of bids from an amendment, that created unknowns, could bring unintended consequences that afterwards would be difficult if not impossible to correct. There will be a separate minority report. The committee felt that its hard fought concession from the First Selectman of an RTM vote on the RFP and the offer of RTM input in shaping the RPF would help guide the project and assuage, if not secure, the outcome desired by the residents of the town. This input was discussed and a check list was derived and the RTM would expect such documents be submitted by the Baron's South Committee for review and input.

- a. Defining the objectives for the RFP.
- b. Preparing a basic outline for RFP that structures its component parts.
- c. Identifying the types of potential bidders and necessary qualifications.
- d. Preparing a draft of the detail specifications for the RFP, including permitted alternative responses.
- e. Preparing revisions of the RFP resulting in a final version.
- f. RTM vote on RFP.
- g. RTM review and input of RFP responses and discussion of future RTM involvement.

In addition, assurances both in the charter and offered by the First Selectman that the Board of Finance would vote on the lease and would be involved in the financial oversight of the RFP also gave the committee comfort. Concerned that an outright recommendation to sustain the text might be taken as an approval of the process without such oversight moving forward, a process that up to this point was not, to many in the public and RTM as transparent as it could have been, a motion to take no action was made. This essentially would sustain the text amendment, but without endorsement. On a resolution to recommend to take no action proposed by Ms. Schine and seconded by Mr. Galan. Discussion surrounded goals, not being an endorsement of the project and our obligation to make a call. In the end, it was felt that the RTM Committee, after 10 hours of hearings, had to make an affirmative or negative call, regardless of whether or not it was a full endorsement. The motion failed 2-4. In favor: Galan and Schine.

Opposed: Cherry, Colburn, Mandell, Starr. It was noted that many of the concerns held by what would become the minority of the committee were valid, but the difference was the majority felt the text amendment was enabling legislation that would allow the Town to move forward on the concept of providing senior housing and that the RFP and the answers back from developers would further guide the town to a better outcome. On a resolution to recommend sustaining Amendment 625, by Mr. Galan and seconded by Ms. Schine the vote passed 4-2. In favor: Cherry, Galan, Mandell, Schine, Opposed: Colburn and Starr. It is noted that Ms. Cady indicated, prior to having to leave, she would vote in favor of sustaining. Submitted by Matthew Mandell, Chair, RTM Planning and Zoning Committee

Minority report, Judy Starr, district 1:

Before I begin, I want to say, everyone worked very hard. Their point of view has nothing to do with it, we've all worked very hard. I don't think that there is misinformation being spread. I think there are differences of opinion and different positions for different reasons that different people are taking. This is the position of those who support the minority report, that is, Ms. Colburn and myself. We hope we'll persuade more of you to join us.

The purview of both the Planning and Zoning Commission and the RTM includes the general welfare of the town. A text amendment takes place within a context, not a vacuum, for every structure it enables has both a purpose and an effect. According to our own rules, our review is guided by land use criteria, which may include, among other considerations, the welfare of the town (Review of Zoning Actions, Standard of Review, Sec. 162-24). This report considers the text both directly and in the context of the general welfare of the town. The problem is not with the concept of senior housing, but rather, with the manner in which we would seek to achieve that goal. 625 is vague about what the town can expect once the enabling door of that text amendment swings open. But furthermore, it creates a scenario of uncertainty as to whether or not we can sufficiently serve our own seniors, that is, whether or not what we get will effectively meet their needs. There are several interrelated areas of concern which this report will discuss. These include:

- The vague methodology in the assessment of the nature and extent of our seniors' needs
- The potential implications of the 60 percent affordability requirement in the text
- The extent to which the town will be able to grant priority to Westport seniors
- The ineligibility of seniors who will have "too much" to qualify, perhaps as a result of selling their homes
- The shaping of the bidding process by the 60 percent requirement as well as other factors
- And, last but not least, the question of potential financial implications.

Background considerations: It is reasonable, in these financial times, to be concerned about the effects of foregoing not merely sales income, but also the potentially more favorable leasing terms and the accompanying tax revenues that could flow from an arrangement with a for profit organization. As mentioned, the

text itself sets a 60 percent affordability requirement, unprecedented in mixed income plans and a high bar for a for profit operator to meet. Perhaps the composition of the original “Baron’s South planning group”, described in the Request Summary accompanying last October’s 8-24 request (p.5), sets the process on an inherent bias towards a not for profit as the developer. For example, the members included the head of one such organization, the Jewish Home for the Elderly (JHE) in Fairfield. The membership, however, did not include a representative of a for profit organization. Why not? Nor, incidentally, did it include an active financial practitioner. Broader representation could well have resulted in a different text, perhaps with requirements making it easier for a for-profit to compete. A for-profit developer may also be able to offer greater preference to Westport applicants for units in the facility, similar to the situation in neighboring Wilton with a for-profit facility there. Vague methodology in the assessment of needs: Why does this matter? The needs study cited in the 8-24 Request Summary is the basis upon which claims of widespread support were based. Of at least equal importance is that this is the data upon which initial demand projections for an RFP should logically rest. Yet, the methodology was vague, consisting of waiting lists, anecdotal evidence, and guided focus group discussions. But where is the hard data, e.g. on sample selection? Where is the uniform set of questions asked? Did the survey inquire as to how many seniors might decide to leave town regardless of this new construction, for reasons such as taxes, climate, or location of their children? Did it inquire how many seniors would prefer to stay in their own homes, with an aide if needed? Were interviewees told that a space might not be available for them when desired? Last but not least, were participants told that they might not be eligible for financial reasons, e.g., after they sold their homes? Don’t those seniors deserve the housing opportunity to downsize here as well? That there is need is not in dispute; however, neither the magnitude of the need nor the nature of the services needed has been scientifically assessed. This amendment would guide and enable us on the basis of vague data. How can we meet the real needs of our senior population without an assessment based on hard data? How can we set an RFP, or evaluate an operator’s proposal, without guideposts of our own? #625 allows a range of facilities, including an Independent Living Facility, an Assisted Living Facility, and a Skilled Nursing Facility. Without our own guidelines, based on real research, how do we know what our requirements should be? The 60 percent affordability requirement within the text itself is intertwined with much of the unknown potential effect of this amendment. This is an unprecedented high requirement in a mixed income housing plan; to date such a requirement has not exceeded 20 percent. How does this high affordability requirement, in the text itself, affect our ability to offer priority to our own seniors? How does it affect the eligibility of Westport seniors, such as those who sell their homes at a price which gives them “too much” cash? How does it affect the ability of a for-profit organization to compete with a not-for-profit, and how does this requirement subsequently influence the outcome of the bidding process? The 60 percent requirement poses questions about the amendment’s ability to fulfill the promise to our own seniors. Serving Westport’s Own Seniors:

Priority and Eligibility: Will the structure of the amendment make it difficult if not impossible to meet the stated goal of providing the maximum housing opportunity for our own seniors – of fulfilling both the premise and the promise that launched the process of #625? Will numbers of our own seniors be left out in the cold? At the June 8 meeting the Town Attorney’s Office said that although preferences can be given, they would be formulated by the applicant as the project developed and the type of government funding was determined. Note that the new regulation created by #625 refers to preferences granted to “the extent permissible under applicable State and Federal laws.” (32-15A.6 relates to affordable units. 32-15A.7 relates to all other units). As we prepare to donate a major piece of land, the answer is we simply do not know to what extent we can grant priority to our own seniors. What else but this goal should be the basis for launching this entire enterprise? A cautionary article has been posted on the P&Z Committee’s website, from the *Boston College of Environmental Affairs Law Review, 2008-09*, “Local Preferences in Affordable Housing: Special Treatment for Those Who Live or Work in a Municipality?” (Vol. 36, Issue 1, Article 6, 1-1-2009). It was written by Keaton Norquist, who was then the Executive Editor of that review. He discusses priorities and the need, in a number of cases, for preference “mitigations” due to the Federal Housing Act. He states: “An FHA claim against a local government’s residence preference is likely to succeed when the locality is significantly more homogenous than its surrounding region.” (p.234). This could well apply to us. Of interest is the list of priority “mitigations” which include extending preferences to local residents in only 50 percent of the affordable units; extending preferences to local residents only in initial vacancies; and, extending preferences to residents of a more diverse surrounding geographic area. It may be instructive to consider the experience of Santa Monica, which is cited in that article. In 2002 that municipality contributed \$2.3 million towards an affordable senior housing development. Only 12 out of the 65 affordable units went to previous residents. That’s less than one out of five of those units. If the Santa Monica experience is any indication of what we may expect, we should take note and recognize a serious uncertainty about how many units we may be able to “claim” for our own seniors. The high 60 percent affordability requirement could work as an additional barrier. Furthermore, it is doubtful that we could be perceived as less homogenous than many of our geographic neighbors. The shaping of the bidding process. There are three factors, one in the text, and two in the record, that seem likely to shape the bidding process to favor a not-for-profit over a for-profit: (1) The high 60 percent affordability requirement is far more likely to discourage a for-profit applicant than a not-for profit. (2) The anticipation of donating the land, cited in the 10/19/10 staff report, and as well a financial consideration (see below). (3) The necessity of a *Certificate of Need* for beds for a SNF, which could lead us to an existing area provider as opposed to a new entrant or one from outside the area. This is referenced in the 8-24 Request Summary, which cites the JHE as both having beds available to relocate to an 84-bed SNF during a current moratorium, and seeking to move beyond Fairfield (p.12, p.5). (Yet, why we are even considering an 84-bed SNF – more than ¾ the size of the Westport Health Care Center,

formerly Mediplex? The SNF is a model whose use is declining as people age more in less intensive settings, but whose labor costs are likely to increase while medical reimbursements are likely to decrease in the years ahead.) Yet, when a for-profit could do the job with fewer restrictions to the participation of our seniors and fewer demands on our finances, such a possibility should be maximized rather than discouraged. Why has this not been so, neither in the text nor in the record? One may wonder if it is not possible for a for-profit developer to perceive in this amendment a restraint of trade. Financial considerations. These are on everyone's mind at this time, especially with the looming burden of OPEB, larger than previously anticipated, and a pending significant tax increase. Financial health is important because without it we are hampered in our ability to provide essential services as well as the amenities upon which we have come to rely. Are we acting in the best interests of all of our constituents if we enable and even encourage the donation of their land to a non-profit developer, when a for-profit could do all that would be required and desired, without that subsidy? What are the financial implications of donating a very valuable piece of land? Whether it is the opportunity loss of a foregone sale, the nature of the terms of the lease, or the foregone stream of tax revenue, if the developer is a non-profit, it will cost the town significantly more. Why have we not done a serious financial assessment of the financial implications of #625 before even embarking on this journey? Note that in the record, the donation of our land is cited as a distinct possibility. For example, a P&Z Staff Memo dated 10/19/10, states (p.3): "To help make the project financially viable it is proposed the Town will donate the land and partner with a development team that will include a non-profit service provider." This is not about the use of private vs. municipal land, as was discussed at the May 31 meeting. It is about the actual donation of municipal land, most likely a parcel that is irreplaceable and invaluable. A word on tax revenues: Regarding a for-profit vs. a not-for-profit, there is a difference between regular tax revenues and the Payment in Lieu of Taxes (PILOT) which a municipality may receive because of a not-for-profit. Taxes are set and generally can be counted on to arrive in our treasury at given intervals in a given amount, based on assessment. PILOT is intended to compensate in part for foregone real estate taxes, but is generally for a smaller portion of what the full tax value would have been. At any rate, PILOT payments should not be regarded as equivalent in value to real estate taxes. Regarding personal property taxes, these are generally levied on property such as cars and boats. The amount we are likely receive from such sources pales in significance next to what we could anticipate from real estate taxes, if one is to make a comparison. Summary and Conclusion. An amendment is an enabling tool, a door that opens onto potential scenarios of land use. On the side of the door facing us today is a promise to our seniors. On the other side of the 625 door lies the uncertainty of our abilities to fulfill that promise. This uncertainty factor includes:

- the initial loose and unscientific methodology in the assessment of the nature and extent of our seniors' needs, and the limited ability of such data to guide both in establishing an RFP and evaluating subsequent proposals

- the potential implications of the 60 percent affordability requirement, unprecedented in a mixed income plan, within the heart of the text amendment
- the extent to which the town would be able to grant priority to Westport seniors
- the potential ineligibility of seniors who will have "too much" to qualify, perhaps as a result of selling their homes
- the potential shaping of the outcome of the bidding process by the 60 percent requirement, as well as other factors
- the potential and unexplored range of financial implications which would affect the town as a whole for many years.

Can this amendment lead us down a road where too many seniors will find, to their surprise, they can not follow? Given these factors in the text and the context, there is a great probability that the consequent answer could be "yes." Given the type of guidance afforded by vague research data, in combination with enabling a range possible facilities (ILF, ALF, SNF), we could conceivably end up not even meeting our own needs, but with significant financial consequence. Unthinkable, undesirable, but entirely possible.

In a way, our role at this point is like participating in the RFP, but at a very early stage, when intervention is always most efficient and effective. Amendment #625 enables too many possibilities that could come back to haunt us. After this review, the RTM will never have more power to avoid undesired outcomes, for the RTM's power will be restricted to giving advice. While we have assurances from the present administration to hear our advice, such assurances are limited to this administration and not their successors. And what if an administration disagrees with our advice? Today the weaknesses in 625 are on paper. If there is a tomorrow for 625, those weaknesses will be set in stone. For the reasons given, we recommend overturn. We also suggest that regardless of the outcome of the RTM review, the P&Z enact a senior residential community affordability requirement either of 20 percent, or better yet, as will be the case with the pending eligibility requirements, a percentage "to be determined" in conjunction with the successful bidder. This would be a step in the right direction both for our seniors and for us all. If we can't do senior housing for our seniors in a way that primarily serves our own seniors, on our own land then perhaps we should not be doing it this way at all.

Mr. Rose:

We are going to turn to the public now. Just a couple of suggestions, when you do get up to the podium, could you please give your name and spell your last name for the record and please try to limit yourself to about three minutes. We are probably going to take a break some time around 10 o'clock. I'd just like to remind you again, no cheering or no jeering. We turn to the public.

### **Members of the Westport electorate**

Valerie Seiling Jacobs, 11 Compo Road:

Good evening and thank you for listening to me. The first thing I'd like to do is go on record that I am definitely in favor of senior housing and I'm definitely in favor of health care alternatives. A couple of years ago when my father was diagnosed with terminal cancer, I would have liked nothing better than to have had a nursing

home in Westport instead of having to drive 25 miles to Greenwich every day to see him. What I'm not in favor of is giving away a \$23 million asset for a project that poses significant financial risk for the town and benefits so few people. By my count, there are four significant problems with this text amendment. First, this project will benefit too few people. This plan will add only 66 apartments and 60 percent will be limited to people who can meet the affordable housing test. The units are likely to be unavailable to residents who plan to live off the sale of the proceeds of a nest egg. Number two, and this is even more troubling, is the fact that can be no guarantee that Westport residents will have priority access to the units or the nursing home, a legal conclusion, and for those of you in the audience who don't know this, I'm a practicing attorney. I've been a practicing attorney for 30 years. The Town Attorney has not been able to rebut this legal conclusion and has mentioned earlier, in order to open a nursing home, in order to get around the state moratorium, we're going to have to move beds from an existing nursing home which means we will, at least, start out with non-Westporters in those beds. Problem number three: There are serious questions about the financial feasibility of this project. This is something that I don't believe anyone else has touched on this evening. With only 66 apartments and 44 nursing home beds, this project will be too small to take advantage of the economies of scale that become increasingly important in this business especially since, historically speaking, more than 65 percent of nursing home patients in Connecticut wind up on Medicaid, not Medicare, Medicaid which means that they have no assets. Without a sizeable private pay population to offset the ever shrinking federal and state reimbursement for Medicaid patients, the operator is almost certain to face financial hardship. Does the town really want to be in a position of having to subsidize the facility or evict the sick and the elderly? When I was practicing law full-time, I worked on many, many health care transactions, particularly financing. I worked on bond transactions, bank transactions, every kind of financing known for senior housing and nursing homes. I can tell you for a fact that there is great reluctance in the lending community because lenders are leery of this exact problem. What happens if the operator cannot make a go of it? Problem number four: If the RTM doesn't stop this now, it may not get another chance. The First Selectman contends that this is only the first step and that he plans to do more research and put out the RFP. The problem with that logic, as others have pointed out, is that once the RFP is issued, the only proposals received will be from non-profits. It's almost a certainty. I cannot imagine that a for profit would be interested in a project that requires 60 percent of the units to be affordable. The town will be basically foreclosed from considering any other alternatives for the site. Since our town charter provides no other opportunity for the RTM to weigh in on future deliberations other than at the kindness of the First Selectman, this plan is likely to become a fait accompli unless the RTM vetoes it tonight. We have been paying taxes on this property for years and now you are asking us to abandon any hope of recouping a return. I know that there are some of you that are hesitant of voting against this because you believe it would be perceived as a vote against senior housing. What I'm telling you, though, is that if you vote to

overturn text amendment 625, it will not be a vote against senior housing but rather a vote for more senior housing. It will be a vote that says this plan is just not good enough.

Linda Smith, 60 Roseville Road:

I don't have any prepared speech. I just want to give you my personal experience. This for me is déjà vu. My husband and I moved away for 23 years and lived in a suburban town, Glen Rock, New Jersey, similar to Westport. Ridgewood was probably closer to Westport, the next town. Back in around 1985, they wanted to consider a senior apartment building in town. Howie Kurtz who is a national reporter now, he told us that this was the closest to a lynching going to a town meeting that we are seeing because the town residents were totally up in arms. People were going to come from inner cities, get on the train, come to Glen Rock, rob the seniors and then commute back to the inner city. That said that Glen Rock residents would not be able to do it. Legally, you can't do it. Later, it did pass in around 1990. Now, it is the pride and joy of that town. What it did do, also, my mother was there for eight years before she moved back with us in Westport. I don't think there was one person I met there who didn't have a connection. Either they lived in Glen Rock, was the parent of a Glen Rock person so they could move there. Yes, the same arguments with getting the federal money, getting the grants, they were still able to show preference. Like I said, nobody wanted it and two years later it was put back on the table. Some very courageous woman came to the ruling board in the town and said that they had been stalling long enough. Now it is there pride and joy. So, let's see what happens.

Bob Pasternak, 61 Clapboard Hill Road:

I am one of those for whom this project is designed. I am a senior citizen now. Even though my accent may not seem so, I have lived here for 30 years. So, I think I belong to this town. I have listened carefully to this discussion. This is the first time I am at the town meeting. It is almost like in Washington, suddenly you appear there and try to understand what is happening. I don't think I know enough about the project; however, listening to the discussions, I am much more convinced by the arguments against it than the arguments for it. Certainly, perhaps not because the project lacks benefits but, it seems to me, the question here is timing. The definition of life is what happens while you are making other plans. The plans for this began a few years ago but, hello, things have changed. We are living here in a different world today than two years ago. The taxes are choking us already. The state taxes are increasing. The town taxes are increasing. If you know what is happening in the world, and we are a global village, Greece will go bankrupt very soon. The whole European market may fall down. This will have tremendous debileatory effect on the United States economy. We may very well be in another major recession two years from now and what this will do to this town, I don't have to tell you. It seems to me, I am a retired surgeon, that applying our surgical principal of zero defects when you undertake a project should apply here, as well. Certainly, the inadequate research data and



the number of questions, very valued, raised by the opposition and consideration of the financial situation of the town and the nation seems to me to indicate that this board should deny this project for the time being. The land will be there. It can always be brought back but right now, it appears to me that the role of the government of this town should be to tighten the belt, circle the wagons, keep this town working as it is. Don't start any new initiatives until we know where we are. You would do exactly the same within your own family projects. I think the same should apply with town government. It should be voted down in my opinion, not forever, but for the time being.

Richard Sallick, 77 Long Lots Road:

I am reading this for the chair of the Human Services Committee, Lynn Goldberg, who had to leave. The Commission on Human Services met today and voted unanimously to give the following statement:

Westport is known as a wealthy town so people are surprised at the extent of activities offered by the Human Services Department. They do not expect Westport residents to need help paying for prom dresses, for backpacks for school or holiday gifts. Drivers for Meals on Wheels see a part of Westport that the general public does not and understand the need that exists here. Unfortunately, while the average citizen is well off, some are not. Not everyone has a high disposable income. Not everyone has a million dollar home which is debt free. The Human Services Department gave heating assistance, funds, to over 275 households last year of which 114 were seniors. Twelve hundred households have worked with the Human Services Department staff in the last year, within the past 18 months, and 782 are seniors. So, one of the reasons we support Baron's South housing is the definite need for affordable senior housing. The Baron's South proposal would create housing for 60 plus households, some of whom would qualify for affordable housing. The department has already received 123 phone calls asking about senior and supported housing and the proposal has not gone out to bid yet. We urge you to support the text amendment. Please let the proposal proceed. We need affordable senior housing and are in a unique position to create a senior campus in a central location with both housing and medical care. What a great way to allow the senior to age in place. What a wonderful asset for everyone in town this could be.

Sumner Glimcher, 10 Crescent Park Road:

I'd like to talk about two different things. The first is the extraordinary location of Baron's South which is walking distance to everything in this town, water, power, sewage, everything. There could be no better place in the world to build senior housing. I think that to build 120 units is far too little. I think that some plan to be made to do in stages, that 22 acres can support several hundred units. That would be a great idea. The second thing I'd like to talk about is my need for affordable housing. I moved to Westport in 1960 and have lived here, brought children up who went to the local schools and have been deeply involved in the

community ever since I was here. I helped George Thompson start the Westport Arts Center. I was on Ruth Steinkraus Cohen's board of Friends of Music, a member of the artist community theater, I was deeply involved in the Y's Men, a member of the Unitarian Church, at one time a trustee. Up until three years ago I worked and had a productive income and lived in lovely homes. A few years ago, when the economy went south, I no longer was working. I worked until three years ago. I am 87, by the way. I am now living on a very modest inadequate pension. Of course, I have no idea, if these homes are built if I'll get one. If I can't get some kind of less expensive housing, a more modest house than I live in now, I'll have to leave the community.

Janet Canning, 9 Mortar Rock Road:

About two decades ago, I served on the RTM for 10 years and I know what a privilege it is and how much time you put into it. I also know how much time the P&Z people put into it and any decision to overturn a decision reached by another duly-elected body requires really serious consideration. I won't go through the whole bit about living here for a long time and our kids going through the school system and I love the schools and that's why we moved here. For 14 years, I worked at the Senior Center. I was there when it was at Green's Farms School, Staples High School and at the beautiful new facility on Baron's South. That space is truly a gem and we were fortunate to get that space. My main job was the Meals on Wheels program. I'm aware that there are a lot. As the last speaker said, we do have a lot of seniors who would definitely qualify for the program. I watched, with deep regret, the number of people who have moved out of town, wonderful volunteer drivers that I had come to love and count on and they moved out of town, because we don't have a facility for people who want to age in place. We have so much in this town. We lost the opportunity for a for-profit place years ago when the Gault family wanted to put one on their property. There's not a lot of extra space in town. I think if you don't take the opportunity tonight, we might lose it.

Janis Collins, 41 Compo parkway:

I am speaking for myself tonight. As I read the text amendment, what I think what we are asking you to do tonight is to just uphold a text amendment that was put in place by the Planning and Zoning Commission. This text amendment, 625, actually provides the definition for senior housing at 13 different town locations. That's all we're asking you to vote on. We're not asking you to vote on specifics of what that housing will look like, even where it is going to be located on any specific property. That will come later in the next step, a site plan and Special Permit application. Really, we are just asking you to move forward with this process which is to vote and uphold text amendment 625. As I put my hat on as Chairman of the Parks and Rec Commission, we have been working with the Baron's South Committee to advocate for keeping as much of that space open and open trails and improving the public access. If you've been to Baron's South lately, it's a beautiful piece of property. It's not safe and public access doesn't exist, not, at least, very easily. For 11 years, we have been maintaining this

property and nothing has been done there. Five houses have been maintained, as well, by the town and nothing has been done with those houses. This is an opportunity to move forward with Baron's South and do something that could be very productive for all of us, improve public access, as well as, potentially, senior housing. So, I urge you to uphold 625 so we can move forward with our analysis.

Mr. Joseloff:

J-O-S-E-L-O-F-F. I'm going to throw out a lot of what I had to say because I want to hear from the RTM. I want to make a couple of points. I want to thank you, Matt Mandell. Thank you to your committee. I applaud even the minority report, Judy Starr. You have done due diligence. You have done a good job. The town can be proud of the work you have done. I'm proud of you as RTM members and, certainly, as somebody who has a place in my heart for the RTM. Judy, in fact, there are a couple of mistruths and you made a couple of them. We did have a private developer on the Baron's South Committee, Ken Olson. We did have many of the questions that you cited as not being asked, indeed, were asked. We can tell you exactly what they were. It's not really worth while going into detail. What you need to keep in mind is this is enabling legislation. This enables us to get to the next step. We may turn out the RFP's, get them back and find that none of these meet our needs or criteria. That's a possibility but we have a group of people who are willing to work as best they can and to be all encompassing to get support of the RTM, consult with the RTM, consult with the Board of Finance, consult with the P&Z, hold public hearings. There's a gentleman who came to the League of Women Voters hearing a couple of months ago adamantly opposed to this. He said it's not good for Westport, not good for seniors. He sat through the presentation, perhaps a bit grudgingly. Then he came up to me afterwards and said, 'You know what, Gordon, I didn't know. I didn't realize what you were doing. You were looking, not for my grandmother's nursing home but a new way of taking care of our seniors.' Does there have to be a health care facility? No. If we decide, the RFP's come back and say there won't be, then there won't be. Sixty percent affordable, that's flexible. Don't forget, some of these are market rate so you don't have to meet the asset test. If you can pay the price to get in, you can get in. We are not giving away something. What we are giving away is the opportunity to do something for seniors. If I can provide and the town can provide a place for 64 or 66 seniors to live and there's an 84 bed facility, not a 44 bed facility, a place to live and, guess what, a place to die. I think that's more important than providing a place for people to go swimming or to work out. It may not be as many people, but in my heart, I think that's the right thing to do. I look forward to further discussions.

Helen Martin Block, 67 Partick Road:

Where to even begin...It's a very complicated situation and there really are no easy answers. The RTM is in a very tough position tonight. I don't think there is anybody in the room who is opposed to seniors. If you haven't gotten to be a senior yet, you're going to be a senior. So, one way or another, we're in this altogether. The question is how to proceed in the most intelligent way for the

seniors and for the people of Westport of all ages. Interestingly, when I think of Westport and free land, it sort of boggles my mind that we would not have the opportunity to have RFPs coming down the pike from a lot of different sources. Non-profits, a profit source would have no problem stepping forward and saying, 'Free land in Westport, are you kidding?' So, I think that has to be something that is on the plate. I admire very much the minority report, the majority, the people that did it and especially the gentleman with the extremely charming accent who came up here to really give us a cautionary tale. That is, that we really can't have everything we want right now, necessarily. We have to think about it. The other thing is, when Mr. Corwin was up here and he talked about the various steps that were taken that would enable the RTM to go down memory lane and know where we were, actually, the Weston Sampson study was done as part of the POCD. It was not properly vetted. It was not transparently done and I really feel it was placed in the POCD in a way to make sure that this would happen somewhere along the line. I would like the RTM to have a real transparent way of dealing with the situation not sort of sliding things under the table. One last point, Mr. Bradley said in the very beginning what it means to have senior housing. There's a part in there that talks about recreation. Where is this recreation going to be had? By whom and by what entity? How is that going to happen? I'm going to make one more pitch for the you know what because I believe, there's room on this piece of property for senior housing, not a nursing home, because we have such a thing in Westport called the Mediplex that can be beefed up, made better and really have something that's not very far from Baron's South right now. It's there. Make it better. Don't take more land and put something on it that we already have but we can afford to make something happen on Baron's South that should have happened years ago that was denied. We need recreation there for the young kids, for the young adults, the middle aged adults, the old adults, all adults. It's called the YMCA. It belongs there with senior housing. That's what you need to do. You need a comprehensive plan and you need to think about it now. You need all the elements in place. That's what we need to do because otherwise, people are going to come back here and say, 'Oh, we need a community center.' Well you have something there. You have a way of dealing with it. I really don't want to be in your shoes. I've been in other shoes that have been kind of uncomfortable through the years so, I understand where you are right now. I respect it and I hope you make your decisions based on facts. I would like to thank Mr. Shuldman very much for spearheading this.

Tom Burchill, 95 Clapboard Hill Road:

I am opposed to the text amendment. There's really nothing that I can add factually or by way of an authoritative argument that hasn't already been stated here tonight by those who are against it. So, my comments are directed to those on the RTM. The opening comments this evening were about trust, trust in elected officials. I do not see how the trust of the public can be served by a set of circumstances that are so uncertain. I beg you for your trust. The Town of Westport and those who live here are expecting leadership from you in your decision. I simply just don't see, with all the uncertainties related to this topic,

what can lead you to vote for this text amendment. There are two ways to look at this. There is the narrow bureaucratic plumbing associated with the authorization or approval of a text amendment which, on its face, ought to be a simple decision. Does it meet the Town Plan? Does it meet comments that have been made in prior town meetings. It probably has but there's a larger decision here to be made that I think the Town of Westport and the public expect your leadership on this issue.

Mr. Rose:

At this point, after we have heard from 10 or 12 or 15 people, if you basically want to repeat something that somebody else has said, please try to avoid it. You can certainly indicate your agreement with that party but please try not to repeat what somebody else has said.

Bill Lynch, 15 Gault Avenue:

I'm addressing the RTM. This is a very big decision that you have to make. I understand that overturning a decision is a very difficult thing and probably, unlikely since only seven people have to vote for it. I would just say that this is a very big decision. I am very sensitive to the fact that we definitely need more elderly housing; however, with this many open questions, I think it is fiscally irresponsible to move this process forward when there are so many unanswered questions, not only about the proposal but also about the town's finances. It is a big decision. There is a lot of commentary on both sides which means it's not that clear. I think you should stop the process now until some of these things have a chance to become much clearer so that you can make an educated decision on something as important as this.

Jeff Block, 67 Partrick Road:

I read both the majority and the minority reports, excellent work on both parts. I wasn't sure, sometimes, reading the majority report whether or not it was the majority or minority report, frankly. At one point you talk about mandated affordable units came first and that 35 percent of the housing units had to be built first before other subsequent aspects of the project could begin. At another point I believe it says that all of the housing units have to be built before the project begins. I think you should straighten that out, Mr. Mandell. What I wanted to talk about, though, was the fact that the town really does need to look at regulations and changes in a more effective manner. The RTM represents the people of Westport more so than any individual commission or board. The RTM needs to consider all aspects of any given legislation that comes before them and view it in a more global context than any individual commission can. The RTM cannot look at 625 without understanding where the town is today and where it has already made commitments to the future. For example, you can't look at 625 without looking more globally and considering the affects of other projects such as Hales Court. Again, I'm looking at the financial aspects that Mr. Shuldman pointed to. Hales Court, we built 78 houses, much needed affordable housing. Along with that housing will come approximately 100 kids at about \$18,000 per

kid per year, \$1.8 million and no tax base to support those children going to school. That obviously, is going to hit us; us being everyone in the room. Senior housing brings effectively no real tax base with it so, from a financial position only, not from a moral position, we have some problems there. Added to Westport's issues, also, is our commercial tax base which has been shrinking considerably and I don't think, given the economy, much hope for that growing in the near future. I would like to point out, as Mr. Corwin said, that this is a land use issue. That's where I look at the RTM and I say, 'You can't look at it as a land use issue. You've got to look at it as a global issue for this town.' For almost 20 years, I have witnessed the various town commissions exercise their due diligence to review and adjudicate numerous changes to the town regulations. All too often this work has been performed in a contextual vacuum of this or that commission's specific area of review and with little or no respect for the more global effect of their decisions on a town-wide level. While I understand the nature of the town's governance and how it works, I believe it is the duty of the RTM to act independently of the influences of the town's various commissions including the executive and to exercise its role to act as the only body that can have such global oversight. I ask you to disregard 625 for now and take this time to perform a review of it in the full context of where we are as a town, where we want to be and for the financial position, how do we get there while assuring the viability and intelligent growth of Westport.

Robert Mcgee, 2 Wake Robin Road:

There's been a lot of discussion tonight. I don't think I can add anything substantive to that but I want to go on the record that I am against 625. I think there's too much financial uncertainty involved with that proposal especially in light of these times. *Westport News* had the article today that people referred to about OPEB being under funded severely. Let's get our financial house in order before we take on something with so much uncertainty. I'm not against senior housing either but let's get our ducks in a row here. If you have a house and you have a mortgage that you can't quite meet, are you going to put on addition? Will you dig a swimming pool? I wouldn't. Thank you and I ask you to vote against 625.

Jorgen Jensen, 1 Riverview Road:

I was on the RTM for 20 years. I was worried when I retired that things would collapse behind me but I am very happy to see that you are doing quite well. Many of the speakers have alluded to the fact that it is going to be a financial disaster to the Town. I don't see this. This is pretty much going to be paid for by the people who use the facility, either the renters or the people who are in the nursing homes. It's going to be paid for by these people. The town's investment in this property will just be the land. I don't really understand that concern. There is one thing that I've experienced. I'm a member of the Y's Men of Westport. Every week we have a health report from our members. Every week we have people who are at out of town nursing homes for rehab or nursing care. It's always in Fairfield or in Wilton or in Trumbull. It is very inconvenient for their

families. They have to travel long distances. They never get to see their friends. They get out of touch with what's going on back here in Westport. So, it's a hardship. These are people that would be able to take advantage of that nursing home. You ask where are these nursing home beds going to come from. They are going to come from Westporters who right now reside out of town and would prefer to be back here in Westport. So, I support this amendment and good luck.

Deborah Reif, 22 Surf Road:

I came tonight because I heard a lot about this project and it's been very vague to me and I wanted to get more facts. After listening tonight, I understand the goal for the senior facilities. I believe in the senior facilities. I have looked at them myself for my dad. It can be done. It can be done really well in a for profit manner. I agree with Ms. Starr that the way you structure the RFP on a profit or not for profit basis is really going to impact how the whole thing works economically. I would ask the RTM to slow it down. If the only way to get another bite of the apple and really look at a pro forma of a for profit, a not for profit with the mix of the beds, what the economics are going to look like long-term; if you don't know that, it's hard to make a decision. Surprises are terrible in business and in finance and when you get a pension unfunded liability surprise and you get a vague project like this, you start to wonder if you could get another surprise. Did we put enough time in it? Did we really look at the financials? Did we do all scenarios and really understand the decision we are making? I just ask that we slow it down.

Reverend Edward Horne, Pastor, United Methodist Church, 9 Bushy Ridge Road:

The church is at 49 Weston Road in Westport and 9:30 every Sunday morning, we are open for business. I am also part of the Westport Clergy Association and have to say, first of all, that all my clergy colleagues who represent all but one of the houses of worship here in Westport unanimously endorse this proposal in terms of moving ahead to explore the building of senior care facilities and senior housing because we know from our own congregations what a need there is for affordable senior housing and also for a health care facility that our members that would actually go to. Very few, if any, of our members go to the current facility in Westport because it is, frankly, substandard. That's why so many of our members and so many of your friends go outside the community to other facilities because those are the places that folks in Westport know will serve them better. We would like to have that right here in town and have a situation where folks can age in place starting with their home and then if, and when, it's needed, to move to a health care facility. I'm also a member of the Baron's South Committee and have been now for several months. I have to say that we have already put a lot of time into this. We are taking our time. We are moving with deliberate speed exploring all options. We have investigated and will do a lot more investigating of various facilities here in this area of southern Connecticut. Some of us are going to Massachusetts to explore facilities. Some are going to

Pennsylvania. We are trying to get up to date state of the art information. We are also meeting and beginning to have conversations with various developers, for profit as well as not for profit. There are some assumptions that are being made. That's one of them, that this is going to be only a not for profit exploration. That's not true. We are open to looking at all possibilities, all comers, who want to explore with us the best possible proposal that we can come up with. One of the reasons that this plan is a bit vague is because that's where we are in the process. It's only by getting this text amendment through that we can now move ahead with more specificity. I want to thank the Planning and Zoning Commission for their thoughtful thorough review of this proposal and the text amendment and the good questions that they asked and the suggestions that they made which we will certainly take into consideration and work with and work into the proposal. It's our belief, certainly among the clergy, that a community can be judged not only on the basis on the quality of its housing, its education, its amenities but also on the basis of how it cares for the neediest of its residents and citizens. We do have a significant number of those folks here in Westport, more than you might realize. So, it's not only a financial issue and certainly we have to take a good hard responsible look at all the finances but it's also a community care issue and it's also, I dare say, a moral issue. We have to take all of those into consideration, not just finances, as important as finances are. It is easy always to say no. It is easy to say it's too complex to move ahead on. It is easy to put up all sorts of reasons for blocking progress. It's never going to be a perfect time to move ahead but Westport has always been a forward thinking and forward looking community and this proposal holds the possibility for an exciting future for all of us that we could be proud of; that we could be a model for the whole of southern Connecticut; that folks from other places would want to come and find out about and that we can have for years to come and maintain places where our seniors can live and thrive. So, I urge you to allow us to proceed at this point so we can develop an RFP and come back and work that through in a way you can be proud of.

Ellie Lowenstein, 372 Greens Farms Road:

I also serve on the Planning and Zoning Commission and I just want to remind everybody that this is a regulation change. A regulation change goes on the books and when it's time for people to use it, they use it. It doesn't mean that it is going to be used immediately. In this case, there's going to be a lot of work before I'm sure it will be used. I just want to make a comment about the minority report. On page two, the 60 percent affordability requirement, it says "...an unprecedented high requirement in a mixed income housing plan. To date such a requirement has not exceeded 20 percent." Well, we have a regulation called Residential Affordable Housing Zone which requires 30 percent affordable housing. We have an Affordable and Middle Income Town Owned Property Zone which requires 50 percent affordable housing and 50 percent middle income housing. That would be 80 percent of the area median income, whereas, the affordable is 80 percent, in our case, because we are a pretty high income community, it could be 80 percent of the state median income. We also have a



Municipal Housing Zone which requires 100 percent affordable and Supported Housing zone which requires 100 percent affordable.

Michael Stashower, 321 Landsdowne:

I am a member of the Commission of Senior Services and I believe that our chairman is going to speak at some point in time but I did vote in favor of this proposal that the commission will be supporting at a later time. In addition, I am one of the Westport representatives to SWRPA. I just want to point out that the Plan of Conservation and Development of SWRPA talks very much about the need to provide senior housing. I would say to the RTM, if you overturn this regulation, you are going to make it very, very difficult for the project to go ahead. I don't believe developers whether private, public, non-profit, whether they are interested in the nursing home portion or interested in the housing portion will be anxious to go ahead without this regulation change because they won't know what they're bidding on. They don't know what it is that they are going to be able to comply with. This is not unique. I was on the Planning and Zoning Commission from 1997 to 2005. We, many times, had a zone change, a regulation change first and then a site plan. That's the way it's done. The idea that this is the cart before the horse, they have the cart before the horse. This is not the cart before the horse. It is the usual way to do it. For example, on the Senior Center itself, we first had to pass the regulation and we did. Four months later, we got the site plan and we approved the site plan. Two separate steps and a controlled way to go about it. This has been done in the exact way it should be done. I strongly urge you to uphold the P&Z action.

Jeff Gray, 21 Broadview Road:

My biggest concern here is the process as to what's taken place. We continually heard that without 625 developers won't get involved, that no one will be interested and this will never go forward. I just find it remarkable to watch this go through and just think about the fact that now we have the Baron's South Committee. There are 13 town sites that could be eligible for senior housing; yet, we already have a name for the committee. There is already a bias built into it. Secondly, it's really clear that nobody actually believes that 625, as it stands, will actually take effect. It's going to be changed. If the Baron's South Committee is first doing research going to Massachusetts, Pennsylvania putting a lot of time and energy into this thing and then coming up with the RFP, that is the cart before the horse. We already have Planning and Zoning in place and now they are going to have an RFP after the fact. What happens then? They come back and change the P&Z? Change 625? Or not? If they're not going to change it, then we don't need the committee. The RFP has been written. The RFP was written by 625. It's very clear. It's very specific. It's very detailed. If there's any doubt that 625 isn't right, then the RTM needs to overturn today. It doesn't mean it will stop the process for senior housing. That's going on regardless. That's happening right now but what will happen is that at the end of the day, the text amendment will meet the needs of the town. I think it's very important that the RTM today take steps to prevent 625 from happening and then having to

backtrack. It doesn't make any sense. I'm baffled by the logic here or lack of it. There's plenty of time. The Baron's South Committee is going to do their homework and come back with recommendations and should come back before the RTM with their proposal for what an RFP should look like. The RTM should take a look at that and either agree or disagree or make them change it, whatever is in the best interests of the town. If the RTM lets it go tonight, it's a huge difference between having a legally binding say what goes on in the town and having a 'We think it's okay or we think it's not' sense of the meeting...huge difference. It's not going to stop things because nobody could go out right now to a developer with what we have. It's not going to happen because they are first going to write the RFP. The P&Z should come after the RFP, not before. It is the cart before the horse. It should be done the right way. The RTM needs to make sure it's done accordingly.

Stanley Nayer, 77 Clinton Avenue:

I have spoken to the RTM before because I am the Chairman of the Senior Commission in Westport and I advocate for seniors. Reverend Horne, if you listened to him carefully, said it all. He really said it all. He's right in the middle of the Human Services Commission, right in the middle of Baron's South. My remarks will follow his but he said it all. Much time and effort has been expended to bring this project to this point. It needs to be taken to the next step to determine whether the proposals submitted by interested parties are good for the town, Westporters and its seniors as well as the organizations who would do the bidding. If it's not good for them, there won't be a deal. If it's not good for us, there won't be a deal. Invariably, if the negotiations after they make the bid where there will be approvals required, statutory changes and amendments. That's where checks and balances come in. That's when all of us will have a chance to look at it again and to do what has to be done and that's what's best for the town. In terms of people saying, 'Let it go for next year,' it can't be. Now is the best time to entertain proposals. Interest rates are extremely low. There is little commercial building going on and builders are interested in projects and they're ready to go now. Our need for affordable and market rate housing and, understand, 40 percent market rate housing in Westport is well documented. The Westport Housing Authority has approximately 300 names on its waiting list and the list is closed. Ask Carol Martin, the Housing Authority Director, about her population in the Westport Housing Authority, where they're from. That's the reality of it. The Westport Housing Authority. The Department of Human Resources receives approximately 15 inquiries a week asking about affordable housing. Further, it's extremely important to understand and Janis Collins told us about it this evening, that this project is not only for seniors. This project is to make Baron's South a place for all Westporters. I suggested that a playground be built. It was well received. If the place would be made into a safe park and that's not what it is today. I urge you to give this project a chance and don't overturn the P&Z's text amendment. I'd like to make another comment. If you'd like to see what's been really accomplished for seniors in Westport, come to our annual Senior Commission Annual Meeting this Friday at 9 o'clock and you'll hear what's been

done and what's been accomplished and I believe that this project can be accomplished as well to the satisfaction of most Westporters.

Marty Hauhuth, 31 Island Way:

I have been spelling the name slowly in Westport, often in this room for close to 50 years. When I came here, I immediately became involved in the town in a great many of the things that I know you have done as well...PTA, League of Women Voters, I was on the RTM for a period of time so, as someone else said, I fully understand the time you put in and the amount of work you do to make your decisions and I continue to appreciate it. I was on the Board of Selectman for 12 years. I was First Selectman four years. I chaired the Charter Revision Commission in 2000, co-chaired it with Joan Hyde, who had been the Town Clerk for many years. I tell you all that, not to convince you that I'm important, I'm not necessarily important at all. I don't have a lot of power. You have a lot more power over these decisions than I do. The reason I tell you about it is that all through those 50 years that I've been active in Westport, I have been privileged to have been inspired and encouraged and mentored by phenomenal people. As you know, the people who live in this town and the people who come to this town are extraordinary, have extraordinary experience, extraordinary minds and I was very privileged to have them share all that with me and it made me into a better person, a more interesting person and it made my life really a joy. This town owes me nothing. My voice begins to break a little bit when I think about all that this town has done for me. I was at a luncheon today, the Democratic Women of Westport, and a friend of mine who I don't see a lot but saw this afternoon said to me, 'Marty, after all those years, why would you ever go back and do this?' I am co-chairing this committee because of all those people who inspired me and encouraged me to be involved in the community because we owe it to them, many of whom were at the luncheon today. People have made our school system, advocating for our terrific schools for our kids and improvements to our town. We owe this to them. If I can give my credibility and experience and my work to make it happen to them, I will do that. I hope that you will join me in providing a facility like this for the people who have done so much for our children and for us. There are a couple of things I wanted to mention. One is we need this text amendment as a first step, as an important step, as a sturdy platform on which the committee can stand. It gives us the parameters within which we can develop a Request for Proposal on which we can entertain bids and negotiate with interested people who would develop the property for us. It is very important that they know and that we know that the town is behind us and the town feels it is an appropriate use of this property. We are very open to non-profit, profit, we really want to work with a variety of developers. We want to hear what their ideas are and we would be responsive to those ideas. We want to hear your concerns. I have been to all the meetings involved with this and will continue to be there and continue to hear what you have to say and include it in our deliberations. Yes, we are called the Baron's South Committee. I'm not sure I'd call it a bias but I think there is a certainty that this is the appropriate piece of property, in the center of Town of Westport, underutilized, next to the Senior

Center, a place that can be easily accessed by public transportation, if necessary; a place that is part of our community because, in my view, this is not only something we're doing for seniors who have done a great deal for us, it's something we're doing for the whole town because it includes with us in the center of our town, interesting people with great affection for the community who will continue to be part of us if we provide them with a place so that they can stay here. I encourage you to support this text amendment, not to overturn it and to continue to be part of our deliberations and to work with us as we go forward with this project.

Michael Calise, Sylvan Road South:

I would personally like to thank Mr. Shuldman for bringing this question forward so that it can be explored to a much greater degree than it has been up to this point. I think there are a lot of unanswered questions. I don't think it's a matter of whether you are in favor of housing or not. I am concerned with the financial aspects of this project. If I were on the RTM, I would be voting against it to get the issues back on the table so they could be explored more. I am pleased to hear Martha say that the goal is to look at profits, as well. Going forward, that's something that we all should fight for very aggressively. One of the things that we lose sight of, or it seems to me we are losing sight of as we go through this process, is that when you create these situations and they become a cost factor to the community and, in fact, if we have this piece of property which as of this point we haven't determined its actual value, if we don't use it properly, then we're wasting an asset. That in itself is a loss because it's not giving you the return that you could be getting from it. The other side of the coin is, if you're not properly managing something such as this and it causes an increase in taxes as a result of it, it puts a greater burden on seniors so that, in fact, you are forcing them into a position where they can't stay in their homes. I hope, as we move forward with this project or any other proposal of this nature, that we'll be looking at free enterprise solutions. Some of the suggestions that have been made tonight by many of the speakers are that there are no models for this. That's not true. There is a for-profit in Wilton. There is a for-profit in Redding. There are many for-profits throughout Fairfield County which are very well done, profitable and returning money back to the communities. I hope that we will be looking at that side of it as aggressively as possible.

Terry Klein, 8 Danbury Avenue:

I was sitting here thinking should I get up to say something that I don't have anything new to say or to add except that I have been listening and people were saying this is not the time. I think the time is now. If not now, when? We have, as a member of the Commission on Senior Services, I am also the Director of RSVP which is a national senior volunteer program which serves Westport and the surrounding towns and I know from my personal experience that the seniors are a vital positive force in this community. I would support very strongly what Rev. Horne has said. The Baron's South property right now isn't being used or maintained as the head of the Parks and Recreation Commission pointed out.

There's been a lot of study on this so I'm just requesting that the RTM reaffirm the Planning and Zoning Commission's approval of that text amendment #625 so that we can allow the senior residential community, the proposal, to proceed. All we are doing is keeping the door open to the possibility of further development, further planning and further review. Let's not close that door. All we're saying is give us a chance.

Laurie Pellicano, 4 Inwood Lane:

I listened to what everyone has said. I bounced back and forth as I heard people's concerns. I guess what I would just like to bring to your attention is this, obviously, there is a need. I believe there is strongly a need for skilled nursing as well as affordable housing. If you choose to overturn, what I would suggest is this, that you decide in your own minds or as a group, very soon, what, specifically, you need to move on because as we listened to the attorney earlier tonight, she specifically spoke about the number of units, the percentage for affordable housing and perhaps the asset test or maybe that was someone else. Others have talked about the financial implications. I would suggest this, if as a group, you decide to overturn it, that you decide very quickly what further work is needed by the committee because some people are asking for so much that I think it would prevent things from moving forward and others are just asking for specific items to be addressed. My request to you, in order to see this happen which I would really love to see this happen, my suggestion is think about what is most important for you to be able to approve it and let's get those things addressed and communicated without it being the whole gamut. That way, it will never happen.

Leslie Wolf, 178 Hillspoint Road:

I have been lucky enough to be involved with many of the people that are also working on the Baron's South project. I was the president of a non-profit start up in town called ITN Coastal Connecticut a recent addition to senior enhancements in town and surrounding communities. We simply give rides to seniors anywhere they want to go 24 hours a day, seven days a week, 365 days a year. We knew it was a basic need. We didn't take a survey. We have gone from giving six rides a month to almost 200 a month. I also drive for the organization. As someone that would also see living accommodations, like the Meal on Wheels delivery, I get to homes and everyone is not in a million dollar home in Westport. It's really encouraging how pro-active, with so few options, seniors are for themselves in this town. I really encourage us to give them an option for other housing. As far as being in the hands of this group of people that are on the Baron's South Committee, I have no background except President of PTA, etc., etc., as a volunteer. We were guided. We were kept on the right track and we were gently handed out the door. We are up and running. It took us two years but we have got to give seniors the options, especially options for basic needs. We have solved a transportation need. We need to also give them options for housing.

Shelly Kassen, 315 North Avenue:

It has been many months, years, hours over several meetings and I have had many things that I've thought about saying and thought I should just come up and speak from my heart and put the notes away. I could correct a lot of misstatements that were made but I think others have done that already. I can't be half as eloquent as Reverend Horne, who is a gem in this community, and I'm proud to work on any committee or be part of any group that he is on. I just want to bring everybody back. I want to bring everybody back to how this got started and why we're here tonight. We are here tonight because we have a piece of property, centrally located, underutilized, under maintained, a beautiful piece of property that was a challenging piece to work with. It wasn't our intention going into this entire process of months and years that I mentioned to look specifically at senior housing, although the Senior Center was there. We sought to look for police and fire, to maybe move the Police Station from Jesup Green to maybe fit the Y in there. Those were the visions that we had. They simply didn't work. What came back to us was: use it for housing. We thought pure housing, senior and work force housing. We met with RTM Long Range Planning. We had a public forum. We have had many forums. What came back to us was the work force housing, for a variety of reasons, was not what we thought was going to pass muster. We came to the point of saying, 'Wait a second. The Senior Center was there. There is recreation on that site. Let's leverage the Senior Center. Let's have our seniors, rather than being on the outskirts of town in for profit developments where they are isolated, let's have them be in the center of town. We owe them that much. We knew from the Town Plan of Conservation and Development that there was a serious need for diverse housing options. Let's marry this need to this piece of property because it works and it makes sense. We have the opportunity, given those elements, to create something fantastic for this town; not something that's just another thing but something that is visionary and something that will be state of the art. We're working hard on it. We intend to not bring anything back that is going to cost the taxpayers money. We have said this over and over and over again. Yes, we have an OPEB liability. As many of you know, I sat for eight years on the Board of Finance. I know what our liabilities are. But the way to address these liabilities on this piece of property is to sell it outright. Even if we were to get the permission to sell this centrally located piece of property to do that, I sincerely doubt that any P&Z, past, present or future would allow that to happen. The policy of the town is to put the money from the sale of public land toward future purchases of town-owned land. Solving the OPEB problem is not going to come from this piece of property. The OPEB problem is a structural problem that has to be addressed other ways. The value of the piece of property, I've been correcting misstatements on that. The bottom is we have a piece of property that we paid \$7 million for. We owe approximately \$3.2 million. We still have the Senior Center on there. We will say in the RFP to profit or not for profit developers come back. We need to have at least minimally the carrying costs for this piece of property spoken for. Why the high affordability level? It's public land. Philosophically, public land should go for public good. Private developers on private land are not going to put such a high threshold in. Ellie spoke to that. We have a need for affordable units. We've learned from the

affordable housing summit that we had very early on, six years ago, that communities all over are looking to put developments of this sort on town owned land for this reason. It belongs on town owned land. That being said, 60 percent was seeking a balance. If it's not 60 percent and the best deal that comes back to the town is... 'Hey, we can give you more back if we only do 50 percent', we'll come back and we'll seek a change to the text amendment. That is perfectly possible. Why did we look at non-profits in the first place? No one has really addressed this although I'm sure it was in the written documents because to gather tax credits, you have to have a non-profit partner. We are not developing this. The town is not developing this. The town is working with development partners. Why health care? Because the more we learned about senior living by talking to people, Barbara Butler has been my partner in this from day one, the more we came to understand that the answer to the question of people who have done this, 'What would you do over again?' 'I made a big mistake by not having any assistance in the units. I made a big mistake by not having access to care.' We are looking at everything. The Reverend said this. We are talking profit and not for profit to see what comes out of it. We've had meetings and have meetings scheduled with for profit developers. We'll see what comes out of it. We've had some interest in people wanting to tack onto whatever the town does and build a pure for profit market rate facility contiguous to whatever happens. Those opportunities will be looked at too. We are not closing anything out. All this text amendment does, as Terry said, it keeps the door open to move forward in a way that makes sense, that brings back to the town, that doesn't cost taxpayer monies and that balances the needs of this community of which there are many. I could go on but I won't.

Mr. Rose:

Before we turn to the RTM, would either the petitioner, P&Z or the applicant like to correct factual errors that were made by the public? This is the opportunity.

Mr. Shuldman:

A couple of factual things that were said, this last one just got to me. Shelly, you said that you know what the liability of OPEB is. Clearly, not true. No one knows what the liability of OPEB is today. In fact, at the Finance Committee meeting, that was the big issue. If you do know what the liability is, come tell us all. Gordon said that affordable housing could be done at market rate. No it can't. The State Statutes say you can't do affordable housing at market rate. Gordon, you said that taxes will not go up due to Baron's South. I don't think anybody can say that. We don't know. I think it's highly misleading to say that taxes won't get up, that we're just going to cover the carrying costs? That's what we're going after? You just heard that \$3.2 million mortgage is still on the facility. And... 'I know what the liability of OPEB is,' that was a great statement.

Ms. Kassen:

I'll correct myself. I know what the OPEB liability means. I know that it's a large number. I know it's not going to be satisfied by this property. I don't know the

exact dollar figure. I wish I did. That's the first thing I'll correct. I don't know if it's worth going back about some of the other things. Mediplex is a for-profit private facility that the town can do nothing to beef it up and make it better. We have no control over Mediplex. That's just the way it works. There is no recreation on campus. Yes, there is. There is the Senior Center which plenty of people use. The RFP's are not open to for-profit facilities. That is false. We have said that and we are, indeed, doing that. Gordon already corrected that we had no for-profit developer assisting us. Ken Olson is, indeed, a for profit developer of affordable housing. Those are just some of the other ones. I have a lot of little ones.

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

RESOLVED: That upon the recommendation of at least 20 electors of the Town of Westport pursuant to Section C10-4 of the Town Charter, the action taken by the Westport Planning & Zoning Commission on May 5, 2011 to modify various sections of the Westport Zoning Regulations as they pertain to a Senior Residential Community as more particularly set forth in Text Amendment #625 Appl #11-001 is hereby reversed. (Full text, see Attachment 1)

Mr. Rose:

This requires 24 positive votes to overturn. It doesn't matter how many RTM members are here. That's 2/3 of the entire body, by charter.

### **Members of the RTM**

Jonathan Cunitz, district 4:

I am a senior. I am proud of it. After attending both meetings of the RTM Planning and Zoning Committee and reviewing extensive information, I prepared a statement to read tonight. It's about oversight by the RTM rather than pros and cons of the text amendment of which you have heard extensive information and comments tonight. Copies of my statement are available on the stage for RTM members. Copies were sent by email earlier today to both the First Selectman and the petitioner. I had the opportunity to discuss my statement with both individuals. Now, the statement:

At the RTM P&Z Committee meeting last week, I spoke about the need for "checks and balances" in government and, in particular, over the Baron's South project. The RTM has the responsibility for representing the welfare of the town, as a whole, and the varying interests of all its residents. Unfortunately, the RTM's involvement in the Baron's South project has been very limited so far and its influence over the project has been almost non-existent. Text Amendment #625 was approved by the Planning and Zoning Commission subsequent to a §8-24 request. Although the P&Z Commission took steps to reduce the impact of the project on the environment, it focused on land use issues and not the basic merits or support for the project. Our First Selectman has indicated that the Board of Finance will be involved in shaping an RFP (Request for Proposal) and will have to approve any lease for the property; however, the RTM would



not have any role in the process because the project purportedly will not cost the town any money. Under normal circumstances, the RTM only would be involved if it was necessary to approve funding of some type. Many RTM members believe that this review of Text Amendment #625 is the RTM's only opportunity to influence the project planned for the Baron's South property. Even then, it is not an opportunity to shape the design of the project, but simply one chance to overturn Text Amendment #625 and send the project back to the Baron's South Committee for redesign. On the assumption that the RTM might not overturn the Text Amendment, I directly asked the First Selectman at the P&Z Committee meeting if he would submit the RFP to the RTM for approval before it was published. He agreed to do so. We all recognized that the RTM vote would not be binding but he said he would not ignore the vote of the RTM, especially if there was a clear position taken by the RTM. I would like the First Selectman to reaffirm this commitment but would like to strengthen it by his consent to the following statement:

As First Selectman, I will not issue an RFP for the Baron's South project without the majority vote of the Westport RTM.

There is no requirement in the Town's charter for this approval but there is a way to guarantee that the RTM will approve the RFP. That is by submitting the preparation of the RFP to various committees of the RTM at logical checkpoints in the RFP preparation process. Let me identify these checkpoints:

1. Defining the objectives for the RFP.
2. Preparing a basic outline for the structure of the RFP.
3. Identifying the types of potential bidders and necessary qualifications.
4. Preparing a draft of the detailed specifications in the FRP, including permitting alternative responses.
5. Reviewing the final version of the RFP.

The first three checkpoints probably can be combined so as not to unnecessarily delay the project. This process will assure that RTM members will be able to provide appropriate input into the formation of the final RFP. Just as the First Selectman refers to Text Amendment #625 as enabling legislation, I would call this the RTM "enabling participation." The RTM has several committees with responsibilities in areas affected by the Baron's South project: The Planning and Zoning Committee, the Finance Committee, the Long-Range Planning Committee and the Environment Committee all have major interests in the outcome of this project and several other committees have a peripheral interest.. I realize that this proposal commits myself and other members of the RTM to even more research analysis and meetings but this project is of such importance to residents of Westport that it should be developed in a thorough all-inclusive manner. Therefore, I would like the First Selectman to agree to the following additional statement:

As First Selectman, I will agree to have the development of the RFP submitted at defined checkpoints to RTM committees for their review and recommendations and will strongly consider these recommendations in the continuing development of the RFP.

For this process to work, residents of Westport will be invited to provide their views at any of the RTM committee meetings. These meetings should be noticed as much in advance as possible, held in evenings and prominently publicized on westportct.gov, in the two local town newspapers and on the two local town internet sites. My objective for the preceding proposals is to make sure that the Baron's South project, in its final form, has the strong support of Westport residents and is an appropriate use of a valuable town resource.

In my discussion this afternoon with the First Selectman, he mentioned the following arguments against RTM involvement in the project and I'd like to mention them now because it's the other side:

1. He said it establishes a precedent for the RTM to micromanage other projects.
2. He argued that if RTM members want to be involved in the RFP process, they can just attend meetings of the Baron's South Committee.
3. He said that the RTM committee reviews and checkpoints will slow down the RFP process.
4. He mentioned that members of the Baron's South Committee will be discouraged and leave the committee.

I will leave it up to other RTM members to respond to these concerns. Just prior to the vote tonight, I would like the First Selectman to reply to the two suggested commitments with a clear yes or no response.

Wendy Batteau, district 8:

I wrote down a statement and then scribbled all over it. I'm not sure I'm going to be able to read it that well so I hope you'll bear with me. Once again, we have a complex and difficult set of issues. First, the RTM is in a position of reviewing a zoning text amendment made by the P&Z Commission. I agree with other members that the amendment is well advised and well constructed. We are reviewing, which is normally done to something that exists, the possible outcomes and consequences of the text amendment, most of which we are just guessing at. We know that, generally speaking, more housing, particularly affordable for Westport seniors, is the desired outcome of the amendment. It's an ethical and admirable goal but it begs a lot of questions. Those have been largely brought up by the petitioner tonight. I'm not sure that all of them have been answered. In addition, I had some questions which I feel haven't been answered. Right now, it seems we are being given a kind of RTM Sophie's Choice. Either you can support senior housing on Baron's South or you can support responsible financial management. I think that's a false choice. I hope that I can get some of my questions answered. In the past, I've been to the meetings, I've read everything and watched everything. We've been told that many of our questions

are not susceptible to answers until we have an RFP or until we have different proposals but we do know what's intended, as we have been told, development of 66 units, each unit equaling two beds with a 60 percent requirement of these to be affordable per the state's formula and the 84 bed for care facility on Baron's South. One of my concerns which was also articulated by some of the constituents I called, was that Baron's South was purchased for "municipal use". It's very hard to find out what a municipal use actually is. I could find definitions for other states but I had to read through many, many, many Connecticut State Laws and I've concluded that this does count as a municipal use; however, if any of our attorneys are here and have an opinion about this, I would really like to hear an answer to that. I would also say I see a municipal benefit to using Baron's South for the housing in that the property would be cleaned and maintained. By the way, the facility and its property are prevented by state laws from being classified as private so that would be a good use for the community. We would have the trails and so on. Here are a couple of questions that still trouble me and that I hope can address if not answer: Per the law, people become seniors at 62, so it seems possible to me that some of the units might be occupied from the beginning for maybe 30 years. So, turnover and availability of units, once occupied is unpredictable. We don't actually know how many people we could care for. It could be 100 people over 30 years. Who knows? I have been unsure about the inclusion of the full care aspect or the continuing care aspect of the facility and I'm just opening up the idea, perhaps for the RFP, that rather than having that which presents other issues including liability and so forth, that maybe it would be more beneficial for us to look at putting more housing in its place. Secondly, while our attorneys say we can give preference to Westporters, we do not know how. We don't know how many we could give preference to or what we'd have to pay to do so. We know that some requirements of the state would likely obligate us to have the facility run by a non-profit. That's simply the fact of it and the town would have to make a donation or contribution to the facility. I've asked whether giving the land at a preferential lease rate would fulfill that obligation but, so far, all I've heard is, 'We can't tell you now.' It would be useful to know that. The Federal Fair Housing Act would, it seems, minimally require us to actively market the facility to least likely users. I'm not sure how that works or what effect that has. Some towns, including our other facilities in Westport have been able to accommodate 80 percent town residents. I would hope that this facility would be the same but I have to say that, through the minority report, we have heard at least one other town that has only 20 percent residents in its facilities. Too, the definition of Westporter being left for later contemplation and, while I assume we'll be able to come up with something useful, it would be good to have some kind of guidance. Finally, the financial criteria for eligibility, for being in these needs, to be addressed somewhat more but, again, we've heard about that over and over again. The petitioners and others have suggested that the Baron's South land should, perhaps be sold to contribute to our shocking, awesome OPEB obligations. As I understand it and as Shelly reiterated again tonight, I'd like to be clear about it, this isn't possible because when town-owned properties are sold the proceeds have to go into an

account to purchase other town-owned property? Am I right in assuming that? No, I'm not right in assuming that.

Point of order, Michael Rea, district 8: You should ask the First Selectman that.

Ms. Batteau:

I'm asking the selectman to answer that in one minute. Also, the zoning of the parcel includes two separate parcels which could apparently be leased so I'm wondering about how the finances from that would work, too. Obviously, the main objective is going to be to find the best way to structure this to help seniors in need and not expend any more money for the town. So, the questions about the facility right now to me outweigh the available information that we have; however, in the end, we have an untended Baron's South property whose terrain makes most of it unfit for a variety of uses. I had in here, if sold, the proceeds would be hard for settling debt and I'm not sure we would necessarily want to do that. I do think that if overseen stringently and, in this case, I really have to trust the people on the committee, at some point you have to take a leap of faith. I think we have to trust them. I hope that it will be overseen stringently. We can help residents in need and maybe even earn some revenue if we can get a for profit group. In any case, I'm inclined to vote to sustain the amendment.

Mr. Klinge:

I am not doing emails tonight so you are not going to get emails. I appreciate all the comments I have heard tonight. I have been really proud of Westport for some of the things they have done since I've been here and for a few years before I got here. A big one was buying Longshore. They bought it. They bought it quickly and they bought it not knowing anything about how to run a country club. They made that decision and it has turned out pretty well. I was here when we decided not to let B. Altman put a big box retail store on Winslow park. We took that and bought it and left it as open space which the RTM designated as passive use indefinitely and that's worked out pretty well. We didn't get tax revenue from it the way that Altman's might have paid us but we got town owned town controlled open space. Then we put a Senior Center on Baron's South where lots of people said that it would never work. No one would go there. Better, it should be part of the Y. Well, it has been there six years now. It's doing very well, thank you. It is one of the jewels in Westport. It's one of the best senior centers in the state and something we are all very proud of. I tend to look to lawyers and I asked them the question to not to tell me why I can't do something. Tell me how I can do something. I'm thinking tonight to find ways how we can make this project work for all of Westport, for all of us to be proud of on this property. I don't think I have to talk about the need. The need for the housing is patently obvious. There is a waiting list. There are lots of seniors who would like to get into those kind of facilitates. There is a need for the housing. There is a need for the nursing care as well. I know many of my friends who have gotten new hips, new knees and back operations ended up rehabbing in White Plains which had a facility or Waveny Castle which, thanks to New Haven, converted

that to a facility or Carleton in Fairfield, places like that, because there was no place in Westport. I had a very dear friend who I lost three years ago who had to go into Hospice for the last two weeks of his life because he couldn't stay at home. He had to go to Branford, Connecticut. That wasn't very convenient. No doubt about it. There seems to be misinformation about this whole financial implication. It is my understanding, and I feel pretty good about it, that this is not going to have negative financial impact on the taxpayers of Westport of any age. Right now Baron's South pays no taxes to the Town of Westport. We didn't buy it like you buy a stock or an equity. We didn't buy it to flip it and sell it for a profit. We bought it to use it for town municipal benefit...do something that the Town of Westport needs, will benefit from and can be proud of. I'd like to think we are going to do that with this project. Will there be any costs associated with it? I suspect there will. Right now, we are paying about \$400,000/year to operate the Senior Center and pay its debt off. That works out to about \$80 per year per senior in Westport. We are also proud of our school system. We delight in talking about it. That costs \$17,000/student. There are 5,000 seniors and about 5,600 students. There's a cost but I understand that when the RFP gets done, agreed to by a developer and agreed to by us, more importantly, incremental costs like police, fire and public works will be charged against the user not be a burden to the town taxpayer. So, I am confident that we are going to get hit by a tax. We are not going to sell the property so we are not going to use that revenue to solve a problem with our pension and benefit plans. That would be totally inappropriate. So here we are tonight deciding whether we want to go forward in a process to learn more about this project to see if it works for Westport and for the benefit of the town, something we can be proud of. If we kill 625 tonight and say 'Let's go build an RFP without 625 and four months from now we have a terrific RFP and look around and say, 'Oh, but we have no land use program.' We are back to square one. Trust me, there are no developers who will waste their own time and resources bidding on an RFP without knowing about the kind of land they have access to. Now four months have gone by and we have accomplished nothing. I agree with Jonathan and I listened to the First Selectman in a meeting last week, we, in this room, have the ability and the responsibility to get involved in the RFP and to make it the best RFP that we can make it, one that we can live with, we can endorse, that we can feel responsible for and happy about. That will be a decision point when we get an RFP. Then comes the real decision point when we get a response to the RFP from profits and non-profits. We can turn the faucet off right then and there if we don't like the responses. If we can't negotiate a good deal for the Town of Westport and all our citizens and helping our seniors, we can stop then process right there. I'm here tonight to ask you to not reject 625. Let the process continue. Let's see if we can do it with the best possible RFP and go on from there and, hopefully, end up in a few years with one more thing we can be very proud of in this Town of Westport along with our school system, Longshore and the people itself.

Mr. Mandell:

Thank you very much Mr. Shuldman for bringing this forward. I know it's difficult for one individual to step forward out of the rest of the residents and say this is something that should be aired in public. I think this is a success. I think it allowed all of this town to hear what's occurring, where we stand and where we are going. If you didn't step up and do it, this would not have occurred. Thank you very much. I'll probably speak a second time but the first time, I want to get to the heart of a particular matter. We have received emails, discussions on the phone, members of the public and members, now, of the RTM that have all talked about making sure that the RFP is the best that it can be, that there needs to be supervision or oversight by the RTM, by the representatives of the body. I know that we spoke during the committee meetings and the First Selectman agreed that the RFP would come to the RTM for vetting and an approval process and that committees would be involved along the way. That would be a good thing. Mr. Klinge agrees that it would be a good thing for us to be there. Ms. Batteau said she wanted to see oversight. I think a lot of the committee voted for it feeling that the RTM would have a say moving forward in conjunction with the Baron's South Committee. Dr. Cunitz came up and presented an outline of how he thought it would be done. It takes another step forward from what was agreed to at the committee meeting but I would like the First Selectman to come up and tell us how he feels the process will go with the RTM because I think the entire town of people who have come out want to see us involved. I think the RTM wants to be involved. So, Mr. Joseloff, if you could come up and clarify it so that we can all feel comfortable moving forward as a group with this.

Mr. Joseloff:

Matt, not too comfortable. It's a quarter to midnight. If people get too comfortable, they might go to sleep! I have too much respect for the 62 year history of the RTM to disregard RTM sentiment. You and your predecessors elected me Moderator of this body for 10 years. The electorate of Westport elected me First Selectman for two terms because they trust me and they trust what I say and what I do. I have a track record. I have committed to involve the RTM to the highest extent possible in the process. It does no good to move forward with something if you do not embrace it. At the end, as I say, we may not have anything. We may go to plan b, whatever that is, and say, 'You know what, it didn't work. We were not satisfied.' So, I certainly will embrace the RTM. Jonathan talked about various points and thank you, Jonathan, for identifying those points of interest that the RTM would be involved in. The committee wants to embrace the RTM and the public. They will meet with committees. They will meet with the public throughout the process. I am concerned that things in Westport take a long time. I don't want to add cumbersome specifics to it. You have my word and my pledge that the RTM will be involved and that there will have to be strong support for this to go ahead. I'd just like to limit it to that and not get into specifics. I welcome your input, the committee welcomes your input in any manner at any time and any form that you would like, your committee meetings, their committee meetings, special meetings, etc. That's something that I certainly would embrace.

Mr. Mandell: Committee meetings and full RTM.

Mr. Joseloff: Whatever process you want.

Mr. Rea:

The First Selectman has just come up and said he welcomes our involvement in the process, that very much like the petitioner, who I appreciate him elevating this issue and bringing it before us, was concerned that there was a lack of clarity in the process. I think it goes a long way, Gordon, and I don't say this in a mean spirited way. We, on the RTM, elected you Moderator several times, you're right and you were elected First Selectman and we do trust what you have to say here. On that basis, going forward on this, you will keep the RTM involved. If you don't, everyone knows what you ought to do, not vote for him next time. For me, it's really simple. You always prove yourself through the process. I think Gordon has demonstrated enough proof to us that I feel comfortable going forward with this at this point. This is a very personal decision for me. I can't help but personalizing the issue. This is my sixth term on the RTM. I think in my first year of my term, I spent talking about the concerns about the changing character of our community and how enabling sewers would enable all kind of development in town. If I voted to overturn the P&Z tonight, it would not be the first time. That doesn't give me pause. I think not knowing the process enough and now getting familiar, I appreciate the P&Z subcommittee both majority and minority committees did in educating us through this process, brought some clarity for me. I think Gordon's testament that he is going to participate in this process and let the RTM have a review and give him advice means a lot to me. The reason this issue is important to me is I voted to overturn many of the A, B, C's, all the acronyms, that the P&Z with all the kinds of diverse housing and everything else. This is really important. It touches me. It touches me because my father in law came from other shores when he was terminally ill. There was no bed for him in Fairfield County. We had to go to Branford. The post card of the facility in Branford still is framed in my house because we appreciated the loving, the caring in allowing him to pass away with dignity. But we had to go to Branford. That was so difficult for the family. No one in Branford asked me if I was a Branford resident. Sometimes we have to think a little bit outside the box here. I don't mean to get morbid about this but I lost both my mother and father in the last couple of years. Both required the kind of care that you are talking about in an assisted living facility. They were both fiercely independent but, as you get older, you really learn to rely on these services and resources. It's a shame that, as they required services, they couldn't find it in Westport, not at that time. So, it's a personal thing for me. I think it is an important thing for our constituents, at least in my district, that they know they have those options as the years go by, that they have those options here. It's important, if your family and other family members live around the country, that you know that you can bring them close to you whether it's in your house or in a facility. I think the regulation that the P&Z wrote gives us enough latitude to look at this, not just as solving a housing need

and a community need, but also gives us enough latitude to address it from a financial perspective. You all know how I feel about finances after the last three or four budget sessions, I have been up here saying “no, no, no, no.” I think there is a possibility, in working with the RFP, that there can be some revenue generated here. We just have to think about that a little bit more. If tonight we uphold this regulation, make sure this RFP gives the kind of latitude to go out to both non-profit and profit organizations, I think also from what I saw there were five divisions of property, so we may not have to retain all those properties to address the housing. Maybe there is some commercial designation up front that could be spun off and help offset costs that we have laid out. There are a number of things we could do. I don’t think our option tonight is to turn this down. I think it is to move forward. Let’s be bold and hopeful.

Velma Heller, district 9:

Whenever we go through one of these long ones, it seems to go on forever; it serves many purposes, not the least of which is to demonstrate what a dedicated group of people we have on the RTM and the thoughtfulness of our citizenry and the fact that, we, as a community, really care about things. We really try to do our best to come to good decisions. Let me tell you three thoughts that I have, try to keep it simple, that have guided my thinking in all of this. The amendment is a framework to enable planning for senior facilities. Such a framework needs to be in place in order for proposals to come forward. The work of the P&Z is commendable in terms of its ability to anticipate both challenges to and potential opportunities for the development of senior facilities. It’s commendable. The P&Z Committee has provided a really open forum for the petitioners to come forward and discuss their position. It has provided a very thorough and in depth analysis of these issues. It is important to note that the question and uncertainties that have been raised by both majority and minority reports can serve as thoughtful and important check points along the way which can help to guide the planning process as we move forward. Bites of the apple, it made me think of the Garden of Eden. That’s not where we are...The Board of Finance has a charter-given opportunity to review any lease. The Board of Finance will be involved in shaping the RFP. The First Selectman has agreed to bring the RFP to the full RTM for a vote and to engage RTM committees in shaping the RFP. All of these are important pieces to keep in mind as we think about our vote. I urge you to sustain this amendment for the wellbeing of many seniors and for the overall wellbeing of Westport as a community.

Cathy Talmadge, district 6:

I have struggled with this for a long time. In light of our financial situation I have lots of concerns and I think we need to be really careful. One piece of information I thought I should throw out. I was curious. I went to Bridgeport and checked out their grand list. Watermark at 3030 Park Avenue, which is a continuing care community there, which is for profit, this year will pay \$29,736,500 in taxes. That’s the 2011 grand list. I do think we can be creative. I think Baron’s South property can be an exciting community. I like the location, the Senior Center. I do



think we could hopefully find a way to think outside the box, have a for profit component in there that could help mitigate the costs.

Mr. Meyer:

I'm the first one speaking tomorrow! My wife said to me tonight, it's cold out and you're the only guy wearing shorts. She's right. I am the oldest guy on the RTM and the only one wearing shorts. She's always right. I want to add something new to this. I did some checking. The amount of people 61 and older: Darien is 14 percent, New Canaan is 17 percent, Stamford is 17 percent, Weston is 15 percent, Wilton is 17. What percent do you think is over 60 in Westport? Westport is 22 percent. That's great. We have more older people, the Y's Men. I'm all for the seniors. It's all for the kids. That's why I'm proud of Little League. Let's not overturn this.

Ms. Starr:

I have to confess, now Bill can count me in that group.. I am a senior. I am talking against my own interests, aren't I? I just wanted to follow up on some of the other discussion we have been having. I know I am not the only senior in this room or on this body. I guess I made a couple of, not mistruths, guys, errors. I was unclear when I said that the original Baron's South Planning Committee did not include a representative of a for profit organization. Gordon and Shelly are right. Ken Olson is the head of Poko which is an organization which develops brown fields. I think he is doing something on West Street or somewhere in Norwalk right now among other things. I was not clear and I didn't mean to mislead anybody on that. The reason I thought it was important to have a for profit organization, say, the nature of the Greens at Cannondale or the Wilton Meadows is because I think that would give a broader view than only a not for profit. That's why I included that. We talked about it at the committee meeting and that's why I thought it was important. Forgive me for not being as clear as maybe I could have been. Sometimes I think I know what I'm saying and someone else doesn't get it. As far as the 60 percent affordability being unprecedentedly high in mixed income, Ellie, if you're here, thank you for correcting me. Next time I will run it by Larry Bradley. The point of the 60 percent, though, is that it is high and I think it will affect the bidding process and we think it will skew the bidding process to a not for profit. I think that's important because if you have a for profit, you get a different revenue stream than you do from a not for profit. I don't want to go off into the finances of this right now. I wanted also to suggest, someone brought this up, the Baron's South Committee, when you meet, if you could meet in the evening so people who work could come, I think the public would appreciate that. Also, if when you note your agendas, if you could be more specific as to what you are going to say. I know when we note our committee agendas, we have say we are going to talk about this and that. Regardless of what happens tonight, if you want to reach out to the public, I think that would be a helpful tool and I would like to suggest those two things to you. After the report, on behalf of the minority, I did call the Housing and Economic Development Department of Santa Monica. This is the city that gave one-third of

the funding but has less than one-fifth of the affordable units for its own people, the other 53 units, did people, who did they go to? Were there any ties? Were some filled by parents of Santa Monica residents? He said, 'No. We couldn't grant that kind of favor because of the federal funding.' The Federal Government paid roughly 60 percent, Santa Monica paid the difference. I'm throwing this out to you tonight because I want you to know what's going on in another project sort of similar in goal and in scale, as well, as to what we are talking about here. I am not a specialist in different projects. I looked up this one here. I was intrigued by it. I think more research would be helpful whatever happens after tonight. We were asked to look at the process by the public. We were asked to look at the amendment. That's what we did and are doing. That's part of our job. I really do feel that tonight we have the opportunity to correct what could be, might not be but could be, a big mistake and replace what is bound to be, I really do believe with the priority systems that we've heard about in Santa Monica due to federal funding and due to FHA and due to the fact that we are a homogenous community in a broader geographic area, we may be facing a wave of disappointment for a number of our seniors. Having said that, I think we're basically on the same page about housing for seniors. We are on different sides of the page here. Whatever happens going forward, I think the town will be better for it. I'd rather have a ray of promise than a wave of disappointment for our own seniors. What we do will affect everybody because the Baron's South land belongs to all of us. There will be financial implications in terms of incoming revenue if we wind up with a not for profit versus the revenue we would have gotten with for profit. I'm concerned and whatever we do tonight going forward, we don't really have a good scientific study which is invaluable going forth with an amendment. If you decide to uphold it, I think you need to get a better study of what our needs are, how many seniors would actually go there and how badly we need how big a skilled nursing facility. We do have other nursing facilities to tide us through in the meantime if that's what we decide want to do. I urge us not to be afraid to use our vested powers to send this back to the drawing board because meetings of RTM committees won't change the affordability; it won't undo the loose methodology of the research and it won't change the federal or state requirements for setting priorities. I just want to pose some hard questions going forward whatever we decide to do tonight, I think these are questions we need to ask ourselves: What makes us think that anyone in town or in this room or anyone we know in town who is a senior will automatically get priority? What makes us think that the state or the Federal Government will loosen the rules for our town? Would you sign a contract for use of a major asset, your own land, without reading and understanding all the terms of the contract and making sure that it worked out in your favor? We are moving with the right intention but I'm not sure that we shouldn't measure twice, but cut once. Go back to the drawing board. Overturn. Take a small step backward but then after measuring twice, cut once, go forward. Do this right. Do it in a way such that the promise that this amendment should offer to our seniors is a promise that can be kept because I think we all believe that our seniors deserve nothing less than that.

Amy Ancel, district 3:

Either two or three years ago, when Shelly and Gordon came to the Long Range Planning RTM Committee meeting, Shelly and I talked about this and I said when the subject of senior housing at Baron's South came up, a lot of seniors that I know in town who were living in, at the time, million dollar tear downs, told me that they were chomping at the bit to live at Baron's South some day. I told Shelly that the only way that I could support this is if there were true means testing so that the people who truly needed it would have it. She, at the time, assured me that she agreed. The senior housing at Baron's was not intended for people with enormous assets. Anyway, that's where I started with this whole possibility. I want to thank Bart Shuldman and the petitioners for their petition bringing this to the RTM. I think this whole process has answered some nagging questions. I think that there are more questions that will come down the pike and I also think that both the majority and the minority reports were compelling. This is a tough one. Before I came and listened to everyone, I was more inclined to agree with the minority report and now I'm sort of split down the middle again. I'm also told that the text amendment will probably morph and change some more so it may be a bit of a moot point on voting on this specifically. I am in favor of affordable senior housing for seniors. As Bette Davis once said, "Getting old ain't for sissies." I think there are a lot of people hurting in this economy big time and states including Connecticut are cutting back on food stamps for people and I think that the future looks pretty bleak for a lot of folks. The one thing that really concerned me is the enormous problem that we have with OPEB. I was actually in favor of selling Baron's to pay down our debt. I think that it's really important to pay down our debt and not add new projects. Mr. Mcgee basically took the words out of my mouth when he spoke earlier but looking at Shelly and Gordon, is it absolutely the case that if Baron's were sold, that the proceeds could not go to pay down the OPEB? I'd like an answer, officially.

Mr. Joseloff:

Amy, it's a policy. Policies can be changed but let's say you get \$20 million and you have a liability of \$50 million, \$60 million, \$80 million. It's a drop in the bucket. What we need to do is purchase additional land. Could it go into it? Yes. It could go. I don't think that's the right way to go and before there's any policy change, it is an issue to be debated certainly among the RTM and P&Z would want to weigh in, as well. The Land Acquisition Committee which has been dormant and, the P&Z, every year I get questions on the five-year capital forecast, how much are you putting in the land acquisition fund? I know we have regretted selling properties in the past because we wanted to make a quick buck and I realize it's trite and cliché, they don't make land anymore. It's a policy that, yes, it could be changed.

Ms. Ancel:

Our financial situation is the real fly in the ointment for me. I don't consider \$20 million a drop in the bucket on a \$50 million debt at all. That's almost half. As someone who has really struggled for the past few years and who has dealt with

all the stresses of being in debt and who is finally digging her way out, I think it's a really important thing to do to take care of one's financial obligations. With so many commercial vacancies, with residential housing has been a bust for the last three years actually and Bridgewater Associates is moving out of town. They take up three huge commercial office buildings. I don't know. That's all I have to say.

Joyce Colburn, district 6:

I know it's really late. I'll try to be brief. I do have some prepared remarks which I'd like to read but I do have a question for Mr. Shuldman. I'm not sure if he's the right person to ask. This initially came to us through the petitioner so I feel the petitioner should have some words. Number one, could you talk about some of the financial implications that our town has to go through and is it tied to senior housing. I know that we've already spent \$75,000 out of our town budget for doing this, the Weston Sampson report and \$25,000 for legal services, so far.

Mr. Shuldman:

The concern that we raised is the issues that we face in town with financial concerns, these are serious. We've got debt of \$170 million. We have refinanced some of it at low interest rates. As interest rates go up, it is going to cost us more. We have got a pension plan and we've got OPEB. The issue with OPEB, at the time when we put the petition together, we knew that it was an issue. I don't think anybody realized how big an issue it is and it shouldn't be taken lightly. Practically 450 people were in the accrual for the benefit and now it's over 1,000. That's a 120 percent more people. It's going to be a serious financial burden for the town. It is shocking to say that if we sold it, I'm not saying we should sell the property, but if that's what we did with it to take care of our issues, it's nothing. It's a drop in the bucket. We have a potential \$110 to \$120 million liability. It's not going to go away. With that, as the people get older, this is a health care benefit. Remember as they get older, those health care costs escalate. Not only was OPEB cost under-calculated, which they knew about in February or March and still put together a budget without any hint of this problem, but the costs were underestimated, the amount of discount or the amount of inflation that we have to calculate was understated by a third. This is just real. I think it's wrong to say to our senior citizens, this is a great project. Let's just do it and don't think about all these other issues in town. They are real. They will hit you July 1. Then, what are the senior citizens going to do? We did tie it together. I think it has to be tied together. I'm not sure everybody understood what the liability of OPEB was when we put it together. We clearly didn't because we under funded. All the numbers are wrong. Now we are jumping into another program. We have heard tonight that we don't know what the costs are. We don't know what the program is. So, of course, we tied it together. We should tie it together as a town because it just doesn't go away. The liability, the cost of OPEB just doesn't go away. We have money going out to pay for their medical costs. Those costs are going up. You just can't make this go away.

Ms. Colburn:

Could you also address, once again, maybe with more feeling, maybe with less, something about the ability for Westporters to live in the proposed housing.

Mr. Shuldman:

We spent a lot of time at two hearings and clearly Ira came in with some documentation on priorities or preferences both for the nursing home and affordable housing. There is no guarantee. As we already know, in some of our affordable homes in town, they are not Westport residents. We know that. It's a question, when we start to look at some valuable property as to will we truly benefit from that. The nursing home is even worse. If the nursing home is done with federal money, that's going to have some serious constraints around it. The definition of Westport becomes a major issue. You cannot say to somebody, you've lived in town for 20 years, you've lived in town for one year, the 20 years takes precedent over the one. You just can't do that. That's going to be an issue. We are just going to have to face it.

Ms. Colburn:

I am not going to read my remarks but I am going to support the overturning of 625 for all of the reasons stated in the minority report and by the petitioners and by many of the towns people who came to speak out against it. I kept track of who came. Basically, it was people from the town who came to speak against it and the people who spoke for it were the people either on the committee or people from some senior commission. There were only two people who were not from the committee or the commission or Parks and Recreation or something. I think we should take that into account.

Ms. Schine:

Mr. Moderator, I would like to call the question. I don't think we have 24 people left.

Mr. Rose:

How many people wish to speak. One. There is one other person who wants to speak a second time. Is that okay? [No.] We will take a vote. It requires 2/3 of the body. It is non-debatable. This will cut off debate. There are 15 in favor of calling the question. Not even close (to 2/3).

Mr. Mandell:

Thank you to the folks who are giving me the opportunity to speak. I think the amount of time and effort that was put in deserves at least a moment or two to sum up. When we talk about the opportunity that we have in front of us, it's a wonderful opportunity to develop this piece of property to aid the seniors in our community. Noble cause. Something that we should all be behind but in looking at the opportunities, I also see the opportunity that was lost; the opportunity that maybe still is a possibility but it is fleeting. That is that we could still have a YMCA on this property. While you may not want to listen, I think it needs to go on the record how it still could have happened and why it didn't. Give me one and a

half minutes to explain. Mr. Joseloff's desire to have this was a noble cause in doing so. I believe his tenacious desire to have the seniors on this property kept the rest of the town from seeing the possibility that was there. The interaction of a YMCA and the seniors and the Senior Center. I think that would have been a wonderful opportunity for this town. While I guess it's lost, I just want to say it is a possibility that could have occurred if the town had gotten together. I'm hoping when we look to the future, we make decisions on a grand basis and that we look at the bigger picture and that we all sit down together sometimes and look at it. Someone asked me, 'You are for the Y being downtown and you have problems with this. How can you vote for this?' I said, 'Because I'm not a vindictive individual. I look at the issue in front of me, one of, how do we deal with the seniors? How can we take care of them? This, as everybody says, is an enabling piece of legislation.' While I could go on much longer explaining how a greater vision could have been had here, we do have a fine vision to move forward. Mr. Joseloff, thank you for including the RTM and the Board of Finance in the process moving forward. I think that is what will make a lot of the residents comfortable with what is happening and I believe that will help us move forward and have a better conclusion and a better plan.

Lois Schine, district 8:

I'm only doing this because Matt spoke and Matt was incorrect. Gordon Joseloff was not the First Selectman when the Y got turned down on Baron's South. Diane Farrell was the First Selectman. Diane Farrell appointed a committee who recommended not letting the YMCA build there. The YMCA was subsequently told they couldn't build on any town property. The Y does not want to build on Baron's South. The Y is on its way at Mahackeno. I think you should just drop the whole issue.

From the audience: Call the question.

Mr. Rose:

You can call the question. One more speaker. It requires 2/3 vote. Not even close.

Ms. Batteau:

Given the fact that this facility, which I do support, probably is going to accommodate a few hundred people over the next 20 or 30 years and that we are going to have many more seniors who won't be accommodated there, I would like to have an answer from one of our attorneys as to whether or not, in order to give Westporters preference, we have to use a non-profit developer and whether or not the town has to make a financial contribution. In order for the town to give preference to Westporters in this facility, will the town have to provide a grant or some kind of contribution to the facility and will the town have to use a non-profit developer?

Ira Bloom, Town Attorney: No, to both questions.

Mr. Rose:

Before I read the resolution, I want to thank the P&Z Committee who did once again a tremendous amount of work on this. I also want to thank all the RTM members who attended a number of meetings and watched the tapes and did all those things they were supposed to do.

This is a roll call vote. A yes vote is a vote to overturn. This requires 24 affirmative votes in order to overturn.

The motion fails 4-25. In favor: Starr, Timmins, Ancel, Colburn; Opposed: Mandell, Milwe, Galan, Meyer, Cunitz, Seidman, Underhill, Wieser, Levy, Suggs, Lebowitz, Talmadge, Urist, Ashman, Bomes, Klinge, Rubin, Batteau, Cherry, Rea, Schine, Flug, Green, Heller, Rose.

The meeting adjourned at 12:37 a.m.

Respectfully submitted,  
Patricia H. Strauss  
Town Clerk

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

by Jacquelyn Fuchs  
Secretary

**ATTENDANCE: June 14, 2011**

<b>DIST.</b>	<b>NAME</b>	<b>PRESENT</b>	<b>ABSENT</b>	<b>NOTIFIED MODERATOR</b>	<b>LATE/ LEFT EARLY</b>
1	Diane Cady	X			LEFT 10:20 P.M
	Matthew Mandell	X			
	Elizabeth Milwe	X			
	Judith Starr	X			
	Linda Bruce		X	X	
	Michael Guthman		X	X	
	Jay Keenan		X	X	
	Sean Timmins	X			
3	Amy Ancel	X			ARR. 8:30 PM
	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	X	.
	Paul Rossi		X	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			LEFT 12 AM
<b>Total</b>		<b>35</b>	<b>1</b>		



**Attachment 1**  
**Roll Call Vote:**

<b>DIST.</b>	<b>NAME</b>	<b>ABSENT</b>	<b>YEA</b>	<b>NAY</b>	<b>ABSTAIN</b>
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	
<b>Total</b>			<b>4</b>	<b>25</b>	

Attachment 1

**Text Amendment #625**

Received: 1/16/11

Last revised by the applicant 2/24/11

Public Hearing Held: 2/17/11 and 3/10/11

Adopted: 5/5/11

Effective date: 5/31/11

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

***§5, Specific Terms***

Assisted Living Facility: A group of private dwellings and/or shared living quarters with common rooms and facilities (i.e. kitchen, living rooms, etc.) for Seniors in need of some medical care and/or professional assistance with performing typical activities of daily living.

Full Care Living Facility: A shared living facility for Seniors in need of 24-hour professional care including, but not limited to, skilled nursing and hospice services.

Independent Living Facility: A group of private dwellings and/or shared living quarters with common rooms and facilities (i.e. kitchen, living rooms, etc.) available to Seniors who are capable of independently performing typical every-day activities.

[Elderly] Senior: A [P]erson[s] sixty-two (62) years of age or older.

Senior Center: A facility that offers services and activities to promote the physical, mental and social well-being of Seniors

**Senior Residential Community:**

A Senior Residential Community shall consist of dwelling units and may include facilities intended to support and enhance the lives of Seniors including, but not limited to, service enriched residential opportunities, and/or other uses aimed at providing a continuum of care, hospice services, housing, recreation, Senior Centers, education and socialization for Seniors (i.e. Independent, Assisted, and Full Care Living Facilities).

***§11 Residence AAA District***

**11-2.3 Special Permit Uses Subject to Special Conditions**

The following uses are permitted subject to the conditions provided for in §32 and Special Permit and Site Plan Approval in accordance with §43, herein:

- ...11-2.3.1 [Elderly] Senior housing
- ...11-2.3.5 Group home for [Elderly] Seniors
- ...11-2.3.17 Senior Residential Community

**11-2.4 Permitted Accessory Buildings, Structure & Uses**

11-2.4.12D Conversion of an Affordable Accessory Apartment to an Accessory Apartment- At the end of the required 10-year period, if the owner of a dwelling with an affordable accessory apartment wishes to change its status to an accessory apartment or the apartment is for any reason no longer in compliance with the occupancy standards and requirements in this Section for such use, the owner of such dwelling may register it as a dwelling with a ~~n-elderly~~ Senior accessory apartment upon compliance with all the standards and requirements therefore in

§11.2.4.12A and upon review and approval by the Planning and Zoning Commission or designee such owner shall then record a Release of the Declaration of Restrictions on the Land Records.

**§19A: Residential Affordable Housing Zone/Workforce (R-AHZ/W)**

**19A-16 Affordable Plan**

The applicant shall submit an “Affordability Plan,” in accordance with §8-30g concurrently with Special Permit and Site Plan application which shall describe how the regulations regarding affordability will be administered for both the workforce and affordable housing units. To the extent permissible under applicable State and Federal laws, [F]the Affordability Plan shall establish a priority system for the affordable and workforce housing units including, but not limited to, [~~Westport municipal employees, the elderly, and Westport residents.~~] Westport residents, Westport Seniors, and Westport municipal employees.

**§20 – Municipal Housing Zone (MHZ)**

**20-4 Density**

**20-4.1 [~~Elderly~~] Senior Housing Requirement**

A minimum of one-quarter (1/4) of the total number of housing units in the MHZ shall be [~~elderly~~] Senior housing. [~~Elderly~~] Senior is defined in §5 of these regulations.

**§32-2 – [~~Elderly~~] Senior Housing – Municipal**

**32-2.1 Purpose**

The purpose of this section of the regulations is to promote the public health, safety and general welfare of the community by providing decent, safe and sanitary housing units for [~~elderly~~] Senior persons at reasonable rents in order to assure especially adapted housing facilities for [~~elderly~~] Senior persons in the public interest by allowing multiple-family housing for [~~elderly~~] Senior persons within the Town of Westport.

The rights, duties, privileges and obligations of these regulations shall be limited to the Westport Housing Authority, only, in order to provide “Housing for Elderly Persons” under §8-112a[A], et seq. of the Connecticut General Statutes. Such housing [~~for the elderly~~] shall be permitted as a municipal use subject to Site Plan and Special Permit approval in accordance with §43, and to the following standards, conditions and safeguards.

**32-2.2 Permitted Uses**

Construction of residential dwelling units for [~~the elderly~~] Seniors under this Section shall be permitted for detached dwellings, semi-detached dwellings, and attached dwellings such as garden apartments and townhouses, but not for hotels, motels, rooming, boarding and lodging houses or tourist homes. Each dwelling unit shall have one (1) or two (2) bedrooms. No dwelling unit shall have more than two bedrooms. Libraries, dens, studios or other similar rooms in any dwelling unit shall be construed to be bedrooms.

**§32-11 Group Home for [~~the Elderly~~] Seniors**

A single-family dwelling on at least a one (1) acre lot may be used as a group home for a limited number of unrelated [~~elderly~~] Senior persons as living quarters in a Residence District

subject to a Special Permit and Site Plan approval in accordance with §43, herein, and the following conditions:

**32-11.2 Occupancy**

A group [~~elderly~~] Senior home shall include a resident occupied dwelling unit with guest rooms for not more than six (6) [~~elderly~~] Senior persons wholly within a single-family dwelling that is occupied by the principal owner or owned by a non-profit corporation. No such group home shall be occupied by more than eight (8) persons.

**32-11.5 CAP**

No more than five (5) such group homes for [~~the elderly~~] Seniors shall be permitted within the Town of Westport.

**§32-15A Senior Residential Community**

**32-15A.1 Purpose**

The purpose of this section is to allow a Senior Residential Community which provides residential opportunities and services in order to enable Seniors to maintain a maximum level of independence, to reflect the continuing concern of the community for the special needs of Seniors and to provide for their safety, health and general welfare. Preferences for available residential units shall be given to Westport residents to the extent permissible under applicable State and Federal laws.

**32-15A.2 Permitted Uses**

Construction and operation of a Senior Residential Community, including the provision of Dwelling Units for Seniors, which may include Independent Living Facilities, Assisted Living Facilities, Full Care Living Facilities, and/or Senior Center, all as defined herein and in §5-2. A Zoning Permit for Assisted Living Facilities and Full Care Living Facilities cannot be issued until 35% of the Independent Living Facility units are built and Zoning Certificates of Compliance (ZCC's) are issued. No less than sixty percent (60%) of any Independent Living Facility units with Zoning Certificates of Compliance (ZCC's) issued shall be affordable units pursuant to §32-15A.6.

**32-15A.3 Accessory Uses**

Accessory buildings, structures and uses necessary to the operation of a Senior Residential Community including maintenance, utility, gardens and other recreational facilities customary to, and supportive of, the needs of Seniors.

**32-15A.4 Location**

A Senior Residential Community lot shall be located on Town-owned land and have frontage on an arterial street as classified by the Planning and Zoning Commission in accordance with the Town Plan of Conservation and Development. All buildings shall be connected to public sanitary sewer and public water. These facilities shall not be located in Special Flood Hazard Areas A and V as shown on the FIRMs for Westport.

**32-15A.5 Lot Area, Shape and Frontage**

There is no lot shape requirement. Each lot shall have a minimum lot area and shall have a minimum continuous frontage on at least one arterial street, as follows:

<u>ZONE</u>	<u>LOT AREA</u>	<u>LOT</u>
<u>FRONTAGE</u>		
<u>AAA, AA, A,</u>	<u>4 Acres</u>	<u>200' on an</u>
<u>arterial</u>		
<u>PRD</u>	<u>Minimum</u>	<u>street</u>
<u>BCD, GBD,</u>	<u>2 Acres</u>	<u>200' on an</u>
<u>arterial</u>		
<u>HDD, HSD,</u>	<u>Minimum</u>	<u>street</u>
<u>RBD, RORD,</u>		
<u>RPOD</u>		

Split Zones: For lots located in both non-residential and residential zones, lot area and frontage shall be governed by the standards of the zone in which the greater portion of the lot lies.

**32-15A.6 Affordable Units**

32-15A.6.1 Not less than sixty percent (60%) of any dwelling units shall be rented at, or below, prices which will preserve the units as housing for persons and families who are compliant with the standards and limitations of CGS 8-30(g).

32-15A.6.2 Affordable housing units cannot be clustered, but shall be reasonably dispersed throughout the development and shall contain, on average, the same number of bedrooms and the same quality of construction as the other units in the development. Amenities for the market rate and below market rate units shall be comparable. No affordable unit shall be smaller than 75% of a market rate unit containing the same number of bedrooms.

32-15A.6.3 The applicant shall submit an “Affordability Plan” concurrently with a Special Permit and Site Plan application which shall describe how the regulations regarding affordability will be administered. The Affordability Plan shall include a priority system that prefers Westport residents to the extent permissible under applicable State and Federal laws. The amount of income derived from assets shall be guided by applicable state and federal regulations.

32-15A.6.4 Affordable housing means:

- assisted housing, which means housing which will receive financial assistance under any governmental program for the construction or substantial rehabilitation of low and moderate housing, or
- any housing occupied or to be occupied by persons receiving rental assistance under Chapter 319 of Section 1437F of Title 42 of the United States Code, or
- any housing currently financed by Connecticut Housing Finance Authority mortgages or
- any housing subject to deeds containing covenants or restrictions which require that such dwelling units be sold or rented at, or below, prices which will qualify the units as housing for persons and families who are compliant with the standards and limitations of CGS 8-30(g)

The Planning and Zoning Commission shall condition that the approval of affordable units must be eligible for moratorium points pursuant to CGS 8-30(g).

### **32-15A.7 All Other Units**

The applicant shall submit a plan which shall describe how all units other than affordable units provide for a priority system that prefers Westport residents, to the extent permissible under applicable State and Federal laws.

### **32-15A.8 Density**

32-15A.8.1 The maximum allowable density shall not exceed 15 residential units per gross acre in any permitted zoning district (see §32-15A.8.2).

32-15A.8.2 For the purposes of calculating density, every two (2) beds of an Assisted Living Facility and/or a Full Care Living Facility shall count as one (1) unit.

### **32-15A.9 Setbacks**

32-15A.9.1 Minimum setbacks from lot lines for principal and accessory buildings or structures shall conform to the standards of the underlying zone, except that, pursuant to §32-15A.10, where any building or structure has a height greater than allowed in the underlying zone, the minimum setbacks from an adjacent residential zone shall be doubled.

32-15A.9.2 No setbacks shall be required from Zoning District Boundary Lines crossing the interior of the lot.

### **32-15A.10 Height**

No building or other structure shall exceed a height of 3 ½ stories or forty-five feet (45'), whichever is less. However, the Planning and Zoning Commission may allow one (1) additional story and additional feet to accommodate stepped buildings and sloping sites.

### **32-15A.11 FAR**

Total Floor Area Ratio (FAR) shall not exceed 0.35.

### **32-15A.12 Coverage**

The building coverage shall not exceed fifteen percent (15%) and the total coverage shall not exceed 30%.

### **32-15A.13 Unit Sizes**

The gross interior floor area of dwelling units in a Senior Residential Community shall not exceed an average of 1,250 square feet.

### **32-15A.14 Open Space**

A minimum area of open space of 450 sq.ft shall be provided for each dwelling unit, as follows:

32-15A.14.1 The Planning and Zoning Commission may require land so set aside to be graded, screened, landscaped, and of a passive recreation nature suited to the needs of the residents, and such land may include open interior courtyards. Such recreation areas shall be designed to provide security and privacy and to limit the emission of objectionable noise and light onto abutting properties.

### **32-15A.15 Signs**

Signs shall be permitted in accordance with §33 of the Supplementary Regulations.

### **32-15A.16 Parking and Loading**

Off-street parking and loading shall be provided in accordance with §34 of the Supplementary Regulations except that:

1. A minimum of one (1) off-street loading space shall be required for any Senior Residential Community facility. The number and location of loading spaces shall be determined by the Planning and Zoning Commission; and
2. The Planning and Zoning Commission may require additional parking of up to 0.25 spaces per unit.

### **32-15A.17 Landscaping, Screening and Buffer Areas**

Landscaping, screening and buffer area shall be provided in accordance with §35 of the Supplementary Regulations.

- 32-15A.17.1 Refuse collection areas shall be provided, suitably screened, supplied with covered receptacles and conveniently located to serve the facility.
- 32-15A.17.2 Ground mounted mechanical units or equipment shall not be located within any setback area or buffer area and shall be suitably screened.
- 32-15A.17.3 Exterior site lighting shall be adequate for public and resident safety and security. Pole lights shall be limited to a height of sixteen feet (16') with down directed fixtures. Spotlights on the building are prohibited.

### **32-15A.18 Architectural Design**

The architectural design, including the exterior building material, color, roof line and building elevations shall be residential in character and compatible in scale with the neighborhood so as to protect property values and preserve and improve the appearance and beauty of the community.

- 32-15A.18.1 No wall of any building shall exceed 50 feet in length in an unbroken plane without an off-set of at least five feet (5');
- 32-15A.18.2 Rooftop mechanical equipment shall be adequately screened except for energy conservation systems such as solar energy panels;
- 32-15A.18.3 If more than one building is constructed on a single lot, they shall be so arranged that the minimum horizontal distance between the nearest walls or corners of any principal and/or accessory detached buildings shall not be less than fifteen feet (15').

### **32-15A.19 Utilities**

- 32-15A.19.1 All utilities and conduits within the lot shall be underground.
- 32-15A.19.2 All buildings on the lot shall be connected to public sanitary sewers and served by a public water supply.
- 32-15A.19.3 All storm drainage facilities and public sanitary sewers shall be designed and constructed in accordance with Town standards, subject to the approval of the Town Engineer.

**32-15A.20 Subdivision**

Notwithstanding the above, interior lots created by future subdivision(s) after initial zoning Special Permit and Site Plan approval as a Senior Residential Community need not conform to the standards and limitations of these regulations with regard to setbacks, coverage, density, floor area, and/or parking, provided that the originally approved overall special permit area maintains conformity with the standards and limitations of §32-15A and all other applicable sections of these regulations referenced herein, as approved by the Planning and Zoning Commission. Lots created by future subdivision after initial Special Permit and Site Plan approval as a Senior Residential Community, but subsequently conveyed for use other than a Senior Residential Community, shall not benefit from the standards and limitations contained in §32-15A.20.

***§34 – Off-Street Parking and Loading***

**...34-5 Parking Requirements Table**

Senior Residential Community:

Independent Living Facility

1.0 space per unit

Assisted Living Facility

0.5 space per bed

Full Care Living Facility

0.5 space per bed

...public [~~elderly~~] Senior housing

0.75 spaces for each dwelling unit for [~~elderly~~]  
Senior persons

...[~~Elderly~~] Senior group home

1 space per bedroom or guest room