



WESTPORT CONNECTICUT
PARKS AND RECREATION DEPARTMENT
 LONGSHORE CLUB PARK
 260 SOUTH COMPO ROAD, WESTPORT, CT 06880

Levitt Pavilion Sub-Committee of the Parks and Recreation Commission
Final Minutes
November 9, 2020

The Levitt Pavilion Sub-Committee of the Parks and Recreation Commission held a meeting on Monday, November 9, 2020 @8:05pm. Pursuant to the Governor's Executive Order No. 7B, there was no physical location for this meeting. It was held electronically and recorded via Zoom.

Members Present:

Charles Haberstroh, Chairman; Alec Stevens, Stephen Axthelm

Also Present:

Jennifer Fava, Director, Parks & Recreation; Eileen Flug, Assistant Town Attorney; Lynn Scully, Internal Auditor; Andy Fleischman, Friends of the Levitt Board Member; Carleigh Welsh, Levitt Pavilion - Director of Marketing & Development, along with members of the public.

Charles Haberstroh began the meeting with a moment of silence in honor of the former First Selectman Gordon Jessoft who passed away today.

Charles Haberstroh stated that this is the inaugural meeting of the Levitt Pavilion Sub-committee, which has three members: Charles Haberstroh, Chair of the Parks and Recreation Commission; Alec Stevens, Parks and Recreation Commission member and Stephen Axthelm, Parks and Recreation Commission member. These members were chosen, as they indicated that they do not have a conflict of interest with the Levitt. Also, included in every meeting will be a member of the Levitt Pavilion.

Charles Haberstroh said that he would like to begin with an introduction and background review of the Levitt Pavilion. He introduced Jennifer Fava, Director of Parks and Recreation, Eileen Flug, Assistant Town Attorney, Lynn Sully, Internal Auditor of the Town. He began with the motion that was approved by the Parks and Recreation Commission:

RESOLVED, that the sub-committee shall meet at least twice per year to perform its functions, which include, but are not limited to, a review of the most current IRS Form 990 of the Friends, assurance that a schedule of performances at the Levitt Pavilion is made available by the Friends in early June of each year, and providing an opportunity for public comment. The initial members of the sub-committee are:

Charles Haberstroh, Chair
 Stephen Axthelm
 Alec Stevens

Charles Haberstroh introduced Carleigh Welsh, Levitt Pavilion - Director of Marketing & Development. Carleigh Welsh summarized the Levitt Pavilion by stating that the Levitt Pavilion for the Performing Arts:

- It is an independent and unique 501 c3 not-for-profit organization
- Gives free abundant access to the performing arts
- Supports diverse artists, which are all compensated
- Preserves and cultivates an outdoor community destination for all ages and backgrounds
- Largest running and free outdoor festival in the nation
- Offers 50+ free shows each season called “Under the Stars”
- Attracts over 70,000 patrons each summer to Westport
- Offers free summer programming (for all ages and tastes) included (but not limited to):
 - Music
 - Dance
 - Theater
 - Comedy
 - Film
 - Circus
 - U.S. Premiers
 - World Premiers
 - Connecticut Premiers (including established and award-winning artists, as well as emerging artists).
- “River Swing Series” modeled after Lincoln Center’s “Midsummer Night Swing”. Offering free events of music through the summer, with pre-concert dance lessons in the style of the music to be performed.
- “Children Series” – every Wednesday a free series is available to children and their families.
- “Stars on Tour” benefit events are “ticketed” events to raise funds to help underwrite the free programs and occasionally to achieve curatorial programmatic goals.

Chronological Background:

- The concept of the Levitt Pavilion started in 1973, with the wooden bandshell debuting its first summer concerts in 1974.
- In 2014, the Levitt built a new facility. This represented a culmination of a \$9.5 million-dollar comprehensive capital project, with the Town of Westport contributing \$1.1 million dollars.
- The Friends of the Levitt Pavilion applied for and won \$950,000 from three state grants.
- The campaign in creating the new facility, included the completion of the “Riverwalk”. The Levitt Pavilion portion of the Riverwalk extends around the facility, including the new and updated footbridge, connecting it to the Imperial Avenue parking lot.
- Peter Cadoux Architects created the iconic clam shell design of the new facility.
- 2020 was the first year the Levitt Pavilion cancelled its summer season. However, fundraising continues and the Levitt Pavilion hopes to reopen in 2021.

The Friends of the Levitt Pavilion, Incorporated:

- Became incorporated on July 23, 1975
- Determined as a not-for-profit by the IRS on June 14, 1976
- The Friends of the Levitt Pavilion, Incorporated does business as the Levitt Pavilion.
- They fully and professionally produce, program, maintain the facility and steward the organization to what it is today.
- At the onset, the Friends of the Levitt Pavilion hired professional expertise in programming and products and used fundraising monies to oversee these endeavors.

- In or around 1976, the Friends of the Levitt Pavilion hired seasonal managing directors for programming, promotions and day-to-day operations, while the volunteer board spearheaded fundraising.
- In 1995, the Friends of the Levitt Pavilion created a full-time Executive Director position in order to better steward the organization.
- The new facility was gifted to the Town and is owned by the Town of Westport.

Charles Haberstroh asked Eileen Flug, Assistant Town Attorney to discuss the backdrop of how we came to be here now, and the relationship with the Town. He also asked Lynn Scully, the Town's Internal Auditor, who wrote a report about the Levitt Pavilion to speak.

Eileen Flug, Assistant Town Attorney stated that the Town owns the land, but licenses the right to use the land to the Friends of the Levitt Pavilion. This is not exclusive, when the Levitt Pavilion isn't being used, the land is available for the Westport public to use.

When the Levitt Pavilion was initially created back in the early 70's, First Selectwoman Jacqueline Heneage created the Governing Committee which was initially formed to run the Levitt Pavilion. Over the years, the Friends of the Levitt Pavilion took over, as it was too big for the volunteers to run. Once fund raising was completed, along with the renovations, the Town of Westport and the Friends of the Levitt Pavilion entered into a Licensing Agreement, which was around 2012. At that time, the Licensing Agreement required overlapping boards between the Governing Committee and the Friends of the Levitt Pavilion. That requirement has been removed from the License Agreement by mutual agreement. There was a decision that the Governing Committee should be disbanded and that the oversight of the use of the property should be with the Parks and Recreation Commission and specifically the sub-committee. Lynn Scully performed an audit a couple of years ago, and one of the recommendations was to remove the overlapping board requirement, which was done, and to look into what the oversight should be. That is why this sub-committee was created last year.

Charles Haberstroh asked if the License Agreement preceded the renovated buildings? Carleigh Welsh stated that the Licensing Agreement was signed in 2012. The renovations for the new building began in 2013, and the ribbon cutting was on July 14 or July 21, 2014.

Lynn Scully briefly explained that this audit was narrow in scope and wasn't technically an audit, it was more of a review. The three objectives of the audit were:

- 1) Determine if the License Agreement between the Town of Westport and the Friends of the Levitt Pavilion was properly approved, and it was.
- 2) Determined if the parties of the existing License Agreement were in compliance, and that was a mixed result. There wasn't a functioning Governing Committee, which was a big part of the Licensing Agreement. Also, smaller items were brought up in the report.
- 3) Identify any opportunities to improve the arrangements.

Lynn Scully's recommendations were to amend the contract where they could, she believes some amendments were made. Eileen Flug, Assistant Town Attorney stated there wasn't an amendment, just a waiver of the overlapping board provision.

Lynn Scully stated that she felt this was a conflict of interest for someone to be on both boards, and she also recommended that the Town of Westport review financial statements. It was determined that the Town of Westport would review the 990's as an alternative.

Charles Haberstroh asked Jennifer Fava to speak about the Parks and Recreation Department's relationship with the Levitt Pavilion.

Jennifer Fava, Director of Parks and Recreation stated that she feels the Licensing Agreement is clear about the responsibilities for both the Friends of the Levitt Pavilion and the Town of Westport (which includes multiple departments). The Levitt Pavilion shares office space in the same building as Parks and Recreation, which is part of the License Agreement. The Parks and Recreation Department does provide the Levitt Pavilion with funds on an annual basis, and they in turn provide the Parks and Recreation Department an invoice detailing which performances those funds were used for.

Jennifer Fava, Director of Parks and Recreation reviewed some of the maintenance responsibilities that are shared with the Friends of the Levitt Pavilion:

- The responsibilities for the Friends of the Levitt Pavilion are:
 - Keeping the buildings and premises in good order and repair
 - Custodial services (maintaining bathrooms during operating season)
 - Maintenance of all ornamental plantings
 - Payment of phone and cable systems
 - Security monitoring system (if purchased by the Friends of the Levitt Pavilion)
 - Operations and maintenance of the irrigation system
- The responsibilities for the Parks and Recreation Department are:
 - Seeding and mowing of lawn areas
 - Tree maintenance (except for the ornamental plantings)
 - Clearing of sidewalks and paths of debris and snow
 - Payment of utilities associated with the operation of the Levitt Pavilion; including water, electric and sewer. With the exception of phone, cable and/or security monitoring system.
 - Winterizing the seasonal buildings
 - Removal of trash
 - Care and maintenance of the River Walk area
 - Assisting the Friends of the Levitt Pavilion in identifying maintenance needs for procurement of contractors, development of specs, along with work to be performed by others

Charles Haberstroh asked Andy Fleischman, Board Member of Friends of the Levitt Pavilion if he would like to speak. Andy Fleischman thanked everyone for attending the meeting and appreciates everyone's time.

Stephen Axthelm stated he was honored to be on this sub-committee and is a huge fan of the Levitt Pavilion. He wants to learn as much as he can to assist in this sub-committee.

Charles Haberstroh stated that part of the sub-committee's charge is to review the 990 report. Circulated tonight was the 2018 report, when the 2019 becomes available, he will share that report as well. The other charge is helping the Levitt Pavilion get its performance schedule out by early June. The public will also be able to voice any concerns they have. The License Agreement is dated 2012 before the new facilities were completed, making sure that the license agreement and what is happening between the Town of Westport and the Friends of the Levitt Pavilion encompasses those things which may have occurred after the writing of the License Agreement.

Charles Haberstroh asked Carleigh Welsh to address some of the incidences that occurred in 2020. Carleigh Welsh stated that there was no way to predict what would happen at the park in a situation like this. With almost everything closed to the public, and the Levitt Pavilion vacant of shows, this created an opportunity for an uptick in vandalism. Repairs are being made, as well as making plans to deter this type of activity in the future.

Jennifer Fava, Director of Parks and Recreation stated it was a challenging year. With the park being empty due to the cancellation of shows, it did increase the likelihood of mischief. Conversations are being held to remedy these issues in the future.

Public Comments:

Richard Lowenstein, RTM District 5 stated there is a serious problem in the parking lot when it rains, as puddles reduce viable parking. He would like to see the parking lot repaired before the next season. Jennifer Fava said she would reach out to Public Works to see if we can make this a priority.

Morley Boyd, 6 Violet Lane stated that along with the sub-committee reviewing the Levitt Pavilion 990's, they should also be reviewing full financials. In 2017, he states that the Levitt Pavilion had their sound engineers produce a set of recommendations to address the chronic sound complaints and would like to know if the sub-committee will be reviewing them. And, will there be sound enforcement in place before the season starts.

Charles Haberstroh said they would be reviewing the sound and the sound complaints to make a determination if action is needed. He said he would send the report to the sub-committee members for their review.

Carleigh Welsh stated that they have a comprehensive sound monitoring program in place (on site and off site) and they do work with Jaffe Holden on a regular basis. She would like to submit a more in-dept explanation on what and how they manage the sound.

Helen Garten, Chairman of the Selectman's Real Property Committee stated she would like to see the Levitt Pavilion Sub Committee...

1. Take an active role in overseeing all aspects of the Levitt Pavilion
2. Transparency – would like to understand how the Town of Westport supports the Levitt Pavilion
3. Explain the financial benefits between the Town of Westport and the Levitt Pavilion

Lawrence Tirreno, 137 Riverside Avenue stated that he has been agitated over the sound spillage from the Levitt Pavilion for over 30 years and he hopes that this sub-committee can rectify this situation before the start of next year's season.

Morley Boyd, 7 Violet Lane would like the Levitt Pavilion to be in compliance with the Town's noise ordinance. He also referred to the Zoning Regulation 327.1 regarding noise nuisance.

Eileen Flug, Assistant Town Attorney, stated the Town does not have a noise ordinance. The Zoning Regulation Morley Boyd was referring to related to construction noise only.

No other public comments were made. Charles Haberstroh brought the conversation back to the Commission.

Charles Haberstroh stated he would like the Levitt Pavilion to provide the any internal documentation for items #12a, #12b, #12c, #13 and #14 from their 990 (page 6) as it related to Written Policies and Procedures.

Charles Haberstroh had a question regarding income of \$42,000 in 2018. Was that rental income? Does the Levitt Pavilion rent out their facilities to 3rd parties? Also, he would like the description of "other income", not to be "other income". Carleigh Welsh said she would supply later.

Upon a motion by Stephen Axthelm, seconded by Alec Stevens, the meeting adjourned at 9:27pm.

Respectfully, Debbie Detmer, Recording Secretary