

RTM Special Meeting  
June 8, 2021

**The call**

1. To take such action as the meeting may determine, upon the request of the Board of Education and the recommendation of the Board of Finance, to approve an appropriation in order to award BOE 21-011-RFP to Silktown Roofing, Inc., for a partial roof replacement at Saugatuck Elementary School.
2. To take such action as the meeting may determine, at the request of at least 20 electors of the Town of Westport, pursuant to Town Charter C5-1F and C10-4, to review and reject the Planning and Zoning Commission decision issued on May 13, 2021, in adopting a new zoning district boundary: SV District as seen on "Proposed Zoning Map - SH Z2, entitled: The Village at Saugatuck, Hiawatha Lane, Town of Westport, CT for Summit Saugatuck LLC, dated May 10, 2021.
3. To take such action as the meeting may determine, upon a request by the Finance Director and the Personnel/Human Resources Director, to revise the Retirement Plan for Non-Union Supervisory Employees of the Town of Westport to include current management of the Police and Fire Departments. **Postponed to June 15.**

**The meeting**

Moderator Velma Heller:

Good evening. This meeting of Westport's Representative Town Meeting is now called to order and we welcome those who are joining us the evening. My name is Velma Heller and I'm the RTM Moderator. Procedures for this Electronic Meeting: Pursuant to the Governor's Executive Order No. 7B, this meeting is being held electronically. It will be live streamed on [westportct.gov](http://westportct.gov), and shown on Optimum Government Access Channel 79 or Frontier Channel 6020. Meeting materials will be available at [westportct.gov](http://westportct.gov) along with the meeting notice posted on the Meeting List & Calendar page. Instructions To Attend Zoom Meeting: Members of the electorate may attend the meeting by VIDEO by sending an email at any time before or during the meeting stating your name and address, and meeting participation details will be emailed to you to enable you to participate by video. You will be called upon to speak by the Deputy Moderator. Public Comments: Members of the electorate attending the meeting by video may comment on any agenda item. Comments will be limited to three minutes. Emails may be sent prior to meeting to [RTMmailinglist@westportct.gov](mailto:RTMmailinglist@westportct.gov), which goes to all RTM members. These emails will not be read aloud during the meeting.

Tonight's invocation will be delivered by: Kathie Bennewitz, Westport's Town Curator. In this role, she's responsible for advising the town on the care of its art and sculpture collection. Westport owns several hundred works of art, displayed in Town Hall, the Senior Center, Parks & Rec headquarters, even the Fire Department. Statues include the Minuteman and Doughboy on Veterans Green. Kathie volunteered with the Westport Schools Permanent Art Collection. Working with Mollie Donovan and Eve Potts. She learned the depth and breadth of Westport's arts history. She has worked professionally at Greenwich's Bush-Holley House and the Fairfield Museum. She also was appointed tri-chair of the Permanent Art Collection, and served on the Westport Arts Advisory

Committee. Kathie serves as liaison to the 1,100- Permanent Art Collection and the Westport Library, with its own murals, paintings and illustrations. Kathie, it's all yours.

Invocation, Kathie Bennewitz, Town Curator:

Thank you, Moderator Heller and Deputy Moderator Wieser for inviting me to present the invocation tonight to Westport's distinguished governing town body. I am an independent art historian and Westport's Town Curator, responsible for overseeing the Westport Public Art Collections. Westport has a dynamic arts history. You most likely have heard stories about the many artists who lived and worked here. In fact, this summer marks the 110th anniversary of the very first art exhibition ever held in town. Organized by the first generation of artists here, it took place at the original Westport Library in 1911. Westport's cultural past is represented in our permanent art collection, known as the Westport Public Art Collections. Think of "WestPAC," as it's known for short, as an umbrella organization of three significant art collections: the town's, the school's, and the Depression era WPA. You see these collections comingled throughout the schools and our municipal buildings as Velma has mentioned. WestPAC is overseen by a town appointed subgroup of the First Selectman's Westport Arts Advisory Committee. WestPAC contains more than 1,500 artworks and is one of our town's most valuable assets. Over the decades, its growth has been driven by phenomenal gifts from Westporters of works with ties to town and to the larger art world. While local generosity continues, something new has emerged. In December, Arts Advisory set forth proactive steps to promote non-biased arts initiatives in Westport. This included contemporizing and diversifying the collection with works reflecting artists of color and other underrepresented groups. In May, the Board of Selectmen unanimously supported this effort by accepting 30 works of art by Black artists, including Staples alum Charles Joyner of North Carolina, Jerri Graham of Westport, and Christa Forrest of Stamford. Most notably, work was accepted by esteemed artist Richard Hunt of Chicago, via the Dorsky Gallery Curatorial Programs aided by the gracious help of Wendy Batteau, and renowned photographer Adger Cowans, based in Bridgeport, via our nonprofit arm, Friends of WestPAC. WestPAC and Arts Advisory are also working together to identify key opportunities to help increase Westport's vitality in the arts:

- We have expanded "Learning Galleries" at each of our schools, where teachers bring students to supplement curriculum.
- We also installed an exhibit space in the Town Hall lobby. Here, you can see and learn about Tracy Sugarman's drawings done in Mississippi over the "Freedom Summer" of 1964; this exhibit, and others, can be explored *online* as well.

We have also begun:

- An ambitious loan program to install key work by local artists who are not represented in the collection.
- Developing a Public Art Policy to display artwork in public spaces via a more streamlined and flexible process.
- And we are looking at additional exhibition spaces in Westport so the public can have greater access to the collection.

Our shared intent, and this is really important, is for residents, students, and town and school officials and staff to see themselves reflected in – and inspired by – a broad and diverse range of original artworks around them. The RTM's support is vital to the success

of these and future initiatives. We are grateful for the RTM Library, Museum and Art Committee's championing of our efforts to date. We know we can work with this committee, RTM members, and the body at large to ensure that Westport remains a stand-out example of public art in the community; and that the Collection is preserved for current and future generation of Westporters. Thank you this opportunity and for all the work you've done this past year. I know it's been a challenge. I applaud all of you on the RTM and I see many faces with the School District and I appreciate their support, as well.

Dr. Heller:

Thank you so much Kathie for reminding us of the depth and breadth of Westport's Arts and for being there for us. Thanks again.

The Pledge of Allegiance which follows presents a montage of RTM members. Thank you Matt for putting it all together.

There were 35 members present. Ms. Briggs notified the Moderator that she would be absent. Ms. Newman and Mr. Shackelford notified the Moderator that they would be late. Mr. Keenan and Ms. Talmadge left the meeting before the vote on item #2.

### **Announcements**

The minutes of the May Meetings have been posted on the Town website. Are there any corrections to minutes at this time? Seeing none, the minutes are accepted as submitted. If you later find any corrections, please inform Jackie, Jeff Dunkerton or me.

While several RTM members were congratulated at our 1<sup>st</sup> June meeting, we have one more name to add to the June celebrations, our former Moderator and current Assistant Town Attorney, Eileen Flug. Happy Birthday Eileen!!

### **RTM announcements**

Matt Mandell, district 1:

I have three things to talk about. A few weeks ago, when I spoke, I invited people to come to the rally against Anti-Semitism. I was pleased to see so many RTM members come out. What was brought out was this was the third anti-hate rally that Westporters went to. It says a lot about our society and where it's going but it also says a lot about Westport in that people from different races, religions would come out and support each of the other groups because each of the other groups are important to us. While we see, in the paper, people call us names, I reject that. Westport is a welcoming, inviting community and we are all going to continue to work together to fight hate where we find it. Second, Chamber of Commerce: The first time we will be meeting together in person will be next Thursday night. We will be meeting at Gilbertie's for what we call Our Business After Hours. We'll get together old school, meeting in person, shaking hands, having a drink, having some food. So, if anybody wants to come out, there is a small fee but come out and meet business people. We have made it through the COVID pandemic in Westport and we invite anybody to come. It is at Gilbertie's, next Thursday, June 17, at 5:30. Two more events: Slice of Saugatuck is coming back. It will be Sept. 25 and the Dog Festival two weeks later on Oct. 10. So, please come out to those events. The last thing is, agenda

item #2, I wanted to remind this body that I will be recusing myself. I did send a letter out to this body explaining why and that will be in the report as well so that will be public information. It was a very hard decision for me to do but it is best for this body, best for the town that I do this. So, I will be turning off my video during #2 and coming back for #3 but first we have to deal with #1. Thank you.

Jimmy Izzo, district 3:

Madam Moderator, I am getting emails from four or five people on Davenport Avenue who are trying to get into the meeting. They don't know how to log on.

Dr. Heller:

There is information on the agenda and I can remind people because I did say it before. If they just want to come to the meeting, Jeff Dunkerton, can you help us out?

Jeff Dunkerton, Town Clerk:

They can just send an email to myself or to *RTMcomments* and we'll forward them a link right away.

Mr. Izzo: Send an email to *RTMcomments*.

Dr. Heller: *RTMcomments@westportct.gov*.

Jeff Wieser, district 4:

I would just like to make a quick announcement to remind people that this Saturday night, something near and dear to my heart, Stand Up with Homes with Hope, is having its annual fundraiser. It's virtual. This year, they will have a small number of people in the library. It's eight o'clock and tickets are available at *hwhct.org*. A night of comedy in the middle of summer. It should be fun.

Dr. Heller: Comedy sounds like a good thing.

Jessica Bram, district 6:

The Health and Human Service Committee will meet on June 24 at 7:30 p.m. The subject will be gas powered leaf blowers.

Mr. Izzo:

Public Protection will be meeting on June 23 at 6:30. I think I sent out an announcement the other day. It will be revisiting the changes that we made to the Civilian Review Board.

Mr. Wieser:

Finance will be meeting on June 22, Tuesday. That's the plan at the moment.

Dr. Heller:

If necessary, tonight's meeting shall reconvene on Tuesday, June 15, 2021 to deal with any agenda items not disposed of at the adjournment of the June 8, 2021 meeting. It would be a continuation of the meeting.

**The secretary read item #1 of the call - To approve an appropriation in order to award BOE 21-011-RFP to Silktown Roofing, Inc., for a partial roof replacement at Saugatuck Elementary School.**

### **Presentation**

Candace Savin, Chair, Board of Education:

Velma, I'll just quickly say that I want to express gratitude on behalf of the Board of Education. I know, now you have several items, but the genesis of this extra meeting was really to help us get this project fully approved in time to give it the best possible chance of completion this summer while the kids are out of school. So, I just want to express gratitude for adding the meeting and honoring our request and I'll turn it over to Tom and Elio.

Tom Scarice, Superintendent of Schools:

I just want to echo Candice's comments. It's probably best if Mr. Longo explains the details behind the request, the process from the Board of Ed to the Board of Finance to the RTM Committees earlier. Mr. Longo, perhaps you can go in depth on the request to the RTM tonight.

Elio Longo, Schools' CFO:

The request before the meeting this evening is for the project known as Saugatuck Elementary School partial roof replacement project. It is approximately 70 percent of the roof-scape. The last installation date was 2001 so we are at year 20. Over the most recent years, Mr. Hunyadi, who is also joining us this evening, is our Director of Facilities and Security, Mr. Hunyadi and his team have maintained the roof-scape in question through preventative maintenance programs. At this time, the roof is scheduled for a full replacement. It probably has one year remaining to it. We'd like to address it this summer. Having said that, the Board of Education approved a release of a Request for Proposals. The administration contracted with Collier, Project Leaders, for assistance with RFP's for an architect and the RFP selection for a roofing contractor. The RFP was approximately 400 pages. All said, we recently received bids from six respondents. They were opened and read on Friday, May 21. Five bids were received for the project. The bids were from a low of \$1,311,000 to a high of just short of \$1.7 million. The Antinozzi Report had a cost estimate for the project of \$2.2 or \$2.3 million. The construction budget was revised by our architectural firm to an amount of \$1.8 million. So, we are very pleased with the bids in the range of \$1.3 to \$1.7 million. The apparent low bidder is Greenwood Industries. They are out of Massachusetts. They bid at \$1,311,000. We are proposing to award the contract to the second low bidder, Silktown Roofing, for a difference of \$26,000, a base bid of \$1,337,000. So, the Board of Education's response is to review the RFP response when it is received is to award the lowest, most responsive bidder. Included in the bid proposals were the timeline for commencement of the roofing project as well as a projected completion date. The RFP called for a completion date, required, of Aug. 20. The low bidder, Greenwood Industries, they bid with a start time of 45 days and, thereafter, 120 calendar days for substantial completion. By calendar, the 120 days would

have a completion date of the first or second week of November. We simply cannot have construction ongoing with the opening of the school in September, October or thereafter. Therefore, working with our consultant on the project, we reached out to Silktown Roofing and we asked for assurances that their timeline is reasonable. We have a meeting scheduled tomorrow at noon with the leadership at Silktown Roofing as well as with their suppliers. The email exchange this afternoon leads me to believe that they can secure the materials they need to meet their date specific completion date. They are supposed to complete the project on Aug. 12 which meets the Aug. 20 contract requirement. For the difference of \$26,000, when we reviewed Greenwood's unit pricing, they appeared to be off scale. Greenwood, the low bidder, in one instance, the competing firms bid within a range of \$20 to \$40/unit while the low bidder's price was \$200; it was tenfold. We raised the question to our architect as well as to Landin, who serves as asbestos treatment, hazardous material, and they also questioned the bid amounts. Having said that, I did have a conversation with the executives at Greenwood and, at the end of the conversation, they said they understood and accepted my position. I shared with the committee a letter of recommendation prepared by Colliers; however, please let it be known that it is a joint recommendation by Superintendent Scarice and the Board of Education. At this time, I'll try to answer any questions you have.

### **Committees report**

Education & Finance Committees, Lauren Karpf, district 7:

I know we have a long agenda so I will keep it very brief. We met on June 3. Elio covered most of it. The existing flat portion of roof at Saugatuck Elementary School is 23 years old and, while it was well maintained, it has exceeded its lifespan (typically 18-20 years). The committee had some concerns about the timeline especially given the constraints by COVID and the time delays. Elio informed us that he will get assurances from Silkwood Roofing and suppliers that the timeline is realistic and doable. If it is determined to be unrealistic, they will do preventative maintenance this year and complete the partial roof replacement next summer. The committees discussed whether it could be completed prior to the start of the next full year and he assured us they would not proceed without a high level of confidence that the project will adhere to the Aug. 20 deadline. The contract will include a \$500/day late penalty (although does require the Board of Education to show that it incurred a financial penalty in order to collect the payment). We also discussed solar panels, which cannot be included in this project due to the location of the partial roof being replaced, but discussed our hope that solar panels will be included in the upcoming Staples roof project. Both committees approved this appropriation 8-0 and 8-0.

### **Members of the Westport electorate – no comments**

Mr. Wieser read the resolution and it was seconded.

**RESOLVED:** That upon the request of the Board of Education and the recommendation of the Board of Finance, the sum of \$1,470,000 along with bond and note authorization to the Municipal Improvement Fund Account in order to award BOARD OF EDUCATION 21-011-RFP to Silktown Roofing, Inc., for a partial roof replacement at Saugatuck Elementary School is hereby appropriated.

Dr. Heller: It has been moved and seconded. Now it is the time for RTM comments.

**Members of the RTM - No comments**

**By show of hands, the motion passes unanimously 34-0.** (Mr. Shackelford arrived.)

**The secretary read item #2 of the call - To review and reject the Planning and Zoning Commission decision issued on May 13, 2021, in adopting a new zoning district boundary: SV District as seen on "Proposed Zoning Map - SH Z2, entitled: The Village at Saugatuck, Hiawatha Lane, Town of Westport, CT for Summit Saugatuck LLC, dated May 10, 2021.**

Dr. Heller:

For your information, the order of speakers will be: Ira Bloom will present background on the context of the petition and the role of the RTM in addressing the resolution before us; Danielle Dobin and Paul Liebowitz will present for the Planning and Zoning Commission; Gloria Gouveia will present for the for the Petitioners and Attorney Hollister has been invited to present for the developer.

### **Presentation**

Ira Bloom, Town Attorney:

This is one of the more complicated equations, complicated decisions that I have faced and you may face because of the number of lawsuits involved and the number of complicated issues that have impact for the town. I'm going to try to go through this, explain, as best I can, these issues. I am going to explain the Charter provision that allows the RTM to review this, the proposed map change and, indirectly, the overall stipulation. I'm also going to explain the background here, the same background that was discussed extensively by members of the Commission, that your own Planning and Zoning Subcommittee reviewed a couple of weeks ago. I am going to be as candid as I can about these three lawsuits that are essential to this decision. In doing so, I do it at some risk. I do not normally stand in public and evaluate a case quite directly like this but it has to be done. I did it at the P&Z; I did it at your Subcommittee. I'll do it again tonight. I think it's essential that you hear my best assessment of these cases which provided the background for the Planning and Zoning Commission. You need to hear everything I can offer and others to make your best decision, of course. To frame this issue, it seems to me that there are a couple of key questions that you might want to listen to as you hear, not only my presentation, but Danielle's and Paul's and Gloria's and everyone else who provides commentary. Number one, is it preferable for the town to control its own destiny by deciding, through this settlement, what to do with this land use project and the pending land use cases, is it preferable to make our own decisions so we have some control of the land use decisions in the next few years or would you rather have it decided by others, the Department of Housing, DOH, or by the courts? That's the question, number one. And number two, is this settlement in the best interest of the entire community? So, I think I

would ask you to consider that in terms of framing the issues that you will face here tonight.

Let me start by discussing why we are here under our Charter. Westport has what is called a Special Act Charter. It was granted by the General Assembly of the State in the late 1950's. Not all Charters are derived from that kind of grant. Because of that, we have a kind of unique section of the Charter, Section C10-4. What it provides is that certain zoning actions by the Planning and Zoning Commission, specifically, zone text changes or changes or fixing of zone boundaries, text changes and map changes, can be reviewed by the RTM. That's a unique provision. Over the years, I think we've found only two other municipalities in the State that have something like this where the legislative body can override a decision by the Planning and Zoning Commission. That's the authority you have under our Charter. It's been utilized somewhat infrequently over decades. The last 10 years or so, it's been utilized more than it had been in the past. We adopted some guidelines for this in 2010. I think you have those in your packet also. To override the Planning and Zoning decision on the map change, which is the proposal before you, the map change that was part of the stipulation, to override, that requires a flat 2/3 of the RTM membership; that means 24 people regardless of how many people are here. There are 34 people here. It still needs 24. If there were 25 people, it still needs 24. If there were 23 people here, it still needs 24. That's the key number required to overturn a map change in the proposal. It's part of the stipulation.

The second topic that I said I was going to talk about is the legal landscape and I think it's critical that you understand where we are with three critical cases. There actually are four but I am going to focus on three cases. The first case, I'll call it the Zoning Appeal. The Planning and Zoning Commission originally turned down the Summit Saugatuck proposal for 187 units. An appeal was taken. That case is pending before the Bridgeport Superior Court, Judge Berger. That case has been fully briefed by all sides and there has been a trial for that case already. It is in the judge's hands. This is an affordable housing appeal under section 8-30g of the Connecticut General Statutes. Many of you perhaps know that these are difficult cases. The burden has shifted to the Commission to prove why to turn down a project under 8-30g. It is a difficult burden. Historically, Commissions that have turned down such applications have lost in court maybe 70 or 75 percent because the burden is quite high. That has been the historical pattern over the years. But I think there is something more recent here that needs to be noted. I think the legal landscape for 8-30 cases is changing in the last few years because there is a focus on the critical shortage of affordable housing in the State. I'm sure you all know this and follow the various activities in the State Legislature. I think that has had an effect on cases in recent years. In this particular case involving Summit, it involves fire safety. The proposed building complies with the Fire Code; however, our Fire Marshall thought there should be more than just compliance with the Fire and Safety Code and he recommended certain other things, most notably, a second means of access, egress to the property. So, what you have before the court is, on one hand you have a building which is code compliant and, on the other hand, you have the local Fire Marshall that says I think it needs more. And that's basically it. What has been happening is that in these kind of cases where you have code versus Fire Marshall, code has been winning. We saw that



ourselves with the Cross Street/Lincoln Street case which was decided against the town on a very similar issue, code compliance versus the recommendations of the Fire Marshall. Our Fire Marshall is an outstanding Fire Marshall and he will tell you that he would like and wants more than just code compliance; however, the cases, one from Westport and others seem to suggest that is not a winning position. The reason is, number one, there is a lot of focus on affordable housing in the State and number two, the point of 8-30g, affordable housing, is to remediate the problem with housing. The courts have said directly 'This is a remedial statute' to remediate a problem, the problem being the shortage of affordable housing. That's the legal landscape that we have on this zoning case. In my judgment, and I've said this before, we don't have a high probability of prevailing. That's case number one. Case number two is a challenge to Westport's moratorium. You know, of course, that in 2019, the town received a four-year moratorium from the Department of Housing, DOH. We had to apply. It was an extensive process and we had to present a certain number of points because of the existence of certain housing in town and we made that application after a lot of hard work. When it went to DOH, 2019, they reviewed our application. What they did in simple terms, on one hand, they took away some points that we had claimed. They came up with a different calculation. It's a complicated formula. So, they took away a few points but then when it came to a different project, the Hidden Brook project which is the old trailer park on the Post Road, they did their own analysis and, based upon their own records, not records we presented, they awarded us more points. They took away on one hand and they gave in the other. The result, because they gave us 30 or so extra points for Hidden Brook, we stayed over the top and we were awarded a moratorium. We got this letter in 2019 where they said that was exactly what they did. They awarded us more points. We said, 'Thank you very much' and we moved forward. Unfortunately, there was a challenge to that by Summit Saugatuck as well as Garden Homes which is the developer on Wilton Road. That process went on for some time. For about two years we worked hand in hand with DOH. They were represented by the Attorney General's Office. There were various motions. Also, this case was before Judge Berger. On March 22 of this year, we received a letter that was quite a shock. I think you have copies of it. The letter came from Department of Housing and it said they intended to revoke Westport's moratorium. The letter said they went back to look at their records and, as it was explained to us, they were preparing for hearings and they could not locate their records. These were not records that we had submitted. They said they were their own records. We were quite surprised to put it mildly. We have attempted to discuss that with them. At one point in time, we asked Carol Martin, the Head of the Housing Authority if she could look at her records. She actually provided them with one additional document. They said it was similar but it wasn't the document they were looking for. They gave us 30 days from March 22 and then they intended to revoke the moratorium. We intended to respond. Jim Marpe wrote a very strong letter to them in an effort to dissuade them from doing that. Eventually, we proceeded to this settlement phase. At the town's initiative, we have had them on hold since March 22. They have not yet revoked the moratorium. They are aware of the settlement that you have before you tonight. They have sent us an email which I read to the subcommittee. The position of DOH now is as follows as of May 25:

DOH is tentatively on board to keep the moratorium in place as requested by the town of Westport and Summit Saugatuck to allow the parties to pursue the settlement in their pending zoning case.

So, they are tentatively on board. That is very important.

If, however, the settlement agreement does not go through, DOH cannot make any guarantees about its final decision on the intent to revoke the moratorium.

What they have said to us after many, many conversations with the Attorney General's office is that they are tentatively onboard with this settlement. Now, why? Because there is a separate lawsuit, as I mentioned, brought by Summit Saugatuck and Garden Homes to the Department of Housing. The town was not originally named as part of that suit but we intervened at our initiative and became a party to that suit. So, there is a lawsuit against the Department of Housing and, frankly, they don't want that either. So, if the settlement goes through, it seems likely, based on that, we will preserve our moratorium. If the settlement does not go through, then my best assessment, and Pete Gelderman from my office has been on all these calls also and I think he'll agree, my assessment is that they are very likely to revoke our moratorium. In my opinion and in P&Z's opinion, that has significant consequences to the community. We would lose two years of the moratorium. We may have to give back the two years that we got. We know there are some developers ready to come forward. I have received calls from lawyers interested in this so it will expose the entire town in every district to 8-30g applications if we lose the moratorium. If we have the moratorium, then we go forward. The purpose of the moratorium is to allow the Planning and Zoning Commission to plan for the community; to make proper decisions for the community; to decide where affordable housing should be and where it should not be. So, it gives us a cooling off, planning period. That's the point of the moratorium. So, we would either keep it or it seems like there is a high likelihood we would lose it.

Those are two of the cases. The third case is before the Supreme Court of the State. That one also has significant consequences. It's kind of interesting. At the first P&Z meeting, I heard someone say we should go all the way to the Supreme Court. Let me just state for the record, we are at the Supreme Court on this case. The third case involves the Water Pollution Control Authority, which you know is the Board of Selectmen and the sewer connection. Westport has a policy that before anybody connects to the town's sewer system, they must get a positive report under section 8-24 of the statutes from the Planning and Zoning Commission. If they don't get that, then the project doesn't go forward. That has been the town policy for many, many years. It has been an effective policy. It has worked well and it is something that we wish to preserve. That is the challenge before the Supreme Court, whether failure to get an 8-24 prevents a developer from connecting to the town sewer system. We could win that case. We could lose that case. If we lose that case, it has significant impact on the town's sewer policy and on development. The case has been fully briefed by Pete Gelderman. You can read all these things too. He argued the case before the Supreme Court and we have the Supreme Court literally on hold until later in June. They are waiting for your decision and they will wait until the 25<sup>th</sup> of June, I believe, and then I do not believe they will wait any longer. I should have said this before, similarly, we have the Department of Housing on hold for you to make this decision tonight, perhaps by the 15<sup>th</sup> if it is not decided tonight. Then we

have the trial court judge on the zoning case on hold because he is ready to make a decision. I don't think everyone will wait indefinitely but they will wait until the RTM completes this process.

Let me back up to how these negotiations evolved. Pete and I have been speaking to the Planning and Zoning Commission in executive session for many months. I think we started in December. We were discussing what we are now saying here publically. At a point in time, the seven members of the Planning and Zoning Commission appointed a negotiating team. They thought they should reach out to the developer and that's what started the negotiations. The developer responded and it has gone back and forth. It has taken hours of hard bargaining and we reached this point here. The Commission said, at the outset, that it has to tie into the moratorium case. How did DOH get into this? They got into this because the Commission said we have to keep our moratorium if we are even going to discuss with Summit about any sort of settlement. So, we basically combined the two cases. That's how we got Department of Housing into this discussion. They are prepared to do what I said, based on that email. The case will go away. We will keep our moratorium if this is passed. Every one of the conditions in the stipulation is contingent upon one another. If one piece doesn't go forward, the house of cards falls. It's a package deal. That was by design. That was the Commission's choosing also.

Those are the three cases. I've had the opportunity to look at four questions that were submitted by the petitioners and I thank Gloria Gouveia for providing these in advance. I'd like to answer them now so we can get them out on the table here.

1. Can Summit be held to an agreement to not exercise their legal rights as in item 1B and 14F? The answer is yes. This is how we settle all zoning cases. It is a settlement agreement. We have a contract between the parties. Once they sign, it is a binding contract. Not only is it a contract, but this will become a court judgment. Once it's signed, we take it to the court; the court has to review it. The judge has to review it, find it fair and equitable, and then it's entered as a judgment of the court. So, it's binding on all the parties and it's enforceable. That's the routine we follow for all zoning cases.

2. Does Summit have the authority to execute an agreement binding upon Garden Homes and/or the Department of Housing as stated in items 14 C & D? I think that needs a little clarification. Summit is not really executing an agreement binding Garden Homes. Summit is signing an agreement with the town, the Planning and Zoning Commission. Garden Homes is a party in the challenge to the moratorium, the Department of Housing. That's a separate case. If this goes through, the second case will be withdrawn with prejudice. That will also be discussed before the judge. Garden Homes is really impacted and affected by the moratorium case which will be withdrawn. It won't be withdrawn until we have their letter keeping our moratorium in place and all the other provisions go forward. No one is binding Garden Homes. That case will be withdrawn and they have to agree to that withdrawal. They have to physically sign a withdrawal. DOH, similarly, if this goes forward, they are making a commitment to keep Westport's moratorium and will issue a document to that effect. We have proposed a draft to them already. When we get that, that will be their commitment to keep the moratorium. The case against them will be

withdrawn. Summit will be bound by the settlement agreement that you've looked at, the contract, and that will be covered by the court judgment also.

3. Does the Planning and Zoning Commission have the power to modify the requirements of the Fire Marshall as per item 7? Let me step back. Nobody, certainly not the Planning and Zoning Commission, has the power to modify or waive the Fire Code. That can't be done but that's not being done. The building meets the Fire Code standard as presented to the Commission. The Fire Marshall wanted more than code compliance. So, we're not impacting the code in any way. What happened, candidly, is we spoke to the Fire Marshall Nate Gibbons. He believes in the second means of access, that was his recommendation. But when we explained where we were with all the ramifications, we asked him to give us some other fire protections and provided the six items which you see in the stipulations. Those came from the Fire Marshall. We didn't make them up. So, that's how we got to those points.

4. Does the Planning and Zoning Commission have the authority to agree to item #15 on behalf of the Westport Building Official? Number 15, the stipulation, it just basically restates the law. It says that if the developer, Summit, complies with the settlement agreement stipulation and if they comply with the Building Code, the Building Official will issue the proper permits. That restates the law. That's all it does. Why did we put it in there? We put it in there because there was concern by the developer that they would have trouble at that stage and we said 'Alright, we will put in what the law says. If you comply with the stipulation, if you comply with the Building Code, then the Building Official will give you your appropriate permits.' That is the law. Without diluting it or altering it, it is a restatement of the law.

I think I've probably said enough. I hope that's helpful. At the right time, I'll be happy to answer your questions when we get to that point in the deliberations. I'll just leave you with my initial thoughts about exercising control over our land use future. That's what the Commission determined. That's what your subcommittee determined and they also determined that the settlement was in the best interest of the community as a whole. I thank you for your patience. It was a long dissertation here but that wraps up my comments.

Dr. Heller:

Thank you Mr. Bloom for your very thorough and thoughtful comments. You have clarified a number of things for us. We'll move next to Danielle Dobin and Paul Lebowitz. I know Jim Marpe also wanted to comment.

Danielle Dobin, Chair, Planning and Zoning Commission:

Thanks so much Velma and thanks so much Ira for the great review of the legal situation. It's nice to see all of you and some of your kids that are popping in and out of the video screens. I wanted to provide you with a little bit more context for why the Commission acted to do this with regards to the settlement, how this came about and a little bit of the history and answer any questions that you may have. First, I want to echo what Ira said, which is that the Commission worked really hard to represent the best interests of both

the neighborhood including the immediate neighbors and the town. That was our goal and we had a challenging set of circumstances and we really did the best that we could. A refresh for those of you who are unfamiliar with 8-30g. Ira referenced it and I know a lot of the members of the public are joining us. 8-30g was adopted in 1989. It allows developers to bypass local zoning rules if their projects include at least 30 percent affordable units as affordability is defined by that statute in any town that lacks 10 percent of affordable housing. In Westport, less than four percent of our units qualify as affordable. Westport does have other naturally occurring affordable housing outside of the four percent but that older housing and the shelters, etc. are basically invisible as far as 8-30g is concerned. It has been true since the statute was adopted in 1989. So, affluent towns in Connecticut are really the targets for 8-30g. There have been two different approaches as to how to meet or ignore the requirements of the statute. New Canaan and Darien are two examples of towns where the P&Z together with town leadership, like the Board of Selectmen, proactively planned for affordable housing. New Canaan even funds all of its own affordable developments through a housing development fund that assesses a fee on everything from renovating a patio to putting in a pool to building a single family house to building a big house and everything in between. As a result, those towns enjoy stacked moratoriums meaning that they have sufficiently increased their affordable housing to be exempt for multiple four year periods from 8-30g. Put very simply, in New Canaan, no developer can propose a Hiawatha- sized project in a family neighborhood because the P&Z and the town leadership have worked for decades to insure that those towns have control over their zoning. And, at the same time, and this is really important, they are also providing diverse housing types that qualify as affordable under 8-30g and welcome a number of people to those towns who wouldn't otherwise have the opportunity to live in them. Our current P&Z, as many of you know and many of you have worked with us to do this, has really worked tirelessly to put us back on track with New Canaan and Darien. If you are interested, I'll answer questions later about how we're doing that. I don't want to take up too much of your time now to go through all of the details. But we have really worked to sprinkle multi-family throughout town. There's a lot of multi-family on Post Road East but we've really looked at Post Road West, downtown, Saugatuck; basically, anywhere there's a sewer, P&Z is working to see that there is a diversity of housing at this point. It really breaks my heart, as a Commission, that the P&Z can't stop this project from being built at the end of what it, without question, a really quiet cul de sac that has houses that you don't find most places in Westport. But, as a town, Westport failed to build affordable housing that counts for points even though we had the opportunity since 1989. The failure to act has consequences. A group of neighbors at the end of Hiawatha Lane extension voluntarily chose to sell their homes to a developer and he could file an 8-30g application because the town of Westport left the door open. I have no magic wand, I wish I did, to change the past. All I can do is what the Commission is doing right now which is working really hard to change the future and insure that Westport continues to have control over our zoning. You are going to hear from neighbors from the Hiawatha area and you'll be tempted and we were tempted, really, really tempted at our meeting to tell them we ditched the settlement and keep fighting. It's so upsetting that in connection with 8-30g, legitimate traffic concerns are ignored. Density in an area of really small homes is irrelevant to the calculation. But fighting would be a pyric victory because they'd end up with 187 units with very few affordable units for families, Westport would be without

its moratorium and sewers would be allowed everywhere at simply each developer's whim. All of the hard work and planning that we have done would be pretty much for nothing. I think Ira did a really good job laying out the legal situation. What I want to emphasize is that the site plan special permit text amendment and map amendment to build 187 units, to a certain extent, that's really the case. It's over. The long and short of it is the town fought the special permit for years and years based on a lack of sewer capacity but since the Saugatuck sewer system was improved and the pump station was upgraded, it's impossible for us to argue that there's a lack of capacity. That means there's really no legal justification to stop this project from being built. Oral arguments have already taken place and if you watch them, you'll see. The judge, the same judge who overturned the denial of the 8-30g case at Wilton Road and Kings Highway seems not only inclined but enthusiastic about approving all 187 units there and the recent case law including our loss at Cross Street underscores that Fire Code compliance, not local Fire Marshall testimony, is relevant to the court. In this case, Fire Code compliance is clear. The building, as proposed originally with 187 units, is Fire Code compliant. So, the question, in terms of continuing the fight is really whether we want to continue the fight and lose and get 187 fire-unsafe units or if we want to settle for a smaller project, the elimination of building B, the inclusion of three bedroom units, both affordable and market rate, which provide opportunities for new families to live in Westport, repaving of the road, rebuilding of the culvert, and preserving, for the neighborhood, access to the Norden Preserve. Also, included in the settlement, is the developer, at their expense, is planting a very large number of evergreens between their project and the adjacent neighbors. So, the next issue is the 8-24 statute which you're more than welcome to ask me about, as well. Ira touched on this. Essentially, the 8-24 statute operates so that the Board of Selectmen asks for a positive 8-24 report for a sewer connection and P&Z does or doesn't do that. In the event that P&Z makes a negative report, the RTM then has the opportunity to weigh in and overturn that to issue a positive report. If we lose this case, that whole 8-24 approval process basically goes away. We'll end up in a situation where instead of the Board of Selectmen in conjunction with the P&Z and sometimes the RTM making the decision about where to extend the sewers, when to extend the sewers, we will have applicants being able to make that decision for us. It is a really serious issue for the town in terms of our future planning. Lastly, we have the moratorium case which Ira reviewed and I'm happy to answer questions. The long and short of that is we want to have control over our zoning. Right now, because of the moratorium, we do. It is really important that we keep that. In terms of the settlement itself, to go over some of the details, instead of 187 units in a complex with major fire safety issues, the settlement results in 157 fire-safe units. An entire building that jutted out into the neighborhood has been eliminated. The land underneath where that building was going to be located will only be developed as single family homes and the building itself now includes three bedrooms and that's really important because, to the extent that any of us really cares about affordable housing for people who wouldn't otherwise have the opportunity to live in Westport and I think a lot of you do care particularly about that, another huge flaw of 8-30g is that 8-30g apartments generally don't accommodate families. But this project will because the P&Z literally demanded that three bedroom apartments be included. So that's there now. We'll have 19 three bedroom apartments and that's a really big difference in a town like Westport. As another feature of the settlement, the neighbors will retain access to the open space

at the Norden preserve and the developer will rebuild the culvert and provide landscaping as I talked about before. Many people have asked me why didn't we negotiate a better deal, why isn't it smaller? The truth is the developer was holding all the cards. They knew it and we knew it. As Ira pointed out, we're all the way up in the Supreme Court. All of these courts are on hold waiting for us. They only chose to go on hold because we were working in good faith to find a settlement. If we were going to do that, we had to be realistic. We couldn't walk in there and say, 'We want 25 units' because we knew after almost two decades that it simply wasn't going to happen when it seemed so likely that they were going to be able to have 187. So in terms of the project itself, I met with a number of the Hiawatha neighbors in person to talk about how the town can invest in their neighborhood. I have already started to coordinate with the State DOT to talk about traffic. The Traffic Authority, under the Board of Selectmen is really going to take the lead on that but because of the proactive work the P&Z has been doing to create a new affordable community for families on DOT land in Greens Farms, we have a good relationship with the DOT and I knew it would be helpful for me to talk to them about what we're trying to do here and how they could help. And I'm going to continue to talk about traffic and infrastructure because it may not matter in terms of 8-30g but it matters a lot to the P&Z Commission and the P&Z Commissioners and it certainly matters a lot to me. So, as you think about voting with regard to this map amendment, I just want you to keep in mind that voting yes to overturn is really a vote to empower developers to put the sewer wherever they want to have it; build projects wherever they want to have it; and have 187 units at the end of this small road. Like I said before, we did the best we could in really challenging circumstances and I wish that we could have achieved a far, far smaller result but I'm glad that we are where we are right now. At least we are in a position to settle these cases in a way that improves the situation that is going to result from the court cases for the town and the Hiawatha neighborhood. I would really welcome your support. It has been really challenging to go at this alone as a P&Z Commission. As hard as it is to talk all about it for so many meetings with the RTM, we're really happy to have you guys involved. We're happy to have your questions and as we look to the future, and in the near future as a town, we need to create an 8-30j affordability plan that we submit to the State. That's due next summer. We really, really want, and I speak for the Commission, all the RTM members to be involved. I know that you're all thinking about this issue and being proactive about housing now. The best way for us to be proactive as a town is for us to work together. So, thank you to all of you who come to so many of the Affordable Housing Subcommittee meetings before. In all the discussion about the moratorium and the sewer, what I don't want to have lost in this is that this will result in 48 new affordable units in Westport, many of which will be affordable units designed for families. That is something that is really important for us, as a town, to be supplying. It's a start of what we're doing in other places all over town proactively to not just take control over our zoning but create opportunities for new people to live here. So, thank you so much. I'm sorry for taking so long. I am happy to answer any questions for me or about how the Commission approached this if Paul isn't able to answer them as well.

Dr. Heller:

Thank you Danielle. I just wanted to let you know that questions will be asked during RTM comments. Now, I'd like to see if Paul has anything he'd like to add at this point.

Paul Lebowitz, Planning and Zoning Commission:

Thank you, Velma, and thank you to the RTM. Some of you may recall, many years ago, I, too, was one of the bodies sitting in those chairs. I see Cathy Talmadge is here. A shout out to her because it is all her fault! She asked me to do it. Certainly, Danielle and Ira gave you a comprehensive look at how we got to where we are. There she is. Hi Cathy! Hope you're feeling well, dear.

Cathy Talmadge, district 6: Yes, I am. Thank you.

Mr. Lebowitz:

I just want to flesh out a couple of details. The first thing is about the neighbors. I have the advantage now of being one of the longest serving members on the Commission which means I was there for many, not all, but many of the attempts by this developer to bring this project forward. I see Kathy Walsh is with us. She goes back even farther and can tell you about the very beginning of it. But I was there for a significant amount which means I was also there to listen to a significant amount of the neighbors' concerns. The neighbors came forward every time the developer came to us and presented an application. The neighbors came forward and presented their concerns. Their concerns were many and their concerns were obvious and their concerns were legitimate. A lot of their concerns, unfortunately, have no bearing on an 8-30g. So, the town people would come in, and this is on any 8-30g, whether it's Wilton Road, Cross Highway, Hiawatha, the town people would come in and say 'It's an F rated traffic and you're going to add all these cars and it's going to be horrible. Nobody will be able to get out of their driveway.' I get that. I live in a building that was, at one time, an 8-30g, a good 8-30g. The point I'm trying to make is while that is a legitimate concern, if you take that to the judge, he'll say, 'Sorry. We don't consider that part of the reason to turn down an 8-30g.' So, while I would love to say 'That DOT intersection is horrible; that's why we're not going to let them build.' A judge would look at that and say 'Are you kidding?' And that is exactly what has happened. The same thing goes with the sewer. The sewer was one of our pieces of legislation where we were able to say we don't have the capacity to take your 100+ unit of development and handle it in our sewer. Well, guess what? We built a new sewer pump station. We have the capacity. So, now we can't use that item. So, there are a couple of things taken out of our arsenal to fight back. People say to us, 'What about the fire?' This developer, after getting turned down by our Fire Marshalls, being lambasted in several meetings for trying to build an unsafe building, came back with a building that would qualify, not only qualify, but we still turned it down and they took us to court. When they took us to court, we could see, as Ira has given you, chapter and verse, that was not going to win so the fact that the traffic was horrible, the fact that the project was not up to our Fire Marshall's code, these things were not winning and, at some point, you have to stop and say, 'If we're going to lose, let's at least try and make a win out of it.' That's what came about this past winter, the idea of at least negotiating with this developer to at least we could make it smaller, which is something that Danielle led the charge on, more family friendly, again, she literally said to them, 'You don't have any three bedrooms. Where are your three bedrooms? If you are interested in helping affordable housing families, show us.' I remember the neighbors giving us a video, several applications ago, of the flooding



in the street. It was horrible. So, when you are dealing with the developer, you say, 'By the way, that culvert has to be fixed.' We had neighbors come in and say that this is a horrible place to have cars and trucks driving. We are going to walk. What about pedestrian safety? You can't take pedestrian safety to a judge and get him to overthrow an 8-30g application. But, what you can do is you can negotiate with the applicant to say 'Please make that part of your plan.' So, there were a lot of things we were not going to win on but instead of completely losing on all of them, we tried to incorporate them into the negotiations we were doing so that at least we would come out with something. Do you want smaller? Yes. We don't want building E looming over the neighbors' houses. We want the area that you are going to build be the only area that can be built. In other words, you want a zoning change but it will be for just your plot. We don't want this spreading all over town. So, it is doing the best you can with the cards you are dealt with. Let me make just one more point. This is not an easy decision. I've read a lot of interesting flame-mail: How can you give up? How can you just walk away? Why can't you fight? We have been fighting. And that is the Royal We: that is the town, the First Selectman's Office, the RTM, and certainly the P&Z going all the way back many, many years. There are a few constituents, and I can spot them on this call, who have been fighting this development for 20 years. When it came time to sit down across the table from this developer, every one of the seven members of the Planning and Zoning Commission agreed that it is time to negotiate. We took a vote and it was unanimous. We then took a vote to see who would lead the charge and we asked the Chairwoman Danielle to do it. Danielle asked Jon Olefson and myself to join her so that she would go one on one with them. So, I want to emphasize that point. This is not something that one or two folks in town decided to settle in the dark of night. This was several meetings that were executive sessions with the Town Attorney, with our Department Head from the Planning and Zoning office, and every single one of the sitting and voting members of the Planning and Zoning Commission. Whether they are on the Commission now or not, they were in the room making the decisions with us so that we could operate as a team to serve the town. The time to object for a Commission member has long since passed. That's a ship that has sailed. This is not something that somebody liked. There were plenty of opportunities to make it better. Instead of running away from it, you work hard and you work diligently to improve it. Some of our members didn't do that. That's okay. That's their choice. But I have to tell you that Danielle hung in there all the way through. This was not easy. She spent hours and hours of her own personal unpaid time, as you know, (none of you are paid; none of us are paid.) to try and get something that worked for the town of Westport. I, for one, think she did a damn good job. I also want to shout out to Ira and his office because none of us are lawyers like them and none of us are 8-30g experts like them. So, we leaned heavily on their expertise and these are gentlemen with years of experience in watching judges as they slowly shift away from where they were 10 years ago to where they are today when it comes to approving or denying these applications. They gave us the heads up. We have three cases in court. We could wind up with three losses. If it wasn't for them, we would probably have lost that at the Supreme Court level, lost at the Superior Court level, lost on the Fire Marshall and ended up with a far worse project, a far bigger project with far fewer amenities or at least give backs, if you don't want to call them amenities. That's the art of negotiation. I'm not happy. Our Commission is not happy. The RTM is not happy. I guarantee Carolanne Curry is not happy. I see her

shaking her head. But, you know what? The developer is not happy either. Nobody got everything they wanted. Everybody got a little bit of their hide taken away. But the key for us, as a town, is to keep that moratorium, keep that sewer negotiation as part of our arsenal, not theirs, and to bring in this last 8-30g. It is the only one that preceded our moratorium. Let's get this one done, out of the way. Let's get the points and, as Danielle mentioned, let's stack those points up so that we have a rolling moratorium going forward.

Dr. Heller:

Thank you very much Mr. Lebowitz. I think Mr. Marpe would like to comment.

Jim Marpe, First Selectman:

Thank you Madam Moderator and members of the RTM. Thank you for the opportunity to speak to this agenda item. I appreciate the concerns and issues that have led to this petition. Almost from the first day I came into office seven years ago, I've been dealing with Summit Saugatuck proposals for Hiawatha Lane and trying to find a solution that respects the neighborhood, improves it and addresses the wider community concerns such as traffic and the impacted infrastructure. Those Summit Saugatuck proposals, as Paul pointed out, pre-date any of us in elected office by probably a decade. At the same time, I believe, as a community, we have a moral obligation to offer a diversity of housing options and, as such, I have worked with Chairman Dobin and her predecessors including Paul, Chip and Kathy to find solutions to the affordable housing challenges that Westport faces so that those solutions are situated in all areas of Westport, not just one and, at the same time, working with our P&Z professionals and our attorneys to find a negotiated end that will give us long-term control for the development of affordable housing in Westport. For those reasons, I ask members of the RTM to vote not to reject the decision of the Planning and Zoning Commission who reached the settlement that has been described. Recognizing the concerns that have been raised by the community members concerning certain aspects of the settlement, I am committed to using the Board of Selectmen working as the local Traffic Authority to work with the State Department of Transportation to address specific traffic issues that are related to the settlement and to be sure that the developers commit to making critical infrastructure improvements that will address the quality of life issues that arise from the project. I thank you for the opportunity to speak this evening.

Dr. Heller: Now let's move to the lead petitioner Gloria Gouveia.

Gloria Gouveia, lead petitioner:

Good evening ladies and gentlemen. My name is Gloria Gouveia. I am the lead petitioner representing Save Old Saugatuck and their friends and many supporters. I hope you've had the opportunity to read some of the documentation that we submitted which may have reached you late and I'd like to explain the reason for that. This was a new process for the new Town Clerk and myself. There's a learning curve and that led to a delay in getting this information out and disseminated. With grateful thanks to Mr. Braunstein and to our Town Clerk, Jeffrey Dunkerton, we put our heads together and about 4 p.m. this afternoon figured it out and made it right. For that reason, you have these documents in your hands tonight. I'm very pleased the Town Attorney got my memo in advance because

my memo consisted of questions that we liked answers to and the Town Attorney did that; however, when it comes to fire safety, here is why we are still questioning the issue of fire safety despite everything you have heard to date. I'm going to harken back to my memo regarding fire safety, the exhibits that were submitted accompanying that memo. One of the exhibits is 180 or more pages. I submitted them from the court record. I felt obliged to submit all of the documentation without any editorial changes because I thought that would flaw the objective of documentation. I've also submitted a copy of Peter Gelderman's brief on the subject of fire safety. With regard to that enormous court record, I submitted it because nowhere in that record, in all those pages, does the Fire Marshall not require a second means of egress. Also, in Mr. Gelderman's brief, we're very fortunate to have such talented people representing the town of Westport (Mr. Gelderman and I have worked together since we were children), in his brief on page nine, the first paragraph, the last sentence:

In the instant case, the failure to present a second access road rendered the project code-noncompliant as a matter of fact, not opinion.

Those are very strong words. That's a lot of documentation from the Fire Marshall. We're concerned that somehow Summit is getting around an important safety concern. So, we have questioned that. You'll be pleased to know that I am limiting my discussion tonight to only the most major points. We won't get into the details of the woeful landscaping; instead, I am going to talk about the other major concerns that we have. Gary Romano is here tonight. He has done a great deal of research on traffic safety. He spent a lot of time talking with his new best friends and he's got some interesting information to give you. I'll leave that to him. My concerns about traffic safety are, in regard to traffic safety during construction, as we know, the existing Hiawatha community is approximately 60 properties including Mr. Gault's business. Obviously, the contrast between that and the applicant's proposal is enormous. I'm astounded that Summit did not, of their own volition, offer some kind of plan or protocol for traffic safety during construction. We know that construction will go on for some time. I don't think any of us know how long, a year or two and, during that time, I know that the former Chair of the Planning and Zoning Commission is here tonight and she may know off the top of her head the number of trips that 18 wheelers will be required but imagine many, many 18 wheelers barreling down Hiawatha Lane for the duration of their need on the project. They will be followed by other large pieces of equipment that will be using the public section of Hiawatha Road to get to the worksite. These are small, narrow roads and they're not going to get any wider during construction but what could ameliorate these concerns was a better traffic safety plan from the applicant, at least during construction. Now you may say there is no precedent for this; ah, but there is. I know because I was involved in the precedent for a construction safety plan. It had to do with the demolition and construction of a home on Old Mill Beach where we were bringing in materials and equipment via PT boat. We were required to provide a schedule of our work according to the tides, a number of safety precautions that we agreed to make and everyone was clear about, right down to providing everyone with the telephone numbers of the contractor, the clerk of the works, the architect and me. I gave them my phone number so if it was the weekend and there was a problem, I could be called and I would resolve it. So, there is precedent in unique circumstances for things like traffic safety plans. I also think about the fact that they are likely going to need a crane. A crane is a huge piece of equipment. My other concern with the neighborhood

safety has to do with the pedestrian improvements. This is a smaller issue and I'm delighted to hear that Mr. Marpe has agreed that he will do whatever he can through his office to make sure that this neighborhood gets the best pedestrian improvements possible. There are already significant safety hazards in this neighborhood of narrow roads with Davenport being narrow and private. There's a lack of sidewalks. There's a lack of lighting that this project is not going to improve. In fact, the only sidewalks that are being proposed for the neighborhood are not, in my opinion, sidewalks. They are asphalt strips. I'm quite sure the Town Engineer is not going to be pleased with that and that's not a zoning regulation. In addition, there will be an enormous amount of wear and tear on Hiawatha Lane. While the applicant has agreed to make repairs here and there, there is no mention of repairing Hiawatha Lane which is already in need of another coat of paving. We know that construction causes unavoidable delays and traffic jams which can impeded emergency vehicles as well as anyone trying to enter or exit the neighborhood or visit Mr. Gault's business. That's a particular concern of mine and having heard Mr. Marpe's comments tonight, I am very hopeful that his good offices will make a difference. One of the other concerns I have about a pedestrian plan is that there have been a number of pedestrian plans and some of them proposed usurping the parking lot used by the Gault business so that the traffic that is normally parked and narrows the width of Hiawatha Road, that on-street parking can be required to use this parking lot that Mr. Gault relies on heavily. That's going to be a problem. Finally, I am concerned about the zoning regulation which is not part of the stipulation but, as Attorney Bloom pointed out, is in the court record and I've examined it thoroughly and here's my concern and it needs to be the concern of many others: The zoning regulation proposed by Summit would eliminate any power the Commission currently has in reviewing this kind of application when it comes to Summit. So, once this stipulation is executed, the only authority over Summit's project and the necessary revisions, because we haven't seen the new plan or the new number of units; there is not an existing parking plan. One will have to be designed and submitted to P&Z staff for approval. I'm concerned because an activity that would normally fall within the special permit section of our zoning regulations which give the Commission fairly broad latitude when it comes to public safety, without the Commission's input, the staff is going to be put in an unenviable position. The staff will be entirely responsible for approving the new plans including parking plans and for issuing permits as soon as the applicant has submitted the requisite documents. I think that is a lot of responsibility for the staff. I'm troubled by the Planning and Zoning Commission being cut out of this process and that makes me concerned about this regulation which we don't have at our fingertips. I have some other comments which I think are considerations that we should think about. Once this stipulation is signed, there's nothing that prevents Summit from selling this project out to somebody else. That makes dealing with things like stipulations and other agreements very difficult because we are not dealing with the person who was involved in the stipulation. These negotiations imply a certain amount of native knowledge of an application. Without the original applicant, I think things get lost in the translation. All of us are happy to see, and I'm sure Danielle Dobin, in particular, is happy to see that the Legislature has finally given us a toe in the door toward leavening the terrible effects of 8-30g. I am finally, after 20 years, hopeful that something will come of this because this, in my opinion, is a disastrous regulation that does not necessarily result in the product that it is supposed to. That is affordable

housing. Additionally, we've heard that the trial is over, that all of the exhibits and information have been submitted, the judge has listened and has reviewed. But, my question is: Has the judge come out to the Hiawatha Lane neighborhood and seen it for himself? I don't think this is an extraordinary request. I think this is essential to the serenity of the people in the neighborhood and the people in the town of Westport.

Tim Hollister, Partner, Hinckley, Allen and Snyder (Hartford office):

I am assuming that all the members have a copy of my May 21 letter addressed to the Moderator and members. All I want to do is summarize the main point of that letter which has not been brought up. The petition that is before you asks the RTM to review the Planning and Zoning Commission's adoption of the zoning map change. But the Planning and Zoning Commission did not do that. It approved a motion under a State Statute asking a Superior Court Judge for approval of a settlement that includes a zone change. But the State Law under which that motion was made says that the terms of the settlement are not effective until they are approved by the Superior Court Judge. So, you are being asked to review something that hasn't happened yet. On top of that, the provision is under C10-4 of Westport's Charter, section D says:

Nothing contained in this section shall impair or limit any right or appeal to a court conferred by the General Statutes.

The Planning and Zoning Commission agreed to a motion to the court to approve a settlement. This RTM proceeding is interfering with the exercise of a right in a court appeal. So, with all due respect, and I said this at the Subcommittee level also, this proceeding violates the Charter. I will conclude by saying I really have no need to counter what Ms. Gouveia has said point by point but, just in the way of making the record clear, I will point out one thing. Traffic was not a denial reason in the zoning case by the Planning and Zoning Commission. The Town Attorneys did not raise it in their brief. It was not raised in front of Judge Berger in the oral argument and, even at the Commission level, the Traffic Safety Consultant and Traffic Engineer hired by the Planning and Zoning Commission in town did not disagree with Summit's Engineer. They agreed, the consensus of the traffic engineers, that there will be no substantial impact from the traffic. That's just by way of example. You need to correct facts of the case. Thank you Madam Moderator for the opportunity to speak. That's all I have.

### **Committee report**

Planning and Zoning Committee, Seth Braunstein, district 6, Acting Chair:

I'd like to take a moment to explain why I am delivering the committee report this evening rather than our Committee Chair, Matt. At the outset of our meeting on May 25, Matt read a statement into the record recusing himself from this issue. As you know, Matt has been the person on the RTM who has been most focused on this issue for the last decade plus. His tireless efforts on behalf of our community have thoughtfully helped guide the strategy and response to many of the most controversial zoning related issues we've faced and the Hiawatha Lane development, in particular. Matt has decided it was prudent to recuse himself on this particular matter given how personally invested he has been in advocating for this community. Matt wants to be certain that his work on this issue does not in any way prejudice our committee's consideration of this appeal. Ultimately, his recusal is driven by his desire for the RTM to consider this appeal under the most objective

conditions possible. I'd like to point you all to an endnote that includes the text of Matt's statement. It's available in the packet for this evening's meeting. Before I move on, I would like to say thank you to Matt. I think we all owe him a debt of gratitude for the many, many hours he's put in working for the community.

In an effort to distill what is a very complex issue down to its essence, our committee met to respond to a petition which was presented to the RTM by 20 petitioners which asked the RTM to overturn a recent agreement that Westport's Planning & Zoning Commission (P&Z) entered into with two developers, Summit Saugatuck and Garden Homes, that relates to a development project on Hiawatha Lane Extension in the Saugatuck neighborhood of town. Before addressing what was covered during our meeting I think it is important to note that on May 25<sup>th</sup>, in addition to the eight committee members present, there were also 15 other RTM members that joined this meeting for a total of 23 out of the full 36 member RTM that tuned in to hear the committee discussion. The purpose of this meeting was to understand what exactly the Planning & Zoning Commission agreed to, why they reached the conclusion that it was advisable to enter into this agreement, and how this agreement would impact both the residents that presented the petition and the town at large. We wanted to understand not just what had happened but also why it had happened and what the broader implications from these developments would be for Westport. Before diving into the "what and the why" of this agreement, we first needed to determine if the RTM was in fact permitted to take up the petitioners' appeal. As you heard from Town Attorney Ira Bloom this evening and at the meeting, that the RTM has authority under town Charter section C10-4 to hear an appeal related to a zone text change or map change. He explained that Westport is unique in this regard and is one of only a handful of municipalities that include this special act charter. The petition to be addressed this evening is asking us to overturn the agreement based upon a zone map change. In fact, it could have addressed both the map change and text change but is only focused on the map change. The RTM can't amend or change the Planning and Zoning Commission decision, but as a body we do have the right to vote to either uphold or overturn this specific agreement. Ira cited that there were perhaps up to 10 times where the RTM had previously exercised these powers. To be clear, as you've heard, under the charter it takes a vote of 2/3 of the entire membership of the RTM to overturn a P&Z decision (not two-thirds of members present, but rather two-thirds of the overall membership - so 24 out of 36 members).

Once the legality of this petition and the role of the RTM in hearing this appeal was established, we then asked Town Attorney Bloom to detail the outstanding litigation between the town and Summit Saugatuck/Garden Homes and how the status of these outstanding suits impacted the decision reached by the P&Z on this matter. I'm not going to go into that because Ira did an exceptional job walking through the three cases.

These are complicated, long standing legal disputes, but the takeaway from what we heard on May 25<sup>th</sup> from the Town Attorney is that the agreement reached between the P&Z and the developers will resolve all outstanding litigation with Summit Saugatuck and Garden Homes. The key here is that each of the three outstanding suits have the potential to further limit the town's control of future development projects. Should we lose in any one of these three cases, let alone all three, not only do we run the risk of a much

larger development being foisted on the town on Hiawatha Lane but we would almost certainly see an immediate flood of 8-30g projects presented to the town since we would no longer be protected by our current moratorium, and our ability to control future projects would be diminished. Ira went on to explain that faced with the outcomes in these cases now looking problematic for the town, the P&Z determined that the best course of action was for a negotiated settlement. When Ira concluded his comments, we then turned to hear from P&Z Chair Danielle Dobin and Commission member Paul Lebowitz. You heard what they've said tonight. I will just go on to say while Ira did a thorough job in detailing what has been happening on the legal front, the P&Z provided us with insight into what drove their decision to settle. Essentially, the P&Z recognized that they ran the risk of losing these cases and the only leverage they had in discussions with the developer would be to premise any settlement on the Hiawatha project with the dismissal of these suits with prejudice. We could continue to fight what appear to be losing cases or we could reach an agreement that would reduce the size of the Hiawatha project from 187 units to 157 units, would eliminate one of the buildings in the project, would create open space that would be protected as part of the project, would repair the roads and culvert in the neighborhood and most importantly would resolve the outstanding legal claims. We also heard how with the points gained from the Hiawatha project and a number of other approved projects we would put ourselves in line for another four year moratorium stacked on top of the current moratorium and there was some discussion of how we could conceivably earn a third consecutive moratorium as well which would mean a period of twelve consecutive years where the town would be succeeding with thoughtful affordable housing development without the threat of additional imminent 8-30g projects.

As you heard tonight, Danielle also provided some brief history, or perspective on how Westport's approach to 8-30g has differed from other Fairfield communities like Darien and New Canaan where, instead of taking an adversarial approach to developer plans, these communities instead took the lead and formulated their own plans often using municipal property as sites for affordable housing. While there is nothing that can be done to modify Westport's historical decisions, Danielle explained that we are now at a point where our actions today can set the town up for a more constructive approach to affordable housing developments for the future.

The portion of the settlement in our committee meeting that got the most attention or was the focus of the most questions was the linkage of an agreement between the town and the developers to the maintenance of the current moratorium. We learned that the only way the agreement will stand is if, in fact, the moratorium is upheld. We also heard an explanation for why additional developers would lack legal standing in efforts to bring similar challenges to the moratorium in the future and why given that we are already two years into this moratorium it would be impractical for another developer to even try since we would be through the full four year period before any challenge to the moratorium would be heard. We also heard from the developer's representative, Mr. Hollister. As you've heard this evening, Mr. Hollister had a different view on the legality of the RTM hearing this appeal - he felt we were not within our rights to have a voice on the P&Z's decision since this was a stipulated agreement subject to a court ruling. Crucially though, Mr. Hollister stated unequivocally that his understanding of the settlement was in

complete agreement with the Town Attorney and the P&Z's understanding of how the settlement that had been negotiated would resolve all of the outstanding suits that were hanging over the town. Importantly, this meeting also provided a voice to the petitioners. Understandably, we heard a high degree of frustration. Petitioners and community members voiced concern over the nature of the settlement and, more broadly, a persistent dissatisfaction for how 8-30g eliminated the very valid concerns over significant safety and traffic related considerations. There was also a clear sense that members of this community were being unfairly impacted by a number of recent developments on the west side of the Saugatuck River. Petitioners and other public comments focused on a number of areas including:

- As you've heard, being appalled at how little consideration the DOH and the courts seem to give the issues of public safety, property values and traffic impact.
  - As you've heard, 8-30g development does not allow for these types of issues to be considered.
- Not believing that the Town negotiated enough and did not get a good deal.
  - The P&Z explained at length why this was the best deal able to be achieved.
- We also heard from some of the residents that there was no consideration given to existing Saugatuck residents regarding access to the new affordable units.
  - We learned that Federal Fair Housing statutes do not allow for preferential placement.
- We've also heard that the Saugatuck residents were not consulted by the Town during the negotiation process and that there was now a short window in which to react.
  - Unfortunately, what we've heard is here is the town is forced to react. They can't be proactive in setting the schedule for certain elements including this appeal. Timeframes are set by the courts so we can only schedule these types of appeals within those timeframes.
- One of the other things that was brought up in our committee meeting was the persistent feeling that the Town did not do something to appeal the DOH threat to revoke the moratorium.
  - Referring back to the explanation of the ongoing litigations with this developer and the fact that it is clear that we have, in fact, been fighting over many, many years and have already made our case to the courts, have already moved to appeal in one of the cases and in another suit we are already in front of the State's Supreme Court.
- Finally, one of the items that garnered some discussion was from the lead petitioner Gloria Gouveia, who questioned why the text amendment related to the negotiated settlement had not been included in the public documents provided for review ahead of this meeting.
  - In response to that, P&Z explained that the final text was still in process and that it would have been premature to have included a preliminary draft that was still being fine-tuned. P&Z wants to be careful that as the text is finalized it is limited exclusively for the land under the three buildings accounted for under the terms of the negotiated settlement. It was also noted that the petitioner had only focused on the map amendment and had not included the text amendment in their appeal to the RTM.



After digesting all of this information the Committee conducted a vote. Before we got to the voting, we tried to be very deliberate about the language and the phrasing of the resolution and how the issue would be presented for a vote. To be clear, a vote for the petition/resolution would be a vote to overturn the P&Z's settlement agreement while a vote against would be a vote to uphold the P&Z's decision. Of the seven eligible voting members (keeping in mind that Matthew Mandell had chosen to recuse himself) there was one vote to overturn the P&Z agreement (Carla Rea), five that voted to uphold the P&Z agreement (Seth Braunstein, Karen Kramer, Amy Kaplan, Wendy Batteau and Ellen Lautenberg) and one that abstained (Jay Keenan). While not a unanimous vote, it was in favor of supporting the P&Z's decision to reach a negotiated settlement. Thank you for your patience this evening.

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

Gerald Romano, 38 Saugatuck Avenue:

Can I ask you a question before I start? My wife is here also to speak. If I go over, can she give me her time?

Dr. Heller:

No. She can speak after you. If you go over slightly, we will try to let you finish your thought.

Mr. Romano:

I am going to read this if I may. This evening's topic: A 157 unit apartment complex at the end of Hiawatha Lane. I am speaking tonight to help the RTM understand some critical facts about this project. Hopefully, what I say will guide the members to vote with better understanding of the facts. One thing I did read was the stipulation and I tried to find the square footage of the structure, the total apartment spaces, total bedroom count, total unit designs as to one, two and three bedrooms and the square footage of each unit. Item 3 in the stipulation said the unit mix and bedroom count among the 157 units shall be depicted in the site plan dated May 7, 2021 and attached hereto as exhibit A. I scrolled down to where it said site map. I opened up the map and saw a top view of some building structures and some surface parking and no other information. Hopefully, all the members got that. I was very disappointed. I am very concerned about the increase of traffic, 300+ cars that would be generated by this 157 unit apartment complex entering onto Saugatuck Avenue, Route 33, from Ferry Lane West. The conundrum at this intersection appears to me to be a very big traffic and safety issue. To understand the traffic and safety issue, I called the Connecticut Department of Transportation, Office of the State Traffic Administration. I asked about high volumes of traffic exiting onto Route 33, Saugatuck Avenue. I was given Iman Flannery, PE, Transportation Engineer. In our discussion, he asked the gross size of the building and parking spaces. I said 157 unit apartment building has 300 cars. They will all exit on Ferry Lane West onto Route 33. Iman said this will fall under a major traffic generator. He sent me a link to major traffic generators. I hope you all got it. What it basically says is that a developer must prove to the State of Connecticut that the intersection is safe or unsafe and that is a process that takes months to do and is required to be done by the developer. The 157 unit apartment building at the end of

Hiawatha Lane is a major traffic generator. They must apply for an administration decision or a certification process to prove that the traffic at the intersection at Ferry Lane West and Route 33 is a safe intersection. Traffic count: Iman Flannery, PE, Traffic Engineer sent me a line to show the traffic generation at several intersections on Route 33. I sent it to everybody. I hope they got it.

Mr. Braunstein: Madam Moderator, we are now at six minutes.

Mr. Romano:

Due to the pandemic, the State was not able to complete a new traffic count for 2020. The figures I have in front of me are from 2017. An example: On Saugatuck Avenue, going north, there is an average of 13,500 cars daily between the Saugatuck railroad bridge to the end of Treadwell Avenue. I would like to focus on an actual intersection. Ferry Lane West.

Dr. Heller:

Mr. Romano, I would like to ask you to try to wrap up because you are way, way over.

Mr. Romano:

I'm not a fast reader. I'd like to focus on the actual intersection of Route 33 and Ferry Lane West. Let's look at the traffic from the potential 157 unit apartment complex on the end of Hiawatha Lane. One hundred fifty-seven units indicate that there will be 300 cars leaving the apartment building going to work, the park, Compo Beach, Beach School, school bus, picking up the kids from school, UPS, Amazon, U.S. Postal Service making deliveries just to mention a few. The only way out of this 64 home community is to exit Ferry Lane West. This road is 24' wide. Each side has 12 feet and you have the landscapers in and out of Gault with stone supplies. Aside from the 300 cars leaving the 157 apartments, you must also add the cars from the 64 home community. Some of the homes have multiple families so that is 135 more. So, 435 cars will be exiting a 12' wide road on Route 33/Saugatuck Avenue, an already crowded intersection. Let's look at safety. Example: you have 435 cars trying to leave Ferry Lane West. You have a school bus trying to turn into Ferry Lane West. The mailman is making his rounds trying to deliver to homes. You have cars backed up on Hiawatha. Then bam. Then comes the 911 call. Heart attack in the 157 unit apartment complex at the end of Hiawatha Lane. Fire call. Dr. Gillette Circle. House on fire. Then you have Fire Department, EMT, Westport Police trying to save lives through all this traffic. This is one of many scenarios. In conclusion, RTM members, Jim Marpe, Planning and Zoning Commission members and citizens of Westport Connecticut, I lived in Westport over 50 years as a building contractor and real estate broker. Of all the condominiums and apartment complexes that are built in Westport and are being built, not one of them has destroyed a neighborhood. This 157 unit apartment complex with 30 percent affordable units at the end of Hiawatha Lane with a traffic count of 300 plus cars will desecrate and rake beyond recognition the existing 64 homes of their community. I ask the RTM members to reverse the P&Z decision and not allow this apartment complex to be built.

Dr. Heller:

Mr. Romano, I want to explain that we did let you go way over time. I guess we're trying very hard not to repeat again and again. We appreciate all the time you put into that. Thank you very much. Do we have any others?

Mr. Wieser:

T.J. Elgin is on the list and Kathy and Mark have their hands up here.

Dr. Heller:

I'm going to say again, we strive for the three minute mark. We hope that you will adhere to it. I tried to accommodate Mr. Romano because I know he put a lot of effort into it.

Mr. Braunstein: I will give you a 30 second warning.

Kathy Walsh, former Chair, Planning and Zoning Commission:

Madam Moderator, thank you very much. This is a public hearing. I am a member of the public. I beg you to allow me to continue. Three minutes is very short. We've had this discussion before. I don't want my voice cut short. It is not healthy for healthy debate.

Dr. Heller: Kathy, we're not going to have an argument. Do the best you can.

Ms. Walsh:

This is a really tough issue. First of all, it's Planning and Zoning and there are maybe one or two people on this call who are really Planning and Zoning experts, maybe three or four. It's really hard for most people to get their arms around all the components of it. I'm going to just cut to the chase. This is about a subdivision. I think we have been handed a gift. I have nothing to gain or lose from this but I prefer to continue to fight for the people that are being handed a disservice. As Jerry and Gloria have both suggested, there are some major gaps in the settlement. There is nothing in Attachment A that does count the housing units which is really a part of every P&Z application, every settlement that we've had, every application, the 1177 building, you have to put down where the apartments are, how many there are, how many are affordable. That is a glaring omission on everything that's on the settlement. One of the other things, we've heard, there's been a lot of distortion. There was a lot of discussion about the construction traffic and there was concern expressed when we turned it down because of the enormous construction traffic. We did note that but that paperwork is not here for you to see. So, that was a big distortion on the part of Attorney Hollister. So many people who live in the neighborhood for whom the settlement is supposedly going to be better for really know the risk that they're running. They know that they may end up with 30 extra units but they're willing to go the whole nine yards... Pete and Ira know this because I've said it in our executive sessions. This is the only one that I have been this strongly opposed to because of the safety of all the people who live there. It's something that you have to consider why you should turn it down. We have regulations on the books that say you can't have a major project with more than 20 parking spaces on a local road. This is a very local road. I want to hit on the Lincoln Street project. I'll tie it in.

Dr. Heller: Let's stick to this.

Ms. Walsh:

We lost it but after we lost it, the developer came back and we were able to renegotiate a much better deal for the people who live there. We were able to reduce the units from 90-something to 60-something. I think there was a rush to get this piece of paper moved off the desk. I think we have a long ways to go on this. I think we can accomplish a lot more. I think the first step is to turn down the rezoning. I think the Commission also has to address the text amendment. The text amendment is wide open and it allows for a lot more development in that area. We got burned on this once before because in another 8-30g application, we overlooked the text amendment that went with it which did hurt us. So, I really think that we have to find a way to correct some of these issues. I know I'm fighting an uphill battle. I know you guys don't want to hear this or hear it from me. That's okay. I'm just here to point it out. At the very least, I hope you take some time, look over some of the things that have been submitted; consider what people are saying and work to get this fixed. Jim Marpe will have a lot of control. Traffic Control will have a lot of control on this project. The construction safety plan is really something that we do all the time and I know that Jim will do that but it is going to be super tough to do. I appreciate the extra time. I am somewhat dismayed that we would ever do this but thank you so much for listening to me.

Dr. Heller:

You know we did say to call in and let us know so that we have addresses and stuff. The next person with a hand up is Mark?

Ms. Walsh: You have two emails and nobody responded.

Dr. Heller: I didn't get it. Mark, we can't hear you.

Mark Lazar, 42 Hiawatha Lane Extension:

First, the negotiation they made, we are at 157 units now, right? The original application was for 155. It's not a negotiation at all. He stepped it up somewhere along the way to get you to negotiate it back down to where he originally wanted it; now plus two units. Adding to that, now, some of the units get to grow in size. So, he really is getting more than he originally wanted. That is not a negotiation by any means. The moratorium, the whole, let them do this you can get it back, let me just put a metaphorical statement: the big kid just took our toys away and he's making us eat dirt to get it back. That's kind of the simplest way I can put it. I'm sorry I'm going fast. I know I only have three minutes. Another: They talk about giving new families opportunities. Why is it in a place where people already live? Why isn't it going into open space? It's not fair to say 'We need to give these people opportunities. Alright you, out.' That's not how it's supposed to work. They say fire safety doesn't satisfy the State. Traffic safety doesn't satisfy the State. Pedestrian safety doesn't satisfy the State. What does satisfy the State? That's like everything. I agree with Gloria. The judge should come down here and see the neighborhood for himself. You should consider all these things and overturn Planning and Zoning's decision.

Dr. Heller:

I know it's high speed and we really appreciate it. There are so many people who want to speak.

TJ Elgin, 4 Robert Lane:

I know a lot of meetings have been going back and forth within Town Hall. I don't understand why something like this which is going to shape Westport isn't being had in Town Hall. We've accepted a lot of Federal funding to make everything COVID friendly, all that good stuff. We're not allowing people back in while we're making something this drastic of a change. I just think this meeting should be continued. It shouldn't be voted on tonight. It should be put forward another night to allow people to be involved in person. There are so many people who haven't been able to get online. People don't have access to have the means to be on here. I just think this is being force on many people and I just don't agree with it.

Dr. Heller: Thank you for your comments Mr. Elgin.

Mr. Braunstein: I believe Carolanne Curry has her hand raised.

Carolanne Curry, 29 Hiawatha Lane Extension:

Good evening RTM members. I appreciate that you are having this procedural step before Summit proceeds to the next step but I see you've all met Tim Hollister, the bully, for a couple of years, and I think whatever we say or do tonight, he'll probably litigate. I think that the thing I want to tell you is you know that we have fought for 18 years. You know that we have been successful in our fight for 18 years. Unanimous decisions from Planning and Zoning have upheld work that we have done, a working class community that does not have the financial access to attorneys as other parts of Westport do. Paul Lebowitz would really like this community to look more like Westport but, nonetheless, we are going to keep trying to retain our identity, no matter what happens. We have been sacrificed. We realize it. We have been thrown under the bus. We realize it. We are the have nots. We realize it. So, after this is over, we certainly hope you realize how many people will be displaced from this neighborhood and you will reach out and try to find some sort of remediation for this. I think the elected members of the RTM who represent all of Westport should be aware that this neighborhood is the history of Westport. I think we deserved more but we didn't get it. I know the developer got a lot more.

Mr. Wieser read the resolution and it was seconded.

**RESOLVED:** That upon the petitioned request of at least 20 electors of the Town of Westport, pursuant to Town Charter C5-1F and C10-4, the Planning and Zoning Commission decision issued on May 13, 2021, in adopting a new zoning district boundary: SV District as seen on "Proposed Zoning Map - SH Z2, entitled: The Village at Saugatuck, Hiawatha Lane, Town of Westport, CT for Summit Saugatuck LLC," dated May 10, 2021 is hereby reviewed and rejected.

Dr. Heller: The motion has been stated and seconded.

## **Members of the RTM**

Rick Jaffe, district 1:

The Hiawatha folks are not just my district 1 constituents, they are my neighbors, right over my left shoulder, a few minute walk from here. I am not an affordable housing expert; however, when I joined the RTM, the first thing I did was sit down and read 8-30g because I knew it was important to the future of Westport. I attend as many P&Z's affordable housing meetings as I can. As an RTM representative, I see my job as twofold: First, to look after the best interests of my district 1 constituents and second, the best interests of all of Westport. This development is not in the best interest of my district 1 constituents or my Hiawatha neighbors. In this rare case of divergence of the best interest of my constituents and the best interest of the town, I have to go with the town. I apologize to my district 1 constituents but I believe that our Planning and Zoning Commission is now doing a terrific job of planning for the future of Westport to get back full control of our development of affordable housing. I also believe that our Planning and Zoning Commission and other entities in our town over the last 10 years, over the last 20 years, have not been as successful in representing the best interests of the citizens of Westport. I urge you, citizens of Westport, when it comes time for election, never let up. Always apply yourself. Try your best. Select the best representatives, even district 1 representatives, even me because your opinion and your judgment matter for the future of Westport.

Kristin Schneeman, district 9:

First of all, I want to align myself with all of Ms. Curry's comments. To think that the residents of this neighborhood got the short end of the stick is an understatement of epic proportion. This project is heinous in so many ways. I remember when this came before us last time, it's been before the RTM twice now. The last time was a Conservation decision and a very narrow scope in which we had any authority to act. I was pretty new on the RTM at that point and I spent a lot of time trying to push a camel through the eye of a needle. I asked a lot of questions, probably to the point of being annoying. I do have a few questions in this case. I will try to keep them brief. Ira, I wonder if you could give us your response to Attorney Hollister's contention that this is not appropriately before the RTM because a map change has not actually been made yet, that it is a proposed part of a legal settlement that we don't actually have authority to act in this case. I know you said you disagree with his opinion but I wonder if you could give us your thinking on that.

Attorney Bloom:

I said before and I'll say again, I do not agree with his analysis at all. The Charter, I think, is very clear. As I said earlier, it is a Special Act Charter. It is a grant from the General Assembly. It has the force of law and the language is pretty clear. It says any action by the Planning and Zoning Commission, either in terms of text or map changes, can be appealed in this manner. My position is the Planning and Zoning Commission took an action. They acted and, therefore, I think the RTM has the right to undertake this review.

Ms. Schneeman:

Part of his commentary was that we were interfering with a legal agreement or settlement. You're saying that you don't agree with that contention.

Mr. Bloom:

I do not agree with that contention. It's a multi-step process because of this admittedly unique provision. This is part of the process.

Ms. Schneeman:

We're being given a map change to potentially reject. On what basis can we reject a map change? What specific things should we be taking into consideration or looking at?

Mr. Bloom:

That's a tough one. On one hand you have a multi-faceted stipulation and we're talking about all of those issues. At the same time, the petition is for a map change. Whether it was for a zone change or a map change, the same comments would apply. That's a very narrow focus. You have to look at it from a land use perspective in terms of the land use application that was proposed to the P&Z. That would be my suggestion. I understand it forces you to look at the overall settlement to try to determine if it is in the best interests of the community as a whole. More narrowly, in terms of the petition before you, is the map amendment before you appropriate as a land use decision. It's a dilemma because of the way this is structured, the limitations in the Charter versus the overall settlement which presents many issues for you consider.

Ms. Schneeman:

My last question is, I think, for Danielle and Paul. My question is there seems to be a lot of things that have been put out on the table that are unfinished business, that have yet to be concluded, the language of the text amendment. People have talked about the position of the units and whether that is reflected appropriately in exhibit A, people have asked if the Planning and Zoning Commission, if this agreement goes through, have authority over the redesigned project and the parking plan. There are a lot of issues that seem to relate to: what happens next? If this agreement were to go through, what unfinished business needs to be dealt with? That's unclear. If this agreement goes through, what details haven't been worked out yet that might be important for us to know about.

Ms. Dobin:

I think I understand what you're asking and I think it is a fair question. First off, if you read the stipulation, there are a number of items that are specifically left to be worked out, on purpose. The reason it was drafted in that way is, as Ira pointed out, we are at the point with all these legal cases where decisions are almost upon us. If the decisions are issued, we will lose our ability to continue this discussion, negotiation, and settlement and it won't be the best for the town. So, we made the decision collectively to leave certain items to be negotiated after the settlement is signed. That way, we know what we have and we can work out the details that matter. So, I included the language with regard to the text amendment because I was deeply concerned that the text amendment applicable in this case only have applicability for these particular lots and parcels and not any applicability anywhere else in the Hiawatha neighborhood or anywhere else in the town. That's why that language is included as language that will be worked out. Depending on what

happens tonight, I will or won't spend the time to redraft the text amendment which the applicant has agreed and at the P&Z Subcommittee we essentially put on the record through his attorney that they are agreeing to our changes to insure that the text amendment is only going to be applicable to those parcels. With regard to the layout, we did include numbers about it and there is a site plan that does show parking. Does it show how the parking is striped in the subterranean parking downstairs? No. But we have code that covers what the parking has to look like. There is also State Fire Code. In the end, the striping beneath the subterranean garage is not going to be what makes or breaks this project. Certainly, with regard to 8-30g's generally, as you know, we don't have special permit standards that we get to use. We don't even have our regular site plan standards that we get to use. It's sort of like *you get what you get and you don't get upset*. In this case, we've actually exercised more control. Putting a number of these items into the to be determined category actually allows us to continue to have control over them. A lot of it will be handled by our excellent staff and Mary Young, Director of Planning and Zoning, with regard to insuring that our regs are all complied with.

Mr. Lebowitz:

I can add a little bit to that also. I want to remind all those on this call that the stipulation is an agreement to move forward in a certain fashion with the original application plus modifications. So, when you talk about striping in parking lots and parking plans, when you talk about landscape, when you talk about excavation and fill standards, all the regular zoning issues are actually in the application which was brought to us, which we rejected, which they then sued on, which we're now stipulating to. Although you don't see the voluminous mass of paperwork that the applicant has brought to us, it is available. It's available in the original iteration, the most recent application, Hiawatha, and that one is for 187 units. It is comprehensive. It is all-encompassing. It's a million pages long. It covers every possible angle you can think of from the number of exhaust fans in the garage to how much curbing is going to be outside for fire trucks to hop over. It's got it all. We rejected that even though it was comprehensive and now we're actually going back and settling with modifications to that. It is very important to understand that the stipulation refers back to the application. So, while the stipulation before you might seem like a dearth of information, if you go on the town website and look at the last application for it, you're going to find about 600 pages worth of meat to go through and have at. I do want to remind you that the two are tied together.

Peter Gold, district 5:

I've got a couple of questions. I guess they're mostly for Ira. If Danielle or Paul want to add things, that's fine. One of the things that has to happen is for Garden Homes to agree to the settlement. Why would Garden Homes ever agree to it? What do they get out of it?

Attorney Bloom:

They have agreed to it, first of all. I will be getting something in writing from them. They are not a party to the Summit zoning application which is the threshold application that we have here. They are mentioned in it. They are a party to the moratoriums and they will have to sign a withdrawal.



Mr. Gold: Why would they? What do they get out of it?

Attorney Bloom:

I can't really speak for them. They have been going along with Summit challenging the moratorium and they have agreed to the overall settlement. They have agreed to withdraw the moratorium case along with Summit and that will have to be done in a formal court document. I'd rather not get into why.

Mr. Gold:

We didn't hear of anything in exchange. [No.] You mentioned that the judge has to approve the settlement. I imagine that if people are desirous of fighting it, they could attend that hearing and make their case, yet again.

Attorney Bloom: That's correct.

Mr. Gold:

I gather, from Mr. Romano that the State Traffic Administration has to review this at some point?

Attorney Bloom:

That is my understanding too. I think that comes a little later in this. Mary Young may have more details on that.

Mr. Gold:

If the Saugatuck people wanted to bring up the traffic issues, that would be the time and the place to do that?

Attorney Bloom: That I'm not sure of exactly how they handle it at the State level.

Mr. Gold:

What happens if the traffic administration doesn't agree with it? Does the settlement fall apart?

Attorney Bloom:

I don't know if the settlement falls apart or if they have to make changes. I don't know the answer to those questions. They usually occur further down the road. I would assume if there were some problems with the State Traffic Authority that the applicant would have to address them.

Mr. Gold:

My last question, this is just something I don't understand about the moratorium. The State Statute says you get a moratorium if you have 'X' number of points. We either have 'X' number of points or we don't have 'X' number of points. How can the Department of Housing say 'You don't' have 'X' number of points but we're going to give you the moratorium anyway.'

Attorney Bloom:

As I said, they first determined two years ago that we did have the number of points. As I said, they took a few away and they added a few more. The few more were based on Hidden Brook. They said to us in writing that they determined from their own records, not records that we submitted, that we had actually underestimated the number of points for Hidden Brook. Therefore, they took away with one hand and added more with the other hand and we were still over the limit and they granted the moratorium. As of March 22, they have a different position on that.

Mr. Gold:

Having taken that different position, saying, 'Oh, guys, you don't have enough points', how can they turn around and say 'Despite the fact that we've told you that you don't have enough points, we're going to turn around and give you the moratorium anyway.' Either we have the points or we don't have the points.

Attorney Bloom:

They said in the letter that they were unable to locate the documentation. That's what they said and they were prepared to revoke the moratorium. They have not removed the moratorium because we asked them not to. We said we were going to try to provide them with documents. I went through this before with Carol Martin, etc., etc. Then we got into this negotiation stage. They went through a long period reviewing this at some level at the DOH with the Attorneys General and they came back and said they will keep it intact as part of this overall settlement.

Kristin Mott Purcell, district 1:

Frankly, it's been said tonight and in the prior committee meeting, the situation is untenable. In fact, I think it's been described a number of times as 'This sucks.' There is no good outcome. As one of your representatives, I thought it was important to share my thoughts. I applaud and support the Saugatuck Community and neighbors for your commitment and tireless efforts to preserve this very special community and neighborhood. Thank you for all your research, passion, insights and very important issues you raised tonight in your emails, in your comments and over the last many 18 years. I have been very supportive of your efforts to continue to fight the fight and you have laid out legitimate concerns that make this decision even more difficult. However, given all the recent developments, I will not vote to support the petition to overturn the May 13 P&Z vote and believe that the settlement is the best option for the Saugatuck community and the town of Westport. This is not a decision that has come easily as everybody has discussed but based on all the information that is available to us, this is the best and most pragmatic option. A long-term commitment to expanding affordable housing options is essential to Westport to continue to be a vibrant and diverse community but I believe the expansion needs to be controlled by the town. Losing that control would have a far greater negative impact on Saugatuck community and all of Westport. Thank you to all the participants who have worked tirelessly on this issue for so many years including the neighbors, Carolanne, Gloria, all the people who have spoken tonight and to Danielle, the full P&Z, Ira, for your tireless work and my RTM colleagues, particularly, Matt Mandell. Regretfully, I will not be supporting the petition to overturn the P&Z decision.

Chris Tait, district 1:

Yes. This sucks. This whole thing, I feel terrible about because, honestly, we were painted into a corner. Their attorney has been very good about controlling the narrative of our town and painted us into a corner. As a town, we failed the residents of Saugatuck. That's the crux of all this. I do have a couple of questions. Ira, you're saying you are guaranteeing we get a moratorium from the settlement?

Attorney Bloom:

No. I am not guaranteeing it at all. I read to you what the DOH has said as of May 25. I don't think their position has changed since May 25. They are tentatively onboard:

To keep the moratorium in place as requested by the town of Westport and Summit Saugatuck.

I believe they will adhere to that but I can't guarantee anything.

Ms. Dobin:

I just want to clarify: This stipulated settlement is contingent on the moratorium staying in place. If they don't issue the letter revoking their intention to revoke, there is no settlement. We believe that they will because they want to see all of this settled and the two companies who are suing the DOH are going to withdraw with prejudice their litigation as part of this settlement agreement. But, if for any reason, the Department of Housing did not issue their revocation of their intent to revoke we wouldn't be settling any of these cases. We made this settlement contingent upon that because that is our leverage to make sure that that happens.

Attorney Bloom:

Can I just underscore, if we don't get the letter, the whole deal falls apart. I do believe, from my multiple conversations with the Attorneys General who are working on this case that we will get that letter. But that is precisely the language that they gave to us and authorized me to read it.

Mr. Tait:

This is the only reason to even be thinking about this. My other concern is you are talking about DOH who said 'My dog ate my homework.' All of a sudden, they lost this information which seems kind of suspicious to me but that's my opinion. This developer knows, quite frankly, that this area is affordable housing and we're taking affordable housing to blow up affordable housing. We're making market value real estate with 30 percent affordable housing. I'd like to know how affordable is market rate? Can anyone tell me what a one-bedroom apartment in affordable housing will cost?

Ms. Dobin:

Sure. They are not condos. They are rental apartments. So, for people who make 80 percent of the median income, a one bedroom will rent for \$1,429/month. A three bedroom will rent for \$1,934/month. For a 60 percent SMI, a one bedroom will rent for \$1044/month. A three bedroom will rent for \$1,401/month. They are, as compared to renting single family homes or market rate apartments in Westport, they are substantially less

expensive. They are not low income. They are designed for a family who make an income of \$80,000/year or \$60,000 so they are not very low income. The market rate apartments at 793 Post Road East rent for close to \$5,000/month.

Mr. Tait:

[Inaudible.] I do agree we have to start getting ahead of the curve. When the time comes to look at affordable housing, what we want to do and how we want to do it, they should have a priority if they have been displaced. Can we make them a priority of whatever place we develop?

Ms. Dobin:

I think that's a really good question. After this was brought up initially, I did some research. All of the houses involved were voluntarily sold to the developer so they chose to sell their homes and then the developer rented them with short-term leases to other people with those people having the knowledge that they were working towards developing those parcels to be a new development. We've heard from a lot of people all over Westport recently, long-term renters or people who have only been renting for a year or two, because the real estate market is so hot, people are now selling their houses and the renters are being displaced. Or, someone rented a house for \$5,000/month and now the landlord want \$18,000/month. They can't afford to stay there. There is no rent control in the State of Connecticut or in the town of Westport that gives special rights to tenants to stay in a house that they lease or an apartment beyond the expiration of a term. I went to the developer as part of our negotiations and said, 'People who rent the existing houses from you, I'm concerned that they are not going to have the opportunity to stay in Westport. Some of them have children and we don't want the children to have to leave the Westport School System. Is there anything you can do?' They replied, 'That's what's wrong with Westport. You always want to put the people you want to put in there. That's not what is legally required. What is legally required is that there is a lottery and they should apply to be on our list and they will have the same exact opportunity for housing as anyone else. So, we cannot earmark housing. We have looked at it before for police officers, for fire fighters, for town employees to see what we could do to provide opportunities for people who work in town, for our teachers to stay in town. There is not a lot that we are able to do because of the Fair Housing Act, unfortunately. But we get asked about it because obviously we want people who live here to be able to stay here.'

Mr. Tait:

I understand that but keep in mind pricing. We could control pricing. With affordable housing, we could control what someone pays for rent.

Ms. Dobin:

The RTM is a funding body. The P&Z is not. The RTM could certainly come up with some means of creating funding to make up the difference, like a local Section 8 voucher of sorts, to allow people to live in other housing in Westport when they've already lived in housing that's redeveloped but it's definitely within the purview of one of the funding bodies, not the P&Z.

Mr. Tait:

With this situation of Saugatuck, we've painted ourselves in a corner and I'm very disappointed in how we've handled this up to now. I think we've got to start looking forward and we've got to remember who got screwed on this. We need to put that as a priority. If we don't, it's another black mark on us. From our perspective, we've got to start taking control of the narrative of who we are in Westport because the way the narrative has been told is not true. For somebody who has grown up in Westport, that is not the case of affordable housing. Like I said, we've got Hales Court and I could go through a whole list. Unfortunately, the 8-30g, in 1989, does not include any of that. Again, that's not our fault. That's the State's fault. It is using 8-30g for developers to laugh all the way to the bank. It's unfortunate that in a situation like this, it can't be amplified that in a community like this that has been affordable for 80 years, and a lot of people were able to enjoy Westport who couldn't afford it without having their own home or living in an apartment there. I want to say if anything can be done and if we do this settlement, there has to be some understanding that if we do displace people, we have to think about that. If there are kids in the school system, things like that, we've got to come up with something. The RTM has to come up with some sort of way to compensate them. I think it's fair because I think it's our fault we're here. I hope this moratorium comes through. Danielle, affordable housing, going forward, that's now up to us to control our own destiny. We need to get on the ball starting tomorrow.

Ms. Dobin:

You are always welcome to come to our Affordable Housing Subcommittee meetings. Many of the people here have. I'm sure that you know that the P&Z Affordable Housing Subcommittee spearheaded the development of a new community, entirely affordable, entirely designed for families in central Greens Farms. The Greens Farms Neighborhood Association came out to be supportive of the project. The immediate neighbors came out and created an indie group, Yes in My Backyard, to be supportive so we're looking to be doing 30 to 40 three bedroom townhouses by engineering transfer of land from the State DOT to the Westport Housing Authority. Mr. Marpe has been tremendously supportive and has come to all of the meetings, tag teamed with me working to get the land so we truly have turned the page. Forget about turning the page. We have opened a completely different book in town where we are proactively planning for the type of housing that we need in Westport to diversify what is available here and also at the same time earn a lot of points with regard to 8-30g. Many of you come to the meetings so I won't bore you with the details but please continue to come. Continue to be supportive because that's what we need in order to move forward. And thank you Paul for being my right-hand man on all of this.

Mr. Tait:

So, Ira, we feel we're going to lose some of these cases. When we say we feel, do we know? Are we just not taking a chance? I've heard from many people that we're going to lose this. Where did we come up with that thought process?

Attorney Bloom:

We don't know for sure, of course, but as I was trying to say, particularly on the 8-30g, the underlying zoning case, the appeal on 187 units, I've looked at other cases, I've read probably every affordable housing case that has come out, I've lectured to groups on that and I follow it very closely so I'm giving you my best assessment. There have been other cases that have been very similar to this in terms of Fire Code versus Fire Marshall, so to speak, I'm simplifying, of course; in fact, we had one of those in Cross Street /Lincoln Street. So, it's my best assessment reviewing other cases. The moratorium, based on the conversations we've had and the pre-trial that we had before the judge, if there is not settlement, it appears more likely than not, perhaps very likely, that we will lose our moratorium.

Mr. Tait:

Again, this is going to be a very tough decision, something I do not look forward to. I want to thank everybody in our district that put up a fight for many years and I swallow this with a heavy heart because I think we, as a town, have painted ourselves into a corner. We allowed them to control the narrative of who we are as a town and we didn't fight back in that regards. But I thank everyone involved and I hope we can move forward collectively.

Mr. Braunstein:

Madam Moderator, I promise to keep my comments within the 10 minute time limit. I want to start out by saying being the timekeeper is not a fun job and I am hugely apologetic to the individuals who showed up this evening and felt they were constrained. From a process standpoint, I don't think that is a great outcome. But those are the rules. So, apologies for pressuring any individuals. My comments are largely built on what Chris just said. To me, there is a policy issue here and then there are a lot of people here. Unfortunately, the policy issue is going to impact some people in an adverse manner. I think everybody here regrets it and wishes it wasn't the case. From a policy perspective, it seems very difficult for me to see how we can't reach a settlement. Otherwise, we would be taking too much risk of losing whatever control we have. So, when I think about the people that are being impacted, the very first thing I did on May 26 after the committee meeting was I picked up the phone and called Elaine Daignault who heads up the Health and Human Services Department for the town and I said, 'Elaine, this is unconscionable. There are 23 people that are going to be displaced. What can we do? How can we help these individuals if the development goes through?' It was quite discouraging. Elaine had done her homework. She knew the issue and there is no easy answer. There is no way we could put the displaced individuals into a preferred position for any housing consideration. So, I want to know what we can do for these people. Is there anything from the town's perspective? It does not seem to be an easy answer. I also want to be super responsive to some of the points that were brought up here tonight. Can we have a traffic safety plan during construction formalized into some form of agreement to be responsive to what the lead petitioner brought up here? I thought her point about the transfer of stipulations to a new owner was a very valid consideration. What can we take comfort in in terms of whether a successor to the Saugatuck people would be required to adhere to the stipulations that had been agreed to. I want the individuals who are impacted by this to understand that we see them; we hear them. We're sensitive to it but I think it would be, from the town's perspective, at this point, to continue fighting it seems to me would

put us in harm's way across all three of these outstanding litigations. I do have one question, perhaps for the developer's attorney Mr. Hollister. How does the developer think about moving forward without this agreement? Is this just a fight to the death and something is going to end up there no matter what? How would we think about the future without an agreement? I guess we're subject to the outcomes of the litigation and we're going to end up with 187 units but I'd just like to have that confirmed.

Ms. Dobin:

I can't speak for the developer. I can say if we don't settle this, there will be decisions in the legal cases and those will be binding. I don't think the developer would choose to withdraw and abandon these cases if the settlement didn't work out but I will let them answer for themselves.

Attorney Bloom:

They can answer but while they are preparing an answer, I'll just say the decision on the zoning case is probably imminent. As soon as we report to the judge, which we have to do after this RTM proceeding, the judge is going to issue a decision within a fairly short period of time. The Supreme Court is on hold. I think their decision will be soon. I don't know if it is written or partially written. So, I think it will be soon also so we will get those two decisions very quickly.

Attorney Hollister:

I agree with what Ira just said. If I understand Mr. Braunstein's question, if we do not settle, we will proceed with the court decisions which will likely be issued in short order. To go back to an earlier question, Garden Homes has agreed to the settlement.

Wendy Batteau, district 8:

I've been attending meetings and hearings about this for about 14 years. I think the previous Planning and Zoning Commissions did the best they could. They didn't necessarily look ahead to settlements but they worked with what they were given and refused where refusals were justified but I have to say I greatly appreciate Danielle and Paul and the rest of the P&Z. I think that they were as proactive as possible in working out a solution which is as good as we're going to get and which will enable us to go forward without quite so many balls and chains attached to our bodies. That having been said, I have some questions because this whole thing makes me as sick as possible. I agree with Chris Tait and have questions along the same lines as Peter Gold. First, with the excess traffic generator study that is required, Ira, you've said that traffic is not a concern for the court with respect to 8-30g projects so if the excess traffic study shows there is way too much traffic and shouldn't be allowed, how will that play into any decision that is made whether or not the court says we have to proceed with this?

Attorney Bloom:

Traffic congestion is not a ground to deny an 8-30g application. Traffic safety could be. So, that's the basic 8-30g law. We'll get a decision from the trial judge, Judge Berger, fairly soon. If it's adverse, we go from there. But as far as the developer, he has to go to the State. If Pete Gelderman or Mary Young is here, they work with this kind of post-court

decision proceeding. It's more of an administrative review, different standards from the 8-30g type standards as far as I know. They have to comply with the State regulations at that point. That usually comes later and, frankly, I'm not usually involved at that point.

Mary Young, Director, Planning and Zoning Department:

With respect to OSTA, Office of State Traffic Authority, that is a requirement that the applicant submit all of their plans which are still under development, still being designed, pursuant to the draft settlement. That will take place. I am not aware that there is a place for public interventions so to speak. It is a very administrative proceeding. The applicant hired a competent traffic engineering firm with Michael Galante as their lead, a consultant, a gentleman who the town of Westport has hired for the same purposes. I would venture to guess that he has not designed anything that would not get approval from OSTA. If that approval is not obtained, then, as so many other moving parts, the project fails. They cannot develop the site without all the necessary State approvals but the State regulations are unique in saying that no applicant can seek OSTA review and approval until all local approvals are obtained initially which is why it is an outstanding request for the applicant to obtain that because they are now working to dot their 'i's and cross their t's to obtain local approvals including tonight's proceedings.

Ms. Batteau:

It pretty much answers it. I'm just wondering If OSTA finds fault with the plan, then we don't agree with the settlement?

Ms. Young:

I'll say one more thing and then I'll let Ira respond to your language in the settlement document, better for him than I. My experience is that back and forth correspondence, if OSTA had a concern, they would direct their concern to the applicant's traffic engineer to identify is a modification of some kind needs to be made or further clarification to address their concern. It is, in my experience, a pro-forma exercise.

Ms. Batteau:

With respect to traffic and fire, I understand the Fire Marshall doesn't have sway if the Fire Code is complied with. So, say, there's a fire and somebody gets killed because fire engines couldn't get there in time and we've been warned by our Fire Marshall that what we're doing is approving something that he feels is inadequate, who's liable? I know who is morally liable but who is legally liable since we have been put on notice. The State would have been put on notice. The courts would have been put on notice. Are we liable? I have the same question if somebody is hit by a school bus or there is a collision because the traffic is just too awful, would we, the town, be liable to be sued?

Attorney Bloom:

It really depends on the particular facts but, in general, I don't think the town would be liable. The building has to be built to fire code and building code and it will be or it won't get built. The Fire Marshall, as I've said before, tries to go beyond the Fire Code. In this case, although he did not get the second access, he did get six other points and they are



not insignificant. That was his recommendation to the negotiating team and they accomplished that.

Ms. Batteau:

I understand that. I was just going back to what Gloria Gouveia said about how the second access remained in the recommendation so I'm just wondering about that. As others have said, I'm feeling awful about this and I'm hoping our Health and Human Services Committee, Health and Human Services Department and the Planning and Zoning Affordable Housing Subcommittee and someone from the First Selectman's Office can come together and try to pursue some kind of financial program as Danielle suggested because that's actually the first helpful possibility that I've heard. But the other thing, didn't somebody say in the last meeting that, although the Department of Housing lost its documentation for our credits, that somebody in our Planning and Zoning Department actually found documentation for that or did I misunderstand that?

Mr. Wieser: You are at 10 minutes.

Ms. Dobin:

Ira, can I just jump in quickly. The lawsuit that was filed by Attorney Hollister and Attorney Brand on behalf of their clients articulates a number of issues that they allege with the moratorium. Something that came up was that Westport made its application. It was presented for 30 days of public comment and feedback which is required by the regulation. There is a statute and there is a separate regulation. Then the Department of Housing came to a conclusion in a letter where they denied some of the points that Westport had brought up but then presented their own points. They did not then provide another period for public review of those points for the assessment. That's really the nature of what happened. There are other issues. I don't think it serves us to go through it. You can read the filings and see the other issues they allege. I don't think it's good for the town to talk about anything that anybody did. As you know, when any decision is made, if you go back and look at it with a fine tooth comb, you'll find something is amiss with this or that. The important part is when the Intent to Revoke letter was issued by the Department of Housing, they articulated quite clearly that they did nothing wrong but they have tremendous broad discretion to revoke for any reason. So they can revoke if they lost something, if they didn't think they handled the process correctly. The stipulated settlement with a letter from the DOH included actually gives a lot more protection to the town of Westport than just an independent issuance of the moratorium because it's part of a stipulated legal settlement and therefore has more protection than anything does because they do have so much broad discretion. Again, it's not in the statute; it is in the regulation that accompanies it.

Ms. Batteau:

Thank you. That's helpful and I'm not getting that Westport did anything wrong. Here's my concern: DOH grants us a moratorium. Summit sues DOH. DOH then withdraws our points. If we, then, sign the agreement which will require Summit to withdraw its lawsuit against DOH, DOH will give us back our moratorium. That sure smacks of quid pro quo

to me. I may abstain just because I don't feel I can be a part of that. Nevertheless, I thank you for all the great work you've done. I really can't be complementary enough.

Karen Kramer, district 5:

We're in a bad position and I know that. I have been to so many meetings over the years in Westport and Norwalk to try and stop this project. What is the best thing, Danielle or Ira, that the town gets out of this terrible deal for Saugatuck?

Ms. Dobin:

There are a few things we get. Number one, we would have ended up with 187 units that were fire unsafe and now we'll have fewer units and a lot of the fire safety requests. The old fire safety requests that the Fire Marshall had subsequent to the original application have been complied with. Number two, everyone keeps talking about the moratorium. From my personal perspective, the 8-24 case is the most important. It would be very challenging for the town if we lost the moratorium. Obviously, there would be a lot of applications. There would be a lot of issues but we can work out, however many years it is, we can apply for another one. Right now, the expansion of sewers in the town of Westport requires a request from the Board of Selectman, the approval of the Planning and Zoning Commission and if the Planning and Zoning Commission does not agree with the Board of Selectmen, then the RTM can intercede and make it happen. The 8-24 case puts that at risk completely, not just for this case because that's not the question in front of the court. The question in front of the court is whether an 8-24 is required, period. I think part of this settlement from my perspective is that we retain control over where we sewer and when we sewer. In terms of basic planning for the town, the importance of that cannot be overstated. I would just have you look at some of the biggest undeveloped tracks in town, all of which are in Coleytown and Long Lots, etc. Quite literally, all of those would be at risk for very intense development if sewers were available there. As a community, we don't use sewers...oh, if you don't have sewers we won't intensify development. Daybreak is on septic. But it is a way for us to thoughtfully control our planning.

Ms. Kramer:

The planning is important but I do hope when we get all this in writing, Ira wouldn't let it go through without that but hopefully we as a town will be able to do something with the displaced people.

Ms. Dobin:

Karen, the settlement is what the settlement is. There's no option to continue to negotiate it but the group who can do something in terms of assisting people who have been renting homes from the developer is definitely the funding bodies. I think that Elaine is the right person to talk to about it but, I think, again, there are people all over Westport who are being displaced because homes are being redeveloped. At times, developers will buy a home and rent it to somebody while they are submitting their permits and figuring out their plans and sell it as a spec plan with just the images and the approvals. So, I think you need to think about who you want to help, what you want it to look like. That's a good

starting point. I don't think it's a bad inquiry especially if people are renting under a certain level.

Ms. Kramer:

We will deal with that but I guess since this is all in place and it is going to help the town...it sucks. It's a neighborhood. I've gone to Norwalk to support this and to Westport but we have to do what we have to do to support the town. So, I will vote not to overturn while holding my nose.

Mr. Izzo:

In 1989, a partisan legislation in Hartford came up with this 8-30g which I think is wonderful in concept. In theory, it makes wonderful sense. But in 32 years, not once was this thing amended, modified or anything done. I think it's a tragedy what's happened here. What's going on? We've got other stuff coming down the pike. I've worked with Paris Looney. I've worked with Patsy Cimarosa. I've helped them help people. We've all helped each other get people housing. We all want housing. But when you get an attorney like Mr. Hollister who starts on the one yard line with nine downs to get it in and he sits there and he ponders and he counts his money and then he decides to come up with this, I have a hard time with it, Tim. You're a great attorney. I think you can do some wonderful things but, this law is flawed. I wish, at some point in your career, you will help communities like ours do the right thing. More goes into this than one size fits all. Did we look at wetlands? Did we look at different variations in Westport? We have Route 1, I-95, three exits on I-95, two on the Merritt, 136, 57. We have a lot of through traffic. Saugatuck is going to be a mess. I don't begrudge you guys your development but this is kind of greed. I really think this is not in the best interest of Westport. I don't think Garden Homes is in the best interest of Westport but, unfortunately, this deal is something we're going to have to take. Going forward folks, we've got to watch out what's coming on from Hartford. They want to go after us. They want to take over our zoning. It's coming. We have to be prepared. Instead of being on the defense, going forward, we've got to be on the offense. Danielle, I disagree. Did you say Westport fails? We did not fail. We worked hard to make this happen. We were failed by this legislation which I honestly believe is flawed. I am going to work with other people on this board and in this town to fight to make sure this thing is modified and works. Because if our Legislature isn't going to do it, the citizens of Westport will do it.

Dick Lowenstein, district 5:

Last week, I followed Gloria Gouveia's advice and rode Hiawatha Extension. I have a question. When you get to the very end of Hiawatha, it narrows considerably. What's going to happen to that lane? Is it owned by the town? Is it owned by the developer?

Ms. Dobin: Dick, where do you mean specifically?

Mr. Lowenstein: Would that be a private road or a public road?

Ms. Dobin:

Do you mean Hiawatha Lane Extension where the building is going to be built? [Yes.] It's a private road that's owned by the developer.

Mr. Lowenstein: Now part of Hiawatha Lane right now is private?

Ms. Dobin: It is owned by the developer. Maybe Mr. Hollister could answer.

Mr. Lowenstein: Will he maintain that road to a certain standard?

Ms. Dobin:

I believe it is being repaved as part of the settlement agreement after construction.

Mr. Lowenstein: Will it be according to town standards?

Ms. Dobin:

It is being repaved but it doesn't specify. They will have an expensive development there so it is in their best interest to have it be in good condition.

Mr. Lowenstein:

Will all tenants have access to all amenities in the building or will there be discrimination between market rate and affordable?

Ms. Dobin:

All tenants have equal access to everything. The units will be equally distributed throughout the building. There won't be one particular area with affordable units. They will be scattered throughout so nobody will know what is an affordable unit and what is not an affordable unit.

Mr. Lowenstein:

That's helpful. Just a comment...You know the word "sucks" has been used an awful lot tonight. It's also a quote from one of the P&Z Commissioners. But I'd like to use another word for what I see. It's really a form of extortion and I think we are being extorted by the developer. For those of you who don't know it, the principal developer, Mr. Charney lives in Fairfield. In the mid-80's he lived in Westport and he was a member of the Westport Planning and Zoning Commission where he cut his teeth on how to deal with the town. I'll leave you with that thought. It is an interesting fact about the developer.

Ellen Lautenberg, district 7:

I will agree with Jimmy. All of this starts with a bad law, 8-30g. That being said, here we are. As a member of the P&Z Subcommittee that voted on this in committee, I just wanted to clarify something that may have been misunderstood. I am not disputing that this will very negatively impact Saugatuck neighborhood and we all feel terrible about this. I am truly upset for the people who live there; however, as those with experience have said, this evening and in prior discussions, they believe that the greatest likelihood is that the moratorium will be revoked, as Danielle said, the sewer situation could be problematic in addition and the likeliest result will be going back to 187 units versus the slightly smaller

fire-safe project. There is also no legal justification for it to be denied. Fighting it is not going to make it go away, unfortunately. That is just not an option. As much as I feel for the people who have asked us to overturn this, it is not going away. I wish it would. So, I do hope that Summit would attempt to take this issues that the neighbors have into further consideration as they continue to develop the details of this project and perhaps look to become more a part of the neighborhood rather than become an adversary of the neighborhood. I really don't want to see those people being pushed out if at all possible. As Chris Tait said, if there is anything that we, as a town, as an RTM, can do to support families being displaced, I am in favor of that.

Christine Meiers Schatz, district 2:

I have a question for Ira or, maybe, Danielle. I heard a number of times this evening that we wouldn't have moved forward with the settlement if not for being able to tie in the moratorium and I understand how important the moratorium is for the town so that we can plan and put affordable housing. On the other hand, it seems like having 157 units with concessions is better than the very likely outcome of 187 units. I just wanted to check even if we didn't have a moratorium if you think this would still be a good settlement.

Ms. Dobin:

I'll answer that because I think it's more of a question of what the Commission set out to do versus what is in Ira's purview. I do think it's much better for the neighborhood. I think the fire safety makes a difference. I think the size makes a difference. I think preserving access to the Northern Preserve which so many people have used by walking through that property is meaningful. I also believe that the elimination of building E which juts out into the cul de sac insuring that that land will only be redeveloped in the future as of right now which is only smaller single family houses is very positive. That being said, I know you have been to some of our meetings before, during a typical meeting, we have a typical site plan and special permit review, we really try to give a lot of deference to the neighbors. If the neighbors came and they said we know you are telling us we are going to lose in court but we strongly prefer to do that than have this and there were no other considerations whatsoever, if, universally, the neighbors felt strongly, we would probably listen to the neighbors because we really try to advocate for the neighbors even when we sometimes don't agree with them. But, in this case, there were so many other considerations, both the moratorium and the 8-24 case. Also, to be frank, I have heard from people in the neighborhood who are really happy about the 157 versus 187. They didn't feel comfortable commenting publically because the neighborhood is really up in arms about this whole situation. Some of them are newer to the area and they want a certainty about what's going in there. Typically, in our public hearings, people feel comfortable about speaking out even when they disagree. This is obviously so heightened because it has been going on for so long. It is easy to appreciate people who are in the neighborhood who do not agree with their neighbors might not feel comfortable coming forward in a public hearing and testifying. I hope that answers your question. We try and be very supportive of the neighbors unless it's really going to have a bad impact on the rest of town.

Ms. Meiers Schatz:

That's helpful for me to know because sitting here, I'm in some ways looking at this as choosing between the 157 with concessions and the 187 and as much as the 157 is not what we want and it is horrific, it is better than 187. But that background is useful to know. I also wanted to know what leverage did we have going into negotiations that enabled you to get the 157 units in the first place?

Ms. Dobin:

Basically, nothing. We went in and they gave us a list of how much money they wanted us to pay them. They wanted the town to pay for their sewer connection. They wanted the town to increase the size of the water main; a laundry list of things they wanted from us. What we responded with was the only thing we had going for us which was speed. We have speed. You are paying your lawyers. Our lawyers are being paid by taxpayer money. Many people aren't paying attention to this. They certainly haven't paid attention to how much the legal fees have been at this. We can keep going at this and prolong it as much as we can but if you want to get shovels in the ground, you have to work with us. We're not going to pay you any money. We're not going to pay for your sewer connection. We're not going to pay for a larger water main for you or any of those things. That was what we had and we were adamant. The other thing we had going for us was, frankly, that no one had been willing to talk to them before. This had been a substantially smaller project decades ago. Nobody was willing to talk to them and I said that. I said 'I'm elected. I don't even know if I'm going to run again. This may be the last time anybody in this town comes to talk to you. If you want to have an opportunity to settle, then you have to find a way to make the 8-24 issue go away and also save the moratorium for us because that's what we need and we can give you speed in exchange.'

Ms. Meiers Schatz:

That's helpful to know. So, again, looking at the 157 units and the impact on Saugatuck, not a good result. Given that we went into negotiations with only the leverage of delay, I think you guys did a great job and I want to say thank you to the P&Z as a whole, former and current. I think you have one of the hardest jobs in town and I really appreciate you. I also want to say thanks to Seth for running a fantastic committee meeting that I listened to and really helped me through a lot of these issues. The last thing I wanted to do is I think that sometimes we have not always done the best job as elected officials of identifying when we've made mistakes and I bring this up, not for finger pointing but because of the fact that we learn when we make mistakes. That's what I tell my kids. So, I'm going to start the change myself and say through this I have learned that I've probably made mistakes when it comes to these issues. I could have done better. When I came into the RTM with district 2 was when everything was starting to happen with the Lincoln Street development. Having that development there is not a good result for the neighborhood, not a good result for the town. I remember, as an RTM member, reading through the statute and reading through a little bit of the case law and thinking 'This is an uphill battle but I want to represent my neighbors and make sure their voice is heard.' I'm glad I went to the P&Z and I helped voice their concerns but, at the same time, as an elected official, I should have been more proactive, especially knowing that we're probably not going to win these cases in the courts, supporting a more proactive approach to 8-30g. People talk about fighting. Fighting harder isn't going to get you anywhere. You

have to fight smarter. The way to fight smarter in these circumstances is to be proactive and I think have made the same oversight and not contributing to a real solution to this. That's all. I will be voting not to overturn the decision.

Dr. Heller:

Let me give you a lineup so you know what's coming. First Mr. Wieser, then Ms. Klein, then Ms. Hamlin, then Mr. Falk and Mr. Mall. So, you know who you come after. Mr. Tait, I see your hand but I'm going to wait until everyone has had a chance to speak. Remember to take your hand down when you are done speaking.

Jeff Wieser, district 4:

I'm not allowed to raise my blue hand because I'm a co-host so I wanted to raise it for some time on this topic but first, I'd like to, if it's okay with Madam Moderator to make a motion...

Dr. Heller: No. Not yet. Not in the middle of this vote. After this is over.

Mr. Wieser: This is going to take forever and all the police are waiting now to go home.

Dr. Heller: We are in the middle of another item, Mr. Wieser.

Mr. Wieser:

Okay. I just want to make a couple of comments that are a little different from some of the ones that have been made. I'm conflicted a little bit on this whole issue because I agree 8-30g is a very flawed law, act, statute and I think it's flawed because it doesn't take into account the many good things Westport has done in the past. It doesn't take into account that we are the only town in Connecticut that has a homeless shelter, that we have affordable housing that isn't counted because it happened before 1989, before towns were forced, through 8-30g, to do it. I think we suffer from that because we don't get a lot of units counted. On the other hand, I think 8-30g is the main motivator since 1989 to get this town thinking about affordable housing. We talk about how we're being forced into doing this; a good thing we're getting moratorium points; we're getting this, we're getting that but we're getting 47 units of affordable housing. That is a very positive thing. I think that the last few years we've taken a more proactive stance on this. It's interesting that six years ago, we did not overturn P&Z on Baron's South which would have given us a whole bunch of affordable housing units that would have put us in a much better negotiating stance with regard to at least the conversation but it's a funny town. I've seen it firsthand that this town is very proud of the homeless shelter. It's very, very proud of the affordable housing; yet, you try to get affordable housing anywhere and it's fought tooth and nail and then after five years when we recognize that the neighbors are just like you and me, they're proud of the affordable housing. So, we fight it. We think it's terrible but when we get it, we're proud of it. So, I'm certainly not going to vote against this. I think it's a very good thing. I'm still sorry that this body did not overturn the P&Z for Baron's South. It's interesting that six years ago we got about 60 percent of the 70 percent required to overturn and, currently, there are nine members on the RTM who voted to overturn the P&Z and there are six who did not vote so, we're just still at 60 percent. I just think it was

a silly thing to look up. I think I am sorry for the dislocation in the neighborhood and I remind everyone that with Baron's South there wouldn't have been any dislocation but we still found reasons to overturn that. I think it's very good thing for the town to get 47 affordable units. We should applaud that and feel good about that. As well as having all the other concerns, that's all I've got.

Nicole Klein, district 5:

As everyone has said and I completely agree, it's an awful situation but the part I'm flummoxed about is around the moratorium. I'm not quite understanding how the P&Z settlement is contingent upon the moratorium being set when there was a moratorium that was revoked after two years. Is that correct?

Ms. Dobin:

It wasn't revoked. They issued a letter of intention to revoke with a 30-day period and when Judge Berger was informed and the Department of Housing who is represented by the Attorney General's Office that the parties forced a settlement and part of that settlement would be a withdrawal with prejudice of the litigation contesting the moratorium, the DOH held off. The moratorium has not been revoked.

Ms. Klein:

The intention to revoke is there. How can you intend to revoke if the moratorium is there?

Attorney Bloom:

They gave the town 30 days to respond and we have extended the 30 days to 90 days almost. During that time, we have discussed and negotiated with them keeping the moratorium intact and they have tentatively agreed to do that as part of the withdrawal of the case against them, by parties Summit and Garden Homes.

Ms. Dobin:

Nicole, you can read their claims. It's not a good look for Ira and I to walk through details and issues vis a vis a moratorium. It's just not. The Department of Housing wrote a letter where they talked about their intention to revoke. They cited one of the issues that was brought up by the claims made against them by Summit Saugatuck and Garden Homes but there are others that are included. Because the parties that are suing them to overturn the moratorium are willing to withdraw their litigation with prejudice, they are willing to reinstate the moratorium and note in writing that it was validly awarded.

Attorney Bloom:

We have tried, candidly, to work with them at this time. It has not been revoked and we hope it will not be revoked. Depending on how you vote, it appears that it will not be revoked which is what we want. So, we tried to maintain a proper relationship with the Department of Housing and with the Attorneys General. That's where we stand.

Kristan Hamlin, district 4:

I just want to say four things very briefly. Carolanne, thank you very much for bringing this forward. I'm very sorry what has happened to that community. Ira made comments at the



outset that we would need 24 votes to overturn. Anyone who has been listening tonight who can count can see that those votes aren't there. The comments made by the RTM make it clear that the votes to overturn are not here tonight but I want to thank you for bringing this forward and doing a good job in doing so. Second, I just wanted to mention to Danielle Dobin that I thought your presentation was excellent. You were fantastic in answering all of the questions succinctly, crisply and in a way that was very cogent and easy to understand. You really did a tremendous job tonight. Thank you very much. Third, I want to reiterate a theme that Danielle mentioned which is we need to be more proactive like other towns have been. After eight years of being part of this local government, and I see this in the Federal Government, State Governments. It just seems that there's this theme that governments are just reactive and they just don't do the kind of long-term planning that other governments in other countries do. Our community is like that. I just wish we would not think in such short-term basis and we'd be better in terms of long-term planning so I hope, as Christine Meiers Schatz has mentioned, that we all learn from this and try to be more long-term and proactive in our thinking. Finally, because it's very clear from what everybody said tonight that the 24 votes are not there, I have to agree with Jeff Wieser that it's really time to move on. It's 11:07 p.m. The police are waiting. That's going to be a complicated discussion as well. The votes are not there. There's really nothing more to say. I believe we should wrap this up and vote.

Dr. Heller:

Thank you Ms. Hamlin. We do have other people who wish to speak and I do feel I should let them speak.

Harris Falk, district 2:

Thank you. This is awful but 8-30g is awful. It is a law that counts on the despicability of certain developers who will do things like this. If it actually wanted to have affordable housing, the percentage would be much higher but then developers would not want to build it. So, what it counts on is that no one would want a developer to build something like this so the town, the municipality, should be creating the housing. But we didn't do it. The fight was right but it also counted on us bringing in housing. And, yes, pre-1989, we did have housing and we still do and we have a shelter and it's fantastic and we did that. But, we can't be resting on our laurels of what we've done and our reputation. We need to do it not just say what we've done. Unfortunately, that's what happened here. I don't know what our plan was, maybe just to have waited it out but what the town needed to do was invest in the town and build community. By not, we've failed a community and we've failed ourselves. Yes. Westport did fail. It's unfortunate but, as has been said here, we need to learn from it, move from it and make better. Invest in the town. Make community.

Louis Mall, district 2:

Thank you Madam Moderator. One of the underlying themes I have heard the whole time in this discussion is points versus people and what's more important to us. I think that was one of the most interesting comments that was made, I think by Ms. Curry saying 'What's more important to you, points or people?' So I think you know where I'm going with this. People are more important. That's what I was trying to say at 136 Riverside Avenue earlier. I am going to say it again tonight that I am supporting the residents of

Saugatuck and Hiawatha Lane. I went down today to get my bearings. I hadn't been there for a while. As you go in, there is one way in and one way out. That's what the Fire Marshall is telling you. The first thing you come across is Gault and their sand and gravel business that is a very busy commercial enterprise. Then you wind around to another company that has trucks and so forth. Then you go into a single family residential neighborhood of about 70 homes on narrow streets. Think about what would happen when fire trucks go in and out of there. How do you get people out of that area considering the traffic from the train station, Route 136 to Route 33 to the Post Road, all in single lane highway? I ran into a gentleman who happened to live there and he wanted to know what I was doing. I introduced myself, said I was on the RTM and was here just to look around. He said, 'I hope you give them hell.' What he told me was that he was going to be displaced with this, that he can't find anything affordable to move to and what really upsets him is that he doesn't know what he is going to do about his children and their schooling. I asked if anybody had said anything to him about right of first refusal or that he might have a chance and he said that no one had offered anything. Here it is. How ironic. We are talking about one of the last affordable neighborhoods in Westport. By the way, we don't ever see any of these projects being introduced in AAA zone. It is always the affordable neighborhoods that are being bought out with the pressure to move out. So, if you're talking about urbanization or gentrification, urban renew and so forth, the only people who win in all of these deals are the developers. So here we are, somebody who is losing his home. He is going to be forced out. He doesn't have an option to be one of the candidates for affordable housing. Everyone is talking about 'We're getting 30 percent affordable housing here.' Yes, but we're getting 70 percent unaffordable. If these were really notable people who cared about affordable housing, they'd make it 100 percent. But they are developers. They are interested in making a profit. I get it. But I think this is a lousy agreement for the people of Saugatuck. They pay their taxes. We threw in the towel. We folded like a tent. We have given the blueprint of how to lose for developers. We laid it out for them. If you push back at Westport, they will fold instead of sticking up for these people that live in this neighborhood. Another point that I wanted to make is Mr. Hollister wrote the regs and he's built a lucrative practice executing these regs. One of the things that really upsets me about Mr. Hollister is his obnoxious and obscene statements about the town of Westport. And we want to negotiate with him? We want to deal with him? I was very offended by his comments in the *Connecticut Mirror*. I don't know if the rest of you were but I certainly was. And I want to take a moment to thank Matt Mandell who stood up and said 'no mas' to Hollister for double dipping at Shipman and Goodwin, suing the town on one hand and sharing in the profits of the law firm that was serving our schools. Mr. Hollister doesn't get a pass with me. As far as the moratorium points and coming back to points versus people, I'm like Chris Tait. I thought the dog ate the homework. But I've got one even better. I've got a conspiracy theory that somebody took the pile and it will reappear when all this dust settles. That's what we're dealing with. I just want to make one last comment and that's the Fire Marshall. When the Fire Marshall speaks, it is important that we listen. There's one ingress and one egress. We are now talking about adding 157 units to the 70 households that are already there. How are they going to get out? Make sure that the developer and his attorney are held responsible and accountable, not the town of Westport. We have a two lane highway all the way from Norwalk to Wilton, Route 33, Riverside Avenue, Wilton Road into Wilton.

Two lanes. There needs to be a comprehensive traffic plan not something that comes back with this nonsense. I could write the guy's report for him. He always says, 'Oh, it's immaterial.' Stage four cancer, it's not immaterial. Stage five, you're dead and that's what the traffic situation is on this side of the Saugatuck River. I am going to vote to reject, to overturn this agreement and I am going to stick with the people of Saugatuck.

Andrew Colabella, district 4:

Everyone has said a lot of great things tonight. I agree with everything that Lou Mall has said. I agree with everything that Chris Tait has said. I agree with everything that Jimmy Izzo has said. When you think about Hiawatha, it really is an epicenter for Westport. Just around the time when the industrial revolution was happening, late 1800's, Hiawatha was existing in that area. The entire town was in that area. If you really want to talk about history, you had families like Vento, Lucciano, Anastasia, Penna, Genta, Valient Frihari, they all started in this neighborhood. This is where Westport started. In 1952, I-95 was created and Hiawatha to be moved. A lot of churches, a lot of buildings, everything was moved out of that area and a lot didn't survive. But Hiawatha has survived for a long time. Then, in 1989, the same year I was born, 8-30g was born. It had potential. It had a great ability to make housing affordable. I think everyone on this RTM and in this town, we do want affordable housing. But we want fair affordable housing. We want safe affordable housing. This lawsuit has been going on more than 10 years now, 20? I was going to the Italiano Festival and I was still in high school when this was going on. It's been a long time. I think everyone here is exhausted. I know Matt Mandell is exhausted. I've got to give him a lot of credit. When I first got on the RTM, I was deathly terrified to speak at the podium. I got to watch him speak and to see his passion and was able to relay his message of how much he loves Westport, really fighting for the people. And that's what I wanted to do, too. I think that's what all of us are trying to do. I'm surrounded by a lot of great people here tonight. Carolanne Curry, I really appreciate you getting this petition together. I told her that I hoped she would get the petition together. 'I want to hear this. I want to talk about it.' I sat in that Environmental Committee with Wendy and Kristin Schneeman and our purview was so tiny. It was one little pipe underneath the road. The thoughts that we had that we could have done to stop this project. We had nothing. You want to know where this project could have stopped? If Felix Charney, who has been in Westport his whole life, he could have taken these single family homes. He could have remodeled them. He could have made them more up to technological advances of today's standards. He could have reshaped the neighborhood. He could have kept it. A majority of you said this tonight. Greed played into it. We fell asleep. The last 32 years, our town has been taken advantage of. I know why we all moved here. I know why my parents moved here. They wanted to give me a town to grow up in that had a yard, so that I didn't have to go down in an elevator on east 72<sup>nd</sup> and walk three blocks to go to Central Park. They wanted me to have a small town. The education... the amenities. I think everyone should be able to get that. I think this entire project is horrible. This whole thing sucks. I hate using that word. I really do. It didn't have to be like this and it ended up like this. I've heard a lot of lawyers speak tonight, a lot of people who have inspired me to think more about my future as I'm still developing. Danielle Dobin, amazing. You took advantage of a moment where you knew you had speed. You knew what you had. I think we're making it something better than what it could be. My personal opinion, Judge Berger and

everyone else, they have it out for Westport. When you read *Pro Publica*, a news outlet, I call it a joke, they call us racist. There's nothing racist about this town. There's nothing racist about us. I'm not going to stand for that. You have Tim Hollister standing up and saying 'Does anybody say we need to keep blacks and Hispanics out of Westport? No. But they talk about property values, safety, and preserving open space.' That's got nothing to do with racism, discrimination. That's just a town of 26,000 or 27,000 individuals in this town that want to preserve the character. That is single family properties, diversified residential properties, commercial property, a place for a home for everyone. There is nothing discriminatory or racist about what we are discussing tonight. Because of 8-30g, nothing that has been developed before 1989 counts. We spent \$25 million on Hales Court. Hales Court was donated to the town in 1952. That was 14 acres of land from the Hales family. You have 1655 Post Road West. You have Crescent Park. You have Canal Park. If that all counted, we are one of the wealthiest towns in the State, in the country, but we would be one of the wealthiest, most diverse, open towns. We are an open town. It's not about color. It's about keeping what's right for the residents that are there. It's also about opening the environment to people to move here. I'm torn by this. I admire all the attorneys who have spoken, Kristan Hamlin, Ira Bloom...To the great attorneys, thank you. Tim Hollister, I hope you're taking notes. You can take a lot of information from these people. These are lawyers who fight for justice. You've done an injustice.

Arline Gertzoff, district 3:

I listened intently tonight because, as many of you know, I believe I've lived in this town longer than anyone on the RTM. My family came here 80 plus years ago. I'm extremely distressed with this project. I know many of these families who were founding families in Saugatuck. I've known them for ages. I'm truly distressed and I find it really hard to support this thing. I understand it's the best offer we could get but I don't think it's a really good offer and we really missed the boat. Having worked in New Canaan, I know they were way ahead of the curve. I know it's all been said but I felt I had to say something. As was said earlier, if there is anything we can do to help the people who were displaced, that's what we should do. It won't make up for it but I'm extremely distressed. Thank you to all the people who have done such a fabulous job, Danielle. Lou Mall's comments about people resonated to me. Carolanne Curry and all the people who contributed tonight, thank you.

Carla Rea, district 8:

I am stressed out because I believe, after listening to everybody, and thank you everybody for your remarks and your work, that we still don't have any guarantee whatsoever for getting this moratorium for another two years. I also believe the traffic safety is going to play a big, big role considering the place and the size of the road. I just cannot believe it could not be put forward before tonight's meeting to have a safety traffic study of what will happen with 187 or 157 apartments there. We are misplacing 23 people and we are gaining maybe 30 or 40? I just don't understand when the Housing Authority told us by a letter that they had lost the documents with our accounts and they refused to use our paperwork, why couldn't we have sued them?

Attorney Bloom:

Carla, they have not rescinded the moratorium yet. From a strict legal standpoint, there's nothing to sue them for. They haven't done the action yet. We have tried to negotiate and get them to this point where they have agreed to keep the moratorium as part of the settlement.

Ms. Rea:

Sorry to interrupt you. I must have heard this 100,000 times in the past few weeks; however, we still have no guarantee that we are going to retain the moratorium and that's the bottom line. I just don't believe that tonight's meeting speaks very well on the way we are fighting, the way we are doing what we need to do for our neighbors and for Saugatuck. It doesn't speak well. It looks like we don't have the 2/3 vote fighting for our neighbors.

Lauren Karpf, district 7:

We have certainly had a very good and productive discussion here. I'll echo the thank you's to Danielle and all of P&Z and to Ira for all of the hard work. One thing I just want to point out, everyone has shared so many sentiments about every aspect of this but one thing that hasn't been touched on, there is a positive here in the creation of real affordable units for families where we are going to have the three bedrooms which create the below market units. It's the silver lining here. I just wanted to end the night on a little bit of a positive. Thank you guys for all of your hard work.

Mr. Tait:

I wanted to clarify when I was talking about Westport painting us in a corner, meant that as a narrative that their attorney played a little dirty pool, made the narrative against us and we didn't fight back hard enough because we should be very proud of what we've done and what we've done for affordable housing and we should be promoting that. If that narrative gets into the paper that the judge is reading, I think we got painted in the corner with that. What we did in the past with P&Z, fighting, I think was the right thing to do. But I think we should have had a two-pronged approach. That was the narrative their attorney used on us and we should have fought back.

Dr. Heller:

I see that Mr. Elgin's hand is up and I just want to mention that this is the RTM comment time. We had a public comment period. There is no public comment at this time.

There were three members absent at the time of the vote: Talmadge, Briggs and Keenan.

**There were two members in favor of the motion: Mall and Rea. There were 29 opposed. There was one abstention: Gertzoff. Mr. Mandell recused himself. The final tally was 2-29-1. The motion does not carry.**

Dr. Heller:

We are at a point in the agenda where our Rules of Procedure say that no agenda item shall be placed before the meeting after 11:30 except by an affirmative vote of 2/3 of the members present. Do we have a motion?

Ms. Hamlin:

I'll make a **motion to postpone this item to a date certain, June 15**, the date you discussed, because it's going to be a long discussion and to start this at 11:41 is not fair to the police.

Seconded by Ms. Rea.

Dr. Heller:

I'm sorry it's taken so long but we could not interrupt another item to do this.

### **Members of the RTM**

Mr. Braunstein:

I'm just curious, how it would work if we were to begin this evening and, after a certain period of time, what would our procedures indicate in terms of when we should pause?

Dr. Heller:

There is not. We would just keep going. We have had meetings that went on until 2 o'clock in the morning. It would keep going.

Eileen Lavigne Flug, Assistant Town Attorney:

There could be a motion to postpone any time during the debate but it sounds like that motion is on the floor already.

Dr. Heller: That's the point.

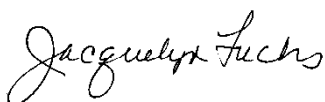
**By show of hands, the motion to postpone the meeting to June 15 passes.**

Dr. Heller:

The motion to postpone passes. I do apologize to the people who have been waiting all evening. By the time it became clear that it was going to be so late we were already in the middle of the other discussion. That is why we are where we are. We look forward to meeting with you next week. I want to thank everyone for bearing with us all evening and for your thoughtful comments throughout the evening. I look forward to seeing you next week. Thank you all.

The meeting adjourned at 11:42 p.m.

Respectfully submitted,  
Jeffrey M. Dunkerton  
Town Clerk



by Jacquelyn Fuchs

**ATTENDANCE: June 8, 2021**

DIST.	NAME	PRESENT	ABSENT	NOTIFIED MODERATOR	LATE/ LEFT EARLY
1	Richard Jaffe	X			
	Matthew Mandell	X			
	Kristin M. Purcell	X			
	Chris Tait	X			
2	Harris Falk	X			
	Jay Keenan	X			Left 9:03
	Louis M. Mall	X			
	Christine Meiers Schatz	X			
3	Mark Friedman	X			
	Arline Gertzoff	X			
	Jimmy Izzo	X			
	Amy Kaplan	X			
4	Andrew J. Colabella	X			
	Kristan Hamlin	X			
	Noah Hammond	X			
	Jeff Wieser	X			
5	Peter Gold	X			
	Dick Lowenstein	X			
	Nicole Klein	X			
	Karen Kramer	X			
6	Candace Banks	X			
	Jessica Bram	X			
	Seth Braunstein	X			
	Cathy Talmadge	X			Left 10:35
7	Brandi Briggs		X	X	
	Lauren Karpf	X			
	Jack Klinge	X			
	Ellen Lautenberg	X			
8	Wendy Batteau	X			
	Lisa Newman	X		X	Arr. 8:00
	Carla Rea	X			
	Stephen Shackelford	X			Arr. 7:30
9	Velma Heller	X			
	Sal Liccione	X			
	Kristin Schneeman	X			
	Lauren Soloff	X			
<b>Total</b>		<b>35</b>	<b>1</b>		

## Appendix I – Item #1

**RESOLVED:** That upon the request of the Board of Education and the recommendation of the Board of Finance, the sum of \$1,470,000 along with bond and note authorization to the Municipal Improvement Fund Account in order to award BOARD OF EDUCATION 21-011-RFP to Silkdown Roofing, Inc., for a partial roof replacement at Saugatuck Elementary School is hereby appropriated.

### **TOWN OF WESTPORT, CONNECTICUT**

#### **A RESOLUTION APPROPRIATING \$1,470,000 FOR COSTS ASSOCIATED WITH A PARTIAL ROOF REPLACEMENT AT SAUGATUCK ELEMENTARY SCHOOL AND AUTHORIZING THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION.**

**RESOLVED:** That upon the recommendation of the Board of Finance, the Town of Westport, Connecticut (the “Town”) hereby appropriates the sum of One Million Four Hundred Seventy Thousand and 00/100 Dollars (\$1,470,000) for costs associated with a partial roof replacement at Saugatuck Elementary School, including structural and architectural work, disposal, supplies, inspection, oversight, installation, administrative, financing and other related costs (the “Project”).

Section 1. As recommended by the Board of Finance and for the purpose of financing One Million Four Hundred Seventy Thousand and 00/100 Dollars (\$1,470,000) of the foregoing appropriation, the Town shall borrow a sum not to exceed One Million Four Hundred Seventy Thousand and 00/100 Dollars (\$1,470,000) and issue general obligation bonds for such indebtedness under its corporate name and seal and upon the full faith and credit of the Town in an amount not to exceed said sum for the purpose of financing the appropriation for the Project.

Section 2. The First Selectman, Selectmen and Finance Director are hereby appointed a committee (the “Committee”) with full power and authority to cause said bonds to be sold, issued and delivered; to determine their form, including provision for redemption prior to maturity; to determine the aggregate principal amount thereof within the amount hereby authorized and the denominations and maturities thereof; to fix the time of issue of each series thereof and the rate or rates of interest thereon as herein provided; to designate the bank or trust company to certify the issuance thereof and to act as transfer agent, paying agent and as registrar for the bonds, and to designate bond counsel. The Committee shall have all appropriate powers under the Connecticut General Statutes including Chapter 748 (Registered Public Obligations Act) to issue the bonds and, further, shall have full power and authority to do all that is required under the Internal Revenue Code of 1986, as amended, and other applicable laws and regulations of the United States and the state of Connecticut, to provide for issuance of the bonds in tax exempt form, including the execution of tax compliance and other agreements for the benefit of bondholders, and to meet all requirements which are or may become necessary in and subsequent to the issuance and delivery of the bonds in order that the interest on the bonds be and remain exempt from federal income taxes, including, without limitation, to covenant and agree to restriction on investment yield of bond proceeds, rebate of arbitrage earnings, expenditure of proceeds within required time limitations and the filing of information reports as and when required and to execute Continuing Disclosure Agreements for the benefit of holders of bonds and notes.

Section 3. The Bonds may be designated “Public Improvement Bonds” series of the year of their issuance and may be issued in one or more series, and may be consolidated as part of the same issue with other bonds of the Town; shall be in serial form maturing in not more than twenty (20) annual installments of principal, the first installment to mature not later than three (3) years from the date of issue and the last installment to mature not later than twenty (20) years therefrom, or as otherwise provided by statute. The bonds may be sold at not less than par and accrued interest at public sale upon invitation for bids to the responsible bidder submitting the bid resulting in the lowest true interest cost to the Town, provided that nothing herein shall prevent the Town from rejecting all bids submitted in response to any one invitation for bids and the right to so reject all bids is hereby reserved, and further provided that the Committee may sell the bonds, or notes, on a negotiated basis, as provided by statute. Interest on the bonds shall be payable semiannually or annually. The bonds shall be signed on behalf of the Town by the First Selectman and the Finance Director, and shall bear the seal of the Town. The signing, sealing and certification of said bonds may be by facsimile as provided by statute. The Finance Director shall maintain a record of bonds issued pursuant to this resolution and of the face amount thereof outstanding from time to time, and shall



certify to the destruction of said bonds after they have been paid and cancelled, and such certification shall be kept on file with the Town Clerk.

Section 4. The Committee is further authorized to make temporary borrowings as permitted by the General Statutes and to issue a temporary note or notes of the Town in anticipation of the receipt of proceeds from the sale of the bonds to be issued pursuant to this resolution. Such notes shall be issued and renewed at such times and with such maturities, requirements and limitations as provided by statute. Notes evidencing such borrowings shall be signed by the First Selectman and the Finance Director, have the seal of the Town affixed, which signing and sealing may be by facsimile as provided by statute, be certified by and payable at a bank or trust company incorporated under the laws of this or any other state, or of the United States, be approved as to their legality by bond counsel, and may be consolidated with the issuance of other Town bond anticipation notes. The Committee shall determine the date, maturity, interest rates, form and manner of sale, including negotiated sale, and other details of said notes consistent with the provisions of this resolution and the General Statutes and shall have all powers and authority as set forth above in connection with the issuance of bonds and especially with respect to compliance with the requirements of the Internal Revenue Code of 1986, as amended, and regulations thereunder in order to obtain and maintain issuance of the notes in tax exempt form.

Section 5. Upon the sale and issuance of the bonds authorized by this resolution, the proceeds thereof, including any premium received upon the sale thereof, accrued interest received at delivery and interest earned on the temporary investment of such proceeds, shall be applied forthwith to the payment of the principal and interest of all notes issued in anticipation thereof or shall be deposited in trust for such purposes with a bank or trust company, or shall be applied or rebated as may be required under the provision of law. The remainder of the proceeds, if any, after the payment of said notes and of the expense of issuing said notes and bonds shall be applied to further finance the appropriation enacted herein.

Section 6. In each fiscal year in which the principal or any installment of interest shall fall due upon any of the bonds or notes herein authorized there shall be included in the appropriation for such fiscal year a sum equivalent to the amount of such principal and interest so falling due, and to the extent that provision is not made for the payment thereof from other revenues, the amount thereof shall be included in the taxes assessed upon the Grand List for such fiscal year and shall not be subject to any limitations of expenditures or taxes that may be imposed by any other Town ordinance or resolution.

Section 7. Pursuant to Section 1.150-2 (as amended) of the federal income tax regulations the Town hereby expresses its official intent to reimburse expenditures paid from the General Fund, or any capital fund for the Project with the proceeds of the bonds or notes to be issued under the provisions hereof. The allocation of such reimbursement bond proceeds to an expenditure shall be made in accordance with the time limitations and other requirements of such regulations. The Finance Director is authorized to pay Project expenses in accordance herewith pending the issuance of the reimbursement bonds or notes.

Section 8. The Town of Westport, or other proper authority of the Town, is authorized to take all necessary action to apply to the State of Connecticut, and accept from the State or other parties, grants, gifts and contributions in aid of further financing the Project. Once the appropriation becomes effective, the First Selectman, or other appropriate official of the town, is hereby authorized to spend a sum not to exceed the aforesaid appropriation for the Project and is specifically authorized to make, execute and deliver any contracts or other documents necessary or convenient to complete the Project and the financing thereof.

Section 9. The Committee is hereby authorized to take all action necessary and proper for the sale, issuance and delivery of the bonds (and notes) in accordance with the provisions of the Town Charter, the Connecticut General Statutes, and the laws of the United States.