

**RTM Joint Committee Meeting of Library Museum and Arts with Finance Committees
January 27, 2022
Meeting via Zoom**

A joint committee meeting was held by zoom on January 27th to address a proposal from the Westport Arts Advisory Committee to recommend approval to the full RTM an appropriation of \$200,643.00 for 12 Non-Profit Arts Organizations from the ARPA CLFRF Grant Income account.

In attendance For RTM Finance:

- Seth Braunstein – RTM Finance Committee
- Nancy Kail– RTM Finance Committee
- Jessica Bram– RTM Finance Committee
- Stephen Shackelford– RTM Finance Committee
- Rachel Cohen– RTM Finance Committee
- Don O’Day– RTM Finance Committee

In attendance for RTM Library Museum and Arts Committee:

- Kristin Mott Purcell– RTM Library Museum and Arts Committee
- Candace Banks – RTM Library Museum and Arts Committee
- Karen Kramer– RTM Library Museum and Arts Committee
- Lori Church – RTM Library Museum and Arts Committee
- Harris Falk– RTM Library Museum and Arts Committee
- Arline Gertzoff– RTM Library Museum and Arts Committee
- Dick Lowenstein– RTM Library Museum and Arts Committee
- Wendy Bateau– RTM Library Museum and Arts Committee

Others in attendance:

- Peter Gold – RTM
- Nancy Diamond - WAAC
- Lee Goldstein – WAAC

Nancy Diamond presented the background on the ARPA funding request for the Westport Arts Advisory Council. Nancy explained that former First Selectman Jim Marpe approached the WAAC about a potential grant. When they discussed the grants with the Board of Finance, they were encouraged to return to the BofF with specific funding requests. The WAAC organized a grant proposal process late in 2021 which culminated in January of 2022 with the selection of 12 grant recipients for \$200,643 of the initially proposed \$250,000 each of which met the criteria as defined in the packet provided tonight by WAAC.

Lee Goldstein then addressed the process and requirements that each grantee needed to meet to qualify for WAAC’s criteria for funding. Lee described a strategic process to spread the funding out to as many organizations as possible. Of the 16 arts organizations in Westport that meet the 501c3 criteria, 12 applied. They were each reviewed by a WAAC working committee then a WAAC full committee and were then presented to the Board of Finance who voted to fund the WAAC AARPA grant request.

The committees had a number of questions:

Are arts organizations eligible for ARPA funding?

- Yes, Governor Lamont has emphasized the need to support the arts with ARPA funding.

Should we give the funding to the WAAC to distribute?

- They aren't elected. The Committee is made up of appointed members who bear some skills that help them execute their roles. Have any of the grantees received other grants.

Should they get ARPA \$\$ on top of that?

- ARPA funding is designed to support specific program expenses versus other grants that may support operating expenses including things like rent, salaries, etc. which are not included in the ARPA grants.

There were a number of questions as to why the arts specifically were chosen for grants and not other organizations like Earthplace, the library or the Westport Playhouse. There were additional comments on the larger process of determining how ARPA funding in general is being distributed. One member noted there has been a lack of clarity on the process. There was some hope that the LRP committee will be able to help us understand the larger picture of infrastructure needs, additional health and human service needs, arts opportunities, other non-profits requiring support, etc.

Seth Braunstein asked for public comments and there were none.

Voting for the Finance Committee was 5 - 0 - 1:

Stephen Shackelford made the motion to approve to the full RTM for the Finance committee and was seconded by Rachel Cohen.

Voting in favor of the allocation:

- Nancy Kail
- Jessica Bram
- Stephen Shackelford
- Rachel Cohen
- Don O'Day

Abstaining votes:

Seth Braunstein

Voting for the Library, Museum & Arts Committee was 5 - 0 - 2 - 1:

Candace Banks made the motion to approve to the full RTM for the LMA committee and was seconded by Karen Kramer.

Voting in favor of the allocation:

- Candace Banks
- Karen Kramer
- Lori Church
- Harris Falk
- Kristin Mott Purcell

Abstaining votes:

- Arline Gertzoff
- Dick Lowenstein

Recused was:

- Wendy Bateau

RTM PUBLIC WORKS & FINANCE COMMITTEE MEETING

DATE; PW & Finance – Thursday, January 27, 2022

TIME; PW/Fin - 7:00 PM meeting start, ZOOM

PURPOSE; Review requested expenditure by Public Works Department for appropriation from the ARPA funds for the replacement of the Burying Hill Beach Groin.

PRESENTED BY; Peter Ratkiewich, Public Works Director

Mr. Ratkiewich requested an appropriation of \$1,300,000.00 for the replacement of the Burying Hill Beach Groin. The groin was installed by the Army Corps of Engineers approximately 70 years ago. The project will replace the existing groin “in kind” on the Burying Hill Beach side with new timbers and stones. The decision to replace the groin in the same location and with the same material was based on the significantly simpler permitting process and the fact that the existing structure has lasted 70 years.

This project will be funded from the ARPA funds. This project is in the 5 year capital forecast. The original projected cost for the project was \$900,000 but has increased to \$1,300,000 due to the escalating cost of lumber and labor over the last few years.

There was an extensive discussion regarding the appropriate use of ARPA funds and if this project should be funded by the ARPA money.

The Public Works Committee voted 4-2-1 to recommend approval to the full RTM and the Finance Committee voted 4-1-1 to recommend approval to the full RTM.

In attendance;

PW Comm - Jay Keenan (chair/reporter), Don O’Day (both), Matt Mandell, Peter Gold, Lori Church, Chris Tait, Dick Lowenstein,

Finance Comm – Seth Braunstein (chair), Nancy Kail, Jessica Bram, Rachel Cohn, Stephen Shackelford

Minority Report – RTM Public Works Committee meeting Thursday January 27, 2022.

This report is being offered to fully convey the reasons for a negative vote and alternate approach to recommending \$1.3 million be spent of ARPA funds to rehabilitate the jetty at Burying Hill Beach.

Mr. Mandell of district 1, after hearing from two other RTM members Jessica Bram district 6 and Lori Church district 9 stating that ARPA money should not be used for this project, proposed an alternate funding source, bonding.

Before laying out his reasoning and then solution, he said he supported the project and would vote for it if this alternative was not accepted. He also stated that he felt the expenditure did meet ARPA rules. He said he spoke with the Director of Finance, the Town Attorney, and the Chair of the Board of Finance in researching this alternative.

Why APRA money should not be used -- In agreeing with the two other RTM members Mr. Mandell said that the optics of spending this money in lieu of other more interesting and community aiding projects should be looked at. That politically this expenditure could be problematic. That spending this money on ie... Affordable housing would be more beneficial. He suggested that bonding this expenditure was justified and a better means to accomplish this and would free up the money for other uses. Most other long-term projects, such as schools and sewers, and with this to last another 70 years, were normally bonded.

How to bond with limited delay –

1. The RTM would not vote no to the ARPA expenditure, but instead vote to postpone to a date certain, the next RTM meeting on March 1. Thus, keeping the item alive. In doing this new resolution they would ask the First Selectwoman to propose bonding and submit this request to the Board of Finance to be heard at their next meeting in February.
2. If the BOF voted no to bonding, the RTM would be in the same position as it is now and would then vote on the ARPA funding. If the BOF voted yes, the bonding item would be placed prior to the postponed item on the March 1 agenda.
3. If the RTM then voted yes to bonding, the subsequent APRA item would be rendered moot. If the RTM voted not to bond, the body would once again be in the same position as it is now to vote on ARPA funding.

Discussion ensued on this alternate concept. While there was additional support beyond Bram, Church and Mandell for this concept, the majority felt this would delay this project getting started, would cost more in the end and that the optics of spending ARPA money was acceptable in this case. The minority saw no issue with having this project start in the fall if there was any delay at all. With a clear majority not looking to recommend this alternative, Mr. Mandell said he felt bringing this concept to the RTM floor would not be successful. But he did say he wanted to offer this minority report to explain the alternative to the RTM for the record.

Respectfully submitted by Lori Church District 9 and Matthew Mandell District 1.



BACK UP MATERIAL
RTM ITEM # 2

MEMORANDUM

To: Peter Ratkiewich, Director of Public Works
From: Nicholas R. Bamonte, Esq.
Date: January 31, 2022
Re: ARPA Expenditure Eligibility – Burying Hill Beach Groin

NRS

You have asked for a legal opinion regarding whether funds received by the Town from the federal government through the American Rescue Plan Act of 2021 (“ARPA”) ¹ may be used for the replacement of the existing groin at Burying Hill Beach in Westport. After reviewing the specific provisions of ARPA as well as the Final Rule² implementing ARPA issued by the U.S. Department of the Treasury, I believe the anticipated expenditure is an eligible use of ARPA funds that may be validly authorized by the RTM.

The Burying Hill Beach Groin serves the important role of preventing beach sand from entering New Creek and creating a functional, safe attraction for the public. The existing groin was constructed by the Army Corps of Engineers in 1950 and is now in such a state of disrepair that it no longer serves as a sand deterrent and it currently poses a safety hazard to the public. I understand that the anticipated expenditure amount would be \$1,300,000 with an estimated construction start date of February 2022 and completion date of June 2022.

ARPA funds may be utilized by local governments in four primary ways:

1. To respond to the public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
2. To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers;
3. For the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency; and
4. To make necessary investments in water, sewer, or broadband infrastructure.

The four use categories each have separate and distinct standards for assessing whether a use of funds is eligible that do not carry over from one category to another. As stated at page 8 of the Final Rule, “standards, restrictions, or other provisions in one eligible use category do not apply to the others.” Therefore,

¹ H.R.1319 - 117th Congress (2021-2022): American Rescue Plan Act of 2021, H.R.1319, 117th Cong. (2021), <https://www.congress.gov/bill/117th-congress/house-bill/1319/text>.

² 31 CFR Part 35 [RIN 1505-AC77] - Coronavirus State and Local Fiscal Recovery Funds -- Final Rule, <https://home.treasury.gov/system/files/136/SLFRF-Final-Rule.pdf>.

if an intended potential use of funds falls into more than one use category, it constitutes an allowed use if it satisfies the eligibility criteria in at least one of those use categories.

Under the Final Rule, recipients may elect a fixed amount of loss that can then be used to fund a broad range of government services. This fixed amount, referred to as the “standard allowance,” is set at \$10 million total for the entire period of performance. Government services include, but are not limited to:

- Maintenance or pay-go funded building of infrastructure, including roads; modernization of cybersecurity, including hardware, software, and protection of critical infrastructure;
- Health services; environmental remediation;
- School or educational services; and
- The provision of police, fire, and other public safety services.

In my opinion, the proposed replacement of the Burying Hill Beach Groin falls within several of the government services subcategories above, particularly the first bullet, and therefore up to \$10 million in ARPA funds may be legally expended for that purpose. Here, the requested expenditure does not exceed \$1.3 million, and therefore is valid under the terms of ARPA.