

**Action Minutes of the
RTM Parks & Recreation and Planning and Zoning Committees
Thursday, August 29, 7:30 pm, Town Hall Room 309**

The RTM P&R and P&Z Committees met on Thursday, August 29, at 7:30 pm, in Town Hall Room 309.

P&R Committee members in attendance were Bill Meyer (Chair), Jack Klinge, Don Bergmann, Chris Urist, Dave Floyd, John Suggs, and Paul Rossi. P&Z Committee members in attendance were Matthew Mandell (Chair), Diane Cady, Lois Schine, Don Bergmann, Jay Keenan & Carla Rea.

Present also were RTM members Dewey Loselle and Lee Arthurs & Lou Mall.

The Committees met to discuss the pending RTM resolution to appropriate \$50,000 for a study on the redesign of Compo Beach Park. P&R Director Stuart McCarthy presented for the P&R Committee and the Compo Beach Improvement Committee.

Mr. McCarthy outlined the reasons for the request, the process thus far in finding a planner and what is intended to be studied and redesigned. An RFP has already gone out and Lothrop & Associates was selected. The scope of the study is access, parking, safety and issues related to the bath house. There will be future input by the public and the process should take 4-6 months to complete. Future requests for money will come to accomplish the concepts outlined in the study.

Jack Klinge pressed for more to be done with the bathhouse. Just a study was not sufficient. He requested that the study include a redesign by an architect as well. This will be looked into, but the money here is only for the study. Mr. Klinge debated as to whether he should vote no, but chose to move the process forward.

The P&R Committee Voted 7-0 to recommend the appropriation.

The P&Z Committee Voted 5-1, with Carla Rea dissenting requesting that the bathhouse redesign should be part of this.

The meeting was adjourned at approximately 8:10.

Submitted by:

Matthew Mandell, P&Z Committee Chair, for both committees.

RTM PUBLIC WORKS COMMITTEE MEETING

DATE; August 28, 2013

TIME; 7:00 PM, Room #102

PURPOSE; Review requested expenditure by Public Works Director (Steve Edwards) for an appropriation of \$400,000 to fund Sasco Creek Road Culvert replacement at Sasco Creek and Town Crier culvert replacement at Silver Brook

PRESENTED BY; Stephen J. Edwards, Director of Public Works

Mr. Edwards requested the appropriation of \$400,000.00 to cover the necessary work required to replace the culverts at Sasco Creek and Town Crier at Silver Brook;

Sasco Creek Culvert - \$320,000 (1950 stone culvert)
Town Crier Culvert - \$80,000 (Silver Brook drainage system)

Mr Edwards explained that the Sasco Creek culvert was installed in the 1950's and had exceeded its life expectancy. The culvert has been repaired over the years but the integrity of the structure is beginning to show signs of its age. The culvert will be replaced with a new pre-cast concrete culvert similar to that installed on Beachside Avenue.

Mr Edwards stated that the Town Crier culvert is the last of the Bonnie Brook drainage system to be repaired. The Town has been repairing the undersized culverts along Silver Brook over the last ten years and this will complete the system. He also described the process of obtaining easements and permission from adjacent homeowners to do the repair work and how long the process takes to complete.

Although the committee did not have a quorum a motion was made to approve the appropriations, and it was unanimous to recommend approval to the full RTM.

Members;
Melissa Kane
Cornelia Olsen
Jack Klinge (noted his approval)
Jay Keenan (chair/reporter)

**Action Minutes of the
RTM Planning and Zoning Committee
Thursday, August 29, 8:00 pm, Town Hall Room 309**

The RTM P&Z Committee met on Thursday, August 29, at 8:00 pm, in Town Hall Room 309.

P&Z Committee members in attendance were Matthew Mandell (Chair), Diane Cady, Lois Schine, Don Bergmann, Jay Keenan & Carla Rea.

Present also were RTM members Dewey Loselle and Lee Arthurs, John Suggs & Lou Mall. There were two dozen members of the public in attendance.

The Committee met to discuss the pending RTM resolution to create an "Anti Blight" ordinance. RTM Member Lou Mall presented.

This was the third meeting for this committee concerning this ordinance. The prior two meetings were productive in that suggestions for modifications were offered and Mr. Mall and Assistant Town Attorney went back and adjusted the ordinance to reflect concerns and input. Mr. Mall felt this version was the one to finally bring to the full RTM.

He identified a minimum of 10 houses which would fall under the definition of a blighted property, most of them vacant. He addressed Building Department Director Steve Smith's concerns regarding funding and enforcement.

9 members of the public spoke during the meeting, 8 in favor of the ordinance and 1 opposed. Those in favor stating blight hurt their neighborhoods financially and spiritually. The one opposed thought it was arrogant and that fines should not accrue to those considered a "special consideration."

The meeting lasted 2:30 hours. Most of the time was spent, as in the prior two meetings tweaking and adjusting the ordinance. Most of the RTMs were again concerned with the protection of individual rights, abuse by and of neighbors and protection of those who could be considered a "special consideration."

While some members were comfortable moving this to the full RTM as is, others were not fully, though interested in seeing the ordinance approved with modifications. It was agreed that questions and modifications would be asked and presented for the Assistant Town Attorney Gail Kelly, who was not present to due to vacation, for her answers and inclusion for the full RTM meeting.

It was anticipated that a new version incorporating the modifications would be submitted by Mr. Mall as an amendment to the ordinance. No one thought these changes would require a new first reading.

The following are the questions and the votes taken for each modification.

Questions

Definitions - Can we do commercial? State, does not have commercial in their section.

Double Fines - Can there be a Blight Fine and Zoning fine for the same infraction?

Consistency - Does the blight law have to be consistent with Zoning law? Ie double notice etc....

Other questions were emailed to Mr. Mall by Mr. Keenan which will be sent to the town attorney, but they were after the meeting was closed.

Modifications with votes

1. Definition - Dilapidated - Remove Certificate of Occupancy - Vote 6-0

2. Exempt Property - How do we deal with a "just bought" property to allow them time to do what they need to do. How do we deal with someone buying it and wanting to demo it? Concern is 15-30 days is not enough time. While the board "might" give time there is nothing firm in the ordinance. Vote 4-1-1 Bergmann no, Cady abstain.

3. Special Consideration - Remove burden of proof of "Good Cause" from owner/occupant and just have "good cause" be established. This allows for human services or whoever to be a part of this. Vote 4-1-1. Bergmann no, Cady abstain.

4. Special Consideration - Add Mental illness somehow if ADA does include it. Vote 5-0-1. Cady abstain.

5. Special Consideration and elsewhere - If a Special Consideration exists, that no penalty accrues. And certainly no lien for the penalty part if the town does force a remediation. So only the latter gets a lien not the penalty. Vote 4-1-1. Bergmann no, Cady abstain.

6. Determination of violation (D) - Change from 15 to 30 days. Vote 5-0-1. Cady abstain.

A resolution was brought to recommend approval with the voted on modifications by Mandell and seconded by Schine.

The P&Z Committee Voted 3-1-2 to approve recommendation, Yes - Bergmann, Mandell, Schine, No - Cady, Abstain - Keenan & Rea

Ms. Cady's no vote was based on the difficulty in dealing with this and the intrusion on a person's privacy.

The abstentions by Mr. Keenan and Ms. Rea were based on hearing more information from the Town Attorney on the procedures involving seizure and how to deal with

occupied premises. Ms. Rea was specifically concerned with privacy and Mr. Keenan with owner rights and procedure.

The meeting was adjourned at approximately 10:40.

Submitted by:

Matthew Mandell, P&Z Committee Chair

**Action Minutes of the
RTM Rules and Special Ethics Committees
Tuesday, August 27, 7:30 pm, Town Hall Room 201**

The RTM Rules and Special Ethics Committees met on Tuesday, August 27, at 7:30 pm, in Town Hall Room 201.

Rules Committee members in attendance were Eileen Flug (Chair), Velma Heller, Matt Mandell, Melissa Kane, Jonathan Cunitz, Dick Lowenstein, Steve Rubin and Lois Schine. Absent were Sean Timmins, Cathy Talmadge and John McCarthy. Special Ethics Committee members in attendance were Eileen Flug (Chair), Jonathan Cunitz, Velma Heller, Dick Lowenstein, Jeff Wieser and Melissa Kane. Absent was Wendy Batteau.

Present also were RTM members John Suggs, Dewey Loselle, Don Bergmann and Lou Mall and Assistant Town Attorney Gail Kelly.

The Committees met to discuss the pending RTM resolution to amend the Conflicts of Interest section of the RTM Rules of Procedure that had been moved and seconded at the July 30 RTM meeting and postponed until the September 3 meeting, and to discuss a proposed Code of Ethics that is expected to be presented at the RTM's October meeting. The main motion at the July 30 RTM meeting would add the following sentence to the Conflicts of Interest section (Article VI, Section A162-20) of the RTM Rules of Procedure:

“Potential ethics concerns may be discussed with the Moderator, Deputy Moderator, Town Attorney or Assistant Town Attorney.”

At the RTM meeting, Dewey Loselle moved, and it was seconded, to amend the sentence to say:

“Potential ethics concerns should be discussed with one of the following Town Officials: the RTM Moderator, RTM Deputy Moderator, Town Attorney or Assistant Town Attorney, who then should take appropriate action as necessary.”

Also at the RTM meeting, Velma Heller moved, and it was seconded, to replace the last phrase of the proposed amendment with:

“...who should then make recommendations for appropriate action.”

After some discussion of these amendments at the July 30 RTM meeting, Melissa Kane moved, and it was seconded, to postpone the question until the September 3 meeting so that the Rules and Special Ethics Committees could meet and recommend language to the full RTM.

After the July 30 meeting, John Suggs, Dewey Loselle and Don Bergmann notified the Moderator that they would be proposing a Code of Ethics to replace the Conflicts of

Interest section of the RTM Rules of Procedure. Attached is the draft Code that was presented to the Committees. Messrs. Suggs, Loselle and Bergmann advised the Committees that they plan to present the Code of Ethics for inclusion on the RTM's October agenda.

The Committees decided to discuss the proposed Code of Ethics first, and then discuss the proposed sentence from the July 30 RTM meeting.

John Suggs made a presentation on behalf of himself, Dewey Loselle and Don Bergmann, beginning with their "Westport RTM Ethics Policy Goals" noted at the top of their proposed Code of Ethics:

- To ensure the public confidence in the integrity of the RTM
- To ensure the independence of RTM members
- To ensure that the public office of the RTM is not used for private gain

Mr. Suggs noted that their interest is to expand the Conflicts of Interest section to address more ethics issues and to include a procedure for handling ethics concerns about RTM members' actions. They believe that the existing Conflicts of Interest provision is weak because the ultimate decision of whether a conflict exists and whether the RTM member should recuse himself or herself from a vote is determined by that RTM member, and that, additionally, there is no guidance on the procedure for recusing oneself (whether the member should leave the room; whether the member should participate in the debate). They are also concerned about RTM members commenting about Town matters using a pseudonym. Additionally, they desire to empower the RTM to impose sanctions upon a member if an ethical violation is found.

The Committee members raised some concerns about the proposed Code of Ethics, including:

- Whether the prohibition on gifts would apply to campaign contributions. Mr. Suggs advised that they would exclude them in the next draft.
- The public nature of an Ethics Committee meeting. The proponents felt that a public ethics investigation increases the public's confidence in the integrity of the RTM by demonstrating to the public that ethics concerns are taken seriously.
- The unintended consequences of public embarrassment and damage to a member's reputation due to an unfounded ethics investigation.
- The proposed Code as written provides that all ethics concerns be brought to the Special Ethics Committee. Some Committee members preferred that the complaint be brought to the Moderator or Deputy Moderator first.
- That the Code is too specific; that a broad, global statement provides more guidance since it's impossible to describe and prohibit all possible ethical violations.
- That while a clear general code that does not encompass specifics would be welcomed, the RTM should continue to rely on self-policing.
- Whether the Special Ethics Committee and/or the RTM should meet in Executive Session to avoid a public inquiry. Gail Kelly confirmed to the Committees that

the Special Ethics Committee could indeed meet in Executive Session to discuss ethics complaints about RTM members.

- That prohibiting use of pseudonyms may be unenforceable and may be too specific. Some Committee members preferred that the prohibition be on misrepresenting oneself.

Gail Kelly advised that the proposed Code should be more specific in order to give the Special Ethics Committee more guidance to make better decisions when faced with an ethics investigation.

Messrs Suggs, Loselle and Bergmann agreed to revise the proposed Code of Ethics to address some of these concerns. They plan to present the revised Code at another meeting of the Rules and Special Ethics Committees before the October RTM meeting.

The Committees then turned to a discussion of the proposed sentence that was postponed from the July meeting. Jonathan Cunitz moved, seconded by Lois Schine, that the Committees recommend to the RTM that the proposed sentence be amended to read:

“Potential ethics concerns should be discussed with the RTM Moderator or the RTM Deputy Moderator for resolution as appropriate.”

There was much discussion about whether this language would adequately require the Moderator or Deputy Moderator to take action. Committee members also inquired whether the language should include the Town Attorney or Assistant Town Attorney. Gail Kelly was asked whether this would be acceptable to her, as the question had come up at the July 30 RTM meeting. She advised that the language in Dewey Loselle’s amendment made at the July 30 RTM meeting requiring the Town Attorney or Assistant Town Attorney to “take appropriate action as necessary” would impose an obligation on them over which they have no jurisdiction since their role is advisory. She advised that the type of language proposed in the main resolution made at the July 30 RTM meeting would be acceptable because it is silent about what action they might take.

At one point during the discussion, Lois Schine moved for the Rules Committee, and Dick Lowenstein seconded, to Call the Question, requiring a 2/3 vote. The vote failed. Rules Committee members voting in favor were Lois Schine, Dick Lowenstein and Jonathan Cunitz. Voting against were Velma Heller, Matt Mandell, Melissa Kane, Steve Rubin and Eileen Flug. Jonathan Cunitz then moved for the Ethics Committee, and Dick Lowenstein seconded, to Call the Question. The vote failed. Voting in favor were Jonathan Cunitz and Dick Lowenstein, and voting against were Velma Heller, Jeff Wieser, Melissa Kane and Eileen Flug.

After further discussion, the committees discussed whether the sentence proposed in the main motion for the September meeting should be postponed until the October meeting so that it could be voted upon at the same time as the proposed Code of Ethics.

The committees then voted on Jonathan Cunitz’s motion. The motion passed both committees. The motion passed the Rules Committee by a vote of 5 to 3. Voting in

favor for the Rules Committee were Jonathan Cunitz, Lois Schine, Velma Heller, Dick Lowenstein and Eileen Flug. Voting against were Melissa Kane, Matt Mandell and Steve Rubin. The motion passed the Special Ethics Committee by a vote of 5 to 1. Voting in favor for the Ethics Committee were Jonathan Cunitz, Dick Lowenstein, Velma Heller, Jeff Wieser and Eileen Flug. Voting against was Melissa Kane. Messrs. Mandell and Rubin and Ms. Kane each requested that the record reflect they are not opposed to Jonathan Cunitz's language, but that they voted no because they prefer that the language be incorporated into the Code of Ethics being proposed by Messrs. Suggs, Loselle and Bergmann to be presented at the October RTM meeting.

The meeting was adjourned at approximately 10:15.

Submitted by:

Eileen Lavigne Flug, RTM Rules Committee and Ethics Committee Chair

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WESTPORT RTM ETHICS POLICY GOALS

- To ensure the public confidence in the integrity of the RTM
- To ensure the independence of RTM Members
- To ensure that the public office of the RTM is not used for private gain

CODE OF ETHICS

RTM Members shall act in accordance with all applicable laws, regulations and codes. No RTM Member shall undertake, or assist another to undertake, any action which violates applicable laws, regulations codes.

1. Misuse of RTM Position or Resources; Conflicts of Interest

No RTM Member shall use his or her position or prospective position, or the power or authority of his or her position or prospective position, in any manner to induce or coerce any person or entity to provide, directly or indirectly, anything of value which shall accrue to the private advantage, benefit, or economic gain, of the RTM Member, or of any other person. As used in this section, the term "private advantage, benefit, or economic gain" means any advantage, benefit or economic gain, distinct from that enjoyed by members of the public without regard to official status or not resulting naturally from lawful and proper performance of duties.

2. Self-Identification of RTM Members; None Use of Pseudonyms.

RTM Members shall clearly identify themselves, use their own names and not use pseudonyms when communicating about Town matters in all form of public communication, whether in writing, by electronic communications or through the media.

3. Restrictions on Gifts.

No RTM Member shall solicit or accept, any gift that will or could be perceived to influence the RTM Member in the performance of any official act.

4. RTM Special Ethics Committee

The RTM Special Ethics Committee shall receive all complaints of any potential violations of the RTM Ethics Policy.

5. Complaints Procedure; Disciplinary Actions

The RTM Special Ethics Committee shall investigate all complaints of potential violations of the RTM Ethics Policy and, after giving the RTM Member concerned an opportunity to be heard, shall make such findings and recommendations as it may deem appropriate in each case. Any RTM Member that is found to have engaged in action or inaction that violates any provision of this RTM Ethics Policy may be recommended by the Special Ethics Committee for official reprimand by the RTM. If the Special Ethics Committee recommends that the concerned RTM Member be subject to censure or any other sanction or remedy authorized by law, the RTM, as the responsible legislative body, must choose, in an open session held after applicable public notice, whether, and to what extent, to impose such sanctions.

6. Resignation, Compensatory Action, Apology.

Violation of any provision of the RTM Ethics Policy should raise conscientious questions for the RTM Member official concerned as to whether a sincere apology, compensatory action, or resignation is appropriate to promote the

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best interests of the town and to prevent the cost - in time, money, and institutional integrity - of an investigation and hearings.

(Note for Discussion Purposes Only - Not for Inclusion in the Final Ethics Policy: An official should not compound ignoring a conflict of interest by again putting his or her personal interest ahead of the public interest by denying, obfuscating, or covering up what he or she knows to be true, or by, directly or indirectly, falsely accusing others of misconduct. An apology that includes sincere remorse and a willingness to make reasonable reparations restores respect and dignity, brings peace to personal and partisan rancor, assures the public that it is safe from further harm.)

7. **Advisory Opinions**

Upon request of any RTM Member, the RTM Special Ethics Committee shall render an advisory opinion to such RTM Member with respect to the RTM Ethics Policy.

8. **Ethics Training**

All RTM Members are required to participate in an ethics training session no less than once every two years conducted by the Office of the Town Attorney and the RTM Special Ethics Committee. These training sessions shall be structured to assure that each participant has the knowledge to comply fully with all of the relevant ethics laws governing their service to the Town of Westport.

REPRESENTATIVE TOWN MEEETING RULES OF PROCEDURES

Article VI. Ethics Code

Sec. A162-20 Goals of Ethics Code

- A. To ensure public confidence in the integrity of the RTM.
- B. To ensure the independence of RTM Members.
- C. To ensure that the public office of the RTM is not used for private gain.
- D. To establish a clear and public process on how to proceed with an ethics complaint involving an RTM member.

Sec. A162-21 General Standard; Misuse of RTM Position or Resources; Conflicts of Interests

It is expected that RTM Members will act in accordance with all applicable laws, regulations and codes, including the Town Charter, Town Ordinances and the Rules of Procedure of the RTM.

No RTM Member shall use his or her position or prospective position, or the power or authority of his or her position or prospective position, in any manner intended to induce or coerce any person or entity to provide, directly or indirectly, anything of value which shall accrue to the private advantage, benefit, or economic gain, of the RTM Member or members of their family. As used in this section, the term "private advantage, benefit, or economic gain" means any advantage, benefit or economic gain, distinct from that enjoyed by members of the public without regard to official status or not resulting naturally from lawful and proper performance of duties. It is expected that RTM Members will not misrepresent themselves in the course of their public activities and status as Town Officials.

Sec. A162-22 Ethics Complaints

A. Complaint Process:

Complaints as to potential violations of the RTM Ethics Policy should be brought initially to the Moderator or, if a conflict may exist, the Deputy Moderator, for resolution and, if appropriate, action. If not resolved by the Moderator or Deputy Moderator or, if in the judgment of the person or entity having initiated the complaint, or the RTM Member or Members to which the complaint pertains, the resolution is not satisfactory, the complaint shall be referred to the RTM Special Ethics Committee, or the appropriate successor RTM Committee established to address ethics. Thereupon, the RTM Special Ethics Committee shall investigate the complaint and, after giving the complainant and the RTM Member or Members concerned an opportunity to be heard, shall make such findings and recommendations as it may deem appropriate in each case.

Any RTM Member that is found by the RTM Special Ethics Committee to have engaged in action that violates any provision of this RTM Ethics Code may be recommended by the RTM Special Ethics Committee for official reprimand, censure or any other sanction or remedy authorized by law. If the RTM Special Ethics Committee recommends official reprimand, censure or any other sanction or remedy authorized by law, the RTM, as the responsible legislative body must choose, in an open session held after applicable public notice, whether, and to what extent, to impose such sanctions as recommended by the Committee.

B. Executive Sessions:

The proceedings of the RTM Special Ethics Committee shall be conducted in "Executive Session" unless otherwise requested and agreed to by both the person or entity having initiated the complaint and the RTM Member or Members to which the complaint pertains.

C. Apology, Resignation and Other Actions

In the course of addressing or thinking about actual or potential violations of the RTM Ethics Policy and the consequences of an investigation and hearing, it is recommended that the RTM Member or Members involved, as well as the full RTM, be sensitive to such conscientious questions as to whether the best interests of the Town and the RTM, as an institution, will be best achieved by an apology, compensatory action, such as reimbursement, or voluntary resignation. The foregoing can be expected to have savings or benefits in time, money and institutional integrity.

For example, an apology evidencing clear remorse and, if applicable, including reasonable reparations may be expected to restore respect and dignity, bring peace to personal and partisan rancor and afford the public assurances against further harm. Conversely, a Member or Members of the RTM should not conduct his or her self in a manner likely to compound an ethics violation, for example in the instance of a conflict of interest, by denying, obfuscating or covering up what is known to be true or by falsely accusing another.

Sec. A162-23 Advisory Opinions

Upon request of any RTM Member, the RTM Special Ethics Committee shall render an advisory opinion to such RTM Member with respect to the RTM Ethics Code. Such requests and opinions are confidential and shall be conducted in Executive Session. Nothing in the preceding shall preclude an informal consultation with the Moderator, Deputy Moderator or Town Attorney.

Sec. A162-24 Ethics Training

All RTM Members are required to participate in an ethics training session no less than once every two years conducted by the Office of the Town Attorney and the RTM

Special Ethics Committee. These training sessions shall be structured to assure that each RTM Member has the knowledge to comply fully with all of the relevant ethics laws governing their service to the Town of Westport.

Sec. A162-25 RTM Special Ethics Committee Composition And Selection

The RTM Special Ethics Committee shall be composed of the Moderator as Chair, the Deputy Moderator as Vice Chair and one representative from each district to be selected by and from the Members of each district. Vacancies shall be filled by the Members from the district in which the vacancy occurs.

In the event that a sitting Member of the RTM Special Ethics Committee is either a complainant or the subject of a complaint that is brought before the RTM Special Ethics Committee, such Member shall be recused from the RTM Special Ethics Committee's deliberations and vote on that matter.

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