

**RTM Meeting
February 1, 2022**

The Call

1. To take such action as the meeting may determine, upon the recommendation of the Board of Finance and a request by the Westport Arts Advisory Committee, to approve an appropriation in the amount of \$200,643.00 for 12 Non-Profit Arts Organizations from the ARPA CLFRF Grant Income account.
2. To take such action as the meeting may determine, upon a request by the Director of Public Works, and subject to an approval by the Board of Finance, to approve an appropriation in the amount of \$1,300,000.00 for Construction and Construction Inspection Services for Replacement of the Burying Hill Beach Groin from the ARPA CLFRF Grant Income account.

The Meeting

Moderator Jeff Wieser:

Good evening. This meeting of Westport's Representative Town Meeting is now called to order and we welcome those who are joining us this evening. My name is Jeff Wieser and I am the RTM Moderator. [Just a quick comment about procedures:](#) Pursuant to Sections 163-167 of Senate Bill 1202, there is not a physical location for this meeting. This meeting is being held electronically and live streamed on westportct.gov and shown on Optimum Government Access Channel 79 and Frontier Channel 6020. Meeting materials will be available at westportct.gov along with the meeting notice posted on the Meeting List & Calendar page. [As we get into the meeting, Members of the Westport electorate attending the meeting by telephone or video may comment on any agenda item when we call for public comments. Comments will be limited to three minutes.](#)

[Emails may be sent to RTMmailinglist@westportct.gov](mailto:RTMmailinglist@westportct.gov), which goes to all RTM members. These emails will not be read aloud during the meeting but everyone will be receiving them as we go.

Tonight's invocation will be delivered by Connecticut State Senator, Will Haskell. Senator Haskell serves District 26 which covers Westport, Weston, Wilton, Redding, Ridgefield and New Canaan. Welcome, Senator.

Invocation, Senator Will Haskell:

Hi Jeff. Thank you so much. It's great to see you and to see so many familiar faces and, of course, congratulations on your new position as Moderator. Good evening, and thank you for the opportunity to provide tonight's invocation. As a resident of Westport, I want to thank you for the long hours that you all dedicate to serving this town that I, and you all love. I know that much of the work that happens here goes unnoticed, and too often unthanked. So, as someone who believes in the magic of bodies like this one, where people can still come together, sort through disagreements, and, ultimately, improve the lives of others, let me say that I appreciate you. I feel unqualified, frankly, to provide an invocation this evening when many of you have served in government for far longer

than I have. But I did want to take note of the remarkable responsibility and privilege we have to serve during a unique moment in Westport's, Connecticut's, and the country's history. Anyone who doubted the importance of government — especially town and state government — has probably changed their tune over the last two years. In March 2020, you'll all remember, Westport became the very first COVID-19 hot spot in Connecticut. Since that time, your constituents have reached out for help in record numbers. They needed tests, masks, Plexiglas, rental assistance, unemployment benefits, and, eventually, a vaccine. Despite this historic mobilization of resources, I'm always amazed that some are still pessimistic about the role of government in our lives. Too often we hear that old Ronald Regan quote, that "the nine more terrifying words in the English language are: I'm from the government, and I'm here to help." But I think those who subscribe to that pessimism just lack imagination. Perhaps they just don't realize all of the ways that government, especially local government, touches people's lives. To that end, I wish you all a productive meeting, and I thank you again for the work that you do. It's an honor to provide tonight's invocation.

Mr. Wieser:

Thank you, Will. Great words as always. You are, of course, welcome to stay and listen to tonight's proceedings, but as a newly engaged young man, I hope you have something better to do... to go out to dinner and have a good time. We know how much time you serve on our behalf so thank you for being with us.

Senator Haskell:

I wish I had fun plans...just more meetings but great to see you.

Mr. Wieser: My condolences. Thank you!

We now have a new Pledge of Allegiance Mandell Montage. Thanks to Matt Mandell for creating this video.

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

Announcements

The Town of Westport and the RTM have had some sad news over the last many weeks. With the passing of two long time members, the RTM has lost two good friends. Larry Aasen, a member of the RTM from 1980-1997 died in early, and George Jensen, who served two times on the RTM, totaling 20 years, passed away just a few weeks later. We all recognize that the work we do rests on the shoulders of those who have gone before us, so I ask for a moment of silence to honor the service of Larry Aasen and George Jensen.

On a happier note, I was advised yesterday that diligent research by Matt Mandell, Eileen Flug and great work by our Town Clerk, Jeff Dunkerton, has turned up the

statistic that our own Jack Klinge has set the record for RTM longevity. This year marks 25 consecutive years of service by Mr. Klinge, surpassing the 24 year record of former First Selectman, Joe Arcudi. So, I will point out Mr. Klinge is not the oldest member but has the record for longest service. We thought about a cake, but considered in the circumstances, a straightforward acknowledgement of this tremendous achievement was acceptable! Congratulations, Mr. Klinge.

Jack Klinge, district 7:

Thank you very much and age has its benefits! Tonight should be very interesting.

Mr. Wieser:

And congratulations also to our February birthday members. Happy birthday to Jimmy Izzo, Nancy Kail, Matt Mandell, Dick Lowenstein and our fearless Secretary, Jackie Fuchs. Happy birthday to all and I hope you have a very happy celebration.

Peter Gold, district 5:

Does Jack have the record for seconding the most motions?

Mr. Wieser: Probably.

Mr. Klinge:

There are some honors I would decline to accept and that's one of them.

Mr. Wieser: That will give Matt something else to research.

RTM Announcements

Matt Mandell, district 1:

The Chamber of Commerce is running a program to have people order direct and pick up food with the goal of putting pressure on the third party apps to change their ways. Currently, they charge 30 percent of the restaurant's fee and bill if you order it for delivery; 25 percent if you order it through them and then pick it up. This is outrageous. It needs to be changed and our restaurants are leading the charge but it's also being picked up around the State. Fairfield is doing it, Avon, the Mayor from Bristol put it out, putting pressure on these third party apps, Uber Eats, Grub Hub, Door Dash, that they must change their ways and that's something that we're all working on. So, all of you use their own websites, order directly and pick up and we can make a change. The problem is they are charging too much and hurting our local businesses and all businesses that give out food in our State.

The Chamber of Commerce is running the great salad contest and that will start on March 1 and will run all the way through March. We've run four before: pizza, burgers, soup and sandwich. This year it's salad. Healthy food. Who makes the best salad? Everybody in Westport gets to vote. Starting in March we'll be doing that.

May 7, Supper and Soul will return. We are hoping the pandemic will have gone down by that time. It has been almost two and a quarter years since our last one. I'm naming

the band yet until I get the signed contract. Believe it or not, I think we're going to have a concert on May 7.

Jimmy Izzo, district 3:

I am Chair of the Public Protection Committee. Do you want me to give you an update on where we are with the Civil Review Panel right now?

Mr. Wieser: That would be great.

Mr. Izzo:

We have a subcommittee which consists of Stephen Shackelford, Candace Banks, Claudia Shaum and Noah Hammond who we will be sending questions to. So, if any of you have questions that you would like put into the interview process that we will be discussing at our committee meeting which we will do half of it live and then we will be going into executive session to go over resumes. We've had about 16 applicants for the panel. We've gotten some really good resumes so I just wanted to keep everyone up to date. Stephen, would you like to tell everybody when you are going to have your subcommittee meeting.

Stephen Shackelford, district 8:

The subcommittee will have a public meeting by zoom on Tuesday, Feb. 8. It's up on the town website with a zoom link. We are going over the questions to use in the interviews.

Mr. Izzo:

Anyone who has questions from the RTM, feel free to reach out to us. We're here for you guys for transparency and everything to make sure we get this right.

Brandi Briggs, district 7:

I just wanted to let everybody know on the Civilian Review Board, which is different than the Panel, it is the new ordinance, the Ordinance Committee will be meeting on Thursday, Feb. 17 at 7:30 by zoom and we'll be reviewing the language of this to see if it's ready for full RTM review.

Mr. Wieser:

Assuming that the business of our meeting is completed tonight, the next regularly scheduled meeting of the RTM will be on March 1st at 7:30 PM. I am assuming that the March 1 meeting will continue to be zoom. It is up in the air when we might be getting back to this beautiful auditorium behind me. (It's not really behind me.) We'll give plenty of notice but March will be zoom.

There are 35 members present. Mr. Keenan notified the Moderator that he would be absent.

Mr. Wieser:

If you should need to leave the meeting prior to our conclusion this evening, please let us know by email or text, please.

The secretary read item #1 of the call - To approve an appropriation in the amount of \$200,643.00 for 12 Non-Profit Arts Organizations from the ARPA CLFRF Grant Income account.

Presentation

Nancy Diamond, Chair, Westport Arts Advisory Committee:

Good evening Mr. Moderator and members of the RTM. I am here tonight to request that you vote in favor of allocating \$200,643 to Not for Profit Arts Organizations from the \$8.4 million Westport has received from the Federal Government's American Rescue Plan Act. The Board of Finance at its Jan. 5 meeting unanimously approved this request. A little background: In September, the then First Selectman Jim Marpe told me that he intended to ask for a \$250,000 ARPA allocation for the arts. He asked for Arts Advisory to advise him how to allocate these funds and to please do so in a timely manner as the need was dire. Arts Advisory developed an application process and reached out to 16 not-for-profit arts groups and presented a plan to the Board of Finance three months later. Before I turn to my colleague Lee Goldstein to explain our process, I just wanted to address a few concerns that I've heard from some of your members. One of the questions was 'Why the arts and not some other deserving Westport not-for-profits?' Arts organizations were disproportionately hit by the pandemic. Concerts, theaters, art shows, etc. were all cancelled and, therefore, providing no income to these groups for more than a year. Some have been cancelled again with this latest surge and for those events that are back, attendance is generally way down and income is reduced to match. So, last week, the U. S. Treasury published its Final Rule and recognizing this disproportionate hit says "Among non-profits that collect revenue for services, immediate revenue amounts collected from such fees fell by 30 percent from 2019 to 2020 with arts organizations experiencing a 50 percent decline." So, it is much greater than the general not-for-profit groups. Another question that was asked was if arts organizations were still eligible under the revised U. S. Treasury Final Rule which was published last week on Jan. 27, 2022? This is a really long document, 437 pages, and I thank Wendy Batteau for taking the time to get through it all. I did not but what I did do was pull language that I hope would satisfy you that the arts are, in fact, still eligible under the revised document. The language that I felt was most important was the piece that says "A recipient", in this case, the town of Westport, "may identify a negative economic impact experienced by a non-profit or a class of non-profits" in this case, the arts, "and design and implement a response to that negative economic impact. This approach is consistent with the text of the statute which provides that funds may be used to respond to the negative economic impact of this public health emergency including assistance to households, small businesses and non-profits." Also from the document: "Treasury recognizes that many non-profits play important roles in their communities" as Westport acknowledges that the arts do. "Some may have experienced public health or negative economic impacts during the pandemic. As such, under the interim Final Rule and the Final Rule, non-profits may be impacted by the

pandemic and may receive assistance as a beneficiary.” Those are a few paragraphs that I pulled from last week’s publication. Additionally, our Governor is supportive. On April 26, 2021, Governor Lamont requested that arts organizations receive ARPA funds “to help arts and other entertainment organizations that have experienced economic dislocation during the pandemic. Connecticut values its cultural and arts institutions” and I know that Westport does. The final thing I heard from some of the RTM members was ‘I don’t like some of these projects. Let’s review them individually.’ I cannot state strongly enough that WAAC is strongly opposed to this approach. Westport’s arts organizations are composed of artists, museums, performing arts groups, writers, musicians and arts educators. They entertain, teach and deliver culture to all of us and all of our children regardless of our expertise and our fields of study. In the same spirit, we request that the ARPA allocation be delivered to all arts groups as one regardless of each’s artistic bent. We, in the arts, want to unite, not divide, our community. Arts groups do not want to compete with their colleagues or feel animosity toward the winners. Let’s confirm here tonight that Westport values the arts as a substantial factor it is of our thriving town. Please vote to support these requests.

Lee Goldstein, Westport Arts Advisory Committee:

Thanks for having us here. Thanks for considering this. Nancy covered most everything. I know you’ve all received the packet so you’ve read the summary of what each organization has asked for and their full application. If you dug in, you could have read all their tax forms, as well. When we were approached to ask how we would divide up this money, we made, as a group, an intentional strategic decision to benefit each of the organizations in our town. I want to be clear, when we say organization, we mean 501c3’s with budgets, who file tax returns for at least two years was our requirement. These are legitimate arts organizations. I think Nancy said there are 16 in Westport who meet those requirements and 12 applied. That’s a really high number. The most important component we asked of these organizations was community focus and impact. I’ve said this before, it’s a foundational assumption that arts heal and every one of these proposals bring people together, provide beauty, community and joy. We had a subcommittee of five individuals who were disinterested and had no connection to any of these organizations. We reviewed them for completeness and fidelity to the requirements. This was really important to us and it’s what we’re asking of you this evening. These organizations are proven; the projects meet the requirements. Those include meeting the needs of the community, having credible budgets and timelines. If you see in the packet something scheduled at the Senior Center or at the Library, one of the schools, those logistics have been worked out. I called and asked. They are good to go. Something that was kind of funny, different RTM members talked about which projects they particularly liked and some they didn’t like as much. Some of them were exactly the opposite of what I might choose if I had to pick. That’s what we don’t want to get into here, that personal preferences should not dictate what we’re funding. We are very proud of this packet. You see so many of the arts organizations represented. If you scroll through your screens, you’ll see a lot of people on this call and we stand together behind each and every one. I want to close by saying, as Nancy said, Westport is an arts town and when you say you support the arts, that means you have to support the arts in both word and deed. We all know how hard they were hit and I think we all know

how much we'd miss the programs. We're here to answer questions and thank you so much.

Committees Report

Kristin Purcell, district 1:

A joint committee meeting of Library Museum and Arts with Finance Committees was held by zoom on January 27th to address a proposal from the Westport Arts Advisory Committee as detailed by Nancy and Lee for the appropriation of \$200,643. In attendance For RTM Finance Committee were Seth Braunstein, Nancy Kail, Jessica Bram, Stephen Shackelford, Rachel Cohen and Don O'Day. From the Library Museum and Arts Committee were myself, Candace Banks, Karen Kramer, Lori Church, Harris Falk, Arline Gertzoff, Dick Lowenstein and Wendy Bateau. Others in attendance were Peter Gold, and Nancy Diamond and Lee Goldstein from WAAC. I think there were two other public attendees who I missed so I apologize. I'm not going to recap because I think Nancy did a fine job of recapping the presentation which is included in the committee report. Similarly, Lee addressed a little bit more of the process and the requirements as she addressed in her comments earlier. Sixteen applied of which 12 met the requirements. There were a series of questions which, again, I think Nancy summarized quite well. One question which did come up was the larger, broader question of this funding versus other, potential funding. 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 Long Range Planning Committee will be able to help us understand the larger picture of infrastructure needs, additional health and human service needs, as well as the needs of other non-profits looking to also benefit from this funding. That being said, 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 were Nancy Kail, Jessica Bram, Stephen Shackelford, Rachel Cohen, and 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 Library, Museum and Arts Committee and was seconded by Karen Kramer. Voting in favor of the allocation were Candace Banks, Karen Kramer, Lori Church, Harris Falk and Kristin Mott Purcell. Those abstaining were Arline Gertzoff and Dick Lowenstein. Wendy Batteau recused herself.

Mr. Wieser:

A few RTM members have indicated their desire to recuse themselves from this vote. Would you all confirm that you will be recusing yourselves?
Wendy Batteau and Matt Mandell.

Mr. Mandell:

A number of the recipients are members of the Chamber of Commerce.

Wendy Batteau, district 8:

Did you want me to explain why I was recusing myself?

Mr. Wieser: You certainly don't have to.

Ms. Batteau:

It's just an abundance of adherence to the conflict of interest. I am involved with a couple of different groups and my husband and son derive profit from one of the organizations that is up for the grant.

Mr. Wieser: So, we have two recusals.

We now turn to the Westport Electorate: Members of the electorate who raise their hands to speak during the public comment period for each agenda item will be called upon by the Moderator. Please remain on mute until you are recognized to speak and when you are finished speaking. Public comments are limited to three minutes. We ask that you avoid repeating general comments already made.

Seth Braunstein:

Jeff, do you just want to confirm for the public that this would be their opportunity, that there probably wouldn't be an opportunity once we move to RTM comments?

Mr. Wieser:

From this we move on to RTM comment when we close public comment unless an RTM member asks a question of a member of the electorate. We don't have any email comments because if there are email comments, they are all coming in to RTM comments email so this is the public comment.

Members of the Westport electorate

Barbara Byrne, district 6, Suzuki School of Music:

I just wanted to speak on behalf of the arts and the allocation of funds for COVID relief through ARPA Westport. I did review some of the documents on the Westport Government website and I do see in the presentation to the Westport Board of Finance, arts is listed in the project selection process to receive funds in the first tranche for immediate use in order of impact so it is up there on the list of importance. I would also like to point out that within the ARPA toolkit for non-profits that is published by the Connecticut Community Alliance of Non-Profits, they mention arts venues and specifically state that "Arts venues may need funds to subsidize performances and exhibits which, due to social distancing, cannot draw large enough crowds to support all the related costs" which we find to be true in Westport at Suzuki School and I'm sure many of the other arts organizations are experiencing this as well. I would like to ask the RTM to vote yes on the funding for the arts as a block and the finances should be put to revitalize the Westport community to improve the quality of life in Westport moving forward post-pandemic because the two years have just been terrible for the entire community. It has affected everybody's health, not just financial health but mental health

and the quality of life through the arts is no less important than building projects and infrastructure. The arts are the building blocks to a healthy society.

Ms. Karpf read the resolution and it was seconded.

RESOLVED: That upon the recommendation of the Board of Finance and a request by the Westport Arts Advisory Committee, the sum in the amount of \$200,643.00 for 12 Non-Profit Arts Organizations from the ARPA CLFRF Grant Income account is hereby appropriated.

Members of the RTM

Mr. Izzo:

First, I want to thank Nancy and Lee for a great presentation. I am very much in favor of this for a lot of reasons. A lot of them are personal. I have been around town quite a bit. I've gotten to know a lot of our artists who have passed on. Anne Chernow is a personal friend of mine. Howard Munt was. I could go on and on. The joy their work brought me, growing up here, even seeing Bert Chernow's stuff in our schools, the stuff that these guys do, it transcends everything. It does add life to everything. It's a peaceful thing that we can all look at in a world that's a little screwed up right now. I'm definitely voting for this for that reason and thank you guys for the presentation. I look forward to voting yes.

Lisa Newman, district 8:

Like Jimmy I have personal ties. I am a big supporter of the arts. I come from a strong line of artists so this has always been something close to my heart and it was one of the factors when I was looking to move my family to Westport because this is an arts community. That being said, there has been a lot of discussion over whether these applications qualify under ARPA. I think what has struck me as disappointing in all of those discussions is that it shouldn't get that far. We are an arts community. We should be supporting our arts. These applications, over the last three weeks, what they've spoken to me is we need to be better funding our arts, not just because we have these ARPA funds to fund these projects with but all the time. So, I do hope the town will consider looking closer at these budgets for several of these organizations where we're heading into budget season right around the corner. I really am hoping that some of the proposals from some of these organizations and in conjunction with the Board of Finance and our First Selectwoman and the RTM, ultimately, that we are looking at investing more, from the town of Westport, not just from these ARPA funds. Some of these needs could have been asked for pre ARPA funds. There's no reason the town shouldn't have been honoring these funding projects. To me, that's the most...I wish we were more familiar with the needs of our arts community that preceded these requests because I think there's room for the RTM to be doing more; there's room for the town to be doing more for these organizations. So, I'll be supporting this tonight but I do it with the request that I don't think it should get this far. For us, as an arts community, we should be supporting the arts, not just because we get this influx of money but just because we are valuing this as part of the network of our community. If Jimmy says the arts have been here forever, they have been because he is Mr. Westport, himself. I'm voting for this. I hope everybody votes for this but I also hope that we, moving forward in a way can further show this ongoing support.

Stephen Shackelford, district 8:

Thank you Nancy. Thank you Lee for bringing this forward. I just want to briefly say I strongly support this. I agree with what Lisa has said about our general support of the arts and to make sure we are doing a good job of that. I support the specific use of ARPA funds because it does seem to be in the wheelhouse of what the funds are meant to be used for. We certainly heard from Nancy and Lee and others about how much the arts community in Westport was hurt by COVID, as you'd expect, given what we've all been dealing with. I applaud the variety of different grant recipients who really, as far as I can tell, serve all different segments of the town. I think you did a great job of picking a number of worthy recipients. I don't think it's our job to second guess it but I did look through it and it's great that it serves all different parts of town, school kids, the elderly, all sorts of things. Bravo. Thank you for bringing it to us. I strongly support this.

Mr. Braunstein:

I'd like to start off and echo the comments, largely, what we've heard from my fellow-RTM members. I want to be very clear. I think these are qualified for ARPA funds. I think the WAAC had done an excellent job making sure the arts are being adequately represented. I applaud them for their proactive approach here. The reason that I abstained from voting in the committee meeting last week really comes down to my desire to understand where this particular group of funding requests fits amidst a bigger picture. The way these were presented to us was that these were effectively like a wish list of arts projects that the funding could currently benefit and there's no question that that's the case. I guess what I'd like to have a better sense of is where the arts wish list fits relative to wish lists that we might hear from other non-profits. For instance, non-profits that represent homeless or hungry or elderly or people with mental health issues or educational concerns, single mothers, etc. There's no shortage of Worthy potential recipients. I very much support the arts myself personally but, before I could, in good conscience, vote on these particular requests, I'd like to better understand where these other, equally worthy, potential recipients stand and, frankly, how leadership has contemplated other worthy non-profit recipients. I hope that we can hear something from the First Selectperson's office or the Long Range Planning Committee or Health and Human Services that gives us a better sense of where those other potential recipients stand before we approve this individual request. I'd love to hear [from First Selectwoman Tooker] how we've been thinking about other non-profit recipients and where we might be inclined to allocate monies that go beyond the arts.

First Selectwoman Jen Tooker:

Jeff, I'm a little green on process of the RTM so would you like me to respond?

Mr. Wieser:

You are now using up some of Mr. Braunstein's 10 minutes so feel free to answer away.

Ms. Tooker:

First, it's nice to be in the presence of true royalty, Jack. Congratulations on being the longest serving RTM member. Very exciting news tonight.

So, Seth, maybe I can answer your question two ways because I think one of the questions really is what is the broader strategy around use of ARPA funds? For those of you who were at the Long Range Planning Committee meeting last week, forgive me, because I am going to repeat a little bit of what you heard but I can appreciate the fact that many members of the RTM have not heard that overall strategy. Briefly, now that I know I have a time constraint...

Mr. Wieser: Other members can ask you follow up questions.

Ms. Tooker:

When the town knew they were receiving \$8.4 million in ARPA funds last summer, under the previous First Selectman's guidance and at the time, the Operations Director, Sarah Harris', guidance, we set forth a strategy. That strategy was twofold. We had some short-term spending priorities and long-term spending priorities. They were both conservative as we are in Westport which is why we enjoy such financial health as a town. In short-term spending priorities, we did our best to prioritize funding stop-gap measures, basically, unforeseen expenses associated with managing the town or, in this instance, which is what you're seeing with the arts tonight, unexpected revenue shortfalls due to the pandemic. We've done our best with that short-term spending to not create an operational spending structure that we would then be repeating over and over again. So, I use the term *stopgap* very specifically. We did not want to be creating positions and programs that were going to run continuously that then, when ARPA funds were not around, we then had increased operational costs on an ongoing basis. That was what the short-term spending was focused on. You guys have already approved a number of the short-term, stopgap appropriations. You did that back in December when you approved the COVID-19 expenses that Gary came to speak to you about. Also, you approved \$185,000 of public health stopgap spending for Elaine. So, a number of things in that bucket of spending, Seth, was our outreach to the most vulnerable in our community and to see what we needed to do from a service standpoint, what we needed to do to make sure we were taking care of our most vulnerable straight away. So, you have already approved some expenses there. In the long-term spending priorities, how we approached it was we never treated this money as new found money. We never treated it as though it were a big present and we could run around and think about what we could spend it on. We considered it as a way to accelerate spending that we had already prioritized on our five year capital forecast knowing that our five year capital forecast is chock full of a lot of projects and a lot of spending. We really thought that it was important to accelerate that spending and to do it with, obviously, less borrowing. We went to the five year capital forecast and looked at long term projects that fit the ARPA guidelines and then looked at ones that were shovel ready. That is why you have another appropriation on your docket tonight that fits into that category. I would say both of those are very conservative ways of spending the money. I will again reiterate that we never treated this as new found money. We treated it as how do we make the best use of it with the priorities we already have, have stated,

have identified in the community and also, of course, some stop gap measures associated with COVID spending or COVID revenue shortfalls. That's an overview. We've stayed pretty true to that. Why don't we come to you with the full \$8.4 million? Because our appropriations process doesn't work that way. We can't. We come forward with a project from the Administration; it goes to the Board of Finance on an individual basis; then it goes to you in committee meetings and then it goes to the full RTM. We don't approve capital projects in bulk. We have no mechanism to do that. That's not how we appropriate dollars in Westport. Other municipalities do appropriate capital spending that way. We don't. By Charter, this is our process. Again, we look at it in the same way we look at the five year capital forecast. We have this wish list that is public and is out there. We're just moving through them as we can from a standpoint of priority, from a standpoint of ability to execute and from a standpoint of really being able to complete the projects. In this instance, hats off to Lee and to Nancy. Their process in trying to get these dollars into the hands of really disproportionately hard hit arts community, to get it into the hands of the arts community quickly, to have a process that's transparent, to have a process that's absolutely defensible, I couldn't support this appropriation more wholeheartedly and stand behind all 12 of the proposals that you see in front of you as a group because I believe in the process and I believe our arts institutions were very, very hard hit. I was part of a group that tried everything to find a performance space. Nancy and I worked tirelessly for hours and hours on that so I am just thrilled to see that we can get some cash into the hands of these groups and have them spend on programs that are truly, as Lee said, healing and uplifting and additive to our community and to the fabric of who we are.

Mr. Braunstein:

If I have any remaining time, I have a couple of follow ups.

Mr. Wieser: You don't. You can come back.

Mr. Braunstein: I respect the process.

Mr. Gold:

First of all, I want to say I do appreciate the arts. I think they are important but I also think that other not-for-profits in town have suffered financial strains as well. For example, the Police Athletic League has not had its annual fireworks fundraiser for two years in a row. I'm sure they're hurting for funds. Other organizations that are not-for-profit have also had their fundraisers severely curtailed and are hurting for funds. So, I would join Seth in hoping that we could find ways to help some of these other not-for-profits as well. I also agree that we should not be voting on the individual projects because you like a concerto and I like a painting; you like Picasso and I like Monet. We shouldn't be judging art as art. Having said that, I'm a little disappointed in the selection process that the Arts Advisory Council used. It reminds me a little of when I coached soccer when my son was four years old. Everybody got a trophy. They didn't want to make anyone feel bad so they gave something to everybody. I think they didn't look at some criteria that they could have looked at. Some of the organizations are stronger financially than others. Some arts organizations serve a greater percentage of the

population than others, have a broader reach than others. I'm sure there are other criteria that they could have come up with other than judging the type of art or the specific project. Lee, I have one question. You mentioned that all of these projects have been approved by the various venues where they are going to have them. What if something does happen and the project falls through, will the funds be returned to the town? If the project is cancelled.

Ms. Diamond:

Yes. The funds will be returned to the town. After the project does happen, the groups are required to submit a detailed report on how the funds were spent.

Mr. Gold:

Yes. Good. I don't know if I have time left Jeff, but if I have time left and Seth wants to use it, I am happy to give it to him.

Mr. Wieser:

Seth can come back a second time and rather than shoot up against the 10 minutes, I'd rather give everybody a chance to talk.

Ms. Diamond:

I just wanted to clarify something that Peter said. He made reference to everybody getting money. That was intentional. We do want everybody to get money. The application was not to decide who was going to be allocated funds. It was to offer everyone the opportunity to receive funding.

Mr. Gold:

I understand that and I disagree with that approach. I don't think that everybody should get funding. Those that need it the most should get something and those who need it less shouldn't get something.

Ms. Diamond: We maintain that it affected everyone.

Mr. Gold: Not to the same extent.

Dick Lowenstein, district 5:

When the Board of Finance first heard of the \$200,000 for 12 projects, a bell rang in my head and I went to the Town Attorney and said we used to have a parliamentary procedure called divide the question in which a motion is made to take a large motion and divide it into sub-motions, each one would be voted independently. I got a ruling from the Town Attorney, yes, you could do something like that with the \$200,000 coming from the Board of Finance. The second thought, however, I decided to make that motion, even if it were approved, this meeting might be ending March 1 rather than adjourning tonight. So, I declined to take my own advice on that one; however, I am going to send the entire RTM and Secretary Jackie Fuchs the email I received from Eileen Flug. It is an important piece of parliamentary procedure that may be very useful in the future. (Appendix I) Last week, when I spoke at the committee meetings, I was

vociferous on a couple of items. Tonight I want to speak about only one item and that is the WestPAC proposal for \$20,000 for a place to maintain and store art work. I don't know if the RTM realizes it but the town has insured value for its art, both Board of Education, Library and town owned art, both inside and outside, insurance policy for \$6 million. That is a huge amount of money. It's a very large asset that the town has and in terms of line item on the budget, there is almost no money allocated to support that. The WestPAC, the Arts Council are all supported largely by donations, by running events at which they raise money by selling things and I'm going to make a request right now that the First Selectperson, when she submits her budget to the Board of Finance, adds a line item for the arts. Right now, the WAAC is supported by the First Selectman's budget but it's not a line item. It's hidden in there somewhere. Not hidden necessarily but not a line item. I really think the arts have been neglected by the town for too long in terms of financial support. The art work that Kathy Bennowitz and her group want to find a place to store, preserve, to maintain, is a very important request and the \$20,000 she's asked for will help find a place but it doesn't necessarily pay for the place and that's why I want to see the '22/'23 budget have more money allocated for the arts. With that said, I will be supporting this motion but I wish more was said about the town agency. The Westport Arts Council and WestPAC are the only two listings on this proposal that are essentially town agencies. They are part of Westport town government. All the rest are pretty much independent 501c3's.

Lauren Karpf, district 7:

I raised my hand a while ago so I will just briefly say I couldn't be more in support of this. When we talk about the spirit of the funds and back to what our First Selectwoman spoke about, I think this fits perfectly in there. It is very clear the COVID closures and these non-profits are so deserving. The beauty of art is that elicits a different response in people. We would all rank this list differently but it sets the tone for the town. It gives people pleasure and it's what we need coming off of the heels of a pandemic. I'm very much in favor so thank you guys for an excellent presentation.

Ms. Batteau:

I mentioned that I am recusing myself but I have a couple of comments to make. Having spent a good deal of time over the last week or so thinking about government support of the arts, I believe that any community, but particularly Westport, really needs to support the arts. The ebb and flow of politics that manifest in government, Governors should not decide what arts gets supported. I think we need to leave that to our arts people so I think this group appropriation is good. There is one group, however, that I find missing here. I'm asking the First Selectwoman, since the initial appropriation was \$250,000, probably the group that meets at the intersection of arts and human rights are the actual artists themselves, particularly performing artists who haven't been able to work for the last couple of years and are really stretched. I'm wondering if there might not be some way to make a supplemental grant in addition to the one that we're already getting that might provide some kind of assistance to artists to keep making the art that these venues need to produce.

Ms. Tooker:

What makes this appropriation, in my mind, so viable is that we were able to identify the arts as a community, as a sector of the economy that was disproportionately hurt. We were able to insure that we were able to reach out to every single non-profit in town. We had a transparent process and there were only 16 that we had to actually get to and to decide on. When you're talking about giving money to individuals or to for-profit groups, we would be talking about opening it up to everybody. We would have to have a transparent process. We would have to have financial controls. To be honest, we'd probably have to hire a couple of people to run it. I don't know how we would do that and do it in a way that insures that we would be giving everybody a fair shake at the money and then be able to literally get through all the applications in a transparent, consistent way and then be able to get the money to people and then be able to report back on it. We'd probably have to open up a mini loan department to do it. I'm just being very honest. I can't get my head around how we would execute that where this was a very tight, concise group that we were able to target and for all the right reasons.

Ms. Batteau:

I certainly take your point. Maybe people at the Levitt or the Playhouse could help or even the Human Services Committee. Thanks for considering it because there is that almost \$50,000 left in the appropriation.

Ellen Lautenberg, district 7:

I plan to support this item as it falls within the guidelines and I certainly support the arts community as best suited to decide how to allocate those funds within their organizations. While I support this item and I understand the First Selectwoman's discussion about how funds are allocated, the funding process in Westport, how that works, I do hope that we can find a way to somehow better review from a more holistic perspective as opposed to just having these come forward one at a time. I totally appreciate that this has already been said to some degree. I just think that it is hard for some of us to continue on in this way. Hopefully, we can find another way of just looking at it.

Arline Gertzoff, district 3:

I will reluctantly support this project. I know it's been said and I know you don't want to find that I find some of these projects are terrific like the Art Pac. Others I find less so because I don't think they benefit enough people. I'm also putting together things I've heard, gotten letters from constituents, emails and far too many phone calls. Some of the things that Peter Gold said I think are very significant. I also liked what Ms. Lautenberg said. I do think we need a better process of this. That being said, I would like to ask if there are any priorities with the group that has been accepted or will they all get their money at once? Because I understand it's at least a two year process. Very much in line with the comments Peter Gold made, are there any priorities with these projects?

Ms. Diamond:

It's up to the organizations. Once they know that the appropriation has been approved, they can then go about getting their projects going and they know they have to have it

completed in the following year. So, it's up to them to apply for the funds when they're ready to go.

Ms. Gertzoff:

I had in mind, for example, I understand we are getting new bus shelters but I believe I'm correct that the one at the Stop and Shop which one constituent comments was not quite a pigsty; people throw stuff and it is not cleaned up and what would happen to some art work? That's not from me. That's from a constituent. I just wondered if there were any priorities. Would we be waiting, for instance, for the new bus shelters to be put up?

Ms. Diamond: Yes.

Ms. Gertzoff:

And we would also be waiting for Public Works to say where you can place them...

Ms. Diamond:

Absolutely. It will go through what ever channels needed.

Ms. Gertzoff:

In line with what Wendy said earlier, if there was some money, what about the restoration of the River of Names? I know for some people it is super-kitsch; however, for many of us long-term people here and I think I've lived in Westport probably longer than anyone on the RTM, I would really like to see that restored because it's meaningful, maybe not for newer people, it's really meaningful for those of us who have lived here a long time. I know the person who put it altogether is gone but it does represent a piece of the history of Westport. I would really like to see it restored. The second item I would like to see considered: I find it horrible that the tunnel downtown was graphitized. So much work went into redoing that and I wondered if there could be some funds available for one or more surveillance cameras. Thank you and thank you for some of the responses. I feel a lot better about some of the things I've heard.

Karen Kramer, district 5 (iPad 2):

I've heard so many debates back and forth about what is appropriate for ARPA and what isn't. Helping people is important and I believe that art feeds the soul our souls are in everything we get from art and the beach. So, I'm in total support.

Liz Milwe, district 1:

I'm in total support. I just want to say when real estate brokers come and give tours of the town, they don't just talk about Longshore and the beach, they talk about the history of Westport. They talk about the artists. The history of art in our town has affected our school system. That's why we have great education in our schools. The Westport Arts Advisory Committee are in charge of our entire art collection. It is an international art collection of local artists. They have established the poet laureate in our town. They run great lectures. They've done a great job to figure out and give opportunity for all the arts organizations to get some money after such a difficult time. The members of this

committee all have great backgrounds in all different areas of the arts. I'm really excited about giving money to all these arts organizations, particularly, I know last month we gave money for bus shelters and now the arts community is going to add to the bus shelters, something we should have done a long time ago. I'm looking right now at something on my desk which is a Miggs Burroughs who is a local artist. Everyone will support this tonight.

Claudia Shaum, district 5:

I was just going to say that I feel like we've had a great discussion here tonight. We've all had the documents. We've had a long time to think about it and, if it's appropriate, Mr. Moderator, I think that we should be ready to vote and I move that we vote.

Seconded.

Mr. Wieser:

There a few more people who would like to talk. That is a "call the question" which is a non-debatable topic so we will have a rollcall. Unless, Mr. Colabella and Mr. Klinge have not had first rounds. Will you be brief?

Mr. Braunstein, point of order:

It certainly would be breaking with tradition. In the four terms that I have been on the RTM, we generally exhaust comment before we move to the vote. Personally, I think we would be establishing a bad precedent to prematurely move simply because someone has called the question. I don't know where that stands in *Roberts Rules* but tradition is quite clear that would be unusual.

Mr. Wieser:

That is the problem. In *Roberts Rules*, it is a non-debatable question so we vote on it, the proper procedure. But also, the precedent I've seen in the past that I've seen, if people aren't going to be terribly long and they just have a few comments, we agree to let the last few people so should we vote?

Mr. Mandell, point of order:

I've recused myself from the vote on the money but I will unrecuse myself when it comes to the vote on whether to call the question.

Mr. Wieser: Would you withdraw the call the question?

Ms. Shaum: Sure. Whatever makes everybody happy is good by me.

Mr. Wieser:

That's a little out of order but let's give everybody a quick chance.

Mr. Klinge:

I will be brief but way back in the beginning, Seth mentioned Long Range Planning. I think our committee, in general, did not take a position on the arts but I sense I can talk

for the committee, as a whole, and say we were certainly in favor of it as presented, moving forward. We're going to spend our time on evaluating the rest of the projects, as many of you heard in our last meeting, trying to get the Committee Chairs and the Department Heads together prior to presenting these projects to the Board of Finance. I continue to want to get to do that and you'll be hearing more about that from me in the next week as the next projects from the first tranche, Gorham Island, downtown Parker Harding, West Parish will be coming up in April and May according to the First Selectperson and the sooner we get to talk about these things, the less we have to spend time, like we are tonight, going over all the details. We are going to try and get them covered, ironed out and fleshed out prior to getting into the Board of Finance. We are always welcome to have new projects that get added on at the end, reprioritized and if any of these current projects end up being bonded or dropped, that will free up a lot of cash to spend on new projects. I just wanted you all to know that. The committee is not sleeping.

Andrew Colabella, district 4:

The bright light behind me, sorry for the glare. I'm outside right now. I know you guys are up there freezing in 20 degree weather, maybe not Jeff.

Mr. Wieser: No. I am. Thank you for sharing.

Mr. Colabella:

I think everyone has made amazing comments tonight. I want to thank Miggs Burroughs and Kathy Ross. I know she's not on the call. These were two people who were very inspirational to me that got me into the arts. They came into elementary school and got me into the arts. In fact, one of the arts installations at Longshore by the pool is still there. I want to thank Nancy Diamond and Anne Greenberg from MOCA for reaching out to me. This is a no brainer for me. How often do you get to give back to the artists who have been giving back for over 100 years? This has been an artist's community for so long. Let's continue that. They can always come here for anything that they need. I'm so happy to vote in favor of this to give back to them.

Mr. Braunstein:

I just had a couple of follow up questions for the First Selectperson and I maybe didn't articulate well the first time around. I'm certainly very familiar with the way we present and approve expenditures and my interest really isn't in what's in the capital forecast. I think the town has done a wonderful job identifying the key priorities from that perspective. But the one thing I think you have to recognize here is that the arts had an extremely strong advocate in our previous First Selectperson. To his credit, he wants to make sure the arts were accounted for. The arts also had an advisory committee that this very RTM actually created through its own work a number of years ago. So, you had an advocate and you had an advisory committee. That put this to the very top of the list. I'm not taking issue at all in any way, in any shape, in any form. I love the arts. I think it's an appropriate ARPA fund. I think there is no reason we should ever try to separate the different priorities. The point I am trying to articulate here and Selectwoman Tooker, you said, "We reached out to every arts non-profit." My question to you, have

we reached out to every non-profit? So, that it's not just the arts that are being advocated for and have an advisory committee that will push this to the front of the line. Have we reached out to non-profits that cover things like homelessness, hunger, mental health, single mothers? There's no shortage. That's my interest. Secondly, I think it would be helpful for all of us on the RTM to get a good sense for how you are thinking about affordable housing and the portions of the ARPA funds that ultimately can go to help support that because, frankly, that is a major issue that the RTM has and will continue to spend a lot of time on as we work through your administration. I am somewhat ill at ease to say yes to these funds without understanding other organizations that should be prioritized as well.

Ms. Tooker:

Thank you. What I tried to articulate and probably did not do a good enough job is Elaine Daignault has been in regular contact with the non-profits, in areas which you mentioned, in serving our most vulnerable and embedded in the \$185,000 appropriation you all approved in December were programs with some of those exact non-profit organizations. When you talk about an advocate, there probably isn't a better one on staff than Elaine Daignault as far as knowing and understanding those groups of residents that we serve in that arena, not only here in Westport but elsewhere. That is much of where the \$185,000 that you guys approved in December went. To answer your affordable housing question, Seth, we are on the Board of Finance agenda at their Feb. 9 meeting to make a proposal for \$150,000. That is in the presentation that sits on the website. It is listed under the public health and quality of life category, projects first tranche in process, we will be in front of the Board of Finance a week from tomorrow with an appropriation for the feasibility study for the West Parish Affordable Housing Project, \$150,000, that is basically the pre-construction costs associated with the project that we hope will sit on that piece of Department of Transportation land that we understand will be transferred to the Department of Housing. The Department of Housing will be issuing an RFP looking for a developer to develop that into a 100 percent affordable housing development. Our \$150,000 would go to accelerating the pre-construction phase of that. We are very excited about hoping to inject some money into the process that would then result in support of the project but also accelerate the project getting done and getting a shovel in the ground. Those are two things, as we speak, in the first tranche that we are spending money on, specifically answering your questions.

Mr. Braunstein:

That's very helpful. Thank you. I just have one final follow up. Do you anticipate that there would be additional funding for other non-profits beyond the \$185,000 that we previously approved and the \$200,000 that we are approving here this evening?

Ms. Tooker:

I do. I know that we have earmarked a couple of hundred thousand dollars for an electric ambulance. It's in the second tranche because electric ambulances aren't available right now. Our EMS is a volunteer organization and they independently fundraise. I think we will definitely be allocating money to them, for sure. I think there

may be other projects that could potentially come up with other non-profits here in town. But, again, what we are trying to do with this funding, Seth, is not add to our long-term operational costs. I'm sure you agree with me that it's hard to use one off dollars to add to long-term operational costs that you end up funding on an ongoing basis. I think that that's what we're being careful about doing.

Mr. Wieser:

So, I'm caught a little bit because we skipped over the question being called. Are there more questions or comments?

Nancy Kail, district 9:

I fully support this project. I love the process. I think we should take a page from it when we are thinking about how to organize ourselves for the remainder of the funds and I have a request to Jack Klinge as head of the Long Range Planning Committee and Jeff Wieser as Moderator. I think we need a separate agenda item at one of the upcoming RTM meetings to discuss the ARPA funding process and to have First Selectwoman Jen Tooker at that meeting to discuss how we're going to organize ourselves efficiently going forward. I would love to take a page from WAAC. I think they did a great job with their individual process and I learned a lot from that. I just wanted to say that before we took the vote.

Mr. Wieser:

Thank you Nancy. I do think that the Long Range Planning Committee is doing exactly that. We are all invited to the Long Range Planning Committee and, typically, those sorts of discussions occur first at the committee level. I know Jack has a meeting planned for this coming month where it will be discussed. We'll see what happens after that but that is more of a committee meeting and Ms. Tooker was at the last one and probably will be available again so thank you for that comment.

We have been instructed by the Town Attorney that all votes in electronic meetings must be roll call votes, unless they are unanimous, so I am going to ask first if there are any objections to this request? Are there any abstentions?

The motion passes unanimously 33-0-0 with two recusals. Mr. Mandell and Ms. Batteau recused.

The secretary read item #2 of the call -To approve an appropriation in the amount of \$1,300,000.00 for Construction and Construction Inspection Services for Replacement of the Burying Hill Beach Groin from the ARPA CLFRF Grant Income account.

Presentation

Pete Ratkiewich, Director of Public Works:

I'd like to present to you the project that is the Burying Hill Beach Timber Groin Replacement Project. I'm going to go through a few slides. This is our letter to the

First Selectwoman with the request of \$1.3 million for the replacement of the Burying Hill Beach groin. The existing groin was constructed by the Army Corps of Engineers around 1957 and it serves to prevent beach sand from entering New Creek at the mouth of the stream. It is currently in a state of disrepair and a potential hazard to the visiting public. In its current state, it is not an effective sand deterrent and it is subject to any storms that come through actually destroying it. The project is in the capital forecast for 2023 but, in reality, it has been discussed for several years and the jetty is actually overdue for replacement. This [slide] is a plan from 1988 that basically is an as built survey of the condition of the jetty, the groin, that is a timber groin. It shows the general layout that is taken from a 1957 plan where the groin was constructed. It contemplates a beach at Burying Hill of 100' wide by 500' from the training wall down to the east. It's a fairly detailed plan that shows that the top of the wood piling is actually above the level of the beach. This was an existing conditions plan in 1988 but, again, the training wall construction was done in 1957. At the time the Army Corps put this in, the town did agree to maintain the structure and we've enjoyed 50 to 60 years of the structure without doing any maintenance on it at all. It's about 400' long. It consists of round piles, wales and the main portion of the sand deterrent is the sheets, 3x10 pikes staggered in between what they call wales. This is a cross section. The piles are on the outside of the wales at the top and the bottom as well and the sheets go down into the sand. This structure has been very effective for the last 60 plus years. It is now in a state of disrepair and the lower section here that goes into the water is actually lacking many of these structural elements to the extent that just the sheets are sticking up about three to four feet above the sand grade such that if a really big storm comes along, they could be broken off at any time making the groin ineffective. We went out to have a design done for this for replacement and discovered that the most cost-effective and expeditious means of getting permits for this structure was to duplicate exactly what was in the 1957 plan and in this 1988 as-built. What that allows us to do is get what they call "A Certificate of Permission" from the Department of Energy and Environmental Protection as well as a Self-Verification Permit from the Army Corps of Engineers. You'll notice on this plan, there are two training walls. There is the east training wall along Burying Hill Beach, the town beach. There's also a west training wall along Sherwood Island State Park. The east training wall is what we're referring to as "the groin". This training wall actually protects the one along Sherwood Island State Park as well as prevents as much as possible material going along the beach through littoral transport in the creek. That structure has been overrun and there is a lot of sand on this side of the creek. We are currently working with the DEEP to try to determine how much of that sand we can recover and come back and bring this back to the beach. One thing we can't do on this beach is bring more sand in without an individual permit. We are allowed to, under a general permit, regrade this beach every year with the existing sand. That has nothing to do with this appropriation. This appropriation is to restore the training wall which actually is a tool for Parks and Rec. so that the sand does not migrate. When properly regraded, the sand will get stuck against the training wall and we can regrade it back out to the beach in this 500' section. I suspect that there was a portion of sand that was put in in 1957 that has been lost already so I don't know if we can actually reestablish a 100' width of this beach. But we believe that we can use all of the sand that is on either side of this training wall right now and bring it back to the

beach. The fact is the training wall or groin, if you will, is not in good condition and really does need to be replaced after this much time has passed. So we have commissioned Roberge Associates Coastal Engineers to come up with a plan. This is the actual plan [slide]. This is the existing conditions part of that plan. It basically shows the repair section here which is going to be exactly what is on the original plan. Because we have chosen to go this way, we were able to obtain these permits that are expedited. At the request of the Board of Finance, we have investigated what it would take to increase the height of this training wall or groin due to considerations of sea level rise. The answer was we would probably have to do extensive studies on littoral transport, flooding potential and the effect of that modification to the structure on the ecosystem in this area. Eventually the DEP and Army Corps would consider these requests and eventually we're most likely to get denied to be able to do that. In the current form, our permits allow us to replace exactly what was there which is a very simple timber structure that admittedly has stood the test of time because it was built in '57 and it's still out there today. It's not in great shape but it's still there. This will most likely last another 50, 60 or 70 years. There is a backing of rip rap that exists today. It is buried in the sand. What we would do is take this backing up the groin, move it while we are replacing the structure and place it back so it continues to back up the groin. The way this works is when sand blows from east to west, it blows up against the groin. Each year, we need to take that sand and regrade it back onto the beach and try to re-establish what was designed here in 1957, a 100' wide, 500' long beach. I don't believe that there is enough sand to do exactly that but the fact is there is a lot of sand on both sides of this groin right now. The Department of Public Works and Parks and Rec. are meeting with the DEEP shortly to ensure that we're all on the same page as to what we can recover from what is on the west side of the groin and what we can do on the east side of the groin. It is our contention that we can take all the sand from mean low water to the coastal jurisdiction line and push that sand back down the beach and reestablish the beach. I want to reiterate that the grading is not part of this project. The grading is part of the general permit that we do every year. I have represented to both the Board of Finance and the RTM Committees that over the years I think we've lost focus on what we're supposed to be doing with that grading. We really need to focus in on that as an ancillary part of this project. The fact is this groin needs to be repaired. The downside of not doing it would be multiple factors. The cost of this project has already increased since we originally proposed it in 2019 at a level of about \$900,000 to \$1.3 million. That's primarily due to supply chain and cost increases, mainly timber, within the period of the pandemic. The possible impact of not replacing this groin is that it does get damaged in a big storm and we do start to lose the beach into the creek. That would have multiple effects as the creek starts to get clogged by sand, if we do nothing here. That will start to backup water into New Creek (listed on plan as Mill Creek) but that has effects all the way up into Greens Farms. Until the creek gets to the level of blasting through the sand that has clogged the creek, that will cause some flooding in the backwaters. In addition, when it does break through, it takes that sand and washes it out to sea. So, we lose more sand that we could otherwise recover for the beach. The proposal is to replace this 60 year old structure in kind, exactly what was originally constructed, we already have our permits in place from the DEEP and the Army Corps. During that permitting process, nothing was mentioned from either agency about doing

anything on the west side of the creek which is State property governed by the DEEP and owned by Sherwood Island State Park. I want to be very clear that this project does not involve anything on the Sherwood Island State Park side. Our structure does a lot to protect that structure over there. While that is not in great shape, that is a problem for the State Department of Energy and Environmental Protection. We do not have any jurisdiction on the far side of the creek but we do have both the jurisdiction and the obligation to maintain the groin on our side of the creek. Benefit of doing this replacement is that it will allow as much sand recovery as possible; it restores our infrastructure, which is one of the items that is allowable under General Government Services under the ARPA funding, the final rule. It maintains our infrastructure. It gives us a restored tool that allows us to catch sand and restore the beach as much as we can. It also provides an outdoor recreational opportunity for the public by giving us a tool that allows us to maintain this beach and we know that this beach and all the others have proven to be a valuable resource to both residents and the public during the pandemic and at all other times. That is the proposal. I'll be happy to stop sharing my screen and answer any questions.

Committees report

Finance and Public Works Committees, Mr. Braunstein:

On January 27, the Committees met to review the request that Pete just detailed for us all. The appropriation is in the amount of \$1,300,000.00 for the replacement of the Burying Hill Beach Groin which was installed by the Army Corps of Engineers approximately 70 years ago. The project will replace the existing groin with exactly what's there in the exactly the same design. I assume there will be some improved materials but we are basically be using the exact same footprint with the exact plans that were originally used. That is a requirement for us to endure a much simpler permitting process. We discussed whether this project is, in fact, allowable under the ARPA designation and I think everyone agreed there are multiple ways you can qualified this as an appropriate use. 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 for Public Works were Jay Keenan, Don O'Day (both), Matt Mandell, Peter Gold, Lori Church, Chris Tait, Dick Lowenstein. For the Finance Committee in addition to myself were Nancy Kail, Jessica Bram, Rachel Cohn, Stephen Shackelford and Don O'Day.

Minority Committee Report

Mr. Mandell:

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 Assistant 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 project 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 Board of Finance 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 BOARD OF FINANCE 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 money 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.

Members of the Westport electorate

Art Schoeller, 6 Brightfield Lane, President, Greens Farms Association:

We are requesting that the RTM tonight approve the utilization of ARPA funds to replace the long-neglected beach jetty at Burying Hill. We along with other neighbors have been lobbying the town for six years to take action on this unsafe and deteriorated structure. After two years, at least a warning sign was place to ward off people from walking on it. My research has located some reports that the useful life of a jetty ranges from 30 to 50 years. Based on Pete Ratkiewich's presentation and the dating, we are well beyond that timeframe. At this point in time, if you go out there, you can see that 30 to 40 percent of the structure is gone. The rest is heavily eroded and soon to break apart. We lose the jetty, we lose the beach. But those of you who are voting who have not visited the site, I would offer that after the Board of Finance visited in person, they

voted unanimously to support this project now. Mr. Mandell's comments, I appreciate very much about a rapid process to introduce a different funding mechanism, but I'm concerned about the delay that this would incur. The town does not move that fast. It seems to be a very heavy parliamentary procedure to pull that off and Pete's got a schedule to keep before we hit the summertime and people want to use the beach. I also think we put some risk into the process by delaying at this point in time. Some of you may feel that Burying Hill only serves Greens Farms. As President of the Greens Farms Association, I would offer the following, that it serves a wider community than you may expect. Burying Hill is without question a different experience than Compo, less hustle, bustle, traffic and, of course, a safe place that has been heavily utilized during the pandemic. The town of Westport hosts its pre-K summer camp there since it's a quieter place for young children. The High Tide Club is an informal group of swimmers from all over town who prefer it to Compo. In fact, some of these swimmers are out there all year round including during the winter. Fishermen I've spoken to who hail from all over Westport say that the outflow from New Creek supported by the Jetty is the best place to fish between Norwalk and Bridgeport. There are many others who, during the pandemic, needed a place by the water to gain peace of mind who may not have been as well served by the more active Compo Beach. Burying Hill doesn't have softball, pickle ball, nighttime basketball, awesome playground, a concession stand, it's just a beach. It's not my intent to pit Compo versus Burying Hill. Both are great and they serve the entire town and both need support and maintenance. Burying Hill doesn't ask for a lot but it provides a huge amount in return to the entire town. The time is now. Federal funds are available. The cost of bonding, I'm not a finance person. We really need to move forward quickly to preserve the beach and preserve the jetty, renew the jetty and make it a safer experience. Thank you for your consideration.

Mark Kirby, Treadwell Avenue (district 1), Save Westport Now:

I am speaking tonight as a resident and also a member of the Board of Save Westport Now. We submitted a letter this evening. I just wanted to make two points. I think the discussion tonight has been great so far. First of all, I want to thank the RTM and the Board of Selectwomen, this time around, and Public Works. I know that there is a lot of thought and consideration that has gone into all of this which I've been trying to catch up to by reading transcripts and listening to a lot of long meetings over the last few days so I appreciate all of that. There are two things. The first thing, both myself and in discussion with other members of the Save Westport Now Board, we do want to urge the RTM in the discussion tonight to try to clear up some of the confusion that has happened in the past discussions around this. I think tonight was great in that Nancy Diamond did a fantastic job referencing the actual Treasury guidance and why arts fall squarely within the guidance for ARPA. I also think the explanation of why the jetty works was perfectly clear, as well, which is it falls under Government Services. But the important distinction there is that the Government Services allowance was intended for offsetting lost revenue. In a final ruling, Treasury said, 'Don't worry about it, \$10 million is good.' So, I would encourage the RTM, if you want to look at a Government Services project like the jetty, consider it under the question, is this the best use of Government Services money for Westport compared to any other number of infrastructure projects Westport could do? There's actually no need to consider the ARPA guidance. I know in

some of the past discussions, there had been talk about resilience and other things, critical things for our town, but those fall under Government Services and they do not fall under the specific intent of the ARPA law. Specifically, on this project, to be clear, myself and Save Westport Now are not opposed to funding this jetty project. The jetty is an urgent need for the town. We would just urge the RTM to consider whether or not, when you look at the entire pie of the \$8.4 million, whether that \$8.4 million is being spent in a way to address the disproportionate needs created coming out of the pandemic. I think the arts are one of those and people spoke very clearly and articulately to that earlier. I do think that affordable housing, there is at least one project is part of this funding but I think that there is room for more ambitious and creative solutions for housing needs in Westport. One specific point that came up earlier when Wendy Batteau suggested providing funding for people who lost income in the pandemic in the arts. I appreciate the Selectwoman's comments that it would be challenging to administrate but there are, in fact, quite a lot of Federal and State guidelines for setting income thresholds and how you would set clear criteria for who could qualify for such funds. I do think there were lots of our neighbors who had severe impacts from the pandemic that were not felt by everyone in town. I would urge the RTM and the town to think creatively for ways that we might help those people especially because the funding does not need to be spent immediately. I know the jetty is urgent but for half the funds, the projects need to be underway by 2024 and the other half by 2026. So, there's really no rush on these infrastructure projects except for the ones that are urgent like the jetty. That's my comment. If anyone has any questions about the letters, I'm happy to answer them.

Jay Walshon, 67 Roseville Road:

I wasn't going to comment until I heard Matt speak and Mark Kirby speak so articulately. One of the items that I want to focus on real quickly, what Mark said was the ARPA funds were supposed to be utilized because of issues that arose out of the pandemic. The jetty needs to be replaced but that predated the pandemic. So, as you consider the funding for this, the issue isn't whether the jetty needs to be replaced, I think everybody understands that. The only issue is how to fund it whether to use the ARPA funds or to somehow bond it. I don't see what the problem would be to try Matt Mandell's minority approach. What do you lose? Maybe a month? But certainly, what Mark talked about, the target for the ARPA funds is supposed to emanate from hardship arising out of the pandemic and that jetty, the problem predated the pandemic. As you consider this funding approach, I just wanted you to understand that.

Ms. Karpf read the resolution and it was seconded.

RESOLVED: That upon the recommendation of the Board of Finance and a request by the Director of Public Works, the sum in the amount of \$1,300,000.00 for Construction and Construction Inspection Services for Replacement of the Burying Hill Beach Groin from the ARPA CLFRF Grant Income account is hereby appropriated.

Members of the RTM

Christine Meiers Schatz, district 2:

I'm really hoping we don't fall down a rabbit hole tonight talking about affordable housing or the importance of the beach because we all know the beach is important. To me, this is really a question, as Dr. Walshon said, of whether this should be bonded or whether we should use the ARPA funds for that. To answer that question, I really need some more information from our Town Attorney and whoever else can provide it, some more specific backup support as to why this qualifies under ARPA. I've been trying to skim through this 150 plus pages of Treasury guidance on ARPA and I must be...maybe I'm missing the category that this falls under. Here's an example of some of the things I've read about capital expenditures. I'm actually going to read this verbatim because I think it's important:

Capital expenditures should be related and reasonably proportional response to a public health or negative economic impact of the pandemic.

As many people have pointed out, this is my third term on the RTM. This jetty has been an issue since the first year I was on the RTM. It's not a problem arising from the pandemic. I know that some people might say the beach is really important during the pandemic because it's a way that people can be healthy and outside and socially distancing. The guidance specifically says

Construction of a larger public facility for the purpose of increasing the ability to socially distance generally would not be considered a reasonably proportional response compared to other less time and resource intensive options that may be available and may be equally or more effective.

Another paragraph from there:

In considering whether a capital expenditure would be eligible under the public health and negative economic impacts eligible category, recipients must satisfy the requirements for uses under the public health and negative economic impact eligible use category including identifying impact or harm in designing a response that addresses or identified impact or harm. Responses must be reasonably designed to benefit the individual or class that experienced the impact or harm and must be related and reasonably proportional to the extent and type and impact of harm.

In other parts of the guidance, it goes on to list projects or good examples of what would be eligible and that includes building testing sites, improvements to vaccination sites, improvements to medical facilities for first responders, acquisition of equipment for COVID -19 prevention, costs of public health data systems. This is nowhere near any of those. Yet, I know, in the Finance Report I know that you guys all reviewed and said that this was clearly qualified for ARPA funds. So, I guess, what I would like is more information as to why. So far, I'm not seeing it.

Assistant Town Attorney Eileen Lavigne Flug: Jeff, would you like me to address that?

Mr. Wieser: Yes.

Ms. Flug:

Christine, thank you for your question. Our firm prepared a memo which I delivered to Pete Ratkiewich and sent to Jeff. I was hoping it would go to the whole RTM on this issue but perhaps it didn't. This is the memo that was issued on Monday regarding the

eligibility of this item for ARPA funding. So, Christine and everybody else, the ARPA rule has four categories for use of ARPA funds. The first one that Christine was talking about was public health emergency or the negative economic impacts including assistance to households, small businesses and non-profits or aid to impacted industries such as tourism, travel and hospitality. That's the category where the arts funding came under because they're non-profits. The second category is to respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers. The third one which applies here is 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. The fourth category is to make necessary investments in water, sewer, or broadband infrastructure. The 490 or so page document, the ruling that was finalized in November, goes on to explain all of these different categories. For our purposes here, it's category number three, provision of governmental services that applies. Even though it says that section is limited to the extent of the reduction of revenue due to COVID-19 relative to revenues collected in the most recent fiscal year, what the Federal Government has said is that every municipality can take a standard election assuming that it is \$10 million per community. It's called a standard allowance. So, every community is assumed to have suffered \$10 million of reduced revenue so that's the amount that can be spent on government services. In our case, our entire grant was \$8 million so the entire \$8 million could have been spent on government services. We're not spending it all on government services. Some of it is being spent on non-profits and other purposes but this particular appropriation is being used for government services which includes infrastructure, maintenance or pay go funded building of infrastructure including roads, modernization of cyber security, including hardware, software, protection of critical infrastructure. Also health services, environmental remediation, school or educational services and a provision of police, fire and other public safety services. So, it's our opinion that because this is an infrastructure appropriation that it comes within the definition of government services and because we can spend up to \$10 million on government services (we have only \$8 million to spend) that this appropriation fits squarely within the ARPA requirements.

Ms. Meiers Schatz:

So none of the rules regarding capital expenditures applies?

Ms. Flug:

That description was describing the use of funding for the public health emergency under option number one. Somebody had pointed out earlier in the week that option number four, category four, is to make necessary investments in water, sewer or broadband infrastructure and in that particular section, it says under that category, it should not be used for flood mitigation programs like seawalls. Well, that's fine under that category. But in category three, something like this is allowed because it's infrastructure. So, a project may not fall within one of the categories but it could still be eligible to fall within another category.

Mr. Wieser:

Christine, you are way beyond your time of 10 minutes. You are the first commenter and I see 12 hands raised so I'd like to move on and come back to you if you still have questions at the end, if that's okay. But thank you. That's a good start. I'm sorry by the way. Eileen did send me that memo. It was part of a long string of stuff and I did not realize it had not gone to everyone. I just sent it to everyone and maybe you can read it while we're going on. (Appendix II)

Ms. Flug: And I apologize for not asking you to circulate it to everyone.

Ms. Purcell:

I am going to keep this very quick. Westport is not only an arts community, it is a beach community. That beach is not just Compo Beach. This beach is an essential part of our town and something that we need to support. I have comfort from Gary Conrad's memo and from conversations with Pete that this well falls within the guidelines and I will cede my additional time to Gary to speak very, very briefly on the memo that you circulated that supported this being supported by ARPA.

Gary Conrad, Finance Director:

We've done a lot of work on this going back and forth. I reached out to the Connecticut Conference of Municipalities that we participate in. We have a gentleman up there, Mike Muszynski, whose title is State and Federal Relations Manager for them. He's also in charge of the ARPA funding oversight. I reached out to him and he actually guided us to the idea of replacement of lost extra revenue. He said you have four different areas that this actually falls under. It falls in this project because you're benefitting everyone. You don't have to pick a particular group, a low income group or anything else. It's a benefit to the community. It's an open beach that anyone can come to. We've had some impacts from the pandemic from that. He feels that this really falls into one of the categories that we really want to do. It's not because it's on the shore or anything else. But, it's an impact to the community. It helps everyone. His comments were all favorable in all four categories.

Jessica Bram, district 6:

Mr. Moderator, I promise that I will be as brief as necessary and I will not be redundant with the Minority Report. There are two things I disagree with in it but I thought it was excellent. I do not agree that this is an appropriate use of ARPA funds. If I could read from the Treasury Summary, it says:

To provide emergency funding to eligible state and local territorial town governments to respond to the COVID -19 emergency.

In terms of capital projects, it says

It takes critical steps to address many challenges laid bare by the pandemic, especially in rural America and low income communities and to have access to high quality modern infrastructure.

I don't agree that a beach is infrastructure. That's under the capital projects:

Homeowner assistance provides relief for the country's most vulnerable homeowners and emergency rental and small business support.

I do not by any stretch of the imagination see how this could be called appropriate for ARPA funding. I just don't see it. This is not a government service. I don't think that anyone is not going to renew their beach stick for parking because of the groin at Burying Hill Beach. It's not the one that the children use. I disagree that it is infrastructure and it will not result in a reduction of revenue. One more thing, when you hear the word *optics* which we heard before, the word *optics* does not apply. It is a question of right and wrong. We have to do the right thing and the right thing is that this critical money should be used the right way.

Mr. Shackelford:

I agree with what Jessica just said. This is not about optics. This is about, in my view, adhering to the spirit of the ARPA law. It makes sense to me what Eileen Flug just said which is there is this catch all category in the ARPA program that says that you can use ARPA funds to replace revenue lost because of the pandemic and there's an assumption that every town lost at least \$10 million. I believe that it's true and this is an acceptable use of funds under the ARPA program. But that doesn't mean we should use it that way. Under that rationale, we could use all \$8.4 million and just stick it in the budget and lower the mill rate or something like that. I don't think that people who are in favor of this project, that's what they're arguing. To be clear, the project has to happen. I completely support the project but I do not support using ARPA funding for the project. I support bonding the project. Apparently, the project has needed to happen for many years now and we have now gotten to the point where there is some urgency behind it which is good. My response to that is get in front of us as quickly as possible with a request to bond on the project which is what we would have done normally. What we can do now is how we would normally have treated a \$1.3 million project. If, instead, we use \$1.3 million out of our \$8.4 million ARPA funds on this, when we could have bonded it, what that means is that \$1.3 million is not going to go towards projects that are more within the spirit of ARPA to help people who have had a hard time because of the pandemic or to meet other town goals that are more clearly connected to the goals that the ARPA funds were meant to support. It is true that we could conceivably find some other project that is more consistent with ARPA that we could bond for \$1.3 million but a lot of the projects I've heard about are not projects we bond. They are not \$1.3 million; things like affordable housing that the First Selectwoman talked about that is going to come before us soon. Again, this needs to be done. I am not willing to say spend \$1.3 million out of ARPA funds to do this today because this particular thing has been an issue that has been raised by people like Mr. Schoeller for several years now. We should find a way to bond it quickly and get it moving forward quickly and we should save this \$1.3 million and use it for projects more consistent with the spirit of the ARPA program. My understanding is there are a number of shovel ready projects that are not \$1.3 million but could add up to make very good use of that \$1.3 million that are within the scope of the other categories of the ARPA funds, not just replacing lost revenue which we are only fitting into that lost revenue category, correct me if I'm wrong, because of the \$10 million allowance that every town gets no matter whether you have lost revenue to make up or not. So, we are a very fortunate town but we do have some real issues that we have long been trying to deal with that have been made worse because of the pandemic. So, I would go further than what Mr. Mandell proposed. I'm

not going to support using ARPA funds for this. I would support going as quick as we can to bond this project which is what we normally would do. I would save the \$1.3 million for other projects. If someone tells me this means the project would not be started for six or nine months, I might reconsider but if it is a matter of two or three months delay, I think we should deal with it. I don't think the RTM should be making a decision on this kind of a project because we're told we have no choice. This is the only place we could get the money this fast. I know we've had five or six years to try to deal with it but you've got to make the decision today. I'm not willing to do that. I completely respect the need to do the project. I fully support it. I will vote to bond the project and move it forward as quickly as possible. I will not support using ARPA money.

Ms. Kail:

I fully support this project and I was going to say a couple of other things but I'd like to use my time differently. I'd like to put it to the First Selectwoman and her team, Pete or Gary, a question about the pros and cons of bonding this project right now or going forward approving it using ARPA funds. I'd like to hear from you about your thoughts on this.

Mr. Ratkiewich:

I'll let Gary speak to the cost of bonding. I believe the plan that was laid out by Representative Mandell is not realistic. First of all, we cannot get on the Board of Finance agenda for February. It's next week. The deadline is long since passed. We would get on the Board of Finance meeting in March. We would come back to the RTM and we would pretty much lose that construction season unless you want to see a lot of pile driving equipment on the beach for the entire summer. So, we would start this project, realistically, in October, which would add to the cost based on the escalating prices of timber as well as labor and equipment at least five percent considering the cost of timber has doubled since we had an OPC on this project, I think a five percent increase on the cost of the project between now and October is a fairly conservative estimate. As I said, I'll let Gary talk to the cost of the bonding but I estimate the cost would go up from \$1.3 million to \$1.6 million or more. With that, I'll let Gary speak to what the cost of bonding is and what the process of bonding is which may have some misunderstandings amongst the group here.

Mr. Conrad:

Right now, we still are at a low interest rate structure and if we were to go out to bond this, we'd be looking at a two to 2.1 percent financing range which is very cheap money but it still adds about \$260,000 to the project. I think that one of the things that Pete is sort of in a quandary about is he's got the bids out there and I think they're coming back on Feb. 10 and it makes it difficult for him to ask the contractors to hold their bids for any longer. So, the process would be that the RTM would say, yes, we approve the project but I'd have to defer to Eileen Flug. We don't have a bond resolution in front of you tonight so I'm not sure whether you could actually vote on that. It has not been structured by the bond counsel. It would go back to the Board of Finance. They would have to examine this project and approve it. It would then come back to you again. As Pete said, this would delay it until next year to do the project. My concern is that on the

risk management side of this deteriorating, we risk holding off another year on this. It has been on the books for quite a while and probably should have been brought up earlier but we are now in a position that, looking at this, talking to the people involved, the experts on ARPA, they say that it falls within the category, and it's an opportunity. If we pull this off, if you take a look at the five year forecast to see if there are other projects, we don't really know what is coming up to fill in the gap. We don't want to get to the end of the day where we are still struggling about how the money is going to be spent. It is not only how the money is being spent. It is how the money is being committed. We'd like to get things in order basically. We want to have all these projects committed to before the deadline. I would hate to see the town give any money back to the Federal Government that we could have used to help the people of Westport. Pete can address the timeline but it will delay the project. Given 20/20 hindsight, we should have looked at multiple options here but when we looked at it, it passed inclusion as an ARPA project. We thought this fell well into the category, shovel ready, good to go, it benefits everybody in Westport; it's open for any Westport resident. We thought it worked out well.

Mr. Ratkiewich:

The bottom line is the schedule, you don't have to follow the schedule but right now we have the project out to bid. The bids will be coming in Feb. 10. In the bid, we've required the contractor to hold their prices for 60 days. But that's as much as we can expect at this point because right now there are no suppliers that will hold their prices for more than 60 days if even that. So, whoever is bidding on this project is really factoring in that they may have a price increase anyway.

Ms. Kail:

Pete, can you also comment on your capacity. I know there is a big backlog. There are lots of projects. I went to the meeting last night with the capital forecast and the ARPA funds projects. It's a lot to manage. How did delaying this factor into your ability to manage the whole pipeline of projects that you have before you?

Mr. Ratkiewich:

That's a great question and one that the Board of Finance members even asked me. Why wouldn't we take this project? It's shovel ready. It qualifies under the this and get it going while we have so many other projects on the books. You can speak about bonding or not but it's sort of a no-brainer here. We've had this permit out here since 2019. It's ready to go. The permit will expire in 2024, I believe. Get this out of the way. We still have a lot of projects in the pipeline on the first tranche and the second tranche. This one is ready to go. It falls into the category. It falls into many categories and we've had that verified from many different sources. It doesn't make sense not to do it. This is infrastructure. I'm afraid I disagree with Jessica. It is a structure that is protecting one of our best assets, one of three beach assets that we have. I don't know what other definition of infrastructure you have there but this is a structure that is protecting the beach. And it's in disrepair. It's shovel-ready. It's got the permits to go. I'm not sure what else I could say on that. Realistically, if I have to come back to the RTM in April, which, in my view, we're going to be at, I'm not going to start doing a project in the summer

when people are out on the beach. We'll wait until after September and that's when we'll start. That throws all these bids into question. It throws us into a big level of uncertainty as to where prices will be in the fall. We know where the prices will be now. So, I'm thinking we should move forward.

Ms. Kail:

Thank you. I stand behind where I voted before. I fully support this project. I support doing it now. I really appreciate Laurie and Matt's proposal. I wish it had come a few months earlier. I think that would have been better timing to consider something like this. I'm looking at what we have before us that it qualifies, not only under ARPA but also under the town of Westport's own ARPA guidelines, page 10 of the ARPA presentation. I support this but I also support all the other amazing projects on page 10 of the ARPA presentation that will come down the road. I also want to thank Mr. Schoeller. We were there at the site visit so thanks a lot.

Ms. Gertzoff:

To me all of this is another example of not being able to see the whole picture. I understand now that we don't do things that way. I think this is one reason why people are reluctant. I understand about bonding. I've done some research on that; however, I have been on Burying Hill and I live on the other side of town. Burying Hill has always been my oasis. I'm sure I've been on Burying Hill longer than anyone on the RTM, more than 70 years. I think it should be done now. If it qualifies, as it seems to, for ARPA funding, then let's do it and get it done. If for some reason it doesn't qualify, okay, then we can fall back on bonding. Let's get it done. And I don't subscribe to people saying not that many people use it. Not that many people use some of the other issues that we've talked about tonight. So, that's not a good argument and it is definitely part of the infrastructure. I don't want to see it go out to the Sound. So, I support it and I want to see ARPA funds be used providing what people are saying it is qualified is correct. If it is not in order, then we can fall back on bonding. And thanks, Pete, for explaining it and Gary. It should not be delayed.

Ms. Kramer:

I fully support this project not because it's in Greens Farms. We are all representatives elected by our own districts but we all represent the town. I wonder if we would have this much opposition if the same jetty was supporting Compo Beach. We all come here for the beach. Liz Milwe made a comment about what realtors sell. I am a realtor and I sell the schools, the beaches and, of course, Longshore. We don't want to lose this beach and we don't want someone to go out on the jetty and get injured or worse. The time is now. We've been told by everybody that it fits under the category. Let's do this thing and save the beach like we promised we'd do 65 years ago. By the way, it is under infrastructure and beach infrastructure and under bonding, the increased costs for bonding are ridiculous and will make it worse for bonding when we need bonding for our schools.

Mr. Izzo:

I look at this from a different perspective. I thank everyone for their comments this evening. The important thing we have to realize, we haven't brought up safety here. Public safety is a very important thing to me. That jetty is not safe. And it's time. We can all have an opinion and we can all go through the idea of bonding. It's a wonderful idea. But we're all in government. We know how it works. Look at the State, how it works. Look at the Federal government, how it works. Nothing gets done quickly and just the hiccups that were just brought up to us. Do you want to take that chance? This is ready to go. This is shovel ready. You take the keys to the car; you get it done; you're off to the races. We might run out of gas if we wait. Let's get these guys in. You're getting it done at the right price. The questions were great. I think the minority report was well done, Matthew. Kind of up there with your Baron's South one (a little bit shorter.) I kind of think you have to look at this as let's get this thing done. And thank you everyone for your comments.

Brandi Briggs, district 7:

I'm with the last few speakers. I will be supporting this. I am looking at a different point of view. I believe we are really fortunate that Westport has been so fiscally responsible and has had sound financial management over the past years that we were able to get through the pandemic paying our police and fire and all essential workers and town workers and everything we needed to keep doing. Other municipalities were not that lucky because they are not managed as well as Westport. So, I'm thinking that it's great that we get to do this project now. It's ready to go, we have all the permits ready to go and it fits into the category of ARPA funds. I would say this is the time to start doing it. I also wanted to know if First Selectwoman Tooker wanted to add anything else of how this fits into the ARPA funds.

Ms. Tooker:

Thanks Brandi. What I will say is our strategy, as I said in the beginning, of spending ARPA funds specifically, the long-term spending strategy. We saw this money as an opportunity to accelerate priorities that were already exhibited in our five-year capital forecast in a fiscally conservative way which is to do it with less borrowing. We felt that this fits into ARPA funding. You've heard plenty of people talk about why this fits into ARPA funding before the final ruling from the Treasury Department last week. I will tell you that we thought this would fit into ARPA funding because we are a coastal town; we are responsible for insuring that our coastline is protected and we saw where our residents were seeking refuge not only during the pandemic but now, on an ongoing basis, at our beaches, in our parks, in our open spaces and playing outdoor sports. So, we really felt this was related to pandemic relief because this is exactly where our residents spent time and continue to spend time as we start to move out of the pandemic. It's open to everyone. It's a public asset and it is our responsibility to maintain it and this is the fiscally responsible way to do it.

Don O'Day, district 3:

Relative to the question of eligibility, a lot has been said. I think the \$10 million rule makes this very eligible. While this takes care of the letter of the law, I understand the spirit of the law is still out there. It is a subjective question. I am definitely supportive of

this project. I believe that revenue in town is fungible whether that revenue is coming from property taxes or fees or ARPA funds. I think we have the ARPA funds and we can use it just based on the rules. And we should. Bonding, while I commend Matt and Laurie and others for the idea. It's a good one. But I have spent a good part of the last several years of my life dealing with something that has been long delay. Bonding will result in a longer timeframe. It will result in higher costs and we will certainly lose the summer. We don't want to do that. Jimmy brought up the issue of safety. The safety issue is there every day. I walked the site on my own and it's kind of a mess. We want to address it. Further, this project is not a project that is going to result in ongoing costs. In fact, I would suggest that it is a cost mitigator. The longer we wait, the higher the costs will be and there's even liability that we have to consider. The use of these funds isn't generating ongoing costs; in fact, it's going to prevent some costs. Finally, I really do appreciate what Jen said. We are a beach community. The beach has been impacted and Burying Hill is not a Greens Farms beach, it's a Westport beach used by all and the better it is, the more people will use it and enjoy it. Again, I'm completely supportive of it and I think we should move forward.

Ms. Batteau:

I agree that this is certainly eligible for ARPA funding. That's not my issue and while I'm empathetic about Stephen Shackelford's argument about the spirit of the rules, I do agree with Jen Tooker that this is a place of solace for people who have been impacted by COVID so I'm not really having an issue with that either. We've had this on our capital forecast for three or four years now. It was never seen as being urgent until suddenly there was some money available. We're the RTM and we need to be cognizant of financial trends so although it hadn't been pushed and pushed quite this quickly, I think it's a good idea to take advantage of not having to take what inflation is going to do into account. But I do have another significant concern. Westport is a beach community; it's an arts community and it's an environmentally forward community. We heard that this jetty was going to be rebuilt as it was 70 years ago. We know a lot more now than we did 70 years ago. There are states that don't permit pressure treated wood to be used in their waters. New Hampshire comes to mind. Westport banned, thanks to Andrew Colabella and some others working for over a year on research and writing an ordinance, we banned single use plastics because of their effects on oceans and marine life and human health. Thanks to Liz Milwe, we banned plastic bags 10 years ago for these same exact reasons. We banned using tire fragments on artificial turf because of its effect on human health. We banned purchasing and using fracking waste on our roads because of its impact on human health. Our oceans are not in good shape, to say the very least. It's a big deal. I would like to have just another month to learn what kind of materials are being used. Are these going to be leaching arsenic? Even worse, the copper arsenic? There are other substances that can be used for jetties and are being used all over the world. It would be useful for us to, at least, take a pause, learn what it is we are putting into our water which won't just stay our water. We are a coastal community and we have a responsibility to other people who use our oceans. I think we need to take a look. Maybe it will be fine. Maybe this will be the best choice. But it doesn't sound to me that this project has been looked at from that point of view. I think we would be remiss or perhaps negligent if we don't have a look.

Harris Falk, district 2:

I agree Matt and Stephen and Jessica. This should be bonded. The permit was from 2019 so we've known about this for a while. It was ready to go. This was just the town, yet again, pushing off maintenance because we don't want to do maintenance and that ends up costing us more and overworks Don O'Day. This isn't what ARPA was for. This is what the town is for, a town project. It's actually offensive how little maintenance we're putting into the town and suddenly, we found the extra \$20 in our pocket while doing the wash. Oh, now we can get it done. It's like a house that we don't want to maintain and then we're surprised when it starts falling apart. And the fact that we've basically been threatened that if this one doesn't go through ARPA, we'll take something else off the list and send it through ARPA. So, basically, we are fixing budget shortfalls. Maybe the town is broke. Nobody can afford to fix our own stuff. This is yet again a project that made it to the RTM at the last second. OMG, we have to get this done! We had a project a few years ago that was already in process and we were told we had to pass it because the project was started a couple of months ago.

Mr. Lowenstein:

This is in my district. I will be supporting it principally because it does affect my constituents. There is a flooding issue that is involved here and it impacts people who live in district 5. The key word for me was *flooding* because I really feel that the entire ARPA process has neglected the serious flooding problems we have in town, this being one that touches on it in a very small way. I will be supporting it. You've heard here this evening that this has been on the books since 2019. I asked the Finance Director that question and it's been on the books for 10 years. It has been in the capital forecast for 10 years. Two First Selectmen have not made it a priority item and now, suddenly, with the ARPA money it is a priority item. I would ask that the current First Selectwoman look at the entire capital list and see what items there can be taken off or moved up but don't leave them there so they get gray beards and long hair.

Candace Banks, district 6:

A couple of points and then a question to Pete: When you think about Burying Hill Beach, it does serve as an outdoor classroom for kids. GFA uses it all the time. When I do look at this through a lens of safety, I think Gary Conrad was very candid and I think we can all agree that this should have been done a while ago. It is an example of deferred maintenance and we've alluded to Don O'Day, at the risk of beating a dead horse, we all know what happens, particularly on the school side when we defer maintenance too long. We end up in a very expensive, undesirable situation. I know many of my colleagues would be more comfortable if had a closer medical tie to COVID but we're not going to build a health center with this money. We are very fortunate in a number of ways and so maybe a different community is opening a vaccine center with their ARPA money but that's not what we would do with it as I think my colleagues have ably discussed where this would fall in. I guess what I wanted to put to Pete...I'm supporting this and I don't want to delay a day. My logic goes something like this, Pete, in an extreme weather situation, if the storm we had last weekend was a little further west and hit us square on (instead of Boston and Nantucket), could an event, maybe a

snow storm or in warmer weather, a hurricane, could an extreme weather event that we couldn't predict have catastrophic impact, e.g., coastal flooding, make fixing the jetty more expensive? Part of my rationale for getting this done as soon as possible is because you don't want to be in a position where it gets worse.

Mr. Ratkiewich:

Thank you for the question Candace. The damage to the jetty in a storm is insidious. So there is a little bit of damage during every storm, little storms or larger storms. Certainly, in a major storm, this groin could get wiped out but I don't want to be alarmist. I'd like to make it clear, it's been in the capital forecast for a long time. It's been deteriorating for a long time. We've realized it's been deteriorated for a long time but it has not been prioritized as it is being today. We realize now of the 400' of groin, the bottom 200' to 250' is missing probably 70 percent of its structural elements. So, right now, it is a bunch of sheeting that sways in the wind. It's waving back and forth as these forces come on it. In a big storm, it could easily break over. The proper structure has pilings on either side that is supporting that waling against that force and will have properly placed rip rap on the downstream side of it so that it can't be knocked over during a heavy event. In the meantime, every little storm, this weekend's storm and every little storm that comes through is doing a little bit of damage to that and that's why we are where we are right now. If you go down to the beach, there are rusty bolts sticking out, there are shards of wood sticking up. One or two accidents on there could cost us additional cost. There is the risk of the structure getting knocked out during a more catastrophic event but there is the insidious risk of it getting knocked out piece by piece and no one noticing until it's too late.

Mr. Klinge:

I'm trying to put this into a brief three minute summary which kind of works for me as the decision process and result has to come out tonight. I think if you asked yes or no, do you want to fix this Burying Hill groin, we would all say yes. That seems to be unanimous. If you don't want to get it fixed, just say no and vote it down when it comes up and in the five-year forecast later on. Those are two simple yes and no's. I assume, if you say yes, you want to get it fixed, if optics bother you a lot, about using ARPA money, then vote as Matt suggested, to move it to a date certain, try to get it done in March, it looks more like April, and we can vote to bond it. If we vote to bond it, we have to do several things. We have to pay more money. It could be \$300,000 or \$400,000. We have to find replacement projects to replace the \$1.3 million and get them ready to go and happening by 2024. If we choose to look for projects to replace the \$1.3 million, Long Range Planning is happy with the administration and entertained everybody's ideas for additional projects to be looked at and analyzed so we have enough time for Pete and the committees involved to make decisions and make recommendations. We've got to replace the \$1.3 million. To put that into context, there's a good chance, in my opinion that we will lose the \$2 million project for the Health District. If we don't get an agreement from Weston and Easton to help fund that with us, that may be off the boards. Now we have \$3.3 million to replace by 2026. If that's what we want to do, we can vote no tonight, move to a date certain and then vote to bond or not in March or April. But voting to bond has a price, not just dollars but finding replacement projects

and that may not be as easy as we think and the clock is running. I, myself, am going to vote yes tonight to approve it, to fund it with ARPA money and move on. Those are the options in front of us. It's time and dollars and replacement projects.

Mark Friedman, district 3:

I do think this has been in the pipeline for a decade. We've had the permit for three years and, if we feel we need to wait another month or two to do it maybe the right way, I think we might have that month or two in light of the lack of urgency over the last 10 years. Things that might be worth waiting a month or two: I think the environmental review, I think that is an important part, given that we are a coastal community. We want to do this the right way so that it will last another 70 years in a way that is healthy for our environment and for the people using the waters around that area. I also like the idea of bonding, I must say, because it does seem more in spirit. When I think about the spirit of the ARPA funds, while technically this does qualify for the letter of the law, this is not really what the funds were intended for. When I think about the people who have been hardest hit by COVID and the things we might do as a community to help people, I feel if we allocate to this particular project using ARPA funds, the we may not be allocating to projects that may have a more direct impact on the community that is more directly connected with the spirit of these funds. I also want to dispute the idea that waiting a couple of months will increase costs significantly because I pulled up a chart of timber and its commodity price and yes, there's been a spike because of supply constraints but it looks to me like the spike is easing. So, if we move out a couple of months, maybe the material costs will go down and we'll save some money. I think in terms of reversion to the mean and life before COVID, I think that there's a real chance that there will be much more plentiful supplies of raw materials.

Mr. Braunstein:

I wanted to start by seeing if Pete had any interest in responding to some of Wendy's comments. Maybe it would be appropriate, Pete, if you wanted to make any comments on the environmental friendliness of the materials.

Mr. Ratkiewich:

The materials that are specified are specified for a reason. They are not materials that are available to the general public. They are materials that are specific to salt water exposure. Someone mentioned the New Hampshire aversion to pressure treated lumber. When you talk about pressure treated lumber, there are a number of different ways of treating lumber. New Hampshire is primarily a fresh water environment with very little salt water coastline. Connecticut has a full coastline of saltwater exposure. Ninety-nine percent of the structures that are made for docks, pilings, piers, etc. use a product called 2.5 percent pressure treated lumber. That is a copper chromadid, arsenic treatment and the purpose of that treatment is to repel marine borers that attack the lumber. So, if you don't have that pressure treatment, when you are directly exposed to salt water, you are immediately attacked by marine borers. This is material that is not new. It has been used for the last 50 years if not longer. The characterization that it is going to start pooling chemicals in the water is just inaccurate. There's no evidence of that pretty much up and down the coast. This is what is used to build docks, pilings and

marine structures because we want it to last a long time. I'm not sure what research can be done. We can start using exotic materials which will drive the cost up even more but this is the industry standard and is permitted under our permits by the Department of Energy and Environmental Protection. They didn't have any objection to it. The Army Corps of Engineers didn't have any objection to it when they granted this permit. If that's not the authority on marine structures and coastal structures, I don't know what authority there is out there. They have not made this into a science project. They said yes, that's what we'll use. That's what everybody uses. That is the material that is appropriate for this application.

Mr. Braunstein:

I had some additional questions that I'd like to ask. First off, I am very satisfied that this is both within the letter and the spirit. I think questioning that is basically going in a direction that we would find hugely unproductive because, quite frankly, if you were to question the spirit, almost everything on the list could take a second look. To question whether this is an infrastructure project is almost nonsensical to me. This is something that only exists because the Army Corps of Engineers created it. It had a 50 to 70 year life span. To me, that's sort of the definition of infrastructure. I'd like to challenge you all to just remove the word *beach*. Let's forget that this is effectively saving the beach. Let's just say that it is an effective flood mitigant, that it benefits that creeks ecosystem and promotes access to nature. Put aside the word beach and you'll find that this, any questions of optics that came up in our committee meeting, I don't think that's appropriate when you think about all the things that this is doing. It's not just facilitating a beach. It's doing a lot more than that. I think everyone has made the point that the expense of this project is likely to increase if we put it off due to both inflation and the cost associated with bonding. I scratch my head about that we're complaining about maintenance being put off and yet we're looking to put it off further when we could address it immediately. I think the safety risks here are very real and I think the point Don made about fungible is one that you really have to come back to and how do we approach this in total in the most fiscally responsible way? I think the utilization of ARPA funds fits that bill. The final piece for me, Pete, I want to understand something that you said earlier. If the jetty were to completely fail and the sand that is there were to get washed out into the Sound, when the jetty is replaced at some point in the future, would we or would we not be able to replace the sand. The way you said it, it seemed like you couldn't replace the sand.

Mr. Ratkiewich:

The way that works is we have a general permit from the DEEP which was issued in 2015. Prior to that, we had to get individual permits for beach regrading. We are not allowed under either of those permits to bring sand in. The only thing we are allowed to do, as I understand it, is to recover sand that was on the beach. So, back in '57, when they did actually bring sand into the beach, the intent was for the town of Westport to maintain that sand. Of course, you are going to lose some sand to events such as hurricanes and major storms but the intent is to recover the sand that moves through natural processes across the beach every year. When that sand moves from east to west, if there is a training wall or groin that is effective in holding that sand at the groin

level or even some of it might go over, you still have the opportunity to recover that and put it back out on the beach. The original 1947 design for this beach was 100' wide and 500' long starting approximately at the location of this groin. We have lost some of that sand at this point but we're still under the assumption that we can go in and regrade the sand that exists. Whatever has been lost out to sea, we can't but we can recover sand between the Coastal Jurisdiction Line which is above the mean high water line and the mean low water line. That is our understanding. We are going to actually verify that understanding with the DEEP because we want to make sure we're all on the same page. We've been doing this for the last 32 years that I've been here, regrading the beach and over that time, there may have been some loss as exactly what we're supposed to be doing. We're going back and revisiting that now but one thing is for sure, without this training wall, without this groin to stop that sand, the only place it is going to go is into New Creek. So, what happens then? The first thing is the sand goes into New Creek and starts to narrow New Creek. That, in and of itself, backs up water. If it actually blocks New Creek, it's not going to be for long. It's going to be until New Creek backs up enough and builds up enough pressure to push that sand out into Long Island Sound. There are two things that happen there. One, you have a flooding condition while that sand is blocking the creek and, two, you lose all the sand once the blockage is lost out to the Sound. Then we can't recover it any more.

Mr. Braunstein:

That's what I was worried about. So, if the sand migrates south beyond that mean low water mark, it's gone for good and we cannot replace it.

Mr. Ratkiewich:

We would have to go through a fill permit with the DEEP and the Army Corps. It's called a Beach Nourishment Permit. It's going to be significantly more expensive than just recovering the sand that we actually own and we're going to have to import sand and it's a long permit process. It's a Beach Nourishment Project. That's what they did in 1957 on this beach and in 1950 on Compo Beach under this Omni Project from the Army Corps of Engineers. We probably don't have enough sand to bring it back to 100' wide but we can certainly try to recover as much sand as we have out there and we're trying to recover some of the sand that has made it over the jetty now. We haven't been able to do that in our understanding of our abilities but we have had some preliminary discussions with the DEEP. We are going to try to recover a lot of the sand that has made it over the jetty and bring it back to the beach. We'll try to restore the beach as much as we can to the 1947 design which was 100' wide and 500' long. It's nowhere near that right now.

Mr. Braunstein:

Thank you Pete. I'm just going to say I'm going to be voting in favor of this.

Mr. Colabella:

Pete, a very quick question and then I will make a comment. To what Mr. Mark Friedman had said, based on the price of timber right now, given that the cost has dropped, do you see anything in the future actually dropping in price?

Mr. Ratkiewich:

At the Board of Finance meeting when we presented this project, I presented the two estimates that our engineer had provided us. This is our Roberge Associates Coastal Engineers that both obtained the permits for us and designed this project. Their estimate in 2019 was around \$900,000. It has increase to \$1.3 million. Approximately \$200,000 of that increase is due to timber prices doubling since 2019. Is it possible that the price will go down? In the marine industry, prices are not going down that much. Maybe at Home Depot they have gone up and come back down but marine lumber is a different animal altogether, especially pressure treated marine lumber, the value of pressure treating, once it goes up, it usually doesn't come down. It's not a one for one. I'm not predicting that it's going to be coming down. The Consumer Price Index for our area if you look at both New England or New Jersey/New York/Pennsylvania area, the two primary locations for CPI, both of them are five and six percent right now and that doesn't even reflect the spike in lumber prices. That's just labor and equipment and fuel. Taking a conservative look on this and say in October, are the prices going to go up five percent? I believe they will. Right now, we are reflecting the prices today. In nine months, I don't think they will be going down significantly.

Mr. Colabella:

That's what I thought. Thank you Pete. I just want to make a vey quick comment. This has been on the capital forecast for 10 years now and much needed long before that. I was a lifeguard at Burying Hill 2005 to 2008. Even then, it was a hazard. Even then, we had kids slipping and falling, multiple land emergencies where people had hit their head and we had to call an ambulance. It has needed help for a very long time. It needed help under Stuart McCarthy's administration and nothing was done. Now we finally have a chance to actually do something. I'm voting in favor of this because this is a resilience project. This is an infrastructure project. If you think about it, did the beaches get affected because of COVID? Absolutely. During COVID, everyone started going to the beach, March 2020, because that was pretty much the only place that you could go to where you could go out. Before you know it, they shut down the beaches. And then, it became open to the public; however, it was residents only and then it got limited to 100 vehicles a day. What ended up happening was when you limited outside visitors to 100 vehicles at an average \$56 on a weekend or holiday. That's \$5,600/day. A couple of hundred cars were being turned away in any given day. It was at most a half million dollars that employees at the gate counted. There was also a shortage of employees because they were not allowed to come back because of the COVID constrictions. That was money that could have been put into Parks and Recreation, Public Works, the General Fund and could have offset projects for the future of Compo Beach as well as our facilities. So, yes, facilities did get impacted by COVID and I think this resiliency project is also very important. Also, this sea wall, you are talking about 100' wide by 500' deep, I've never seen that. When I was a lifeguard, it was half of what it is now. When I was working at Parks and Rec. maintenance and I was raking the beach on Friday mornings, (that's how I learned to use a tractor there), it was almost impossible to rake that beach because there was little to no sand and when Kowalsky existed and they used to put sand on the beach, it was amazing. It was so soft. It was almost like

you were on a beach in Florida. Then it gets washed away. What happens if you don't have that retaining wall? I'm not going to say who said it from the Board of Finance when we were at the field trip, who said 'There's a wall at Sherwood Island. We don't need a sea wall here.' So, let me get this straight. Your house has four walls. Does that mean you need all four? It's infrastructure. Just because this wall is deteriorating, it can fall onto the other wall? I'm sorry. That is an ignorant comment. You are just kicking the can down the road and creating more issues. If anyone has actually fished in that channel, when you have eastward winds, they beat down on you. What does that do? It impacts the flow. Ebbs and flows. Ebbs and flows. It impacts that channel. When you have nor'easters, it does the same thing. When you have a tidal wind from east to west, it's even worse. It's going to wash out that channel and before you know it, you are going to back that up and hurt the aquatic and marine life. I'm voting in favor of this. Thank you Pete.

Mr. Gold:

Pete, thank you for a very good presentation. I'll be very brief. I agree with Don O'Day, Jack Klinge, Seth Braunstein and others who enunciated reasons for supporting the project. It does qualify under ARPA, both literally and the spirit of it. If we were looking at things from a "spirit" point of view, we shouldn't have approved the tree trimming, we shouldn't approve the upcoming appropriation for Town Hall renovations, we shouldn't approve the upcoming appropriations for Parker Harding Plaza and Jesup Green design because they don't fit in the spirit of the rules. This does fit within the spirit. Furthermore, when we got the jetty, when we got the groin, we undertook an obligation to maintain it. We shirked the obligation for who knows how long and it's about time we shouldered the burden that we said we were going to shoulder. The fact that this has been hanging around for so long does not make it any less urgent today. It makes it more urgent because it should have been addressed two years ago, three years ago, five years ago. Putting it off another two, three or five months doesn't make it better. It just increases the urgency. It's more urgent now because it's been hanging around for so long. The timing of the project now is optimal. It will let Pete do it without disrupting the summer use of the beach and it does get used in the summer. It's more fiscally responsible to use it now. If you really want to bond something, we've got projects coming up. We have a \$1 million request for changes to Town Hall coming up in the first tranche. In April or May, a request for \$1 million. We have plenty of time to tell the Board of Finance and the First Selectperson, 'Okay. Bond that one.' This one's here. It's before us. It's for cash. Let's just get it done. The last point Pete made, it's winter. We do get winter storms. If the sand gets washed out to sea, we are going to lose the beach. It's going to be much more expensive to replace it if it is possible, at all, to get the permit to replace it. It's a valuable town resource. We don't want it to go to waste. Time is of the essence. I'm going to vote for the project.

James Bairaktaris, district 4:

We know the project is here. It has to be completed. That's what we've been hearing all night. We know that...for the ecosystem around it, for the properties that are in that area, as Jimmy had said and Andrew had said, the safety. I have to imagine that the lifeguards and swimmers are going to benefit from this project as early as this summer

because of the creek and the tides that are quite strong there. We've seen this in other areas of town where the swimmers are really pulled into these areas. The change hasn't been done in other years but we have the option tonight to change it. This is a long-term investment. This is something for three, four or five decades in the future. We have the option to make the investment tonight while spending less while doing it. It's a town-wide investment. If anything, I'm hoping that it will force us to look at other pending projects that would also benefit from this emergency to bond them and get them off of our list, make sure they are kept up with so we are not in this same situation again. I've spoken with a lot of people this week. I'm at the jetty pretty often because, oddly enough, in such a state of disrepair, it's a great spot for photography. It needs to be done. It's unfortunate that it's in this state. But it will be less money in the long run. I kind of flopped on this one but I'm in support of it at this point.

Lou Mall, district 2:

I am one of those who is concerned about the use of ARPA money and am not pleased with the fact that we are going to use ARPA money for this project. I would like to go through a litany of things of my opinion. First and foremost, the east and west side of this channel, of the jetty are in the same awful condition, ready to collapse. What I have never understood is why we haven't worked in conjunction with the State to do this together properly and get it right the first time. So, I really think that this is a Federal/State/Local project that needs to be coordinated and it really would apply to Federal infrastructure, waterways spending rather than ARPA spending. Today is Feb. 1 and we have to have the first tranche underway, not completely spent, by the end of 2024. That's 35 months away. The second tranche is another \$4.2 million and it must be underway by 2026 which is 59 months away. So, we don't have this absolute urgency that we need to get it done right now. It's like if we don't do it, the roof is going to fall in. No one is going to collapse on anyone. There might be consideration as far as flooding but you can also open that channel. When we talk about flooding, one of the things that is not included in this proposal is to dredge the channel. Why wouldn't we dredge the channel at the same time that we are rebuilding the jetty? There are so many cubic yards of material in there. Maybe that would avert some of the flooding up on the roadways if we dredged the channel. So, we haven't taken that into consideration. We haven't taken the environmental considerations into consideration. I want you to mark your calendar. This is supposed to start in February of 2022, that's today, and be completed at the end of June 2022. We are also saying that this has a payback of 70 years. I honestly think 60 years would be very generous and good. Public Works is to build it and Parks and Rec. is to maintain it. How has that worked out for us in the past? We have a horrible record of maintenance. It's always pointing the finger the other way. Not my job. To that point, we have been told we have not been maintaining Burying Hill Beach properly for the last 10 years. During that time, it was put on the capital forecast so maybe that's the correlation. We stop maintaining when we put it on the capital forecast. It was projected, all these years, to be done by 2024. Now it has leapfrogged to 2022 because we have these ARPA funds available. I'm not going to get into the price of lumber and so forth. I did mention, why aren't we dredging at the same time? Why aren't we coordinating with the State? We have these bridges that we build with other towns. We coordinate that with each other. You don't build half a bridge

and expect the other town to get to it when they get to it. ARPA versus bonding, this is a simple cash management question. Why would you pay \$1.3 million in cash up front for a wasting asset that lasts 60 years? Why would you use up all of your cash now? If you bond it, it's going to be a 30 year bond and after the bond is paid off, you have another 30 years of use of this thing. But you want to put your cash to use in the sand? That doesn't make sense to me at all. It makes more sense to bond. Finally, I thought Save Westport Now did an excellent job of articulating the issue of affordable housing. I really thought that was an excellent letter so, thank you. For affordable housing, we have earmarked \$150,000 so far out of the \$8.4 million. That's 1.8 percent. There are other people who want to make comments but I will come back later on. But this is a rushed project. We won't have the use of the beach for the summer because the grading is not part of the project. We're not even going to do grading until after the project is done. Mark your calendar. June 30, 2022, if this goes through. I think that it can be postponed and work to efforts with the State and Federal Government.

Ms. Lautenberg:

I am very quickly going to express some of the same concerns. I do think this project does fit into the ARPA guidelines, but barely, based on the infrastructure guideline. The guidelines do say

Strategic investment along with assets and infrastructure are considered.

I am very concerned about the level of safety there, mitigating the flooding, all those items which may lead me to ultimately support this. However, this is just over 12 percent of our total ARPA funding and I would hesitate to support other such capital projects that are this expensive and don't fall, in my opinion, squarely in the spirit of the guidelines even though they legally fall within the guidelines. I'd hate to see this project get put off for another six months or a year if that's what bonding will do or putting it off for other potential reasons. If we could put it off for next month and address some of the questions in the meantime, I'll consider it within the ARPA funding, I'm happy to do that as well. But we're not voting on that at the moment. I don't want to rattle on but I do think, when it comes to capital projects and something of this size, I don't want to see it get put off but obviously we can't do many projects like this within the ARPA guidelines.

Sal Liccione, district 9:

This is for Pete and for Jen. When we talk about this project, we talk about maintenance, maintenance, maintenance. When we finish this project, can we put more money in the budget for maintenance?

Mr. Ratkiewich:

It's not like we haven't been doing maintenance. I just feel that the maintenance that we have been doing, every year, we regrade the sand and by the way, we're going to regrade the sand this year too whether this project goes off or not. We have to regrade the sand because the general permit requires that we regrade it before a certain date. I believe it's April. The maintenance has gone on but maybe we didn't do it in the spirit of what the maintenance was first envisioned as back when they first designed this beach. I can't speak to what happened 10 or 15 years ago. Yes. I think we need to take a look at this in conjunction with replacing this piece of infrastructure essential to maintaining

that beach. The maintenance has been done, maybe not as efficiently as it should have been done. Thirty years ago, who knows who looked at what plans? We're going to look at those plans now, absolutely, and we're going to try to do the right thing. But one of the things we need is the tool that helps us hold the beach. That tool right now is in a major portion of disrepair. You can push it off until October. It's just that the price is going to go up.

Mr. Liccione:

You are preparing your budget now Jen [Tooker, First Selectwoman]. My request is that we add men to maintain these things. We can't keep building things and not maintain them. I'm going to have to support this project due to safety concerns. Parks and Rec. maintenance were understaffed. Even the Engineering Department. My request to you, if we need to maintain these things, let's add more men. Let's go to the Board of Finance, a bunch of us will fight to get more men to maintain these properties. We can't keep building and building and not maintain them.

Ms. Tooker:

What I can tell you is that we have a new Parks Superintendent. I know you know that Sal. You might have actually met him. Beach maintenance is falling squarely under him from an accountability standpoint. Pete and Jen have already had that conversation so you will see in the budget discussions some serious changes in numbers when it comes to maintaining our parks and beaches with the expertise of this new Parks Superintendent.

Mr. Liccione: Thank you Jen.

Ms. Newman:

I have gone back and forth this entire meeting on how I intend to vote. There have been incredibly compelling points made. I think it was Jack earlier this evening who said he wants to get this done. Nobody sitting on this call who does not want to get this jetty fixed, repaired for the good of the town, for the good of everybody here. I guess the question comes down to do we do it now or do we push for bonding. I guess one question I'm not understanding, Pete, you mentioned that if we did not vote for this tonight and it had to go back to the Board of Finance for the bonding situation, that, because it was too late to get on the Board of Finance agenda for the February meeting, we'd have to wait until March, push it off, push it off. Would it not be possible, considering this is a current item, something we are already talking about, is it possible to request some sort of special meeting or to get on an additional agenda for the end of February or make sure we are prioritized within a shorter timeframe in some way?

Mr. Ratkiewich:

I guess that would be a question for the Board of Finance Chairman if they would want to accelerate it. They have a very busy schedule through this budget period. We're meeting just about every week on different budget issues. It's a question that I can't answer.

Ms. Newman:

The other question that I have been stewing over, I want to go back to the comments Harris Falk made early on. I'm sick inside hearing about the safety concerns about this jetty and the flooding concerns and I find my time on the RTM for the past two and a half years has been marred by so much time playing defense. I don't think us, as a funding body, or us, as a town, are doing a great job playing offense with our amenities here. Too many things are left to fall into disarray. We need to get ahead of this. This is just one project but we just went through this with CMS; we're facing other challenges with our school buildings. This is the same comment I made on the arts funding. We need to start proactively start funding our amenities not because we have these ARPA funds but because we are a town that is capable of doing so and because we care about the things that brought us all here, bring new residents here, pay the property taxes because we've got new people wanting to be here. Those are our schools. Those are our parks. Those are our beaches. Those are the arts. We are stuck in the cycle of having to play catch up fixing everything because we are not doing a great job maintaining what we have here. I will make the same statement I made about the arts funding. I really hope, in this budget cycle, that we see some money being spent on the things that we care about, on our priorities as a town, that we are not cutting corners because it is very difficult to continue to fund things because they have reached emergency status. Maybe this is not a perfect use of these funds but we are probably going to fund this because it's an emergency. We need to get out of this pattern of funding things in an emergency. I think it would be better for all of us. The last thing I wanted to say is the one thing that has been sticking with me when I consider whether I want to vote for this under ARPA comes down to the beach, during COVID, and I think this is something Andrew Colabella and a few other people said, under COVID, this is a main form of outdoor recreation to be at our beaches and our parks. I know, as a mother, that is something I have treasured in the last couple of years, to be in a coastal town, get my entire family out of the house and to the beach. For me, when I question whether this falls under ARPA, and I have been questioning it for days and through this meeting, I think this has been our outdoor recreation during this time and who knows when the next surge may be, we'll be relying on our outdoor amenities. That's what I've been wrestling with. I don't think it's a perfect fit under ARPA. I continue to be concerned that we are not looking at this holistically and when we are granting this chunk of money out of our ARPA funds, what are we doing to impact our neediest community members? I don't see a ton of that in the overview. We referenced the social services at \$175,000 from December. I am hoping to see more projects that will come down the pike that are really affecting and having a wonderful impact on those residents that need us the most and those organizations that service the residents that service the residents that need us the most and to know that we're spending this chunk of money without really having examined what can we do, possibly, for more affordable housing, the Gillespie Center, Seth Braunstein rattled off so many subgroups that could use our help. I can't even recite them now. I thought I was in another district. My point is I'm still wrestling whether it's the right step to fund this under ARPA. I do think a case could be made that this is COVID level recreation. There's a safety issue here. I can appreciate that, certainly. My two pleas are let's stop making everything an emergency because we're not more proactive as a town, in general, as a body, in general and also, I hope

we are going to keep seeing proposals that speak to human needs not just our infrastructure projects needs.

Lori Church, district 9:

I don't want to repeat what others have said by I popped my hand up again because we do kind of have a high level understanding of what is going to be coming down the pike. There is that presentation that is posted online. My concern is that there aren't a lot of projects coming up that address some of the things that Lisa and some others have mentioned. We have already allocated the entire amount of \$8.4 million if they are all approved. So, we have to turn down some of these proposals in order to then make room for some new things to come up that align more with what some of you are saying. I do think we could be a little more visionary, creative; I think we could address some of those needs more but we need to make room. For the first tranche, it's 30 percent and we do have time to bond this. I think a couple of months delay is not unreasonable. I think we all agree that it should be done. I think starting it in September and finishing within three months is acceptable to me and it would free up ARPA funds for some of the other things.

Mr. Shackelford:

This is a totally fair debate. I know it was suggested before that maybe this is an issue that some people like Compo better than Burying Hill. That's not true. I think everyone on the zoom from the RTM wants us to protect this beach, to take care of the safety hazard and don't want the sand to wash away. We all agree with that. I agree with that. I'm not disputing that the beaches are a very important place for people in our town to spend time including because of COVID. I don't want to get into an argument about the spirit of the ARPA funds. It is clear that this is fitting into ARPA under the replacement of loss revenue section where we get a \$10 million automatic credit which becomes \$8.4 million because of the way the math works. We didn't lose that much revenue as far as I can tell. We haven't had a tough time like other places have. That's fine. Yes. Money is fungible but this is my problem with this. Gary Conrad explained, it must be hours ago, that borrowing for the town remains very cheap. Interest rates are still very low. As Lou said, we typically take projects with this kind of a life and we bond them. Yes, if you add up all the money you spend over the 30 years, it's more in absolute terms but, especially, if inflation keeps going, if we get this locked in interest rate, we'll actually spend less in real money in some ways than you might expect. For certain, if we bond this project, we are not spending \$1.3 million or anything close to it this year or next year. We preserve that for other uses. What I don't think I'm going to hear anybody say is it's such a disaster we have to deal with it now but we'll all agree to put an extra \$1.3 million in the budget this year to do things that we can't bond that are more consistent with helping some of our neediest and pushing forward, promoting affordable housing and that sort of thing. What I'm hearing is for fiscal responsibility because we don't want to borrow the money, we're going to spend \$1.3 million in cash out of the \$4.2 million in the first tranche. That's what I don't like about this. I have a couple of questions. I just want to know, as a factual matter, Eileen, if the Board of Finance wanted to, could they schedule a special meeting in February to consider a proposal to bond this project?

Ms. Flug:

Yes, they could. This is presuming that the agenda item were presented to them. They can't initiate their own bonding proposal. It has to be a request by the Administration. They could schedule a special meeting. I don't know what their schedule is like, how many meetings they have planned already but as a legal matter, yes, they could.

Mr. Shackelford:

I'm sure they have a very crowded schedule but we have been told that this is an immensely important item to get done quickly. So, my next question, the bonding process. What has to be done in the bonding process before that special meeting happens?

Ms. Flug:

I'm going to defer to Gary Conrad because we have special bonding counsel and Gary works with them to prepare the resolutions.

Mr. Shackelford: So, Gary, how quickly could that happen?

Mr. Wieser: I believe Gary is not still with us.

Mr. Shackelford:

It sounds like what would happen is we'd have to go to our lawyers and say write up the bonding papers.

Ms. Flug:

I don't think it's a very big project. I think the lawyers need to draft it but it could be done fairly quickly.

Mr. Shackelford:

That could be done in time for a special meeting in February. If those two things are done, Eileen, and the Board of Finance is asked to and schedules a meeting, passes a resolution to bond this project, it could come to the RTM in March. Is that right?

Ms. Flug: That could happen

Mr. Shackelford:

And if we then approve it, what happens next? Do we have to wait several months until the bonds have been sold before we hire people and start the project?

Ms. Flug: I don't think it works that way. You have to ask Pete Ratkiewich.

Mr. Ratkiewich:

That's not the case. The bonding process and the construction process are not tied together.

Mr. Gold:

I asked Gary Conrad that question this afternoon. He said if we passed the bond, we could start the project the next day.

Mr. Wieser:

We aggregate a lot of bonding projects and then do one big bonding project at some point in the future. That is the way it has always been approached.

Mr. Shackelford:

So, what I'm hearing and Eileen or Pete tell me I'm wrong about this, is that given how urgent a priority this is, Jen Tooker could go to the Board of Finance tomorrow and ask the lawyer to write the papers. That takes a few days. I'm a lawyer. It doesn't take weeks. They could write up the papers. Jen Tooker could go to the Board of Finance and say we want to bond this and they could have a special meeting later in February. We could put it on the agenda for the March RTM meeting, pass it in March and start the next day. Is that correct?

Ms. Flug:

I'm saying yes you could have those two meetings in February and March. Pete could tell you about the time of when the project could get started.

Mr. Ratkiewich:

Once you make the appropriation, we can move forward with the project. So, yes, we can do a lot of gymnastics here and get you back here in March. That will have an effect on the construction schedule though. For sure, the project will not be done by June. So, you are going to continue the project after September. That will extend the length of the project which will extend the cost of the project. I asked Gary this afternoon and he said the bonding itself will increase the cost of the project by 1.2 percent. I think he said that earlier. So, you are increasing the cost due to bonding and the cost for delay. I'm just telling you, there will be an increase in cost.

Mr. Shackelford:

I understand. We are spending a lot less money this year and next year than if we spend the \$1.3 million now. Let me ask you another question. If we do it this way, you still get the lumber prices you negotiated, right? It is locked in for 60 days. Do I have that right?

Mr. Ratkiewich: Possibly. Yes.

Mr. Shackelford:

Let me pose a question to First Selectwoman Tooker. Would you be willing to take this to the Board of Finance and ask them to move expeditiously on this given the urgency if a majority of the RTM wanted to do this through bonding given the money could be for other uses?

Ms. Tooker:

The decision is yours as an RTM. I will honor your decision as long as everybody is clear on the consequences of the decision.

Mr. Shackelford:

I appreciate that First Selectwoman. I guess I'll wait to see if any of my fellow RTM members see any other consequences. Let me ask one more question. This delay, you say you can't finish in June. What does it look like in June? How much is done? Is the beach still usable and enjoyable? What do we have to finish up in September? I know the cost might increase somewhat because you have to take a break but is the beach usable?

Mr. Ratkiewich:

You still have a construction project going on on the beach. It's not just on the beach, by the way. It's in the parking lots. It's throughout the entire area. When a construction company mobilizes in, it's not a surgical operation. They are going to come in and they are going to bring their equipment in. It will be on the beach and it's going to be staged somewhere. The materials have to be staged somewhere, all of which will disrupt what goes on on the beach spring and early summer.

Mr. Shackelford:

Right now, there will be construction through June. If it is started later, you said we'd have to pause it until September. Is that right?

Mr. Ratkiewich:

If we get to June and there is still equipment on the beach, we will probably have to demobilize.

Mr. Shackelford:

That will increase the cost because you have to pay them to come back in September but if you demobilize, does that mean that all the equipment goes off the beach and out of the parking lots and the beach is usable for the next few months?

Mr. Ratkiewich: Yes. That comes with a cost.

Mr. Shackelford:

I understand that comes with a cost. Do you have any way to estimate the cost?

Mr. Ratkiewich:

That is not in the bid. The bid is come in, do the work, get out. It's not come in, do the work, stop, take everything out, come back in the fall and then go out. That's not in the bid right now. That's not the way contractors bid on projects. So, I would have to negotiate a change order which is going to add another cost. It's easier to get it done now. If you want to delay it and split it up, you just have to accept there will be an increase in cost.

Mr. Shackelford:

Will the safety concerns be taken care of if they have to stop and finish in September?

Mr. Ratkiewich:

The safety concerns will only be taken care of to the extent that the structure is complete. Whatever is not complete is not going to be safe.

Ms. Kramer:

Why do we want to wait? Why do we want to take a chance on someone getting hurt over the summer? It is important. We can all accept that. Everybody has passed it. Let's get this done and get it out of the way. The beaches are important. Start it. Stop it. It still wouldn't be safe. I'm sorry guys. Let's get this done when we have the chance. It might be late in happening but thank you to Jen Tooker and everybody on the Finance Committee for getting it this far. We can't look in the rear view window. We look forward. We want to go forward.

Ms. Batteau:

I came into this prepared to vote for it. I do think that it fits the criteria for ARPA funding and I do think it is something we should be doing. I do not like that we heard tonight, the night that we are supposed to vote on this appropriation that this is the worst kind of substance in terms of environmental consequences. The justification seems to be that it prevents internal fungus and wood borers and so on. I point out that Westport is one of the few places that still sprays roundup on our neighborhood streets and our wetlands, yes, Jimmy. Public Works does. Parks and Rec. doesn't. If it doesn't, that's very new and it's because we did a subcontract out with somebody. It's not a policy. The EPA had years ago recommended that roundup...

Mr. Wieser: Let's stick with ...

Ms. Batteau:

This is. It leads into another subject. I'm not necessarily going to speak about whether it fits into ARPA but I'm going to speak about this appropriation. The EPA wanted to ban that. The EPA also is now, since 2021, considering banning pressure treated wood in conjunction with water. We're told that the DEEP approves of this. The DEEP says

A number of factors should be considered before using pressure treated lumber.

For instance, where will it be used? Indoors or outdoors? Will people or animals come into direct contact with the wood? Will the wood come into contact with any drinking water source? Any water body such as a lake or stream or with ground water? Is there a non-toxic or less toxic option to using treated lumber? Never inhale the sawdust when cutting treated wood.

I'm not saying that this is not the best possible substance we can use. I'm saying we should not have heard about this the night that we were going to approve this. We should have had a conversation beforehand, and we still can, about what materials are to be included in the project and what the environmental consequences will be. Pete says there aren't going to be little pools of chemicals. That's probably true but those chemicals absolutely seep into the water. All the people who are patting themselves on the back for doing composting or separating their recyclables into a separate bag which

don't even get recycled, that's not what environmental health and being an environmental protector is. It's trying to think about things in advance. The water supply in this world, the ocean water, is just as bad as it can get. If there is something better, we should think about it. If there's not something better, then we should go ahead and use what's been suggested. I don't take it for granted that it's the best thing, not given some of the other practices that we tried to use in this town until they were scrutinized. So, I don't know how I'm going to vote on this. I don't see why we can't take a little time, like a week, where we can look at the specifications, submit them to people who have an environmental perspective and can tell us what we're looking at and we can go from there.

Mr. Izzo:

I just want to make a statement. I heard a lot about maintenance and people saying things about deferred maintenance on the town side. Remember, the Board of Ed. buildings belong to the Board of Ed. Don't include that with the town of Westport. I would hope that those of you who have been very vocal tonight bring that to the table when the schools start coming to us for some big money. Thank you.

Mr. Mall:

I see Rachel Cohn and I don't believe she has had a chance to speak for the first time. So, I defer to her and Ms. Meiers Schatz and you can come back to me. I'd like to make a motion.

Mr. Wieser:

You're very kind. Once I got going on the second round, I kept going.

Rachel Cohn, district 8:

I think this is a worthy project and I'm back and forth on how I'll vote based on this bonding discussion which I think is a healthy conversation. I think a number of us are challenged by this conversation because we are making hard budgeting decisions to allocate finite resources here and one of the major reasons that this is difficult is that we have not yet created an aligned view on the principles that should guide our budget prioritization for ARPA or for other town funds. I just looked over the five year capital forecast and maybe it was the format that the document was in but I did not see our town's values or our budgeting principles when I saw that list of line items. Reasonable people can disagree whether our ARPA funds or our town's resources, in general, are best deployed to support tech in our schools, our beaches and our parks, the arts, transportation or other worthy priorities but we need to have resource allocation that's derived from clearly defined planning principles: What do we prioritize? What do we not? What kind of reality do we want to create together with our choices. This to me is really about our opportunity to lead. I heard at the beginning of this call that 'that's not how we do it here in terms of our process.' I think what that means is that we need to address our process or our transparent communication of our priorities so that we can use our budget in service of our values. I'm still undecided on this vote but I think our town deserves better as we plan for our priorities.

Mr. Mall:

The one question I have for Pete is when are the bids coming back and when would your decision be made once the bids come in and it's taken to the Selectwomen's office for approval?

Mr. Ratkiewich:

That would all happen after Feb. 10 then we'd go to the next Board of Selectmen's meeting, give a notice of award and notice to proceed starting preferably March 1.

Mr. Mall:

So there will not be any work done on this project in the month of February anyway.

Mr. Ratkiewich:

The bureaucratic process that we have, it usually takes a few weeks to get on the Board of Selectmen's agenda, notice of award, notice to proceed. The contractor has a certain time period to get their paperwork in order. They need to get insurance, bonds, etc. and all their submittals in order. It does take a while for them to get mobilized but we do feel that on the fast track, we can get started on March 1.

Mr. Mall:

With that in mind, Mr. Moderator, I'd like to make **a motion to amend the resolution to strike from the resolution**

from the ARPA CLFRF Grant Income account and replace that with the following:

...with bond and note authorization to the Municipal Improvement Fund Account is hereby appropriated.

I hope that the Municipal Improvement Fund is the one that it would be going to. If legal counsel or Gary says it would go to a different account, I would be willing to substitute that. It is saying that we want to do this with a bond or note authorization rather than ARPA money.

Point of order, Ms. Flug:

That would not be an appropriate motion because the bond would first need to be recommended by the Board of Finance. Your options here are to either vote this down or postpone it to another meeting, not alter the source of funding.

Mr. Mall:

I would like to thank First Selectwoman Tooker for saying she would go along with what we decide here tonight.

So, I would like to say that **we postpone it to a date certain of March 1 to vote on this and give us time to structure this in such a way that it's bonded.**

Seconded by Mr. Shackelford.

Point of order, Mr. Klinge:

I'm not sure you can move it to a date certain and add the word bonding in there a well.

Mr. Wieser: We're not adding and bonding.

Mr. Klinge: That's what Mr. Shackelford said.

Mr. Wieser:

That's not part of the motion. That's the justification for the postponement.

Members of the Westport electorate

Mr. Schoeller:

It's been an amazing discussion so thanks very much for retaining my ability to comment again. My points are about safety and preservation of the beach. You've heard from Pete about complications. I just have to say I'm incredibly doubtful that the grinding wheels of the town of Westport between the Board of Finance, the RTM and all the other things that are needed are going to move that quickly. I appreciate the creativity of this motion and part of the intent is to move things along but I've just got to say folks, I've got my doubts. As Pete has said, time is of the essence both from a cost perspective and also an impact perspective. Jimmy Izzo and others have raised the ongoing liability that this continues to get worse but also the sand is just moving out to sea folks.

Members of the RTM

Ms. Meiers Schatz:

I'm going to vote yes for the motion to postpone. I have a follow up question for Pete with respect to what Stephen was asking. Can you guarantee, given supply chain issues and other COVID related things that have delayed the other projects in town, if we vote for this tonight, can you guarantee that the project will be finished by June?

Mr. Ratkiewich:

Nope. Anything can happen. I can't guarantee anything. I'm trying to do the best I can to get this project done.

Ms. Meiers Schatz:

A lot of other projects have been delayed through no fault of your own. I agree with Stephen. I think his reasoning is sound. It's one thing to say this doesn't fall within the spirit of ARPA. And I agree this falls within ARPA having looked at what everybody said but there are parts of the statute that...

Mr. Wieser: That's not what we're discussing.

Ms. Meiers Schatz:

This gets into the reasoning for why I'm voting to delay the motion. There are parts of the statute that explicitly say that this project wouldn't qualify. That's not the case with the arts project. That's why I'm voting for the motion to postpone.

Mr. Izzo:

I think we've done enough debating. Either you want this done now or you don't. If you don't, it's fine. Let's vote it down. We're all adults in the room here. Vote it down. You've heard the First Selectwoman. You've heard Peter. You've heard everything. How much more do you need to know? At the end of the day, it's going to cost a little more money to bond it, maybe a lot more. It's going to take time, so we do it that way. If you feel comfortable that way, let's vote that way. Let's not chicken crap this another meeting down the road, guys. We've been here all night. I'm here to vote. I'm urging you to put on your big pants and let's vote and get it over with. I don't need any more lawyering tonight.

Mr. Klinge: We can't vote to bond tonight.

Mr. Izzo:

Vote to deny the project then you have to go back and bond it. That's all. I'm not finished yet. My point is we've been through discussion. If some of you want to discuss more, vote to discuss more.

Ms. Purcell:

I strongly urge us to turn down this motion to amend or postpone and that we get to the vote. This has been debated ad nauseam. We've supported the fact that it meets the ARPA criteria. We've supported the fact that it is an important element for our safety at the beach. I encourage people to turn down this motion and get to the vote as soon as possible.

Mr. Mandell:

We're talking about 18 days here folks. Pete's going to get back his bids on Feb. 10 and he's ready to go on March 1 so he's still going to get his bids back on March 1 with 60 days held on the price. If the Board of Selectwomen asks the Board of Finance to meet and they do meet knowing this is important, we'll be seeing this again on March 1. If Pete starts moving everybody forward fully well knowing we're going to be bonding or we're going to approve ARPA, because it's clear we're all going to vote for it, then Pete can pretty well move forward by March 10, maybe, maybe 15 days, which is the exact amount of time. So, we could get this going by March 15. The reason, Jimmy, that we need to not vote it down is that we keep it live. If we vote it down, we can't approve ARPA. If the Board of Finance decides not, then we're stuck and we can't get to do it. We keep it live by postponing it and then we see what the Board of Finance does. If they bring us bonding, we then get the choice, bond, no bond, and then we can choose which one we get to do. The theory was laid out. Mr. Shackelford has taken it to the next step. Here we are. I think that we can wait until March 1, we can vote, see what happens and we can get going by March 15 and not March 1 because of this. I think this is a pretty easy thing for us to do. I think we should give it a shot.

Mr. O'Day:

I believe that a delay to March 1 means that we lose the summer because it will take everything to fall into place perfectly to not lose the summer if we approve it tonight. Let's talk about what happens if we approve it tonight rather than wait until March 1.

What happens is the process begins. Pete gets his bids approved. The Selectmen approve the contract. At least everything is set to go before March 1. If we wait until March 1, I hear what Matt is saying that it is only 15 or 18 days, essentially that is a month. That is, if everything works with the Board of Finance taking it on and the contractor basically having to rework going out to bid again which is what Pete suggested will happen. So, my request, what I strongly prefer, is that we don't bond. We spend the \$1.3 million from ARPA funds because the issue is at hand. I know that everything is an emergency. And that sucks. It just shouldn't be. Everybody is suggesting that we improve our process. Hear, hear. Absolutely. We should not wait forever to be under the gun. I think we're under the gun though. We're under the gun if we want this to work for this summer and if we want the process that Pete has put in place to continue. I know that we're not saying no to the jetty, we're just saying no to the jetty for the summer of '22. That's something I don't want to do for safety reasons and just for use of the beach reasons. I will not support it and that's it.

Mr. Gold:

I agree with what Don just said. One of the things that is missing from Matt's timeline is, while we have a commitment from First Selectwoman Tooker to do what we decide, to go to the Board of Finance or not, there is no commitment from the Board of Finance to take it up in any timely manner. They have their budget meetings starting in February. I know this because I have to make a presentation on Feb. 16. They have a full schedule of regular meetings plus their budget meetings and they may not be desirous of adding one more thing to their schedule. There's also a little bit of a delay, it won't be a long one as Steve pointed out to wait for the bond counsel to draft the papers. The Board of Finance isn't going to do it without the bond counsel papers. So, I think we should vote for it now. It's not going to get any cheaper. We all think it should be done. Delaying it a month doesn't get it done any sooner. It just exasperates the problem. If you guys want to debate it for another hour or so, I just started a little laundry and I'm willing to hang in there.

Ms. Kramer:

Can we just vote. If people want to bond it, they can just vote no. Let's vote on getting this done the way it was presented. We've all invested tons of time in this.

Mr. Liccione: [inaudible] Roll call vote.

Mr. Wieser: Is there a second for calling the question?

[Various] I'll second that.

Mr. Wieser:

In Roberts Rules of Order, when someone calls the question, it is non-debatable. Is it a majority or two-thirds vote?

Ms. Flug:

I'm sorry. I don't know. You should have your cheat sheet there!

Ms. Kramer: No. I want a vote on the main motion.

Mr. Wieser: No. Ms. Kramer. We are debating on the motion to postpone.

Mr. Kramer: Sorry. I do not want to postpone. There's no need for that.

Mr. Wieser: Let's just have a few final comments.

Mr. Klinge:

I think a lot of you are assuming the Board of Finance will vote to bond. I'm not assuming that. I, frankly, don't think they will. If that's why you are going to vote to delay it, think about it twice.

Mr. Colabella:

The same thing that Mr. Jack Klinge just said. Multiple people on the Board of Finance when they met were not keen to bond this project. They weren't even a big fan of it. To them, it's not the problem.

Mr. Shackelford:

I have a question to get to the facts if I could. Pete, if we vote to postpone to March 1 and on March 1, we approve paying for this out of ARPA funding, you weren't planning on starting the work until after March 1, isn't that right?

Mr. Ratkiewich:

I was planning on starting on March 1. There's no guarantee you are going to get it on March 1 for a vote.

Mr. Shackelford:

If we postpone it, there is a guarantee it will come up again on March 1 for a vote. The only question people have is if we can get the bonding process done or not.

Mr. Ratkiewich: Which depends on the Board of Finance.

Mr. Shackelford:

Right. If the Board of Finance chooses not to approve bonding, we are back here on March 1, we can vote to approve it through ARPA funding if we choose to and Pete has lost maybe one day. So, it's not true to say...

Mr. Ratkiewich: It's not one day Stephen. I'm sorry, it's not one day.

Mr. Shackelford:

You are getting your bids back on Feb. 10. You weren't planning to start work until March 1. If the town approves on March 1 through ARPA funding, when does work start?

Mr. Ratkiewich:

I don't know and I disagree with that whole concept. I know how these things go and we're probably going to lose a month.

Ms. Flug:

If I can interject here to clarify the process for Stephen Shackelford. He can't award the contract until the appropriation has been made so if the RTM votes on March 1, it still needs to go to the Board of Selectmen.

Mr. Wieser: When would that be, Eileen?

Ms. Flug:

The Board of Selectmen meets the second and fourth Wednesdays of every month. It would be March 9.

Mr. Ratkiewich:

Stephen, your concept is based on the idea that nothing else is happening.

Point of order, Mr. Gold:

Isn't there a period of seven days between the approval and the time to give people time to challenge it?

Ms. Tooker:

We need to talk about noticing. We need to talk about agenda setting. It's not like things could happen overnight. I wish they could but this is a democracy and public meetings and public input.

Mr. Wieser:

It sounds like there are some imponderables on scheduling and it sounds like there will be some delay. How many days that is is imponderable and I don't think we're going to get to a final answer so I'd like to move this on.

Mr. Shackelford:

You're right. I don't think it's a month. I don't think it's a fair way to interpret it but you're right, Jeff. We won't get a straight answer on that.

Mr. Braunstein:

I just wanted to go back to this question of process for a moment. My understanding was that no town body could go out to bid until the RTM had approved. So, we can't even solicit the official bid until after the RTM approves. Is that correct?

Ms. Flug:

That's not the case. You can't sign the contract without an appropriation but you can go out for bid in advance. And Peter is right that you need to wait 14 days after an appropriation of \$500,000 before it's effective before signing the contract.

Mr. Wieser:

We are **voting to postpone our conversation until our March 1 meeting.**

By roll call vote, the motion fails 15-19.

Those in favor: Mandell, Milwe, Falk, Mall, Meiers Schatz, Friedman, Hammond, Lowenstein, Bram, Karpf, Lautenberg, Batteau, Newman, Shackelford, Church.

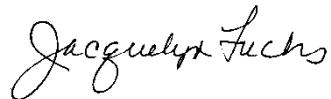
Those opposed: Purcell, Tait, Gertzoff, Izzo, O'Day, Bairaktaris, Colabella, Gold, Kramer, Shaum, Banks, Braunstein, Briggs, Klinge, Cohn, Kail, Liccione, Schneeman, Wieser.

A vote on the main motion passes 30-4. Those in favor: Mandell, Milwe, Purcell, tait, falk, Meiers Schatz, Gertzoff, Izzo, O'Day, Bairaktaris, Colabella, Hammond, Gold, Kramer, Lowenstein, Shaum, Banks, Braunstein, Briggs, Karpf, Klinge, Lautenberg, Batteau, Cohn, Newman, Shackelford, Kail, Liccione, Schneeman, Wieser.

Those opposed: Mall, Friedman, Bram, Church.

The meeting adjourned 12:11 a.m. Happy Ground Hog Day.

Respectfully submitted,
Jeffrey M. Dunkerton
Town Clerk



by Jacquelyn Fuchs

ATTENDANCE: January 4, 2022

| DIST. | NAME | PRESENT | ABSENT | NOTIFIED MODERATOR | LATE/ LEFT EARLY |
|--------------|-------------------------|-----------|----------|-----------------------|---------------------|
| 1 | Matthew Mandell | X | | | |
| | Liz Milwe | X | | | |
| | Kristin M. Purcell | X | | | |
| | Chris Tait | X | | | |
| 2 | Harris Falk | X | | | |
| | Jay Keenan | | X | X | |
| | Louis M. Mall | X | | | |
| | Christine Meiers Schatz | X | | | |
| 3 | Mark Friedman | X | | | |
| | Arline Gertzoff | X | | | |
| | Jimmy Izzo | X | | | |
| | Don O'Day | X | | | |
| 4 | James Bairaktaris | X | | | |
| | Andrew J. Colabella | X | | | |
| | Noah Hammond | X | | | |
| | Jeff Wieser | X | | | |
| 5 | Peter Gold | X | | | |
| | Karen Kramer | X | | | |
| | Richard Lowenstein | X | | | |
| | Claudia Shaum | X | | | |
| 6 | Candace Banks | X | | | |
| | Jessica Bram | X | | | |
| | Seth Braunstein | X | | | |
| | Cathy Talmadge | X | | | Left 11:00 pm |
| 7 | Brandi Briggs | X | | | |
| | Lauren Karpf | X | | | |
| | Jack Klinge | X | | | |
| | Ellen Lautenberg | X | | | |
| 8 | Wendy Batteau | X | | | |
| | Rachel Cohn | X | | | |
| | Lisa Newman | X | | | |
| | Stephen Shackelford | X | | | |
| 9 | Lori Church | X | | | |
| | Nancy Kail | X | | | |
| | Sal Liccione | X | | | |
| | Kristin Schneeman | X | | | |
| Total | | 35 | 1 | | |

Roll Call Vote: Item #2 Motion to Postpone to March 1, 2022

| DIST. | NAME | ABSENT | YEA | NAY | ABSTAIN |
|--------------|-------------------------|---------------|------------|------------|----------------|
| 1 | Matthew Mandell | | X | | |
| | Liz Milwe | | X | | |
| | Kristin M. Purcell | | | X | |
| | Chris Tait | | | X | |
| | | | | | |
| 2 | Harris Falk | | X | | |
| | Jay Keenan | X | | | |
| | Louis M. Mall | | X | | |
| | Christine Meiers Schatz | | X | | |
| | | | | | |
| 3 | Mark Friedman | | X | | |
| | Arline Gertzoff | | | X | |
| | Jimmy Izzo | | | X | |
| | Don O'Day | | | X | |
| | | | | | |
| 4 | James Bairaktaris | | | X | |
| | Andrew J. Colabella | | | X | |
| | Noah Hammond | | X | | |
| | Jeff Wieser | | | X | |
| | | | | | |
| 5 | Peter Gold | | | X | |
| | Karen Kramer | | | X | |
| | Richard Lowenstein | | X | | |
| | Claudia Shaum | | | X | |
| | | | | | |
| 6 | Candace Banks | | | X | |
| | Jessica Bram | | X | | |
| | Seth Braunstein | | | X | |
| | Cathy Talmadge | X | | | |
| | | | | | |
| 7 | Brandi Briggs | | | X | |
| | Lauren Karpf | | X | | |
| | Jack Klinge | | | X | |
| | Ellen Lautenberg | | X | | |
| | | | | | |
| 8 | Wendy Batteau | | X | | |
| | Rachel Cohn | | | X | |
| | Lisa Newman | | X | | |
| | Stephen Shackelford | | X | | |
| | | | | | |
| 9 | Lori Church | | X | | |
| | Nancy Kail | | | X | |
| | Sal Liccione | | | X | |
| | Kristin Schneeman | | | X | |
| Total | | | 15 | 19 | |

Roll Call Vote: Item #2 Burying Hill Groin Replacement

| DIST. | NAME | ABSENT | YEA | NAY | ABSTAIN |
|--------------|-------------------------|---------------|------------|------------|----------------|
| 1 | Matthew Mandell | | X | | |
| | Liz Milwe | | X | | |
| | Kristin M. Purcell | | X | | |
| | Chris Tait | | X | | |
| | | | | | |
| 2 | Harris Falk | | X | | |
| | Jay Keenan | X | | | |
| | Louis M. Mall | | | X | |
| | Christine Meiers Schatz | | X | | |
| | | | | | |
| 3 | Mark Friedman | | | X | |
| | Arline Gertzoff | | X | | |
| | Jimmy Izzo | | X | | |
| | Don O'Day | | X | | |
| | | | | | |
| 4 | James Bairaktaris | | X | | |
| | Andrew J. Colabella | | X | | |
| | Noah Hammond | | X | | |
| | Jeff Wieser | | X | | |
| | | | | | |
| 5 | Peter Gold | | X | | |
| | Karen Kramer | | X | | |
| | Richard Lowenstein | | X | | |
| | Claudia Shaum | | X | | |
| | | | | | |
| 6 | Candace Banks | | X | | |
| | Jessica Bram | | | X | |
| | Seth Braunstein | | X | | |
| | Cathy Talmadge | X | | | |
| | | | | | |
| 7 | Brandi Briggs | | X | | |
| | Lauren Karpf | | X | | |
| | Jack Klinge | | X | | |
| | Ellen Lautenberg | | X | | |
| | | | | | |
| 8 | Wendy Batteau | | X | | |
| | Rachel Cohn | | X | | |
| | Lisa Newman | | X | | |
| | Stephen Shackelford | | X | | |
| | | | | | |
| 9 | Lori Church | | | X | |
| | Nancy Kail | | X | | |
| | Sal Liccione | | X | | |
| | Kristin Schneeman | | X | | |
| Total | | | 30 | 4 | |

Appendix I – Item #1 Letter from Assistant Town Attorney Eileen Flug to Richard Lowenstein, district 5

Dick Lowenstein
RTM District 5

On Jan 6, 2022, at 2:13 PM, Flug, Eileen <eflug@westportct.gov> wrote:

Dick:

I'm copying Jeff as Moderator. I researched your question regarding whether a motion to appropriate funds to a list of nonprofits can be divided so that each appropriation is debated and voted on separately. This can be done with a Motion to Divide the Question, as described in Section 27 of Roberts Rules of Order, on page 255 of the 12th Edition.

Division of the Question applies "when a motion relating to a single subject [e.g., appropriating ARPA funds] contains several parts, each of which is capable of standing as a complete proposition if the others are removed." In this case, the RTM may debate and vote separately on each appropriation as a separate and complete proposition. The motion to divide must be seconded, is not debatable (although you can briefly explain the motion, without making a speech (RR 43:31, page 375)), and it must be passed by a majority vote. It is preferable to make the motion to divide when the item is introduced, but the motion can also be made any time the main motion is pending.

Please let me know if you have additional questions.

Eileen

Eileen Lavigne Flug
Assistant Town Attorney
Town of Westport
Town Hall
110 Myrtle Avenue
Westport CT, 06880
203-341-1043

Appendix II – Item #2

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

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, 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.

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>.65 {01584482.DOCX Ver. 1} 2