

Westport Board of Selectmen
July 27, 2016
APPROVED MINUTES

The Board of Selectmen, Traffic Authority and Water Pollution Control Authority held a public hearing on Wednesday, July 27, 2016 at 8:30 a.m. in Room 307/309 of the Westport Town Hall. In attendance were Jim Marpe, Avi Kaner, Helen Garten, Gail Kelly, Steve Edwards, Dewey Loselle, Susan Stefenson, Carleigh Welsh, members of the public, and Eileen Francis, recording secretary.

MINUTES

1. Item #1 was presented by Avi Kaner. There were no revisions. Upon motion by Helen Garten, seconded by Jim Marpe and passing by a vote of 3-0, it was:

RESOLVED, that the minutes of the Board of Selectmen's public hearing of July 13, 2016 and the minutes of the Water Pollution Control Authority's public hearing of July 13, 2016 are hereby APPROVED.

APPROVE MOU WITH OPERATION FUEL, INC. FOR PARTICIPATION IN 2016/2017 ENERGY ASSISTANCE PROGRAM

2. Item #2 was presented by Susan Stefenson, representing the Human Services Department. Ms. Stefenson indicated that the MOU was the same as previous years; there have been approximately 19 households who have benefitted from the program in this calendar year; and that they Department average is 30 households per year. Upon motion by Helen Garten, seconded by Jim Marpe and passing by a vote of 3-0, it was:

RESOLVED, that the Memorandum of Understanding between the Town of Westport and Operation Fuel, Inc., to allow for the Town of Westport to participate in the 2016-2017 energy assistance program is hereby APPROVED.

APPROVE PHASE II CONTRACT BETWEEN TOWN OF WESTPORT AND AKF ENGINEERS, LLP RELATED TO ENGINEERING CONSULTANT SERVICES

3. Item #3 was presented by Operations Director Dewey Loselle. Mr. Loselle indicated that this was a continuation of the previously approved contract; that the Board of Finance has previously approved the revisions; and that the scope of work in Part D and cost is reflected in the current proposal. Upon motion by Helen Garten, seconded by Jim Marpe and passing by a vote of 3-0, it was:

RESOLVED, that the Phase II contract between the Town of Westport and AKF Engineers, LLP, as it relates to the engineering consulting services for the Town Energy Performance Savings Initiative is hereby APPROVED.

WITHDRAWN

4. To take such action as the meeting may determine, to approve the Agreement between the Town of Westport and A + R Architecture for schematic design services related to the enhancement of Town owned property known as the Center for Senior Activities located at 21 Imperial Avenue.

PROVIDE ACCOUNTING OF THOSE GIFTS UNDER \$5, 000 APPROVED BY FIRST SELECTMAN JIM MARPE DURING CALENDAR YEAR 2015 AND FIRST HALF OF 2016

In accordance with Section 2 (A) of the Policy on Gifts to the Town, to provide to the Board of Selectmen an accounting of donations under \$5,000 accepted by the First Selectman from January 1, 2015 through June 30, 2016.

5. Item #5 was presented by Selectman's Office Manager Eileen Francis. Ms. Francis explained that the Policy on Gifts to the Town requires that the Board of Selectmen receive the yearly accounting. The full calendar year 2015 and first half of 2016 were provided so that going forward, the accounting could be provided based on the Fiscal Year rather than calendar year. The Board thanked those organizations and residents who donated. There was no action taken.

APPROVE CLOSURE OF TAYLOR PLACE AND PORTION OF LIBRARY RIVERWALK TO ACCOMMODATE THE LEVITT PAVILION'S GALA EVENT SCHEDULED FOR AUGUST 11, 2016

Item #6 was presented by Carleigh Welsh representing the Levitt Pavilion. Ms. Welsh assured the Board that all the provisions from the various Town departments would be addressed. Upon motion by Helen Garten, seconded by Jim Marpe and passing by a vote of 3-0, it was:

RESOLVED, that 1) acting as the Traffic Authority, the closure of the Town-owned roadway known as Taylor Place from 8 a.m. to midnight; and 2) the use/closure of the Town-owned property known as the Riverwalk from 8 a.m. to midnight on Thursday, August 11, 2016, for the pre-concert reception, load-in, set up, technical rehearsal and performance as they relate to the Levitt Pavilion's Annual Gala Event, contingent upon compliance with comments from relevant Town Departments and in accordance with the Policy for Use of Town-owned Properties, Facilities and/or Roadways are hereby APPROVED.

Upon motion by Helen Garten, seconded by Jim Marpe and passing by a vote of 3-0, the meeting was adjourned at 8:55 a.m.

Eileen Francis
Recording Secretary

WATER POLLUTION CONTROL AUTHORITY
SPECIAL MEETING 07-21-2016, CONTINUED TO 07-27-2016
APPROVED MINUTES

The Water Pollution Control Authority held a Special Meeting on Thursday, July 21, 2016 at 8:30 a.m. in Westport Town Hall Auditorium. In attendance were: Jim Marpe, Avi Kaner, Helen Garten, Ira Bloom, Steve Edwards, Applicants/Representatives of Summit Saugatuck, LLC, members of the public, and Eileen Francis, recording secretary.

AGENDA:

To take such action as the meeting may determine to review and approve the Application of Summit Saugatuck, LLC for Extension of Private Sewer from Davenport Lane to Hiawatha Lane Extension, Allocation of Sewer Capacity, and Conditional Approval to Connect Residential Development.

PUBLIC HEARING:

Town Attorney Ira Bloom provided background and opinion relative to C.G.S. §7-246a and that the WPCA “shall make a determination...” relative to the request by Summit Saugatuck, LLC, dated April 11, 2016. Mr. Bloom listed the documents placed into the public record and provided to members of the WPCA.

Attorney Timothy Hollister presented on behalf of Summit Saugatuck, LLC. Mr. Hollister provided a Presentation Outline and supplemental materials (as attached).

In addition to Attorney Hollister, the following presenters spoke on behalf of Summit Saugatuck, LLC.: David Ginter, P.E., Engineer, of Redniss and Mead who spoke to the existing sewers and proposed extension; Mr. David Ball, of The Monroe Partnership, who spoke to the proposed plans for the residential development in the area; and Mr. Felix Charney, Managing Director of Summit Saugatuck, LLC.

Members of the WPCA were given the opportunity to question the Applicants.

Director of Public Works Steve Edwards presented on behalf of the Town of Westport. Mr. Edwards provided background and information relative to Pump Station #2 and the condition of the force water main which runs under the Saugatuck River. Mr. Edwards expressed his opinion that the request was premature. Mr. Edwards explained that the required permitting, financial planning, and technical approvals necessary for replacing the force water main and increasing the capacity of Pump Station #2 were not yet in place. Mr. Edwards stated that in his opinion providing conditional approval would place the Town at risk.

Members of the WPCA were given the opportunity to question Mr. Edwards. Town Attorney Ira Bloom asked questions for clarification.

Members of the public were provided the opportunity to comment and submit written comments and documents into the record (as attached).

Attorney Hollister provided a summary of the Applicant's request.

Upon motion by Helen Garten, seconded by Avi Kaner and passing by a vote 3-0, the Public Hearing was closed.

DELIBERATION SESSION:

Members of the WPCA provided opinions, comments and suggestions as to how they would advise drafting the proposed resolution for a final review and vote to either approve or deny the submitted application.

Upon motion by Avi Kaner, seconded by Helen Garten and passing by a vote of 3-0, the meeting was CONTINUED to July 27, 2016.

**WATER POLLUTION CONTROL AUTHORITY
NOTICE OF CONTINUATION
July 27, 2016, 9:00 a.m., Town Hall Room 307/309**

Notice is hereby given that the Water Pollution Control Authority's Special Meeting of Thursday, July 21, 2016 has been continued to Wednesday, July 27, 2016, in Town Hall Room 307/309 at 9:00 a.m.

AGENDA:

To take such action as the meeting may determine to review and approve the Application of Summit Saugatuck, LLC for Extension of Private Sewer from Davenport Lane to Hiawatha Lane Extension, Allocation of Sewer Capacity, and Conditional Approval to Connect Residential Development.

The public session portion of this meeting is closed. The public is invited but may not speak or introduce information into the record.

James S. Marpe
Chair
July 21, 2016

CONTINUED DELIBERATION SESSION:

The Water Pollution Control Authority continued its deliberations on July 27, 2016.

Town Attorney Ira Bloom presented the proposed resolution based upon his knowledge and recollection of the Authority's discussion of July 21, 2016. The members were provided the opportunity to comment, question, and make recommendations and revisions to the proposed resolution. Minor grammatical revisions were noted and changed on the final resolution.

FINDINGS:

1. This application, the second filed by the Applicant based upon a multi-family housing proposal, was received by the WPCA on April 27, 2016.
2. Pursuant to the Policy Regarding "Private Sanitary Sewer Main-line Extensions, effective November 1, 2000, Revised July 13, 2005, a request was made by First Selectman James S. Marpe for a report from the Planning & Zoning Commission (P&Z) pursuant to Conn. Gen. Stat. §8-24.
3. On July 7, 2016, the P&Z conducted a meeting pursuant to this request and issued a negative report dated July 12, 2016. The P&Z concluded that the reasons stated in a prior negative report dated January 26, 2015 in response to an earlier application (First Application) from the Applicant for a similar multi-unit housing proposal remained applicable. The P&Z concluded in the July 12, 2016 report that due to deficiencies and defects in Pump Station #2, coupled with defects in the sewer Force Main located under the Saugatuck River, the extra flow attributable to the Applicant's proposal would put Pump Station #2 over its allowed capacity. The combined impact would create significant risks to public health and safety.
4. By way of background, the Applicant made his First Application to the WPCA for a sanitary sewer extension on October 24, 2014. A request for §8-24 report was then made. After conducting a hearing on the request, the P&Z issued the above-referenced negative report on January 26, 2015 pursuant to §8-24. The First Application was substantially similar to the present application (Second Application). The First Application proposed 186 residential units. At that time, the WPCA retained an engineering firm, Weston & Sampson, which filed a report dated December 29, 2014, analyzing the impact of the proposed sewer extension. Pump Station #2 serves as a collection point for all of the existing and future sanitary sewer connections which are located on the west side of the Saugatuck River. The Pump Station collects all of the flow on this side of the river and then discharges it through a pipe (Force Main) directly to the Town of Westport's wastewater treatment facility located on the east side of the river on Elaine Road. The Force Main goes directly under the Saugatuck River. The Weston & Sampson report concluded that the projected sewerage from the First Application would put Pump Station #2 over its allowable capacity. In addition, the January 26, 2015 §8-24 report outlined the deficiencies with the 50-year-old

Force Main and the anticipated repairs that could take up to five (5) years. This negative report characterized the application as “premature as any proposed improvements or increases in capacity for pump station number 2 will require state and federal permits and will take a substantial amount of time to obtain and implement...” At that time, Stephen Edwards, Director of the Department of Public Works (DPW), testified that plans to replace the Force Main were just getting started. After issuance of this negative report, the Applicant withdrew its WPCA application.

The Applicant returned with the Second Application dated April 11, 2016. This Second Application requested the same sewer extension, allocation of sewer capacity, and conditional approval to connect the proposed residential development. In the Second Application, the residential development proposed 155 units, which for sewer connection analysis purposes, was effectively the same as the First Application. During the public hearing on the Second Application on July 21, 2016, testimony from Mr. Edwards revealed that there had been no changes to Pump Station #2 since the First Application. Mr. Edwards testified that with regard to the Force Main replacement, funds for the design of the new proposed pipe were in place and the design work had commenced. However, Mr. Edwards testified that there were multiple approvals and steps that needed to be taken. Several permits were required (for example, DEEP, DOT, local approvals for financing from the Board of Finance and RTM). In addition, a firm to construct the pipe must still be selected and a contract negotiated. The actual work would then commence and take 6-8 months if there were no unanticipated issues. Mr. Edwards identified a target completion date for the new Force Main of September, 2017. However, he also clearly stated to the WPCA that there could be delays and other unexpected contingencies which would push out the completion date an additional one to three years from now. Until the Force Main was replaced, and the Pump Station #2 pumps upgraded, Mr. Edwards strongly recommended that no sewer connection be approved. He also advised against a conditional approval, as requested by the Applicant.

5. Information reviewed: In addition to Mr. Edwards’ testimony at the public hearing, along with a presentation by the Applicant and his representatives, including his engineer, and testimony from the public, the WPCA has reviewed the following documents: Second Application from Applicant; P&Z reports pursuant to §8-24 dated January 26, 2015 and July 12, 2016; Weston & Sampson report dated December 29, 2014; letters and emails from residents and other concerned parties. It should be noted that the Applicant’s Second Application contained a report from David Ginter of Redniss & Mead dated March 16, 2016. As noted by Mr. Edwards, Mr. Ginter’s report regarding Pump Station #2 essentially confirmed that Pump Station #2 was at or near its capacity at this point in time. Mr. Ginter testified that he had done no analysis on the Force Main. The Applicant offered no

information to contest any of the evidence regarding the current status of and necessary repairs to the Force Main.

RESOLUTION: Upon the motion made by James S. Marpe and seconded by Helen Garten, the Applicant's request to extend the sewer line, allocate sewer capacity, and conditionally approve a connection (Second Application) is hereby DENIED for the following reasons:

1. Based upon the Weston & Sampson report and the testimony of Mr. Edwards, the current state of Pump Station #2 has inadequate capacity to handle the Applicant's request. More significantly, the Force Main under the Saugatuck River is old and in poor repair, and any additional flow generated by the Applicant's Second Application would provide significant risk of a fracture or break in the Force Main resulting in effluent in the Saugatuck River and serious health and safety implications. While Pump Station #2 could theoretically be upgraded expeditiously, the repairs to the Force Main will take considerable time, as they remain incomplete and in the design state. The risk of a fracture or break in the Force Main is real, as evidenced by Mr. Edwards' testimony that he has had similar breaks in overburdened and old sewer lines in Town, including one at Nyala Farms and one on Compo Road. As Mr. Edwards testified at the public hearing, consistent with his testimony before the P&Z on July 7, 2016 and in January 2015, the repairs to the Force Main can take from a total of two to four years from the beginning to completion.
2. It is acknowledged that the Applicant has not asked for an immediate connection. Rather, the Applicant has requested a conditional connection, conditioned upon completion of the repair work to Pump Station #2 and the Force Main. Mr. Edwards has strongly recommended against such a conditional approval because of clear uncertainties and risks that remain with such repairs. The WPCA notes that it has never granted such a conditional approval. There is no precedent for such a conditional approval, which would subject the Town to unnecessary exposure, unreasonable uncertainty, and unacceptable risk. Mr. Edwards also testified that he has been similarly asked for connection approvals by three (3) other property owners also served by Pump Station #2 and the Force Main. He has told them that they also must wait. The WPCA must treat all property owners in the same manner.
3. RISKS: The WPCA concludes, based upon Mr. Edwards' testimony, a review of the Weston & Sampson report, and its own evaluation of the evidence, that the risks and uncertainties remaining with the repairs to Pump Station #2 and the Force Main are significant, and the unprecedented granting of a "conditional approval" for connection cannot be approved. The risks include uncertainties associated with obtaining the various state and local approvals in a timely manner; risks associated with unforeseen problems

during construction and installation; and risks and delay factors associated with financing, selection of a contractor, and actual construction. It would be inadvisable, unprecedented, and simply bad policy to grant an application contingent upon multiple events that have yet to occur and which may take up to several years to complete. A more reasonable approach for the Applicant is to wait until these risks and uncertainties are eliminated and reapply.'

4. The Applicant's request is therefore premature, as stated by the P&Z in their §8-24 review. At such time that the numerous contingencies have been satisfactorily met, the Applicant has the option to renew this request.
5. The Policy Regarding "Private Sanitary Main-Line Extensions" has been violated. The Policy requires a positive report under §8-24 as a prerequisite to proceeding with this application to the WPCA. The Applicant has in fact received a negative report.
6. Beyond the Policy, the WPCA takes note that Conn. Gen. Stat. §8-24 itself prohibits "exten[sion]" of "public utilities...for...sewerage" without a positive report from the P&Z unless a "subsequent approval" is obtained by the Representative Town Meeting, which has not occurred. Accordingly, a statutory prerequisite remains unfulfilled.
7. Mr. Edwards stated that if the Applicant requested an approval for a connection of thirty (30) residential units, he would recommend approval.

VOTE: YES – James S. Marpe, Helen Garten

NO – Avi Kaner

Upon motion by Helen Garten, seconded by Avi Kaner and passing by a vote of 3-0, the meeting was adjourned at 9:30 a.m.

Eileen Francis
Recording Secretary