

**BROOKFIELD WATER POLLUTION CONTROL AUTHORITY**  
Wednesday, August 22, 2012 Room 133 7:00 PM  
**APPROVED MINUTES**

**1. Convene Meeting**

Chairman Malwitz called the meeting to order at 7:00 p.m. with the following people in attendance:

**W.P.C.A.**

N. Malwitz, Chairman  
L. Trojanowski-Marconi, Vice Chair  
T. Lopez  
C. Scott  
P. Kurtz, alternate \*  
P. Donohue, alternate

**Others**

W. Charles Utschig, Birdsall Engineering  
J. Sienkiewicz, Commission Attorney  
R. Prinz, Chief of Maintenance  
S. Welwood, Accountant  
H. Lasser, Ex-Officio Member  
K. McPadden, Executive Administrator  
E. Cole, Recording Secretary

\* P. Kurtz was a voting member

**PUBLIC HEARING** – For the purpose of receiving public comment with respect to the adoption of a Water Pollution Control Plan, pursuant to Section 7-246(b) of the General Statutes –

Chairman Malwitz opened the public hearing at 7:00 PM, and read the legal notice that was published in the Danbury News Times dated 08/03/12 and 08/17/12. Chairman Malwitz explained that the Water Pollution Control Plan has been requested by the State to designate areas and delineate boundaries where the authority provides municipal sewer service and to designate areas where sewers are to be avoided, and to establish a policy for the proper planning of capacity management prior to the construction of any new and additional facilities and manage the sewer service that will foster commercial and industrial development and to support and complement the Brookfield Plan of Conservation and Development, which was last written in 2001. Chairman Malwitz also noted that there is a map that corresponds with this Plan. Chairman Malwitz asked for comments from the audience, and Attorney Sienkiewicz noted the following minor typographical errors:

On page 1, third line from the bottom of the page, the scale listed should be one inch equals 1,000 feet (add the word equals)

On page 2, in section A about southwest and Federal Road sewer service areas, starting in the third line above B, delete the phrase “and Sandy Lane Sewer/Old Gray’s Bridge Road sewer extension” because those have been assessed.

On page 3, High Meadow Ledgewood Crossing Sewer area on the second line, “extension to provide sewer service” is how the sentence should be written.

**L. Trojanowski-Marconi made a motion to close the public hearing. P. Kurtz seconded the motion, and it carried unanimously.**

**2. Approval of Minutes – 7/25/12 Regular Meeting**

T. Lopez stated that in the middle of page 4 it states that the attorney “believes that” twice. T. Lopez asked that one of these extra “he believes that” be removed. **T. Lopez made a motion to approve the minutes of July 25, 2012 with that change. C. Scott seconded the motion, and it carried unanimously.**

**3. Correspondence**

- a. Letter from Attorney Joseph A. Bongiorno dated July 30, 2012 – Chairman Malwitz read the letter for the record.
- b. Letter from Lyn R. Meyers of the Meyers & Company LLC dated 08/01/12 Re: Fees – Chairman Malwitz read this letter for the record. It was noted in the letter that the hourly service rate has been increased by \$5.00 per hour.

- c. Email from S. Sullivan to K. McPadden Re: 15 West Whisconier Road – Chairman Malwitz read the email for the Commission, and it was noted that this item under old business will be discussed at the next meeting.

**4. Old Business**

- a. 15 W. Whisconier Road – Application to Connect

This item, per the email read in item 3.c., is tabled to the next regular meeting.

**5. New Business**

- a. Adoption of Water Pollution Control Plan – To consider and act upon

Attorney Sienkiewicz noted that a copy of this plan should be sent to the Department of Energy and Environmental Protection. **C. Scott made a motion to adopt the plan with the edits as noted during public comment. L. Trojanowski-Marconi seconded the motion and it carried unanimously.**

**L. Trojanowski-Marconi made a motion to add 366 Federal Road, Healthy Weighs, to the agenda. C. Scott seconded the motion and it carried unanimously.**

- b. 366 Federal Road –Application to Connect

*William Conner, Brookfield resident, was present to discuss the application.* Mr. Conner explained that his wife, Dr. Julie Conner, is looking to expand her small business building, and the only possible location for the expansion is in the area where the current septic fields are located. Mr. Conner stated that the plan is to pump the septic and then abandon it. Mr. Conner reviewed that the plan is for 42 feet of 6 inch PVC that is the standard pipe that will run 90 degrees from the cleanouts. Mr. Conner stated that he would like to tie into that cleanout and surround it with sand and materials as per the technical specifications. Mr. Conner noted that because this building is not a food service, he would like a waiver from the grease trap requirement. He stated that nothing but a toilet and a sink would be discharged to the sewer. Attorney Sienkiewicz asked Mr. Conner if he had plans for a new building. Chairman Malwitz noted that this is for an application to connect the sewer for phase one to accommodate the existing bathroom, and phase two for an internal modification that will accommodate the additional bathroom. W. Charles Utschig stated that the line outside of the building will remain unchanged, even when phase two is added. R. Prinz contended that this application does not require an engineering review, and that the applicant is really looking for a waiver of the grease trap requirement. W. Charles Utschig stated that he agreed. R. Prinz also noted that the current amount paid for the application should be enough to cover the application fees. Attorney Sienkiewicz read the regulation that requires fog interceptors for commercial buildings, and he noted that the building could be approved by the WPCA without the grease trap requirement. **L. Trojanowski-Marconi made a motion to approve the sewer connection permit application for 366 Federal Road in accordance with the plans and specifications provided; the grease trap requirement is waived. If there is a change in the use of the property, application will be made in accordance to the regulations and the grease trap may be required at that time. The property owner is required to notify the staff of when construction is proposed so they have the opportunity to inspect installation. It was also noted that this approval is for nutrition counseling and chiropractic office uses. P. Kurtz seconded the motion, and it carried unanimously.**

The Commission moved to item 8.c.

**8. Legal Matters**

- c. 763 Federal Road – Easement – *Orville Aarons and Attorney Benjamin Protto, both of the Community Bank, were present to discuss the application.*

Attorney Sienkiewicz stated that earlier today he had sent out a draft of an electrical easement to Attorney Protto and Orville Aarons. Attorney Sienkiewicz reviewed that Orville Aarons for the Community Bank was present last meeting to request the electrical easement and the connection application. Attorney Sienkiewicz noted that he had drafted an electrical easement with appropriate language, but feels that this easement requires referral by the Planning Commission and approval by the Board of Selectmen, as well as Town meeting approval. Attorney Sienkiewicz noted that Attorney Dave Grogans is also in agreement with him. Attorney Sienkiewicz stated that the easement is protective of the WPCA, and imposes the responsibility on the bank or future property owner. Attorney Sienkiewicz reviewed the language of the easement with the Commission. It was noted that

part of the easement requires that if the WPCA easement needs to be used to a further degree, the WPCA can request that the property owner of 763 Federal Road find another source of electricity. Attorney Sienkiewicz asked the Commission what fees the property owner of 763 Federal Road should pay, and stated that the property owner should agree to pay at least the attorney fees involved with this process. Chairman Malwitz responded that at the last meeting the Commission and the applicant discussed that the applicant pay ten percent of the original easement which the WPCA had paid, which would be \$4,000 plus attorney fees. Attorney Protto stated that the ultimate grantor of the easement should be the owner of the property, Branhaven Partners, who should be a signatory to the easement. Attorney Protto noted that CL&P should also be a signatory to that easement. Attorney Protto also stated that CL&P is working on a map of the property, which will hopefully be ready this week. Attorney Protto stated that he would like to know what the general attorney fee amounts are. Attorney Protto stated that he agrees with Attorney Sienkiewicz that this easement should be sent to an 8-24 referral and to a Town meeting. Chairman Malwitz agreed that Branhaven and CL&P should be signatories to this easement. Attorney Sienkiewicz noted that CL&P may need the easement granted to them. Attorney Protto stated that he was hoping that the Authority would approve the fact that they are willing to do the easement and allow the attorneys to handle the details. The Commission and the attorneys reviewed the general location of the pump station and the transfer with R. Prinz. Orville Aarons noted that each time the WPCA has asked the Community Bank to pay an expense they have been diligent in paying. T. Lopez asked if the hold harmless agreement has been used, and Attorney Sienkiewicz replied that there is language in the easement that holds the grantor harmless. P. Kurtz noted that using this easement is the most effective method of getting power to the building, and Attorney Protto stated that this was the most effective method because of the location of the transformer in location to the building. Orville Aarons stated that he wants to improve the site, and he has had to delay the improvements because it was unclear whether or not this easement would be granted. Chairman Malwitz stated the consensus is the Commission is agreeable, but the final agreement(s) need to be worked out among the attorneys, CL&P and the current property owner(s). Attorney Protto noted that he has been in contact with Branhaven, owner of 777 Federal Rd. Chairman Malwitz asked if the agreement can be finalized for the special meeting scheduled for September 12<sup>th</sup>. Attorney Sienkiewicz stated that he is not sure if the WPCA ever granted CL&P an easement to put power to the pump station. Chairman Malwitz noted that on the twelfth of September the easement will be referred to the Board of Selectmen and to the Planning Commission. It was noted that the next regularly scheduled Selectmen's meeting would be in October.

The Commission moved to item 6, Accountant Update.

**6. Accountant Update**

S. Welwood reviewed in detail the accountant update for the year with the Commission.

**7. Engineer Comments/Project Update**

a. Caldor Pump Station Grinder – Change Order – C. Utschig reported that the project is almost complete. R. Prinz stated that due to the fact that the pipe was clay tile and not PVC in between the manhole and the pump station structure the contractor requested a change order. The contractor dug up the clay tile pipe and prepared it to set the grinder structure for tomorrow morning. R. Prinz noted that bypass pumping is commencing now. R. Prinz stated that the project should be ready around the second or third week of September. R. Prinz noted that the monitoring addition/upgrade for the controls have been ordered, and are waiting to have the WPCA get the easement. R. Prinz reported that the additional amount for the change order was approximately \$15,000 to \$17,000; R. Prinz stated that the contractor will have a final number by the end of the week. W. Charles Utschig noted that short pieces of stainless steel pipe will be installed in the clay pipes. C. Utschig stated that the receiving manhole outside of the pump station was in poor condition and had cracks in it that did leak; he stated that the stainless steel pipe will go into the clay pipe. R. Prinz noted that contractor used a grout and a polyurethane sealant at 900 psi, and C. Utschig noted that 75% of the pipe is backfilled with concrete. It was noted that two sides of the structure are backfilled with concrete.

b. High Meadow/Ledgewood/Newbury Crossing Project – C. Utschig noted that the survey work has been completed for the base information and stated that he has been working with CCA, LLC to complete some of the information for the survey to make it more complete. He replied that this is a normal survey project. T. Lopez asked if there is a plan for conceptual borings, and C. Utschig replied that there is a

plan for conceptual alignment, and they are currently setting up for the video work for the existing lines and to establish where the WPCA wants the borings to be done. C. Utschig feels that the next step of the process should be the application to the Inland Wetlands Commission, and then plan for the borings in conjunction with the planning for the Inland Wetlands Commission. T. Lopez stated that the Inland Wetlands Commission needs a very detailed project proposal. K. McPadden noted that the Newbury Crossing condos requested a certificate of liability from the people planning to do the borings; K. McPadden noted that M. Finan will submit this certificate to the condos. C. Utschig noted that the condo associations will be listed on the certificates of liability. He stated that Birdsall is searching for a company to complete the camera work and noted that this work could probably start in late September.

c. Delmar Drive Sewer Extension – Set Public Hearing for 9/12/12 (Sp. Meeting)

W. Charles Utschig stated that the project is out to bid; there was a pre-bid meeting last week. He noted that there are about four to five interested bidders. R. Prinz reported that the Planning Commission approved an 8-24 referral for the pump station, and he noted that the property owners of 56 Del Mar Drive (where the pump station is planned) are concerned with the plantings and also with the grading easement. W. Charles Utschig stated that this is a temporary grading easement, and there should be no special provisions required. R. Prinz, W. Charles Utschig and Attorney Sienkiewicz reviewed the location of the temporary easement on a map. R. Prinz noted that the grade of 56 Del Mar Drive will remain the same. **C. Scott made a motion to set the public hearing for September 12, 2012 at 7:00 p.m. L. Trojanowski-Marconi seconded the motion, and it carried unanimously.** W. Charles Utschig mentioned that the bid date will be extended to the afternoon of September 12<sup>th</sup>.

d. GIS System Update – W. Charles Utschig stated that the GIS system can be made using database information. He noted that it is up to the board to decide what important pieces of information need to be put into the system to make it more usable. W. Charles Utschig stated that it is important that the information is updated and maintained. W. Charles Utschig stated that the WPCA needs to decide what information is most valuable for their use and how the WPCA is planning to use this information. W. Charles Utschig also suggested that any database information that is added to the GIS system as a database should be tied to the address of the property. W. Charles Utschig noted that the return on investment for the WPCA is going to be paid out over a very long time. W. Charles Utschig noted that Birdsall will have something for the next meeting.

e. Other Engineering Matters – No discussion/no motions.

## 8. Legal Matters

a. Sandy Lane Permanent Maintenance Agreement – Atty. Sienkiewicz stated that he spoke with Chris Leonard, and recommended that this item can be put on the agenda for September 12<sup>th</sup> if something is ready.

b. 67 Federal Road – Easement – It was noted that this is the southwest monitoring project. Atty. Sienkiewicz stated that R. Prinz had asked him to draft an easement for 67 Federal Road for electricity to be used for the underground line and the flow meter. Chairman Malwitz and Atty. Sienkiewicz noted the proposed location of the transformers with the R. Prinz. Atty. Sienkiewicz stated that he proposed an easement for fifteen feet from the center of this pipe, and R. Prinz suggested that the WPCA give a credit to the property owner for one unit.

c. 763 Federal Road – discussed earlier in the meeting.

d. Delinquent Accounts – Attorney Sienkiewicz mentioned that he had sent out some letters to the delinquent account property owners, and he has heard back from quite a few of the owners. Atty. Sienkiewicz noted that most of the delinquencies are for the three-condo project units and for the benefit assessment amount. Atty. Sienkiewicz noted that if the property owner transfers, the amount would still need to be paid.

e. Other Legal Matters – 871 Federal Road Site Line Easement – Atty. Sienkiewicz stated that the property owner currently has a site line easement on the Pierpont property (857 Federal Rd.) which is the location of the Barnyard. Atty. Sienkiewicz stated that the WPCA has a benefit assessment on Pierpont's property, and the owner of 871 Federal Road has asked the WPCA to subordinate their lien to the site line easement. **L. Trojanowski-Marconi made a motion to authorize the Chairman to subordinate the benefit assessment presently affecting property owned by Joan G. Pierpont trustee (857 Federal Road) to a site line easement granted by Joan G. Pierpont, trustee to Riverview LLC (871 Federal Road) in the form presented by counsel. P. Kurtz seconded the motion, and it carried unanimously.**

e. Other Legal Matters – Danbury Plant Charges – K. McPadden stated that the WPCA Office is becoming ready for the September 1<sup>st</sup> billing, and there are two sewer codes for the billing – the first which is \$95 and the second which is \$25.50. K. McPadden noted that there are a few new buildings that are on the Sandy Lane line. K. McPadden noted that there are some properties on Old Gray’s Bridge Road that will be assessed as of September 1<sup>st</sup>, and the question is whether the vacant buildings should be billed as one unit. Attorney Sienkiewicz stated that when the Danbury plant charge was adopted all the Southwest area properties were all connected properties. Attorney Sienkiewicz stated that now the sewer lines are going up where there are properties that are not connected. Attorney Sienkiewicz stated that this specific wording of the resolution does not quite fit, and should be brought to the attention of the Authority. K. McPadden noted, for example, if the school the number of units that would have been connected were multiplied by \$25.50 for each unit to come to the current charge. Attorney Sienkiewicz noted that the Rapid Power building is vacant, and would most likely be considered the \$25.50 amount per unit. W. Charles Utschig stated that the WPCA has allocated the capacity for sewer areas regardless of connection in those areas. It was also noted that the Rapid Power building has been paying a reservation fee in the past, but will now be paying the \$25.50 per unit charge. Attorney Sienkiewicz stated that the question is should the buildings be billed based on the units or on the acreage of the property because the regulation refers to vacant land with no buildings. C. Scott stated that the buildings should be charged per the number of units that will be billed as long as this is consistent with what has been done in the past. K. McPadden noted that the only change is to bill Rapid Power as one unit. Attorney Sienkiewicz summarized that the sense of the authority is that for unconnected, occupied buildings the Danbury plant charge should be calculated based upon the number of units that would be charged had they been connected as per section 7.1.2 of the WPCA regulations. The last Danbury Plant charge bill will be issued June 2013.

#### **9. Chief of Maintenance Report**

**Old New Milford Road** – R. Prinz asked if Earthmovers had submitted their final payment, and K. McPadden noted that they had not. K. McPadden stated that it was suggested that she send a letter to the property owners, and asked if the assessments will be set at the same time they will be set for Del Mar Drive Extension is complete, and Chairman Malwitz responded that it will be done together. R. Prinz stated that the Water Pollution Control Plan is finished, and the Facilities Plan will be next to start.

R. Prinz noted that \$5,769.00 will be held back from the **Sandy Lane Project** until next June, and the applicant will need to apply to get the money back.

**BJ’s** – R. Prinz noted that the BJ’s building is eighty percent completed. R. Prinz stated that BJ’s is planning to add a gas station to the property. R. Prinz noted that BJ’s should come back to the WPCA for the approval for the gas station.

**Costco Project** – R. Prinz stated that the gas station will be open soon. T. Lopez asked R. Prinz if there is a fire suppression test required before the Costco gas station can open, and R. Prinz stated that there is no fire suppression tank at the gas station. R. Prinz stated that the project has gone over their cost estimate for inspections. K. McPadden suggested that a bill be sent for additional escrow. R. Prinz noted that he needs at least ten more hours to inspect the changes. **L. Trojanowski-Marconi made a motion to re-establish Costco’s escrow account by increasing it by \$1,000 and the office will send a letter in the billing. P. Kurtz seconded the motion, and it carried unanimously.**

**Maggie McFly’s (195 Federal Road)** – R. Prinz reported that the sewer project at Maggie’s is approximately sixty percent complete, and there will be two phases of the project. The first phase will be to hook one end of the building up, and the second is to some work in the pump station.

**28 Old Route 7** – R. Prinz stated that the building is not complete.

**Federal Road Line Extension** – R. Prinz stated that the Federal Road water line is progressing well, and the project is almost back on schedule. R. Prinz stated that the contractors will call the WPCA office when the water line construction crosses the sewer line.

R. Prinz stated that he spent time taking the generator to the Police Station, and he added this amount to his billable hours. R. Prinz mentioned that R. Tedesco had told the Police Department that they did not need to pay the money. R. Prinz stated that he does not mind either way, and just needs to know what the Commission would like him to do in the future. R. Prinz noted that the WPCA should keep track of the hours. R. Prinz stated that his concern is if it is a policy change, and K. McPadden noted that the Commission needs to authorize this amount to be written off as bad debt for the accounting information. Chairman Malwitz stated that he will speak with R. Tedesco.

**10. Other WPCA Business**

a. Board of Selectmen Ad Hoc Committee – Chairman Malwitz stated that the Board of Selectmen insists that an ad-hoc committee be formed to study the WPCA.

b. Sub-Committee Updates – C. Scott stated that this is in the process, and he will have a more complete report for the next meeting. T. Lopez stating that regarding the unit charge for restaurants, the team has done some research and it will be a necessity to come to agree about what the volume of one unit is equivalent to. K. McPadden asked R. Prinz and W. Charles Utschig about the possibility of putting meters at the buildings, and R. Prinz responded that he has been in touch with Aquarion Water Company about retrieving the water meter readings. T. Lopez stated that there will most likely be a finalized report in September.

c. Other WPCA Business – Chairman Malwitz stated that he created a checklist of items necessary for an application to the WPCA. K. McPadden stated that this document can also be used as a checklist for the files.

d. Chairman Malwitz distributed an illustration of the account funds to the Commission. Chairman Malwitz explained that the Commission is supposed to charge no more than the maximum interest rate than it is paying on the bonds, but the Commission is not allowed to collect a pre-payment amount. Chairman Malwitz proposed that if the 3-condo project interest rate is kept at three percent for the next billing the Bond Anticipation Note (BAN) should be paid off, and at the end of the period the amount should be about even. This strategy is the lowest cost to customers on the line as it avoids paying interest on a loan that would normally be required to replace the BAN. Consequently, Chairman Malwitz suggested that the Commission should keep the current billing as it is for 2012, then pay the bond off. Chairman Malwitz explained that after that time the Commission should make a resolution to reduce the interest on future billings to two percent early 2013.

**11. Vouchers**

The Commission reviewed the vouchers.

**L. Trojanowski-Marconi made a motion to approve the vouchers. C. Scott seconded the motion and it carried unanimously.**

W. Charles Utschig stated that there was a bill that needed to be submitted as part of tonight's vouchers approval for Kovacs Construction Company for the Caldor Pump Station Grinder Project.

**L. Trojanowski-Marconi made a motion to authorize the Chairman to approve the payment of up to \$120,000 to Kovacs Construction, Inc. for the Caldor grinder project upon approval of the requisition payment by the Engineer and the Chief of Maintenance. T. Lopez seconded the motion and it carried unanimously.**

**12. Adjournment**

**L. Trojanowski-Marconi made a motion to adjourn at 10:35 PM. C. Scott seconded the motion and it carried unanimously.**

**\*\*\*Next regular meeting is scheduled for September 26, 2012\*\*\***

**\*\*\*Special meeting is scheduled for September 12, 2012\*\*\***