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Fred Hurley,  
*Director*

**TOWN OF NEWTOWN**  
WATER AND SEWER AUTHORITY

Marianne Brown,  
*Chairman*  
Louis Carbone  
George Hill  
Alan Shepard  
Eugene Vetrano  
Richard Zang  
Carl Zencey

THESE MINUTES ARE SUBJECT TO APPROVAL BY THE WATER AND SEWER AUTHORITY

The Water and Sewer Authority held a public hearing on March 12, 2015 at Town Hall South, 3 Main Street, Newtown, CT. Chairman Brown called the meeting to order at 7:00pm.

**Present:** Dick Zang, Lou Carbone, Marianne Brown, George Hill, Gene Vetrano, Alan Shepard, Carl Zencey

**Also Present:** Director of Public Works Fred Hurley; Town Attorneys David Grogins and Barbara Schellenberg of Cohen & Wolf; Kurt Mailman of Fuss & O'Neill; Timothy S. Hollister, Esq. of Shipman & Goodwin; Raymond Paier, P.E. of Westcott and Maples, Inc., 25 members of the public and 1 member of the press

• **Proposed sewer extension for 79 Church Hill Road**

Chair Marianne Brown called a regular meeting to order and requested a motion for Executive Session.

Alan Shepard moved for an Executive Session in order to discuss the pending litigation and invited Fred Hurley, Dave Grogins, Barbara Schellenberg and Kurt Mailman to join the session. The motion was seconded by Dick Zang.

Discussion followed: Attorney Tim Hollister requested a point of order and inquired of the Chair the basis for Executive Session and why the Authority's consultant was invited to the Executive Session. Attorney Grogins explained that given the pending litigation he was entitled to consult with his clients, but agreed that Kurt Mailman should not be included.

Alan Shepard amended the motion for Executive Session to discuss the pending litigation and to exclude Kurt Mailman. Dick Zang seconded the motion. The motion passed by unanimous vote.

Executive Session ended at 7:11 p.m. The regular meeting re-commenced, then immediately adjourned for commencement of the public hearing.

The Chair instructed the public to listen to the presentations of the speakers and hold questions until after their completion. Public participants will have 3 minutes to ask questions or comment.

Fred Hurley explained that the applicant for the proposed sewer extension at 79 Church Hill Road will provide exhibits and make their case without interruptions.

Attorney Hollister provided the exhibits to the WSA members and explained that his client, the property owner at 79 Church Hill Road, seeks approval from the WSA to extend the sewer service area that covers the 3 acres of land fronting Church Hill Road to the remaining 32 acres of the parcel and to provide conditional approval of 43,845 gallons of sewer capacity; conditional upon receipt of other necessary land use approvals (Attachment A). This is a necessary first step in order to determine the infrastructure available for a multi-family development of up to 350 units. Attorney Hollister submitted that the plan is

consistent with P&Z's recent adoption of a housing zone overlay that identifies parcels that may be eligible and appropriate for use proposals at variance with the original zoning.

Attorney Hollister submitted that the proposal was consistent with the factors contained in WSA's regulations.

Raymond Paier, Project Engineer from Westcott and Maples provided details regarding the existing sewer system, pump station and treatment plant capacities and measures for necessary upgrades. Mr. Paier also explained what use of a subsurface on site system would look like conceptually and explained that although that type of system was not optimal, it is permitted on that site and would allow for more units.

Attorney Hollister concluded that the history behind the initial placement of the sewers, to deal with septic failures and pollution, is not a reason to deny the current application if the capacity is there and the proposed use of the land benefits the town. The applicants are requesting that the WSA commence the process of requesting a reallocation of sewer capacity from the state.

Kurt Mailman Engineer with Fuss and O'Neill was asked by WSA to review application (Attachment B). Mr. Mailman provided the following comments:

1. Mr. Mailman pointed out that the existence of 6" laterals is common for all single family homes and does not signify an intent to promote multi-family development. If the intent was to have public sewers they would have left 8" laterals and manholes.

Dick Zang pointed out that 8" pipe mentioned in the application was added as a precautionary measure in the event the Riverside communities had septic and pollution problems.

2. In relation to the applicant's ample capacity claim, the Town is required to maintain and reserve the state's portion of capacity, 5 other state agencies that signed the IMA would need to be involved and achieving a reallocation would be very difficult.

3. The treatment plant and Sandy Hook pump station would require significant upgrades potentially costing millions of dollars.

4. Applications peak hour flow figure is incorrect per TR16 guidelines.

5. Information regarding data on soil characteristics is missing so a complete evaluation could not be done.

Attorney Hollister stated that the Fuss & O'Neill were invited to communicate with Westcott and Maples to iron out these types of discrepancies and issues 10 days ago.

6. While the amphidrome system seems to be a viable treatment facility, DEP has no preapproved list of technologies, therefore each application needs to be reviewed individually

Dick Zane questioned whether the amphidrome system could be considered a subsurface system by DEP given the need for a licensed operator and hauling of settled solids potentially requiring weekly trucks from the site to another disposal area. Mr. Mailman explained this is still considered a subsurface system by DEP.

Mr. Mailman pointed out that based upon the application the review assumed the plan was for 3 story buildings which would allow for up to 396 units under 600 square feet each. Attorney Hollister responded that there is no set plan for a number of units at this juncture.

Fred Hurley presented next (Attachment C) regarding what his staff discussed and explained that issues of density and traffic are land use issues that will be addressed by P&Z. Mr. Hurley explained that the WSA had bifurcated the parcel and that there is an extensive history behind that separation. The balance of this parcel is in a sewer avoidance area based upon a lot by lot survey performed by health officials. These results were confirmed by DEP. In addition, the terms for the funding assistance for the original sewers required that the prime purpose of the award was to resolve existing pollution problems per DEP. DEP was the shepherd of the clean water funding. Applicants assertion that there is available infrastructure to meet development requirements based upon 6" laterals and 8" sewer main that crosses I84 bridge is

incorrect because these pipes are reserved for future pollution problems for Riverside and Lake Zoar. The claim that this parcel is not part of a sewer avoidance area is incorrect.

The applicant must fully make the case for the availability of the necessary infrastructure.

1. The 23,000 gallons of capacity is correct but it still applies only within the current sewer service area.
2. Sandy Hook pump station can be upgraded, but the upgrade would push it 30% beyond maximum capacity which would be a \$500,000.00 project.
3. Town controls very little of the remaining capacity per a 1993 agreement between the state and town regarding reallocation. This agreement is very complicated and requires 5 state agencies to participate and agree to the request.

While the parcel may qualify under the new incentive housing zone, this overlay is based upon acreage, not WSA regulations. The IHC overlay zone only applies if certain criteria are met.

Mr. Hurley concluded by noting the applicant has a right to respond to everything that was said by he and Mr. Mailman.

Questions by the Authority members and answers from the applicant and Mr. Mailman followed.

The Chair moved the meeting to public participation (Letters from residents Attachment D):

Tom Cuomo, President of the Walnut Tree Village Association inquired why a percolation test was not done and wanted to know what type of fields the onsite system would have. Mr. Paier does not have the results of field test with him but they were done. He does not have the exact # of infiltrator galleries but the total linear feet is extensive. Mr. Cuomo also wanted to know what contingency plans would be in place in the event of a storm and overflow. Alan Shepard explained that the issue before the WSA is whether or not the proposed land will come into sewer service area and Fred Hurley indicated that the current tanks have been close, but have never overflowed.

Virginia Zerman, 4 Walnut Tree Hill Road, Sandy Hook commented that her property is immediately downhill from the proposed development and the land is currently saturated. She's a long time resident and tax payer, yet she's not eligible for a sewer hook-up, but may be exposed to runoff from this development, negatively affecting her property and well water. She's concerned about her garden, her grandchildren in the future given the limited life span of these treatment facilities.

John Bestor, 24 Walnut Tree Hill Road, Sandy Hook prepared a statement and submitted an application for intervener status (Attachment E). 79 Church Hill Road will pollute a fragile environment. Very clear that original intent was not to serve new development. Once developer puts project in place they leave consequences to the community. According to a study conducted by UCONN Center for Land Use Education & Research - he learned about the importance of the Pootatuck River watershed, the threats posed to the aquifer and environment by runoff and erosion. Mr. Bestor concluded with a quote by Chief Seattle in *Brother Eagle, Sister Sky*.

Duane Jones, 16 Walnut Tree Hill Road, Sandy Hook opposes the extension. His well is in his front yard directly across the street from the subject parcel. It will harm the aquifer and his well capacity. The limited capacity we have should be released incrementally for smaller dispersed housing developments, commercial buildings and septic failures.

Beth Kuschel, 20 Evergreen Road, Sandy Hook is against allowing the connection into the sewer system. Every house on Evergreen is over 50 years old, most in the same family. The original system was paid for by our taxes and she feels if the expanded system will be paid for by community's taxes, she and her neighbors should be eligible for sewer connections.

Mr. Cuomo, asked how many units will be put in with septic system - Alan Shepard explained that the WSA is concerned with gallons per day, not # of units. Although he acknowledged that more units could translate into more gallons.

Zoltan Csillag, from Walnut Tree Hill Road, Sandy Hook was concerned about the possibility of the state suing the town again for breaking the agreement we made 20 years ago. Mr. Csillag read a letter into record and implored the WSA to deny application. He is concerned about the environmental impact of 350 units and believes the WSA's top priority must be to protect the town and its citizens.

Linda Jones, 16 Walnut Tree Hill Rd, Sandy Hook brought Petition to be placed in the file. Neighborhood strongly opposed to the application. The request exceeds current capacity. Taxpayers voted on an extension for pollution control. The capacity of the existing sewer system should be used incrementally for smaller dispersed housing units, pollution control and business.

Rich Fenaroli, 2 Walnut Tree Hill Road, Sandy Hook, believes that the argument that existing sewer system was not meant to accommodate development is not borne out by the increase in units at Walnut Tree Hill Complex as a result of its connection to the sewer system. Mr. Fenaroli believes that safety and health regulations will be followed and the development will benefit the town as an alternate tax base. The town should consider doing upgrades to allow the project.

Eftihios Marnelakis son of the owner of the Blue Colony Diner believes this development is a fantastic opportunity to encourage youth to live in Newtown because otherwise it is unaffordable.

Mary Grosso, 8A Walnut Tree Hill Road, Sandy Hook does not believe an additional development makes sense when there is one right down the street and only 2 units have sold. Doesn't see the existence of the claimed demand for this type of housing.

David Croix, 42 Farm Field Ridge Road is concerned about increasing capacity for this development, resulting in the loss of the capacity intended to deal with septic failures and pollution problems.

Brian Atherton, 7 Black Walnut Drive, Sandy Hook, disclosed that he is the broker who represents the project. He grew up in Sandy Hook and had to replace his septic system but was never told about the grant or the option to connect. He sees the sewer system as a benefit for all and the development as bringing taxable income that will outweigh the costs to the town. Our town has the highest connection fee in the state: \$16,000.00. Other towns understand benefit. We need to be planning for expansion of sewer system, not restricting.

Alan Shepard proposes that public hearing remain open. Attorney Hollister requests that the hearing be closed and then the WSA deliberate. Attorney Grogins pointed out that the WSA has 65 days from February 5, 2015 to render a decision. Chair wants more information on soil tests.

John Bestor as potential intervener wants public hearing to remain open. Attorney Hollister points out that intervener application is premature.

Chair states the hearing is to remain open until special meeting.

George Hill moved to keep the public hearing open until a special meeting on April 2, 2015. Dick Zane seconded the motion.

Discussion: Questions from WSA members should be forwarded to Mr. Hurley. He will provide questions to the applicant in advance and facilitate opening the channels of communication between town's consultant and applicant.

The motion to continue the hearing to April 2nd was moved to a vote and passed unanimously.

Having no further business, the meeting was adjourned at 9:32 p.m.

Carolyn Signorelli  
Clerk Pro Tem