



PUBLIC UTILITIES COMMISSION

Bethel Municipal Center, 1 School Street
Bethel, Connecticut 06801 Telephone: (203) 794-8501

SPECIAL MEETING

Monday, January 23, 2012

4:00 p.m.

C.J. Hurgin Municipal Center – Meeting Room “A”

Present: First Selectman Matthew Knickerbocker; Selectman Richard Straiton, Selectman Paul Szatkowski and Commissioner Michael Gribbin and Commissioner Peter Valenti. Also in attendance were Town Comptroller Bob Kozlowski, Town Engineer Andrew Morosky, Utilities Superintendent Kelly Curtis, Town Attorney Martin Lawlor.

Absent: None

Call to Order First Selectman Knickerbocker called the Meeting to order at 4:00 p.m. and led the Pledge of Allegiance.

Public Input: None

Correspondence: Documentation from Attorney Martin Lawlor regarding the Money Market Account from the Stony Hill Sanitary Sewer Extension Project. See attached. This will be discussed under Stony Hill Sewer.

Meeting Minutes from Regular Meeting January 9, 2012: *Selectman Straiton made a motion, which was seconded by Commissioner Gribbin. Vote, All in Favor, Motion Approved.*

New Business:

- **Route 6 Business Zone Text Amendment; P&Z Commission:** In order to help the Commission better gauge the potential impact if all parcels along Route 6 were granted a 50% increase in their allocation, Mr. Morosky distributed a build-out scenario for the parcels with Stony Hill Road addresses. Mr. Morosky stated that the results on the spreadsheet are not to be construed to mean that all of the properties will need 1.5 times their allocation at full build-out. However, if each lot were increased 50% the flow would go from 108,962 gallons to 163,443 gallons per day which would be an increase of 54,481 gallons a day. Mr. Morosky stated that these numbers are only an example and pointed out that there are parcels, such as Target's, that are flowing lower than their allocation and will likely remain lower in the future. The text amendment, in part, establishes development density guidelines for the Route 6 area. Commissioner Gribbin would like to review the Tighe & Bond Study, especially the downtown area, because some applicants are seeking approval based by bedrooms, some by square feet and others are basing their use on bathrooms and then by people. Commissioner Gribbin stated the PUC should set a standard of how the allocations are determined. Selectman Straiton inquired whether this was in the regulations. Mr. Morosky affirmed that there are several available industry standards for determining proposed sewage flows depending on the application. First Selectman confirmed that the Commission should update the regulations to set a standard for evaluating proposed sewage flows.

Attorney Lawlor understood that Len Assard would be modifying the regulations for allocations. First Selectman Knickerbocker would like to have a conference call with Mr. Morosky and Mr. Assard.

First Selectman Knickerbocker made a motion, which was seconded by Selectman Straiton to endorse the text Amendment from P&Z Commission, with the understanding that the Public Utilities Commission must still approve applications for sewer service and allocation changes for each proposed development. Vote, All in Favor, Motion Approved.

Old Business:

- **Plumtrees Pumping Station – Consultant Engineer’s Agreement:** Mr. Morosky distributed a memorandum from Roald Haestad concerning the invoices. First Selectman Knickerbocker asked Mr. Morosky about the contract for Roald Haestad, Mr. Morosky stated that each of their services listed in their proposal included an estimated fee. Attorney Lawlor agreed that the signed contract included estimates for each item and did not include a not-to-exceed cost. Commissioner Gribbin, referring to a change in hatch size noted by Mr. Morosky, inquired whether we gave them the change of the pump or did Roald Haestad suggest the change. Mr. Morosky indicated that the hatch size in the bid documents was not large enough for the Homa pump that the Utility Department desired, and so the change required revisions to the design and additional shop drawing reviews. Commissioner Valenti asked why the PUC has to pay for the extra costs. For example, is there more steel required for the larger hatch area? The Commission should have a fixed price contract with this project as well as any projects going forward. Selectman Straiton inquired about the different hatch for the pump and change orders concerning this. First Selectman would like to re-evaluate the estimate; and see where we are with the design and possibly change the construction phase estimate by \$7,500.00. Mr. Morosky will retrieve more detailed information on the changes from Haestad. Selectman Szatkowski inquired about asking for a fixed price in the future with no change orders. Mr. Morosky noted that this may result in higher fees for design proposals.

Selectman Straiton made a motion which was seconded by First Selectman Knickerbocker to table Plumtrees Pumping Station for next month’s meeting. Vote, All in Favor, Motion Approved.

Engineering / Utility Consultant Report:

- **Eureka Water Storage Tank:** First Selectman Knickerbocker updated the Commission regarding the Open House for the Eureka Water Storage Tank held on January 11, 2011. He indicated that, after a statement of opposition from a Danbury resident to start the meeting, he felt the residents were extremely helpful and positive. In addition, up to six (6) Danbury residents indicated they would volunteer to assist with the landscape review portion. Mr. Morosky distributed a letter from Wright-Pierce regarding an amendment for additional engineering services required to prepare updated plans and an application to the City of Danbury Planning Commission. This will be an additional cost of \$6,995.00.

Selectman Szatkowski inquired about the cost of construction and if it has changed. Mr. Morosky indicated that he spoke to Wright-Pierce and they were going to discuss the matter with Natgun.

First Selectman Knickerbocker made a motion, which was seconded by Selectman Straiton to authorize Wright–Pierce, in an amount not to exceed \$6,995.00, to prepare the permit application for the Eureka Water Storage Tank. Discussion took place. Vote, All in Favor, Motion Approved.

- **Stony Hill Sewer Project – Financial:** Referring to his letter cited earlier, Attorney Lawlor noted Item 2, ‘Pursuant to Sec. 5 of the approved borrowing resolution “...interest earned on the temporary

investment of such proceeds shall be applied forthwith to the payment of the principal and interest of all notes issued in anticipation thereof or shall be deposited in trust for such purposes with a bank or trust company, or shall be applied or rebated as may be required under the provisions of law". Based on Sec. 5 of the approved borrowing resolution, the PUC, on its own, does not have authority to use the money market funds for project construction costs.'

Further, as noted in item 3, "Since the bonds are the Town's obligation, any decision which changes or alters the borrowing is subject to approval by the Town of Bethel which could include a Special Town Meeting".

Attorney Lawlor summed up his opinion by indicating that, in order to use the money market funds for construction, this matter needs to be forwarded to the Board of Selectman for recommendation to the Board of Finance followed by a Special Town Meeting for approval from each. Attorney Lawlor also noted that the interest monies would not be added to the assessments to be repaid as the income was derived from the principal of funds for the project.

First Selectman Knickerbocker made a motion, which was seconded by Selectman Szatkowski to recommend that the Board of Selectman send a recommendation to the Board of Finance that would allow the PUC to use the bond interest, in the amount of \$751,371.32, for the Stony Hill Sewer Project for phases 1, 2, and 3. Discussion took place. Vote, All in Favor, Motion Approved.

Financial Report:

PUC INVOICES

January 23, 2012 -Special Meeting

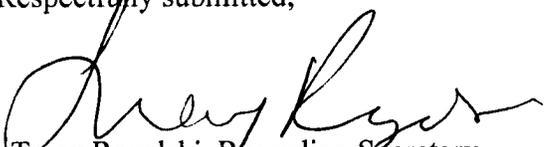
Item #	Vendor	Inv. Date	Amount	Description	Account
1	Kovacs Construction		\$49,722.05	Improvements of Plumtrees Pump Station	Payment Application 3
2	Reald Haestad	10/31/2011	\$100.00	Plumtree Sewer Pump Station	Plumtree Sewer
3	Reald Haestad	11/30/2011	\$3,794.89	Plumtree Sewer Pump Station	Plumtree Sewer
4	Reald Haestad	28-Dec-11	\$4,570.08	Plumtree Sewer Pump Station	Plumtree Sewer
5	Kovacs Construction	1/13/2012	\$1,298.06	Plumtree Pump Station	Change Order 1
Total Approved			\$49,722.05		

Selectman Straiton made a motion which, was seconded by First Selectman to approve for payment the application payment to Kovacs Construction in the amount of \$49,722.05. Discussion took place, Vote, All in Favor, Motion Approved.

Adjourn:

As there was no further business on the agenda Commissioner Valenti made a motion, seconded by Selectman Straiton, to adjourn the meeting at 5:00 p.m. hearing no objections, the meeting was adjourned.

Respectfully submitted,



Tracy Rogalski, Recording Secretary

January 18, 2012
W-P Project No. 11167A

Mr. Andrew M. Morosky, P.E.
Public Works Director/Town Engineer
Town of Bethel
1 School Street
Bethel, CT 06801

Subject: Eureka Water Storage Tank Design - Additional Engineering Services related to the City of Danbury Planning and Zoning Department Permit Applications

Dear Andrew:

As requested, this is our proposed scope and fee for additional services related to the permitting efforts for the above referenced project. The proposed scope of services is based on our current understanding of Town's needs in order to move the project forward and secure approvals from the City of Danbury Planning and Zoning Commission.

The following is our proposed scope and fee:

Task No.1 - Prepare additional renderings of the proposed tank site (up to 3 different options) based on comments received from the Long Ridge residents during the public informational meeting on January 11, 2012 held at the Bethel Municipal Center.

Task No.2 - Prepare for and conduct a workshop meeting with Wright-Pierce landscape architect, Town of Bethel representatives and Long Ridge Road residents to review and finalize the rendering(s) before submitting a formal application to the City of Danbury Planning and Zoning Commission. We would provide a lap top computer with a projector to allow for "real time" changes to the renderings during the workshop meeting.

Mr. Andrew M. Morosky, P.E.
January 18, 2012
Page 3 of 3



We appreciate the opportunity to submit this proposal and look forward to continuing to work with you and the Bethel Public Utilities Commission on this important project. Feel free to contact me with any questions or comments at (860) 343-8297.

Sincerely,
WRIGHT-PIERCE

Mariusz D. Jedrychowski, P.E.
Project Manager

MDJ/mep
cc: Rick Davee, P.E. (Wright-Pierce)

RE: Stony Hill Sanitary Sewer Extension Project
Money Market Income/Interest

Issue: Can the Money Market Income be used to finance the Sewer Project?

Assumption: The monies in the Money Market account were derived from the bond /note proceeds of the Stony Hill Sanitary Sewer Extension Project, the “Project”.

In connection with the above matter, I reviewed the warning for the Town Meeting of October 1, 2003 and the Motion for the appropriation for \$19,760,000.00 that was approved by the Townspeople.

1. The bonds as approved for the Project were an obligation of the Town of Bethel not the PUC. There is language that indicates that in addition to the bonds being secured by the full faith and credit of the Town, the bonds will also be secured by a pledge of revenues to be derived by benefit assessments.

2. Pursuant to Sec. 5 of the approved borrowing resolution ‘... interest earned on the temporary investment of such proceeds shall be applied forthwith to the payment of the principal and interest of all notes issued in anticipation thereof or shall be deposited in trust for such purposes with a bank or trust company, or shall be applied or rebated as may be required under the provisions of law.

Based on Sec. 5 of the approved borrowing resolution, the PUC on its own, does not have authority to use the money market funds for project construction costs.

3. **Since the bonds are the Town’s obligation, any decision which changes or alters the borrowing is subject to approval by the Town of Bethel which could include a Special Town Meeting.**

There is no Charter provision that addresses the specific issue on hand because the PUC is a separate entity of the Town of Bethel and has autonomy when it comes to its own funds and budget. However, C10-4. Special Appropriations and Transfers of Appropriations contain two sections which could be applicable.

The first is C10-4.B. which normally would apply regarding a Town agency surplus or contingency fund:

B. The Board of Selectmen, when requested by any town agency and after approval of the Board of Finance, may make special appropriations from any town agency surplus or an approved contingency fund in amounts not to exceed in total for any individual town agency twenty-five thousand dollars (\$25,000.) in any one (1) fiscal year. Any request by any town agency which shall exceed the amount herein provided shall require a vote of the Town Meeting after approval by the Board of Finance.

The second is C10-4.C. regarding appropriations from those other than a cash surplus or an approved contingency fund:

C. Special appropriations other than those from cash surplus or from an approved contingency fund may be acted upon only by a Town Meeting, after approval by the Board of Finance.

It is my belief since the Special Town Meeting set the parameters for the bonding funds, only a Special Town Meeting would be authorized to change the terms of the same. Since the Town is ultimately responsible for the payment of the bonds, in order to change the use of the money market funds for something other than repayment of the principal and interest, the procedures as set forth in C10-4 should be followed; BOS recommendation to BOF and Special Town Meeting; BOF approval; and, a Special Town Meeting.

Since the income was derived from the principal of funds that the benefited landowners' are already going to repay through benefit assessments, it would be inappropriate to add the monies used from the income for project costs to the assessments to be repaid by the benefited landowners. In essence, the maximum principal amount that can be assessed is the amount of the original bonding, \$19,760,000.00.

I also was concerned that most of the monies having already been borrowed and/or bonds issued, that the holders of the notes and/or bonds might have the right to rely on the bonding resolution of paying down principal or interest with the income funds. Would the Town need permission from the holders to use those funds for project costs? I spoke to Bethel's bond counsel, Frank Cleary at Pullman & Comely concerning the same. He agreed that the Town Meeting could change the bonding resolution to allow the use of the income for the Project. He also believed that the current note or bond holders are no worse off and the Town would not need permission from the bond or note holders to use the income for the Project.

MJLJR
01/23/2012

MEMORANDUM

TO: Andrew M. Morosky, P.E.

JOB NO: 269-005

FROM: Ronald G. Litke, P.E. 

DATE: January 23, 2012

SUBJECT: Plumtrees Road Pumping Station

Please be advised that we have exceeded the \$5,000 budget estimate for Engineering Services during construction included in the August 24, 2010 Agreement for the above noted project. It was pointed out that the budget figure could vary depending on the services requested. As of December 23, 2011 the total fee for Engineering Services During Construction was \$10,591.31.

The time required for shop drawing review was more than originally anticipated. In addition to the normal submittals, the Contractor, Kovacs Construction, submitted a detailed set of drawings and bill of materials for the project. There were also several items that required resubmittals, a number that required coordination between subcontractors and suppliers, and a few deviations from Contract Documents to meet field conditions that had to be reviewed.

To date the majority of the shop drawings have been submitted and processed. We suggest that the budget estimate for Engineering Services During Construction be increased to \$12,500 to accommodate consultation and advice during construction to resolve field conditions encountered and process monthly estimates.

cc: RHH