



PUBLIC UTILITIES COMMISSION

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

MINUTES OF REGULAR MEETING

Monday, November 1, 2010

4:00 p.m.

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

Present: First Selectman Matthew Knickerbocker, Selectmen Richard Straiton, Selectman Paul Szatkowski and Commissioners Michael Gribbin and Peter Valenti. Also in attendance were Town Engineer Andrew Morosky, Utility Consultant Len Assard, Utility Supervisor Kelly Curtis and Town Attorney Martin Lawlor.

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

First Selectman Knickerbocker made a motion to add to the Agenda under Old Business Permit Request for 37-39 Grassy Plain Road which was seconded by Selectman Szatkowski, Vote, All in Favor, Motion Approved.

Public Input: None

Correspondence: **CT DEP: Paul Street Facility Concrete Tankage:** Mr. Morosky updated the commission on this correspondence.

Vista (Chelsea Heights) Utilities for Water and Sewer: No discussion needed.

Kevin Dee; Bethel Fish and Game: Supervisor Curtis spoke regarding this correspondence. This group would like to have four parking spots at the lower part as well as the upper part of the Chestnut Reservoir facility. Mr. Assard indicated to the Commission that there are lawsuits in Court System due to the fact people use water shed area and claim injury due to the site. Town Attorney will check regarding permits for recreation on water shed area.

Meeting Minutes from Regular Meeting October 18, 2010: Selectman Szatkowski made a motion, which was seconded by Commissioner Gribbin, to approve the minutes as presented. Voting in Favor: Selectman Richard Straiton, Selectman Paul Szatkowski and Commissioners Michael Gribbin and Peter Valenti. First Selectman Knickerbocker abstained Motion Approved.

Old Business: **37-39 Grassy Plain Road:** Commissioner Gribbin recused himself from the discussion regarding 37-39 Grassy Plain Road.

Dainius Virbickas from Artel Engineering, representing the developers of this property, updated the commission on the development's status. This development has been involved in a lawsuit regarding the zone change for the past three years, following Planning & Zoning approval (which included response by PUC that water and sewer are available) which was received in 2007. The project was put on hold due to

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the lawsuit. The lawsuit has been resolved in the developer's favor and the project can now move forward. While in litigation the Sewer Study was written and new Sewer Regulations were established, linking the allocations specified in the Sewer Capacity Study performed by Tighe & Bond. As originally approved, the property is a mix of commercial units on the ground level and residential in the upper two levels with a total of 30 units. Discussion took place between the commissioners regarding the sewer allocation; gallons per day per unit and square footage. The property owners are seeking affirmation that their development is still approved as designed, despite the allocation in the Capacity Study being less than the projected flows.

Mr. Bud Wright, the current property owner, spoke to the commission regarding his case.

Commissioner Valenti indicated this development was submitted and approved prior to the regulation change. The Tighe & Bond Capacity Study was completed after the approval for this development was given. Town Attorney Martin Lawlor asked whether there were any changes made to the site plans. Mr. Virbickas indicated the last revision was July 12, 2007. Commissioner Valenti indicated this project was already approved on in the past. Further discussion took place between the commissioners.

Commissioner Valenti made a motion which was seconded by Selectman Straiton to reaffirm prior approval and approve 37-39 Grassy Plain Road permit request. Discussion took place. Vote, All in Favor, Motion Approved.

Water and Sewer Financial Status: Reports distributed by Comptroller, Bob Kozlowski. Discussion took place between the commissioners and reviewed the financials.

Comptroller Kozlowski distributed the Sewer Assessment Report and indicated the sewer assessments will be fully completed by next month's meeting. Selectman Szatkowski a public hearing will be needed prior to sending out the assessments. Further discussion took place.

First Selectman Knickerbocker indicated that a Special Meeting will be needed to meet with Chris Woodcock about the rate structure for the water rates.

Invoices:

Mr. Morosky submitted an invoice from Martin Lawlor in the amount of \$1,153.00 for issues dealing with Stony Hill Sewer project, Phases 2 and 3. Commissioner Gribbin made a motion, which was seconded by Selectman Straiton, to approve the invoice in the amount of \$1,153.00. Vote, all in favor, motion approved.

Mr. Morosky submitted an invoice from Martin Lawlor in the amount of \$775.13 for general sewer-related issues. Commissioner Gribbin made a motion, which was seconded by Selectman Straiton, to approve the invoice in the amount of \$775.13. Vote, all in favor, motion approved.

Mr. Morosky submitted an invoice from Martin Lawlor in the amount of \$131.63 for general water-related issues. Commissioner Gribbin made a motion, which was seconded by Selectman Straiton, to approve the invoice in the amount of \$131.63. Vote, All in Favor, Motion Approved.

Engineering / Utility Consultant Report:

Eureka Water Storage Tank: Town Attorney Lawlor updated the commission with respect to the pending court case between City of Danbury and Bethel regarding the Water Storage Tank. Mr. Morosky indicated that the DPUC is expected to rule on Danbury's motion to dismiss as it now has the Town's objection to Danbury's motion and Danbury's rebuttal to Bethel's objection to consider. Mr.

Knickerbocker indicated that Pullman & Comley estimated the DPUC process to take anywhere from three to six months.

Stony Hill Sewer Project:

Mr. Morosky indicated the Public Works office has been receiving regular calls questioning whether there is going to be a Contract 4.

Easements for Phase 3: Mr. Lawlor updated the commission regarding the situation on 27 Adams Drive. Attorney Lawlor drafted a letter to confirm an agreement with Public Utilities and Property Owner of 27 Adams Drive. Commissioners would like to have the finalized letter signed and return letter by November 30, 2010. Discussion regarding the details of the letter took place.

First Selectman Knickerbocker made a motion which was seconded by Selectman Szatkowski to approve the finalized letter submitted by Town Attorney as well as pay the additional payment of \$125 for the appraisal previously completed on 27 Adams Drive. Vote, All in Favor, Motion Approved.

Walnut Hill Pump Station: Mr. Morosky indicated the pump station is has received its temporary or partial Certificate of Occupancy and is up and running. The hook-up letters have been sent out to residents in Contract 3 except for the Adams Drive easement portion.

Town Attorney Lawlor indicated he sent a letter dated October 25, 2010 (see attached) to Ms. Piera, the property owner of the Walnut Hill Pump Station parcel. The letter is regarding changing the addendum and the initial agreement between the Town of Bethel and Ms. Piera.

Mr. Morosky advised the commission he meets with the contractor Earthmovers regarding the dredging of the ponds location on Walnut Hill. Mr. Morosky indicated they still need to meet with Inland and Wetlands. Commission inquired about the volume of the material to be dredged and the depth and width of the ponds. Mr. Morosky indicated 1,100 cubic yards was the estimate of material to be removed, with two to three feet coming out of the upstream pond and two to six feet out of the downstream pond, in accordance with Ms. Piera's statements regarding the pond depths. Mr. Valenti questioned whether there are any spillways needed for the project. Mr. Morosky indicated yes, they both need to be rebuilt. Commissioner Valenti would like to have the cost of the spillways. First Selectman Knickerbocker inquired about the timeline with the Inland and Wetland Commission. Mr. Morosky believes they are having a meeting this month. First Selectman inquired about Bennett and Meckauer ponds, Mr. Morosky informed the commission that the short-term dredging of Bennett has been completed by the Highway Department.

Town Attorney Lawlor indicated to the commissioner he did a title search on the Walnut Hill Property and the land is free and clear.

Supervisor's Report

Mr. Curtis updated the commission on the following items in the Water and Sewer Department:

- Greenwood Ave. leaks have been repaired. Mr. Curtis indicated the total leak was about 50,000 gallons a day. These were two old taps to the parcel southeast of the intersection of Greenwood Avenue and the train tracks.
- Water main relocation has been completed at the High School Track.

- Danbury has not yet repaired their modem for the signal going from Paul Street to the Danbury plant. Mr. Curtis provides Danbury with the usage on a monthly basis.
- Emergency bypass parts on order for the Paul Street pump station project.
- The green pickup was replaced with a 2006 Ford w/Plow for a total of \$22,125, which is almost \$8,000 less than budgeted.
- Mr. Curtis would like to dispose of the surplus equipment formerly used in the Department. The Vehicles are all registered to the Town of Bethel. Attorney Lawlor indicated the matter should be brought to the Board of Selectman. First Selectman Knickerbocker indicated that Mr. Curtis should first obtain a quote from a scrap auto company and forward the matter to the Board of Selectman for approval.
- Eureka needs the furnace and roof replaced. Mr. Curtis inquired to the commission whether he can go ahead to replace this item since we are in the red. Commissioner Mr. Valenti indicated he would look at the furnace due to the quote received. First Selectman Knickerbocker indicated the budget was approved go ahead with obtaining three other quotes.

New Business: 34 Grassy Plain Street Conversion of Garage to Single Family Home: Dainius Virbickas of Artel Engineering spoke representing the owner of 34 Grassy Plain Street, who is proposing the addition of a single family home to this lot. Mr. Virbickas indicated that, according to Zoning Regulations, the lot has adequate room for five residential units. 435 gallons per day is the current sewer allocation according to the Sewer Capacity Study, but the projected use is 445 gallons per day. Discussion about allocation on the sewerage was discussed at length.

Mr. Valenti questioned the proposed locations of the water service and sewer lateral for this proposed dwelling. Mr. Curtis recommended that the applicant connect to the existing eight-inch main with a new tap.

Mr. Knickerbocker asked if the Commission had the authority to modify or approve a proposed use that goes above the allocation for the lot. Attorney Lawlor indicated that he didn't think the Commission could approve an application that goes above the allocation although he hasn't looked at the allocation data.

Mr. Morosky indicated that the proposed use (of an additional single family home) could be approved at 183 gallons per day.

Mr. Virbickas noted that the report cites several flow rates, such as an average water consumption of 150 gallons per day per residential customer in Bethel; while 174 gallons per day is the median wastewater flow for a multifamily home, based on water consumption data. The proposed flow rate of 193 gallons per day is based on the average number of persons (2.76) per residence in Bethel in 2000 (Census Data) multiplied by a wastewater flow rate of 70 gallons per person per day.

Mr. Valenti pointed out that, based on prior history in Town, there is no guarantee that the proposed dwelling will be inhabited by the applicant and the projections on flow may be less than actual future flows.

Commissioner Gribbin made a motion to table this discussion until next month's meeting and have Mr. Morosky and the Town Attorney look at the allocation for this property and possibly adjust it. Vote, All in Favor, Motion Approved.

77-79 Stony Hill Building; New Dunkin Donuts Shop: Dainius Virbickas of Artel Engineering, representing the owner of the property, is seeking additional allocation for sewer at this location. A Dunkin Donuts store is proposed for the building once occupied by the hairdresser. Mr. Virbickas indicated that the current allocation is based on 2006 water meter readings for this site of 159,350 gallons per year or 437 gallons per day. Based on an area of 34,421 SF, and applying Sewer Capacity Study methodology, the allocation could have been as high as 546 gallons per day, according to Mr. Virbickas.

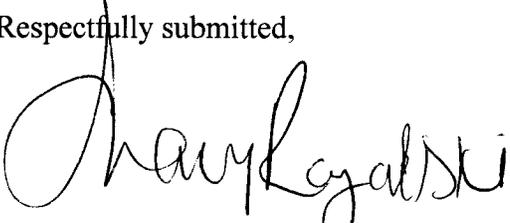
Commissioner Valenti made a motion which was seconded by Selectman Straiton to table this until next month's meeting. Vote, All in Favor, Motion Approved.

Track Storage Building; Requesting Installation of Sink: First Selectman Knickerbocker distributed a letter from Eileen Earle, Director of Parks and Recreation to the commission as well as a memo from Laura Vasile, Director of Health Department. The primary use of the sink at the new building next to the track would be the filling and rinsing of water jugs.

Selectman Straiton made a motion which was seconded by Commissioner Valenti to approve the installation of the sink at the Athletic Building as long as the applicant follows either option 2 or option 3 of Director of Health Laura Vasile's memo dated October 28, 2010 and connects to the existing sanitary sewer system. Vote, All in Favor, Motion Approved.

Adjourn: As there was no further business on the agenda, Selectman Straiton made a motion, which was seconded by Selectman Szatkowski, to adjourn the meeting at 6:15 p.m. Vote, All in Favor, Motion Unanimously Approved.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Tracy Rogalski". The signature is written in a cursive, flowing style with a large initial 'T'.

Tracy Rogalski, Recording Secretary

MARTIN J. LAWLOR, JR.

Attorney at Law

99 Greenwood Avenue
Bethel, Connecticut 06801

Telephone (203) 790-9398
Facsimile (203) 744-0678

October 25, 2010

Ms. Deanna June Piera
127 Walnut Hill Road
Bethel, CT 06801

Re: Town of Bethel, Walnut Hill Pumping Station
Parcel Z- 0.262 Ac.

Dear Ms. Piera:

As a result of our telephone conversation and my conversations and your conversations with Andrew Morosky, I have changed the addendum to the initial agreement between yourself and the Town of Bethel dated September 4, 2009. If you review the same, you will see that paragraph 11 has been amended so that the closing will take place within thirty (30) days after substantial completion of the items that the Town of Bethel must complete in Schedule B of the agreement.

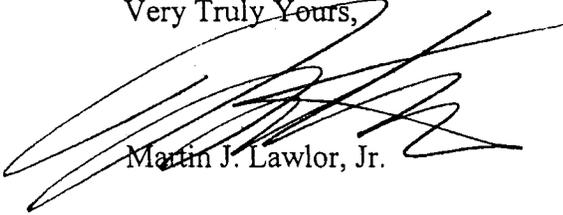
In addition, I have changed the date for a town meeting to on or before December 20, 2010. The date of the town meeting will depend on when Mr. Morosky gets his final bids/requested proposals for the dredging of your pond.

The last change that I made was to Article 2 in Schedule B. Instead of a date for completion, I changed it that once the town commences the work on your property it will be completed within sixty (60) days.

If the addendum meets with your approval, kindly contact my office and I will make arrangements for you to execute an original and one copy and have Mr. Knickerbocker execute the same as well.

Should you have any further questions or comments concerning this matter, please do not hesitate to contact me.

Very Truly Yours,



Martin J. Lawlor, Jr.

MJLJR:kck

cc: Andrew Morosky
Matthew S. Knickerbocker

**ADDENDUM TO AGREEMENT BETWEEN
DEANNA JUNE PIERA AND THE TOWN OF BETHEL
DATED SEPTEMBER 4, 2009**

WITNESSETH:

WHEREAS, DEANNA JUNE PIERA of 127 Walnut Hill Road, Bethel, Connecticut 06801, hereinafter referred to as the "Seller", has entered into an agreement dated September 4, 2009, the "Agreement", with THE TOWN OF BETHEL, a Connecticut municipal corporation, located in Fairfield County, with a principal address of One School Street, Bethel, Connecticut, 06801, hereinafter referred to as the "Purchaser", for the sale of certain real property known as "Parcel Z" containing 11,430 Sq. ft., 0.262 Ac. as further described in Schedule A attached hereto, the "Property"; and

WHEREAS, pursuant to the terms of said Agreement the Seller shall transfer the Property to the Purchaser in exchange for certain services and materials as set forth in Schedule B of the Agreement; and

WHEREAS, the Purchaser requires the sale of the Property and construction improvements to be approved by the appropriate municipal agencies of the Town of Bethel including approval by a Special Town Meeting and the Bethel Inland/Wetlands Commission;

NOW THEREFORE, in consideration of the mutual promises and covenants agreed to by the parties on September 4, 2009 and in consideration of the mutual promises and covenants contained herein and other valuable considerations, the parties hereby agree as follows:

1. Paragraph 11 of the Agreement is amended to state that the deed will be delivered within thirty (30) days after substantial completion of those items to be completed by the Purchaser as set forth in Schedule B of the Agreement.
2. Paragraph 17.1 of the Agreement is amended to change the date in which the Purchaser is to obtain Town Meeting approval from November 15, 2009 to on or before December 20, 2010.
3. Article II in Schedule B of the Agreement is deleted in its entirety and substituted in its place is the following:

"Once the Purchaser/Town commences to perform work on the Seller's property as hereinabove set forth, the same will be completed within Sixty (60) days.

In all other respects, the remaining terms of the Agreement are hereby ratified and confirmed as between the parties.

IN WITNESS WHEREOF, the parties hereunto set their hands and seals and cause the same to be executed sealed on this the _____ day of _____, 2010.

Signed, sealed and delivered
in the presence of:

DEANNA JUNE PIERA, Seller

The Town of Bethel, Purchaser

By _____
Matthew S. Knickerbocker
Its First Selectman
Duly Authorized
