

CITY OF MILFORD  
SEWER COMMISSION MEETING MINUTES  
FEBRUARY 26, 2014

The regular monthly meeting of the Board of Sewer Commissioners was held on Wednesday, February 26, 2014, in Conference Room "A" of the Parsons Complex, 70 West River Street. Chairman Carroll called the meeting to order at 6:30 p.m.

COMMISSION MEMBERS PRESENT: Chairman Robert Carroll, Vice-Chairman Donald Anderson (at 6:58), Commissioner Edmund Collier and Commissioner Lee Cooke

OTHERS PRESENT: Consultant Raymond Macaluso, of Westcott and Mapes, Inc., James Cooper, Superintendent of Wastewater and Gary Wassmer, City Engineer

EXCUSED: Commissioner Bradford Hubler

Chairman Carroll asked if there was anyone who was a resident, taxpayer, or elector that would like to address the Commission under Citizen's Comments and reminded everyone that they are limited to three minutes.

CITIZEN'S COMMENTS

Chris Saley – 19 Marsh Street – addressed the Commission to request that the Commission consider increasing the sanitary sewer allowance in the Devon/West Shore Section of town. Years ago the Commission increased the Devon Center district to 7,500 gallons per day per acre. Mr. Saley asked the Commission to look at the gallonage from McDonalds to Naugatuck Avenue and from Naugatuck Avenue to Broadway. The area from Milford Bank to the bridge has already been increased to 7,500 gpd/per acre. He stated he was looking for an increase from 3,000 gpd/per acre to between 5,000 to 7,500 gpd/per acre. He feels this would entice property owners to do some creative development and expand their property use in that area especially if they can get an extra apartment or two. Since the city has upgraded the Beaverbrook Treatment Plant Mr. Saley thought that the capacity had increased too. Mr. Cooper interjected that the capacity at the Beaverbrook plant has actually been decreased due to existing flows. People talk about development but they aren't big parcels, some are small parcels but the difference in getting another apartment on the second floor of a mixed use building is huge for some people. There are a few pockets of land that might be an opportunity for some people if you increase the allotment to 5,000 or 7,500 gpd/per acre. Right now it is 3,000 gallons per day per acre. People might want to improve their buildings because they can get an extra apartment. It is really dollars and cents. The owner of Bismark Construction is here tonight as he is interested in doing a project. He doesn't need it increased because he is

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in the 7,500 gpd/per acre sewer district. We talked about trying to get the Devon area more involved businesswise. He stated any opportunity to help the Devon area out he would appreciate.

PETITIONS ACCORDING TO DATE & TIME THEY WERE SUBMITTED

1. 460 Bic Drive – Residential Units with 8-30G Affordable Component – Attorney Thomas Lynch of 63 Cherry Street was before the Commission as the representative for Mr. Richard Freeman, President of Garden Homes Management. Both were in attendance along with Mr. Doug Heroux, Director of Construction for Garden Homes Management. Attorney Lynch stated this application is in conjunction with a Zoning application they filed for a complex at 460 Bic Drive, filed in accordance with the CT Affordable Housing Act know as Section 8-30G of the CT General Statutes, Court standards and Water Pollution control Authority and Sewer Commissions. He presented a recent court decision from Newtown CT entitled Dauti vs Newtown. This was a denial based on Zoning density standards for water consumption and sewer usage. This application is for 273 units. Based on Zoning standards and the Sewer Commission policy allotment that is based on the property size of 7.3 acres they are far short of the gallonage needed. Mr. Richard Freeman will get deeper into the project. Mr. Freeman's company manages and operates many, many complexes in CT, NY and New Jersey. Based on water saving devices they have used during construction their actual billing rates are far below what the standards are in Milford for a one bedroom or an efficiency apartment. Right now in Milford our standard for an efficiency is 75 gallons per day and 90 gallons per day for a one bedroom unit. Mr. Lynch referred to Mr. Freeman's letter attached to their application that showed that their actual water usage at their other properties is far less than our standard because they use more modern water saving devices. If you go by the City of Milford standard then they have a great shortage. What Attorney Lynch was asking the Commission to do was to take their actual water records into consideration which shows their actual consumption on their other properties which are similar to this project and to take the gallonage from their Cascade Boulevard property that they did not use into consideration. The property on Cascade Boulevard has 36 units. There is an under use of around 2,500 gallons on that property. If you combine their actual water usage records from their other properties and the excess water allotment from Cascade Blvd you will come up with 13,650 gpd which would permit 257 units. They originally came in with 273 units but are willing to reduce their number of units to 257 units. He requested consideration based on actual water usage records and the State Appellate Court Case from 2012 where the court struck down Newtown's gallons per day allotment involving an affordable housing project. He mentioned the Collucci project and the project he presented on West Main Street as they had produced a lot of publicity making everyone aware of the standards involved with an 8-30G. The courts allow the deviation from the Planning and Zoning standards and they

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also make it clear that the Water Pollution Control Authority or the Sewer Commission can't use gallonage to limit density of units. It is the function of the Planning and Zoning Board to say how many units can be built on a property. If you read this case, Newtown's denial of an application similar to this was overturned in court. Attorney Lynch then asked Mr. Richard Freeman to speak on behalf of his project.

Mr. Richard Freeman, President of Garden Homes Management stated they are the second generation of family business based in Stamford. He explained they own rental homes throughout the Northeast. They own approximately 8,000 units and 1,500 of these units are garden apartments throughout CT and Westchester County. In 2009 they began new housing over 3 to 4 years. They constructed 4 projects with 3 in Stamford and 1 in Darien. These properties are the subject of the data that he is presenting tonight. He stated their focus was to construct small units. They focused on water efficiency in these units as they were paying the water and sewer bills for these units and in Darien your sewer bills are gated on your water bills. It is simply cheaper for them. If they reduce tenant consumption it is cheaper for them. Cascade Boulevard is almost finished. A similar project in Fairfield is almost finished as well. In the 4 projects 2 are studios and 1 is a mix of efficiencies and 1 bedroom units. The other is a mix of efficiencies, 1 bedroom and 2 bedroom units. Water usage is low and has been sustained over time. It has been 1 to 4 years and the water usage hasn't changed. They install low flow shower heads, faucets and toilets. Their system uses an instant hot water maker so that when you turn on the shower you get hot water quickly and don't have to leave the water running. All of these factors combined reduce consumption and is far below the City of Milford's standards. He stated he was not asking the City to change their allocation per acre but he was asking the city to modify their standard to be in line with what they actually use. He realized that there may be some problems with precedents but they have produced actual water usage records for four of their buildings. These bills will be the same for this project as there are no 2 bedroom units. It will be entirely studios and 1 bedroom units, that is their business model. They construct small units. Small units obviously have fewer occupants. The cost of serving our sewer usage will be around \$15,000 to \$20,000 a year to serve this project. They will be paying close to \$80,000 in user fees per year.

Mr. Doug Heroux – Director of Construction for Garden Homes Management – stated that he specs and designs a lot of the components that they use for their buildings. He stated he wanted to follow up on the low flow fixtures he uses. Most people don't install them they use fixtures that use 2.5 gallons. Their system is self regulating just the shower head alone in this project will save 6,050 gallons of water a year. This is their business model for the economy and ecological issues. You cannot swap out their shower head with a 5 gallon model because it won't work in their system; it is designed for low flow fixtures with a certain amount of flow. Mr. Freeman stated they can swap it

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out but then they won't get enough hot water. The instant hot water makers will not support the larger flow and they will complain to his office. Their shower heads are expensive but they use 1.5 gallons and their average shower is 7 minutes with a shower head that has a multi design flow like a rain shower or spritz flow. Their water heater cannot supply the amount of hot water needed for a standard shower head. On other projects they have designed calculations for a smaller size sewer pipe. Originally the pipe is designed to support 5 to 7 minute per gallon flows. Because of their low flows the pipe size can be downgraded based on their flow rates. To prove their claims they put a camera down the lines to show the clean line with no blockages.

Attorney Lynch summarized that this property is 7.38 acres and is allowed 11,070 gallons per day and if you add the unused portion of the water allotment on Cascade Blvd of 2,500 gallons the total gallonage would be 13,650 gallons per day. If you compare this to the letter from Mr. Freeman showing the history of the water usage the consumption would be 13, 442 for 257 units.

Chairman Carroll asked the Commissioners if they had any questions. Commissioner Collier responded No. Job well done.

Commissioner Cooke stated are you asking to borrow water usage from Cascade Blvd?

Attorney Lynch responded Yes and use our consumption records.

Chairman Carroll asked Mr. Cooper if he had any questions. Mr. Cooper responded that he didn't remember seeing Cascade Blvd.

Chairman Carroll informed Attorney Lynch that the Commission votes at the end of the meeting which shouldn't be more than an hour.

NON-CONFORMING APPLICATIONS (PETITIONS)

None

TABLED APPLICATIONS

None

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WESTCOTT AND MAPES, INC.

Mr. Macaluso presented the following report to the Commissioners:

Indian River Interceptor Replacement, Phase 2 – Rebid

No Change.

High Street Sanitary Sewer Upgrade

Mr. Macaluso reported that the project is 100% complete and can be closed out and removed from future agendas.

New Haven Avenue/Rosemary Court/Grove Street Infill

Mr. Macaluso reported that there was no change in status since the last meeting. A formal semifinal inspection will be scheduled with the City and the CT DOT in the late winter/early spring when weather permits.

Infill Project No. 1

Mr. Macaluso reported that a semi-final inspection of the project was performed, and with the exception of corrective work to repair two sag locations in the sanitary sewer on Seabreeze Avenue, that was noted during TV inspection, Westcott and Mapes, Inc. has determined that the work is now substantially complete, and recommends acceptance of the Certificate of Substantial Completion for Complete and approval of their request for a reduction in retainage to 2%.

Chairman Carroll asked for a motion to accept the Certificate of Substantial Completion for Complete Construction and to reduce their retainage to 2%. Commissioner Cooke made the motion to accept the Certificate of Substantial Completion and to reduce their retainage to 2%. Commissioner Collier seconded the motion. The motion passed unanimously.

Mr. Macaluso further reported that the Contractor's Payment Application No. 13 has been certified by Westcott and Mapes, Inc. for the amount of \$74,524.32, and he respectfully requested approval of payment to Complete Construction.

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Infill Project No. 2

Mr. Macaluso reported that prior to tonight's meeting, he sent the Commissioners the minutes of the Board of Aldermen meeting held on February 4, 2014 approving an Ordinance for the construction of the Sanitary Sewer Infill No. 2 Project and authorizing the issuance of \$4,254,000 bonds. Mr. Macaluso further informed the Commissioners along with the minutes he sent a copy of the memo sent to Mayor Blake dated January 9, 2014 with the Project Understanding, Scope of Services and breakdown of all cost associated with the project. Mr. Macaluso respectfully requested the Commission's approval to proceed with awarding the project to VMS Construction Co. for the submitted low bid amount of \$3,212,000.00. Mr. Macaluso met with the Mayor today and he authorized Westcott and Mapes, Inc. to do Construction Administration and to inspect the project construction for a not-to-exceed fee of \$212,000.00 based on their standard hourly rates.

Chairman Carroll asked for a motion to award the bid for Infills #2 to VMS Construction for their low bid of \$3,212,000.00 and to award Westcott and Mapes Construction Administration and project construction inspection in the amount not to exceed \$212,000 as Mr. Macaluso explained and the Mayor approved. Vice Chairman Anderson made the motion to award the bid to VMS in the amount of \$3,212,000.00 and to award the Construction Administration and construction inspection of the project to Westcott & Mapes in the amount of \$212,000.00 as Mr. Macaluso explained and the Mayor approved. Commissioner Collier seconded the motion. Discussion ensued with Commissioner Collier asking what we knew about VMS construction other than they were low bidder. Mr. Macaluso explained they were prequalified and that their bid was around 3.2 million which was on target with the Engineering projection of 3.1 million. That is why we prequalify. Professionals in the field gave them a good recommendation. The motion passed unanimously.

Consulting Engineer's Report

Mr. Macaluso reported that prior to tonight's meeting he sent the Commissioners the minutes of the Board of Aldermen meeting held on February 4, 2014 approving an Ordinance for Design Services for the Edgefield Avenue Sanitary Sewer Improvements 2,500 L.F. Pipe Lining and Design Services for the Edgefield Avenue Sanitary Sewer Improvements 1,700 L.F. Pipe Replacement Projects and authorizing the issuance of \$187,000 bonds.

Mr. Macaluso further informed the Commissioners along with the minutes he sent a copy of the memo sent to Mayor Blake dated January 9, 2014 with the Project Understanding, Scope of Services and breakdown of all costs associated with the projects.

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Mr. Macaluso respectfully requested the Commission's approval to proceed with awarding the Design Services for 2,500 L.F. Pipe Lining to Westcott and Mapes, Inc. for a not-to-exceed fee of \$42,000 and the Design Services for 1,700 L.F. Pipe Replacement for a not-to-exceed fee of \$124,000.00 based upon their standard hourly rates.

Chairman Carroll asked for a motion to award the Design Services to Westcott and Mapes for the Edgefield Ave sewer pipe replacement and pipe lining as presented in the not to exceed fee of \$42,000.00 for the Design Services for the 2,500 LF Pipe Lining and the not to exceed fee of \$124,000 for the Design Services for 1,700 LF Pipe replacement. Commissioner Cooke made the motion. Vice-Chairman Anderson seconded the motion. After some discussion the motion passed unanimously. Mr. Cooper stated that there is a lot of deterioration in the line and gaskets are hanging down into the pipe. Commissioner Cooke asked if one section was bad and not so bad on the other. Mr. Macaluso responded that they are replacing 1,700 LF because they are increasing the pipe size. The other 2,500 LF can be lined because we are not increasing that section's size. We don't want to excavate that section and have to deal with trolley tracks and possibly unsuitable fill. Westcott and Mapes has done a lot of pipe lining as they did with the Buckingham Ave FM project and the Indian River 18 manholes.

Mr. Macaluso reported eighteen Construction Companies submitted their qualifications for the projects that will be bid in 2014. Discussions took place and it was determined that sixteen Contractors were pre-qualified. Letters will be sent to all companies advising the Commission's decision. Two contractors were not prequalified due to they did not submit their financial statements and one company had a low bonding capacity.

Chairman Carroll asked for a motion to prequalify the sixteen contractors for projects bid in 2014 per the recommendations of Westcott and Mapes Inc. Vice Chairman Anderson made the motion to prequalify the sixteen contractors as discussed for projects bid in 2014. Commissioner Collier seconded the motion. The motion passed unanimously.

AECOM TECHNICAL SERVICES, INC.

Chairman Carroll presented the following report from AECOM to the Commissioners.

A. West Avenue and Gulf Pond Pump Stations

As reported last month, only one item was outstanding:

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WEST AVE

The new H2S gas sensor is in hand but upon installation the enclosure box for this instrument was found seized from corrosion from having been submerged. CH Nickerson is sourcing a new enclosure box and will take a couple of weeks to obtain it. This now in hand, CH Nickerson's sub should also have the special cable delivered next week followed by final installation of the sensor, transmitter and cable.

B. Welchs Point and Rock Street Pump Stations

The construction phase will await approval for advertising later this year. We presume also the previously revised Engineering Construction Administration contract review/approval will wait to a closer time to construction time advertising later in the year.

USER FEE REVISIONS/ASSESSMENT REVISIONS

None

COMMITTEE REPORTS

None

WASTEWATER REPORT

Mr. Cooper presented the following report to the Sewer Commission. Mr. Cooper informed the Commission that they worked with the UI's insurance adjuster with regard to damages at the Gulf Pond pump station from the UI changing the electrical phases. The adjuster has recommend to the UI to pay our claim as submitted in full approximately \$18,000 for pump rebuilding motor repairs, grinder control panel and other smaller damages.

Plants

Both Wastewater Plants performed well in the month of January producing a good effluent.



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At the Housatonic Plant normal monthly maintenance was performed. We are looking into some chemical addition to improve nitrogen removal at the Housatonic Plant. We just received the new nitrogen monitoring equipment, and will get it installed as soon as possible. At the Beaverbrook Plant normal monthly maintenance was performed. We are having trouble managing the screenings removed from the system at Beaverbrook the volume has increased and there is no good way to get the screenings from the lower level where they collect to the truck to haul them to the dump, we are looking at either a hoist or conveyer system as the current system is likely to cause an injury repetitively carrying heavy bags upstairs to deposit in a pickup truck, then throw them out of the pickup truck at the transfer site later. The level control gate on the UV system is being worked on also.

Collection System

Pump Stations

Scheduled maintenance was performed at the following pump stations: Mathews St., Boston Post Rd., Rock St., and Anderson Ave.

Other Duties performed by Pump Station crews:

1. The 90 amp field breaker for the generator at the Naugatuck Ave. pump station was replaced.
2. The rebuilt drive shafts were installed at the Gulf Pond pump station.
3. The float switches were restrung and reattached to the guide chain at the West Mayflower pump station.
4. A new VFD was installed and the #3 motor was sent out for repair at the Roger Ave pump station.
5. The generator louver circuit was rewired at the Captains Walk pump station.
6. Float switches were cleaned at two pump stations and clogs were cleared at three stations.
7. Generators were load tested, and grounds were maintained.

There were five (5) alarms at pump stations in January: All five (5) for power outages.

Sewer Maintenance

Sewer Maintenance answered eight (8) complaints.

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Sewer Maintenance crews performed scheduled maintenance at four (4) trouble sites citywide: #2, #3, #4, and #5.

Scheduled maintenance performed by Sewer Maintenance crews on the following equipment: none.

There were four (4) sewer excavations in January: 52 Canterbury Ln., 2 Milesfield Ave., 33 Eddy St., and 236 Shadyside Ln.

Other duties performed by Sewer maintenance Crews:

1. The crews spy eyed eight sites based on complaints ,109 Bertrose Ave, 40 Richard ST, 34 Tippy RD, 106 Maple ST., 83 Saw Mill RD, 37 Bristol Terr., 30 Overhili RD, and 15 Canterbury Ln.
2. Cleared blockages and roots on Canterbury Ln., Harborside Dr., and Daggett St.
3. TV'ed Seabreeze Ave., Jepson Dr., RR on High St., and George St.
4. Picked up repaired camera and returned loaner camera.
5. Hosed down wet well at West Mayflower pump station with sewer jet truck.
6. The crew replaced a manhole cover on Beachland Ave.
7. The crew walked the easements at Ryder's Woods, Pond Point Ave. and remarked manholes.

Total of 13,510 feet were jet flushed, 4,650 feet were TV'ed with our standard TV equipment, and 1680 feet were TV'ed with the spy eye camera. We also hand rodded 775 ft, used the hydraulic jet root cutter to relieve 1,035 feet, root treated 520 ft. we dye tested 4,295 ft to check sewer connections.

VOTING

A. MEETING MINUTES FROM THE JANUARY 22, 2014 REGULAR MEETING

Chairman Carroll asked for a motion to approve the minutes from the January 22, 2014 regular meeting. Commissioner Collier made a motion to approve the minutes of the January 22, 2014 meeting. Vice Chairman Anderson seconded the motion. The motion passed with one abstention from Commissioner Cooke as he was not in attendance..

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B. PAYMENTS

Chairman Carroll asked for a motion to approve the following payment list for this month in the amount of \$88,846.82 as follows. Vice-Chairman Anderson made a motion to approve this month's payment list. Commissioner Collier seconded the motion. The motion passed unanimously.

To Westcott and Mapes, Infill Project No. 1, P.O. 11-0057568-001, Account No. 0026-4154-0047-4993-0000 in the amount of \$3,910.00;

To Westcott and Mapes, New Haven Ave Infills/Rosemary CT/Grove ST, P.O. 12-0059562-001, Account No. 0026-4154-0038-4993-0000 in the amount of \$3,125.00;

To Westcott and Mapes, Infill Project No. 2 – Design, P.O. 13-0062047-001, Account No. 0026-4154-0048-4993-0000 in the amount of \$4,827.50;

To Westcott and Mapes, Indian River Interceptor Replacement, P.O. 11-0057846-001, Account No. 0026-4154-0036-4994-0033 in the amount of \$2,460.00;

To Complete Construction, Infill Project No. 1, P.O. 13-0061142-001, Account No. 0026-4154-0047-4994-0000 in the amount of \$74,524.32;

The total of the approved Payment List for the February 26, 2014 meeting is: \$88,846.82

CHAIRMAN'S REPORT

Chairman Carroll informed the Commissioners that there were five Administrative Approvals this month.

1. 2 Broadway – Art Galley with Coffee Shop - This project is to create an area for a coffee shop in an existing space. This property is allowed 510 gallons per day. They are proposing to use 484 gallons per day including the prior water usage. The Health Department classified this business as a class 1 so a grease trap will not be required. No cooking will be done on these premises.

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2. 755 Boston Post Road – Fruit Occasions Take out Fruit Baskets – This project is to make alterations to an existing space to create a fruit basket take out business. This property is allowed 375 gallons per day. They are proposing to use 166 gallons per day. This business is classified as a Class 1 by the Health Department so no grease trap will be required.
  
3. 1201 Boston Post Road – Foot Locker “Hoops” – This project is to renovate an existing space into a retail store. This space has one toilet and hand sink and a drinking fountain. The mall is allowed 112,290 gallons per day. The prior water usage plus the proposed water usage for this space is 80,807.95 gallons per day which is below their allotment.
  
4. 1556 New Haven Avenue – Proposed 8 Two-bedroom units- Proposed 8-30G Affordable Component – this project is to construct two new buildings with 3 two-bedroom units in each building and to convert the existing house into 2 two-bedroom units. The lofts cannot be used as bedrooms. Each unit will have one bathroom. This property is allowed 1,080 gallons per day and they are proposing to use 1,080 gallons per day.
  
5. 329 Old Gate Lane – Proposed Papa John’s Pizza Takeout Restaurant – This project is to renovate the 7-Eleven Convenience Store into a Papa John’s takeout restaurant. This property already has a 1,500 gallon exterior grease trap installed. This new restaurant’s sewer approval is contingent on them connecting into the existing exterior grease trap which will be shared by Popeye’s as well. This property is allowed 1,110 gallons per day. They are proposing to use 1,073 gallons per day. This property will have Popeye’s and Papa John’s Fast Food Restaurants.

Chairman Carroll stated that 460 Bic Drive was next for consideration.

Commissioner Collier stated that they are under our usage.

Chairman Carroll responded that without their water usage records and water saving devices it would be double what we allow. Chairman Carroll asked the Commission if they were willing to allow them to use their numbers with water saving devices and to borrow from Cascade Blvd it

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would be unprecedented that the Commission would allow this and for them to approve it with double the water usage. He stated he wasn't saying they weren't correct in their data but in the past the Commission has never approved something to change the water usage for that much.

Commissioner Collier asked have we ever approved a project that had it not had water saving devices it would have been in excess of our regulations.

Chairman Carroll responded yes once they bring in their water bills and prove they are using less and it wasn't a significant amount as you have here.

Commissioner Collier referenced Attorney Lynch in that they originally had 273 units and they reduced it to 257 units.

Commissioner Cooke stated that even with water saving devices it is over our standards for numbers.

Commissioner Collier remarked yes if you don't take Cascade Blvd into consideration. Commissioner Cooke responded if you take Cascade Blvd out of the picture it is over.

Chairman Carroll stated Take Cascade Blvd out of the picture it is over 320 gallons. You would have to approve a credit from Cascade Blvd and approve to say because of water saving devices that it will technically approve 320 gallons over what we allow. We may have approved a project only 75 gallons over what we allow. We ask them to change things and give Robin the water bills and ask them to keep the water usage as close as possible to our allotment. Chairman Carroll asked Mr. Macaluso if he would like to add anything.

Mr. Macaluso responded Yes, being a consultant since 1995 we have never seen an application over our design criteria – never. It has always been within our design criteria. The calculations that are in our design assume water saving devices. Maybe this applicant has better water saving devices. Those calcs are with water saving devices already calculated in. Early on we used a higher gallonage and we deducted a certain percentage for applicant to install water saving devices. Since we revised this requirement everyone has to put in water saving devices. As far as borrowing gallonage from another piece of property the City Attorneys have always said it has to be next door and be the same owner, contiguous property. An agreement also has to be filed on the land records in case the property is sold it alerts the buyer that the water usage has been used.

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Commissioner Collier asked Attorney Lynch if his client was willing to put a deed restriction on the Cascade Blvd property.

Mr. Freeman responded Absolutely.

Attorney Lynch stated the Cascade Blvd property is all wetlands and can't do anything with it.

Mr. Freeman stated Mr. Berchem is aware of that.

Commissioner Cooke asked if they were saying that they would put in a deed restriction to tie both properties together.

Attorney Lynch stated so that there will be no further development if the property is sold.

Mr. Macaluso responded the City Attorneys have always said that it was not acceptable and have never allowed us to do that. A lot of developers have come in and asked if they can borrow gallons from a property somewhere else in Milford that is under utilizing their water allotment. It has always been required to be contiguous and under the same ownership. I will defer to the City Attorney.

Commissioner Cooke stated he could see the logic in that and that he wasn't comfortable to use gallons from another piece of property somewhere else.

Mr. Macaluso responded that other developers have tried to do that. City Attorneys would rather see contiguous than not.

Attorney Lynch responded the logic behind it is to make sure the gallonage we are presenting with this application comes from another piece of property no matter if it comes from 2 miles away or next door, that property would be restricted for that gallonage and it cannot be tapped into. That insures no further development on that property.

Commissioner Collier asked about the court case in Newtown that Attorney Lynch had mentioned earlier.

Attorney Lynch stated that is the other thing; the whole theory behind the 8-30G is it encourages a developer to develop affordable housing in town and it lets them circumvent the land use restrictions. The case he referred to in Newtown came down in 2012. Attorney Berchem is aware of it. It involved a Water Pollution Control Authority's application before

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that board. Similar to Milford the gallonage was allocated by land size and gallons per day per size of property. Court held Sewer Commission or Water Pollution Control cannot usurp the power of the Planning and Zoning Board to approve an affordable housing project density number of units that can be build on a piece of property. The density cannot be determined by this board; it is the function of the Planning and Zoning Board. What we have done here is our history of our other developments and their water usage for 1 bedroom units. If you accept our numbers and if you accept the underuse of the water on Cascade Blvd property and that no further development will be used for their excess gallonage then it meets your standards. It clearly doesn't meet the standard if you multiply the acres by 1,500 gallons.

Mr. Macaluso asked Attorney Lynch if Newtown had to increase their pipe size. I thought it was an issue of pipe size.

Mr. Freeman responded we are not proposing to exceed your gallons.

Mr. Macaluso stated that the pipe size in Milford for multi-family buildings is 8 inch pipe you mentioned reducing the pipe size.

Mr. Heroux responded No we just said other towns have accepted our numbers and downsized the pipe accordingly. We won't propose that you do.

Commissioner Collier stated even though he is an attorney he would like to defer to Attorney Berchem. If he determines that this Newtown case is controlling and we open ourselves up to litigation and will lose anyway he would like to have Attorney Berchem's input on this. Commissioner Collier stated he had high regard for Attorney Lynch but he needs to discuss this with Attorney Berchem.

Commissioner Carroll stated he would entertain a motion to table this application until it can be discussed with the City Attorney.

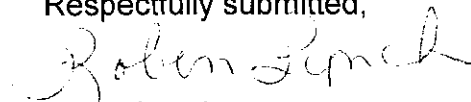
Commissioner Collier made a motion to table this application until they have had an opportunity to discuss this with Attorney Berchem. Commissioner Cooke seconded the motion. The motion passed unanimously.

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Being no further business to discuss:

Chairman Carroll asked for a motion to adjourn the meeting at 7:32 p.m. Vice-Chairman Anderson made a motion to adjourn the meeting at 7:32 p.m. Commissioner Cooke seconded the motion. The meeting adjourned at 7:32 p.m.

Respectfully submitted,



Robin Lynch  
Recording Secretary  
Sewer Commission