

PUBLIC HEARING I Tuesday, APRIL 29th, 2009
EAST LYME WATER & SEWER COMMISSION
MINUTES

The East Lyme Water & Sewer Commission held a Public Hearing on April 29, 2009 at Town Hall, 108 Pennsylvania Avenue, Niantic, Connecticut to hear comments regarding Sewer Extension No. 5 which runs east to west along the Boston Post Road and from the present terminus of the existing sewer main at or near the Flanders Baptist Church and running westerly for a distance of 8,700 feet more or less to a point easterly of the intersection of Boston Post Road and Plum Hill Road, all as more particularly shown on as-built plans and specifications on file with the Commission. (Resolution and List of properties attached at end of Minutes).

PRESENT: Paul Formica, Chairman, Steve DiGiovanna,
 Mary Cahill, Dave Zoller, Dave Murphy, Joe Mingo, Roger
 Spencer, Carol Russell

ALSO PRESENT: Attorney Edward O'Connell, Town Counsel
 Attorney Mark Zamarka, Town Counsel
 Brad Kargl, Municipal Utility Engineer
 Michael Giannattasio, Director of Public

Works

ABSENT: Dave Bond

Pledge of Allegiance

The Pledge was observed.

Public Hearing I

◆ **Proposed Sewer Benefit**
Assessments for Boston Post Road Sewer Extension No. 5.

Chairman Formica opened the Public Hearing and called it to order at 7:00 PM. He noted that the notice had been published in the local newspaper.

He then asked Attorney O'Connell, Town Counsel to give a brief overview of the benefit assessments.

Attorney O'Connell said that this benefit assessment resolution represents the culmination of many years of Water & Sewer subcommittees who have met to expand the sewer extension from Flanders Baptist Church to Plum Hill Road. These meetings discussed what to do when a sewer extension was done or put in at other than the expense of the Town. It was felt that the owner whose home it passed in front of would be assessed based upon the value. It is an 'opt-in' system and the third 'opt-in' resolution. The properties are a combination of commercial and residential whereas Pine Grove was mostly all residential and the Colton Rd. Extension mostly commercial. The Benefit Assessment Subcommittee originally set the assessment in 1991 at \$7,838 based upon a residential lot. This figure was subsequently adjusted upwards by a COLA formula which in today's adjusted dollars is equal to \$12,066.00 per unit. He also noted that the committee discussed condominium homes and

whereas they were originally all set at 75% of the flat rate; they were re-defined in terms of units that share common walls with any other unit (attached) and those that are free-standing or do not share any common walls with any other unit (detached). The attached units are assessed individually at 75% of the flat rate and the free-standing detached units are assessed individually at the flat rate. He noted that the commercial assessments are determined by formula and that could be found on Page 4 of the handout. Page 10, item 6., explains the 'opt-in' system and how one would have to 'opt-in' if their septic system failed. The payment schedule for those connected begins on 4/1/2010 and runs for 15 years in substantially equal annual installments.

Mr. Formica asked if there were any members of the public who wished to comment –

Ron Rando, 194 Boston Post Road recalled that Pine grove and Saunders Point were supposed to be sewerred at the same time as Pennsylvania Ave. and that did not happen. He said that in the 1990's that he petitioned for sewers and had 17 of 22 people reply in favor and Mr. Cini was in charge at the time and one person complained and so the sewers never happened. Then Mr. Papparazzo came into Town and the sewers were paid for by him and it did not cost the Town anything. At that time, he said that he agreed to give them a small area of his land for a pump house and when he came home from traveling, there was a monstrosity there and now it is not right that someone here took more land and put up a bigger building when this did not cost the Town anything. He said to everyone that he has hired an attorney and offered that anyone who wants to join him in his suit can join him as he does not feel that they should be paying for sewers that did not cost the Town anything.

Attorney O'Connell said that the whole concept of assessments is that anyone who has been benefited by this has to pay. This sewer extension is the tail end of a \$60M system and others have paid along the line and it has been upheld in the courts.

Mr. Formica added that it also covers the New London treatment and other parts of the system that get it to New London for treatment.

Mr. Rando said that it should have cost a lot less than \$60M if it was done when he had first asked.

Jennifer Gottlieb, 231 Boston Post Road said that she lives in the condos and that sewers are great and wonderful public upgrades however; she did not hear at her condos that they are needed. She does not think that they should have them. The Town needs affordable housing and most people are upside down on their mortgages and this assessment is 5% of the value of her \$165,000 condo. She said that the only people who could afford this in the condominium where she is are the investor owners and they would be promoting having people move out and investors take over if this is something they have to do.

Bob Gadbois, 358 Boston Post Road said that he is there to support his neighbors as the sewer line doesn't go by his house – and thank god for that. He said that he sat on the Water & Sewer Commission some time ago when the Smith St./Smith Ave. sewers came up and they assessed people for sewers that the State had paid for and the courts upheld it and the people had to pay the assessments. He said that he thinks that was because it was under a Town road and not a

State road, so it may be different in this instance.

Paul Libera, 176 Boston Post Road said that he kind of agrees with Mr. Gadbois that the system has already been paid for by the people who are building the Orchards and Plum Hill and thinks that they are paying for it again now.

Mr. Zoller explained that the sewer system is a network system and they are not buying a sewer system 5 – as it is a piece of the larger system and would not work without being attached to that larger system.

Mr. Formica said that the other side is that there is a benefit to the property of the sewer connection or the ability to connect to it. The developer did this to benefit the houses that he built and if you chose to 'opt-in', then you 'opt-in' to the larger system.

Bonnie DeCosta, 351A Boston Post Road said that she thinks that 351B is missing on the list. She said that she is new to East Lyme and asked the timeline was that led up to doing this system. Attorney O'Connell said that before the extension occurred there was a public hearing where it was presented and discussed. This took place some 5 to 6 years ago and everyone was notified about the proposed extension and the public hearing.

Ms. DeCosta asked if that included all of these people. Attorney O'Connell said that it was discussed and the concept presented to allow for hook-ins from those that it passed in front of.

Ms. DeCosta asked if the 'opt-in' aspect was discussed in that public hearing.

Mr. Formica said that the 'opt-in' was done at that time.

Mr. Mingo said that he was on the committee and that the cost was not based on running the pipe in front of the homes. And - the sewer assessment has nothing to do with the pipe in front of your home. You are buying into the entire system which includes the Waterford and New London infrastructure costs. He asked the people who have septic systems to see what a new DEP approved septic system would cost them to have installed today and assured them that it would be more than the assessment here for the sewer.

Burt Hobby, 33 Upper Pattagansett Road said that he was representing the Flanders Baptist Church located at 162 Boston Post Road. They are a church and they have no use for a sewer. He said that he does not see that the value of the property even without the church would be worth the tie-in amount. They feel the assessment is too high and wanted to register that complaint here.

Mark Cabral, 2 Naomi Lane said that he has a complaint. His front yard is a mess and he is getting sink holes in his yard from the sewer project. He said that he spoke with someone who said that it was not their problem and he does not think that he should have to pay for having it fixed. He did get estimates to have it fixed but them decided that he should not have to be the one to pay for it. He said that they heavy equipment that they used went over his front yard area and he thinks that they should have to fix it as it is getting worse.

Mr. Kargl asked Mr. Cabral if he ever filed a complain with the Town as they had a large list of issues that had to be taken care of and

which took some 4 to 6 months to fix before they would sign off on the project,
Mr. Cabral said that he had a disagreement/argument with one of the contractors about the front yard mess.

Molly Helms, 344 Boston Post Road explained how the piping traveled and the area that was disturbed over her driveway area. She said that she spoke with the contractor whom she saw working in the area but nothing was done. She said that she did later speak with Mr. Kargl.

Peter Derrig, 174 Boston Post Road said that he is a union plumber that was laid off so the assessment is not good for him. He said that he has a three-family home and he thinks that his assessment is high and has concerns. He said that he hooked in as he is a plumber and could do it himself but he agrees that if the system went through the area that they should not have to pay.

Attorney O'Connell reminded people that if they feel that it is too high that they can appeal to the Superior Court and the judge will determine the amount by which the property benefitted. They can appeal within 30 days after the benefits are officially levied.

Chen Sheng-Po, 231 Boston Post Road asked what if they do not want to hook into the sewers.

Mr. Kargl said that if there is a failure of the septic system at 231 Boston Post Road then that is what would trigger the hook-in. He said that there is an 8" lateral there so if there is a failure then everyone would have to opt-in at the same time.

Mr. Sheng-Po said that there are 24 units there and asked if that meant all of them.

Mr. Formica explained that if the septic fails then all of them would have to hook in at the same time as one lateral serves them.

Greg Landers, 249-253 Boston Post Road said that his concern is that he does not recall being notified when the developer was putting in the sewer line and that he has 4 properties that are assessed over \$100,000 total. He said that he also received four letters after the notice was put in the paper and he does not understand how this could happen when he was not notified of the developers' intentions. Attorney O'Connell said that if Mr. Landers owned the property in 2002 then he got the notice – he may not recall it – but he did get it as they were sent to all who would be affected by it.

Mr. Landers said that even for a new house that \$12,000 is high.
Mr. Formica said that it is an 'opt-in' into the whole system and not just the one area.

Mr. Landers asked if a gravity feed were added in if it would be cheaper.

Mr. Formica said that it is based from 1991 and that it is also based on frontage, etc. He said that he is not sure if the homes being missed are on gravity.

Mr. Kargl said that they are not and are not being benefitted by it.

Mr. Landers said that Islanda Court was missed and if it was run to there that they would be able to pay less per person as more would be on the system.

Mr. Kargl said that having more people on does not make the amount

smaller for each person as it is based on a formula.

William Newton, 83 Charter Oak Drive asked if he understood correctly that it is not just about the pipe or the services of New London, etc. but his home is assessed at the \$12,066.00 and his property value will also go up by another amount plus he will pay to hook in and he will also then pay fees to use the system.

Mr. Formica said that he thinks that sounds correct but Mr. Newton may 'opt-in' for the \$12,066.00 and yes; there is a fee for how much effluent goes through the system from the house.

Steve Legg, 5 Mill Road said that he has a vacant lot and that he thinks that his assessment is high and asked if he could come and see them about it.

Mr. Kargl said that he could come and see him and they would look into it.

Spiro Cabanas, 9 Faulkner Drive said that he was there representing Flanders Baptist Church. He said that they have bonds on the sewer system and if they pay a fee in that it will enable the bonds to go down.

Mr. Mingo said that there are many people in Town who will never see the sewers where they live and that they lent the Town money. The people who are using the sewers are not paying for the total cost of them and it has nothing to do with putting the pipe in front of your house. He explained that years ago for Bride Brook Road it would have cost everyone there \$30,000 to hook in to the sewers so they came up with a formula so that it could be more affordable.

Mr. Murphy said that he thinks that it is important to know where the benefit assessment money goes – it goes into a fund under Water & Sewer that keep that system running. The money is a capital improvement for the system itself.

Mr. Landers, 249-253 Boston Post Road asked if extra people hooked in if it would cost less. He said that he heard that it would cost another \$360,000 to hook in a gravity feed to Islanda Court and he thinks that is an error.

Ron Rando, 194 Boston Post Road said that a high pressure line for \$320,000 is mentioned for Islanda Court and it would not have cost any \$320,000.

Ms. Cahill said that in 1991 there were 2000 ratepayers who were assessed \$7800 and most of these people were beach people and those homes are closed most of the year and everyone thought that it was the best thing that happened to East Lyme to get sewers.

Mr. Rando said that Point O' Woods is being assessed at around \$50,000 per house. He also noted that the 24 condo units are assessed at \$216,200.

Peter Derrig, 174 Boston Post Road said that one of the columns on the sheet says 'units' and asked what that means.

Attorney O'Connell said that the formula for assessments has a unit factor – residential has a 1.

Mr. Kargl said to Mr. Derrig that by way of formula such as his, the three family CA states that he has a multi-family versus a duplex.

Mr. Formica explained that the benefit assessment goes with the property. Using the church as an example, if there is no need to opt-in, then they do not have to hook up. If the church property changes use say, for instance to a hair salon, then having the opportunity to hook into the sewers benefits that property.

Mr. Formica asked if there were any other comments from the public

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Hearing none –

He asked if the Commissioners had any other questions –

Hearing none –

He called for a motion to close the Public Hearing -

****MOTION (1)**

Mr. Mingo moved that this Public Hearing be closed.

Mr. DiGiovanna seconded the motion.

Vote: 8 – 0 – 0. Motion passed.

Mr. Formica closed this Public Hearing at 8:30 PM.

Respectfully submitted,

Karen Zmitruk,
Recording Secretary

(Note: Attorney Zamarka left the meeting)