

**EAST LYME WATER & SEWER COMMISSION  
PUBLIC HEARING I  
Tuesday, FEBRUARY 23, 2010  
MINUTES**

The East Lyme Water & Sewer Commission held a Public Hearing on February 23, 2010 at Town Hall, 108 Pennsylvania Avenue, Niantic, Connecticut to hear comments regarding Sewer Benefit Assessments for Sewer System Extension No. 6 known generally as the "Methodist Street Extension". (Resolution and List of properties attached at end of Minutes).

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

**Pledge of Allegiance**

Chairman Formica noted to the audience that Ms. Cahill has served on the Water & Sewer Commission for 29 years and that this evening was her last meeting with them as she has tendered her resignation. He asked that they join him in congratulating her for her many years of dedicated service to the Town. He then asked that Ms. Cahill join him in leading the assembly in the Pledge of Allegiance.

**Public Hearing I**

◆ **Sanitary Sewer Benefit Resolution for Sewer Main Extension No. 6.**

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. (Copy of Return of Record attached at end of Minutes) He then asked Attorney O'Connell, Town Counsel to give a brief overview of the benefit assessments.

Attorney O'Connell said, in reviewing the history of the sewer benefit assessments that it was in the late 1980's and early 1990's when the sewer benefit assessments were started. When they were first levied in 1991 it was a flat rate for everyone that was changed according to the CPI. He said that he believed that it started at \$7,800 per single family in 1991 and most recently went to the \$12,066 per single family unit which is based on the 2007 figures and has been kept as such. Not that long ago, the Commission's rate subcommittee decided to make a distinction between attached condominium units and detached or free-standing condominium units. The attached condominium units being assessed at 75% of the \$12,066.00 rate, hence the \$9,049.50. He noted that the first four or five properties listed that have an existing subsurface disposal system servicing their homes can "opt-in" however; should their system fail or be deemed unfit by the Health Director, they would have to connect to the sewer system within 120 days of being ordered to do so. They would be assessed at that time.

He noted that the Pine Grove extension was done with money advanced by the Town and that Hope St. had the line installed at the expense of the developer. This line runs from Main Street through to the Niantic pump station. He noted that the 38 Hope St. common interest community is required to connect to the sewer system. He introduced Mr. Kargl, Municipal Utility Engineer to provide them with more information.

Brad Kargl, Municipal Utility Engineer explained that a public hearing on the sewer assessment for the Hope Street developer and the properties on Methodist Street was first held on October 24, 2006. The developer constructed sewers along Methodist Street and a portion of Hope Street providing service/benefit to the properties on Methodist and Hope Street. These sewers were possible due to the larger infrastructure network including the interceptor on Main Street, Niantic Pump Station, force main to Waterford, Evergreen Pump Station and conveyance system to the Piacenti Wastewater Treatment Plant in New London. He then reviewed a handout that had been provided to the public with some common questions and information from the Statutes.

Mr. Formica said that he hoped that has given them an overview of the process and asked if there were members of the public who wished to comment – if so, to please come to the podium and state their name and address for the record.

Gary Hofstetter said that he represents the present developer of 38 Hope Street and that out of the 53 units in Phase I, 34 have closed; 7 are under contract and 12 are for sale. They paid between \$200,000 and just under \$1M to do the sewers. The Notice in Friday's newspaper is a potential \$1M hit to them and the project cannot take a \$1M hit. He said that he also thinks that it is unfair for a 2000 sq. ft. unit and a 600 sq. ft. unit to pay the same. It cost \$850 per water connection and some of the potential sales put a contingency on the sale that is dependent upon the sewer fee and how that will go. He thinks that in this economic climate that they should have relief in the form of a rate reduction or pushing the payment out to 25 years or waylating the start date on the assessment.

Sylvia Grasso, 38 Hope St. said that she was shocked to know of the \$9000 assessment. She recalled her parents living at Giants Neck and how they lived on a lot which is very different. She said that they did not know about this assessment prior to the purchase of the property and if New Boston knew it in 2006, they did not and were not told about it when they purchased here.

Attorney O'Connell noted Schedule A-1 of the Declaration documents which clearly states that title to the Property and each Unit therein is subject to the following: ....(i) 'Sewer assessment fees (currently assessed or to be assessed in the future) and sewer use charges to the Town of East Lyme.' These specific pages are filed with the Town Clerk on the land records in Volume 811 Pages 395 and 396.

Ms. Grasso said that she could understand the assessment if it was a lot with a house but she could not see it for units in a building.

Marion Enrique, 38 Hope St. said that she did read the documents but they were told that they were hooked up and okay to go. She noted that there was a NY Times article about the Town and this project and what was said was meant to entice developers and people here. If the developers and people knew the whole story they would not come here.

Lee Coppolecchia, no address given, said that she was speaking on behalf of her son who is 28 years old and who is looking to move in to 38 Hope St. and who has put his every penny to try to do so. This assessment of \$9000 is something that will crush the whole deal as they do not have the money.

Carol Miller, 38 Hope St., said that she does not understand the process. She lived at Pine Grove years before the sewers were coming and knew about it. She asked why this information was coming out now, all of a sudden and why they were not told before. She does not understand this process. They notified people backwards, in the paper first and then a letter when it should have been the other way around. She said that they think that they can take the money and do what they want with it.

Mr. Giannattasio, Director, Public Works said that there are requirements with what they can do with the money and that it is covered and dictated by the Statutes. The benefit assessments can be used for the loans/bonds that finance the project and must stay within the sewer capital account. They are used to pay the present and future capital expenses on the line from here to New London. He explained that they recently received a bill for well over \$800,000 from Waterford for upgrades to the Waterford Evergreen pump station for which East Lyme, by contract has to pay 35% of the costs on. They also have to pay

15% of the capital costs on the New London wastewater treatment plant as the waste is pumped to that facility through the Waterford facility. These are the associated costs and what the money can and is used on and for.

Don Bergeron, 9 Methodist St. said that he thinks that one of the biggest problems is the communication on the sewer assessments. He suggested that some number regarding the amount has to be put out before things are sold.

Michaele Kelly, 38 Hope St., said that she is angry and astounded over the \$9000 bill and thinks that it should be written into the contract and not brought up later. She said that she also thinks that the 5% interest is high and she is very disappointed with this and if she had known about it she probably would not have bought the unit here.

Dawn Carlson said that she was speaking for her brother Roger who is in one of the workforce units. She said that they spent family money to be able to get Roger into one of the units and that the communication just was not there regarding the assessment. She asked if they had considered a different assessment for the workforce units as they cannot afford this assessment which came out of left field. She said that they wanted workforce people in this Town for the diversity and now they are forcing them out.

Michael Diangeli, 38 Hope St., said that he had some questions for the Attorney. He asked about Page 11 of the resolution where it states that the obligation to make the payment of the benefit assessment shall not accrue until such time as the owners connect to the sewer..... He said that they were not the owner(s) at that time – but the developer was, so shouldn't he be the one paying the assessment? Also, at the time that he closed, he said that it showed no liens and asked if a statutory lien should have been placed to secure this.

Attorney O'Connell said that the Town does to get in between the developer and the purchaser of the property. With respect to the second question, Schedule A-1 is filed on the land records and clearly states that everyone takes the property subject to a whole list of items of which the sewer assessment is listed. He said that the entire \$9000 is not paid at once and that it is paid over a period of 15 years and is assumable by the people who take over the ownership of the units.

Mr. Diangeli said that he thinks that it is not too late to re-write the benefit assessment in favor of the 38 Hope Street people.

Carol Miller, 38 Hope St., said that she buys and sells properties and that when she does she has had to show if there is something that needs to be paid. She asked if Spinnaker was treated in the same way that they were. She said that this is a surprise to them as the sewers went through in Pine Grove so smoothly and it was not done so here.

Mr. Formica said that the process has been done in the same manner for a long time now and that the ownership deed for 38 Hope Street clearly states that sewer and water fees would be assessed/charged costs. Further, in fairness to all others who have had to tie in, it is for the overall use of the system and they are not being singled out as this has happened with everyone who has opted into the system.

Amanda Lakowsky, 12 Methodist St. asked if she understood correctly that her residence is under the 'opt-in' and that she would not have to pay or be assessed the fee until she was connected to the system should her current system fail.

Attorney O'Connell said that for those on Methodist Street who have other systems that they would not have to pay until such time that they 'opt-in' to connect to the sewer system.

Mr. Formica asked Attorney O'Connell to explain who falls under the 'opt-in'.

Attorney O'Connell said that the first four or five listed on the Schedule A are 'opt-in' as they already exist and have a private system on their property. Hope Street has to connect as the project was done as a result of this system.

Mr. Formica asked Attorney O'Connell to speak to the workforce units.

Attorney O'Connell said that the Commission cannot address them as workforce as by Statute they cannot be any different than the regular units. They must all be built the same.

Laurie Etter, 38 Hope St., Unit #97 said that she thinks that they should consider fairness and that the workforce and the front building units should be treated different. She suggested a system of charging that is based on the sq. ft. of the units and that they should change how they charge to encourage people to come and purchase the units.

Joyce Kaiser, 38 Hope St., Unit #32 said that she agrees with what everyone else has said. She felt that the order of communication should have been reversed. Both she and her mother purchased units in the front building. She said that she does understand a bit better about the assessment as they had looked in Pine Grove and did not choose to purchase there because of the assessment. She said that she would like them to reconsider the assessment as she thinks that it will kill this project and hurt any further purchases of the units.

Lucy Mullane, 38 Hope St., Unit #105 said that she and her husband sold their house in Old Lyme and were the first to buy here. They liked the idea of walking to places and to the beach. When they bought here, they never heard about the sewers and the builder has paid something already so they should not have to pay. She said that it is the principal and not just the money and that there is a lot of anger here tonight over this and how it was handled.

Maureen Hahn, Billow Road said that she is a life-long resident and that while she does not live at 38 Hope St., she purchased her mother's house at Black Point and one of the main issues was the sewer assessment. She said that they are still paying on their assessment and that she is baffled at how the process was handled for the Hope Street project.

Elizabeth Fitzgerald, 38 Hope St., Unit #99 said that she came from New York where the Town that she had lived in there took her property and she went through a terrible divorce and could not find a home. She then found this and as she has two children, she felt that this Town would be good for her children and their education. With the help of her family she was able to scrape together the money to purchase a workforce unit. This assessment is a real shock and is like a second mortgage. She said that she left New York and her family and friends and came here all on her own without any family and without knowing anyone. The people who live near her here are a great new family to her. She said that she thinks that it is politically incorrect to do this especially to the workforce units who will have to be workforce for 40 years. She said that they should be able to spread the payments out over the 40 years and that no one would buy any other workforce units with this assessment. This is a big hit.

Don Mullane, 38 Hope St., Unit #105 asked about the Sea Spray condos and how that was handled. Attorney O'Connell said that Sea Spray connected to an older line but each unit paid 75% of the single family assessment.

Mr. Giannattasio explained that the property that Sea Spray sits on was assessed first as commercial property and when it went to condos it was reassessed based on the new use of the property. Hope Street is the extension of a sewer line that was never on a sewer line and is based on the 2007 figures.

Mr. Mullane asked why the one building in the front is not assessed commercially and suggested that they could do it as commercial and apportion it off in that way.

Mr. Formica noted that he understood that people were concerned with how the information was presented. He asked the Commissioners if they wished to make any comments.

Mr. Spencer said that he lives in Pine Grove and that his family has resided there for 100 years. They just recently paid a \$12,066.00 assessment for a cottage that is smaller than a lot of the Hope Street properties. Further, the Hope Street property assessments were based on three-fourths of the 2007 rate of \$12,066 and not on the 2010 CPI rate as they could have been. He said that he has been on the Commission for over seven (7) years now and that it is first by public notice and then a letter is sent to

the owner of the property and they have not been treated any differently than anyone else regarding such procedure.

Ms. Russell said that she thinks that they perhaps felt blindsided by this.

Mr. Kargl said that he gets calls in the office on a daily basis regarding assessments. He noted the Orchards subdivision that was considered in 1998 but was only assessed over the last year. What that developer did was that he knew the assessment was coming and he made it very clear to all prospective buyers that there would be one that they would be responsible for. He also noted that their office which is at ground level with respect to sewer assessments and other questions took at least 50 calls from people interested in 38 Hope Street units. They told each and every one of them that the benefit assessment would be coming. Further, in 2006 during the Public Hearing, it was clearly conveyed that there would be a benefit assessment for these units.

Mr. Mingo said that in 1978 he built a house on Boston Post Road and it cost him \$15,000 for a septic system and \$3500 for a well. If they were to take those figures and base it on today's CPI, they would see what it would cost and the difference in what they are being assessed. He suggested that they might want to speak to the developer who sold them the property as it seems that is where the majority of the problems with communication lie. He said that the other side of the coin here is that the taxpayers also pay on this from when the sewer system was first started. With regard to Pine Grove, people were living there so when the sewers were going to go there, with the people living there they could easily convey the information to them. Spinnaker had no one living there but the developer provided great information to the people who were buying the units and it went very smoothly.

Ms. Cahill said that she lives at Black Point and that she fought like the devil to get the sewers there as everything runs downhill towards the water. The cost started out around \$4500-\$6500 per single family residence and by the time the project was done it was up to \$7800 each. They are still paying on this. She said that she believes that if you live in a condo, shed or house that you are getting the benefit of the sewer and that you still get the same benefit versus those who do not have it. She said that they have worked very hard to be fair and to do well by the Town and its' people.

Mr. Murphy said that he agrees with Ms. Cahill and that he could not have said it better.

Mr. DiGiovanna said that he agrees with what Mr. Mingo has said. He added that he has been on this Commission for 16 years now and they have noticed the benefit assessments in the same way. He thinks that the miscommunication is between the developer and the owners as they have treated everyone fairly and in the same manner and he will stand by that.

Mr. Formica thanked the great staff that they have for all of their hard work.

Mr. Formica closed this Public Hearing at 8:35 PM.

Respectfully submitted,

Karen Zmitruk,  
Recording Secretary