

**WATER POLLUTION CONTROL AUTHORITY
SPECIAL MEETING
TOWN HALL MEETING ROOM B
THURSDAY, JANUARY 19, 2012**

PRESENT: William Brennan, Don Grunewald, Andy McNee, Richard Tomasetti,
Al Stauderman

ABSENT: Eric Fanwick

OTHERS: Sandy Dennies, (CFO), Tom Thurkettle, (Director of DPW), Mike Ahern, (Field Engineer, DPW), Pete Lucia (Management Analyst), Jonathan Bowman (Cohen & Wolf), Barbara Schellenberg (Cohen & Wolf), Chris Kerin (Kerin & Fazio, LLC), Gail Lavielle (State Representative), John Heatherington (State Representative)

Call to Order

Chairman Brennan called the meeting to order at 5:00 pm.

Discussion of proposed changes to State Statutes Regarding Sewer Assessments for Municipalities and proposed Amendments to the Wilton WPCA Rules and Regulations

Mr. Bowman of Cohen & Wolf explained how the sewer assessments were arrived at by assessing the benefit that is derived from a sewer. He added that the current method has served the Town well, but it has its limits, which have become pronounced with the down-turn in the real estate market. It's heavily dependent upon assessment as part of the formula, which is not going to cover the costs for constructing a sewer. He said that Mr. Kerin, (of Kerin & Fazio, LLC) had done an analysis of this and confirmed that the formula isn't recovering the Town's costs.

Ms. Lavielle and Mr. Heatherington joined the meeting and Mr. Brennan explained what they were discussing, saying that the WPCA Rules and Regulations needed to be revised since the formula wasn't capturing the costs on new sewers because municipalities are guided by a State Statute. The Statute says you can't assess the sewer to a property for more than the special benefit to that property. Mr. Bowman said that what they propose to do is to remove everything except residential properties from the application of the existing formula, or in other words, leave the formula in effect for residential properties; single family houses and residential condominiums. Commercial properties (which are defined as anything but residential properties), will be removed from the formula and will be done on a case by case basis by a "special benefit analysis". He said that Mr. Thurkettle had told him that there were about six properties coming up in the next few years that will be affected.

A brief discussion ensued.

Chairman Brennan said that he wanted to inform Ms. Lavielle and Mr. Heatherington that there are two problems the WPCA is confronted with; first, the WPCA Rules and Regulations need to be revised; secondly, State Statutes need to be changed because the way the State Statutes

are currently written, municipalities in the State are unable to recover their costs for new sewer installations.

Ms. Lavielle asked how they arrive at the special value when a sewer line is added, (i.e. is it always the same, is it a flat rate) and what the law actually says.

Mr. Kerin explained how the formula works and added that while it has worked equitably for residential properties it has fallen short on the commercial side. A brief discussion ensued.

Mr. Bowman referred everyone to a hand out of draft amendments to the Wilton WPCA Rules and Regulations (attached herewith), listing recommended changes and reviewed it with the members. Mr. Tomasetti asked Mr. Bowman if residential also meant owned by an individual, as opposed to a large complex of residential rental units, which would be considered commercial property and Mr. Bowman said that was correct.

Chairman Brennan asked how they would define the special benefit to commercial property. Mr. Bowman said that it would be arrived at on a case-by-case basis.

Mr. Bowman asked Ms. Schellenberg to explain how the State Statutes work, as they are currently written, regarding commercial properties that are built or expanded upon on an existing sewer line. Ms. Schellenberg handed out a memo with the Statutes attached. She said that the Statutes they are dealing with are §7-249 and §7-251. The problem of cost recovery arises for two reasons; first, in an assessment, which is made pursuant to §7-249, (sewer assessments), the assessment can't exceed the special benefit that accrues to the property, which is measured by the difference in the value of the property with and without sewers. The Statute also provides that if there should be a supplemental assessment down the road, that the sum of the initial and supplemental assessments shall not exceed the special benefit to the property.

She said that §7-251 addresses costs and does provide that a municipality can have a supplemental assessment if the initial assessment is insufficient to cover costs, but in no event can it exceed the special benefit to the property. So she added that it's very clear that whatever the assessments, the special benefit is an absolute ceiling.

She said there is a second problem that comes up in §7-249 which says that "benefits to buildings or structures constructed or expanded after the initial assessment may be assessed as if the new or expanded buildings or structures had existed at the time of the initial assessment". She added that one Superior Court Judge had indicated that the way this can be interpreted is that if a supplemental assessment is being done today, and the initial assessment was done 30 years ago, you have to go back 30 years to find out what the assessed value of the property was at that time, which would decrease substantially the value of the property. She said that Mr. Kerin had put together an example that highlights the impact of this "look back" provision (which he handed out to everyone). Mr. Kerin explained the example to those present.

Chairman Brennan said that he would like the legislators to research the history regarding this legislation. He added that the Authority would like to know how this legislation originated.

Ms. Lavielle asked how the Authority would like the Statute changed. Ms. Schellenberg said they would like to see municipalities be able to recover their costs. Some proposed changes to §7-249 and §7-251 were then explained.

Mr. Bowman added that all the repairs that need to be done to the sewers should be allowed to come out of reimbursable costs. Ms. Schellenberg explained that part of Statute §7-249 addresses the items that revenue from assessments can be used for and they would like to suggest language to ensure that major repairs be included.

Ms. Lavielle said that it would be helpful to know what other towns in the State are experiencing the same problem. Mr. Heatherington suggested contacting the Council of Small Towns (COST) to see if they could help out. Chairman Brennan said that he thought CCM had done a survey on this subject on cost recovery. He said that he would check his files to see if he could find the information. He indicated, he is aware that other towns are equally concerned and have similar problems. He added that we could outline the issue and ask COST and CCM to do some additional research on the subject.

As for the proposed changes to the WPCA Rules and Regulations, he would like the WPCA members to review the draft of the proposed amendments against the existing Rules and Regulations so a consensus can be reached at the next meeting in February. Once the Authority agrees on the changes, a Public Hearing will be scheduled after which they will vote on the amendments.

Mr. Heatherington asked Mr. Bowman and Ms. Schellenberg if they had prepared language to amend Statutes §7-249 and §7-251. Mr. Bowman said that they would draft something for the Authority and the legislators.

Ms. Lavielle said that if they are going to propose something, they need it right away because the deadline on individual bills is February 10th and a week later on the committee bills. If they are going to do something they need the information from COST and CCM, or letters from two or three other towns.

Status of Fats, Oils and Grease (FOG) Program Registration Update

Mr. Ahern gave an update of the FOG program. He said that so far 53% of facilities had registered and 49% of the total was in compliance.

There being no further business the meeting adjourned.

Respectively submitted,

Mariana Corrado
Recording Secretary