

**EAST LYME WATER & SEWER COMMISSION  
REGULAR MEETING  
Tuesday, JUNE 27th, 2017  
MINUTES**

The East Lyme Water & Sewer Commission held a Regular Meeting on Tuesday, June 27, 2017 at the East Lyme Town Hall, 108 Pennsylvania Avenue, Niantic, CT. Chairman Nickerson called the Regular Meeting to order at 6:41 PM immediately following the previously scheduled Public Hearing.

**PRESENT:** Mark Nickerson, Chairman, Dave Bond, Dave Jacques, Joe Mingo,  
Dave Murphy, Carol Russell, Roger Spencer, Dave Zoller

**ALSO PRESENT:** Joe Bragaw, Public Works Director  
Brad Kargl, Municipal Utility Engineer  
Anna Johnson, Finance Director  
Kevin Seery, Ex-Officio, Board of Selectmen  
Attorney Mark Zamarka, Town Counsel

FILED

July 3 20 17 AT 10:05 AM/PM

**ABSENT:** Steve DiGiovanna,

Kenneth G. Galt  
EAST LYME TOWN CLERK

**1. Call to Order**

Chairman Nickerson called the Regular Meeting of the East Lyme Water & Sewer Commission to order at 6:41 PM immediately following the previously scheduled Public Hearing.  
The Pledge was previously observed.

**2. Approval of Minutes**

▪ **Regular Meeting Minutes – May 23, 2017**

Mr. Nickerson called for a motion or any discussion or corrections to the Regular Meeting Minutes of May 23, 2017.

**\*\*MOTION (1)**

Ms. Russell moved to approve the Regular Meeting Minutes of May 23, 2017 as presented.

Mr. Spencer seconded the motion.

Vote: 5 – 0 – 3. Motion passed.

Abstained: Mr. Bond, Mr. Murphy, Mr. Zoller

**3. Delegations**

Mr. Nickerson called for delegations.

There were no delegations.

**4. Consider Approval of Proposed Sewer Assessments for Gateway**

Mr. Nickerson called for comments.

**\*\*MOTION (2)**

Mr. Mingo moved to approve the Sewer Benefit Assessments for Gateway as proposed.

Mr. Jacques seconded the motion.

Mr. Bond asked if we would collect the payments or if it comes through their office.

Mr. Kargl said that it is a separate billing done by our staff.

Mr. Mingo asked if there is a 'due on sale clause' in case this is sold in the future.

Attorney Zamarka said no – it is the standard language.

Mr. Nickerson called for a vote on the motion.

**Vote: 8 – 0 – 0. Motion passed.**

#### **5. Billing Adjustments**

There were none.

#### **6. Approval of Bills – from Attachment B**

Mr. Nickerson called for a motion on the Treatment Plant Filter Upgrade bill.

##### **\*\*MOTION (3)**

**Mr. Murphy moved to approve payment of the following Treatment Plant filter Upgrade bill: Carbon Filtration Systems, Inv. #TEL 17-1 in the amount of \$32,000.**

**Mr. Zoller seconded the motion.**

**Vote: 8 – 0 – 0. Motion passed.**

Mr. Nickerson called for a motion on the Park Place Sewer Laterals bill.

##### **\*\*MOTION (4)**

**Mr. Zoller moved to approve payment of the following Park Place Sewer Laterals bill: Town of East Lyme in the amount of \$22,400.**

**Mr. Jacques seconded the motion.**

Mr. Bragaw noted that the developer put in all of the laterals and we did the road.

**Vote: 8 – 0 – 0. Motion passed.**

Mr. Nickerson called for a motion on the Tank Rehabilitation bill.

##### **\*\*MOTION (5)**

**Mr. Murphy moved to approve payment of the following Tank Rehabilitation bill: CorrTech, Inv. #890502 in the amount of \$4,050.00**

**Mr. Jacques seconded the motion.**

**Vote: 8 – 0 – 0. Motion passed.**

#### **7. Finance Director Report**

Ms. Johnson said that she had provided them with the report and that things were moving along. She noted the key items and that less is due to the sewer obligations.

#### **8. Draft Sewer Regulations**

Mr. Nickerson said that Attorney Zamarka was present to update them on this.

Attorney Zamarka said that he had provided the Commissioners (only) with a cleaned up draft copy and proceeded to note the changes that had been made. He suggested that in Section 4.8 – 4.10 that it read July 1, 2017 forward rather than retroactively.

Discussion ensued regarding whether or not to leave it as an ordinance or change it to a regulation. As an ordinance the penalty fee would be allowed and it also adds another level of oversight. It was noted that in the 25 years that the ordinance has been in existence that there has been no need to fine anyone.

Ms. Russell asked if during that time there were situations where a fine could have been levied or if it reached that level.

Mr. Kargl said no.

Ms. Russell said that she was also considering what if there was 'buyer's remorse' if they changed it from an ordinance to a regulation.

Attorney Zamarka said that if they move forward with the regulation then they would simply repeal the ordinance and it would not be necessary to hold a Public Hearing. If they keep it as an ordinance then it adds another layer to it.

Mr. Mingo recalled that as an ordinance that the levy of the fine is under the purview of the Board of Selectmen.

Attorney Zamarka said yes, as an ordinance once the Board of Selectmen grants them the power to levy a fine, the Commission can levy it.

Mr. Zoller asked if they adopted it as a regulation if the paragraph on the \$100 fine would come out. Attorney Zamarka said yes.

Mr. Nickerson asked Mr. Kargl what happens if this is a regulation and they have a violation – what is the leverage on this.

Mr. Kargl said that would lie on the Certificate of Occupancy – that is the leverage – it would not be issued.

Mr. Bragaw noted that a \$100 fine does not mean anything to a developer.

Ms. Russell asked what happens if something has to go to the courts and if a regulation weakens our position.

Attorney Zamarka said that it would not make any difference.

Mr. Jacques asked if the difference between a regulation and ordinance factors into Section 8 – Penalties.

Attorney Zamarka said yes, section 8.3 would have to be removed.

Attorney Zamarka asked what their pleasure was – to move forward as a regulation or keep it as an ordinance.

#### **\*\*MOTION (6)**

**Mr. Mingo moved to proceed with the update on the Sewer Regulations in the form of a regulation.**

**Mr. Jacques seconded the motion.**

**Vote: 8 – 0 – 0. Motion passed.**

#### **9. Spinnaker Maintenance Agreement**

(Note: Mr. Zoller recused himself and left the room)

Mr. Kargl said that the rate schedule has changed and has an approximate 4.3% increase to the monthly maintenance fee. The contract itself with the scope of coverage and work is all the same as it has been.

Mr. Jacques asked about Section 5 regarding outside contractors and billing them at actual cost – what about a mark-up due to them being outside contractors.

Mr. Kargl said that it was something that they had discussed at one point but it was decided to leave it alone.

Mr. Bond asked if we do the administrative part.

Mr. Kargl said yes, he noted that it is a good station that is in good shape.

#### **\*\*MOTION (7)**

**Mr. Murphy moved to authorize the Chairman of the Water and Sewer Commission to execute the Maintenance of Sewer Pump Station Agreement with Spinnaker Association, Inc. for fiscal year 2018.**

**Mr. Jacques seconded the motion.**

**Vote: 7 – 0 – 0. Motion passed.**

(Note: Mr. Zoller returned to the table)

#### **10. Water & Sewer Operating Budgets Status Report**

Mr. Bragaw said that it was a challenging year with the mid-year cuts but he was happy to report that they will come in within budget. He said that he would report to them next month on how they finished out the year. He added that a lot of good things are happening.

#### **11. Water Project Updates**

##### **▪ Well 1A and 6 Treatment Plant Modifications and Upgrades**

Mr. Kargl reported that Tighe & Bond was authorized to proceed and it in the design phase of the process working on a survey of the project area.

##### **▪ Water Meter Replacement**

Mr. Kargl reported that they submitted the eligibility application to the DPH for DWSRF loan funding for this project. He said that he would expect that they would receive good standing on that. He said that they are also finishing up the master meter design for the high school and are hoping to get it designed and under construction before school starts.

Mr. Kargl also reported that they have a company helping with the analysis of the under-calculated water as we are in the 20%+ range and we should be in the 15% range at a maximum. Over and under registering issues are being worked on.

Mr. Murphy asked if we meter the hydrant flush.

Mr. Kargl said we have an estimation based on the duration. It is accounted for water.

#### **12. Correspondence Log**

The correspondence log was made available.

There was no discussion.

#### **13. Chairman's Report**

Mr. Nickerson said that he did not have a report this evening.

Mr. Murphy asked about an update on Old Lyme.

Mr. Nickerson said that we are having an attorney look over the paperwork and do a draft as we have done it before.

#### **14. Staff Updates**

##### **a. Water Department Monthly Report**

Mr. Kargl noted that rainfall in May was 6" and that the drought advisory is no longer in effect.

##### **b. Sewer Department Monthly Report**

Mr. Kargl noted that they are currently reviewing a 25 lot subdivision on Green Valley for water.

#### **15. Future Agenda Items**

Ms. Russell said that she would like the Water Quality Report to be discussed.

Mr. Kargl said that he was going to have it as part of the Water Department Monthly Report.

#### **16. ADJOURNMENT**

Mr. Nickerson called for a motion to adjourn.

##### **\*\*MOTION (8)**

**Mr. Zoller moved to adjourn the June 27, 2017 Regular Meeting of the East Lyme Water & Sewer Commission at 7:50 PM.**

**Mr. Spencer seconded the motion.**

**Vote: 8 – 0 – 0. Motion passed.**

Respectfully submitted,

Karen Zmitruk, Recording Secretary