

**EAST LYME WATER & SEWER COMMISSION  
SPECIAL MEETING MINUTES  
Friday, DECEMBER 14th, 2018**

**PRESENT:** Mark Nickerson, Chairman, Steve DiGiovanna, David Jacques,  
David Murphy, Joe Mingo, Carol Russell, David Zoller

**ALSO PRESENT:** Joe Bragaw, Public Works Director  
Brad Kargl, Utility Engineer  
Attorney Mark Zamarka, Town Counsel

**ABSENT:** Dave Bond, Roger Spencer

FILED

Dec 18 20 18 AT 10:20 AM/PM

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EAST LYME TOWN CLERK

**1. Call to Order**

Chairman Nickerson called this Special Meeting of the Water & Sewer Commission to order at 1 PM.

**2. Discussion and Possible Action on Process and Procedures for Sewer Capacity Allocations**

Attorney Zamarka synopsis notes that he had compiled from recent meetings of the Water & Sewer Commission on how they might like to proceed with the determination of sewer capacity allocation. He said that there would be an application for such determination and that a number of items might be included with the requirements of the application. Application time lines would be handled according to the General Statutes much in the manner of land use applications with the 65 day extension of time in which to act on the application. Applications shall include but not be limited to a class A-2 survey of the property, proof of ownership of the property or right to develop, documentation supporting the amount of capacity being requested, number of units, etc.

Mr. Murphy said that he felt that they should delineate information on commercial use property.

Mr. Nickerson asked about perhaps classifying under a quality or type.

Mr. Zamarka said that they are dealing with residential for now –

Mr. DiGiovanna said that if they were doing commercial that the items pertinent to that would be addressed at that time.

Mr. Mingo noted other areas – such as medical or hospital facilities which would also be different.

Ms. Russell suggested that design flow standards would probably address such issues and felt that they should add a statement that design flow standards would have to be followed for all.

Mr. Kargl noted that they may use a variety of standards.

Mr. Zoller said that at this point that he would not want to tie applicants down to just one standard but rather allow flexibility and see what they present in accordance with acceptable standards. He noted the most recent decision regarding the Costco request and what they presented.

Mr. Jacques said that this does not state the greater than 5000 gpd or greater than 20 units that they had which would let people know when they would have to apply.

Mr. Zamarka said that was instituted as an interim requirement until such time that the Landmark capacity issue had been decided.

Ms. Russell noted that the Statute language should be used in the application form.

Mr. Nickerson said that he would not agree as that was pushing it a bit beyond where they need to be.

Mr. Mingo said that there is not that much capacity left to allocate so much of this is a moot point as when the capacity is gone – there will not be any applications. Further, they have applications waiting to be acted upon.

Mr. Zamarka asked how they felt about the 'duration' of the capacity allocation, noting that depending upon the size of the project that it could easily be the initial six months to just get through the land use phases and perhaps put a shovel in the ground. The 18 months from the expiration of the appeal period of the applicant's last approved land use application may also be a bit tight.

Mr. Nickerson added that if there is some appeal such as in the case of Landmark – then things may be tied up for quite some time. While Landmark is not the norm – that took 17 years.

Mr. Zamarka said that he would agree that the duration of the allocation should be extended under certain considerations. He further explained that in Judge Cohen's ruling with regard to Landmark that the whole 118,000 gpd had to be set aside but would during the land use process probably be reduced or knocked down depending upon what was approved for development.

Mr. Nickerson said that they should have the authority to extend the application based upon legal opinion and circumstances (legal) at the time if such was to be the case.

Mr. Jacques and Mr. DiGiovanna suggested that the six months be changed to one (1) year and make the 'not to exceed' duration good for three (3) years under general circumstances.

Mr. Zamarka said that the general purpose of the duration time was to discourage developers from dragging their feet and tying up allocation. At the three (3) year mark it would become null and void.

Mr. Jacques suggested that perhaps after the initial one year mark that if there are significant changes to the application that they require that a new application be filed so that if other developers come in and need capacity and we are just holding it for others, that it does not become tied up. Further, they may need less depending upon the changes and they would not want to tie it up when it is not needed. They need to have a mechanism in place for such issues.

Mr. Kargl asked about a fee and the structure and process of it for the application as there is staff and administrative time that would be required for each application. There is a level of work to get it through the process.

Ms. Russell suggested that there also be a non-refundable deposit.

Mr. Nickerson said that there is not enough capacity left to go to that extent.

Mr. Zoller noted that their sewer regulations say that they can charge 25% of the sewer benefit assessment..... So they might want to consider that.

Mr. Nickerson asked Mr. Zamarka if they as a Commission can schedule a Public Hearing with him working on the changes for a final document.

Mr. Zamarka said that they could.

Mr. Murphy said that they talk about 'allocation' throughout the process and thinks that it should be in the title.

Mr. Kargl said that he thinks applications should be for those projects greater than 5,000 gpd and/or 20 units – otherwise the process would be a nightmare administratively.

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

Mr. Mingo moved that they hold a Public Hearing on January 8, 2019 on the 'Application for determination of the allocation of reserve sewer capacity'.

Mr. DiGiovanna seconded the motion.

Mr. Nickerson said that they need a consensus on a fee –

Vote: 7 – 0 – 0. Motion passed.

Mr. Nickerson said that the draft will be sent out by Mr. Zamarka.

Mr. Mingo asked about 'controlling induced development' and if that was still in effect and if they could get some information on that for a future meeting.

### **3. ADJOURNMENT**

Mr. Nickerson called for a motion to adjourn.

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

Mr. DiGiovanna moved to adjourn this Special Meeting of the Water & Sewer Commission at 2:12 PM.

Mr. Jacques seconded the motion.

Vote: 7 – 0 – 0. Motion passed.

Respectfully submitted,

Karen Zmitruk,

Recording Secretary