

**EAST LYME WATER & SEWER COMMISSION  
REGULAR MEETING  
TUESDAY, MARCH 28, 2023  
MINUTES**

The East Lyme Water & Sewer Commission held a Regular Meeting on Tuesday, March 28, 2023. Chairman Seery called the Regular Meeting to order at 7 PM.

**PRESENT:** Kevin Seery, Chairman, Dave Bond, Steve DiGiovanna, Dave Murphy, Carol Russell, Roger Spencer, Dave Zoller, Ken Roberts

**ALSO PRESENT:** Joe Bragaw, Public Works Director  
Attorney Edward O'Connell, Town Counsel  
Ben North, Municipal Utility Engineer  
Atty. Theodore Harris, Representing the Applicant  
Robert Pfanner Sr., Representing the Applicant

**ABSENT:** No One

RECEIVED FOR RECORD  
EAST LYME, CT  
2023 APR - 11 A 9:40  
Kathleen M. Murphy  
TOWN CLERK

**1. Call to Order / Pledge of Allegiance**

Chairman Seery called the Regular Meeting of the East Lyme Water & Sewer Commission to order at 7:00 PM and led the assembly in the Pledge.

Mr. Seery noted that Mr. North wanted to add an item to the agenda and suggested that it be added as Item 5A.

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

Mr. DiGiovanna moved to add Item 5A to the agenda – Discussion/Action - CT DOT I-95 Interchange Improvements at Rte 161 Construction Phase Services.

Mr. Murphy seconded the motion.

Vote: 8 – 0 – 0. Motion passed.

Mr. Seery introduced Ken Roberts to the Commissioners as he had recently been appointed to replace Mr. Mingo on the Commission.

**2. Approval of Minutes**

▪ **Regular Meeting Minutes – February 28, 2023**

Mr. Seery called for a motion or any discussion on the Regular Meeting Minutes of February 28, 2023.

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

Mr. DiGiovanna moved to approve the Regular Meeting Minutes of February 28, 2023 as presented.

Mr. Murphy seconded the motion.

Vote: 6 – 0 – 2. Motion passed.

Abstained: Mr. Zoller, Mr. Roberts

▪ **Public Hearing Minutes – March 2, 2023**

Mr. Seery called for a motion or any discussion on the Public Hearing Minutes of March 2, 2023.

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

Mr. DiGiovanna moved to approve the Public Hearing Minutes of March 2, 2023 as presented.

Mr. Murphy seconded the motion.

**Vote: 6 – 0 - 2. Motion passed.**  
**Abstained: Mr. Zoller, Mr. Roberts**

### **3. Delegations**

Mr. Seery called for delegations.  
There were none.

### **4. Discussion and Possible Action on Nehantic Village Capacity Request**

Mr. North recalled that the applicant had requested 110,000gpd of capacity and that he had noted that they have limited capacity available and wanted to hear discussion on what the Commission had to say.

Attorney O'Connell said that they had some housekeeping with respect to some Commissioners who were not at the last meeting and asked that they establish their familiarity with the record and tape of that meeting for the record.

Mr. Zoller said for the record that he had read the minutes and reviewed the tape of the previous meeting and felt comfortable in being able to vote this evening.

Mr. Roberts said that he had read the minutes but had not seen the tape and was prepared to abstain from the vote this evening on that issue.

Attorney O'Connell then passed out two different potential motions on the item for the Commissioners to review. He noted that one was to deny and one was to approve and that while the core of them was the same, the final decision was not. He said that they had learned from a past case that it is a must to be thorough in the delivery of the motion which is why they are so lengthy.

Mr. Seery opened the floor for discussion.

Mr. North explained what would be necessary for those already sewer assessed areas (76,000 gpd for the opt-ins and 60,000 gpd for the vacant properties' in the area) a total of 136,000 gpd.

Ms. Russell noted that there was a more recent two-year average that would actually show a negative number and those most recent two-years is more in line with where the trend is going. She said that they should be more seriously looking at that trend.

Mr. North said that they wanted it to reflect the five-year cycle – where we really do not have enough for a project of this size.

Attorney O'Connell elaborated that the 882gpd they like to keep for those who come so that there is 'some' remaining capacity.

Mr. Bond said that they have never exceeded their capacity and that the sewer goes by his house but he has not tied into it yet – perhaps in five years – however the benefit assessment has never been paid. He asked why that capacity is not available to others.

Attorney O'Connell said that they use them as examples of the 'ticket holders' who have a right to hook up and while it is not a hard and fast number it has to be kept in mind that it has to be available to that per/property when they need to or look to connect. You cannot put a precise number on it.

Mr. Bond countered that they then are not making any money from this.

Attorney O'Connell said that it is a matter of sound business practices and you have to have it available to them should they want it. He added that it is also a Commission decision.

Mr. Zoller said that Mr. Bond is driving a gap between capacity and actual usage. He said that he thinks that we have to be concerned with actual usage and also with seeking more capacity.

Mr. DiGiovanna said that he agrees with both Mr. Bond and Mr. Zoller. He recalled that when the Orchards was approved that running the line up Rte 1 was a benefit to the Town. Likewise, he thinks that running the sewer main up Pennsylvania Avenue would also be a benefit to the Town.

Ms. Russell said that she is concerned with what we are seeing in terms of actual usage over the last two years and feels that we are in serious territory and that we should be looking into acquisition of additional capacity. But – at this time we do not know if/when any is available or what it would cost and we also do not have the funds for it. She said that her thoughts are that this request should be put in a 'delay or hold' status until we have the information that we need. We need to be more thoughtful about this and not approve something that we do not know enough about or where the revenue would come from for it.

Mr. Seery said that Ms. Russell does bring up a lot of good points but we cannot ask a developer with a request to wait while we gather information. He noted that we would be getting a sewer line installed from approximately Oswegatchie Hills down to Main Street. However he said that he is a bit uncomfortable with the full capacity request.

Mr. Spencer asked about the number that they would have in mind.

Mr. North said that they felt that half – 55,000 gpd would be in line and that it would enable them to do the project. He added that he would also love to see them review some re-use brown water system which the DPH would have to review.

Mr. Murphy said that he thinks that a brown water system would be good. It would have to be very well-engineered. He noted that the difference between the five-year and two-year look back is the 55,000 gpd

Ms. Russell said that she is deeply concerned because they do not know what capacity is available for sale. At the very least they should find out what/if there is capacity available for them to purchase and at what cost that would be, especially in light of all of the building going on in Waterford and New London.

Mr. Seery said that he does not think that it is within the next six months to a year that we would have an issue and we also have not discussed anything with the State.

Mr. Bond said that with a safety factor – what is the worst that could be used – 75,000 – 80,000 gpd.

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

**Mr. Bond moved that WHEREAS, on January 19, 2023, Pelletier-Niantic, LLC (“Applicant”) filed with the East Lyme Water and Sewer Commission (“Commission”) an application for determination of sewer capacity pursuant to General Statutes 7-246a(a)(1) and the East Lyme Regulation entitled “Applications for Determination of Sewer Capacity Pursuant to General Statutes §7-246a(a)(1)” (“Regulation”), seeking an allocation of 110,000 gallons per day (“gpd”) of sewer capacity for a proposed multi-building designed for assisted living and associated medical facilities to be located on property at 200 Pennsylvania Avenue (“Application”); and**

**WHEREAS, the Regulation sets forth the information that must be included in an application for determination of sewer capacity, as well as the duration of a capacity allocation and the factors that the Commission may consider in reaching a decision on such an application; and**

**WHEREAS, the Application contains the information required by the Regulation, including a contingency, which is an integral part of the proposed project, that the Applicant will design, construct and install a sewer service main conforming to the Commission’s design criteria leading from Main Street in and along Pennsylvania Avenue to the site of the proposed project; and**

**WHEREAS pursuant to the Regulation and General Statutes §7-246a(a)(1), the Commission is required to decide on an application within 65 days of receipt as that term is defined in General Statutes §8-7d, and that the decision is due on or before March 30, 2023; and**

**WHEREAS, the Commission held a public hearing on the Application on March 2, 2023. Numerous exhibits were submitted by the Applicant and the Commission’s staff, and the Commission heard**

testimony from the Applicant, staff and the public. In making its decision the Commission is considering all of the testimony and exhibits submitted at the public hearing; and

**WHEREAS, the Commission has wide discretion in connection with the decision to supply sewer service to particular properties; and**

**WHEREAS, pursuant to an agreement with the Town of Waterford and the City of New London ("Agreement"), the Town is entitled to make use of 15% of the treatment capacity of the Piacenti Facility (the New London Waste Water Treatment Facility); and**

**WHEREAS, the current treatment capacity of the Piacenti Facility is 10,000,000 gallons per day; and**

**WHEREAS, pursuant to the Agreement, the Town is currently entitled to 1,500,000 gallons per day of sewage treatment capacity at the Piacenti Facility; and**

**WHEREAS, pursuant to contracts with various State of Connecticut agencies, the Town is required to reserve 478,000 gallons per day of its available sewage treatment capacity for the benefit of various state facilities located in the Town, and this amount is not available to the Town or any other customers of the Town; and**

**WHEREAS, East Lyme's sewer treatment capacity is limited and finite; and**

**WHEREAS, based sewer flow data in the Record, and accounting for prior allocations, and approved projects under construction, East Lyme has approximately 137,000 gpd of available sewer treatment capacity (Exhibit 11); and**

**WHEREAS, the Regulation sets forth a non-exclusive list of criteria that the Commission may consider in deciding on capacity applications, including other areas in town designated for sewer service and the effect of the allocation on remaining capacity; and**

**WHEREAS, the evidence shows that the amount of capacity requested in the Application exceeds the Town's available capacity; and**

**BE IT THEREFORE RESOLVED, that the East Lyme Water and Sewer Commission, acting as the Town's Water Pollution Control Authority, pursuant to the Regulation and based on a review of evidence in the record, hereby GRANTS to the Application of Pelletier-Niantic, LLC 75,000 gallons per day of sewage treatment capacity pursuant to its Application dated January 19, 2023 seeking 110,000 gallons per day of sewer capacity for a proposed multi-building development designed for assisted living and associated medical facilities to be located on property at 200 Pennsylvania Avenue. The duration of said grant shall be as set forth in section II of the Regulation.**

**Mr. DiGiovanna seconded the motion**

Mr. Spencer said that he prefers the lower amount and feels that 55,000 gpd is good.

Mr. Murphy said that he thinks that there are a lot of things that we should have been investigating however we need to give them an answer and try to work with the developer be it the 55,000 or 75,000 gpd.

Ms. Russell said that she agrees that we have work to do but feels that we are setting a dangerous precedent when we do not know what is available or how much the cost would be. Also with respect to the treatment plan in New London – if it expands we would have to absorb Point O Woods and Pine Grove into our allotment which is around 150,000 gpd.

Mr. Bond said he thinks that we should max out our capacity as we are a business.

Mr. Spencer –

Mr. Zoller called the motion –

Mr. DiGiovanna seconded the call -

**Vote: 6 – 1 – 1. Motion passed.**  
**Against: Ms. Russell**  
**Abstained: Mr. Roberts**

#### **5. Set Public Hearing Date for Sewer Assessments**

Attorney O'Connell said that some are residential and some commercial and that the 185 Main is still another type that is included here.

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

**Mr. DiGiovanna moved to set the Sewer Assessments Public Hearing for April 25, 2023 commencing at 6:30 PM.**

**Mr. Spencer seconded the motion.**

**Vote: 8 – 0 – 0. Motion passed.**

#### **5. A. Discussion/Action - CT DOT I-95 Interchange Improvements at Rte 161 Construction Phase Services**

Mr. North said that he needs to put a PO together on the project work that will be done for us. This is already approved by the State – we just have to secure an account. It is paid for by the State.

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

**Mr. Murphy moved to appropriate and transfer \$12,600 in Sewer Assessment Fund 3 from resources available to the account titles, "DOT Construction Phase Engineering Services" to fund on-going engineering services and inspection work.**

**Mr. DiGiovanna seconded the motion.**

**Vote: 8 – 0 – 0. Motion passed.**

#### **6. Billing Adjustments/Disputes**

There were none.

#### **7. Approval of Bills**

There were none.

#### **8. Finance Director Report**

Mr. Gervais was in attendance at another meeting. There was no report.

#### **9. Discussion on Water & Sewer Budgets FY 23-24**

Mr. Bragaw noted the following on the sewer side –

- Revenue worksheet – proposing bringing \$176,360 from sewer assessment to help offset capital costs in the operating budgets.
- The back of the revenue sheet shows the calculations of estimated revenue as well as a potential rate increase on the sewer side of 5% across the board on all rates.
- Suggested changing the regulations to allow for a minimum usage charge as there are a number of customers who do not use any sewer so they do not pay any usage fees although they are hooked up to the system and have the ability to use it. (some 300+ customers)

Mr. Bond asked if they could use this between both water and sewer

Mr. Bragaw said no as there are far more water customers than there are sewer.

- On the expenditure side they are proposing a 10% budget increase.
- There is a new line item for capital projects of \$1000,000 to cover all kinds of smaller capital projects that come up during the year that are not maintenance.
- He is proposing to change the names of two line items – Professional Development to Training; and New Services/Projects to Meter Usage Payment
- They are not proposing any new trucks in this budget.

Ms. Russell said that given the capacity discussion that the inflow line has \$1000 in it – she asked if that was a placeholder as it seems that they could be doing more with that.

Mr. North said that he is working on a project similar to that which potentially has grants.

Mr. Bragaw noted the following on the water side –

- They are showing a need to pull from their retained earnings \$229,733.
- Water flows and therefore revenue (prisons) seem to be dropping which is putting more strain on bringing in revenue from the Town side.
- On the back of the revenue sheet are calculations for estimated revenue along with a potential rate increase for the water side of 8% across the board on all rates.
- They are proposing a \$200,000 line item for capital projects as right now they have no mechanism to pay for capital costs in the water operating budget.
- They need to discuss the bonds/principal line at an upcoming meeting.
- They are proposing one new truck in this budget

Ms. Russell said that she was not sure of exactly how to put this – but it seems that they are also putting in part of Mr. Seery's First Selectman's salary into this budget. (Water – \$8,300)

Mr. Seery said yes as he is spending some 3 to 4 hours per week on this so his salary is being reduced by that from the Selectman's Office.

Ms. Russell said that this is the first time that it has ever been done and it is only on the water side and not the sewer side and she does not think that it is fair to the water customers.

Mr. Seery said that it is by Ordinance that he wears this hat also and that he would welcome an ordinance change as it does become difficult to do both no matter how you divide the hats. He added that he thinks that it is only fair that it gets billed to where the time is being spent.

#### **10. Project Updates**

##### **▪ Meter Replacement Project**

Mr. North said that they average 225 per month and hopes that by the next read in the fall that they will be around 90% done.

##### **▪ Boston Post Road Tank Rehabilitation Project.**

Mr. North said that the contractor is starting the sandblasting.

#### **11. Correspondence Log**

There were no comments.

#### **12. Chairman's Report**

Mr. Seery said that the Rte 161 project has begun and that 4.5 years from now we will be happy that it was done.

Mr. Murphy asked about the Rocky Neck pump house.

Mr. Seery said that he has not heard any more on it but would love to have them put some money towards it.

Mr. Seery said that tomorrow at Rosa Negra they would be holding a women's recognition event as it is women's recognition month.

#### **13. Staff Updates**

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

Mr. Murphy asked when the Boston Post Road hydrant would be fixed.

Mr. North said that they are still waiting on the parts.

Ms. Russell asked the cost for a hydrant.

Mr. North said about \$5 - 6,000.

Mr. DiGiovanna asked about the replacement of meters for the schools.

Mr. Bragaw and Mr. North said that they have determined the types and that the schools will have to pay for them over a period of years. They will know soon and should be able to put them in over the summer months.

**b. Sewer Department Monthly Report**

There were no comments.

**14. Future Agenda Items**

**a. Homeowner Water Line Leak Insurance**

**b. Irrigation Sub-metering Policy**

Under discussion.

Add – look into potential for additional capacity acquisition

**15. ADJOURNMENT**

Mr. Seery called for a motion to adjourn.

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

**Mr. Murphy moved to adjourn this Regular Meeting of the East Lyme Water & Sewer Commission at 8:40 PM.**

**Mr. DiGiovanna seconded the motion.**

**Vote: 8 – 0 – 0. Motion passed.**

Respectfully submitted,

Karen Zmitruk,  
Recording Secretary