

Water & Sewer Commission
September 23rd, 2025,
Public Hearing Minutes

10/10/2025 10:10 AM
TOWN CLERK

Minutes of East Lyme Water and Sewer Commission Public Hearing - 09/23/25

Date and time: 09/23/25 6:30 PM to: 09/23/25 7:52 PM

Present: Brooke Stevens, Recording Secretary, Commission Members:, Carol Russell, Dan Cunningham, Chairman, David J. Murphy, David R. Zoller, Roger L. Spencer, David B. Bond, Michelle Royce Williams, Lindsay Bollenbach, Absent:, Ken Roberts

CC: Joe Blanchard, Utility Engineer, Ben North, Chief Operating Officer, Attorney Timothy Bleasdale

Location: East Lyme Town Hall, Upper Conf. Room, 108 Pennsylvania Ave., Niantic, CT, 06357

Topics

1. Call to Order / Pledge of Allegiance

Note Chairman Cunningham called the Public Hearing to order at 6:30 p.m. and led those assembled in the Pledge of Allegiance. A quorum of Commission Members was present.

2. Presentation on the Determination of Capacity for Landmark LLG & Jarvis LLC Concerning a Development on Caulkins Rd

Note Mr. Cunningham asked if anyone wished to speak on this matter.

Note Attorney Tim Hollister came forward and noted that he is representing Landmark Development Group.

Note see attachment.

 [Landmark_Binder_\(1\)_ \(1\)_ \(1\).pdf](#)

Note He provided two binders of materials, noting they are limited copies because many documents have been previously seen by the Commission. One binder was given to the Commission, and the other binder was submitted to be part of the meeting minutes for this Public Hearing.

Note Mr. Hollister summarized the contents of binders:

1. July 22nd, 2025, application letter.
2. Superior Court brief challenging the 2019 sewer regulation.
3. Unofficial transcript of August & September Board of Selectmen meetings regarding the sewer moratorium.
4. Minutes of the March 25th, 2025, and May 2025 Water & Sewer Commission meetings (relevant to the Pelletier allocation termination & sewer capacity discussions.)
5. FOI requests (August 2025) on sewer moratorium and affordable housing moratorium – no substantive responses received as of September 23rd, 2025. The only response received was from the Town Clerk's Office.
6. Letter from Attorney Bleasdale (August 25th) confirming grandfathered application under moratorium.
7. Emails from Mr. North regarding conceptual development plans.
8. 2018 article authored by Hollister on sewer rights of property owners.
9. Materials prepared by Mr. North for August 26th, 2025, Water & Sewer Commission Meeting.
10. Additional materials by Mr. Russo (to be reviewed and submitted later.)

Note Mr. Hollister requests continuation of the Public Hearing to next month due to:

- *Lack of data on Gateway Apartments sewer discharge.
- *Pending FOI responses.
- *Late submission of 98-page materials from Mr. North.
- *Need for clarification on Point O' Woods and Pine Grove State allocations.

Note Mr. Hollister clarified that the application is made under Connecticut General Statute §7-246A (request for sewer capacity & connection), and their not submitting it under the 2019 sewer regulation due to the ongoing legal challenge claiming it is illegal/unrealistic; they reserve the right to challenge the Board of Selectmen moratorium.

Note Mr. Hollister noted the following:

- *Sewers are public utilities and property owners in the sewer shed have a right to connect if capacity exists.
- *The Commission's role is to manage the sewer system, not control land use (that is the Zoning Commission's responsibility.)
- *They cannot reserve or hoard capacity indefinitely by contract.
- *The Commission's task is to determine if capacity exists for proposed land use, not to review the site plan or location of units.

Note Mr. Hollister gave details and a brief history of the Landmark property:

- *Landmark property- 190 of 236 acres sewerable by gravity feed.
- *Potential connection points- east side (Route 1) & north/west via Deerfield property.
- *Early 2000s- Town officials allegedly discussed using sewers to block multifamily/affordable housing.
- *2005–2015- Commission falsely claimed no capacity for Landmark property.
- *2014- Hollister demonstrates 360,000 gallons available.
- *2015- 166,000 gallons secretly allocated to Gateway Apartments.
- *2018- Court prompts allocation of 118,000 gallons (grandfathered).
- *2019- New sewer regulation enacted, allegedly targeting Landmark.
- *Town uses "shell game" strategy- sewer appears for favorable projects, vanishes for unfavorable ones.
- *Town uses less sewer now than 10–20 years ago.
- *Staff mentions 137,000 gallons reserved for sewer benefit assessment payers – speculative number, not used 2012–2018.
- *New London sewer plant has 1.5 million gallons/day capacity, historically underutilized.
- *Sewer projections are conservative; actual flow is often less.

Note Mr. Hollister turned the presentation over to Mr. Russo.

Note Glenn Russo of 288 Margaret Road, Middletown, explained that Mr. North requested floor plans showing unit interactions between Phase 1 and Phase 2 – which he is submitting for the record.

Note Mr. Russo discussed the exhibit and provided background from 2021:

- *He recalled a pre-application meeting with town staff and Attorney Fuller.
- *He said at that time, the strategy was clear, the town wanted to block affordable housing development by limiting sewer and water access.
- *This was considered a "silver bullet"—without sewer/water connections, no development could move forward.
- *Town officials argued the Landmark property was either outside the sewer shed or that all capacity had already been allocated elsewhere.

Note Mr. Russo explained that under Connecticut's Affordable Housing Act, developers who include at least one-third affordable units gain zoning flexibility (to make projects financially feasible). However, if a town has less than 10% affordable housing (as in East Lyme), it cannot block such projects on zoning grounds. The key loophole is that the Affordable Housing Act doesn't cover sewer/water departments, so developers often need separate legal action to secure utilities.

Note see attachment.

 [Attachments from Russo.pdf](#)

Note Mr. Russo detailed how in the early 2000s, town officials publicly testified that the Landmark property was not in the sewer shed, but in 2004, DEEP confirmed that the property was in the sewer shed.

Note He explained the following:

- *The town then shifted to a new argument—claiming sewer capacity was already allocated elsewhere, initially giving the property zero allocation.
- *Legal battles followed.
- *Multiple applications were submitted and the Courts repeatedly ruled that the town's denials were an "abuse of discretion."
- *The town gave small allocations at first (13,000 → 14,000 gallons).
- *The Court later discovered the town had quietly given 160,000 gallons to Gateway Apartments while denying Landmark.
- *Ultimately, the Court ordered the town to allocate 118,000 gallons to the Landmark property.

Note *In the past, sewer usage was around 13,000–14,000 gallons higher than current.

- *This isn't just his opinion, a judge ruled that the Commission had abused its authority and discretion, violating his right to obtain utilities.
- *The First Selectman and Commission Chair at the time (Mr. Nickerson) publicly stated confidence in an appeal.
- *Mr. Nickerson's position was that the Commission should manage its sewer system without court interference, claiming judges cannot force sewer connections.
- *This shows reliance on legal strategies rather than fairness.

Note *The town withheld sewer access from his project, while granting 160,000 gallons "out the back door" to favored projects with no questions asked.

- *The Judge even noted the applicant had a potential due process claim (though not pursued).
- *We were not treated fairly or equally.

Note *After losing in court, at the very next meeting after the court's ruling, the Commission introduced the interim regulation.

- *It's a deliberate attempt to block judicial review, with language granting the Commission complete and sole discretion.
- *The rules were drafted to be impossible for any developer to comply with, creating a catch-22 situation.
- *The regulation requires developers to file for all approvals within 12 months of receiving sewer capacity.

Note Mr. Russo outlined the necessary steps:

- *Process includes engineering, site plan, wetlands (must precede zoning), coastal review, state traffic (OSA permit, often 6–12 months), and drainage permits.
- *Entire sequence takes 2.5–3 years, not 12 months, and costs \$750,000–\$1 Million.
- *Developers can't file early, unit counts affect traffic impacts, and OSA won't review until local approvals are final.

Note The 48-Month Completion Rule is also unrealistic-

*Regulation requires full buildout and leasing in 4 years.

*Example 1- A developer lost sewer rights after failing the 12-month deadline.

*Example 2- PAZZ project (100 units) allocated in 2019, site plan approved 2020, still under construction in 2025.

*Even small projects can't meet these deadlines, and no bank will finance under such conditions.

Note Mr. Russo detailed how his own project (237 acres, 800 units) would become town's largest taxpayer. Projects of this scale build in 10 to 15-year phases based on leasing absorption, not construction speed. Financing requires staged buildouts (such as 200 units at a time), and whoever set the 48-month rule lacks development experience.

Note Mr. Russo submitted a letter from CBRE, a global firm, who confirms a project of 864 units would take 10–15 years to build and lease.

Note He showed a past sample of the town's position against development, the Board of Selectmen's resolution that calls the property "specially suitable for open space" and in which they urged that it remain undeveloped. This proves the town's true intent is no development, not regulation.

Note Mr. Russo detailed the historic usage of sewer capacity:

*2010- 1.063 million gallons per day (GPD).

*2012- Engineering report showed 1.1 million GPD.

*2024–25- 891,000 GPD.

Despite large users like Gateway and Costco coming online, overall flows have declined over the last 15 years.

Note Mr. Russo reviewed the town's explanation vs. his analysis:

*The town's claimed (at the September 3rd meeting) that the decline is due to reduced state prison usage, and that East Lyme's capacity not actually dropping.

*He (Mr. Russo) hired engineers (SLR) to separate state vs. town flows.

*Data shows state usage only dropped from 320,000 to 190,000 GPD—too small to explain the sharp town-wide decline.

*Missing years of data prevented full analysis; his team retrieved 80% but some gaps remain.

*Commended some town staff for assistance but noted poor record organization due to renovations.

*Still awaiting agreements (state with Point O' Woods, Pine Grove) to finish the study.

Gateway project created anomalies in sewer data that need further adjustment.

Note Current Capacity Numbers-

*October 2024 report- town shown at 133,000 GPD capacity.

*May 2025 update- improved to -23 GPD (about +137,000 gained in less than a year).

The trend is clearly favorable; numbers appear manipulated to approve favored projects.

**Example- Developer granted 75,000 GPD allocation despite staff reporting only 1,398 GPD available.

Note Other allocations-

*Court-ordered 118,000 GPD to Mr. Russo's project and the town gave 165,000 GPD to Gateway.

*That's 280,000 GPD allocated when the town previously claimed there was no capacity.

*Sewer allocation is being used as a planning/zoning tool, not as a neutral infrastructure management system.

Note Mr. Russo explained that his development is now being marketed by CB Richard Ellis (CBRE), a major national brokerage, and has already drawn interest from developers across the country. He stressed that this shows the project is viable and attractive on the market, contrary to the town's past claims that there was no sewer capacity available to support it.

Note He argued that the history of allocations demonstrates a pattern of selective approval, where sewer capacity is found for favored projects (like Gateway and others), while being denied to his.

Note Ultimately, he said the courts have already found abuse of discretion by the town in previous cases, and the capacity data now reinforces that the system has been manipulated. His team's engineers are preparing a full report (pending missing data) that will include graphs, charts, and trend analyses showing that sewer demand has decreased over the past 15 years despite major new users like Gateway and Costco coming online.

Note Mr. Russo explained that once his property was marketed for Phase One—for which sewer allocation had already been secured, developer interest was immediate. Yet almost at the same time, a town-wide sewer moratorium began to advance, eventually recommended by the Commission on the grounds of insufficient capacity.

Note Mr. Russo argued the issue was not real sewer capacity but a conflict of interest. The town has officially aimed to keep his property as open space, blocking development for more than 25 years. He said this amounted to the town “confiscating” the land through regulation, preventing housing that is both legally allowed and marketable.

Note He linked this to a broader history, claiming the town intentionally used sewer and water limits decades ago as a strategy to stop affordable housing—a pattern he called the “ugly history” behind his stalled project.

Note Mr. Russo emphasized that his plan is for workforce housing, which East Lyme needs. Yet, the town's new rules—requiring approvals within 12 months and full build-out in 48 months—make projects impossible. He argued these timelines were written to deter developers and guarantee failure.

Note Mr. North presented some additional materials for the record.

 [Attachments from Mr. North.pdf](#)

Note see attachment.

 [DPH On-site Sewage Disposal Regulations Standards for Sewage System.pdf](#)

Note see attachment.

 [Wastewater Collection System Capacity Analysis \(1\) \(1\) \(1\).pdf](#)

Note Mr. North outlined exhibits and documentation relevant to the sewer capacity application:

- *Exhibit 1- Public hearing notice, confirming the meeting was properly noticed.
- *Exhibit 2- 2019 application for determination of sewer capacity adequacy under §7-246a.
- *Exhibit 3- Two-year look-back period (May 2025) used for recent and past capacity assessments.
- *Exhibit 4- SECOG study on typical occupancy of various housing types in Connecticut, forming a baseline for sewer allocation.
- *Exhibit 7- Sewer shed district map (2007), showing the town's sewer coverage.
- *Exhibit 8- Property parcel map, indicating sewer vs. unsewered areas.
- *Exhibit 9- Applicant's capacity request, meeting 2019 regulation criteria.
- *Exhibit 10/4A- Subsurface disposal guidelines and methodology for calculating per-bedroom sewer demand, including a 1.5x safety factor.
- *Exhibit 11- Letter confirming that although a moratorium is in place, the 2019 regulations still apply to this pre-moratorium application.
- *Exhibits 12–13- Correspondence requesting additional documentation from Mr. Russo, including floor plans and connections between Phase One and Two.
- *Exhibits 14–15- August 27th minutes and supporting documents on other developments (Rocky Neck Village).
- *Exhibits 16–18- Requests to New London and Waterford for additional sewer capacity under the Tri-town agreement.
- *Exhibit 19- Town sewer report detailing historical capacity (mostly completed in 2007 with hydraulic evaluations updated in 2012, identifying the need for additional sewer capacity in East Lyme).

Note Mr. North highlighted some of the following:

- *The town has 1.022 million gallons per day total capacity (including 478,000 gallons from the state via agreement with New London).
- *Current usage averages 770,000 gallons per day, with fluctuations clarified to distinguish town vs. state flows.
- *Recent closures (such as the Gates prison in 2015) reduced state flow; overall town flow continues rising due to approved development like Gateway and Costco.

Note *The current discussion involves 123,000 gallons per day requested in addition to the 118,400 gallons per day previously allocated to Landmark; 25% of total town capacity.

- *Allocation must consider other approved developments, vacant properties, and opt-in connections.
- *The two-year look-back period and uniform criteria ensure fair, consistent evaluations of requests.

Note *The 12-month land-use approval and capacity review process is designed not to block applicants but to ensure allocated capacity results in actual construction, preventing indefinite reservation of capacity.

- *Historical allocations (like Landmark) have sometimes sat unused for years, highlighting the need for these regulations.
- *The town must coordinate with New London and Waterford to ensure the sewer plant can handle new allocations; overcommitting could create infrastructure and legal issues.

Note *Clarified that the 2019 capacity regulations which states that applicants must apply for necessary land-use approvals within 12 months; construction must be completed within 48 months of last approval.

- *Emphasized that allocations are intended to ensure actual development occurs, not to hold capacity indefinitely. The Landmark allocation has been inactive for 7–8 years.
- *Stressed the importance of coordinating with New London and Waterford to ensure sufficient sewer treatment capacity before approving new allocations. Upgrades to the plant are estimated at \$50–100 million, requiring careful planning.

Note There were no further comments from the Commission or from the Public.

Note Attorney Harry Heller, who has an office at 736 Route 32 in Uncasville said some of the following:
*He wants to clarify the record regarding the Bride Lake LLC project (referred to earlier as Mr. Pazzaglia's project).

*He's not taking a position on Landmark's application or on the sewer allocation regulation's reasonableness but wants to correct the record about his client's compliance.

*The Bride Lake project fully complied with the sewer allocation regulation.

*The regulation requires land use applications to be filed—not approved—within 12 months, and Bride Lake met that requirement.

*The project initially received a denial from the Inland Wetlands Commission, which led to an appeal. *That appeal was later settled, allowing the project to return to the Zoning Commission for modification.

*Following the settlement, the project sought approval for 20 additional units previously removed.

*The regulation allows 48 months from the last approval for project completion.

*Bride Lake's final zoning approval was granted after the appeal, and the project will be completed within the 48-month window—expected by end of the year.

Decision MOTION (1)

Mr. Murphy moved to continue the Public Hearing regarding sewer capacity for Landmark LLC and Jarvis LLC to the next Water & Sewer Commission meeting on October 28th, 2025, at 6:30 p.m.

Mr. Spencer seconded the motion.

Motion carried, 8-0-0.

3. Presentation on the Determination of Capacity for Dan Trakas Et AL Concerning a Development on 202 Pennsylvania Ave

Note The Commission opened the Public Hearing for Dan Trakas et al. concerning capacity determination for 202 Pennsylvania Avenue.

Note A letter from Attorney Jeffrey McNamara was received requesting a continuance of this hearing to the October meeting.

 [McNamara Letter.pdf](#)

Decision MOTION (2)

Mr. Bond moved to continue the Public Hearing for Dan Trakas et al. concerning capacity determination for 202 Pennsylvania Avenue to October 28th, 2025, at 6:30 p.m.

Mr. Murphy seconded the motion.

Motion carried, 8-0-0.

4. Public Comment

Note There was none.

5. Adjournment

Decision MOTION (3)

Mr. Murphy moved to adjourn the September 23rd, 2025, Water & Sewer Public Hearing at 7:59 p.m.

Mr. Spencer seconded the motion.

Motion carried, 8-0-0.

Note Respectfully Submitted,
Brooke Stevens, Recording Secretary

Next Meeting

Meeting title: East lyme water and sewer commission regular meeting
Date and time: 09/23/25 07:59 pm to: 09/23/25 08:54 pm
Location: East Lyme Town Hall, Upper Conf. Room, 108 Pennsylvania Ave., Niantic, CT, 06357