

**New Hartford Water Pollution Control Authority
TOWN OF NEW HARTFORD, CONNECTICUT
SPECIAL MEETING -- MINUTES
Thursday, March 19, 2015 at 7:00 PM
New Hartford Town Hall
530 Main Street, New Hartford, Connecticut**

PRESENT: Chairman Denton Butler, Joe Toro, Ken Krohner, Roy Litchfield, Mary Beth Greenwood, Robert Fulton, and Michael LeClaire.

ABSENT: None.

Chairman Denton Butler called the meeting to order at 7:00PM. All regular members present were seated for the meeting. The proceedings were recorded digitally and copies are available at Town Hall. Mr. Butler reminded the board and attendees that as indicated on the agenda, the WPCA would not be accepting public comment during the workshop.

1. Review & Approval of Minutes - March 5, 2015

The March 5, 2015 Minutes should be amended on the first page, last paragraph, seventh line to read, "....area registered as that first map from 2004." Mr. Butler called for the approval of the March 5, 2015 minutes with this correction. Board members signified their unanimous approval.

2. Continuing Review of Proposed Budget for 2015-16

Mr. Roy Litchfield reported a recent discussion with the First Selectman's Office wherein a request was made for \$30,000 as part of the town's operating budget, matching that same figure contained in the WPCA's budget for the engineering/planning program, was denied. However, it was agreed that a loan of \$30,000 would be included as part of the town's budget, according to Mr. Litchfield. The matching grant that would be received by the state, in the sum of \$33,000, will serve to reimburse the town the \$30,000 loan, with the remaining \$3,000 returning to the WPCA for a net cost of \$27,000, Mr. Litchfield explained. Ms. Mary Beth Greenwood inquired whether the figure was included in the budget draft. Mr. Litchfield reported that it was included, but was listed as \$20,000 under Consultants and noted that in next month's draft of the proposed 2015-2016 budget, he would be adjusting this number.

Ms. Mary Beth Greenwood questioned the line item for *WPCA Clerk* and where that was included in the previous year. Mr. Litchfield responded that it was not included in the previous year. Mr. Litchfield noted that the town has been covering this portion previously. Mr. Butler noted that with what the group has had for demands along with what they anticipate putting there, the Line Extension Analysis Committee flushed out some duties and responsibilities of the clerk. He noted that the allocation of the hours of the current clerk, at five hours a week and currently covered by the town, and with what is anticipated for demand load and activities, the committee does not deem the time sufficient. Mr. Butler explained that the WPCA's budget is being drafted on the basis that the group will have their own clerk.

Ms. Greenwood questioned the figured used for the *Revenue*. Mr. Litchfield noted that last year's figure was higher because of the receipt of septage money to finish out that contract as well as collecting extra from those rate payers on payment plans. He noted that as the delinquent accounts come down so will the income, at least until more users are added to the system. Ms. Greenwood questioned the *Other Income* line. Mr. Litchfield explained that this figure represents the sewer lines installed on Prospect Street and a small amount received as nitrogen credits.

Mr. Joe Toro shared his opinion regarding the WPCA paying for the engineering study. He commented that it should be moved forward even if it means that the WPCA is shouldering the cost. Mr. Butler noted the benefit derived from selecting an engineering firm as the WPCA will be in a better position to provide much better detail about what is going to be done, how it is going to get done, when it will be done, and how much it is

going to cost. Having this information, Mr. Butler explained, will foster confidence and really is a necessary investment.

3. Operational Update –Water Tank Leak – Alarm Failure

Mr. Butler reported that he received a call on Monday indicating a water tank leak which was not immediately detected because prior to that, an alarm failure occurred as a result of Frontier's circuit coming down. Mr. Butler noted that it appears that water coming out the overflow adhered because of the extremely cold weather, freezing on the ladders, expanding to the point that the ladder pulled away, and popped the rivets towards the middle of the tank. Mr. Butler noted that the factory is coming out to take a look at the damage. Mr. Litchfield provided a picture of the leak, attached to these Minutes as Addendum A. Ms. Greenwood questioned the location of this water tank. Mr. Butler noted that it is past the town's sand and salt shed, in the Greenwoods Industrial Park, at the end of the road, on left and is the newer of the two tanks located on this spot. Mr. Butler noted that the WPCA is not in jeopardy of losing water pressure nor will people be without water. He also noted that at this point, he is unsure exactly when the tank is being repaired, that it currently has been patched, that phone calls have been exchanged, and that the manufacturer is the only authorized repair agency allowed to work on the tank.

4. Correspondence & Meeting Activity

A. Preliminary Review of RFQ Responses.

Mr. Butler reported that out of thirteen engineering consulting firms that picked up the Request for Qualifications, three companies have provided submittals: Wright Pierce, who the WPCA currently has an on-call arrangement with for engineering support services, Woodard & Curran, and CDM Smith. Mr. Butler recommended waiving the screening process as the firms are recognizable companies, two of which the WPCA has done business with, and instead move to the selection process. The three firms will be invited to a Special Meeting on April 16, 2015, commencing at 5:00PM, with each afforded a one hour slot for the exchange of questions and answers, Mr. Butler reported. The RFQs of each of the three companies was distributed to board members, a copy of which is attached to these Minutes as Addendum B. Mr. Butler also submitted for the record, a document summarizing the bid opening of the RFQs from March 17, 2015, entitled, "Town of New Hartford Water Pollution Control Authority RFQ – re: QBS Engineering firm for wastewater collection system repairs and expansions", attached to these Minutes as Addendum C.

Mr. Butler provided four copies (one for each of the three firms to be interviewed and one extra copy) of the Selection Scoring Sheet – Engineering & Consulting Services Evaluation. It was requested that board members bring the scoring sheets back with them to the April 16, 2015 meeting. Mr. Butler requested that board members provide suggestions on questions to be asked of each of the three prospective firms that will help to identify what type of approach to issues each firm might take.

B. Reaffirmation of Review Process.

A discussion followed reviewing the sample example Selection Criteria Category Table contained on the back of these sheets.

C. Opinions of Attorneys Re: Liens & Back Billing.

Mr. Butler reported that former WPCA chairman Bob Krzys had requested authority for filing and foreclosing on liens for delinquent sewer use charges. Mr. Butler noted that Mr. Krzys had received an opinion from Murtha Kullina in March, 2012 but that Mr. Krzys had also sought an additional opinion from Howd, Lavieri & Finch in October, 2013. Mr. Butler read aloud a correspondence from Attorney Roraback, summarizing the procedures available to the WPCA for the collection of sewer use fees. In this correspondence, Attorney Roraback referred to memorandum from Murtha Kullina dated March 12, 2012, and the correspondence from Howd, Lavieri & Finch dated October 1, 2013. In the correspondence which Mr. Butler read aloud Attorney Roraback noted that when a sewer lien is recorded in the land records, within two (2) years of sewer line fees due date, the lien remains valid for fifteen (15) years after the due date and can be foreclosed at any time during the fifteen (15) year period. The letter continued stating that in cases where a sewer lien has not been timely filed

within a two (2) year window, the statutory lien automatically expires at the end of said period by operation of law. Sewer use fees may still be collected by civil action against the delinquent property owners. However, in these cases, the WPCA does not enjoy the security of a lien and the related remedy of foreclosure. Mr. Butler explained that Connecticut's General Statutes provide for a statutory lien which translates to the day following the due date of a person's bill, and if left unpaid, an "inchoate lien" is automatic. Ms. Greenwood sought clarification that these inchoate liens are automatic and valid for two years. Mr. Butler confirmed, indicating that they are automatic and expire after two years if the WPCA fails to file a written lien.

Mr. Butler continued reading aloud from the correspondence from Attorney Roraback, "Chapter 103 of the Connecticut General Statutes, Municipal Sewage Systems does not set forth any time limitation for the institution of legal action to collect delinquent sewer fees in cases where the lien has lapsed. Connecticut General Statutes §7-25(a) does however provide that the collector of sewage system use charges may collect such charges in accordance with the provisions of the General Statutes for the collection of property taxes. Connecticut General Statutes §12-164 states that payment of property taxes must be enforced within fifteen years after the due date of the tax. We read these statutes together to authorize the collection of sewer usage fees for a period of fifteen years from the due date thereof and in instances where the lien has expired. A third collection paradigm arises where a property owner has used the sewer system without the WPCA's knowledge and without being billed for making payments. This statement of facts can fairly be construed as theft of services since no user account exists and no sewer use fees have been levied, there is no account debt to collect. Therefore, to establish damages in these situations, the WPCA would bear the evidentiary burden of providing both the property owner's connection to and the use of the sewer system as well as the duration of use. We suggest that the WPCA seek to retain legal counsel to pursue these types of claims on a contingency fee basis. The town has power to designate by ordinance the tax collector or any other person as collector of sewage system charges (C.G.S.S. 7-25a). The person so designated would have the legal authority to sign and file sewer liens. In addition to the individual designation options outlined above, the town may by contract designate a water company as a billing or collecting agent of the collection of sewer system use charges in the municipality. These statutes contemplate that the town, not the WPCA, has the statutory authority to both designate the individual responsible for sewer use collection and a contract with the water company to act as that person's collection agent....". Mr. Butler reported that he will see that board members receive copies of this correspondence.

Mr. Butler reported that by chance, he was at Town Hall one day when the attorney handling the land tax sales for the town was there researching upcoming properties going up for tax sale. It was determined that one of the properties that was indeed going to be part of this tax sale owed the WPCA \$1,045.15 and the tax collector had explained that unless the demand letter was sent that same day, the debt was not going to be protected. Mr. Butler reported that he immediately dictated a letter and it was sent out, certified mail, thus protecting the debt. This incident prompted Mr. Litchfield and himself to research other land sales whereby the WPCA's balance owed was lost as a result of being unsecured, according to Mr. Butler. Their research revealed two incidences which prompted them to review customers at a threshold of owing \$500 or more and at one hundred twenty (120) days past due. Mr. Litchfield reported that thirty-two (32) customers are part of the group at this threshold. Mr. Butler explained that he intends to draft demand letters to these customers tomorrow. Mr. Butler provided for review, a draft outlining procedure which will be distributed to the town clerk, the tax collector, the WPCA clerk, the Administrative Assistant to the First Selectman and The Torrington Water Company. He noted that the WPCA will be presented with a list for approval on a monthly basis meeting the threshold described of those properties to be lienied.

D. Planning For Attorney Interviews.

Mr. Mike LeClaire reported that two attorneys will attend the next regular meeting of the WPCA on April 2, 2015, Attorney Andrew Lord and Attorney Matt Willis. The two attorneys will undergo interviews at a meeting to commence at 6:00PM. Mr. Butler reported he will seek from the two prospective attorneys information on their professional background prior to this meeting and requested that board members submit suggested questions to pose that evening.

MOTION: Mr. Krohner, Mr. Toro second, **to adjourn at 8:15PM; unanimously approved.**

Respectfully submitted,

**Pam Colombie
Recording Clerk**