

MINUTES
PUBLIC HEARING
CITY COUNCIL AS WATER POLLUTION CONTROL AUTHORITY
March 5, 2018

Vol. 26 Page 697

A **PUBLIC HEARING** was held by the City Council acting herein as the Water Pollution Control Authority (WPCA) in the City Hall Auditorium on Monday, March 5, 2018 to solicit citizen input regarding an application for approval to construct/extend and connect a sewer transmission line to the City of Torrington's existing sanitary sewer system. The applicant is the Woodridge Lake Sewer District of Goshen, Connecticut (WLSLD). The proposed construction/extension will start at the Torrington/Goshen town line on Goshen Road (Route 4) and continue down Goshen Road (Route 4) where it will connect to an existing interceptor sanitary sewer at Riverside Avenue in Torrington, Connecticut. Present were Mayor Elinor Carbone, Corporation Counsel Jaime LaMere, and City Councilors Paul Cavagnero, Anne Ruwet, Marie Soliani, Fred Simon and Frank Rubino. Councilor Gregg Cogswell was absent. Others present included Atty. Christopher Smith, Partner of Shipman and Goodman; David Prickett, President of DPC Engineering; Jay Sheehan, Senior Vice President of Woodard & Curran; Lori Mathieu, Drinking Water Section Chief from CT Department of Public Health (CT DPH); Atty. Kathryn Keenan, Hearing Officer from CT DPH; Joseph Wettemann, Senior Sanitary Engineer from CT Department of Energy and Environmental Protection (CT DEEP), and Anne Straut, Sanitary Engineer III from CT DEEP. Public Works Director Jerry Rollett, Water Pollution Control Administrator Ray Drew, and Planning and Zoning Commissioner Greg Perosino were also present.

Mayor Carbone called the Public Hearing to order at 6:33 p.m. starting with the Pledge of Allegiance.

PUBLIC COMMENT

Mayor Carbone announced that public comment has been closed.

COOPERATION AND DECORUM

Atty. LaMere read aloud a statement to the public, requesting cooperation and decorum through the remainder of the Public Hearing.

QUESTIONS FOR STATE AGENCIES (CT DPH & CT DEEP)

Mayor Carbone expressed her gratitude to CT DEEP and CT DPH for their attendance and opened the floor to questions from the Council.

Councilwoman Soliani asked the DPH and DEEP representatives why they approved the proposed sewer line route.

Lori Mathieu clarified the role of the DPH and the Drinking Water Section in relation to the proposed project saying the DPH is responsible for public water systems and public water supply sources statewide. She explained that her department does not have oversight over sewer or septic systems that are of a certain size so the original approvals and reviews were done by the DEEP. She added that the DPH does not approve the project and was not involved in the original consent order which was issued by the DEEP in 1989.

Joseph Wettemann provided a historical overview of the DEEP's involvement in WLSLD's waste water management troubles. He explained that the original DEEP order was issued in 1989 to force WLSLD to look at the land disposal component of their system, and most importantly, the hydraulic capacity of their site. Mr. Wettemann noted that after a number of engineers were unable to prove whether there was enough hydraulic capacity on site, a comprehensive report was submitted to the DEEP by Nathan L. Jacobson & Associates in 1995 which identified characteristics that limited the area that WLSLD could distribute their effluent to and stated that there was not sufficient hydraulic capacity on site. He stated that the DEEP approved that report in 1996 and asked WLSLD to look at alternative solutions for dealing with their waste water.

Anne Straut added to Mr. Wettemann's statements saying that the board changed hands in WLSLD and the DEEP approved one last planning grant for them to determine if they could develop an on-site solution. Ms. Straut explained that the DEEP's role was solely to fund the planning grant, not to tell WLSLD where to go or how to do it. However, she stated that the DEEP does agree that WLSLD should not continue to use the system on site.

Councilwoman Soliani asked Ms. Straut if the DEEP approves the plan to come down Route 4.

Ms. Straut stated that based on the criteria for Clean Water funding, the DEEP agrees with the route.

Councilwoman Soliani asked Ms. Straut if she agreed that it was the safest route.

Ms. Straut stated that most of CT's Northwest Corner is a watershed containing GAA surface water, so every route has the same probability of harming the environment. Ms. Straut noted that sewers go through watersheds on a regular basis and cited multiple examples throughout CT.

Councilman Rubino requested clarification on what is meant by GAA surface water.

Ms. Straut explained that AA is the best kind of water available in CT that is used for drinking water. She further explained the different classifications of water types, their usage, and stated that sewage cannot be discharged into Surface AA (SAA) or Ground AA (GAA) water.

Ms. Mathieu further explained the distinction between AA and high quality ground waters (GAA) that are used for public drinking water supplies.

Councilwoman Ruwet requested the DPH's response to a letter from the DEEP dated November 18, 2016.

Ms. Mathieu submitted to the Council a print copy of the DPH's reply to the DEEP's letter dated November 18, 2016.

Councilwoman Ruwet requested that Ms. Mathieu summarize the DPH's response.

Ms. Mathieu summarized her response to the letter that was sent to her dated November 18, 2016 from Betsey Wingfield at the DEEP. She also explained the distinction between watersheds and public drinking water supply watersheds, adding that the DEEP has broad authority statewide, while the DPH's responsibilities lie with protecting public drinking water supplies only.

Councilwoman Ruwet asked Ms. Mathieu if the DPH has completed their investigation of the proposed project.

Ms. Mathieu referred to DPH Commissioner Raul Pino's order dated August 29, 2017 stating that after the investigation opened in November, 2016 the DPH put together the order intended to be protective of the public drinking water supply.

Councilman Simon asked the DPH and DEEP representatives why WLSA cannot repair their current system.

Mr. Wettemann explained that WLSA could build a state of the art waste water treatment plant on their site that had tertiary treatment, but would still need some place to discharge to because the West Branch of the Bantam River does not allow for discharges of treated effluent and the land disposal section that they have their current system on does not have the necessary hydraulic capacity.

Councilman Simon asked the DPH and DEEP representatives how long the Allen Dam Reservoir would be out of service if something catastrophic happened.

Ms. Mathieu stated that the outcome would depend upon the nature and the extent of the pollution and added that a sewer line going through a public water supply watershed is a significant event that should not be taken lightly. As such, she stated that the DPH has spent a lot of time working on a solution that would be protective of the drinking water supply and reminded the Council that there is an existing pollution problem with WLSA that needs to be addressed.

Councilman Simon asked how the proposed sewer line can be placed in a sewer avoidance area.

Ms. Mathieu suggested that he consult the local ordinance and stated that it is not something that the State has oversight of.

Mayor Carbone stated that Councilman Simon's question would be more appropriately answered by Torrington's Water Pollution Control Administrator, Ray Drew.

Mr. Drew informed the Council that a sewer avoidance area is an area that the City's sewer system does not serve. He clarified that although the proposal does put a sewer line in a sewer avoidance area, it is allowed because that area is not being served.

Councilman Simon asked Ms. Straut if the DEEP will force the City to connect the proposed sewer transmission line.

Ms. Straut stated that the DEEP's involvement is solely as a regulatory agency providing some technical assistance to the DPH. She said the DEEP funded WLSA's planning project but has no further involvement at this time.

Ms. Straut noted that even if the proposal was denied, the DEEP still would not tell the City where to connect the line.

Councilman Simon asked whether it makes a difference where the line is proposed to be placed.

Ms. Straut stated that the DEEP has no say at this point and the decision of where to connect lies with the City's technical staff.

Councilwoman Ruwet asked how the DPH would monitor the project if the application is approved.

Ms. Mathieu stated that the Drinking Water Section of the DPH oversees Torrington Water Company's (TWC) water quality and does not oversee sewage treatment plants at all. She explained her Department's role in the proposed project and stated that the DPH became involved with the review of the proposed route after TWC brought it to their attention.

Councilman Cavagnero asked Ms. Mathieu if it was her Department's latest recommendation that an alternate route be found for the proposed sewer line.

Ms. Mathieu stated that Route 4 is the focus of DPH Commissioner Pino's Order.

Councilman Cavagnero requested clarification from Ms. Straut regarding the safeness of the proposed route, as compared to alternative routes.

Ms. Straut explained that based on the way her Department reviews projects for Clean Water funding, they concluded that it was a safe route and also the most affordable.

Councilman Cavagnero asked the DEEP representatives how WLSL got to this point and how they were permitted to continue building when their failing waste water management system was not in compliance with the DEEP.

Mr. Wettemann informed the Council that when the DEEP issued WLSL their first permit in 1974 there were concerns of whether the site had the hydraulic capacity to handle their future build-out capacity and that question did not get answered until 1995. He confirmed that Woodridge Lake did continue to build in that time and reiterated that WLSL had multiple engineers who were unable to demonstrate whether the site had sufficient hydraulic capacity.

Councilman Cavagnero asked what triggered the DEEP's formal request in 1996 for WLSL to find a solution to expand their hydraulic capacity.

Mr. Wettemann stated that the formal request for WLSL to evaluate alternatives was issued as a result of the report that Nathan L. Jacobson & Associates had submitted in 1995.

Councilman Cavagnero expressed his concern regarding the lengthy timeline permitted to WLSL to figure out a solution.

Mr. Wettemann explained that there were timelines in the original order but the process was lengthened as WLSL changed engineers and could not demonstrate hydraulic capacity. He stated that WLSL did pay some fines over that time period but he could not specify amounts.

Councilwoman Ruwet asked the DEEP representatives if the placement of the proposed line under the road made a difference in setting their recommendation.

Ms. Straut stated that sewer lines are safer in the road and added that the DEEP probably would not have approved it if it was in the watershed.

Councilman Simon asked what types of guarantees the City has in the event that a catastrophe happens.

Ms. Straut stated that Councilman Simon's question is better suited for WLSL and not DPH or DEEP.

Councilwoman Soliani asked Ms. Straut if she thought the DEEP's recommendation would be different if the State was funding the proposed project.

Ms. Straut stated that the DEEP's recommendation would stay the same if it was providing Clean Water funding.

Councilwoman Soliani requested clarification as to whether it is ultimately Torrington's decision to accept or deny any part of the proposed line in any route.

Ms. Straut confirmed that the decision is ultimately Torrington's.

Ms. Mathieu interjected to follow up on Councilman Simon's previously stated concern regarding safeguards for the proposed project. She explained that her Department's initial concerns have been addressed in the Order signed by Commissioner Pino and informed the Council that there will be annual reporting requirements to the DPH if the project moves forward.

Councilman Simon asked whether TWC appealed the DPH Order.
Ms. Mathieu confirmed that TWC did not appeal the Order.

Mayor Carbone asked whether the time to appeal the Order has expired.
Ms. Mathieu confirmed that the time to appeal the Order has expired.

Mayor Carbone read aloud questions from the public that were submitted to the Council and solicited responses from the appropriate State agencies. Ms. Straut, Ms. Mathieu, and Atty. Keenan responded to some of the public's concerns regarding a number of variables including transmission piping, usage permits, soil types, and risk mitigation.

Kathryn Keenan, Esq. informed the Council that under the DPH Order, WLSA will be required to submit annually on or before March 1 evidence of liability insurance for DPH review and approval.

Mayor Carbone requested clarification as to whether there will be ongoing oversight through DPH on the proposed project.

Ms. Mathieu confirmed that there will be ongoing oversight by the DPH which will involve annual mock spill response drills in addition to the required liability insurance and annual reporting requirements.

Councilman Cavagnero asked Ms. Straut if any of the lines going through CT watershed areas have failed in any of the places that she referenced in her earlier remarks.

Ms. Straut stated that none of the lines have failed.

Councilman Cavagnero asked Ms. Straut if she was aware of the failures reported in *The Register Citizen* approximately six months prior.

Ms. Straut stated that those systems are completely different from the one being proposed and that those systems are expected to overflow when it rains.

Councilman Cavagnero asked if it is safe to say that no matter how well engineered a system is, that it cannot possibly be as safe as not building one at all.

Ms. Straut agreed.

QUESTIONS FOR CITY STAFF

Mayor Carbone read aloud several remaining questions from the public that were submitted to the Council and solicited responses from Water Pollution Control Administrator Ray Drew. Mr. Drew addressed the public's concerns regarding capacity, catastrophe mitigation, and logistical considerations surrounding the potential Inter-Municipal Agreement (IMA).

Mr. Drew stated that Torrington's sewer system would have the capacity for growth of about 8,400 homes, even after considering WLSA.

Mr. Drew stated that the City does not yet have a formal mitigation plan, but has the necessary extraction equipment if a spill occurs.

Mr. Drew stated that negotiating the IMA prior to the proposal's approval would have been premature and a squandering of resources.

PLANNING & ZONING

Councilman Cavagnero expressed his concerns as they pertain to Planning and Zoning (P & Z) regarding the impact of the proposed connection on the City's reserve capacity and property values, in the event that a spill occurs.

Planning and Zoning Commissioner Greg Perosino informed Councilman Cavagnero that his questions are out of the realm of P & Z. He explained that P & Z refers to WPCA in matters concerning capacity and stated that Mr. Drew's build-out capacity estimation of more than 8,000 homes is well over what is currently being presented in terms of development.

Councilman Rubino asked if the position of the piping going through the watershed was reviewed by the Inland Wetlands Commission.

Atty. LaMere confirmed that it was.

Mr. Perosino clarified the DPH's comment that all of the other noted transmission lines in CT that are going through reservoirs and watersheds were done primarily to mitigate existing pollution problems and reminded the Council that a water pollution problem is exactly what WLSA is currently facing.

WLSA REBUTTAL

Mayor Carbone invited Atty. Christopher Smith to present WLSA's closing comments.

David Prickett began WLSA's rebuttal by explaining that the proposed project is a waste water transmission system and not a sewer extension. He contested statements made regarding peak flows and inadequate maintenance of WLSA's current system and highlighted some technical elements that have been incorporated into the proposed project.

Councilman Rubino asked when WLSA incorporated the design enhancements through the Allen Dam Reservoir watershed into their proposal.

Mr. Prickett explained that the proposed double pipes with the vaults at the culvert were part of the proposed project prior to the Inland Wetlands Commission applications in both Torrington and Goshen. He stated that there have been additional design enhancements relative to the floats and the SCADA system along the way as a result of the DPH order and public commentary over the last year and a half.

Atty. Smith stated that WLSA incorporated recommendations from TWC into their proposal even before it went to the DPH.

Counselor Cavagnero questioned what a SCADA system is.

Mr. Sheehan explained that SCADA is an acronym for Supervisory Control and Data Acquisition and is an electronic automation system to monitor any water or waste water system. He added that the SCADA system referenced in WLSA's proposal would be an additional component tied to Torrington WPCA's and WLSA's existing SCADA systems.

Mr. Sheehan expressed his understanding of the emotions that go in to clean drinking water, but urged the Council to focus on the facts. He contested many of the comments made throughout the Public Hearing process. He explained the meaning of a sewer avoidance area, informed the Council that WLSA is a public not-for-profit entity and not a private community, and stated that all proposed sewer line routes run through some type of drinking water supply.

Mr. Sheehan identified the Allen Dam Reservoir as a back-up water supply for TWC and stated that TWC would still have well beyond the amount of water needed to serve Torrington residents if the Allen Dam Reservoir was removed from service. He substantiated his statements by displaying an aerial image of the Allen Dam Reservoir when it was drained completely for service in 2014. Mr. Sheehan also stated that the Allen Dam Reservoir is not pristine.

Mr. Sheehan stated that the IMA will delineate the operation and maintenance requirements of each utility, described TWC's emergency response plan as very robust, and stated that the procedures for spill reporting are currently being looked at in the State Legislature.

Councilwoman Ruwet asked where the legislation is at this point.

Mr. Sheehan stated that the Environment Committee has moved it to the floor for the Senate and Representatives to vote on.

Councilman Cavagnero requested clarification as to whether TWC would be responsible for the mitigation of a spill.

Mr. Sheehan clarified his remarks saying only that TWC has an emergency response plan to respond to spills to protect their watershed.

Councilman Cavagnero asked how current the model is that was used for calculating TWC's water reserves, should the Allen Dam Reservoir be removed from service.

Mr. Sheehan stated that the calculations were drawn from a memo from TWC dated November 16, 2016.

CONCLUSORY STATEMENTS

Atty. Smith delivered his conclusory statements, addressing concerns pertaining primarily to issues of capacity and public health.

Atty. Smith summarized the extra design measures that have been incorporated in to the proposed line, as well as some of the important facts associated with the Allen Dam Reservoir.

Mr. Smith stated that the proposed project has been reviewed by many entities, including the USDA, the DEEP, the DPH, Woodard & Curan, and City of Torrington personnel, and no one has said that it cannot be done. He ensured the Council that much of the logistics will be addressed with the IMA and stated that the last thing WLS D wants to do is pollute anyone's drinking water.

REQUEST FOR EXTENSION

Mayor Carbone requested that WLS D agree to allow Torrington WPCA an extension of time within which to render its decision to approve or deny the proposed sewer transmission line to the City of Torrington's existing sanitary sewer system.

Atty. Smith, acting on behalf of his client the Woodridge Lake Sewer District, consented to an extension of the statutory time period to March 20, 2018.

Meeting Closed

Mayor Carbone declared the public hearing closed at 9:05 p.m.

Respectfully Submitted by:
Jonathan R. Draper
Asst. City Clerk

ATTEST:



CAROL L. ANDERSON, MMC
CITY CLERK