

APPROVED

BOARD OF FINANCE

Minutes

March 14, 2013

CALL TO ORDER

Chairman Hammers called the Board of Finance meeting to order at 7:05 p.m. at the Town Hall, Trumbull, Connecticut. All those present joined in the Pledge of Allegiance.

PUBLIC COMMENT

Cindy Katske
129 Meadow View Drive

Feels that there was a lack of transparency regarding:

- Decision to separate the sewer related costs from the non-sewer related costs. Wants to know where it is documented.
- WPCA decision to spend a large portion of funds authorized for sewer items on non-sewer items without seeking approval from the Town Council or the Board of Finance.
- Addition of Tighe & Bond costs to the assessment cost of the project when they were initially omitted by the WPCA.

Members present and absent as follows:

PRESENT

Paul Lavoie
Andrew Palo
Cindy Penkoff, Alternate
Susan LaFrance, Alternate
Tom Tesoro (arrived @ 7:15 pm)
Vincent DeGennaro, Alternate
Elaine Hammers
Dave Rutigliano

ABSENT

Steve Lupien

Also present: First Selectman Timothy M. Herbst, Maria Pires, Finance Director; James Henderson, Auditor; John Ponzio, Treasurer; John Marsilio, Director of Public Works; Graham Bissett, Building Official; Suzanne Burr Monaco, Town Clerk; Elaine Wang, Chief of Staff; Frank Smeriglio, Town Engineer; Attorney Dennis Kokenos; Karen Egri, Chairman WPCA; Laura Pulie, WPCA; Tim Hampford, WPCA.

Chairman Hammers indicated that Mr. DeGennaro would be voting for Mr. Lupien.

F/Y/E 2013 SUPPLEMENTAL APPROPRIATION

3-13-01	Graham Bissett Building Official	FROM: AVAILABLE FUND BAL TO: #01023200-501102 Salaries-PT Part time Building Inspector was budgeted for 832 hours but should have been 1,014 hours (19.5 hrs. per week)	5,067 5,067
---------	-------------------------------------	--	--------------------

Mr. Lavoie moved, seconded by Mr. Rutigliano, to transfer \$5,067 from the Available Fund Balance to account 01023200-501102 Salaries-PT.

Mr. Bissett indicated that the part time position was budgeted for 832 hours; however, it was increased to 1014 hours and the difference not included. These hours are to finish off this year.

Vote: 6-0-0 Motion carries

F/Y/E 2013 SUPPLEMENTAL APPROPRIATION

3-13-02	Suzanne Burr Monaco Town Clerk	FROM: AVAILABLE FUND BAL	11,201
		TO: #01013600-522205 Program Expenses	1,201
		TO: #01013600-522204 Services and fees-contr	10,000
		For Muni Code updates not anticipated and Cott System audits	

Mr. Lavoie moved, seconded by Mr. Tesoro, to move \$11,201 from the Available Fund Balance to #01013600-522205 Program Expenses \$1,201 and # 01013600-522204 Services and fees-contr \$10,000.

Mrs. Burr Monaco indicated that COTT is a records management system. Their billing system has changed, so we are now being billed monthly, and we currently owe 18 months, since they billed on an annual basis. In addition, we usually have only 1-2 Muni Code updates per year and this year we had 4.

Vote: 6-0-0 Motion carries

F/Y/E 2013 TRANSFER

3-13-03	Suzanne Burr Monaco Town Clerk	FROM: #01013600-534402 Program Supplies	455
		#01013600-545501 Legal Notices	2,000
		#01013600-556601 Prof Seminars	300
		#01013600-578803 Maintenance/Rep Program	200
		TO: #01013600-522205 Program Expenses	2,955
		For shortage in the account due to Muni Code updates #27-#30 not anticipated	

Mr. Lavoie moved, seconded by Mr. Tesoro, to move \$455 from #01013600-534402–Program Supplies; \$2,000 from #01013600-545501–Legal Notices; \$300 from #01013600-556601–Prof Seminars; \$200 from #01013600-578803–Maintenance/Rep Program to #01013600-522205–Program Expenses.

Mrs. Burr Monaco indicated that they send us 70 copies that we distribute so books can be updated. In addition, the Municipal Code is also posted to our web site.

Vote: 6-0-0 Motion carries

F/Y/E 2013 TRANSFER

3-13-04	Elaine Wang Chief of Staff	FROM: #01013800-511160 Contingency	1,288
		TO: #01012600-501101 Technology-Salaries-FT	1,288
		To upgrade IT Director	

Mr. Lavoie moved, seconded by Mr. Tesoro, to move \$1,288 from #01013800-511160–Contingency to #01012600-50110–Technology-Salaries-FT

Mrs. Wang indicated that there was a change in the job description and now will be paid from one account, not 2; a portion was coming from Emergency Management.

Vote: 6-0-0 Motion carries

F/Y/E 2013 TRANSFER

3-13-05	Maria Pires Finance Director	FROM: #01011000-501101 Finance-Salaries-FT	6,800
		TO: #01011000-522202 Finance-Service & Fees Professional	6,800
		Professional services required for the budget process due to Accounting Manager's vacancy	

Mr. Lavoie moved, seconded by Mr. Palo, to move \$6,800 from #01011000-501101-Finance-Salaries-FT to #01012600-50110–Technology-Salaries-FT

Mrs. Pires indicated that due to a vacancy in the department, part time assistance was required to assist with the preparation of the budget.

Vote: 6-0-0 Motion carries

Town Treasurer’s Report – John Ponzio

Mr. Ponzio presented his report:

- We are on target for the YTD budget.
- We received 3.5 million towards the THS renovations. That brings us to 10 million over the last 6 months.
- The Feds indicated that they will continue to hold rates low through 2015, which will influence budgeting for next year.
- We are at 12% right now with government backed securities; we are currently earning 2-3%.
- Pension Fund balance is currently in excess of \$22 million as of February 15, which represents an increase of \$1.5 million since December 31.

- During the 4th quarter, we had over \$263,000 positive cash flow in our Pension Fund. The Pension Board is not recommending any changes at this time.
- The First Selectman recommended that the town pension be funded at its ARC -- actuarially recommended contribution of \$4,576,000; an increase of \$800,000 for the next fiscal year.
- We may want to look at funding the Police Pension next.
- Benefit will come when we let the bond rating agencies know we have met our ARC and we are serious about correcting the problem.
- We made \$2.5 million in bond payments this month.
- Town pension is funded at 27% and the Police are funded at 56%.

Internal Auditor's Report – Jim Henderson

Mr. Henderson presented his report:

- He will have the Special Funds Audit completed by the end of the month for next month.
- Blum Shapiro wants us to close all agency funds that we do not use; asking us to close as many as we can.
- In connection with the Time and Attendance Audit, he has been reviewing time sheets, and it all depends on the accuracy of the input person. There are addition mistakes, transpositions and wrong code errors.
- Audit Plan for next fiscal year: Remaining projects from this year will be rolled forward and can vote on final plan in June.

The Chair asked Mr. Henderson to submit the status on the outstanding items and e-mail to the Board of Finance members.

Mr. Palo asked if the managers are signing off on the time sheets. Mr. Henderson indicated that they are, but there are still errors; they should be proofed before they input and he has been assisting with the timesheets. The Chair asked if we are looking into an automated system, and if not, was it a question of money. Mrs. Pires indicated that we are looking into it; however, we have not been able to automate the system since it needs to be integrated with Munis or we will be duplicating efforts.

Meeting recessed at 7:35 pm and reconvened at 7:45 pm

WPCA – North Nichols Sewer Project – First Selectman Timothy Herbst;
John Marsilio, Director of Public Works; Frank Smeriglio, Town Engineer

First Selectman Timothy M. Herbst spoke regarding the **North Nichols Sewer Project**, introducing members of the W/PCA—Chairman Karen Egri, Laura Prulile and Tim Hampford—as well as employees John Marsilio, Director of Public Works and Frank Smeriglio, Town Engineer; Attorney Dennis Kokenos.

He wants everyone to:

- Understand what is going on with this project.
- Become fully aware of all issues and history before and after.
- Be aware of the costs associated with the project and previous project.

The Contract IV project began in 2009 in North Nichols by soliciting bids, which almost immediately followed the Contract III project. The Contract III project affected 735 homes in the Jog Hill area whereas the Contract IV project affects 960 homes in the North Nichols area.

In the spring of 2009 when Contact III project was complete, several residents attended town meetings and expressed concerns over the assessments and quality control issues, since there road that were cracking and sinking. The assessments were not set in 2009, and at the same time Contract IV was bid and was set into motion in the fall of 2009. The members of the WPCA that First Selectman Herbst appointed were required to come into a situation where they had to set assessments for a project not under their supervision and assume control of a project where they and not been previously involved in the planning.

First Selectman Herbst indicated that he wanted to discuss what constitutes a sewer cost and what constitutes a capital cost and which costs should be borne by the rate payer and which should be borne by the town.

First Selectman Herbst went on to discuss that he has heard the roads paved under Contract IV are inconsistent with the previous sewer practices. He indicated that the town's position is that we should pave once, pave it correctly, and thereby ensure that it will have a 25 year useful life.

The power point presentation illustrated the difference in quality control with Contract III and Contract IV

- Coral Drive – depicts a storm drain that has been paved over.
- Country Club Road - area has significant sinking and road is less than 5 years old.
- Heatherfield Drive – road is not yet 5 years old and looks as if it has passed its 25 year useful life
- Daniels Farm Road – heavily traveled by residents and has 3 schools on it; it has considerable sinking and settlement.
- Shelton Road, contract IV – this articulates the difference from Contract III; curbs have been rehabilitated and there are new storm drains and catch basins, ensuring the road will have a 25 year life consistent with the paving practices that we have used when we have paved roads through the operating budget, complete reclamation of the roads with the use of proper compaction to keep roads from settling.
- Booth Hill Road - complete reclamation and curb rehabilitation; you can clearly see the difference in the quality of the paving.
- Both Contract III and Contract IV were the largest sewer expansion projects that the town has ever undertaken--735 homes in the Jog Hill area and 960 homes in the North Nichols area.
- Do you want to repeat the same mistakes of the past or do you want to make sure when you pave these roads that they have a 25 year useful life so you can address some of the other capital needs of the town.
- Stonehouse Road was paved as in the past and now needs to be redone at the tax payers' expense once again.

Mr. Smeriglio, Town Engineer and Sewer Administrator spoke on the following:

- Currently 99% of the sewer mains have been installed
- We started to restore some of the easement areas that were completed last year
- In the spring, we need to evaluate all of the storm drainage and roadways
- We paved the main roadways this year: Shelton Road, Huntington Turnpike, and Booth Hill Road.
- When evaluating roads, there are 3 different solutions :
 - Remove 2" of asphalt and install new asphalt (Huntington Turnpike)
 - Reclaim the road by grinding asphalt and process and then grade the road to match the finished portion. (Booth Hill Road)
 - If completely destroyed, dig out the asphalt along with 8" underneath to remove all the material and bring in another 8" of process and then 3-5 inches of asphalt. (Shelton Road)
- We also need to evaluate the drainage and recommend upgrades or replacements. You can't upgrade all of them but you have to at least look at them and make recommendations.
- The biggest hurdle is the roadwork and you can't use just one solution for the roads or you will have a problem in 5-6 years.

Table 1—(See Attachment 1, attached hereto and made a part hereof)

- This is a snap-shot of where we stand as of 2/26/2012.
- Column 1 – Total Anticipated costs \$36,981,678, recommendation he has made --includes sewer work, drainage upgrades
- Column 2 – Total paid as of 12/31/2013—\$29,566,364
- Column 3 – Unpaid retainage – funds we hold back on a contractor
- Column 4 – Anticipated remaining unpaid balance —\$7,475,314
- Column 5 & 6 – WPCA portion and Town portion of costs

You must separate sewer and street upgrades that are unrelated to the sewer project. You must also consider what constitutes a property benefit for residents.

Board of Finance – Minutes – March 14, 2013

First Selectman Herbst addressed the following:

Under what authority does the WPCA have to in their judgment segregate the sewer costs from capital costs?

He asked that Sec.7-249 of the Connecticut General Statute, which discusses the Assessment of Benefits, be made a part of the record. (See Attachment 2, attached hereto and made a part hereof). He read into the record:

“At any time after a municipality, by its water pollution control authority, has acquired or constructed, a sewerage system or portion thereof, the water pollution control authority may levy benefit assessments upon the lands and buildings in the municipality which, in its judgment, are especially benefited thereby, whether they abut the sewerage system or not ...”

The First Selectman went on to point out that the statute by these words “At any time after a municipality, by its water pollution control authority” does not separate the municipality from its water pollution control authority, but rather it can be interpreted as the WPCA acts on behalf of the municipality.

He went on to add that the statute is very clear when it says “may levy benefit assessments upon lands and buildings in the municipality which, in its judgment...”. That language is very clear. It provides the WPCA, and only the WPCA, with the statutory authority to determine what is a proper assessment based upon the sewer benefit being provided to the homeowner.

Selectman Herbst indicated that when we talk about transparency, and honoring statutory obligations and following the letter of the law, and despite the fact that the statutes are very clear as to the WPCA’s discretion, a legal opinion from our Bond Counsel, Attorney Joseph Fasi, which provided further clarification, was sought before the WPCA set any assessments

He asked that the letter from Attorney Joseph Fasi, Bond Counsel for the Town of Trumbull, dated October 16, 2012, be made a part of the record. He then read the entire letter into the record. (See Attachment 3, attached hereto and made a part hereof).

The First Selectman then went on to explain that every sewer project from the inception of the installation of sanitary sewers in the town of Trumbull was financed by the Town of Trumbull through General Obligation Bonds that required the approval of the Board of Finance and the Town Council.

The WPCA cannot borrow money on its own and then determine how to pay it back. They use the full faith and credit of the Town as a municipal corporation to borrow the money and they in turn by their statutory authority determine how much revenue they are going to collect to pay for the sewer benefit to offset the cost incurred by the municipality in borrowing the money and approving the Bond Resolutions.

Therefore, when people ask “where is the authority derived”, it is codified in the Connecticut General Statutes and if there was any question about it, despite that statutory authority, the Board and the Town Council with that authority when they approved the General Obligation Bonds.

First Selectman Herbst then entered into the record a copy of the August 13, 2009 Board of Finance Minutes (See Attachment 4, attached hereto and made a part hereof).

He went on to note that the Board met on August 13, 2009 to act on the bond resolution and bond counsel was present. On page 2 of those minutes, there was a very brief discussion regarding the initial bond authorization for Contract IV. As indicated in the minutes that were approved by the Board of Finance, Mr. Crooks who was on the Board at the time asked a series of questions as they related to the bid because there were concerns raised with the previous bid on Contract III. That project was initially bid at \$15,000,000 on Contract III and concluded at \$21,000,000. The First Selectman noted that there is a pattern of cost over runs with these projects. After the questions were answered the Board of Finance then approved the bond resolution.

First Selectman Herbst then entered into the record a copy of the September 9, 2009 Town Council Minutes (See Attachment 5, attached hereto and made a part hereof).

He went on to note that the Town Council met September 9, 2009. At that meeting, Resolution TC22-222 was presented and the Town Council approved an additional \$25,540,000 for the completion of the Contract IV project. In addition, they also voted to make this emergency legislation, which expedited the approval which in turn expedited the construction.

First Selectman Herbst indicated that he was entering this on the record so that when people question – **What authority the WPCA had to act on this** – it is significant to point out that a previous WPCA brought this request for a Bond resolution forward and there were bodies of the Town that acted on it.

At the time, there was no discussion in the minutes about contract documents or design specifications, or whether or not there was oversight on the project adequate to address the problems that had already been identified in Contract III.

This was all finalized in the meeting of September 9, 2009; shortly thereafter, newly appointed members of the WPCA had to step-in and assume their roles in the largest capital project involving the expansion of sewers on a contract that they did not have a role in drafting, did not help review or implement and put on the street, and did not have the opportunity to review the dig documents and assess the design documents for to see if the problems connected with Contract III were addressed in Contract IV.

This is why there are so many questions being raised about what can be extracted as capital costs benefitting the entire town and sewer costs paid for through an assessment.

First Selectman Herbst entered into the minutes a letter dated March 13, 2013 from Frank Smeriglio, PE -Town Engineer regarding the Stonehouse Road Project as an example of what should be included. (See Attachment 6, attached hereto and made a part hereof).

Mr. Smeriglio indicated that in 1993, 1999 and 2003 three sewer projects occurred on Stonehouse Road as part of larger projects. The cost to install sanitary sewers was \$927,000 and included asphalt in the sanitary sewer trench and asphalt overlay over the entire road. In 2011, the Town implemented a roadway reconstruction project on Stonehouse Road, due to infrastructure deficiencies. The project included sanitary sewer repairs, storm drainage repairs and full depth roadway reclamation/paving. The cost for the sanitary sewer improvement was \$300,000 and for storm and roadway improvements \$1,100,000.

First Selectman Herbst indicated that this was germane to the discussion because as a matter of policy we are committed to the principal that if we pave a road we should pave it once, pave it correctly, and thereby ensure that it will have a 25 year useful life.

This is why the taxpayers of Trumbull were required to pay for the paving of Stonehouse Road twice. Under the 75% / 25% formula, which has never been made part of any municipal ordinance and is considered an unwritten rule, the taxpayers covered 25% of the \$927,000 and 100% of the \$1,100,000 incurred 10 years later.

With respect to Contract III, we are currently involved in litigation with the contractor and if we do not prevail or get the \$9 million should we reassess the residents of Jog Hill and give them a second assessment to fix the roads in Contract III or should this expense be borne by the entire town?

First Selectman Herbst indicated that there are currently 5 members on the WPCA. Mr. Palo asked if the town side \$10.7 million was approved by the Board of Finance or the Town Council.

First Selectman Herbst indicated that the bond funding was approved by the Board of Finance and the Town Council. You need to approve the bond resolution before you can to out to bid; the funding must be in place. He went on to add that this will not happen again since the Charter has been changed. Now, if a capital project is in excess of \$15,000,000 it must go before the people.

Mr. Lavoie asked how long will the litigation for Contract III will take. First Selectman Herbst indicated that we are trying to work within the legal system to see if the Town can be made whole and get the defects fixed. If there is no settlement we will then have to decide how we will pay for this.

Mr. Lavoie asked why we went ahead with Contract IV using the same contractor as Contract III based on all the problems we were having with the Contract III work. First Selectman Herbst indicated that the first thing he did when he took office in 2009 was to have the attorneys review Contract IV. There was no way to break the contract without exposing the town to damages and breach of contract and the costs that would be associated with that.

The town already knew that there were problems with Contact III. The Jog Hill Road residents were complaining and were very dissatisfied with the work and assessments; however, despite the complaints and problems, the decision makers at the time decided to proceed with the same design team, the same contractor and same level of oversight. So, we needed to make a decision, since it was too late to back out of Contract IV. Either we repeat what happened in Contract III or make the necessary changes to insure that the same problems would not occur on Contract IV. Therefore, we commissioned a forensic audit on Contract III and the following was determined:

- We did not have the proper oversight.
- Contracts were not properly designed or bid.
- As a result of the above-mentioned, there were a lot of change orders and cost overruns.

Therefore, based upon the results and recommendations of the audit, and the observations of the Public Works Director and the new WPCA, it was determined that a project of over \$30 million needed the same type of quality of oversight as the project of \$66 million at 72 Strobel Road–Trumbull High School–and that is why we brought in Tighe and Bond.

Mr. Tesoro addressed the following WPCA members who were present: Mrs. Egri, Chairman, Mrs. Pulie, and Mr. Hampford. He asked if they were aware that the bonded resolution was \$34 million, and if so, how could they spend an additional \$2.5 million without coming back to the Board for authorization. He asked for an explanation as to why they did not come back to the Board of Finance.

Mr. Hampford indicated that when they came onto the project they looked at what needed to be done and realized that additional road work was going to be needed on Contract III and IV. Mr. Marsilio and the First Selectman came up with a plan to address that. The discussion was let's do it right and let's do it together.

Mr. Hampford added that his concern was that we were not going to put in a dime more than we told the folks on the assessments. In my mind the money was coming from the town. Frankly, I was worried about the WPCA budget and wanted to stick to what we told the folks. Mr. Marsilio came up with a sound plan that made sense on how to use the money; we knew the town was going to put in some money and I look at it as we are spending the money.

Mr. Tesoro went on to add that he does not believe that any Board or Commission has the authority to spend money without coming to the Board of Finance or the Town Council. Mr. Hampford indicated that the WPCA is an Enterprise Fund and operates under a different set of rules. Mr. Tesoro indicated that his issue is that they have gone over budget and now you are going to come back to us after the fact and ask us to fund it. We have the authority to refuse to pay it, but realistically do we have that choice? If so, what are we are going to tell you – to do a lousy job – not to do it – to do it correctly.

The Chair asked if all the funds have been expended and was told no. She is looking at \$36 million of which \$34 million the Board has already approved. So the WPCA has not exceeded the approved amount yet. They are telling us that this is what we need and we are going to have to come back to us. This isn't the first time that something has gone over budget.

Once again, Mr. Tesoro indicated that they should have come to us when they knew they were going to need the additional funds. By doing it this way, we have no choice in the matter.

Mr. Marsilio indicated that this was a moving target; the original bond was for \$27 million and we came back and asked for an increase to \$30 million when we got into the project and realized we needed oversight. Then we found all the sins; we had to fix the chimney for \$1.5 million and then we found a problem with Shelton Road and we came back for \$34.5 million. So now here we are with accumulated costs; currently we have \$1million in extras that we are negotiating; we are giving you our best estimate of what this project is going to be and hopefully it won't be this high. We are probably going to ask you to go up to the \$2.5 million. This project had an amalgamation of problems; this was the first project in the Town of Trumbull that had proper permits from the Army Corps of Engineers that cost nearly \$100,000. As we knew about the expenses the WPCA came back to the Board each time. We have not yet spent the \$2.5 million.

Mr. Tesoro indicated that the original concept of sewers came about when the septic systems in town began to leach into the water supply. So they came up with a plan and because all citizens would benefit from clean water the town came up with the 75/25 system.

He went on to add that when you make a large change, the Board of Finance should have been advised. You had an obligation to advise us once you had the knowledge that there was going to be such a large material change.

Mr. Marsilio asked what he should advise him of if the project is finished at \$34 million. Mr. Tesoro indicated that the 75/25 should then be changed to reflect this.

Mr. Marsilio went on to add that when he made the decision to assume the project, the paving line item changed by \$1.8 million in savings, which is very close to the \$2.5 million. He indicated that he imposed this overage on the WPCA.

Mr. Tesoro went on to indicate that the residents should have been made aware once this decision was made.

The Chair indicated that we pay the bond at 25/75 and that at some point we did not actually pay 25%. That is because we provided in-kind services. It was finally formalized and the bond debt was split in the budget. The in-kind services were charged back to the project and then the 25/75 was applied.

The Chair then pointed out that all of this was done without coming back to the Board of Finance. The point is, she stated, that policy changes do not always come back to the Board of Finance. She went on to add that she does not feel that the WPCA overspent their budget yet; however, they will have to come back to the Board of Finance if they have a projection that it will exceed their budget.

The Chair continued that it would have been nice if they had clarified to us the policy was changing and why. If we are going to do a road for the benefit of everyone it isn't fair to charge those who are having the sewers put in.

Mrs. Penkoff indicated that she cannot believe Contract IV was approved given the mess with Contract III. She does not believe that they are over budget as yet and that they will have to come back to the Board. Mrs. Penkoff added that she believes that roads benefit everyone and is agreement with the policy change. She also asked if Tighe and Bond is included in the bonding or was approved separately. Mr. Marsilio indicated that it is in the bonding.

Mr. Marsilio went on to add that the overage is comprised of a multitude of items. This project from the very beginning was never a \$27 million project, and yet it was accepted and it went forward. In his 5 year Cap X plan that has been approved, you will see all the roads in Contract IV and he is asking for enough bonding authorization for all of the roads to be funded. He knows that he won't need bonding for all of the roads, that a portion of it will still be a part of the initial funding. He can't tell us what portion is going to be over and above the \$34 million.

Attorney Kokenos indicated that he needed to clarify the 25/75, by reading from the statute. A follow-up question to the **What authority the WPCA had to act on this** is **What obligation does this statute incur on these people** because it also restricts their ability for what they can get regardless of what the Board of Finance or the Town Council says, since they can only do and assess a certain way and the revenue from the assessment can only be used for construction of a sewer system. They have an obligation to make sure that all of the costs that are going toward the assessment are only for the construction of the sewer system.

This is not just a sewer project and it is important to know that the statute imposes restrictions. If you spend 50% on the sewers and 50% on the road, then the split is 50/50.

The Chair indicated that the sewers and road work were split 50-50; when the town goes to pay the bond and the cost of that sewer, we split it 75% to the people getting the sewer and 25% to the general obligation bond.

Mr. Tesoro indicated that based upon what Attorney Kokenos said, the WPCA can do whatever it pleases, as long as they follow the rules. Attorney Kokenos indicated that this was incorrect.

First Selectman Herbst indicated that he previously referenced statute 7-249 and he would like to reference another part, and read the following into the record:

“Revenue from the assessment of benefits shall be used solely for the acquisition or construction of the sewerage system providing such benefits or for the payment of principal of and interest on bonds or notes issued to finance such acquisition or construction. No assessment shall be made against any property in excess of the special benefit to accrue to such property.”

The First Selectman paraphrased Mr. Tesoro’s concern, as follows:

“The WPCA went ahead and completed a sewer project and made a decision to pave roads in conjunction with that sewer project and in your opinion exceeded their authority because the funding was not in place.” Mr. Tesoro indicated that is correct, up to the last part.

The First Selectman then continued: “The WPCA should have come back to the Board of Finance and told them it was going to cost \$36,000,000 instead of \$34,000,000 or given the Board of Finance a “guestimate” before they made the decision to do that. Mr. Tesoro replied, “That’s part 1 of 2, yes, but I will let you finish.”

First Selectman Herbst continued, indicating that this is where they disagree, because his reading of that statute tells him that they have already come to Board of Finance and asked then for the money that directly relates to the installation and construction of the sanitary sewer. He went on to add that when you say to the WPCA that they should come back to the Board of Finance to get authority for the additional road repaving, his position is that under the statute that is not their job; that is Frank’s job. And they are coming back to Board of Finance, with the Capital Plan, and telling them that the roads are in the Capital Plan. The roads are not their responsibility and, to a point that Commissioner Hampford just made, this 25/75 unwritten rule emanated many years ago when the projects were much smaller and it was easier to determine those costs.

Mr. Tesoro indicated that we were handed this and we had no choice in this matter, no logical sensible choice. The Chair then asked if that option would have changed if they had asked us 6 or 8 months ago, if it was logical and the thing we would need to do in order to do the roads the right way, to do this. Mr. Tesoro indicated that it was the process; that the representatives of the people should have had the chance to speak with us.

The Chair indicated that the Board of Finance needs to set-up regular updates with the WPCA, and First Selectman Herbst indicated that the scope of any projects will be held to \$15,000,000 or less.

DISCUSSION ITEMS

- Year to Date Budget to Actual Report – Expenditures FY 2013

Mrs. Pires indicated that the overtime accounts are over budget at this time. This has to do with the Storm Nemo; some of the expense will be reimbursed by FEMA; however, we don't know how much. In addition to this, Workman's Compensation may be \$200,000 short. Mrs. Pires indicated that some funds have been received from FEMA, but not for Storm Nemo.

APPROVAL OF MINUTES – February 14, 2013

Mr. Lavoie moved, seconded by Mr. Tesoro, to table the minutes of February 14, 2013 until the April 11, 2013 meeting.

Vote: 6-0-0

By unanimous consent the meeting adjourned at 9:26 p.m.

Respectfully submitted,

Phyllis C. Collier, Board of Finance Clerk