

**BOARD OF SELECTMEN
TOWN OF EAST WINDSOR
11 RYE STREET
EAST WINDSOR CT, 06088**

Minutes of Regular Meeting

Tuesday, August 6, 2013 at 7:00 p.m.

These minutes are not official until approved at a subsequent meeting.

I. Call to Order

First Selectman Denise Menard called the Regular Meeting to Order at 7:06 p.m. in the Town Hall Conference Room.

II. Attendance

Present:

Denise Menard, First Selectwoman
Alan Baker, Deputy First Selectman
Dale Nelson, Selectwoman
Richard P. Pippin, Jr., Selectman
James C. Richards, Selectman

III. Added Agenda Items

None

IV. Approval of Minutes

A. Regular Meeting of July 16, 2013

It was MOVED (Nelson) and SECONDED (Pippin) that the Board of Selectmen approves the Regular Meeting Minutes of July 16, 2013. Motion PASSED (4-0)
In favor – A. Baker, D. Nelson, R. Pippin and J. Richards; Opposed – None

B. Special Meeting of July 29, 2013

It was MOVED (Nelson) and SECONDED (Pippin) that the Board of Selectmen approves the Special Meeting Minutes of July 29, 2013. Motion PASSED (3-0)
In favor – D. Nelson, R. Pippin and J. Richards; Abstained – A. Baker

V. Communications

A. Congratulations to Luann MacIntosh for completing the CCMA-1A Assessment Administration requirements.

B. The Board of Selectmen, the ("Board") discussed the part time employees request for an increase in pay and suggested it be added to the next Board of Selectmen agenda. Mr. Pippin suggested getting comparison's from surrounding towns.

- C. First Selectman Menard reported that she met with Marie Letellier, East Windsor Director of The 175th Four Town Fair. East Windsor is the host Town for this year's fair. Mr. Pippin suggested the Selectmen add this to their next agenda.
- D. Selectman Richards made a motion to declare September 28, 2013 "Tour de East Windsor Day". Motion MOVED (Richards) and SECONDED (Nelson). In favor – A. Baker; D. Nelson; J. Richards and R. Pippin; Opposed – None.
- E. Ms. Menard read a letter from Mr. & Mrs. Daly regarding a project they would like to spearhead to honor past and present Selectmen. Ms. Menard will request an outline of the proposal from Cindy Daly.
- F. The Board discussed the pamphlet from the CT Water Company proposing a reduction in rates for their customers.

VI. Selectmen's Reports

A. Denise Menard

Ms. Menard distributed her report to the Board of Selectmen, attached hereto as Exhibit A. She requested adding the 2013-2014 Budget to the next Board of Selectmen Agenda. A letter from Mr. & Mrs. Fila was distributed, attached hereto as Exhibit B. The letter was sent to East Windsor's State Legislators, The Water Company, The Health Dept. and the DEEP. Hereto attached as Exhibit C, is a flyer from East Windsor's Electronic Waste Management Program listing items for disposal.

B. Alan Baker

Deputy First Selectman Baker was unable to attend the Veteran's Commission meeting but did report they have begun planning the Road Race, which will be held on November 8th. Mr. Baker did attend the Planning and Zoning meeting on July 23rd and reported they approved an auto body repair shop at 179 Main Street, Warehouse Point. They held a public hearing regarding 266 Main Street, American Forestry Projects, regarding an expansion on site but there were issues that could not be worked out so it will be discussed at the September meeting.

C. Dale Nelson

Selectman Nelson reported that the Broad Brook Fire Department will be having a burn drill on November 17th, most likely at the Fire Academy in Windsor Locks. They will be having a tanker drill coming up this weekend. A practical drill is scheduled for August 11th where they will be unloading water from the hydrants at the grammar or middle school. A hose test was held in June and it was determined 1200 feet of hose was lost for a total of 2000 feet lost in the past two years. They are hoping something can be done through the Capital Improvement Planning Program. The Insurance Services Office certification was last done in 2001 and it should be done every 10 years.

Ms. Nelson attended the August 5th Warehouse Point Fire District meeting and they had concern about the signing of correspondence. Ms. Menard reported that her office has started sending an electronic copy of all correspondence being signed so there will be no discrepancies. The Warehouse Point Fire District is waiting for their quarterly check.

D. Richard Pippin Jr.

Selectman Pippin attended the Water Pollution Control Authority ("WPCA") meeting on July 31st and reported there was an election of officers and there were no changes. There was discussion of a communication sent from a resident questioning the usage charge at the Easy Living Apartments in Broad Brook and the WPCA is working to resolve the issue. There are charges being billed for more units than the building has. The WPCA approved the Broad Brook Brewery which will be located at 2 North Road. Mr. Pippin reported JR Russo will be attending the Inland Wetlands meeting on August 7th to modify the route of the North Road Sewer Extension, Phase II project. The June flow was 64%. Mr. Pippin attended the Zoning Board of Appeals meeting on August 5th and reported there were two applications, one for a variance to a residents lot coverage and the other was an area requirement variance to add a porch to a property.

E. James C. Richards

Selectman Richards attended the National Night Out at Mill Pond Village on August 6th and reported it was a good event with a large crowd from both local businesses and the community. Mr. Richards stated the last time this event was held was in 2006 and they plan to make it a yearly event to involve the community. Mr. Richards stated he intends to be involved in the planning process in the future.

VII. Public Participation

- A. Linda Kehoe, Clerk in the Building Department, spoke on behalf of the Town's part time employees to request a salary increase. She stated they are all long term employees and are asking for recognition as employees who provide a tremendous service to the Town. They are not asking for an increase based on job description, it is simply a percentage increase. They have not received an increase in several years. On a separate issue, Ms. Kehoe stated the East Windsor Band will be marching in the Four Town Fair Parade and asked the Board to please approach the band for photos. Transportation for the band is no longer funded and her hope is with exposure they will receive funding.
- B. James Barton, Warehouse Point Fire District Chief, stated displeasure with the details of the July 29, 2013 Board of Selectmen special meeting.
- C. D. James Barton, of 158 South Water Street, voiced concern over large tree stumps in the area of 150-152 South Water Street. He stated the trees were cut down approximately two years ago and the stumps left an encroachment with a high grass area. Selectman Menard stated she would discuss the issue with Public Works.

- D. Kathy Pippin, of 37 Woolam Road, stated she believes the proposed medical marijuana facility is a great idea. It could help people suffering with cancer.
- E. Scott Morgan, of 106 South Main Street, raised concern over the Town's liability with the bucket trucks being stored overnight in the parking lot on Rye Street, adjacent to the Town Hall. Ms. Menard will address his concerns in her office.

VII. Board and Commissions Appointments

None

IX. Unfinished Business

None

X. New Business

Ms. Menard distributed a letter from the Town Attorney regarding the Long Term Expenditures of Town Funds Ordinance, hereto attached as Exhibit D. Mr. Richards stated his concern with specific articles in the Union Employee Contract.

XI. Budget Matters

Motion was made to accept tax refunds in the amount of \$3427.12 MOVED (Pippin), SECONDED (Richards). Motion PASSED (4-0) In favor – A. Baker, D. Nelson, R. Pippin, and J. Richards; Opposed – None.

XIII. Executive Session

None

XIV. Adjournment

Motion to adjourn, made by J. Richards, Seconded by D. Nelson at 8:32 p.m. The meeting was adjourned at 8:32 p.m.

Respectfully Submitted,



Heidi Vane
Recording Secretary

August 6, 2013

My report to the Board of Selectmen

I will start my report with a bit of good news - the Town has received the balance of Housing Authority 2011-2012 payment in the amount of \$13,478.01. Members of the Authority have asked to speak to the Selectmen at our next meeting regarding the 2012-2013 payment.

As you all have seen, the Broad Brook School crosswalk is being updated this week as the 2nd part of the sidewalk project we began in June. The island in front of the parking area next to Town Hall that is used by many of the teachers is being modified to encourage pedestrians to use the crosswalk rather than the unsafe crossing from anywhere in front of the parking lot that has been common practice. Sidewalks and the crosswalk on Windsorville Road from Park Hill to Main Street are also being updated. Finally, a new landing and a small additional sidewalk were added to the side entrance of Town Hall, an entrance that was identified as a tripping hazard by our Risk Management Committee. We now have a much safer side entrance into Town Hall.

Phase III of the Prospect Hill project is near completion with paving expected by the end of this week, possibly today. All that is left are a couple of front yards on Cricket Lane that need retaining walls and that should be done shortly.

I have been working closely with our State legislators and agencies regarding the change in the State's support of water filtration systems that residents across the State (with the most affected residents in East Windsor) need for longstanding well contamination. I've attached a copy of the notice sent to one of the homeowners. As you will see, the timeline given by the State (in my opinion) is not appropriate and at the very least, the length of time for residents to react to the State's notice should be extended. More to follow.

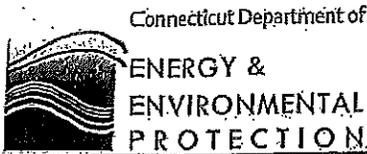
The Planner and I have been approached by a couple of possible businesses for the STR building. One is a company that wants to relocate to a larger facility and the second is a group applying for a license to produce medical marijuana. More to follow.

Funding for the Broad Brook School portable classroom project has been approved by the State of Connecticut/CREC. The Building Committee is scheduled to meet next Monday to go over the contactors' proposals and move the project forward.

The last of the 2012-2013 facilities maintenance/repair projects are near completion. Upgrading of some offices' lighting and a basic security monitoring system will be installed shortly and the updating of the Selectmen's office space is just about done. We were able to increase the work area to include a small workstation with a computer and storage that will be shared by the Human Resource consultant, the Custodian, the IT consultant and any visitor that needs a temporary work area. On a side note - we no longer need to hire a painter for such projects; it is the kind of maintenance now handled by our Custodian. He has also addressed some of our recent HVAC and plumbing issues. Good job Dan.

Finally, attached is a copy of an update to our electronic waste program. Enjoy the beautiful weather!

Danise Menard



Connecticut Department of

ENERGY &
ENVIRONMENTAL
PROTECTION

79 Elm Street • Hartford, CT 06106-5127

www.ct.gov/deep

Affirmative Action/Equal Opportunity Employer

Exhibit B
Received 7/19/2013
July 12, 2013

RECEIVED

JUL 26 2013

Mr. Jack Fila &
Ms. Elise Fila
31 Neiderwerfer Road
Broad Brook, CT 06016

Re: The Water Filtration Equipment Installed at 31 Neiderwerfer Road, East Windsor

Dear Mr. & Ms. Fila:

As you are aware, pursuant to Connecticut General Statutes (CGS) §22a-471, the Department of Energy and Environmental Protection (DEEP) funded, with then available appropriations, the installation of the Water Filtration System (the "System") on your property, located at 31 Neiderwerfer Road in East Windsor. After the System was installed by DEEP's contractor, DEEP continued to subsidize the monitoring of your System and also incurred the costs associated with replacing the filters on your System as necessary to keep it operating properly.

At this time, DEEP can no longer continue to provide financial assistance for the upkeep and monitoring of your System.

DEEP has been monitoring and maintaining your water filtration system using funds allocated to DEEP on an annual basis. Based on the current state budget for the fiscal year beginning on July 1, 2013, no funding has been appropriated for this program. In addition, the statute authorizing DEEP to install and maintain filter systems (CGS §22a-471) was recently amended, and effective July 1, 2013, DEEP no longer has that authority. As a result, monitoring and maintenance of your water filtration system will no longer be provided by DEEP.

Given these circumstances, there are two options available to you with regard to your System:

Option #1

The first option available to you is the removal of your System by DEEP. The Agency is under no legal obligation to provide for the removal of your System; however, DEEP is willing to remove the System as a courtesy. The removal of your System would be performed by DEEP's contractor at no cost to you.

It is important that you understand that the most recent monitoring data from DEEP shows that the concentration of pollutants in your well exceed what the Department of Public Health considers protective over the long-term. Therefore, if you choose to have DEEP remove the System, you should take your own measures to provide clean drinking water (for instance, install/maintain a filter, or use bottled water), as well as to monitor the water quality.

Option #2

Your second option is to keep your System. DEEP will not be responsible for any future expenses related to your System, including, but not limited to, maintaining all of the water filtration equipment, future inspections, repairs, and maintenance costs. DEEP will no longer perform maintenance of any kind. Additionally, the selection of this option shall preclude any future claim or request for the removal of your System by DEEP.

It is imperative that you inform DEEP of the option you have chosen. **Please fill out the attached form and mail it back to DEEP no later than three weeks from the date of this letter.** Please note that if we do not receive a response to this letter, DEEP will not be able to arrange for the removal of your System and will assume you wish to keep it. ~~Please note, neither option shall be~~ interpreted to waive the State of Connecticut's sovereign immunity rights.

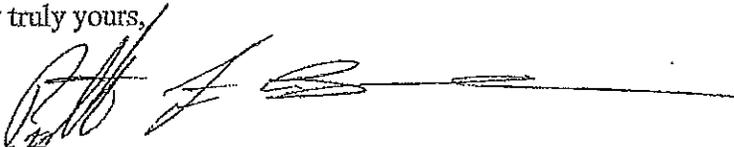
Whether or not you choose to keep the System, please review the DPH *Well Water Fact Sheet* and the DEEP *GAC Fact Sheet*, to help you understand the importance of proper testing and maintenance of your well water and water treatment system. The DPH *Well Water Fact Sheet* is useful even if you choose to have the System removed.

Based on our records, DEEP has been collecting water samples from your drinking water well on a periodic basis, and analyzing those samples for volatile organic compounds using EPA test method 524.2. DEEP recommends that you continue monitoring your drinking water for these substances on an annual basis for the purpose of determining when a filter may need to be replaced.

In addition, if you chose to keep the System, DEEP recommends that you have the filter media replaced when future monitoring data indicates that breakthrough is occurring through the filter system (for explanation on "breakthrough" refer to the attached *GAC Fact Sheet - Why Do GAC Filter Systems Need to be Monitored?*). Also, you should consider replacing the filter media every three to five years as a precaution for bacteria potentially accumulating in the filter system. There are several qualified companies located throughout Connecticut that specialize in well water treatment systems that can assist you in determining the best filter maintenance schedule for your System.

If this is a rental property, please provide a copy of this information to your tenant(s). Should you have any questions, comments or concerns in conjunction with this letter, please contact Thomas O'Connor of my staff at 860-424-3769.

Very truly yours,


Patrick Bowe
Director, Remediation Division
Bureau of Water Protection & Land Reuse

Enclosures

7/23/13 Copy: Michael A. Piro, MPH, MPA, RS, Director of Health, North Central District Health Department

Pat. 745-0383

Chris Davis, Rep. House # Senate²



WATER FILTRATION EQUIPMENT REMOVAL REQUEST FORM

Please Note: If you do not fill out this form and return it, DEEP will not be able to arrange for the removal of your System and will assume you have chosen to keep it.

This form should only be filled out by the CURRENT PROPERTY OWNER

Please select one of the following options:

Option #1 – Removal of System

- By checking this box, I am confirming that I would like DEEP to remove the water filtration system from my home at no cost to me. I understand that DEEP's contractor will contact me shortly to arrange a time to enter my home for the purpose of removing the filtration equipment.

Option #2 – Keep/Maintain System

- By checking this box, I am confirming that I would like to keep the DEEP installed water filtration system at my home, and that I understand that DEEP will no longer be monitoring or maintaining my filtration system. I understand and assume the monitoring and maintenance requirements associated with this type of filtration system.

Please fill out the information below:

Property Owner Name <i>(Please Print)</i>	
Property Address	
City/Town	
Mailing Address <i>(if different)</i>	
City/Town, State, Zip Code	
Phone Number:	

Sign: _____

Date: _____

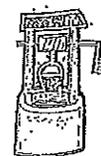
Please return this form to:

DEEP, Remediation Division, 2nd Floor, 79 Elm St., Hartford, CT 06106

January 2013

WHAT YOU NEED TO KNOW ABOUT CHEMICAL CONTAMINANTS IN PRIVATE WELLS

It is important to test your drinking water for chemical contaminants if you live in a home with a private well. The purpose of this fact sheet is to assist homeowners in understanding what the test results mean in relation to federal and state drinking water criteria.



What is the Purpose of Private Well Testing?

Even if you do not suspect contamination in your water, testing is important to ensure your water is safe.

Contaminant Testing

Public drinking water supplies are required to test for a large number of toxic chemicals on a regular basis. However, these chemicals are never tested for in a private well unless the homeowner arranges for the test. There are cases where the well is tested as part of a larger investigation conducted by the local health department or the Connecticut Department of Energy and Environmental Protection (CT DEEP). However, in most cases it is up to you to test your own well. Even if there is no suspicion of contamination in your neighborhood, it is important to do a thorough test of your drinking water supply to ensure that the water is safe and healthy to drink. A good time to test is when buying a home so that you can make any contamination findings part of your purchase decision. At a minimum you would test for the basic indicators required in New Well Testing (see below). The following are some benefits from more extensive chemical testing:

- Find out whether there are particular contaminants (pollutants) of concern
- Find out whether you need to install a water filter
- Obtain baseline conditions against which to compare future testing

The specific chemicals to test for vary depending on your location relative to potential sources of pollution such as gas stations, dry cleaners, industries, landfills and farms. Detailed guidance on what to test for can be found at: [Publication No. 24: Residential Well Water Testing](#).

New Well Testing

When a new well is drilled it must be certified as safe to drink by the local health department. Their authority in this regard is Connecticut Public Health Code Section 19-13-B101. The required test for a new well includes basic indicators such as bacteria, nitrate, hardness, turbidity, manganese and iron. After the well is certified it should be retested once a year for these parameters. You would test the well for these indicators when purchasing a home as part of the home inspection process. This is also a good time to test for the larger list of chemical contaminants that may be present in groundwater due to local businesses and industries. These other chemical contaminants are not usually part of the testing done to certify a new well or when purchasing a new home.





How are Sample Results Reported?

The laboratory reports results in micrograms of a substance per liter of water (ug/L) or milligrams per liter of water (mg/L). The units of ug/L correspond to parts per billion (ppb) and mg/L corresponds to parts per million (ppm). One ppb equals one drop of water mixed in a competition-size swimming pool. While this dilution is huge, it still means that in every glass of water some contaminant is present. Therefore, one needs to have a way to determine the health significance of these levels.

Well Water is Not Free

When you drink from a public water supply you pay a water bill. In contrast, private well owners never get billed for the water they consume, so there can be an illusion that the water is free. However, there are maintenance costs for the pump and for repairing damage to the well itself. Additionally, private well owners should understand that the cost of chemical testing and filtering (when needed) is critical to ensuring their health and safety. Testing, treatment and repair services are the reason homeowners and others that are on a public water supply receive a monthly water bill.



If Contamination Is Found How Do We Determine If There Is A Health Risk?

There are federal and state criteria for many chemicals that have been found in groundwater. These criteria represent the concentration above which health risks become significant. Results of private well sampling are compared to these criteria to determine if the water is safe to drink.



What are the Criteria and How are They Set?

MCLs:

The United States Environmental Protection Agency (US EPA) establishes a standard called the maximum contaminant level (MCL). MCLs are protective of public health assuming people drink the same source for the entire life span (70 years). The criteria also take into account different life stages (e.g., young children). Public water systems must meet the MCLs. US EPA also sets a secondary MCL for some contaminants. The secondary MCLs are meant to prevent an aesthetic issue with the water (odor/taste) rather than a health effect. For more information on how MCLs are set, go to the US EPA link at the end of this fact sheet.

Action Levels:

Private wells are not regulated the same way as public water supplies. There are no requirements to test for most chemicals. When CT DEEP tests private wells during environmental investigations they look to the Connecticut Department of Public Health (CT DPH) for drinking water criteria. The DPH criteria are called Action Levels and they are set the same way as federal MCLs. In most cases the Action Level is the same value as the MCL. However, the federal MCL may be outdated or set based upon ease of detection and removal from a public water supply. CT DPH reviews these issues to make sure the Action Levels are updated and feasible based upon the ability to detect and treat the water in a residential well in Connecticut. This has led to a small number of contaminants whose Action Level is stricter than federal MCL. In these cases it is prudent that your private well meet the Action Level.



What Do the Test Results Mean?

Once you get the water results from the lab, the first step is to look down the list and see what was actually detected in your water. If the value next to the chemical name is ND or starts with "<" it means that the chemical was not detected or was less than the lowest concentration that the method can detect. In other words, good news – the chemical was not detected in your water.

Very low levels of some chemicals are normal for groundwater in Connecticut because they are part of the natural bedrock (e.g., metals such as arsenic, manganese or uranium) or because they were released at many locations around the state and have spread even further (e.g., MTBE). Therefore, don't be alarmed just because something is detected.



How Do I Know if My Water is a Health Risk?

The key is whether any chemicals are present at higher levels than the federal MCL or the state Action Level. The MCL value is usually listed in the test report next to the result from your well for easy comparison. The Action Levels can be found in the CT DPH fact sheet: [Action Level List for Private Wells](#). If any chemicals detected in your water are higher than the MCL or Action Level, your water does not pass the test and you may need to filter the water to remove that particular chemical.



What Should I Do if my Water Exceeds an MCL or Action Level?

1. Stop drinking the water. The MCLs and Action Levels are set to make sure you will not develop health issues from the water. If your water exceeds that level you lose that guarantee. Consumption of this water may not be an immediate health risk to you and your family because the criteria are set to protect the most vulnerable individuals from effects than can occur from long-term exposure. However, it is still prudent to stop drinking the water until the problem is resolved.
2. Contact your local health department and the CT DEEP. These authorities track groundwater pollution and may investigate the source of your contamination. Cleanup of the groundwater may reduce the level of contaminants in your well. CT DEEP has a Potable Water Program in which CT DEEP may provide you with a filter depending upon the contaminants and specifics of the situation. This program is subject to funding availability. Should the agency not be able to provide you with a filter, both CT DPH and CT DEEP will work in concert to ensure that you have the best information possible on what actions you may take to secure the correct filter and follow the appropriate maintenance schedule in order to ensure clean potable water. However, if the contaminant is from natural sources (e.g. uranium from bedrock), CT DEEP will not provide a filter or bottled water.
3. Consider installing a filter to remove the contaminant from your water. There are a variety of filters and they are designed for specific types of contaminants. You will have to choose between a point of use (e.g., kitchen tap) vs. whole house filter. You may also consider purchasing bottled water rather than a filtration system. These choices all depend upon the contaminant present. CT DEEP and CT DPH can help you choose the right filter for any contaminant you may have in your water. Also, the [National Sanitation Foundation](#) has a useful listing of water filters and what they are certified to remove.

Action Level Update: The DPH Action Level List has been updated as of January 2013. Some levels have been lowered since the last update in 2004 as the science has shown more clearly the potency of particular chemicals. Two examples are trichloroethylene (TCE) and 1,2-dichloropropane (DCP). These Action Levels have been lowered from 5 to 1 ug/L. Please compare your test results to the new [Action Level list](#). If your result is above the new Action Level and below the old Action Level (e.g., a TCE result of 3 ug/L), filtration at the kitchen tap (or switching to bottled water) is usually sufficient. There is little risk from bathing and showering at these low levels so you would not need a whole house filter.

If you had tested your well water in the past you should review those results against the updated Action Level list. If a result is higher than the new Action Level you should retest to see what the level is currently. If the retest shows an exceedance of the new Action Level but not the old Action Level, filtration at the kitchen tap is likely sufficient to prevent a health risk. Feel free to contact CT DPH if you have questions.



If Multiple Contaminants Are Identified in The Same Well, How is the Health Risk Evaluated?

MCLs and Action Levels are set based upon lifetime exposure to a single chemical in water. There are margins of safety built into these levels. Therefore, health concerns are unlikely even when several contaminants are present in a residential well at their Action Level or MCL, that would pose a health concern. However, CT DPH can review such data on a site-specific basis to ensure that this is the case.



Is Bathing and Showering a Health Risk?

If the contaminant is in the tap water, it will also be in your shower or bath water. In some cases this presents an extra exposure route. It depends upon the particular chemical. For example, metals that occur naturally in groundwater such as arsenic and uranium are usually not a bathing and showering concern while volatile organic chemicals (VOCs) can sometimes be of concern. This depends upon the size of exceedance above an MCL or Action Level. If the risk is high you would need a whole house filter rather than a kitchen tap filter. Consult with CT DPH regarding the safety of bathing and showering in water which has elevated levels of contaminants.



How Can I Protect My Water Supply?

The groundwater on and near your property is a precious resource that needs protection to ensure a clean supply of drinking water. Protection involves common sense measures that are simple yet vital to follow. Wells should be drilled a safe distance from the septic system and chemical waste should never be disposed of via the septic system. Do not spill gasoline, pesticides, paint, paint thinner, varnish or other chemicals on the ground as these may end up reaching groundwater and contaminating your well or your neighbor's well. Leaks from your oil tank can also contaminate the groundwater so remove any buried tanks and replace old above ground tanks before they leak. Additional tips for keeping your well contaminant-free can be found at the DPH Publication No.26: Private Drinking Water Wells Types of Construction.



For More Information



- Connecticut Department of Public Health, Environmental and Occupational Health Assessment Program: 860-509-7740 Private Well Program Fact Sheets
- Connecticut Department of Energy and Environmental Protection: 860-424-3705
- US EPA Drinking Water
- Your local health department



Connecticut Department of
**ENERGY &
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CT Dept. of Energy & Environmental Protection
Bureau of Water Management
Permitting, Enforcement, & Remediation Division
79 Elm St. Hartford, CT 06106-5127
(860) 424-3705 www.ct.gov/deep

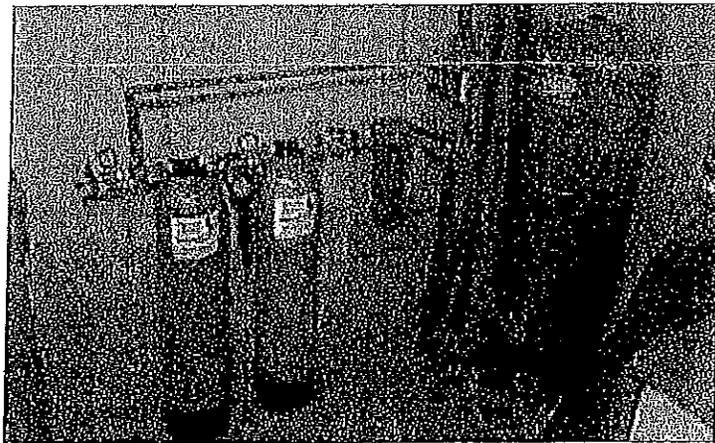


CT Dept. of Public Health
Environmental & Occupational Health Assessment Program
410 Capitol Avenue MSH 11E0H, PO Box 540308
Hartford, CT 06134-0308
(860) 509-7740 www.ct.gov/dph

If you require aid/accommodation to fully and fairly enjoy this publication, please contact 860 509-7740

FACT SHEET

Granular Activated Carbon (GAC) Filter System for Private Wells



What is a GAC Filter System?

A GAC filter system is used to remove semi-volatile and volatile organic compounds (SVOCs and VOCs), such as constituents of gasoline, heating oil, and chlorinated solvents, from polluted drinking water.

A GAC filter system used in single family homes and small businesses typically consists of two (2) canisters (primary and backup) installed in series, each containing a minimum of one (1) cubic foot of granular activated carbon. A prefilter, flow restrictor, flow meter, and sampling taps are also included with the installation. An iron/manganese removal system may also be installed prior to the carbon canisters if the concentrations of iron or manganese exceed recommended levels.

How Does a GAC Filter System Work?

As polluted water passes through the carbon canisters, the activated carbon removes the SVOCs and VOCs from the water intended for drinking and other domestic uses.

Why Do GAC Filter Systems Need to be Monitored?

The ability of the activated carbon to remove organic compounds declines with use. Monitoring of the GAC filter system is necessary to determine when the activated carbon is allowing small concentrations of SVOCs and/or VOCs to pass through. This condition is termed breakthrough. If breakthrough occurs at the primary carbon canister, SVOCs and VOCs will then be removed by the GAC in the backup carbon canister. Monitoring is performed by analyzing raw water samples and water samples collected immediately after the primary and secondary carbon canisters.

What Kind of Maintenance is Required for a GAC Filter System?

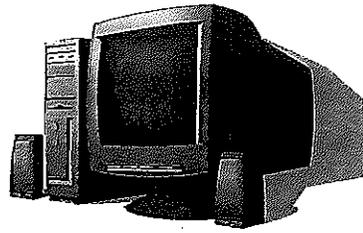
The detection of SVOCs or VOCs in samples collected immediately after the primary carbon canister is an indication that maintenance of the filter system may be needed. Maintenance is conducted by removing the primary carbon canister, moving the backup carbon canister into the primary position, and installing a new carbon canister in the backup position. A new canister in the backup position ensures that the water being consumed is free of SVOCs and VOCs.

Replacement of the Prefilter:

The prefilter is designed to remove sediment from the water before it enters the carbon canisters. The prefilter media will become clogged with use, and the homeowner will need to change the prefilter in response to a reduction in water pressure. The frequency for changing the prefilter will vary depending on the amount of sediment suspended in the prefiltered water.

For further information contact:

Department of Energy & Environmental Protection
Bureau of Water Protection and Land Reuse
Remediation Division
79 Elm Street
Hartford, CT 06106-5127
(860) 424-3705



East Windsor's Electronic Waste Program
Hours Effective Monday, 5/6/2013

Televisions, Computers, Monitors, and Printers
are to be disposed of at the East Windsor Public Works Department at
6 Woolam Road, East Windsor, Tuesday through Thursday
between the hours of 8:00AM and 12:00PM.

(Appointments may be made for other times by calling Public Works Department at 860-292-7073.)
The above items are no longer accepted by USA Hauling/All American Waste.

All Acceptable Items are as follows:

Computer Items

Computer **Monitors** & Terminals
Computer **Hard Drives**
Computer Peripherals (including cables and wires)
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August 1, 2013

Via Email and U.S. Mail

First Selectman Denise Menard
Town of East Windsor
Town Hall
11 Rye Street, P.O. Box 213
Broad Brook, CT 06016

Re: Legal Opinion Regarding Proposed Ordinance Dictating Procedures for Approving Long-Term Expenditures

Dear Denise:

This letter is in response to the Town's request for a legal opinion regarding whether the Town may properly pass an ordinance limiting the powers of Town boards and commissions to approve long-term expenditures. Specifically, this opinion addresses the validity/legality of a proposed ordinance that reads as follows:

No Board or Commission shall have the right to commit to any long-term expenditures of the Town's funds without the recommendation of the Board of Selectmen and final approval of the Board of Finance.¹

In order to be effective, the proposed ordinance would need to clear four distinct legal hurdles. First, the ordinance must pass muster under the "vagueness" doctrine. Second, the proposed ordinance cannot conflict with the Town of East Windsor Charter (the "Charter"). Third, the proposed ordinance cannot conflict with the Connecticut General Statutes. Finally, the proposed ordinance cannot conflict with the bargained-for terms of the Town of East Windsor Pension Plan (the "Plan") or any other collectively bargained agreement. If any of these hurdles is not cleared, the ordinance is invalid.

My conclusion is that the ordinance, as written, is impermissibly vague, and, assuming that the vagueness can be cured, while the proposed ordinance comports with both the Town Charter and the General Statutes, it nevertheless conflicts with the Plan (and potentially other collectively bargained agreements) and is therefore invalid on that basis as well.

¹ As we discussed, the purpose of the ordinance, at least in part, is to require that the Town of East Windsor Pension Board's decisions affecting future indebtedness are reviewed by the Town's Board of Selectmen and confirmed by the Board of Finance. Notwithstanding this apparent intent, the ordinance would apply with equal force to any other Town board's or commission's decision relating to long-term expenditures.

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ANALYSIS

The Proposed Ordinance is Invalid Under the Vagueness Doctrine

To be valid, an ordinance must “give an individual of ordinary intelligence sufficient notice of what the law is so that the individual has a reasonable opportunity to comply with it.” *Campion v. Bd. of Aldermen of New Haven*, 278 Conn. 500, 524, 899 A.2d 542, 558 (2006). “To demonstrate that [an ordinance] is unconstitutionally vague as applied to [a party], [that party] therefore must . . . demonstrate beyond a reasonable doubt that [it] had inadequate notice of what was prohibited or that [it was] the victim of arbitrary and discriminatory enforcement.” *Sweetman v. State Elections Enforcement Comm’n*, 249 Conn. 296, 322, 732 A.2d 144, 161 (1999) (citations omitted; internal quotation marks omitted). “[T]he void for vagueness doctrine embodies two central precepts: the right to fair warning of the effect of a governing statute . . . and the guarantee against standardless . . . enforcement.” *Ferreira v. Pringle*, 255 Conn. 330, 355, 766 A.2d 400, 415 (2001) (citations omitted; internal quotation marks omitted).

The specter of constitutional vagueness looms large in the proposed ordinance. The ordinance does not define the key phrase, “*commit to any long-term expenditures*,” which is fraught with ambiguity. The ordinance includes neither standards by which a Town board’s or commission’s decisions will be examined by the Board of Selectman and Board of Finance nor a description of the consequences that may occur in the event a Town board or commission fails to comply with it. The ordinance fails to provide guidance to a Town board or commission about the conduct being prohibited; it further fails to provide adequate notice to individuals conducting business with the municipality, through a Town board or commission, of the scope of the board or commission’s authority. See *Fennell v. Hartford*, 238 Conn. 809, 814, 681 A.2d 934, 937 (1996) (“[A]ll who contract with a municipal corporation are charged with notice of the extent of . . . the powers of municipal officers and agents with whom they contract.” (citations omitted; internal quotation marks omitted)).

Additionally, the purpose of the ordinance is apparently to curb the power of a Town board or commission, especially the Pension Board. Under these circumstances, the Pension Board (or other board) may find itself the target of “arbitrary and discriminatory enforcement,” which would corroborate the elemental ambiguities in the ordinance. In other words, the Town’s Board of Selectmen may disagree with a decision of the Pension Board to agree to a “long-term expenditure” that was collectively bargained-for with Plan participants, and may therefore seek to refuse to forward the “long-term expenditure” to the Board of Finance for approval. Likewise, the Board of Finance may in turn decide to reject the Pension Board’s negotiated “long-term expenditure” decision for reasons that are not supported by the evidence that the Pension Board had before it at the time that it rendered its decision. The review of the Pension Board’s decision is rife with the potential for arbitrary review not based on substantial evidence that is required for

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an appropriate Town board or commission action in the first place. As is therefore evident, the proposed ordinance, in its current form, is invalid on vagueness grounds.²

The Proposed Ordinance Does Not Conflict with the Town Charter

An ordinance may not conflict with the Town Charter pursuant to which it is adopted.³ Here, the proposed ordinance does not conflict with the Town Charter because, while the ordinance purports to limit the power of the Pension Board (and all other Town boards and commissions), the Charter is not the source of the Pension Board's power.⁴ Unlike charters that enumerate the powers of boards and commissions within the charter itself, this scheme permits the Town to alter the power of the Town boards and commissions by legislative process as opposed to the full referendum necessary to alter a town charter, provided, of course, that the ordinance does not conflict with the General Statutes.

The Proposed Ordinance Does Not Conflict with the General Statutes

Unlike town charters,⁵ ordinances can never conflict with state statute.⁶ Here, the ordinance does not conflict with the General Statutes, specifically Conn. Gen. Stat. § 7-450,⁷ because that statute

² While, the proposed ordinance may be rewritten to correct the infirmities in its language, because it is invalid on other grounds, as explained more fully below, it may not be efficacious to attempt to do so.

³ "The town charter, whether adopted by special act of the General Assembly or . . . under the Home Rule Act; General Statutes § 7-188; constitutes the organic law of the municipality." *W. Hartford Taxpayers Ass'n, Inc. v. Streeter*, 190 Conn. 736, 742, 462 A.2d 379, 383 (1983) (citations omitted). "The charter is the fountainhead of municipal powers. It originates and defines the powers of government and the methods of governance . . ." *State ex rel. Raslavsky v. Bonvouloir*, 167 Conn. 357, 362, 355 A.2d 275, 278 (1974). "The charter serves as an enabling act, both creating power and prescribing the form in which it must be exercised." *Streeter*, 190 Conn. at 742. As the organic law of a municipality, a town charter "bears the same general relation to the ordinances of the city that the constitution of the state bears to the statutes." *Palermo v. Ulatowski*, 97 Conn. App. 521, 524, 904 A.2d 1278, 1280 (2006) (quoting 5 B. McQuillin, *Municipal Corporations* § 15.17 (3d Ed. Rev.2004)).

⁴ Section 7-2 of the Charter, which concerns appointed Town boards and commissions, states only that they "shall be established, by ordinance, subject to the provisions and powers enumerated in [the General Statutes] and this Charter . . ." See Town of East Windsor Charter § 7-2. Any and all powers enjoyed by the various boards and commissions therefore emanate from ordinances or applicable General Statutes. See, e.g., Town Ordinance 70-1 (defining the power of the Pension Board).

⁵ In certain limited circumstances, town charters can conflict with and supersede the General Statutes.

⁶ "A local ordinance is preempted by a state statute whenever the legislature has demonstrated an intent to occupy the entire field of regulation on the matter . . . [or] whenever the local ordinance irreconcilably conflicts with the statute." *Dwyer v. Farrell*, 193 Conn. 7, 14, 475 A.2d 257, 261 (1984) (citations omitted). "The fact that a local ordinance does not expressly conflict with a statute enacted by the General Assembly will not save it when the legislative purpose in enacting the statute is frustrated by the ordinance." *Id.*

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grants to the municipalities a considerable amount of power with respect to establishing and administering municipal pension and retirement systems, without appreciable limitations on how that power is to be exercised. A review of the policy and purposes behind pension statutes⁸ reveals that, under any interpretation of the relevant statute – let alone the liberal construction afforded to the pension statutes – the Town may, in its sole discretion, alter or amend the power of the Pension Board “by ordinance and amendment thereto” without conflicting with the General Statutes. *See* Conn. Gen. Stat. § 7-450; *see also* *Patry v. Bd. of Trustees, Firemen's Pension Fund*, 190 Conn. 460, 478, 461 A.2d 443, 452 (1983).

The Proposed Ordinance Must Not Conflict with the Pension Plan, Which it Does

Notwithstanding conformity with the general principles of law governing a conflict between municipal ordinances and the General Statutes, a municipal ordinance that implicates “matters appropriate to collective bargaining” faces one final hurdle – it cannot conflict with a valid, enforceable agreement as to those matters.⁹ *See* Conn. Gen. Stat. § 4-474(f). The Supreme

⁷ This letter only analyzes whether the proposed ordinance conflicts with the provisions in the General Statutes specifically dealing with pension boards. It does not examine whether the proposed ordinance conflicts with the General Statutes applicable to the thirteen other Town boards and commissions explicitly mentioned in the Charter (or the myriad others than can be created by ordinance pursuant to Section 7-3 of the Charter). The analysis thus ignores the ordinance’s current overbreadth, which causes it to run afoul of the vagueness doctrine, as explained more fully above.

⁸ The Supreme Court has recognized that “pension statutes have as their purpose ‘the promotion of the general welfare, and for that reason pension statutes are liberally construed to accomplish that objective.’” *Patry v. Bd. of Trustees, Firemen's Pension Fund*, 190 Conn. 460, 478, 461 A.2d 443, 452 (1983) (quoting 3 Sands, *Sutherland Statutory Construction* § 71.09 (4th ed.)). Indeed, the Supreme Court has explicitly recognized that municipalities have nearly unfettered discretion with respect to creating a system for administering municipal pension funds:

[W]here, [as with the pension statutes], power over a particular subject matter has been delegated to a municipal corporation by the legislature, without any express limitations, the extent to which that power shall be exercised rests in the discretion of the municipal authorities, and as long as it is exercised in good faith and for a municipal purpose the courts have no ground upon which to interfere.

Patry v. Bd. of Trustees, Firemen's Pension Fund, 190 Conn. 460, 478, 461 A.2d 443, 452 (1983) (citations omitted; internal quotation marks omitted).

⁹ The statutory text elevating agreements that are the product of collective bargaining above municipal ordinances reads, in relevant part,

Where there is a conflict between any agreement reached by a municipal employer and an employee organization and approved in accordance with the provisions of sections 7-467 to 7-477, inclusive, on matters appropriate to collective bargaining, . . . and any . . . ordinance, . . . the terms of such agreement shall prevail

Conn. Gen. Stat. § 7-474(f).

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Court has held that “statements contained in a written retirement plan give rise to an employer-employee contract” that is on par with a collective bargaining agreement. *See Ferrucci v. Middlebury*, 131 Conn. App. 289, 294, 25 A.3d 728, 733 (2011) (citing *Dolak v. Sullivan*, 145 Conn. 497, 503, 144 A.2d 312, 315 (1958)). A pension plan, like a collective bargaining agreement, cannot be altered by a subsequent ordinance that conflicts with the terms of the plan. *See id.*, *see also Russo v. Waterbury*, 304 Conn. 710, 720–22, 41 A.3d 1033, 1041 (2012).

Here, the proposed ordinance purporting to limit the power of the Pension Board conflicts with the terms of the Plan.¹⁰ The relevant provisions of the Plan state that the “Plan’s assets shall be administered by a Retirement Board,” and that “the Retirement Board shall advise the Trustee, in writing, with respect to investment and reinvestment of the contributions under the Plan.” Town of East Windsor Pension Plan § 9.5. Noticeably absent from the Plan’s provisions defining the powers and responsibilities of the Pension Board is any language circumscribing the Pension Board’s power to act or otherwise creating some form of oversight over its actions by the Boards of Selectmen or Finance. Additionally, the Plan includes an indemnification provision that protects the Pension Board “against any liability or loss sustained by reason of any act or failure to act in its administrative capacity” *Id.* § 9.6. Granting indemnification to the Pension Board further substantiates its authority to make decisions affecting Plan administration.

“The law governing the construction of contracts is well settled. . . . Where the language of the contract is clear and unambiguous, the contract is to be given effect according to its terms. A court will not torture words to import ambiguity where the ordinary meaning leaves no room for ambiguity” *O’Connor v. Waterbury*, 286 Conn. 732, 744, 945 A.2d 936, 946 (2008) (citations omitted; internal quotation marks omitted). In light of the Plan’s clear and unambiguous grant of authority to the Pension Board to oversee Plan administration, which authority necessarily includes decisions to commit long-term Plan expenditures, the proposed ordinance seeking to limit the power of the Pension Board is invalid under Conn. Gen. Stat. § 7-474(f) because it conflicts with the Plan.¹¹

CONCLUSION

As written, the proposed ordinance is void due to its vagueness. Not only would a Town board or commission, including the Pension Board, be unable to discern the scope of its authority or the

¹⁰ The proposed ordinance may also conflict with other collectively bargained agreements, but this opinion does not attempt to evaluate every potential agreement that the proposed ordinance could arguably impact.

¹¹ The Town may be able to negotiate with the various unions regarding the impact of this proposed ordinance on the Plan; such negotiations could result in the acceptance of the proposed ordinance, or one similar to it. But absent such negotiations, the proposed ordinance may not be implemented. *See* Conn. Gen. Stat. § 7-474(f); *see also Alessi v. Raybestos-Manhattan, Inc.*, 451 U.S. 504, 526, 101 S. Ct. 1895, 1908 (1981); *Allied Chem. & Alkali Workers of Am., Local Union No. 1 v. Pittsburgh Plate Glass Co., Chem. Div.*, 404 U.S. 157, 159, 92 S. Ct. 383, 387 (1971).

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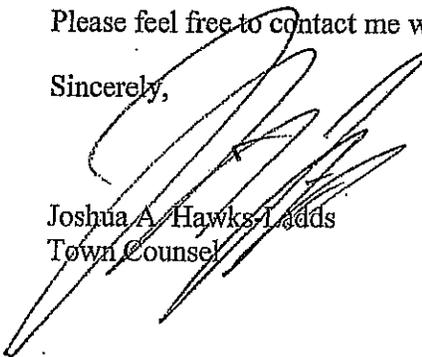
consequences of noncompliance with the ordinance, but third parties, who deal with the various boards and commissions and who are charged with constructive knowledge of their powers, are also left in the dark.

The proposed ordinance, as applied specifically to the Town's Pension Board, conflicts with the terms of the Plan. The Plan's terms, which are the product of a collective bargaining process, grant to the Pension Board unfettered discretion in administering the Plan. An attempt to limit that discretion over "long-term expenditures," without negotiating with the respective unions the impact of the ordinance, would violate the Plan's terms and the Town's obligation to negotiate over mandatory subjects of bargaining.

Therefore, even assuming the Town could cure the language defects in the proposed ordinance, it would nevertheless contravene the terms of the Town's Pension Plan and such an impact on the Plan would require collective bargaining. Such conflicts currently render the proposed ordinance invalid.

Please feel free to contact me with any questions.

Sincerely,



Joshua A. Hawks-Ladd
Town Counsel