

## NEWINGTON TOWN PLAN AND ZONING COMMISSION

### Public Hearing and Regular Meeting

August 27, 2014

Chairman Cathleen Hall called the regular meeting of the Newington Town Plan and Zoning Commission to order at 7:00 p.m. in Conference Room L101 in Newington Town Hall, 131 Cedar Street, Newington, Connecticut.

#### I. ROLL CALL AND SEATING OF ALTERNATES

##### Commissioners Present

Commissioner Frank Aieta  
Commissioner Carol Anest  
Commissioner Michael Camillo  
Chairman Cathleen Hall  
Commissioner Kenneth Leggo  
Commissioner Robert Serra Sr.  
Commissioner Stanley Sobieski  
Commissioner Brian Andrzejewski - A

##### Commissioners Absent

Commissioner Richard Khentigan - A

##### Staff Present

Craig Minor, Town Planner

#### II. APPROVAL OF AGENDA

Chairman Hall: I have one change that I would like to request. You will see that this evening we have the Zoning Officer Bonnie Potocki who is here, and she would be way at the end, so I would like to move her to, we'll call it 3A, between three and four so she doesn't have to stay here for the entire meeting. I'd like some feedback from the Commission members if that is okay, or if you disagree.

Commissioners: Fine, no problem.

Chairman Hall: Okay, so we will move ten B, to before four. Do you have any other changes Craig?

Craig Minor: No.

Chairman Hall: So if that's approved by all, I'd like to take a vote that we move that up.

Commissioner Sobieski so moved, seconded by Commissioner Aieta. The vote was unanimously in favor of the motion with six voting YEA.

#### III. PUBLIC HEARINGS

- A. **Petition 30-13 Special Exception (Section 3.15.4: Drive through Restaurant at 3120 Berlin Turnpike (Panera). Norr Architects, applicant, Newington VF LLC owner, Bryan Slonski, 325 N. LaSalle Street, Suite 500 Chicago Il contact. Continued from June 25, 2014.**

Chairman Hall: Is the petitioner here? Come forward and present your information. Please give your name and address for the record please?

Jeff LeBeau: Good evening, my name is Jeff LeBeau, I work as a professional civil engineer with Freeman Companies, 36 John Street, Hartford, Connecticut. With me tonight is Rachael Turner-Locke with Norr Architects out of Chicago, Illinois and she can answer any specific questions regarding property and land owner for Panera, and I work on the site plan layout, creating drainage and some concerns from our last two public hearings.

This is our third continued public hearing. It's been a couple of months since we have last been in. Most of that delay in time has been negotiations and discussions with different alternatives to meet some of the requests from the Commission. The main concern the last time was queuing for the drive through. At the last meeting we discussed we had four, but only three queuing past the order menu, right here. Can everyone see that? So we did brainstorm and we did discuss some alternatives. We wanted to go to the north, our first scenario was to go to the north, as suggested by the Commission, and go further to the north, and eliminate these parking spaces, with our queuing this way and then create a tear drop shaped turnaround and entrance into that queue. The land owner definitely wouldn't agree to that scenario, so we did some more brain storming and tried to come up with something that would give us a few more spaces and we did something that we felt was, we still feel that it is safe, and it is comfortable, and we can discuss that more in detail as questions come up, but we decided to relocate the dumpster pads here, from the corner of the building, relocate those over here. The landowner was agreeable to just eliminating two parking spaces as opposed to six to ten, so what we did was we created basically a turnoff lane, to create an additional two stored parking spaces here, and we did put templates on here so we can accommodate all passenger vehicles and pick-up trucks and even small trucks, but obviously any big trucks wouldn't be able to come through here because we still have that vertical bar that limits the height. We did also provide a crosswalk and new handicapped access point here, and we're also proposing signage for advance warning coming from the north, and also coming from the south that there will be folks traveling across because our other understanding is that a lot of folks during peak hours like to park over here and then walk across and we didn't want that being a large conflicting movement with the folks that want to go into the drive through. So, it's not the exact solution that we were looking for, but we definitely feel that it is better than the first plan, and we think it's a good compromise. We are hoping for a favorable vote tonight, we would be happy to address any comments, concerns, and see if we can come up with a positive resolution.

Chairman Hall: Questions from the Commissioners?

Commissioner Sobieski: I'm still concerned about people crossing where you have that crosswalk there. What do you think about the possibility of putting stop controls up?

Jeff LeBeau: Rachael and I actually just spoke about that before we came into the meeting tonight, and I think it probably would help. If we put a stop bar here, and actually right here, I think that would help out a lot.

Chairman Hall: Any other questions?

Commissioner Aieta: With this change, how many additional cars in the queue?

Jeff LeBeau: We gained two, so now we have five, as opposed to three, plus the one actually at the order menu, then the remainder around at the pick-up window.

Commissioner Anest: I still have concerns with the traffic entering the opposite way, so you are going to have cars in the southbound lane, going north. I really have concerns. The cars that are queuing, coming up this way, now, if there are more than five cars queuing up, now they are going to be in the lane to exit, they are going against traffic. I have a problem with that. They are going in the wrong direction.

Jeff LeBeau: If someone chose to park here and have their backend stick out in the actual drive lane.....

Commissioner Anest: You could possibly have ten cars in queue which would be coming into the other lane.

Jeff LeBeau: Well, maybe Rachael could speak to that based on numbers that Panera actually has.

Rachael Turner-Locke: On an average, typically Panera would experience twenty, maybe thirty cars in an hour, so it would be unlikely that they would have full stacked ten cars from the order window all the way back out, it just would be a very unusual circumstance for them, as much as they hope for lots of business, that would be a real stretch.

Chairman Hall: Anybody else have any questions? Do you any statistics from the Wethersfield store? They have a drive through now, and do you have any information as to what your average is peak time for cars and queuing?

Rachael Turner-Locke: Looking at what they have done in the past based on volume, twenty cars per hour is the average and peak times, typically, let me see, I would say peak time, six cars in the stack is as full as they get, which would be from the window, not from the order board.

Chairman Hall: The delivery window?

Rachael Turner-Locke: Correct.

Commissioner Sobieski: Is that Wethersfield, or.....

Rachael Turner-Locks: That's an average, I don't have a traffic study count from Wethersfield. Typically we just went through this with another location though, if you want specifics, we can certainly send someone out there to do a count for that particular location.

Chairman Hall: Any other questions before we go to the public? This is a public hearing, so anyone wishing to speak in favor of this petition, come forward, state your name and address for the record. Anyone wishing to speak in opposition? Anyone just wishing to speak on the petition? Seeing none, okay back to the Commission. Any questions at this time?

Commissioner Serra: In the front spaces where the handicapped is, right there, going across, the way that you have this designed, you have cars coming out through there and going in through there, you have the handicapped area, people crossing and going into those parking spaces. Could that possibly be a one way in and make the back entrance a one way out.

Jeff LeBeau: We did do that. If you look at the plan, we narrowed this opening from twenty-two feet down to fifteen, which is ideal for just one vehicle going in, and we're also proposing some painted markings so this arrow, one way in, is just an entrance, and everyone has to circulate down through here, or down through here to the one way out.

Commissioner Serra: I'm looking at the arrow on the pavement, and it's pointing towards that opening.

Jeff LeBeau: Correct, because right exactly in the front, this is still the twenty-four foot width, so you could come in, you want folks to be able to park, have enough room for them to turn out, and then as they head down, they have the choice to come down this aisle or this aisle to exit, so you are correct, it is two way, just in this short run, but it's just a driveway that's in only up top and out only at the bottom. That was something that we took into consideration from our last public hearing.

Chairman Hall: Anything else?

Commissioner Camillo: Question, the last time you were here, we spoke about moving the transformer.

Jeff LeBeau: Correct.

Commissioner Camillo: Do you plan on leaving it there, or.....

Jeff LeBeau: We did move it, I apologize, I didn't mention that early on. At the last public hearing we were keeping it out there, not realizing that we were violating one of the green space offsets, so we thought, let's put it underground, and we nixed that, then we decided to relocate it about twenty feet to the north and to the east, right here, so where you see this box with the T, instead of keeping it here, we just pushed it back outside of that setback, and then we are still screening it per zoning. So we did accommodate that.

Commissioner Sobieski: That side door, is that still going to remain there?

Jeff LeBeau: This side door is, and another concern that came up, we are proposing fencing, an L-shaped fence, a decorative ornamental fencing to prevent pedestrians to just strolling over into the exit, the pick-up and exit lane here. So this fencing is going to be L-shaped here, six feet here, and then down all the way to this sidewalk. So it will force people to come back out to the front sidewalk. In the full set of plans, we do show a detail for that.

Commissioner Leggo: Just two comments, I commend the work you did on a solution for that queuing area, that is a much better solution, and also, what Bob said, it seems like that is a congested area up front there, I don't know, possibly just to have it so that you can only come down each lane, and exit on the bottom, so if there isn't an exit up top, there really isn't a need to be coming back up.

Jeff LeBeau: True, unless you are circulating, looking for a parking space.

Commissioner Serra: The problem is, we have all been to that location, either because of WalMart or whatever, especially around the holidays, around peak times, that lot gets very, very busy.

Jeff LeBeau: This lot in particular, or.....

Commissioner Serra: The whole thing, including Panera's, so you want to keep congestion down to a minimum. I think that's our concern with having that there.

Jeff LeBeau: That would be an easy fix, we could just say, we could re-stripe this, and even this, and just say this is purely in and out. If you missed your spot coming through once, then you've got to loop it. I think that is something that we can accommodate.

Commissioner Serra: I'm not trying to make it more difficult, I'm trying to make it a safety issue.

Jeff LeBeau: I agree. What you really want to avoid is this loop movement, with people circulating back up, so I agree with that.

Chairman Hall: Any other comments? What is the pleasure of the Commission? Open, close?

Craig Minor: You have to close. You have run out of time.

Commissioner Aieta: I make a motion that we close it and move it to Old Business for the next meeting for discussion.

The motion was seconded by Commissioner Anest. The vote was unanimously in favor of the motion, with six voting YEA.

Chairman Hall: So we will close it this evening, and move it to September 10<sup>th</sup>.

Jeff LeBeau: Do you want us to make the recommended changes that we just talked about?

Craig Minor: The problem is, when the hearing closes tonight, that's it.

Chairman Hall: No more changes?

Craig Minor: I'm not comfortable with them submitting anything that they haven't already submitted. I realize that they are just going to be showing things that we talked about tonight, but we talked about a lot of things tonight, and a lot of my notes just say, "tweak", so I'm not sure. It's not as if you asked them to make one change that was crystal clear, and they could do that after the hearing was closed. A lot of ideas have been suggested, and for them to come back with something that maybe was asked for tonight, but might not have been, I don't think you should accept anything after tonight.

Commissioner Aieta: So you are saying that we have to vote on this plan that is before us tonight?

Craig Minor: Yes.

Commissioner Aieta: Well, the changes were minor.

Craig Minor: It would be minor if it was clear what they were, but there were a lot of different suggestions made. If they submit a revised plan that shows the things that were discussed tonight, I'll take a look at it, thinking out loud here, and share it with the Chairman, and if we both agree this is exactly what was discussed tonight, it's not new information. But on the other hand, the public will not have the chance to comment on it, because it came in after the hearing was closed. I don't see any way to do this. I don't see anyway of submitting anything after tonight.

Jeff LeBeau: Can I ask a question?

Craig Minor: Sure.

Jeff LeBeau: Can the Commission approve it as it is now with the conditions of the approval being the changes that we just discussed.

Craig Minor: Yes, and the report that I will have for you at the next meeting under Old Business will probably include options such as "approve with the following conditions". The conditions would be what were discussed tonight.

Chairman Hall: Then that's what we will have to do. So if you submit everything to Craig and we'll go over it before the meeting anyway, and then submit it back to the Commission at the next meeting, the conditions.....

Craig Minor: My report will be whatever recommendations it contains.

Chairman Hall: And then we can review it at that point and judge it on its merits as of that night.

Craig Minor: Right. And at that point you have another sixty-five days to make a decision, so you're not going to be under any pressure to make a decision. You're just under pressure to close the hearing tonight.

Chairman Hall: All right, that's what we will do then. Thank you.

Jeff LeBeau. Thank you very much.

**B. Petition 25-14: Zone Change (Industrial to PD) at 16 Fenn Road, Fenn Road Associates LLC, owner/applicant, Richard P. Hayes Jr. 1471 Pleasant Valley Road, Manchester, CT, contact. Continued from June 25, 2014.**

Chairman Hall: Is the petitioner present this evening? If so, please come forward, state your name and address for the record.

Richard Hayes, 1471 Pleasant Valley Road, Manchester, CT:

Chairman Hall: Okay, and we have a petition for a zone change, from Industrial to PD.

Craig Minor: It's your presentation; do you want to speak to it?

Richard Hayes: I'm just relying on the staff report tonight.

Craig Minor: Usually the applicant makes some presentation, explains why this application would be in the best interest of the town and addresses his needs, and then my recommendation would be to approve it, but that usually follows your presentation.

Richard Hayes: I'm appreciative of that, but I think that you've done a good job of explaining it, your description, your staff report of July 1, 2014, and I really don't have much to add to this.

Chairman Hall: Do the Commissioners have any questions?

Craig Minor: How about if I read my report for the benefit of the record?

Chairman Hall: Okay, might as well start there.

Craig Minor: Okay. This is my report to the Commission dated August 19<sup>th</sup>:

**"Description of Petition #25-14"**

This parcel is partially zoned PD and partially zoned Industrial, because when the owners executed the "land swap" with DOT several years ago that enabled the CTfastrak access road, they neglected to apply for a zone change for the property that they acquired, which is Industrial zoned.

They need this zone change to be able to get approval for the proposed fueling station because a "fueling station" must be part of a shopping center, and shopping centers are not a permitted use in the Industrial zone.

**Staff Comments**

Notice of the requested zone change was sent to New Britain. As of this writing I have not received any comments.

Notice was also sent to the Central CT Regional Planning Agency, and their response was that this zone change presents "no conflict with regional plans and policies or the concerns of neighboring towns."

I have no objection to this request. Putting the parcel in a single zone makes development much simpler, and in my opinion PD zoning is more appropriate here than Industrial."

Chairman Hall: And of this writing, which was August 19<sup>th</sup>, you hadn't gotten anything from New Britain. Has that changed?

Craig Minor: That has not changed.

Chairman Hall: Questions from the Commissioners?

Commissioner Anest: What size is that piece that is going to be changed?

Craig Minor: It would be this cross-hatched area here, and the map doesn't say, here's a scale, it's an eighty scale.....

Richard Hayes: It's 75 x 230, Carol.

Commissioner Anest: Thank you.

Craig Minor: Thank you.

Chairman Hall: Further questions? It's a public hearing, anyone from the public wishing to speak in favor of this petition? Anyone wishing to speak in opposition? Anyone wishing just to speak?

John Bachand, 56 Maple Hill Avenue, Newington: Did he say it was 75 x .....

Chairman Hall: 230.

John Bachand: So it's just strictly for this fueling station? Correct?

Craig Minor: No, not at all. The zone change is forever, it's for whatever use.....

John Bachand: No, I'm saying, it's just for that parcel that is attached to the shopping area that is close to, this is not involving the former National Welding factory, right?

Chairman Hall: No

John Bachand: Okay, and is residential allowed in a PD zone?

Craig Minor: I think some form of residential is allowed, but not single family detached houses.

John Bachand: Not high type.....

Chairman Hall: Patio homes, I think some others.....

John Bachand: Again, this is strictly about the size of the fueling station, it wouldn't really have room to add anything more in there?

Chairman Hall: Well, not just the fueling station. What we are doing is changing because it was industrial, and we are trying to make it uniform. This is the one piece that was not uniform.

John Bachand: But he needs this zone change to get his fueling station in there, correct?

Chairman Hall: That's an option.

Craig Minor: But that's not.....

Chairman Hall: It has nothing to do with the change of the zone however, so the two are not equal. We're simply making the parcel uniform with the surrounding area. What happens after that happens, we don't know yet.

John Bachand: Well, I just heard all this talk about a fueling station, so I thought that was what he was coming for. So what, is this parcel connected to the National Welding property, physically sharing a border?

Chairman Hall: No.

John Bachand: So this would not be setting precedence to further make the National Welding property a PD Zone.

Craig Minor: No.

John Bachand: I don't have any opposition. Thank you.

Chairman Hall: Anyone else wishing to speak? Seeing none, what is the pleasure of the Commission on this?

Commissioner Anest: If no one else has comments, I don't see a problem with closing it and moving it to Old Business for the next meeting.

Commissioner Leggo: I think we should close it.

Craig Minor: Is that a motion, Carol?

Commissioner Anest moved to close Petition 25-14 and move it to Old Business for September 10<sup>th</sup>. The motion was seconded by Commissioner Camillo. The vote was unanimously in favor of the motion, with six voting YEA.

**C. Petition 26-14: Special Exception (Section 3.19.4: Fueling Station) at 16 Fenn Road, Fenn Road Associates LLC, owner/applicant, Richard P. Hayes Jr., 1471 Pleasant Valley Road, Manchester CT, contact. Continued from June 25, 2014.**

Richard Hayes, 1471 Pleasant Valley Road, Manchester, CT: I guess I'm a little confused as to why I'm here tonight. It was my understanding, based on some e-mails and a correspondence that I received that this application was turned down without prejudice at the last meeting that you conducted. I see Mr. Minor shaking his head no; that was not how I understood it.

I'm having a difficult time because I feel that we are having trouble communicating. I'll take partial responsibility for it, not complete. There were certain expectations that I had when I left this Commission in 2007, December of that year, after a nine month application process on this piece of property, and at the direction of the then Chairperson I went down and negotiated for a little over four years, through forty-three meetings with the Department of Transportation over access, not just for my piece of land, but for the land that abuts it, both for the National Welding site, owned by the town, as well as the additional land that is owned by the State in the rear that was condemned. This is, the troubling part to me is that the reports and some of the requests that were made, we, as a group, that includes the town and the state because your Town Planner at the time, Mr. Meehan, your Town Engineer at the time, Mr. Ferraro, and the current Town Manager and the Town Manager at that time were at, at least one if not all of them were at every one of those forty-three meeting along with the DOT, and we had four traffic studies done on this piece of property, one by the STC, two by consultants of the DOT, and one by a consultant of my own. With the expectation, and all reviewed by your staff, the town staff, with the expectation that you know, this has an STC permit for a build-out for the PD Zoning that was in place at the time, and I'm troubled because I'm getting information back that you guys are looking for a traffic study, and I'm trying to understand how that is happening after we have a development agreement that we all shared in, and we have an understanding that I thought was pretty clear and concise, and now I'm getting this discussion about what transpires from a traffic standpoint. In addition to that, because I think that we should talk about all the issues that are outstanding on this piece of property, there was at one time a wetland that I, in 2006 and 07 got re-classified. That wetland has now been mitigated by a DEEP permit number 171305. The DEEP acts as a wetland agent, and I know that I'm not sitting here in front of a wetland agency, but I know that, in order to come in front of you I need a wetland permit, or allegedly I need a wetland permit if there were wetlands on the site. The DEEP has the authority to act as a wetland agent for any municipality in the State of Connecticut and has conducted itself in that form on this piece of property through this busway proposal, and I have bent over backwards and spent thousands upon thousands upon thousands of dollars in legal fees to try to convince the town that this isn't my burden any longer. This is either the burden of the town or the DEEP or the State of Connecticut. But it's been adjudicated, it's been decided on, and so I don't want to be hamstrung about being able to submit an application to this Commission because of a wetland discussion that maybe isn't everybody isn't clear and concise on, but certainly should be after all of the due diligence that I have provided the town. So,

those are the outstanding issues as I see them, this evening. My application for this fueling facility is either, if it hasn't been turned down as formerly explained by me tonight, because I no longer have a deal with these folks. They have picked up and left town. So, I'm not going to waste your time and I'm not going to waste any more of my money and the fact of the matter is, I have other opportunities that may present themselves in the future down there, and that's why I'm conducting this conversation at this point. I don't expect an answer, I just want to make sure that everybody is clear as to what the history of this project was, so one additional record revision I might make, I think if you want back to your 2006 minutes, you should take a look at what transpired with the original zone change on this property at that time. It might shed some light on the request that is in front of you tonight. So that's my comments for the evening, thank you.

Chairman Hall: Thank you Mr. Hayes. So, do we want to call this withdrawn?

Craig Minor: Yes.

### **IIIa. Appointment of Temporary Zoning Enforcement Officer**

Chairman Hall: The next item will be our temporary ZEO. I believe everybody received a card from Bonnie this evening. Good evening and welcome.

Bonnie Potocki: Thank you, Madam Chairman Hall

Chairman Hall: It's the first chance most of the Commissioners have had to meet you. So, we thought it would be good to have you come and put a face to the name.

Bonnie Potocki: Correct.

Chairman Hall: Maybe tell us a little of what you have done so far since you have been here. You've been here since April?

Bonnie Potocki: March. I have been working with Art Hanke who you are familiar with, and basically we have been sharing the position of Zoning Enforcement Officer. Primarily Art has been acting as your ZEO and I have been learning the Newington processing of permits and enforcement, and that's been very helpful, and working with Craig Minor also. So I have been here on a part time basis, and Art has retired from the Zoning Department so I am the interim until the vacancy is filled, so it's been a pleasure and it's been a pleasure working with Art. He's been here a long time, and he's been very helpful so I felt that I could step in until the vacancy was filled. It's a full time position, there's been a re-drafting of the position, and I'm sure Craig Minor could answer any questions about that.

Chairman Hall: Do you want to fill in a couple of holes as to Art's retirement date, and he's going to stay on, explain those kinds of things? Explain how the department is being covered at the moment.

Craig Minor: It's a little bit strange because the Art that we knew is gone. He retired, but the Building Department has hired him to work two days a week as a part time building inspector. So, Art is still physically in the building, two days a week, but he's in a different office, he's working for the Building Department, he's not working for zoning any more. He's still physically around, so we can ask him questions, get some background if we need, but he doesn't work for the Town as the Zoning Enforcement Officer any more. It will be over a month before the new one is hired, so I thought it would be good to have somebody who is officially appointed by the Planning and Zoning Commission, per the statute, to officially be your ZEO.

Chairman Hall: And as far as the process, when does the application period expire?

Craig Minor: I believe it closes the end of this week.

Chairman Hall: I'm sure the Commissioners have some questions.

Commissioner Aieta: So you will be filling in from this time forward as full time.....

Bonnie Potocki: No, part time.

Commissioner Aieta: Only part time.

Bonnie Potocki: Yes.

Craig Minor: Unfortunately Bonnie is only available part time, not full time. I wish she was, but she has other commitments so the most we can get from her is several days a week.

Commissioner Aieta: And when is the hiring of the new person?

Craig Minor: We're estimating that, if the closing of the applications is the end of this month, it will probably take about two weeks to interview, and the person that we select would want to give two weeks notice, so we are estimating the beginning of October.

Commissioner Aieta: Now that we are making the change from Mr. Hanke to a new hire, I think we should make some changes in his position, and what his responsibilities are to this Commission. One of the things that I would like to see is that the new person, whoever that person is, attends all of the zoning meetings, and that should be presented to them up front so that they know that they have two meetings a month at least to attend so that the Commission doesn't have to go to two or three people down the line to get questions answered on some of the enforcement issues. That's really important, something I have discussed with some of the other Commissioners, and they feel the same way, that it should be a requirement that they attend the meetings.

Commissioner Sobieski: Craig, how are you going to pick up the difference in time? Art worked five days a week, you're working three?

Craig Minor: Right, Art worked five days a week, but Art was always both a zoning enforcement officer and a part time building inspector. Some of his week was always spent doing some building inspection stuff. His week was also spent doing a lot of blight enforcement. For the time being I've taken over the blight duties, and Bonnie is working on just zoning permits and zoning enforcement, and in fact, she is emphasizing the zoning permits, making sure those get processed as quickly as possible.

Chairman Hall: I think it's important to mention also that at least for a month, several months, Art was not full time; he was not here five days a week. So at least for the summer I know that to be a fact, so we haven't had five days for a period of time.

Craig Minor: That's exactly why we hired Bonnie, because when Art went on part-time we hired Bonnie to fill in the difference.

Commissioner Anest: I think the ZEO should have to work one Saturday a month, just so that they can see what is going on around town. People know that the ZEO is not working...

Bonnie Potocki: I'm afraid I'm not going to be able to do that.

Commissioner Anest: I think that is important though, even if you give them time off during the week, people need to be driving around on Saturday to see what is going on.

Craig Minor: Things that only happen on weekends.

Commissioner Anest: Yes, exactly. Signs go up.....

Commissioner Aieta: At least when you are interviewing the permanent person, they should be aware that they might have to work one Saturday morning a month. If they wanted to come in late one day a week or something, whatever you decide to do, but I think it's important that we have the coverage because we are getting so many complaints on the Berlin Turnpike, it's like Friday at 4:00 o'clock, it's like another country.

Commissioner Camillo: Talking about coming to our meetings, the Building Department, an application comes in, needs a hearing, if we have questions for them also.

Craig Minor: What are you asking for? Someone from the Building Department?

Commissioner Anest: Someone from staff to come.

Commissioner Camillo: Just when it's needed. An application where we might have questions, to have them here, instead of having to go through you, to come back to us at the next meeting, we can get all this done the same night.

Chairman Hall: Other questions for Bonnie? It's good, as I said, to put a face with the name, and now also you have met us,

Bonnie Potocki: Right. Good.

Craig Minor: There's a draft motion that was on the table when you came in tonight. It was not in the packet.

Commissioner Sobieski moved to appoint Bonnie Potocki as Temporary Zoning Enforcement Officer in accordance with Section 8-3 (e) of the Connecticut General Statutes.

#### **FINDINGS:**

1. Section 8-3(e) of the Connecticut General Statutes states that the TPZ "shall provide for the manner in which the zoning regulations shall be enforced", i.e. may appoint one or more zoning enforcement officer.
2. Arthur Henke, the former Zoning Enforcement Officer is no longer a full time employee of the Town of Newington. The job vacancy has been posted but the new hire is not expected to become available until the end of September.
3. Bonnie Potocki is a certified Zoning Enforcement Officer with the experience and qualifications to serve as Temporary Zoning Enforcement Officer until a permanent ZEO is hired by the Town. She has been serving as Newington's Assistant Zoning Enforcement since March 15, 2014.

The motion was seconded by Commissioner Aieta. The vote was unanimously in favor of the motion, with six voting YEA.

#### **IV. PUBLIC PARTICIPATION (for items not listed on the Agenda, speakers limited to two minutes.)**

Chairman Hall: We do have an agenda published, so just make sure as you go through it that the topic you want to talk about is not listed as something that we will be talking about at some point in the meeting.

John Bachand, 56 Maple Hill Avenue, Newington: Is what I want to talk about on the agenda?

Chairman Hall: I have no idea, John.

John Bachand: Well, we've been going back and forth with e-mails.

Chairman Hall: Let me tell you how we do this. We're sitting here, you're coming before us, and you're going to tell us what you want. We don't have any preconceived notions as to what you might have to say.

John Bachand, 56 Maple Hill Avenue: The last I heard, Craig said that my letter didn't make it on the agenda, is that correct?

Craig Minor: What letter?

John Bachand: The letter that I sent you last week that you were going to e-mail to the Commissioners.

Craig Minor: And I did e-mail it to the Commissioners.

John Bachand: But that's not on the agenda.

Craig Minor: Correct.

John Bachand: Okay, as you know, I don't know if you got the three letters, I tried to send other letters, to the Chairperson, the Chairwoman, did those go out, so I would know how to speak to them?

Chairman Hall: I have them all, I got them this afternoon, all three of them, actually there is a fourth one, but I think one is a duplicate. There are two from August 27<sup>th</sup>.

John Bachand: There's a couple of different things here, the situation with my property, with the Certificate of Action, and I just, I don't know where to begin because it has been going on for two years. The first letter was dated August 2012, then we went to September of 2013, I thought that was very dramatic when it came on the one year anniversary and nothing was resolved, now we are on two years. I don't know what else to say, it seems like it's spiraling out of control and getting worse, it seems like the development situation is getting worse. In 2012 I was told at that meeting that it was going to be taken care of, and now it's two years later and nothing has been taken care of, in fact, it seems like we're finding out more things that are going to possibly delay it, so I was wondering if Craig could just bring everybody up to date on the situation.

Craig Minor: That would be up to the Commission.

Chairman Hall: We have your letters which, before you leave tonight, we will give copies of all four letters, give us a brief overview of.....

Craig Minor: Mr. Bachand has been bringing to the Commission's attention a number of issues over the years regarding the Packard's Way subdivision. One of the issues is whether the subdivision plan was filed in a timely manner. It was signed by the Chairman on October 25<sup>th</sup>, 2007. It was approved at the April meeting earlier that year. The statute requires that the subdivision plans be filed within ninety days and this was obviously filed after more than ninety days. It was a couple of months more than ninety days when it was filed in 2007, so Mr. Bachand's question is whether the subdivision is invalid because it was filed a couple of months later than the statute requires.

Chairman Hall: Right, and that is what he has brought to us before. Is there anything new, as of today, that we haven't heard before, because he had brought that to us.

Craig Minor: Before today I had not officially asked the Town Attorney, in writing, for an opinion on the situation. Today I did send the Town Attorney an e-mail describing the situation and inviting him to respond to the issue of whether the filing of the map more than ninety days later invalidates the subdivision.

Chairman Hall: Okay, thank you.

John Bachand: First of all, I thought at the last meeting that you told us that you were waiting for the legal opinion on that.

Craig Minor: At the last meeting I was waiting for the response to an oral request that I made, but I now put it in writing.

John Bachand: There's a difference?

Craig Minor: Yes, one is oral, and one is writing.

John Bachand: So he didn't respond to the oral?

Craig Minor: We discussed it, but I didn't get a reply that I thought was substantial enough to bring to the Commission, saying, "this is what the Town Attorney recommends".

John Bachand: This is what I was getting at, how it seems that it is spiraling into a worse situation than what was started. This is relatively new, this ninety day filing thing. The original was the Certificate of Action not being filed in the land records; that was my main concern from 2012 if you review the letters. It had to do with drainage, my right to drain to the south over that property, my right to drain to a catch basin there and also a pipe that was supposed to be brought to my property that was never done, and that is what I was told two years ago was going to happen and never did. This is a relatively new discovery about the ninety days. Originally in 2012 we were told that the Certificate of Action being put on the mylar was just a town regulation and it was no big deal, so this only came to light within the last two, three months about the ninety day filing. That really doesn't have much to do with me, I don't know why you are associating that with me, all I wanted to do was get clarity on it because I live next door to it, I want to know what I'm living next door to. I think it doesn't have everything to do with my drainage and really have no authority there, and like I said, it seems to be spiraling in a bad direction and instead of getting better, instead of doing what was going to be done two years ago, nothing got done, and it seems like it may be further away from getting anything done.

Craig Minor: If the Commission wants, we can spend the next hour going over those plans.....

Chairman Hall: No, this was supposed to be two minutes.

John Bachand: Well, this has been over two years and I appreciate the extra time that you gave me, but that's not a very valid excuse, and I don't think we should spend any more time talking about it, but I'm going to wait. I'm anxious to see what the legal opinion is on this because when you sent out the certified letter to everybody to discuss and to explain what went down at that June 11<sup>th</sup> meeting, you sent a certified letter to everybody to try to smooth things over, I think for sure a certified letter should go out as soon as possible and explain the situation that we are in now, because it does affect the immediate property owners. This really could be a house of cards, however you want to put it, but I think a certified letter out to all of the surrounding abutting property owners is called for. You did it with the last one, when decisions were made.

Chairman Hall: Okay, we will make sure that everybody gets a copy of these letters, John, and we'll wait for Peter Boorman to give us the take from the Town Attorney's perspective.

John Bachand: Okay, but again, that's a separate issue, that's the state statute thing that I really don't have a lot to do with, I'm very curious about it obviously, I live next door, but I'm still concerned about my original problem, my original concerns from 2012, again, 2013, and I'm bringing it up again in 2014. I don't have these modifications that were supposed to be put on the plans in the land records, so I still would like to know how that is going to happen. We heard all these different steps how it was going to happen in different stages of the process and.....

Craig Minor: And again, if the Commission wants, I can spend an hour and go through all of them, because they are not simple, they are complicated, and they are all different.

Chairman Hall: Anyone else wishing to speak?

Gary Bolles, 28 Burdon Lane, Newington: Good evening. On 13 August 2014 I e-mailed the Town Manager and attached a copy of my 28 July 2014 letter to the TPZ re: sending the 8-24 referral on the town hall renovations and proposed community center to you. Mr. Salomone responded and I quote, "I am positive that they have everything that they need." Now this was after the council meeting of 22 July 2014, where Mayor Stephen Woods confirmed publicly, publicly, that the above mentioned referral had been forwarded to the Newington Town Planning and Zoning Commission members. I then e-mailed Craig Minor to make sure that this 8-24 referral was on your agenda for this meeting. Much to my dismay, Craig said it was not, and attached a memo from Salomone which stated in part, "I understand that there has been some confusion pertaining to the 8-24 submission to the TPZ for the above listed project." Salomone asked Craig Minor, "therefore I will formally request that you schedule an 8-24 review after the referendum results are known." Salomone is promoting the proposed center, see memorandum from Salomone to Minor, 8-14, 2014. As inferred by the Connecticut General Statutes, any 8-24 referral is to be sent in a timely manner to the TPZ. That's why former Town Planner Ed Meehan would send 8-24 referrals the day after the town council's vote on same to send it to the TPZ. The TPZ has thirty-five days from the council's vote on 24 June, 2014 to act upon the 8-24 referral. Failure by the TPZ to act within that time frame automatically signals approval. In my opinion, the Attorney General's office would like to know if the town administration is not following state statutes on timely referrals to the TPZ. You should all be very upset that Salomone's actions took away your right to discuss the 8-24 referral. You should also be upset that Salomone is ignoring the TPZ's 2020 Plan of Conservation and Development with regard to dedicated open space. Remember, Salomone is Craig's boss, but he is not your boss. He's not your boss. You would be wise to ignore Salomone's request and schedule the 8-24 review as soon as possible. A suspension of your rules tonight would accomplish this; you could then schedule a special meeting. Thank you.

Chairman Hall: Thank you Mr. Bolles. Under "Communications" this evening, Number XI, we will be discussing the town manager's letter, so at this point it is on the agenda, so .....

Gary Bolles: I shouldn't have spoken then.

Chairman Hall: I thought perhaps you were going to discuss a couple of other items, so we allowed you to speak.

Gary Bolles: You had mentioned about two months ago, "Gary, we haven't seen you lately", now I'm here as your friend.

Chairman Hall: Good to see you. Is there anyone else wishing to speak?

Judy Igielski, 23 Old Musket Drive, Newington: Good evening. I have spoken before TPZ before, but it's been a couple of years, and my item might surprise you. On Number III, Public Hearings B, you had a motion on the floor, you seconded it, you asked for discussion, and you voted to close, as much as I understood from sitting in the back. You had a motion on the floor for Petition 30-14. You did not follow the same procedure, unless I misunderstood, or didn't hear it correctly. You had a motion on the floor, and then it was closed. You didn't ask for discussion or whatever. I just want to make sure that it's legal. That's all. So, if you could check, I know there is a tape going, correct?

Chairman Hall: Yes.

Judy Igielski: Okay, so you can check that. I don't know if you want to rectify that tonight, if I'm correct, if I'm not, I apologize for misunderstanding.

Chairman Hall: Okay, thank you.

Attorney Tim Hollister: Good evening Madam Chair, Commissioners, I'm Attorney Tim Hollister from Hartford. I will be less than two minutes. I represent Modern Tire Recapping which is an automotive use at 3455 Berlin Turnpike and four automotive uses at 105-113 Pane Road. My understanding is that tonight you will be getting a letter from me dated July 31<sup>st</sup> that talks about the zoning appeal that Modern Tire brought against the Commission regarding the automotive use regulations that were adopted by this Commission in 2012. My letter, number one describes the now-final Superior Court judgment in that case, and number two, identifies four sections of the regulations that were invalidated by the Superior Court, and number three, asks for the matter to be put on a future agenda to comply with the judgment of the court. Since my time is limited, I will make this one point, in response to the judgment. The Commission now has two mandatory obligations and one discretionary decision. The mandatory obligations are: number one, to repeal the invalidated sections; and number two, to rescind the actions that were expressly based on sections that have now been invalidated. Then you need to make a discretionary decision, which is to review the remaining automotive use regulations in light of the fact that the judge invalidated the waiver provisions. The discussion was, we can use these because we are giving ourselves flexibility to grant waivers. The waivers have now been invalidated, so our suggestion is that you go back and review the entire package, and my clients are willing to assist in that process. Thank you.

Chairman Hall: Thank you. Anyone else from the public wishing to speak?

Robert Amenta: I'm the owner of Modern Tire at 3455 Berlin Turnpike. As stated, there has been a court ruling requiring the Commission to remove several sections of the August, 2012 auto use regulations. Since this is a court ruling these invalidated sections need to be removed. I further suggest that the entire August 2012 auto use regulations be revisited. The basis for this is that my business as well as the business and property of many others in town are currently non-conforming according to these regulations. Our non-conformance is a direct result of the Commission's action in 2007 where they removed the auto use regulations then in place. The Commission's effort to reinstate the regulations in August 2012 did absolutely nothing to address the non-conformance; rather it further distanced our businesses and properties from conforming because it created a new classification called "motor vehicle uses", of which we are not a part, since we operate and are licensed by DMV as general repairs or dealers and not as limited repairs. Only limited repairers are allowed in these new regulations. So I request, in conclusion, that rather than tailoring auto use regulations to specific properties, that the Commission take a broader perspective in re-writing the regulations to ensure that businesses that have been in town, that have been paying taxes for years and years, are not relegated to non-conforming but are brought back into conformance as they were in 2007. Thank you for your time.

Chairman Hall: Thank you.

Gail Budrejko, 21 Isabelle Terrace: I have questions on the 2020 Plan. TPZ held multiple hearings and took information from public boards and commissions to produce this advisory document for all conservation and (inaudible) in Newington. Protection and preservation of open space is a consistent theme that runs throughout the plan. Newington has 726 acres identified as dedicated open space which is defined as "land owned by the federal government or state or the town, intended to remain for open space purposes". Regarding dedicated open space, I assume in all the stores of community land assets, you put careful thought and planning in identifying and mapping which land in town would get this designation. As you know the Town Council has determined that the new community center should be built on land identified as dedicated open space. So my questions are, does this designation have any meaning at all? Secondly, does anyone have the right to disregard this classification without going to this body, and thirdly, what authority does the town council have to openly defy and reject this designation? Conserving land as open space has been a primary goal in this town through out previous administrations. However the current administration chooses to consistently disregard the 2020 Plan of Development. This is disturbing to me, and frankly, it should be disturbing to everyone on this board. To have a plan of development and then have the town council consistently disregard it. We're on a very slippery slope, if this project goes through. It will set a precedent that jeopardizes all areas of town identified as dedicated open space. This includes Churchill Park, the Town Green, and neighborhood

parks as well. Any and all will be subject to development at the whim and personal vision of selected town officials. Personally, why there has been no collective statement of concern from this body? In my opinion the current administration blatantly and without apology feels that they are not accountable to the policies in the 2020 Plan. Recent actions speak volumes. For example, supporting the Toll Brothers development on the mountain, slowly allowing CCROG to take a lead on development planning at Newington Junction and along the busway, and building the community center on dedicated open space, just to name a few. The TPZ worked very hard on the 2020 Plan, researching, reviewing, listening, debating and negotiating in order to produce a fine document. If you believe in the vision that was set forth in this plan, please defend it now before it's too late, because if you're not willing to stand behind the plan, who will? Thank you.

Colleen Bielitz, 2110 Main Street, Newington: In regards to the proposed Firestone site on the Berlin Turnpike. We are an aggrieved party who have voiced our concerns at several Newington Planning and Zoning Commission meetings, since our property closely borders the site. As residents of Newington, we are requesting that the Zoning Commission invalidate any special permits and site plan approvals that were issued based on any invalidated sections of regulations and ask that anyone seeking modifications reapply for approval. We feel that since the Wex-Tuck site directly abuts residential property, we have the right to request a larger buffer zone than the current standards listing proximity to a residential property. I will stress that no planner can ever account for the reality of having some of these businesses so near to the residences of the community. The Bonefish Grill is close and we hear the dumpsters being emptied early in the morning, bottles clanging, metal lids shutting; this is bad enough on a work day, but on the weekends it is more than a nuisance. The intersection at Louis Road is still a hazard with cars criss-crossing and Bonefish staff still parking in the Price Chopper lot and running across the road amid the chaos of cars. The addition of the Firestone property will only add to the noise, congestion and potential danger in this area. I will reiterate the town's 2020 Plan's Development Strategy number four: to protect residential neighborhoods and transitional areas adjacent to commercial properties with increased landscape buffers and use controls to mitigate potential nuisances. Protect neighborhoods, number five, which is to review standards for buffer areas between residential and non-residential uses, and strengthen where needed along the Berlin Turnpike where single family uses abut commercial zones. As you can see, we have our most recent addition to our family here this evening, and we feel more strongly than ever that having an appropriate buffer is vital to our family's security, safety, and will also help to ensure the value of our property. I thank you for allowing me to address this concern this evening.

Chairman Hall: Thank you. Anyone else from the public wishing to speak?

Rose Lyons, 46 Elton Drive: First thing I would like to address is this room. First of all, anybody sitting here cannot see anything that you are seeing up there. I don't know what the answer is to the problem. This beautiful room that was put together by Kaestle Boos does nothing for me as a resident, watching, listening, and trying to see what you are seeing. I thought the room upstairs was bad, but this is even worse. At least we were closer, and we could see things. So, whether or not the community center is built on Mill Pond Park is still up for debate, but this building I hope will be renovated. When it is, I hope that you will have some input as Commissioners as to how you would like to see the room put together. My understanding is that this room is going to be the Helen Nelson, but I would like to see how you and the Board of Ed are going to meet on the same night together. I'm assuming that, even though the Mayor told me that they have always had a good relationship with the Board of Education, who have been thinking about your meeting on the same night, at the same time, so let's hope that they find a room for you, that we can see what is going on. The TV's over there don't do any good. Something has to be done. People don't know if they should be standing at that podium or sitting here and that goes for Conservation and the other meetings as well. Just a thought to keep in mind, because I can't speak to the other issue.

The only other thing I have to say is, I welcome the new Zoning Enforcement Officer. I hope that this Commission helps the Zoning Enforcement Office. I know that the town is exempt from a lot of rules and regulations that we residents have to abide by, but I would hope that you would hold the town to the same standards that you wish to impose on us, including the grass regulations, including what you would hold a developer to if they were the ones that were going to be building on the property in question. Thank you.

Chairman Hall: Thank you Rose. Anyone else from the public wishing to speak?

Domenic Pane, 638 Church Street: I own property at 105-113 Pane Road, and this automotive regulation has affected the value of my property. I never had non-conforming businesses, and now I have four businesses that are non-conforming. It affects the value of my property, and it also affects possible financing of the property. I wish that this Commission would take a serious look at the automotive regulations and re-write the regulations so it works for everybody in town. The only other thing I have to say is, on one of the petitions earlier during the public hearing, Petition 25-14, which was moved to Old Business, if I'm not mistaken, you were waiting for something from New Britain, a report from New Britain, so shouldn't that have been left open, otherwise you can't receive a report from New Britain, just a curiosity. Thanks very much.

Chairman Hall: Anyone else wishing to speak?

Maureen Klett, 104 Harold Drive: For the record, I'm a member of the town council but I'm speaking as an individual tonight. I'm not going to speak to the 8-24 pertaining to Mill Pond Park, but I would sure like to, but instead I'm going to speak to the issue of 8-24 in general. At the last Town Council meeting we were made aware of the fact that down at the end of the street work was being done to move all of the impounded cars, which seems like a silly idea to me, to talk about possibly cleaning up Mill Pond Park and then to move impounded cars out of the town lot, which certainly needs parking but it's certainly won't clean up the area. In any event, the question came up about not putting in for an 8-24 on that piece, on that change in use of town property. It also speaks to the subject of whether there were wetlands adjacent, and I was not entirely knowledgeable about that, but I think it was Mr. Bachand, I'm not positive, that actually came up and spoke and confirmed that there were wetlands in that area even though the Town Manager told us there were no wetlands. The very next day after the discussion, they were paving the area. I would have thought the very next day there would have been some question about the need to bring that, I would have thought that the work would have stopped and there would have been at least a question about an 8-24. So I would suggest that maybe this Commission needs to take a stand on the fact that you are the body that is supposed to be reviewing any kind of change of use of town property, and that is not only another example of work being done and property being changed where there is the potential for runoff from vehicles may have been damaged or whatever, into wetlands; and yet even after that was brought up, it got paved the next day. I would think that this Commission might be concerned about something like that.

Chairman Hall: Thank you Maureen. Anyone else wishing to speak?

Judy Igielski, 123 Old Musket Drive: Thank you for your indulgence. This has nothing to do with the agenda or anything that has been said. Having served on the Board of Education in the Helen Nelson room for eight years, I find it upsetting if we, and I'm saying if because we haven't voted, we change names of rooms that have been named after people who dedicated their lives to what they were doing. I will also remember rooms B and C as Helen Nelson Room. She was the grandmother of the Board of Ed, and what she did for education is phenomenal and affects children even today. When rooms and even the police department have been named after an individual those names should not be changed. They should stay where they are, it was done there for a reason, and I hope that, I don't know if this comes under your purview, or Town Council, I'm not sure, but if it's not under your purview and you know someone that can do something about it, don't change the names of the room. Things like this are not known to the public, there are many things that are not known to the public. I can't tell you how many rumors are out there, but I'm sure you are aware of some of them, and I'm finding unfortunately that most of the rumors that I have been hearing are true. To me right now, that's scary. I find our town changing, and we need to hang onto what we have and to make it better the way we have done in the past. Just because we want to build, no, we need to build, we need to renovate town hall, we know that, most of us do, it doesn't mean you change the sentiment, the infrastructure in memory of people who have served. Thank you.

Chairman Hall: Thank you Judy. Anyone else wishing to speak?

Patty Foley, 51 Crown Ridge: I just want to comment again, or continue to comment on what Gail said here earlier about the 2020 Plan. I have read that thing, and I think that I have memorized most of the pages. I was also living here when all that went on. Along with some other people, I also put my two cents in. Seems like we have a lot of two cents around here, and the two cents for tonight is that that plan is absolutely crucial. It is actually amazingly thoughtful. It thinks about our future, and not the whims that come and go, so I'm asking you that, as the upcoming ideas are going to be presented here, that we actually look at the 2020 Plan. We need to have a great town, we need to maintain the life we have here, and on all counts, everybody needs to be accountable to the citizens of Newington. Thank you.

Chairman Hall: Thank you Patty. Okay, last call - seeing none...

## **V. REMARKS BY COMMISSIONERS**

Commissioner Aieta: On a couple of the comments that were made by the public, on the 2020 Plan, just want the public to understand that it's not just the plan for the Town Plan and Zoning Commission to follow, just because we are the ones who authored it, it is a plan that all the rest of the agencies in this town should follow. Just to remind you, it was authored by us with the help of the public over nine or ten months, and it was sent to the Council and it was approved by the Town Council. It's their plan as much as it is ours, so if they are not following, the letter of the intent of that plan, then shame on them.

Unfortunately we have not, I know your feelings and what most of the people are here for, but we didn't get a referral, it's not on our agenda, we not get an 8-24 referral from the Town Council much as it said that it came from the Council to the TPZ. It's not on our agenda, it was not formally brought. Maybe the Planner can project as to what happened. I know that the meetings of the Town Council where they said the 8-24 referral was supposed to be sent to the TPZ, it was never sent. We don't have it; it's not on the agenda. I've done some research on 8-24 and I think we're in a bad position because the clock started ticking the night that the Town Council sent it, referred it to, told the Manager to refer it to the Town Plan and Zoning Commission which never happened. So specific in the statute, you've got thirty-five days, those thirty-five days are up. Unfortunately I would have loved to have, as a Commissioner, the opportunity to talk about the 2020 Plan and how it affects the 8-24 on that piece of property. It never came to us. Unfortunately I believe that we will not have the opportunity to do it because under the 8-24 review, after the thirty-five days, it's automatically approved.

Chairman Hall: Frank, we are going to be talking about this.....

Commissioner Aieta: I understand that, but we're talking about it under the letter from the Town Manager on the Town Hall Community Center. Most of the people that are here, they are questioning the 8-24. I just want them to be aware that I believe that we are out of the loop on this thing. That's enough on that issue.

On the auto regulations, I think we as a Commission have dragged our feet and we should probably, once the lawsuit started, probably reviewed our regulations, and I think that we should at least have a discussion as to whether we should put it on the agenda to review and amend our regulations per the outcome of the case. The case is finalized, the judge has ruled and our regulations go against what the findings of the court is. We should discuss it as a Commission as to how we are going to move forward. What if we have someone come in with an auto-related use? What do we tell them, come back when we figure out? That's not the way we should be doing business. We should have a regulation that is functional and works for everybody. This one does not. I think tonight we should discuss when we are going to put it on, and how we are going to proceed with this auto thing. We need some feedback from the staff, and what he thinks and where we should be going with this, but I think putting it off and putting it off is doing a disservice to the people who might come in.

Chairman Hall: Anyone else wishing to speak at this time?

**VI. MINUTES**

**A. July 9, 2014**

Commissioner Sobieski moved to accept the minutes of the July 9, 2014 Regular Meeting. The motion was seconded by Commissioner Serra. The vote was unanimously in favor of the motion, with six voting YEA.

**VII. NEW BUSINESS**

**A. Petition 31-14: Site Plan Approval (Drive through Restaurant) at 3120 Berlin Turnpike (Panera) Norr Architects, applicant; Newington VF LLC, owner, Bryan Slonski, 325 N. LaSalle Street Suite 500 Chicago, IL, contact.**

Jeff LeBeau: Good evening, back again. Jeff LeBeau with Freeman Companies, and Rachael. Pretty much the Special Exception discussed all of the proposed changes that we would like to have as a condition of approval of the actual site plan.

We received staff comments from the Town Engineer, to approve with conditions as far as storm water runoff. We are utilizing Low Impact Development which is your town standard in two locations, and we discussed adding stop bars for traffic safety, as well as re-doing some of the directional arrows.

Commissioner Aieta moved that Petition 31-14 be moved to Old Business for the September 10, 2014 meeting. The motion was seconded by Commissioner Leggo. The vote was unanimously in favor of the motion with six voting YEA.

Chairman Hall: Thank you for patiently waiting to present your two minutes.

Jeff LeBeau: No problem, thank you.

**B. Petition 43-14: Site Plan Approval (Parking Lot Expansion) at 79 Stanwell Road. JSC Liquidating Trust, owner, PDS Engineering & Construction, applicant, Frank Borawski, 107 Old Windsor Road, Bloomfield, CT contact.**

Chairman Hall: Now, is it 79 or 76 Stanwell? The applicant has it as 76, yet the petition is 79.

Dana Steele: Good evening, my name is Dana Steele, I'm a professional engineer with J.R. Russo and Associates and here on behalf of PDS Engineering and GKN Aero Space. GKN purchased this property at 76 Stanwell Road a year or so ago, and they have been doing interior renovations, and now are ready to look at the site.

The pavement is pretty worn; it's been there for quite a while and it's ready for a redevelopment, and so they are proposing to replace some of the pavement on the south and east side of the building, which will provide additional parking and better maneuverability for trucks. Right now the loading dock on the south side doesn't have much room for trucks to be able to back in. The existing driveway is here and we are going to be moving it down closer to the utility pole. So, the application essentially involves additional impervious coverage. Your regulations require us to improve the site with Low Impact Development, so one of the things that we are doing is retrofitting the existing detention basin and turning it into a water quality treatment basin by over-excavating it, providing opportunity for infiltration of the water quality volume, adding a fore bay to the basin to provide additional treatment. We've discussed the proposal with the Town Engineer and they had a number of comments about the plan that we believe we have addressed with this revised plan, and we've gotten a favorable response from them. The only thing they asked us to add was deep sumps at a couple of these catch basins, which we will do, and then some notations. We are proposing a maintenance schedule that explains what the property owner is required to do to maintain this so it continues to function properly, so that is a part of the record as well. Engineering asked that we add a note to the utility plan here referencing that which is on the erosion

control sheet, so I believe we have addressed all of the staff's concerns. I will be happy to answer any questions you may have on the project.

Chairman Hall: Do the Commissioners have any questions? Craig gave us a detailed explanation from the consulting engineer. Do you want to give us a little more information on that?

Craig Minor: There were three items on my letter that you didn't address, and I wondered if you could explain. I asked you to show us the existing sanitary water and gas mains. Was there a reason that you didn't show that on the revised plan?

Dana Steele: There is a sanitary manhole here, and I suppose they didn't have the information on where it came into the building, but I can check on that.

Craig Minor: Okay, thank you. Also, this is really nit-picky, but the corner pins need to indicate if they are found, or need to be set.

Dana Steele: On the property corners, sure.

Craig Minor: There are mature trees in the area of the proposed detention basin, and I wondered if you had considered saving some of them because they are large trees, would help a lot with your LID. I just wondered if you had given any thought to trying to preserve them?

Dana Steele: Sure. When this was originally constructed, the basin was obviously excavated and there were obviously no trees in the basin, but over time, seeds fall, and helicopters, and trees begin to grow up, and now there are some very large trees in the basin. The problem is, with those in the basin, we're relaying the pipe so that everything can drain by gravity, so basically if the trees stay, then the basin would stay as is. Since the intent is for this to function as a storm water quality basin, it has to be maintained as such too, we have to get in there to maintain it, keep it clean, and the trees are in the way. They weren't supposed to be there, they just ended up there, so this is really something, they should have been removed when they were saplings, it would have been easier to do.

Craig Minor: That was my question, because they look like specimen trees to me, and I'm not an arborist, but you're saying they are volunteers, they weren't planted. Okay. Those are my only concerns. Thank you.

Chairman Hall: How about the snow storage?

Craig Minor They did show that. It's in several places.

Commissioner Aieta: The gray area is the new pavement.

Dana Steele: The gray area is the new pavement, and this paved area is actually existing, but it is going to be re-paved as well, so all of this will be re-paved. We are also adding a handicap accessible ramp. Right now this is not accessible, so this will be an improvement as well.

Commissioner Aieta: How did you figure the total number of spaces that you needed, did you do it based on employment.....

Dana Steele: Yes, the bump out in the front here is office space. Your regulations require six per thousand square feet.....

Commissioner Aieta: You know that we changed the regulations; did you use the new regulations, requirements?

Dana Steele: Yes.

Commissioner Aieta: In your opinion, for the number of employees, do you have more than you need?

Dana Steele: This is actually what your regulations require. It's one per employee and there's fifty employees, twenty-four for the office space, and if they didn't need the spaces they probably wouldn't build them because it costs money.

Commissioner Aieta: I just wanted to make sure that we're not overpaving if we don't have to. Apparently you have done your due diligence and it's coming out right. Unfortunately that's a lot of additional pavement, and I could see where you are going to need some improvements to the detention.....

Dana Steele: Most of this is already paved. This area here is already paved, this is already paved, this is already paved, the existing pavement line runs about here, so really what is being added is this driveway. That's really the extent of the additional pavement.

Chairman Hall: Evening it all out.

Dana Steele: Yes, organizing it a little more, it will be cleaner.

Commissioner Aieta: GKN, they have another building in town, don't they?

Dana Steele: Yes, they have several.

Commissioner Aieta: They have several.

Dana Steele: They are growing and expanding.

Commissioner Aieta: Growing, and are staying in Newington.

Dana Steele: That's right.

Commissioner Sobieski: What are you going to do with the existing paved driveway? Is that also going to be repaved? It's up by the top of your plan there?

Dana Steele: This pavement will not be replaced. That portion, we're not touching that area, but if they decide to top it, just for aesthetic and maintenance purposes, they certainly can do that, I don't think it requires a special permit for that, but this is the area that is being reconfigured.

Chairman Hall: Anyone have a question?

Craig Minor: I just want to mention that I do have a memo from the Town Engineer. He recommends approval with the understanding that three items will be done by the applicant, and I can address this in the draft motion that I will have for you at the next meeting, to approve.

Chairman Hall: Thank you.

Craig Minor: So, do you want to move this to Old Business for the next meeting, or do you want to talk about that?

Chairman Hall: What's your pleasure?

Commissioner Aieta: If they are not under any time restraints.....

Dana Steele: Sincerely, we would like to get this done before winter.

Chairman Hall: Right. It's September by the next time we meet, and by the time they.....

Commissioner Aieta: Under the circumstances, if you could write a motion, I would be willing, just speaking for myself, to move this to Old Business and vote on it tonight. We're pressing the clock. I know in construction that there are variables and things happen that put you behind the eight ball. We know that the plants close, and their closing is approaching fast; you've got plantings, you could do some planting in the fall. I'd be willing, and I would ask the Commission if we could move this to Old Business tonight and vote on it, so you could get started. This is cut and dried. You're not looking for zone changes, they are looking for upgrades to, and because they are staying in Newington and their company has a presence in the town, I think we should try to accommodate them with the time factor.

Chairman Hall: Would you be able to put something together, and do you have any concerns about any of the things from Engineering. Do you feel comfortable that would be taken care of?

Craig Minor: Yes. I would like a recess so I can go back to my office and draft something for you, but it will only take a couple of minutes.

Commissioner Anest: I'm fine with moving this to Old Business for tonight.

Commissioner Leggo: I agree.

Chairman Hall: All right, then we will.

Craig Minor: Do you want me to do that now, or later tonight? I'm looking to see if there is anything on the agenda where I can disappear and you won't need me for a while, but there's, other than approving the Extra Space sign, there's nothing here that doesn't involve me. How about we take a ten minute recess?

Commissioner Sobieski moved to take a recess. The motion was seconded by Commissioner Serra. The vote was unanimously in favor of the motion with six voting YEA. The recess was called at 8:40 p.m.

Commissioner Sobieski moved to resume the meeting. The motion was seconded by Commissioner Serra. The vote was unanimously in favor of the motion with six voting YEA. The regular meeting was resumed at 8:50 p.m.

#### **C. Performance Bond Release at 1095 Main Street (Farmington Bank.)**

Craig Minor: This project is finally done. All the details have been addressed to the Town Engineer's satisfaction, so I recommend that the bond be released, and I have a draft motion in the agenda package.

Chairman Hall: Discussion? Cut and dried. Any objections? Move it to Old Business and vote on it tonight? The vote was unanimously in favor of the motion, with six voting YEA.

#### **D. Performance Bond Release at Veterans Drive (Victory Gardens.)**

Craig Minor: This one, unfortunately, I'm not in a position to recommend releasing because it turns out there are drainage issues which have been brought to the management's attention and they said that they will address. But at the moment it's creating a run-off problem for the downstream property owner, which is the Board of Ed, so I recommend we wait until they finish that before we release the last of the bond. So, I recommend no action on that one.

Chairman Hall: All in favor of that, any opposed? The vote was unanimously in favor of the motion with six voting YEA.

**VIII. OLD BUSINESS**

**A. Petition 38-14: Special Exception (Section 6.2.4: Free-Standing Sign) at 184 Fenn Road, Arco Sign Company applicant, Extra Space Properties Two LLC, owner Marc Cohen, 1130 S. Broad Street, Wallingford, CT, contact.**

Commissioner Anest moved to approve Petition 38-14: Special Exception (Section 6.2.4: Free Standing Sign) at 184 Fenn Road, Arco Sign Company applicant, Extra Space Properties Two LLC, owner Marc Cohen, 1130 S. Broad Street, Wallingford, CT, contact.

**CONDITIONS:**

1. The height of the sign shall be no greater than 18' measured from the parking lot pavement to the top of the sign.

The motion was seconded by Commissioner Aieta. The vote was unanimously in favor of the motion, with six voting YEA.

**B. Petition 43-14: Site Plan Approval (Parking Lot Expansion) at 76 Stanwell Road JSC Liquidating Trust, owner, PDS Engineering & Construction, applicant, Frank Borawski, 107 Old Windsor Road, Bloomfield CT, contact.**

Commissioner Camillo moved to approve, with conditions, Petition 43-14; Site Plan Approval (Parking Lot Expansion) at 76 Stanwell Road, JC Liquidating Trust, owner, PDS Engineering & Construction, applicant, Frank Borawski, 107 Old Windsor Road, Bloomfield CT, contact.

**CONDITIONS:**

1. The plans shall be revised to address the Town Engineer's comments dated August 26, 2014.

The motion was seconded by Commissioner Leggo.

Commissioner Anest: Were you satisfied with the location of the existing sanitary sewer, water and gas lines?

Craig Minor: It's not an absolute requirement for a parking lot expansion. As I said in my letter, it would just be good to show it. I'm satisfied that Dana will put it on the plan. I didn't feel it was worth making you wait another ten minutes to phrase it exactly correctly which is why I didn't put it on there, but I'm satisfied with it.

Commissioner Aieta: They'll be marked before they dig, so.....

Chairman Hall: And it's in their best interests to find out where they are as well, so.....

Commissioner Anest: Okay, I just wanted to be sure you were satisfied.

The vote was unanimously in favor of the motion, with six voting YEA.

**C. Farmington Bank Performance Bond Release**

Commissioner Aieta moved to release the performance Bond for Farmington Bank in the amount of \$2,995.00.

**FINDINGS:**

1. The Town Staff inspected the site on August 8, 2014 and found the landscaping to be complete.

2. The digital as-built, the engineer's certification, and the file mylar have been submitted.

The motion was seconded by Commissioner Leggo. The vote was unanimously in favor of the motion, with six voting YEA.

## **IX. PETITIONS FOR PUBLIC HEARING SCHEDULING**

### **A. Petition 44-14: Special Exception (Section 6.15.6: Health Club) at 37 Ann Street, 37 Ann Street LLC, owner CT Workout, applicant, Benjamin Petitpas 85 Market Square, Newington, CT, contact.**

Craig Minor: We received a petition for a special exception for a health club at 37 Ann Street. The Commission may recall this is the same site where a new church was trying to get established but it turned out they couldn't work out the details; they needed a lot more parking than this health facility would use. I did a quick review of the amount of parking needed, based on the numbers of people they said they would have, and I don't see a problem with that, so I recommend that you hold a public hearing at the next meeting and we can discuss it in more detail then.

Commissioner Aieta: Is there a formula for parking for a health club?

Craig Minor: Yes.

Commissioner Aieta: Based on square footage?

Craig Minor: It's one, well it's an all-purpose category. It's theaters, places of assembly, places of recreation, amusement; really a pretty broad category. The requirement is one parking space for two seats or one per three persons in the building per the fire marshal's rating. They told me they expect to have, at the most, thirty people at one time which means ten spaces, and we can go into more detail at the hearing. If they have more people than they expect, which hopefully they will, there should be enough parking for more than just thirty people.

Commissioner Anest: I don't understand the one for three. You usually drive your own car to a health club.

Craig Minor: It's an all-purpose regulation. We should probably look at fine-tuning that requirement because that's such a broad category.

Commissioner Aieta: When we put it on for scheduling we should look at and try to get some more information about the size of that building, the square footage and try to make a determination if they have enough space to expand if business takes off.

Craig Minor: I'll warn the applicant to be prepared to discuss that.

Chairman Hall: And then we are all probably going to take a drive by it. I know that we saw it for the church, but it would be a good idea to take a look at it again with the idea of a health club in mind, versus the church. That is the only thing you have so far for scheduling?

Craig Minor: Yes.

Chairman Hall: I'm sure that will change.

## **X. TOWN PLANNER REPORT**

### **A. Town Planner Report for August 27, 2014**

Craig Minor: Zoning Enforcement Issues Raised at Previous TPZ meetings: "Sunshine Laundry on Rockwell Road: I met with a representative of Sunshine Laundry. They will apply for a permit to conduct outside storage in a screened area. The Health Department looked into it, and has informed me that soiled linen in the parking lot is not a health code violation. They will come before you".

Weekend Inspection by ZEO: "Art Hanke came in on Saturday, July 26, to look for illegal signs on the Berlin Turnpike and Town Center. He encountered four with either no permit or an expired permit (Bob's Furniture, Galaxy Carpet, Sophia's Breakfast, Karma's Closet.) In each case he has done something, either contacting owners or sending notice of violation, some appropriate action, but those are all familiar names".

Appointment of Temporary ZEO: We already covered that.

Old Performance Bonds held by Town: There is a report attached to the agenda package and I can go over it in detail if the Commission wants to, or I can just go on...

Newington Junction TOD Planning: "The committee last met on July 3, 2014 to discuss its future efforts. Several options were discussed, and it was agreed to seek the Town Attorney's input on what role this committee should play in the planning and zoning for the neighborhoods of the two CTfastrak stations. We are awaiting his comments".

Electric Vehicle Charging Stations: See attached memo, and I will come back to that in a minute.

Status of Modern Tire Appeal: "On August 4, 2014 Chairman Hall and I spoke with Town Attorney Jack Bradley about what action, if any, TPZ should take regarding the portions of Section 6.11 (Sale, Rental, Service and Storage of Motor Vehicles) that were invalidated by Superior Court Judge A. William Mottolese on his Memorandum of Decision dated January 21, 2014. I will brief the Commission on that discussion at the meeting on August 27, 2014".

In a nutshell, and Chairman Hall, jump in, but in a nutshell, what the Town Attorney advised us is to take no action at this time. Specifically, take no action on rescinding the approval because it's a valid approval. There is no mechanism to rescind that approval. There is no process where you could do that, it was lawfully approved by the Commission. If you would like I can ask the Town Attorney to come and speak in more detail, but his recommendation was pretty firm, that the approval stands.

Now to the question of what should we do about the sections of the regulations that have been struck down, he recommends that we take no action at the moment. There is no need to take any action. We haven't been ordered to take any action, and in fact, common sense wise, there is no need to take action, because I've been telling applicants, yes, the regulations give the Commission the ability to waive certain things by a two thirds vote, but don't even ask for a waiver because it is not going to be granted. Submit a plan that meets all of the requirements per the regulations. So there is no need to change the regulations. Eventually, yes, we should eventually take those out and there are a lot of them, I counted some twenty or thirty sections in the regs that used either "waived, varied, modify, relieve", we used a whole bunch of different words to basically grant variances, but at the moment, the Town Attorney does not recommend that you take any action on the regulations.

Commissioner Aieta: The opinion that you have from the Town Attorney - I think that his opinion is flawed. We have a judgment, they went to court, the judge found that certain portions of our regulations are unconstitutional, or whatever; we didn't have the authority to waive. We waived portions of our regulations on the Firestone piece of property. I don't know how you can interpret any other way than that is an invalid action that we took considering the recommendations from the court, from the judge. Are we to go back to the judge and ask him again to give us a different opinion?

Commissioner Anest: I would like to have Attorney Bradley come and speak to us and then he can give us his position.

Chairman Hall: I'm sure he would be happy to do that, he indicated that when we had spoken, that if there were any questions.

Commissioner Anest: If he could clarify that, there are some new members on here too, so let's clarify it for everybody.

Commissioner Aieta: I have a problem with us telling an applicant that these are the regulations, but don't do that. It says it, but don't even come in. You're prejudging the thing before it comes to the Commission. This is a bad way to do business and I'm not comfortable at all with that scenario, telling people here's our regulations, but this portion has been struck down, I mean, it's so contrived. I mean, we have to take, we're not taking our responsibility as Commissioners seriously. We should have done it before this point. We should be reviewing these regulations, specifically automobile ones and putting them back where they make some kind of sense. It doesn't even make any sense. If someone wanted to come in and press the issue, I mean, this is just horrendous, the way that we are doing business.

Chairman Hall: Well, I guess a couple of meetings ago, which would equate to a couple of months ago, we had indicated that we were going to be taking a look at them, and we will. I think probably it's a good project for us to get started after the first of the year. Several things, not just this, but other things in the regulations that we really need to take a look at. That too will take a couple of months, it's not going to happen overnight. Not going to do it in one meeting, so have to spend some time and realize that maybe our meetings are going to go a little bit longer for a couple of months.

Commissioner Aieta: Then I make a suggestion. I talked to Stan and Stan seemed to think that we should have a subcommittee to start reviewing the auto regulations and I would be willing to serve on the subcommittee because I have some ideas on how to set this record straight, and make these people who have non-conforming uses that have been in town for fifty years conforming like they are supposed to be.

Commissioner Anest: I think we should have work sessions starting at 6:00 o'clock like we did, 6:00 to 7:00, and start the meetings after all the work sessions.

Commissioner Aieta: Why is this Commission so afraid to take this issue on, and straighten it out?

Chairman Hall: I don't think we are afraid to do it, I think.....

Commissioner Aieta: Why are we procrastinating then?

Chairman Hall: Because we have been waiting for some signals, and we have gotten.....

Commissioner Aieta: Well I know one thing, we have made this attorney that is trying this case for the Town of Newington a very rich man, because he has been jerking us around for years.

Commissioner Anest: See if he can come to our next meeting, and then we discuss and see how to proceed shortly thereafter.

Craig Minor: I can do that.

Russell Road and East Cedar Street: Commissioner Anest suggested that I give the TPZ a status report on "The Shoppes at East Cedar Street", now that the developer has finally begun site work.

This project was initially denied by TPZ, but a settlement agreement was reached in 2009 which was formally approved by TPZ on August 14, 2009. The project consists of five individual buildings; a gas station/convenience store, a small retail strip building, a five story hotel, a bank, and a restaurant. There will be a traffic signal on East Cedar Street aligned with the driveway to the building across the street at 365 East Cedar Street.

The developer has begun preparing the site for construction. He has cleared the site, but the rough grading is taking longer to do than he expected because he needs various DOT permits to access the site, and they are taking longer to get than he expected. In the meantime he is considering making changes to the approved site plans. Some of the changes are technical and only need staff approval (namely a revision of the storm water management plan to take advantage of techniques and products that were not available back in 2007 when the site was originally designed), but some involve a change in use for some of the approved buildings which will require TPZ approval. So, as that evolves, I will keep you informed.

I'll now move on to my memo about the electric charging stations. I won't read the whole thing, but I will paraphrase it. I was asked by the Commission a few months ago to look into regulations for electrical vehicle charging stations now that they are becoming more common, in fact, we have a couple of them in Newington. So I looked into what other towns have, and of all the towns that I looked into I didn't find any town that has, in their regulations, anything that specifically addresses vehicle charging stations, with the one exception of Bristol. Bristol requires at least one Level 2 charging station in their downtown zone, and that is a footnote in their site plan requirements for that particular zone. Of the two dozen zoning regulations that I looked at, that was the only reference I found to electrical vehicle charging stations. So, unless the Commission wants to regulate them in some way, at the moment we don't have any mechanism. It's up to the Commission if you want to, I'm not suggesting it because we would sort of be out of step with other towns. Not that we of course have to follow other towns, but no other town has felt the need for their zoning commission to address it, because installing a charging station needs to get building permits. They need to get an electrical permit. A charging station is very much regulated by the building inspection community, it's just not regulated by the zoning community in most towns. I will leave it to the Commission if they want to go anywhere with this.

Commissioner Aieta: Probably other towns don't have it in their regulations because it's such a new concept. Maybe they are overlooking their regulations, maybe no one has come in and asked for a charging station in their town and that's why they haven't been pro-active and gone and put it in their regulations. Maybe they are waiting for someone to come in with one. We already have two in the town, the Town of Newington, we should have the opportunity to address the ADA requirements, how much space it takes up, traffic circulation in the area around it. There's a lot of questions, should it be screened, should it be landscaped, there's a whole bunch of questions that should be answered and it should be the responsibility of the Zoning board to make sure that if they are on the site plan that they have some guidelines as to whether to approve it or not.

Chairman Hall: And this is something to add when we look at the regulations, that this might be something that we want to add, not just take what we have and change, but to add, so let's put that into our hopper, so to speak when we start looking at the regulations. Any other comments on the charging station?

Craig Minor: I have my regular report on some of the various bonds that are still lingering. I've made progress on a few of them, some of them. The reason they are still hanging around after some twenty years is because they are complicated. Do we really want to use the police power of the town to force somebody to put down that second coat of bituminous that they haven't had for the last twelve years, I'm not sure that's where I would recommend that the Town direct it's resources. In the case of the L.A. Fitness I was surprised to find that the reason there is that area of loose gravel is because they actually have a valid pad site approval which is still valid for a couple of more years. The legislation has changed over the years to extend the shelf life of certain plans. This is one that actually is still valid for another couple of years, so no point in going to them and asking them to do anything, because they still have a valid permit. So I'll keep working on all of them and one by one they are going away.

Chairman Hall: I was giving Craig a hard time about these that we see month after month after month, and he did remind me that this list started out at thirty-three, and we're down to twelve, so we're working on it, little by little.

Craig Minor: That concludes my report.

**B. Appointment of Temporary ZEO.**

Discussed previously on the agenda

**XI. COMMUNICATIONS**

**A. Memo from Town Manager dated August 14, 2014 re: Sec. 8-24 Referral for the Town Hall/Community Center project.**

Chairman Hall: This was sent to Craig. We did get a copy of this, do you want to just read it?

Craig Minor: Sure. This is a memo to Craig Minor, Town Planner from John Salomone, Town Manager dated August 14, 2014.

"I understand there has been some confusion pertaining to the 8-24 submission to the Town Plan and Zoning for the above mentioned project. In addition, at the Town Council meeting of August 12, 2014, the Town Council requested that I do research and attempt to implement an exit poll to ascertain referendum voter sentiments for the September 9, 2014 referendum. I intent to see request for quotes (RFG) as soon as possible so that the town can ascertain a more detailed voter opinion on the Town Hall/Mortensen Center project than merely a yes or not voter tally.

If we are successful in obtaining a statistically valid exit poll, this would be of great assistance to the Town Hall Building Committee, the Town Council, and the Town Plan and Zoning Commission in formulating a new plan for the Town Hall/Mortensen center or find tuning the existing plan in the event that the referendum is approved.

Therefore I will formally request that you schedule 8-24 review after the referendum results are known and the exit poll is completed. If the Town is successful in retaining a professional polling firm at a reasonable cost, the information gathered will streamline any post referendum changes to the project scope."

Chairman Hall: I served on the Town Council for ten years, and every time there was an 8-24 report, it always came from the Council authorizing the Town Manager to submit it to TPZ. In this case this letter is telling us when he is going to submit it. He is going to formally submit it after the referendum results are known. So at this point, it has never come to us. That's why we have not acted on it because it hasn't come. We are now forewarned that it will be coming, after the referendum, but that is the chain of events: Council authorizing Manager; Manager sending it to TPZ. Then we act on it and we send it back. So, this is how we've been doing it, and I checked with the Town Attorney and this is the way it is.

Commissioner Aieta: I don't know how the two equate, an exit poll and the referral to the TPZ. That's just mind-boggling to me. They aren't even in the same universe. What does one have to do with the other? Putting that aside, it looks like the Town Manager is sitting on it for a specific reason. I thought these approvals should come to the Town Plan and Zoning Commission when they are referred, asked by the Council to be sent to us, it should be sent immediately. It sounds like there are some games being played by the Town Manager, so it's out of our hands anyway. No matter which situation it is, either the clock started, or it didn't start.

Chairman Hall: It is not that we are not acting upon it; it has not come to us yet, so therefore we haven't acted on it. Any other questions, comments?

**B. Letter from Gary Bolles dated July 28, 2014 re: Town Hall/Community Center project.**

Chairman Hall: The letter from Gary, did everybody get a copy? Yes, it's in here. And pretty much Gary read that to us, so does anyone have any questions on that?

**C. Zoning Referral from CRCOG dated August 7, 2014 re: proposed changes to Berlin Zoning Regulations.**

Craig Minor: This is just a formality, no action is required.

Commissioner Aieta: Do you know what they are changing, Craig? Is it anything substantial on the Berlin Turnpike?

Craig Minor: It has to do with "contractor shops" so frankly I didn't go into it further. There have been times when I have gotten these referrals and I did want to know, and I contacted the neighboring town to get a copy of the amendment, but this was one that didn't seem to be too significant. The hearing has been scheduled for August 14, so the hearing has already started, it still might be open. If the Commission wants I'll ask my colleague in Berlin for a copy, I'll ask her for a copy of the regulation and I'll forward it to you, and if you have any concerns I can look into whether there is still an opportunity to comment on it.

Commissioner Aieta: My only concern would be if the activity bordered the Town of Newington, specifically the Berlin Turnpike.

Craig Minor: Okay, I'll look into that.

Chairman Hall: You might want to get the definition of contractor shops too, because that is kind of vague. Any other questions, comments?

Commissioner Anest: I got an e-mail that Windsor Locks is doing a revision of their signs. Can the sign committee get a copy of that? Thank you.

Craig Minor: Yes, fine.

**XII. PUBLIC PARTICIPATION (For items not listed on the Agenda, speakers limited to two minutes.)**

Maureen Klett, 104 Harold Drive: In all due respect, I do not understand why you could not allow the people to speak under Public Participation on an issue because it is on your agenda under Communications as a memo. I totally understand why you would not want to have members of the public come up and speak on a petition, that is either a new, under new business, or is being just entered into the record, or old business, that makes perfect sense to me because that's something you would have to render a decision on, and you certainly don't want to be prejudiced in any way and I get that. But to not allow the members of the public to speak just because you have simply received a letter from somebody makes absolutely no sense to me whatsoever. It wouldn't prejudice anything that occurs, any decision that is going to be made by this body, because eventually if you got a letter and it goes to some petition that comes before you, you still have to allow the public to speak. So, if you, I can potentially see how members of the public can be shut out from a process based on mere letters to this body, and that is not fair to the public. So if that is the way your rules are, I'm not sure if you have a rules committee like the Council does, but I would suggest that you go back and re-evaluate those rules because potentially you are locking the public out of conversation on any issue by simply saying, oh, you know what, we don't want them to speak on the 8-24, so let's put a letter in, and get it on the agenda when you don't even, there's no decision to be rendered number one. And number two, the issue, down the street on the parking lot where the cars are going to be parked, is more than bituminous, it's about possible runoff and wetlands, and that is what was completely ignored. I think that really is the issue, so I take exception to the way that the Town Planner has described that issue, as being something that you folks wouldn't want to be involved in. I can't even believe what I have been watching, and with all due respect to this body, it's not just here, it's the Town Council, and I'll be honest with you, I don't know how many of you remember the Mayberry RFD television show, where Sam Jones a local farmer is elected to the Mayberry Town Council. Instead of Newington being the town we should all be proud of, and the things that we have all accomplished in the town, I feel like I'm sitting in Mayberry.

Chairman Hall: Anyone else from the public wishing to speak?

John Bachand, 56 Maple Hill Avenue: I was very inarticulate before and I didn't have any prepared thing to say, and was all over the place. Basically my latest letter to you which I hope everyone has now, raises the question of that certified letter that I received and I hope that you get a chance to read it because it goes over how you made a decision on flawed facts that were provided to you by someone who sat right in this chair. Several of you made your decisions on those facts and that's the crux of this latest letter to you, but also it goes back into my first letter to you, which was my primary concern two years ago, and I still haven't heard anything. I came here expecting to hear Craig give at least an updated status and then that goes to the third thing which is the latest thing that came out of all of this, which has the least amount to do with me, but I am very curious about it, because I do live right next door to it. If that project is being built on voided plans, which it sounds like it is, that's why I was waiting for the legal interpretation, I don't want to interpret this myself, but that is what the statute says. I'd like to know, I'm living next to it, and I think everyone should know. Everyone has a right to know to be involved in that, so I think that everything that we have heard tonight from Maureen and Gary and Gail and Patty, it just goes to show a pattern. There's a pattern here, develop at all costs, develop, develop, develop and it seems that the administration and staff and town management is taking great liberties with their authority and their power and their office. We've heard it all, from Mill Pond to the parking spot over here, a wonderful place to put junk cars, at the end of our nice road there leading into the park, to Cedar Mountain, to my situation next to my property. I just think it's a pattern and a trend and you know, it all leads to one picture. I don't know enough about that 2020 Plan but I understand the spirit of it, and I understand why people are so upset that it is not being followed, and again, I'm not pointing fingers at anyone here, I kind of say we're all in this together, so I think we all have to figure it out together. I would just ask one more time about my initial letter two years ago to the Planner: is there anything new that he can tell me that I can go home with and say, okay, it's been two years, but at least I feel a little better.

Craig Minor: No, it hasn't changed in two years. Your situation on drainage is the same as it was two years ago, you have...

John Bachand: It's not even about the drainage, but it's about the modifications to the drainage that were supposed to be filed in the land records.

Craig Minor: And it was, but you're not satisfied that it was.

John Bachand: It was what?

Craig Minor: As I said, we could spend an hour discussing this issue, but...

John Bachand: Well, I wouldn't expect the audience to stay, but if that's what is required, I don't see why it would take a couple of hours. You keep using that as a threat.

Craig Minor: There is no issue. I know that there is in your mind, and I respect that, but there is no issue.

John Bachand: If you just read my first letter, you said that there was an issue, and you were going to take care of it two years ago.

Craig Minor: And it was. It was taken care of. It is on the plans; the pipe is on the plans.

John Bachand: The plan is not in the land records

Craig Minor: But it's in the engineering department files and it was approved by the Commission.

John Bachand: But that's not what the town regulation calls for, it calls for...

Craig Minor: Technically you are correct, technically you are correct.

John Bachand: This is a technical problem. The pipe on the plan...you said the last time that it might be under that property line, but all the other pipes are specified and have an arrow pointing to it and specify the size and the length of the pipe...

Craig Minor: It would be impossible for anyone to interpret what in on that plan as other than a pipe, because that was what the Commission required, so it is, it's a pipe, that's what that little dashed line is, it's a pipe. It's not a problem.

John Bachand: That's the property line, that's not a pipe. That plan is not on the land records anyway, this is what my first letter to you was. It seems like you are brushing me off, but again, now it has developed into this other problem of the state statute and filing, and again, it's a pattern of, I don't know the right word to use, but it's not a good thing. Thank you.

Chairman Hall: Thank you John. Anyone else from the public wishing to speak?

Nelson Reese, 26 Mallard Lane: I'll keep it brief. I haven't attended many public meetings, but a few in the last few months, past years. Working twelve hours a day it's pretty tough for somebody to come to the meetings. The way I see things operating in this town, it's not just this body, I have respect for everybody that does this on their own time, it's a lot of work, but there is a little bit of a cavalier attitude towards the public. I don't understand. I work construction, and I've said it before, I don't understand how the Town Council sent up to referendum something that hasn't even been approved under Planning and Zoning. It's just Construction 101. I've seen developers come here with their projects, they've given up, four years in front of a Commission, no approval, that he was supposed to develop. If it's something related to the town it gets pushed right through, but private development, it's okay to keep pushing it off, but for a town project that goes against the 2020 Plan on public land, which, in the Town of Newington, is the third rail of politics. There's not much of it left. I'm not against the Town Hall being renovated, my kids come to Parks and Rec, but there's a clause in that project that it should be reviewed prior to a referendum by Planning and Zoning, and it's your responsibility. I won't take any more of your time. Thank you.

Chairman Hall: Anyone else from the public wishing to speak?

Gail Budrejko, 21 Isabelle Terrace: I was at the August 12 Council meeting. I confirmed this with a couple of people, and I just wanted to be sure that I heard correctly. The Town Manager and the Mayor very definitely confirmed that the 8-24 was submitted to the TPZ. On August 14 the letter came to this body saying that, asking the 8-24 not be submitted until after the referendum. I find this discouraging, distressing, that town officials who are on the record lied. I mean, that's all there is to it. And not be concerned that they become accountable. The August 14 letter was a calculated move to push forward the project, and I guess my question is, are you aware of any type of recourse where someone could appeal this to a higher body to reset the clock? Thank you.

Rose Lyons, 46 Elton Drive: I guess I'm a little confused as to when the clock starts running. The clock starts running on an 8-24 when you physically have it in your hands, the letter, I don't have it in front of me, but from what I'm understanding, the Town Manager's not going to put it forward until after the referendum. Could you just explain how it works? Because I think a lot of people are confused about it and I was at that meeting where I believe Councilor Klett asked the question, and it was confirmed that the 8-24 had been sent to this body. So, we're getting mixed signals here. I sat in this room for two years watching the Town Hall Renovation Committee and I may have gotten mixed signals for the two years that I listened to that too; I just think there should be an explanation for it.

The other thing I find interesting tonight, and I thank Commissioner Anest for asking, the Cedar Mountain development. God help us when that goes in. I was coming down that hill the other day at like three o'clock in the afternoon, and the traffic was backed up to the center of town. I can't imagine what is going to happen in the winter when all this comes to fruition, when we have shops up there. I think I'm going to open up the Ancient Highway and find a scooter to go over the hill, rather than use the mountain.

Back to the 8-24. I think the Town Manager should come before this body and explain to everybody else what the heck he was thinking when he said what he said at that meeting. We were at the Conservation Commission meeting the other night, a couple of times now, and the same thing happened, and I asked why is it that the public can only talk on items that are not on the agenda? If there is never a public hearing on it at Conservation, you don't get to speak to it. If there is not a public hearing here, you don't get to speak to it, if it's somewhere on the agenda. Kind of iffy to me. If a "communication" is something that is on the agenda, and I saw Gary almost turned away from the Conservation Commission a couple of times with his comments, but I think what he was trying to get at, which I thought was smart, he was trying to be pro-active rather than re-active. When do you speak if there is no public hearing? I don't know whether this board or Commission has internal rules of procedures, but the Conservation Commission does. I wrote the Town Engineer that night, and e-mailed him, and asked him how does one go about petitioning for a public hearing? I believe that the petition has to come from a commissioner. Well, it's so confusing to a lay person, I give you so much credit for sitting here. The gentleman who works twelve hours a day, I'm sure a lot of you are working just as many hours and you have to sit here and listen, but I think that the rules and regulations have to be clear so that people such as us can understand what you are doing, and when. Like I say, we get mixed signals and I don't want to say somebody lied, but if I could pay that video tape that I have at my house in front of you, I think you would be thinking bottom line.

Chairman Hall: Anyone else wishing to speak?

John Bachand, 56 Maple Hill Avenue: Is it all right if I speak again? Not about the same thing.

Chairman Hall: As long as it's not about the same subject.

John Bachand: I want to apologize to all of the Save Mill Pond Park people because I'm totally dedicated to that but I had this issue going on for two years and that was the first thing on my agenda. But just one other point that I would like to point out, as far as this pattern we were talking about as far as development and people overstepping their powers. I requested from the GIS department an overlay map of the proposed project for Mill Pond put on a wetland map. At first I was told that that would be no problem, and then a day turned into a week, and then I got a canned letter: sorry, we can't provide that. When I questioned why, my e-mail was bumped directly to the Town Manager. He gave me his reasoning and it was the legally defensible reason that they don't have to produce custom requests; Freedom of Information only requires your in stock items. It was a very simple request and it would have answered a lot of questions. It would be embarrassing for him and for anyone on the side that is trying to promote that project there. I just want to point that out, it was something that I tried to do. I went to the Conservation Commission and inquired about how up-to-date the maps actually were, because when I looked at the map it appeared that it was falling in the wetlands, actually in the wetlands, not just the buffer; the wetland lines as they are delineated now extend far into the field. The building would be in the buffer, but the parking lot would be in the wetlands themselves. I thought the overlay map would be a very easy, visual way to prove that, and like I said, pretty embarrassing, so I just wanted to add that and again, sorry to the Save the Park people that I wasn't able to contribute more. Thank you.

Chairman Hall: Thank you John. Anyone else?

Patty Foley, 51 Crown Ridge: I just want to echo what a couple of people here said we have to do, and I know, sitting here with all these big maps and plans, and guys: get people to put them up on the plasma so we can actually enjoy and see it too. It makes it a little bit easier for all of us because we can't see. We have the technology, it's here, it's used all of the time.

What I want to go back to is the construction and building and expansion and everything else that goes on in town. We are a mature town, there is nothing growing about Newington. The 2020 Plan actually points out that we only have eight percent of the land, out of 13.1 square miles, eight percent left and two thirds of that is sitting in wetlands. That probably leaves only a third of the eight percent. Not a lot of space that is left. We are mature, we're not going to get any bigger. We're really not going to be able to stack another ten or fifteen thousand more people in town. This is it! It's kind of existing, so I would

suggest that you get a little bit more proactive about regulations. Get them done now, because we have to look at Newington as a mature town, as an opportunity that we have to get outside the box and see what the people here in town enjoy about their life. Since you lead the way by the Planning and the Zoning and everything here, it's kind of a new way to start looking at life here. I thank you, I do appreciate all your efforts. Good night.

Chairman Hall: Thank you Patty.

Domenic Pane, 638 Church Street: On the 8-24: Connecticut General Statute 8-24, what is it? It's for municipal improvements. Google it. It's very simple to read. If you haven't looked at it, you should be very familiar with it because it pertains to this body several times, and the Town Council is doing improvements to municipal property without sending an 8-24 to this body, which means that you don't get to look to see if it falls within your 2020 Plan of Development. It did it on the parking lot at the end of Garfield Street for a police car compound; it's talking about an improvement to Young's Farm. They are talking about, Mr. Goodale requested a parking or a turnaround. I'm sorry, that's town-owned land. The Town Council cannot make that decision, it has to send you an 8-24 on all municipal improvements. If you read 8-24 carefully the only thing that it eliminates is maintenance and road repaving. It covers sale of land, all improvements, but it does not include maintenance or road pavement. So that covers quite a bit, and if the Council is taking actions without sending a Connecticut General Statute 8-24 to this body, then that means that you can't see if it falls within your Plan of Development which the people of Newington gave you the thoughts on how this town should be developed and planned for the future. As far as the thirty-five days, it says right in Connecticut General Statute 8-24, when the submission from the legislative body which is the Town Council, the thirty-five days begins. The Town Council met on June 24<sup>th</sup>, the next Town Planning and Zoning Commission meeting is June 25<sup>th</sup>, on June 25<sup>th</sup> the Town Planning and Zoning should have been notified. The Town Manager's job is administrative. The Town Council's job is the legislative body of the Town of Newington. It requested a formal 8-24 on the referendum, so now it was the job of the Town Manager to administrate notifying the boards, and he failed. This Commission should be very concerned about this because it affects how the town is developed and I would expect that this Commission should maybe meet with the Town Council so that you guys could review this. Thank you very much.

Chairman Hall: Thank you Dom. Anyone else wishing to speak? This is the last chance. Everybody all set?

### **XIII. REMARKS BY COMMISSIONERS**

Commissioner Aieta: On the rules as to how the Commission acts, and how they proceed and what their procedures are, we don't have people talk about items on the agenda. In my opinion, it's only for public hearing. The public hearing, something that we have to act on. When a petition is closed, that's where we should not have the public commenting on those items. As far as communication, I don't see where that should be affected by that rule, doesn't make any sense. The reason for us not having public comment is because we don't want to prejudice a case before we make a decision, which is obvious, so those items under Public Hearing, or New Business, you have your opportunity under Public Hearings to get up and speak in favor or against and the Chairman lets you speak if you are against or not against it, just speak on the issue. But then it ends. You can't bring it up again under public participation. As far as letter of communications, I don't think that should be part of the rules. It could be a problem: every week send in a letter saying something about a specific issue. I don't even know if our rules even say anything about that, about what they are talking about or not, do they?

Craig Minor: I don't think so. I think it's just if it's on the agenda.

Commissioner Aieta: It's up to the Commission or the Chair to allow or not allow people to talk about communication items.

One other comment on the 8-24. I think this Commission should send a letter to the Town Council asking them to refer the improvements to the compound area on Garfield Street to the Town Plan and Zoning

Commission. I have some questions about it, and it does about a wetland. They paved it over, there is no catch basin in there, it's an impound lot for cars that were in accidents, stuff leaking out of the cars, the normal runoff for this would be into the wetlands, there's no screening. This is an area that abuts the park. I mean, they just did it, and the 8-24 Statute is pretty clear that they really should be sending this to us. The Town is not exempt from sending it here. I think we should ask that that specific issue be sent to this Commission for review. I don't care if they built it or not.

Chairman Hall: Do you want to turn that into a motion?

Commissioner Aieta moved that the Town Plan and Zoning Commission request from the Town Council that the issue of the compound area on Garfield Street be referred to them through an 8-24.

The motion was seconded by Commissioner Leggo. The vote was unanimously in favor of the motion, with six voting YEA.

Chairman Hall: Okay, Craig, we authorize you.....

Craig Minor: How about I draft it, then give it to the Chairman, have her take a look at it, and then I'll send it to the Council.

Chairman Hall: Any other Commissioners comments.

Commissioner Leggo: I just wanted to say thank you to everybody from the public who came out and spoke their minds and let us know exactly what is going on. There were other times this year when we wanted people to come out and give a certain opinion, and they did not, so it's always good to hear what people are saying, thinking and want done. I hope everybody does that here in the future and express your opinion on what you want.

On the public participation issue, I'm reading the agenda that states "for items not listed on the agenda". I definitely hear what everybody is saying. There is a difference between something you can speak on and something you can't. You can see the way that it is taken, and I totally agree that we should clarify what things can be talked about and not be talked about, whether they are in writing, or off limits because of votes.

Chairman Hall: Any other comments?

#### **XIV. CLOSING REMARKS BY THE CHAIRMAN**

Chairman Hall: We have a letter that we are going to pass around, but before I get to that, with the agenda, we have interpreted it that if it is written on the agenda it's part of the agenda. This evening, we'll maybe call it a judgment call, but we knew at the end of the agenda there was going to be a clarification on the 8-24. So in order to get to that letter and the explanation for it, it became a really important part of our agenda tonight. You had the opportunity to speak on open space, or whatever, you all kind of molded it so that we knew what you were talking about. I mean, nobody is trying to avoid this item at all. You have to understand that until it comes to us, we can't go to the Council and say, hey, bring this to us. It's up to someone else to bring it to us. We got the letter, we knew how this was going to happen, and so therefore we tried to explain it as best we could tonight in context. The referendum will speak; then apparently we will be getting the 8-24, so we have to go along with what we are told. We don't create the rules for the Council. We are on the receiving end.

As far as the ability to speak, I think and hope that anyone who has watched or come to any of our meetings over at least the last year understands that you are welcome to come and you are welcome to speak on any topic according to our rules. We don't really time you; we're supposed to limit you to two minutes. I will guarantee you this evening we had maybe two people who kept under that two minutes. But that's fine, because we do want to hear from you. We do want to hear what you have to say. Call me

Barney Fife, but I like to have the public come to our meetings, participate and hopefully feel as if you are welcome. That's what we are hoping for.

This is a letter concerning the Modern Tire decision. We talked about it earlier tonight, but this is the actual letter, so I want everybody to have this.

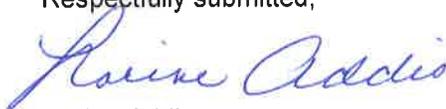
We have discussed portions of it, and at this time we are taking this letter under advisement. As I said, as time goes on it will be important that we create, either by committee or by the entire Commission if we meet earlier, and go over things. We can all learn and we will learn and we will make things better when we are able to. If changes need to be made we will work on that, but it will be a group decision, and we will work on it together. We may have to form a sub-committee at some point to talk about all of our regulations, not just some, because everything needs to be talked about every couple of years. Things change, items change, so it's important that we move on from where we have been, and anybody who was not here when all of this started, if you need more information, don't hesitate to ask. Contact Carol and I, we were both on this, certainly Craig, we have all of the information that anybody needs, so that you can be informed and feel comfortable, because I think sometimes when you are new, and new can last a year or two, it's difficult to jump into the middle of something. So don't hesitate to ask questions, maybe look at old records, it's all available. I think once you read the letter, and if you have any questions on that, let us know as well. Craig, do you have any comments?

On that note, I know that it's been a long time since we met and we will meet again on the 10<sup>th</sup> of September and again the public is welcome to come back, we'll be here on the 10<sup>th</sup>.

**XV. ADJOURN**

Commissioner Sobieski moved to adjourn the meeting. The motion was seconded by Commissioner Serra. The meeting was adjourned at 10:00 p.m.

Respectfully submitted,



Norine Addis,  
Recording Secretary