

**MINUTES
REPRESENTATIVE TOWN MEETING
FEBRUARY 24, 2014**

CALL TO ORDER

A Regular Meeting of the Representative Town Meeting was called to order at 8:05 P.M. by Donna Rajczewski, Town Clerk, who then swore in Clara Sartori, District II, and Fred Conze, District I, new members of the RTM.

Upon Roll Call, the following members were present:

From District I, there were 11 members present, 2 absent.
From District II, there were 14 members present, 3 absent.
From District III, there were 12 members present, 3 absent.
From District IV, there were 15 members present, 1 absent.
From District V, there were 15 members present, 2 absent.
From District VI, there were 13 members present, 4 absent.

The absentee from District I was : Dupont, Dweck.
The absentees from District II were: Bacon, Matton, McNally.
The absentees from District III were: Cepeda, Hegarty, Morton.
The absentee from District IV was : Fiore.
The absentees from District V were: Stolar, Young.
The absentees from District VI were: Broecking, Cherico, McLean, Plehaty.

The Moderator, Sarah Seelye, assumed the Chair.

ACCEPTANCE OF THE AGENDA

**** THE AGENDA WAS ACCEPTED BY UNIVERSAL CONSENT.**

APPROVAL OF THE MINUTES OF THE JANUARY 27, 2014 MEETING

**** THE MINUTES WERE ACCEPTED BY UNIVERSAL CONSENT.**

ANNOUNCEMENTS

The Moderator announced that Michael Ruegger, an RTM member of District II in 2007-2008 had recently passed away before his 32nd birthday. She called for a moment of silence in his memory.

James Cameron, District IV, said that CCM is sponsoring a workshop on "Ethics, Accountability and Conflicts of Interest" this Wednesday at 9 a.m. in Westport Town Hall. This would be of interest to the Board of Ethics. He encouraged people to attend and said anyone who is interested should contact him.

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TOWN CLERK'S OFFICE
DARIEN CT

The Moderator reminded everyone if they want a hard copy of the budget book, they should sign up with Mrs. Rajczewski.

The Moderator also noted, for anyone watching the RTM meeting on Channel 79, that the resolutions being discussed can be found online.

14-5

CONSIDERATION AND ACTION ON PARTICIPATION IN "C-PACE"
(COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY) PROGRAM

**** JAMES PALEN, DISTRICT VI, CHAIRMAN OF THE FINANCE & BUDGET COMMITTEE, MOVED:**

WHEREAS, Connecticut General Statutes §16a-40g established a program, known as the Commercial Property Assessed Clean Energy (C-PACE) Program, to facilitate loan financing for clean energy improvements to commercial properties by utilizing a state or local assessment mechanism to provide security for repayment of the loans; and

WHEREAS, the Act authorizes the Clean Energy Finance and Investment Authority (the "Authority"), a public instrumentality and political subdivision of the State charged with implementing the C-PACE program on behalf of the State, to enter into a written agreement with participating municipalities pursuant to which the municipality may agree to assess, collect, remit and assign, benefit assessments to the Authority in return for energy improvements for benefited property owners within the municipality and for costs reasonably incurred by the municipality in performing such duties; and

WHEREAS, ultimately, the C-PACE agreement requires the approval of the Representative Town Meeting as the legislative body of the Town of Darien to sign the C-PACE Agreement;

NOW THEREFORE BE IT RESOLVED, that the RTM of the Town of Darien approves and authorizes the first selectman of the Town of Darien to execute and deliver the C-PACE Agreement, substantially in the form attached to this resolution, for the purposes provided therein, together with such other documents as he or she may determine to be necessary and appropriate to evidence, secure and otherwise complete the C-PACE Agreement.

See Exhibit A Attached

**** THE MOTION WAS SECONDED FROM THE FLOOR.**

James Palen, District VI, Chairman of the Finance & Budget Committee, read the committee report (attached).

Joanne Hennessy, District V, Chairman of PZ&H, read that committee's report (attached).

Michael Burke, District V, asked what "substantially" meant in the last paragraph of the resolution and if there was any further specificity in terms of indemnification. William McColpin, C-PACE, said that the town is indemnified in terms of the payments due. Town Counsel Fox said that the use of "substantially" is common language.

Andrew Millar, District IV, asked for the names of the businesses that have applied; Mr. McColpin said they could not identify these businesses. Mr. Millar said they are being asked to assess property and use town resources while C-PACE will not identify the companies, which he finds unsatisfactory.

Marc Thorne, District II, a member of the Finance & Budget Committee, said there are approximately 70 cities and towns in Connecticut that have signed up, including Norwalk, Stamford, Westport and Greenwich.

Jack Davis, District III, said when the three projects are approved, the town would then know which properties they are administering, which he does not find to be unacceptable.

**** ITEM 14-5 CARRIED ON A RISING TALLY VOTE OF 67 IN FAVOR, 8 OPPOSED, 4 ABSTENTIONS.**

PRESENTATIONS BY MEMBERS OF POST 53

The following six elected officers of Post 53 gave an overview of their responsibilities and what it means to be a member of Post 53:

- | | |
|-------------------------------|----------------------------------|
| 1. President | 2. Vice President of Operations |
| 3. Vice President of Training | 4. Vice President of Programming |
| 5. Secretary | 6. Treasurer |

The Moderator thanked everyone for their presentations.

14-6

CONSIDERATION AND ACTION ON WESTMERE GROUP/ANDREWS DRIVE SETTLEMENT

**** JOANNE HENNESSY, DISTRICT V, CHAIRMAN OF PZ&H, MOVED:**

WHEREAS, a cause of action was instituted by Westmere Group, Inc., against the Town of Darien and the Darien Sewer Authority; and

WHEREAS, the case was brought to trial and appeals subsequently filed; and

WHEREAS, a settlement has been reached between the parties; and

WHEREAS, part of the settlement calls for approximately 4,164 sq. feet of real estate, together with all improvements thereon, being deeded to the Town; and

WHEREAS the Town Charter provides that the RTM has the responsibility of approving the acquisition of real property by the town;

NOW THEREFORE BE IT RESOLVED that the RTM of the Town of Darien hereby approves the acquisition of said property as more particularly set forth in the Quit Claim Deed attached hereto and made part hereof. **See Exhibit B Attached**

**** THE MOTION WAS SECONDED FROM THE FLOOR.**

Joanne Hennessy, District V, Chairman of PZ&H, read the committee report (attached).

Mark Adiletta, District V, Chairman of the Publics Works Committee, read that committee's report (attached).

Dr. Robert George, District III, asked where Andrews Drive is; the response was that it was off of Old King's Highway South.

Peter Kelly, District I, said this extension of the sewer line is typically borne by the property owners rather than the Sewer Commission. Why are they absorbing it rather than the people who hook into the Andrews Drive property? Town Counsel Fox said those properties have already been assessed. It is appropriate to have it come out of the Sewer Authority's General Fund.

**** ITEM 14-6 CARRIED ON A RISING TALLY VOTE OF 75 IN FAVOR, WITH ONE ABSTENTION.**

14-7

CONSIDERATION AND ACTION ON HOYT COURT EASEMENT

**** JOANNE HENNESSY, DISTRICT V, CHAIRMAN OF PZ&H, MOVED:**

WHEREAS, the Town of Darien acquired a 20 foot wide track of land by a Certificate of Taking dated May 25, 1978; and

WHEREAS, the 20 foot wide track of land includes a portion of Hoyt Court; and

WHEREAS, this road has long provided six homes on Hoyt Court with access to Hoyt Street; and

WHEREAS, the new owners of 50 Hoyt Street have recently realized that, unlike the other owners of surrounding properties, it had no legal access over Hoyt Court in order to have access to Hoyt Street; and

WHEREAS, the owners of 50 Hoyt Street have requested that the Town of Darien provide it with a right-of-way easement to confirm a means of access to the existing garage on its property;

NOW THEREFORE BE IT RESOLVED, that the RTM of the Town of Darien hereby approves the Right-of-Way Easement as more particularly set out in the document attached hereto and made part hereof as well as identified in the map attached hereto and made part hereof. **See Exhibit C Attached**

**** THE MOTION WAS SECONDED FROM THE FLOOR.**

Joanne Hennessy, District V, Chairman of PZ&H, read the committee report (attached).

**** ITEM 14-7 CARRIED ON A RISING TALLY VOTE OF 73 IN FAVOR WITH 2 ABSTENTIONS.**

**** UPON MOTION MADE AND SECONDED FROM THE FLOOR, IT WAS UNANIMOUSLY VOTED TO ADJOURN AT 8:50 P.M.**

Respectfully submitted,

Cheryl Telesco Blois
Telesco Secretarial Services

APPENDIX

<u>DISTRICT I</u>	<u>(14-5)</u>	<u>(14-6)</u>	<u>(14-7)</u>	<u>DISTRICT IV</u>	<u>(14-5)</u>	<u>(14-6)</u>	<u>(14-7)</u>
Buchesky	yes	yes	yes	Banks	no	yes	yes
Bumgardner	yes	yes	yes	Cameron	yes	yes	yes
Conologue	yes	yes	yes	Davis, Joan	yes	yes	yes
Conze	yes	yes	yes	Domittner	yes	yes	yes
Dupont	absent	absent	absent	Fiore	absent	absent	absent
Dweck	absent	absent	absent	Haidinger	yes	yes	yes
Glassmeyer	yes	yes	absent	Hardison	no	absent	absent
Hayes	yes	absent	absent	Hawkins	yes	yes	yes
Henderson	yes	yes	yes	Kemp	yes	yes	yes
Kelly	yes	yes	yes	Miceli	yes	yes	yes
Schneider	yes	yes	yes	Millar	no	yes	yes
Valentino	abstain	yes	yes	Morrison	yes	yes	yes
van der Kieft	yes	yes	yes	Peters	no	yes	yes
				Rayhill	yes	yes	yes
				Rycenga	no	yes	yes
				Savage	yes	yes	yes
<u>DISTRICT II</u>				<u>DISTRICT V</u>			
Bacon	absent	absent	absent	Adiletta	yes	yes	yes
Ebrahimi	yes	yes	yes	Bayne	yes	yes	yes
Finn	yes	yes	yes	Boulton	yes	yes	yes
Hoffman	abstain	yes	yes	Burke	yes	yes	yes
Howe	yes	yes	yes	Coyne	yes	yes	yes
Keith	yes	yes	yes	Duffy	no	yes	yes
Marston	yes	yes	yes	Fead	yes	yes	yes
Matton	absent	absent	absent	Fiveson	yes	yes	yes
McIlmurray	yes	yes	abstain	Hennessy	yes	yes	yes
McNally	absent	absent	absent	LeHan	yes	yes	yes
Miller	yes	yes	yes	Lublin	yes	yes	yes
Mundt	abstain	yes	yes	McLachlin	yes	yes	yes
Sartori	abstain	abstain	abstain	Mosher	yes	yes	yes
Sawitsky	yes	yes	yes	Patrick	yes	yes	yes
Seelye		DID NOT VOTE		Russell	yes	yes	yes
Thorne, B.	yes	yes	yes	Stolar	absent	absent	absent
Thorne, M	yes	yes	yes	Young, Rob	absent	absent	absent
<u>DISTRICT III</u>				<u>DISTRICT VI</u>			
Anderson	no	yes	yes	Adelman	yes	yes	yes
Camuti	yes	yes	yes	Ball	yes	yes	yes
Cardone	yes	yes	yes	Broecking	absent	absent	absent
Cepeda	absent	absent	absent	Cherico	absent	absent	absent
Conniff	yes	yes	yes	Grogan	yes	yes	yes
Coyle	yes	yes	yes	Hawkins	yes	yes	yes
Coyle Downs	yes	yes	yes	Luz	yes	yes	yes
Davis	yes	yes	yes	McDermott	yes	yes	yes
George	yes	yes	yes	McLean	absent	absent	absent
Hegarty	absent	absent	absent	Palen	yes	yes	yes
Larkins	yes	yes	yes	Plehaty	absent	absent	absent
Maroney	yes	yes	yes	Poli	yes	yes	yes
Moore	yes	yes	yes	Ritchie	no	absent	absent
Morton	absent	absent	absent	Swenson	yes	yes	yes
Schulz-Amatruda	yes	yes	yes	Van Loan	yes	yes	yes
				Whitehead	yes	yes	yes
				Young, David	yes	yes	yes

Exhibit A

**COMMERCIAL PROPERTY ASSESSED
CLEAN ENERGY ("C-PACE") AGREEMENT**

THIS AGREEMENT is made and entered into as of the ____ day of _____, 2013, by and between the City of _____, CONNECTICUT, a municipal corporation organized and existing under the laws of the State of Connecticut (the "Municipality"), and the **CLEAN ENERGY FINANCE AND INVESTMENT AUTHORITY**, a public instrumentality and political subdivision of the State of Connecticut established under Public Act No. 11-80 (and codified in Section 16-245n of the Connecticut General Statutes) (the "Authority").

RECITALS

WHEREAS, Commercial Property Assessed Clean Energy ("C-PACE") is a program to facilitate loan financing for clean energy improvements to commercial properties by utilizing a state or local assessment mechanism to provide security for repayment of the loans.

WHEREAS, Public Act No. 12-2 of the June 12, 2012 Special Session of the Connecticut General Assembly (the "Act") established a C-PACE program in Connecticut.

WHEREAS, Section 157 of the Act directed the Authority to establish a commercial sustainable energy program, and authorized the Authority to make appropriations for and issue bonds, notes or other obligations to finance the program costs. A commercial sustainable energy program is a program that facilitates energy improvements to commercial or industrial property and utilizes municipal benefit assessments authorized by the Act as security for financing the energy improvements.

WHEREAS, to secure financing for the program, the Authority and the Municipality are authorized to enter into a written agreement, as approved by the municipality's legislative body, pursuant to which the Municipality has agreed to assess, collect, remit and assign, benefit assessments to the Authority in return for energy improvements for benefited property owners within the Municipality and for costs reasonably incurred by the Municipality in performing such duties.

WHEREAS, this Agreement constitutes the written agreement authorized by the Act.

NOW THEREFORE, for and in consideration of the mutual covenants and agreements set forth herein and in order to effectuate the purposes of the Act, it is hereby agreed as follows:

Section 1 - Definitions.

(a) "Energy improvements" means any renovation or retrofitting of qualifying commercial real property to reduce energy consumption or installation of a renewable energy system to service qualifying commercial real property, provided such renovation, retrofit or installation is permanently fixed to such qualifying commercial real property.

(b) “Qualifying commercial real property” means any commercial or industrial property, regardless of ownership, that meets the qualifications established for the commercial sustainable energy program.

(c) “Commercial or industrial property” means any real property other than a residential dwelling containing less than five dwelling units.

(d) “Benefitted property owner” means an owner of qualifying commercial real property who desires to install energy improvements and provides free and willing consent to the benefit assessment against the qualifying commercial real property.

(e) “Commercial sustainable energy program” means a program that facilitates energy improvements and utilizes the benefit assessments authorized by this Agreement as security for the financing of the energy improvements.

(f) “Benefit assessment” means the assessment authorized by the Act.

Section 2 - Obligations of the Authority.

(a) **Program Requirements.** Pursuant to the Act, the Authority:

(1) shall develop program guidelines governing the terms and conditions under which state financing may be made available to the commercial sustainable energy program, including, in consultation with representatives from the banking industry, municipalities and property owners, developing the parameters for consent by existing mortgage holders and may serve as an aggregating entity for the purpose of securing state or private third-party financing for energy improvements pursuant to the Act,

(2) shall receive and review applications submitted by benefitted property owners within the Municipality for financing of energy improvements, and approve or disapprove such applications in accordance with underwriting procedures and requirements established by the Authority,

(3) shall prepare and deliver to the Municipality an annual report which shall contain information related to each qualifying commercial real property within the Municipality, including:

- i. A list of each qualifying commercial real property for which the benefitted property owner executed a financing agreement during the prior year;
- ii. A list of each qualifying commercial real property where all obligations under the financing agreement have been satisfied or paid in full during the prior year, including the satisfaction date and a copy of the notice of satisfaction;
- iii. the total benefit assessment payments made to the Authority in respect of all qualifying commercial real properties; and

- iv. for each non-satisfied (not paid in full) benefit assessment (including each benefit assessment approved in the prior year):
 - A. the date of the financing agreement,
 - B. the outstanding amount of the financing,
 - C. the total principal balance and accrued interest outstanding, and
 - D. the annual payment(s) due to the Authority (which shall include principal and accrued interest) associated with such benefit assessment (including the amount of accrued interest on the initial payment, if different).

(4) shall establish the position of commercial sustainable energy program liaison within the Authority,

(5) shall establish a loan loss reserve or other credit enhancement program for qualifying commercial real property,

(6) may use the services of one or more private, public or quasi-public third-party administrators to administer, provide support or obtain financing for the commercial sustainable energy program, and

(7) shall adopt standards to ensure that the energy cost savings of the energy improvements over the useful life of such improvements exceed the costs of such improvements.

(b) **Project Requirements.** If a benefitted property owner requests financing from the Authority for energy improvements under the Act, the Authority shall:

(1) require performance of an energy audit or renewable energy system feasibility analysis on the qualifying commercial real property that assesses the expected energy cost savings of the energy improvements over the useful life of such improvements before approving such financing,

(2) impose requirements and criteria to ensure that the proposed energy improvements are consistent with the purpose of the commercial sustainable energy program, and

(3) require that the property owner provide written notice, not less than thirty days prior to the recording of any lien securing a benefit assessment for energy improvements for such property, to any existing mortgage holder of such property, of the property owner's intent to finance such energy improvements pursuant to the Act.

(c) **Financing Agreement for Project.** The Authority may enter into a financing agreement with the property owner of qualifying commercial real property. The financing agreement shall clearly state the estimated benefit assessment that will be levied against the qualifying commercial real property upon completion of the energy improvements. The Authority shall disclose to the property owner the costs and risks associated with participating in

the commercial sustainable energy program, including risks related to the failure of the property owner to pay the benefit assessment provided for in the financing agreement. The Authority shall disclose to the property owner the effective interest rate on the benefit assessment, including fees charged by the Authority to administer the commercial sustainable energy program, and the risks associated with variable interest rate financing, if applicable. The Authority shall notify the property owner that such owner may rescind any financing agreement entered into not later than three business days after such financing agreement is executed by the property owner and delivered to the Authority. The financing agreement shall provide for the consent of existing mortgage holders for the benefit assessment lien to be continued, recorded and released by the Municipality, as required by the Act and described in Section 3(c) herein.

(d) **Determination of Estimated and Final Benefit Assessments and Payments.**

(1) In connection with the completion and execution of the financing agreement, the Authority shall determine the estimated benefit assessment and provide written notice of the estimated benefit assessment to the Municipality.

(2) Upon completion of the energy improvements to the qualifying commercial property, the Authority shall determine the final benefit assessment, including fees charged by the Authority to administer the commercial sustainable energy program, and shall set a fixed or variable rate of interest for the repayment of the benefit assessment amount. Such interest rate, as may be supplemented with state or federal funding as may become available, shall be sufficient to pay the financing and administrative costs of the commercial sustainable energy program, including delinquencies. The Authority shall provide written notice of the final benefit assessment and interest rate to the Municipality.

(3) It is anticipated that the Authority will decide that the benefit assessment shall be payable in two equal payments respectively payable on July 1 and January 1 of each year so that they are due at the same time as the installments of the Municipality's real property taxes. If the Municipality changes its practices concerning the billing of annual real property taxes as to the number of installments and their due dates, the Authority will change its practices to the extent possible to correspond with the Municipality's practices.

Section 3 - Obligations of the Municipality.

(a) **Placing of Caveat on Land Records.** Upon receiving written notice from the Authority of the estimated benefit assessment as provided in Section 2(d)(1) herein, the Municipality shall promptly place a caveat on the land records (on a form provided by the Authority after consultation with the municipality) indicating that a benefit assessment and lien is anticipated upon completion of energy improvements for the qualifying commercial real property. The Authority will reimburse the municipality the cost charged by the Town Clerk for recordation of the caveat.

(b) **Levy of Benefit Assessment.** Upon receiving written notice from the Authority of the final benefit assessment as provided in Section 2(d)(2) herein, the Municipality shall promptly levy the benefit assessment against the qualifying commercial real property especially

benefitted by the energy improvements financed by the Authority, and shall place a lien on the qualifying commercial real property to secure payment of the benefit assessment. As provided in the Act, the benefit assessments levied (on a form provided by the Authority after consultation with the municipality) pursuant to this Agreement and the interest, fees and any penalties thereon shall constitute a lien against the qualifying commercial real property on which they are made until they are paid. The Authority will reimburse the municipality the cost charged by the Town Clerk for recording the lien. Such lien shall be levied and collected in the same manner as the property taxes of the Municipality on real property, including, in the event of default or delinquency, with respect to any penalties, fees and remedies and lien priorities as provided by the Act.

(c) **Continuation, Recording and Release of Lien.** As provided in the Act, each benefit assessment lien shall be continued, recorded and released in the manner provided for property tax liens, subject to the consent of existing mortgage holders, and shall take precedence over all other liens or encumbrances except a lien for taxes of the Municipality on real property, which lien for taxes shall have priority over such benefit assessment lien. The Authority shall provide to the Municipality written notice of the consent of existing mortgage holders for the lien to be continued, recorded and released by the Municipality.

(d) **Assignment of Benefit Assessment Lien.**

(1) Upon the written request of the Authority, the Municipality shall assign to the Authority any and all liens filed by the Municipality's tax collector, as provided in this Agreement. The Authority may sell or assign, for consideration, any and all liens received from the Municipality. The assignee or assignees of such liens shall have and possess the same powers and rights at law or in equity as the Authority and the Municipality and its tax collector would have had if the lien had not been assigned with regard to the precedence and priority of such lien, the accrual of interest and the fees and expenses of collection. The assignee shall have the same rights to enforce such liens as any private party holding a lien on real property, including, but not limited to, foreclosure and a suit on the debt. Costs and reasonable attorneys' fees incurred by the assignee as a result of any foreclosure action or other legal proceeding brought pursuant to the assignment and directly related to the proceeding shall be taxed in any such proceeding against each person having title to any property subject to the proceedings. Such costs and fees may be collected by the assignee at any time after demand for payment has been made by the assignee.

(2) The Municipality hereby acknowledges that the Authority may sell or assign any and all liens received from the Municipality under Section 3(d) of this Agreement to a trustee for the benefit of the holders of the Authority's bonds, notes or other obligations issued to finance the costs of the commercial sustainable energy program, and that the holders of the Authority's bonds, notes or other obligations will rely on the Municipality to levy, collect and remit the benefit assessments to the Authority. Therefore, the Municipality unconditionally agrees that in the event the Municipality does not discharge its duties under this Agreement, the trustee shall have the right to enforce the Municipality's obligations under this Agreement by institution of legal action against the Municipality.

(e) **Billing and Collection; Payment to the Authority.**

(1) The Municipality shall bill the benefit assessments in the same manner and at the same time as it bills its real property taxes. The benefit assessment payments shall be a separate clearly defined line item or separate bill and shall be due on the same dates as the Municipality's real property taxes. The amount of the benefit assessment will be recorded on the Municipality's tax rolls in the same manner as any other benefit assessment, such that the public will have access to its existence and payment status. The penalties and interest on delinquent benefit assessments shall be charged in the same manner and rate as the Municipality charges for delinquent real property taxes.

(2) Payments of the benefit assessments collected by the Municipality shall be segregated from all other funds of the Municipality and deposited in a separate account for the benefit of the Authority and identifying the Authority as the beneficial owner. The Municipality disclaims any ownership interest or other interests in such account or the amount collected.

(3) The Municipality shall pay all amounts collected with respect to the benefit assessments within any calendar month to the Authority or its assignee no later than thirty days after the month that the amounts are collected. The Municipality will provide monthly collection reports to the Authority, and the Authority, at its own expense, shall have the right to audit the records relating to the benefit assessments upon reasonable notice at reasonable times. The Authority and Municipality agree to provide each other with such reasonable information as they may request and the Authority and the Municipality agree to provide such information in a computer format satisfactory to the other.

(f) Collection of Delinquent Payments.

(1) If (i) the benefit assessment liens have not been assigned to the Authority pursuant to Section 3(d) of this Agreement, or (ii) the Authority makes a written request to the Municipality for its assistance in the collection of delinquent benefit assessments and related charges, the Municipality, in its sole discretion, and the Authority may enter into a separate agreement for those services, which agreement shall provide for compensation to be paid to the Municipality for its collection services. The agreement may provide for the Municipality to pursue the collection of any delinquent benefit assessments with the same diligence it employs in the collection of the Municipality's real property taxes, including the commencement of foreclosure proceedings to the extent provided by the then-current statutes of the State of Connecticut, and to take such actions that are required to preserve the lien securing delinquent benefit assessments. The agreement may also provide that the Authority shall have the right to take over the enforcement of any delinquent benefit assessments upon written notice to the Municipality, and thereupon the Municipality will have no further responsibility to collect such amount.

(2) The Municipality will provide written notice to the Authority of any sale or assignment of its real property taxes or any institution of a judicial foreclosure or other proceeding against any real property for delinquent real property taxes if such real property is subject to a lien securing a delinquent benefit assessment. Similarly, the Authority shall provide

written notice to the Municipality of the institution of a judicial foreclosure or other proceeding against any qualified commercial real property for a delinquent benefit assessment.

(g) **Promotion of Program; Assistance for Authority Financing; Payment to Municipality.**

(1) The Municipality shall use good faith efforts to assist the Authority in local marketing efforts and outreach to the local business community to encourage participation in the commercial sustainable energy program, such as including commercial sustainable energy program information on the Municipality's website, distributing an informational letter from chief elected official to local businesses regarding the program, and conducting one or more business roundtable event(s).

(2) The Municipality shall use good faith efforts to assist in gathering and providing information for the Authority to offer, sell and issue its bonds, notes or other obligations to provide funds for the commercial sustainable energy program.

(3) The Authority agrees to pay the Municipality annually a fee of \$500 (the "Annual Fee") for its services hereunder. In the event such payment is not sufficient to cover the Municipality's out of pocket costs and expenses in discharging its duties hereunder, the Authority shall reimburse the Municipality for its actual reasonable costs and expenses associated with the collection and enforcement of the benefit assessments in excess of the Annual Fee. Such costs and expenses include reasonable costs incurred by the Municipality in conjunction with any and all proceedings to collect and enforce the benefit assessments and delinquent benefit assessments, including foreclosure proceedings.

Section 4 - Indemnification.

The Authority agrees that it will protect, defend, indemnify and hold harmless the Municipality and its officers, agents and employees, to the extent of available proceeds derived from the benefit assessments, from and against all claims, demands, causes of action, damages, judgments, losses and expenses, including reasonable attorney's fees, arising out of or in connection with the actions of the Authority's officers, employees and agents under this Agreement.

Section 5 - Term.

The term of this Agreement shall commence upon the date first written above. This Agreement shall be in full force and effect until all of the benefit assessments have been paid in full or deemed no longer outstanding. The Municipality may opt-out of continuation in the program at any time on sixty (60) days advance notice to the Authority, provided that the provisions of this Agreement shall continue with regard to benefit assessments assessed prior to such termination date until those benefit assessments have been paid in full or are no longer outstanding.

Section 6 -Default.

Each party shall give the other party written notice of any breach of any covenant or agreement under this Agreement and shall allow the defaulting party 30 days from the date of its receipt of such notice within which to cure any such default or, if it cannot be cured within the 30 days, to commence and thereafter diligently pursue to completion, using good faith efforts to effect such cure and to thereafter notify the other party of the actual cure of any such default. The parties shall have all other rights and remedies provided by law, including, but not limited to, specific performance, provided however, in no event shall either party have the right to terminate this Agreement prior to the expiration of the Term, except as provided in accordance with Section 5 of this Agreement.

Section 7 - Miscellaneous Provisions.

(a) **Assignment or Transfer.** Except as provided in Section 3(d) hereof, a party may not assign or transfer its rights or obligations under this Agreement to another unit of local government, political subdivision or agency of the State of Connecticut or to a private party or entity without the prior written consent of the other party and, if required, the prior approval of the holders of the Authority's bonds, notes or other obligations. If approval of the assignment by the holders of the Authority's bonds, notes or other obligations is required, such approval shall be obtained in accordance with the indenture or other documents entered into by the Authority in connection with the bonds, notes or other obligations.

(b) **Amendment and Termination.** After the Authority sells and issues its bonds, notes or other obligations to finance the costs of the commercial sustainable energy program, this Agreement may not be amended or terminated by the parties without the prior approval of the holders of the Authority's bonds, notes or other obligations, which approval shall be obtained in accordance with the indenture or other documents entered into by the Authority in connection with the bonds, notes or other obligations.

(c) **Severability.** If any clause, provision or section of this Agreement is held to be illegal or invalid by any court, the invalidity of the clause, provision or section will not affect any of the remaining clauses, provisions or sections, and this Agreement will be construed and enforced as if the illegal or invalid clause, provision or section has not been contained in it.

(d) **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which together shall constitute but one and the same instrument.

(e) **Notices.** All notices, requests, consents and other communications shall be in writing and shall be delivered, mailed by first class mail, postage prepaid, or overnight delivery service, to the parties, as follows:

If to the Municipality:

If to the Authority:

Clean Energy Finance and Investment Authority
865 Brook Street
Rocky Hill, Connecticut 06067
Attention: General Counsel

(g) **Amendment and Waivers.** Except as otherwise set forth in this Agreement, any amendment to or waiver of any provision of this Agreement must be in writing and mutually agreed to by the Authority and the Municipality.

(h) **Applicable Law and Venue.** This Agreement and its provisions shall be governed by and construed in accordance with the laws of the State of Connecticut. In any action, in equity or law, with respect to the enforcement or interpretation of this Agreement, venue shall be in the State of Connecticut.

(i) **Entire Agreement.** This instrument constitutes the entire agreement between the parties and supersedes all previous discussions, understandings and agreements between the parties relating to the subject matter of this Agreement.

(j) **Headings.** The headings in this Agreement are solely for convenience, do not constitute a part of this Agreement and do not affect its meaning or construction.

(k) **Affirmation of Applicable Executive Orders.** To the extent applicable to this Agreement, Municipality acknowledges that it will be required to comply with the provisions of any applicable existing Governor Executive Orders related to this Agreement.

[Remainder of this Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Municipality and the Authority have each caused this Agreement to be executed and delivered as of the date indicated above:

(SEAL)

ATTEST:

CITY OF _____

By: _____

Its: _____

**CLEAN ENERGY FINANCE AND
INVESTMENT AUTHORITY**

By: _____
Bryan T. Garcia, President

Exhibit B

Record & Return
Curtis, Brinckerhoff & Barrett, P.C.
666 Summer Street
Stamford, CT 06901

QUITCLAIM DEED

TO ALL PEOPLE TO WHOM THESE PRESENTS SHALL COME, GREETING:

Know Ye, That **WESTMERE GROUP, INC.**, a Connecticut corporation, as **Grantor**, for the consideration of One Dollar and No/100 Dollars (\$1.00), grants unto the **TOWN OF DARIEN**, a municipal corporation of the State of Connecticut, located in the County of Fairfield and State of Connecticut, as **Grantee**, and does convey, assign, remise, release, and forever **QUITCLAIM** unto the said **TOWN OF DARIEN** and its assigns forever, all the right, title, interest, claim and demand whatsoever the said Grantor has or ought to have in or to the following described premises with **QUITCLAIM COVENANTS**:

All that certain property as more particularly described on **SCHEDULE A ATTACHED HERETO AND MADE A PART HEREOF**, being Parcel 5-X, consisting of approximately 4,167 sq. ft., together with all improvements located thereon.

Together with all of the Grantor's right, title, and interest in and to the sanitary sewer system and pump station constructed by the Grantor in accordance with a Developer's Agreement by and between Grantor and the Darien Sewer Commission ("Sewer Commission") dated December 9, 1999, as recorded in Volume 929 at Page 413 of the Darien Land Records ("Developer's Agreement"), to service the subdivision referenced in the Developer's Agreement of which Parcel 5-X is a part, and all easements, rights, equipment, and installations appurtenant thereto, except for any sanitary sewer laterals serving individual residential lots (collectively, the "Sanitary Sewer"); and

Subject to any and all rights and obligations of Grantee and/or the Sewer Commission to operate, maintain, repair and replace the Sanitary Sewer pursuant to and in accordance with the Developer's Agreement; and

Reserving to the Grantor herein, its successors and assigns the right to use for all lawful purposes and connect to the Sanitary Sewer located within the sanitary and utility easement area located on Parcel 5-X as more particularly shown on Schedule A

{SIGNATURE APPEARS ON FOLLOWING PAGE}

SCHEDULE A

PROPERTY DESCRIPTION

All that certain real property situated in the Town of Darien, County of Fairfield, State of Connecticut, shown and designated as Parcel 5-X on a certain map entitled "Improvement Location & Topographic Survey Depicting Land And Structures To Be Conveyed to the Town of Darien At Andrews Drive By Westmere Group Inc., 10 Locust Hill Road, Darien, Connecticut," prepared by William Seymour & Associates, P.C., which map is on file in the Darien Town Clerk's Office as Map No. _____ .

Together with all such rights-of-way and easements as shall be necessary and appropriate for the operation, maintenance, and improvement of the Sanitary Sewer.

Exhibit C

RIGHT-OF-WAY EASEMENT

TO ALL PEOPLE TO WHOM THESE PRESENTS SHALL COME, GREETING:

KNOW YE, that the TOWN OF DARIEN, a municipal corporation in the County of Fairfield and State of Connecticut, acting herein by First Selectman Jamie Stevenson, hereunto duly authorized, for the consideration of ONE (1) DOLLAR, received to its full satisfaction of PEARSON CAIN PROPERTIES, LLC, a Connecticut Limited Liability Company, with an office at 81 Locust Hill Road, in the Town of Darien, County of Fairfield and State of Connecticut, does grant and confirm unto the said PEARSON CAIN PROPERTIES, LLC a Right-Of-Way Easement over and across that certain piece, parcel or tract of land, situated in the Town of Darien which was acquired by the Town of Darien pursuant to a Certificate of Title dated May 25, 1978 and recorded in Book 417 at Page 141 of the Darien Land Records.

Said Right-of-Way is in common with others, as the same now exists, which is 10 feet in width running East to West along Leeds Cemetery. Said Right-of Way shall also include a new 10 foot wide and long extension of the Right-of-Way, running north and south over land owned by Grantor, for the purpose of providing Grantee with access to their existing garage.

TO HAVE AND TO HOLD the above granted and bargained Right-of-Way Easement unto said grantee, its successors and assigns forever, to it and their own proper use and behoof.

IN WITNESS WHEREOF, the Grantor has signed and sealed this instrument this day
of February, 2014.

Signed, Sealed and delivered in the
Presence of or Attested by:

Jamie Stevenson, First Selectman

STATE OF CONNECTICUT
COUNTY OF FAIRFIELD

On this ____ day of February, 2014, before me the undersigned officer,
personally appeared Jamie Stevenson, First Selectman of the Town of Darien, known to
me to be the person whose name is subscribed to the within instrument and
acknowledged that she executed the same for the purposes therein contained, as her free
act and deed on behalf of the Town of Darien, before me.

IN WITNESS WHEREOF, I hereto set my hand and official seal.

Right of Way

Schedule A

Beginning at a point on the westerly side of Hoyt Street being the South Easterly corner of the right of way thence running the following courses: South $82^{\circ} 27' 00''$ East 22.97 feet along land now of formerly of Pearson Cain Properties, LLC; thence South $78^{\circ} 14' 35''$ East 40.19 feet along land of the Town of Darien, thence North $74^{\circ} 19' 25''$ East 3.25 feet along land of the Town of Darien, thence South $78^{\circ} 30' 00''$ East 15.98 feet along land now of formerly of Pearson Cain Properties, LLC, thence, south $57^{\circ} 15' 10''$ East 2.89 feet along land of the Town of Darien, thence, South $79^{\circ} 26' 25''$ East 24.53 feet along land of the Town of Darien, thence South $83^{\circ} 41' 06''$ East 7.18 feet along land of the Town of Darien, thence South $78^{\circ} 30' 00''$ East 63.40 feet along land now of formerly of Pearson Cain Properties, LLC, thence, South $09^{\circ} 46' 50''$ West 15.13 feet along land of the Town of Darien, thence North $76^{\circ} 54' 30''$ West 115.87 feet along land of the Town of Darien, thence North $79^{\circ} 12' 29''$ West 58.85 feet along land of the Town of Darien, thence North $89^{\circ} 39' 43''$ West 8.43 feet along land of the Town of Darien, thence South $11^{\circ} 25' 20''$ West 11.29 feet along Hoyt Street to the point of beginning.

Said Property is also known as RIGHT OF WAY AREA 2,248 SF / 0.0516 AC. On a map entitled RIGHT OF WAY SURVEY DEPICTING RIGHT OF WAY TO BE GRANTED TO PEARSON CAIL PROPERTIES, LLC FROM THE TOWN OF DARIEN, #50 Hoyt Street, Darien, Connecticut, Scale: 1" = 20' Date: Jan. 23, 2014 Prepared by Arcamone Land Surveyors, LLC to recorded on the Darien Land Records as Map No. _____.

RIGHT OF WAY SURVEY

DEPICTING RIGHT OF WAY TO BE GRANTED TO

PEARSON CAIN PROPERTIES, LLC from THE TOWN OF DARIEN

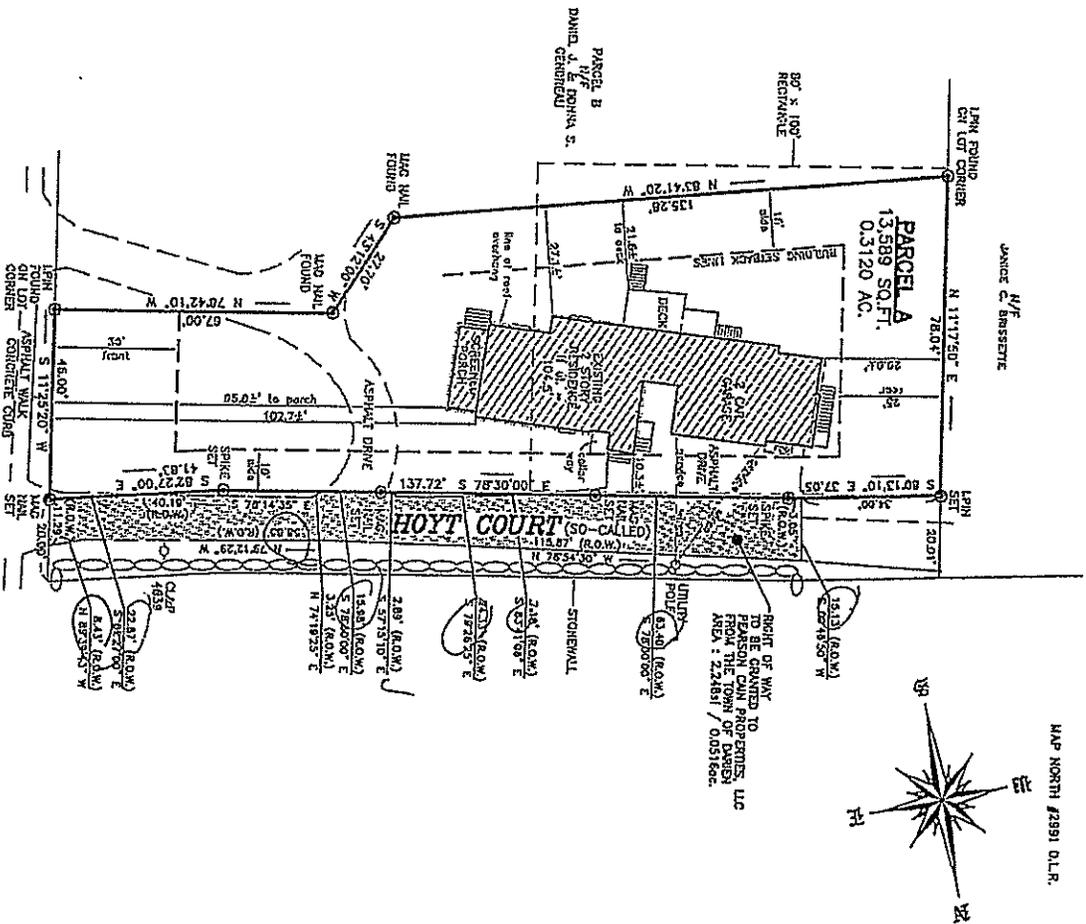
#50 HOYT STREET, DARIEN, CONNECTICUT

SCALE: 1" = 20'

DATE: JAN. 23, 2014

BY "ARCAMONE LAND SURVEYORS, LLC"

4 TAFT STREET, UNIT A-2B
S. NORWALK, CT 06854
PHONE : 203-866-2058
FAX : 203-838-1217
www.arcamonesurveyors.com



THIS MAP DOES NOT CONSTITUTE EITHER A SUBDIVISION OR A RE-SUBDIVISION UNDER THE TERMS OF SECTION 8-18 OF THE CONNECTICUT GENERAL STATUTES, AS AMENDED. AVERAGE GRADE AROUND HOUSE = 100.5'

X 102.1 DENOTES EXISTING SPOT ELEVATION - DATUM IS ASSUMED

THIS SURVEY MEETS THE STANDARD OF A CLASS "A-2" SURVEY, "V-2" VERTICAL ACCURACY, BOUNDARY DETERMINATION : RESURVEY

THIS SURVEY AND MAP WERE PREPARED IN ACCORDANCE WITH THE "RECOMMENDED STANDARDS FOR SURVEYS AND MAPS IN THE STATE OF CONNECTICUT", SEC. 20-300a-1 to 20-300b-20, EFFECTIVE, JUNE 21, 1998 AS ADOPTED BY THE CONNECTICUT ASSOCIATION OF LAND SURVEYORS INC., SEPTEMBER 26, 1996

THE CERTIFICATION SHOWN ABOVE RUNS TO THE PERSON(S) FOR WHOM THE SURVEY WAS PREPARED AND ANY GOVERNMENTAL AGENCY, TITLE INSURANCE CO. OR LENDING INSTITUTION WHOSE NAME APPEARS ABOVE, CERTIFICATION IS NOT TRANSFERABLE & ANY UNAUTHORIZED USE IN WHOLE OR IN PART IS STRICTLY PROHIBITED.

UNDERGROUND IMPROVEMENTS OR ENCROACHMENTS IF ANY, ARE NOT SHOWN.

THIS MAP IS INVALID WITHOUT A LIVE SIGNATURE AND EMBOSSED SEAL

REFERENCES TO THE ABOVE PROPERTY ARE MADE TO MAP(S) No. 2991 D.L.R. TAX MAP 30 & TAX LOT 23

PROPERTY IS LOCATED IN ZONE : "R-1/2"

DISTANCES SHOWN +/- FROM BUILDINGS TO PROPERTY LINES ARE NOT TO BE USED TO ESTABLISH BOUNDARIES.

TO MY KNOWLEDGE AND BELIEF, THIS MAP IS SUBSTANTIALLY CORRECT AS NOTED HEREON

WAYNE J. ARCAMONE, LAND SURVEYOR, NORWALK, CONN. CONNECTICUT REG # 15773

**Finance & Budget Committee
Report to RTM, February 24, 2014**

**(14-5) RTM RESOLUTION OF THE TOWN OF DARIEN APPROVING A
WRITTEN CONTRACT AND AUTHORIZING THE EXECUTION OF SAID
CONTRACT TO ALLOW THE PARTICIPATION OF THE TOWN OF DARIEN
IN THE COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY ("C-PACE")
PROGRAM**

I am James Palen, District 6 and Chair of the Finance and Budget Committee.

I move RTM Resolution (14-5) Approving A Written Contract and Authorizing The Execution Of Said Contract To Allow The Participation Of The Town Of Darien In The Commercial Property Assess Clean Energy ("C-PACE") Program and ask for a second.

If there are no objections, I propose to waive the reading of the Resolution.

The F&B committee met at a regularly scheduled meeting on February 10, 2014 with 8 of 15 members present to discuss and take action on RTM Resolution (14-5) and certain other matters. The committee met again tonight at a special meeting with 13 of 15 members present to further discuss the resolution and to meet with a representative of the C-PACE program.

By way of background, the C-PACE program was designed by the State of Connecticut to facilitate the financing of cost-effective clean energy programs by leveraging private capital as opposed to relying solely on fees and taxes.

The program encourages private capital to finance clean energy projects at attractive interest rates by granting participating lenders a senior lien on the related property through the creation of an assessment equal to the debt service on the loan. The debt service on the loan is then collected by the Darien Tax Collector just like traditional property taxes and then forwarded on to CEFIA. This financing structure is attractive because it allows the loan to be portable as it will be linked to the property - not just a borrower. If the property is later sold, the loan will not become immediately due, but will continue to be repaid by the next property owner.

According to C-PACE:

Property owners like this program because it gives them access to low cost portable loans if they choose to participate.

Existing lenders like this program because it is only permitted for projects which both have immediate and recurring cost savings after accounting for the loan payments and therefore improves the credit of the borrower. It should be noted that all existing mortgage lenders on a commercial property need to approved the C-PACE loan since it grants a small, but senior lien.

New lenders like the program because the creation of the assessment lien at the town level gives them a very senior lien on the property which significantly lowers the credit risk associated with the loan.

Almost half of the towns and cities in Connecticut have voted to join the C-PACE program including Stamford and Norwalk.

Regarding mechanics, twice a year, when the Darien Tax Collector sends out tax bills, participating properties in the Town of Darien would see a second line item on their assessment equal to the C-PACE loan payment. When the Tax Collector receives the payment, it would deposit it in a separate account and then send all such payments to CEFIA to be paid to the lenders. The Town would be paid \$500 per property to file and record the lien on the land records.

The Darien Tax Collector has confirmed that the current software that is used can be upgraded to handle the billing of C-PACE payment at no cost to the Town and that the \$500 paid by CEFIA for each property is sufficient to cover any work expected to be done. In addition, CEFIA has agreed to reimburse participating municipalities for any additional documented costs associated with the administration of the program.

It should be noted that the Town of Darien is not spending any money related to this resolution or it's participation in the program and that the Town's tax payments would still retain a senior lien on all properties in town. The C-PACE loan payments would be junior to the lien of taxes but senior to sewer fees. Given that only the assessment payment (and not the entire loan) is senior to sewer charges, the program doesn't create any material risk to the town related to the collection of its sewer charges.

The purpose of this resolution before us tonight is to permit the Town of Darien to enter into a written agreement with the State of Connecticut's Clean Energy Finance and Investment Authority ("CEFIA") that will allow the Town Clerk and Tax Collector to perform the necessary duties to make the program work here in Darien.

The Board of Selectman voted unanimously to in favor of the Town's participation in this program.

The Board of Finance did not have to vote on this resolution because the Town is not spending any money as part of its participation in the program.

At the first meeting, the Finance & Budget Committee voted 4 in favor and 1 opposed. Three members abstained because they had more questions which they needed to have answered and didn't have a copy of the resolution which the RTM would ultimately be voting on.

Earlier this evening, at a second meeting that was attended by a representative of the C-PACE program, the Finance & Budget Committee voted 7 in favor and 5 opposed with 1 abstaining.

Those who voted in favor of the resolution did so because they saw no financial impact on the Town of Darien related to the Town's participation in program.

Those who voted against the resolution did so because they felt the program could potentially create administrative complexities that we don't yet know of. They also expressed concern over potential growth of the program and the additional costs pressures that it could cause in he state budget.

Not seeing any adverse financial impact to the Town, the Finance and budget committee recommends voting in favor of the resolution.

Thank you.

James Palen
Chair
Finance & Budget Committee
February 24, 2014

Planning, Zoning and Housing Committee Report

Town of Darien Participation in C-PACE

The Planning, Zoning and Housing Committee met on Tuesday, February 11 , with 8 of 14 members present, comprising a quorum. We discussed the merits of the Town participating in the State program known as C-PACE. This program allows local commercial, industrial and multi-family properties to avail themselves of financial incentives that will allow energy saving upgrades to their properties. No financial participation from the Town is required. The loans, issued by private financial institutions, are repaid by an additional tax assessment on the property. The Tax Assessor informed us that she already has the software available to administer this program, and the State reimburses for costs associated with that administration. We therefore see *no negative impact* to the Town and there are potential positives for local businesses. The program was voted approval unanimously and we recommend the RTM do the same.

Planning, Zoning and Housing Committee Report
Resolution Authorizing the Acceptance of Land Deeded from the
Westmere Group, Inc.

The Planning, Zoning and Housing Committee met on Tuesday, February 11 , with 8 of 14 members present, comprising a quorum. We discussed the merits of the Town accepting the property at the Andrews Drive pumping station. The Town owning this land allows us to control the maintenance of the pumping station located on the property. Additional this resolves all litigation between the Town and Westmere Group. The committee voted unanimously in favor of the resolution acquire the property as set forth in the Quit Claim Deed and recommends that the RTM do the same.

COMMENTS TO REPRESENTATIVE TOWN MEETING

TOWN OF DARIEN, CONNECTICUT

MARK ADILETTA – CHAIR - PUBLIC WORKS COMMITTEE

Meeting, Monday February 24th, 2014

At a Special Session held earlier this evening the PWC discussed the 4,200 sq. ft. parcel on Andrews Drive to be deeded from the Westmere Group to the Town. While not privy to the details of the action that resulted in the settlement, the fact that the Sewer Commission will be assuming the Grantors interest in the sanitary sewer system and pump station and that as part of the agreement the Sewer Commission is assuming responsibility to operate and maintain pump station and related sanitary sewer, the Sewer Commission would want to be assured of unfettered access to the pump station indefinitely. Acquiring this parcel accomplishes this.

With 10 of 13 members present the PWC voted ^{unanimously} to support this item.

Thank you

Planning, Zoning and Housing Committee Report

Resolution Authorizing the Conveyance of a Right of Way Easement over Town Owned Land

for Access to Hoyt Court by 50 Hoyt Street

The Planning, Zoning and Housing Committee met on Tuesday, February 11 , with 8 of 14 members present, comprising a quorum. We discussed the merits of the Town granting an easement to the owners of 50 Hoyt Street to allow them to access Hoyt Court, which is a private road built on Town owned land. There is a new house being built at 50 Hoyt Street, and the garage is now at the back of the house, requiring the inhabitants to exit to Hoyt Street via Hoyt Court. The issue of precedence was discussed prior to voting, and the motion passed with 6 in favor, 1 opposed and 1 abstention. The committee therefore recommends that the RTM approve this resolution.