

**THE WATER BUREAU  
SPECIAL MEETING**  
555 Main Street  
Hartford, Connecticut 06103  
Monday, April 3, 2017

**Present:** Commissioners Andrew Adil, Daniel A. Camilliere, Kathleen Kowalyshyn, Mark A. Pappa, Domenic Pane, Pasquale J. Salemi, Raymond Sweezy, Alvin Taylor and District Chairman DiBella (9)

**Absent:** Commissioners Mary Ann Charron, Georgiana Holloway Byron Lester and Christopher Syrek; Special Representative Michael Carrier (5)

**Also**

**Present:** Citizen Member Ronald Angelo  
Scott W. Jellison, Chief Executive Officer  
John M. Zinzarella, Deputy Chief Executive Officer, Business Services  
Christopher R. Stone, Assistant District Counsel  
Carl Nasto, Assistant District Counsel  
John S. Mirtle, District Clerk  
Rob Constable, Director of Finance  
Sue Negrelli, Director of Engineering  
Mike Curley, Manager of Technical Services  
Jennifer Ottalagana, Project Manager  
David Banker, Project Manager  
Kerry E. Martin, Assistant to the Chief Executive Officer  
Cynthia A. Nadolny, Executive Assistant

**CALL TO ORDER**

Chairman Curtis called the meeting to order at 3:37 P.M.

**PUBLIC COMMENTS RELATIVE TO AGENDA ITEMS**

No one from the public appeared to be heard.

**APPROVAL OF MINUTES**

***On motion made by District Chairman DiBella and duly seconded, the meeting minutes of November 2, 2016, February 15, 2017 and public hearing minutes of November 16, 2016 were approved. Commissioner Taylor abstained.***

**UPDATE RE: WATER UTILITY COORDINATING COMMITTEE  
ESTABLISHED EXCLUSIVE SERVICE AREAS AND  
INTEGRATED PLAN**

David Banker provided an update to the Water Bureau on WUCC ESAs and the integrated plan.

**MDC POLICY ON WUCC ESTABLISHED EXCLUSIVE SERVICE  
AREAS AND INVOLUNTARY ACQUISITION OF SMALL WATER  
COMPANIES**

Susan Negrelli briefed the Water Bureau on issues surrounding the WUCC ESAs and involuntary acquisition of small water companies.

**594 ALBANY TURNPIKE (ROUTE 44), CANTON  
ENCROACHMENT AGREEMENT**

**EXECUTIVE SESSION**

At 4:15 P.M., Chairman Sweezy requested an executive session to discuss pending litigation.

***On motion made by Commissioner Adil and duly seconded, the Water Bureau entered into executive session to discuss pending litigation.***

Those in attendance during the executive session:

Commissioners Andrew Adil, Daniel A. Camilliere, Kathleen Kowalyshyn, Byron Lester, Mark A. Pappa, Domenic Pane, Pasquale J. Salemi, Raymond Sweezy, and District Chairman DiBella; Attorney Carl Nasto, Susan Negrelli, Michael Curley, John Zinzarella.

**RECONVENE**

At 4:27 P.M., Chairman Sweezy requested to come out of executive session and on motion made by Commissioner Pane and duly seconded, the Water Bureau came out of executive session and reconvened. No formal action was taken.

To: Water Bureau for consideration on April 3, 2017

On March 7, 2016, upon approval and recommendation of the Water Bureau, The Metropolitan District Commission (the "Board"), approved a request by David and Jacqueline Mott, property owners of a certain parcel of land known as 594 Albany Turnpike, Canton, Connecticut (collectively, the "Owners"), requesting permission to permanently encroach upon the Barkhamsted-Nepaug Pipeline Right-of-Way, containing an existing 48-inch RCP raw

water transmission main (the “Main”), located across private lands south of Albany Turnpike in Canton, Connecticut (the “Right-of-Way”) for the purpose of installing electric, telephone and cable lines and a new paved driveway to serve a proposed house on such parcel. As part of this approval, the Board required that “a formal encroachment agreement shall be executed by the [O]wner[s] and the Metropolitan District, consistent with current practice involving similar requests[,]” which agreement is subject to approval as to form and content by District Counsel; and that “the District shall not be held liable for any costs or damages of any kind which may result during initial construction or in the following years with respect to any subsequent construction, maintenance or repair as a result of such encroachment.” On or about April 14, 2016, MDC staff prepared the encroachment agreement and sent the same to Owners for review and execution.

Notwithstanding the foregoing approval, Owners have refused to execute the encroachment agreement, and instead have proceeded, without any notice to the MDC or its staff, with construction of the single-family house on the subject parcel in complete disregard of the safety and integrity of the Main. Such construction has included the installation of a 1,000 gallon underground propane tank in a location abutting the southern edge of the Right-of-Way (See Exhibit A attached hereto and made a part hereof), which tank and its location were not disclosed by Owners either in their encroachment request or in the site plan or other documents submitted by or on behalf of Owners in connection with such request. Staff has also confirmed that the Owners’ “Call Before You Dig” permit/ticket for such installation expired in October of 2016, and was not properly continued for purposes of remaining in effect when the tank was installed in January of 2017. Given the present location of the tank and its dimensions (approximately 12’ long, 4’ wide and 5’ high), it is in all likelihood that the excavation required for such installation necessitated an unauthorized encroachment within the Right-of-Way. In addition, the Owners have stockpiled or caused to be stockpiled, excavated soils within the Right-of-Way. As a result of Owners’ above actions, MDC secured a court order prohibiting any further excavation on the subject property (the utilities and driveway permitted under the encroachment authorization had not been installed at time of such order) until a formal hearing for a permanent injunction on the matter can be held, which hearing was scheduled for February 16, 2017 at 10:00 am in Hartford Superior Court.

Immediately prior to the above scheduled hearing the parties were able to reach an accord that was embodied in a court approved order that permitted a one-time encroachment in the Right-of-Way for the purpose of installing the aforementioned utilities and driveway subject to and in accordance with all the material provisions of the March 7, 2016 encroachment approvals of the Water Bureau and the Board. In addition, the Owners agreed to immediately removal the excavate soils that were stockpiled on the Right-of-Way, and to work with MDC in good faith to relocate the propane tank to a mutually acceptable location on the Owners’ property where it will not pose any threat or danger to the safety or integrity of the Main. Please be advised that this accord only resolves the injunction action brought by the MDC against the Owners, and the underlying lawsuit (i.e., a quiet title action) remains in tact and will proceed absent a final settlement.

In light of the foregoing, Staff is recommending that the Water Bureau: (i) vote to go into an executive session in order to discuss the pending litigation against the Owners and the strategy for the same; and (ii) reconsider its approval of the above encroachment and modify

such approval by including the following supplemental terms and conditions, and provide a recommendation and accompanying resolution to the Board for action on such modified approval.

The encroachment agreement as fully executed by the District and Owners be recorded on the Canton Land Records.

It is therefore RECOMMENDED that it be

VOTED: That the Water Bureau recommends to the District Board passage of the following resolution:

RESOLVED: That the Chairman or Vice Chairman of the District Board be authorized to execute an agreement, subject to approval as to form and content by District Counsel, granting permission to David and Jacqueline Mott to encroach upon the existing Barkhamsted-Nepaug Pipeline 75-foot Right-of-Way south of Albany Turnpike in Canton, with electrical, telephone and cable lines and a paved driveway, as shown on the plan submitted by Robert Green Associates, LLC, Surveyors and Engineers, 6 Old Waterbury Road, Terryville, CT, dated December 18, 2015 revised through February 9, 2016, consistent with the approval of such encroachment authorized by the District Board on March 7, 2016, as modified by the supplemental terms and conditions set forth above, and that the District shall not be held liable for any costs or damages of any kind which may result during initial construction or in the following years with respect to any subsequent construction, maintenance or repair as a result of such encroachment.

Respectfully Submitted,

Scott W. Jellison  
Chief Executive Officer

***On motion made by Commissioner Pane and duly seconded, the report was received and the resolution adopted by unanimous vote of those present.***

**BOWLES PARK/WILLOW CREEK, HARTFORD  
ABANDONMENT OF WATER MAIN**

To: Water Bureau for consideration on April 3, 2017

On January 17, 2017, the District received a letter from Kristen Solloway of Fuss & O'Neill on behalf of The City of Hartford and Hartford Housing Authority, Owner and Developer of Bowles Park/Willow Creek, requesting that the Metropolitan District abandon the existing

water mains within portions of Nahum Drive and Berkeley Drive in Hartford, as shown on the accompanying map. The purpose of the request is to enable the construction of a new residential development. The Owner will in turn build new public water mains to service the development. The existing water mains were built in 1950 by the City of Hartford Housing Authority under a Developer's Permit-Agreement with the Metropolitan District.

The proposal submitted includes the abandonment of approximately 3,100 feet of 8-inch water main in Nahum Drive and approximately 1,000 feet of 6-inch water main in Berkeley Drive, as shown on the aforementioned map. The existing water mains were originally constructed in a public roadway; therefore no easements exist.

From an engineering standpoint, the abandonment of the existing water mains will not have a negative impact on the District's water distribution system, and no hardship or detriment would be imposed on others. The proposed new water mains will be constructed within the subject parcel under a new Developer's Permit-Agreement.

It is therefore RECOMMENDED that it be

VOTED: That the Water Bureau recommends to the District Board passage of the following resolution:

RESOLVED: That the Chairman or Vice Chairman of the District Board be authorized to execute the abandonment of the existing water mains on property of the City of Hartford, Nahum Drive and Berkeley Drive, Hartford, as shown on the accompanying map.

Respectively submitted,

Scott W. Jellison  
Chief Executive Officer



January 17, 2017

Michael T. Curley  
The Metropolitan District  
555 Main Street  
Hartford, CT 06142

Re: Willow Creek/Bowles Park  
Abandonment Request

Dear Mr. Curley:

The Willow Creek/Bowles Park project has been approved by the City of Hartford's Planning and Zoning Commission for a new zone and masterplan as by right. This project will be redeveloped in phases and sections of sanitary sewer and storm drainage will remain on line until the future phases are constructed. It is understood that the sections of sanitary sewer and storm drainage remaining on line until the full build out, will continue to be the responsibility of the MDC and access will be maintained for maintenance purposes.

As discussed at our December 16, 2016 meeting, below is a request for abandonment of sanitary sewer, water, and storm drainage at the following locations:

**Water Services and Main:**

1. Nahum Drive – All services with the exception of the Boys and Girls Home
2. Berkley Drive – All services

**Sanitary Sewer Service and Mains and Storm Drainage:**

1. Nahum Drive - See attached plan
2. Berkley Drive – See attached plan

We trust the information enclosed will be sufficient for you to place this request on the appropriate MDC board agendas. Please do not hesitate to contact me with any questions or comments. I can be reached at 860-646-2469 x-5344 or [ksolloway@fando.com](mailto:ksolloway@fando.com)

Sincerely,

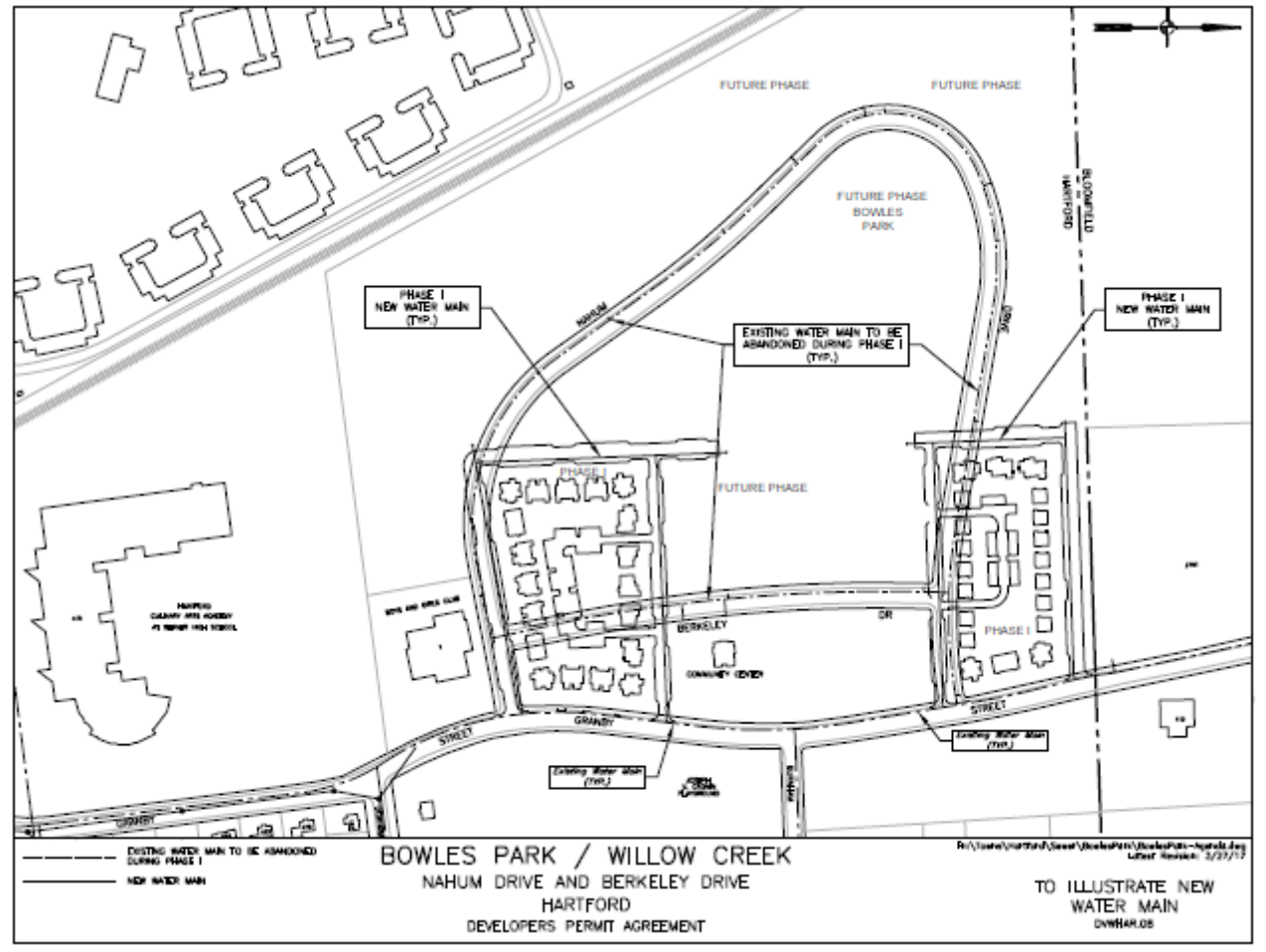
Kristen E. Solloway, P.E.  
Vice President

cc: Anthony Rowan, ATR Construction Services  
Todd McClutchy; JHM Financial Group

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Connecticut  
Massachusetts  
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South Carolina

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*On motion made by Commissioner Pane and duly seconded, the report was received and the resolution adopted by unanimous vote of those present.*

**OPPORTUNITY FOR GENERAL PUBLIC COMMENT**

No one from the public appeared to be heard.

**ADJOURNMENT**

The meeting was adjourned at 4:34 P.M.

ATTEST:

John S. Mirtle, Esq.  
District Clerk

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Date of Approval