

## TOWN MEETING

(47 People)

A Town Meeting was held on Thursday, March 14, 2019 at 6:30P.M. at the Haddam Volunteer Fire Company, Community Hall, 439 Saybrook Road, Higganum, CT, to consider and act upon the following resolutions. The meeting was called to order at 6:30PM by First Selectman Lizz Milardo. A motion was made by Bob Duval, seconded by Pablo Arroyo to appoint Jeff Ogilvie as moderator of the meeting; All in favor, Motion Passed. The legal call was read by Town Clerk Scott Brookes. A motion was made by Bob Duval, seconded by Robin Munster, to accept the call as read; All in favor, Motion Passed.

1. **A Motion** by Bob Duval, seconded by Melanie Giamei, to approve the resolution to purchase easements for a water line at 69 Little Meadow Road, and if necessary, commence legal proceedings for the acquisition of said easements in accordance with Connecticut law.

**Public Discussion:** Ed Schwing read a statement questioning the legality of the meeting exhibit A. First Selectman Milardo responded saying the meeting was proper and she was given the authority to go forward with the meeting exhibit B.

Moderator Ogilvie called for a vote. **Motion passed by voice vote.**

2. **A Motion** by Bob Duval, seconded by Alan Andeen, to approve the resolution to purchase easements for a water line at 98 Little Meadow Road, and if necessary, commence legal proceedings for the acquisition of said easements in accordance with Connecticut law.

**Public Discussion:** Homeowner Marianne Smith of 98 Little Meadow Road read a letter concerning her and her husband Donald Smith's property exhibit C. Connecticut Water Company Project Manager Dan Lesnieski also spoke to clarify easement questions.

Moderator Ogilvie called for a vote. **Motion passed by voice vote.**

3. **A Motion** by Karen Blaschik, seconded by Lori Maggi, to adjourn the meeting.

**Motion Passed by voice vote.**

The Meeting adjourned at 7:17PM.

Respectfully Submitted by  
Scott R. Brookes, CCTC,  
Town Clerk

## EXHIBIT A

Regarding the legal notice of special town meeting called for March 14, 2019. At the onset, as I said, I am not taking a stand for or against the need for eminent domain at this point.

But as I mentioned at the last board of finance meeting, I believe the board of selectmen and the town meeting do not have the legal authority to spend money without prior board of finance approval. This bypassing our financial check and balance process puts the town meeting decision at risk of not being a legal call and could be challenged in court. Since I did not receive any acknowledgement at the meeting that my message had been received, I decided to document my concerns for the record.

Our form of government is not similar a town council/ mayor or a regional school district entity where one board controls both appropriations and spending. In our case we have three legs: BOS, BOF and Town meeting with separate legal powers. The BOF acts as the only financial CEO and is the only board with powers to authorize specific spending beyond the approved specific appropriations in town budget. While the meeting call is correct in quoting section 3-8 and 3-9 of the Charter, it leaves out another key section , namely 9.4 (d)

Haddam Charter Section 9.4 :

(d) A Town Meeting may make no special appropriation or transfer of funds not recommended by the Board of Finance. Such meeting may approve or decrease the amount recommended but may not increase the amount This flows directly from Chapter 106 of the State Statutes "Town Board of Finance":

Sec 7-348 Towns not to contract in excess of appropriations. Town meeting to increase amount.

If any occasion arises whereby more money is needed for any department of the town than has been appropriated as provided for in this chapter, the selectmen shall notify the board of finance of such fact, and the chairman of such board shall forthwith call a meeting thereof to consider the appropriation for such department and the board may make the necessary appropriation therefor,

Sec. 7-349. Penalty. Any officer who, in violation of any provision of this chapter, expends or causes to be expended any money of such town, except for the purpose of paying judgments rendered against such town, shall be liable in a civil action in the name of such town, and the amount so drawn from the treasury of such town shall be liquidated damages in such action against any such officer.

I would also say that I did not seen in the P&Z minutes a reference or vote to approve via report under section 8-24 to acquire the easements.

(The consent agreement with DEEP mentions "best efforts" to contact owner and request easements but it does not force the town to acquire those easements, so this is a town decision)

By passing the important step of BOF approval to go to the town meeting and authorize spending money specifically to purchase two easements ( plus costs associated with attorney and court fees for this purpose) is in my opinion a violation of our Town Charter and state statutes.

Sincerely

Ed Schwing

**EXHIBIT B**  
**HADDAM BOARD OF SELECTMEN**  
**RESOLUTION**

**AUTHORIZING FIRST SELECTMAN TO ENTER INTO CONSENT ORDER, AND FILE AND APPLY FOR GRANT AND FINANCIAL ASSISTANCE FROM STATE OF CONNECTICUT FOR CAPITAL IMPROVEMENTS FOR IMPLEMENTATION OF LONG-TERM PROVISION OF POTABLE WATER IN TYLerville SECTION OF THE TOWN OF HADDAM**

**WHEREAS**, the Town of Haddam (the "Town") has been working towards the provision of a long-term solution to the groundwater pollution existing in the Tylerville section of the Town; and

**WHEREAS**, the State of Connecticut Department of Energy and Environmental Protection ("CT DEEP") has completed an engineering report consistent with the requirements of Section 22a-471-1 of the Regulations of Connecticut State Agencies ("RCSA") entitled, "Tylerville Center Water Supply Alternatives Evaluation – Final," dated October 2017 prepared by AECOM Technical Service, Inc (the "Engineering Report") which Engineering Report identified the area of the Town of Haddam, in the Tylerville section, in which groundwater pollution has occurred or is reasonably expected to occur (the "Proposed Water Supply Area"), and which was the subject of a

Public Scoping Meeting and Public Hearing conducted by CT DEEP on June 21, 2017 in the Town of Haddam in accordance with RCSA Section 22a-417-1; and

**WHEREAS**, the Engineering report identifies extending the Connecticut Water Company's existing eight (8) inch diameter water main from Denlar Drive in the Town of Chester to the Proposed Water Supply Area as the recommended alternative, which shall include the lateral water main connections to, well abandonment at, and provide long-term potable drinking water to, all of the properties identified and located within the Proposed Water Supply Area (the "Recommended Alternative"); and

**WHEREAS**, the costs and expenses of implementing the Recommended Alternative shall be derived from the CT DEEP through the Town's agreement to a consent order regarding the implementation of the Recommended Alternative (the "Consent Order") , and its application for grants and financial assistance from the State of Connecticut Drinking Water State Revolving Fund ("DWSRF") program; and

**WHEREAS**, while the Town is not responsible for the pollution of the groundwater in the Proposed Water Supply Area, it will nevertheless be ordered to provide potable drinking water to the properties in the Proposed Water Supply Area by entering into the Consent Order with CT DEEP in order to apply for grants and financial assistance from the State of Connecticut, and in order to implement the Recommended Alternative.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN OF HADDAM BOARD OF SELECTMEN:**

1. The Town of Haddam authorizes Lizz Milardo, the First Selectman, to negotiate and enter into a consent order with the Connecticut Department of Energy and Environmental Protection, in order to implement the Recommended Alternative and to seek financial assistance and grants from the Connecticut Drinking Water State Revolving Fund subject to the provision of RCSA Section 22a-471-1.
2. The Town of Haddam authorizes Lizz Milardo, the First Selectman, to file any grant application or financial assistance application, in particular a Request for State Grant to the Commissioner of Connecticut Department of Energy and Environmental Protection, for the construction and implementation of the Recommended Alternative in accordance with RCSA 22a-471-1.
3. The Town of Haddam authorizes Lizz Milardo, the First Selectman, to negotiate and engage the services of third parties for professional service contracts, to assist in the development of contract plans and specifications, planning, engineering, design, construction and implementation of the Recommended Alternative, subject to the provision of RCSA Section 22a-471-1.
4. The Town of Haddam authorizes Lizz Milardo, the First Selectman, to negotiate and enter into any and all access agreements, easements or purchase agreements for real estate, subject to approval of the Town Meeting per Charter Section 3.9, as may be necessary to implement the Recommended Alternative and subject to the provisions of RCSA Section 22a-471-1.
5. The Town of Haddam authorizes Lizz Milardo, the First Selectman, to apply for any approval of, and to negotiate and enter into any and all agreements with, the Town of Chester as may be necessary to implement the Recommended Alternative and subject to the provision of RCSA Section 22a-471-1.

**Approved by the Board of Selectmen this 15th day of November 2017 – Lizz Milardo, Sean Donlan, Robert Duval**

**EXHIBIT C**

My name is Marianne Smith, and with my husband Don, we are the property owners of 98 Little Meadow Rd.

We have learned through conversations we have had with friends in Town that there is a lot of misinformation about what is going on here and what our real position is on this subject. For this

reason, we were forced to postpone an important medical procedure that had been scheduled for my husband three months in advance for tomorrow morning in Florida at 8:00 AM, to travel all the way to CT to attend this meeting.

We first wanted to clarify one thing that was not clearly stated in the Public Notice. The sole purpose of this meeting is to obtain approval to commence an Eminent Domain Proceeding against us to allow an Easement for a water main to be constructed across our property.

We want to state clearly for the record we have never been opposed to the Water Main Project for Little Meadow Rd.

We also want to state for the record that we have never demanded or expected any monetary compensation in return for us granting this Easement as the meeting notice implies.

We have repeatedly conveyed these positions verbally and in writing to the Town's attorney. Unfortunately, as we interpret the current Easement wording, when combined with the Easement's current location, we have concluded that the potential expansion of our existing dwelling will be reduced by about one third by this Easement.

The Town's Attorney has claimed we are misreading the Easement as it pertains to development within the Easement area. In order to clarify this, we have had three independent attorneys review the Easement language and all three agree that the Easement language as it currently exists prevents us from placing any structures, permanent or temporary, or not even a shrub, within the Easement Area.

We feel we must preserve our ability to develop our property as we had planned prior to the existence of this Easement. We have stated the only thing that needs to be done to achieve this is to relocate this Easement 12.5 feet to the west of its currently proposed location, so it is in line with the Easement as it already crosses our two adjoining neighbors' properties to the south.

If this can be accomplished, we will sign the modified Easement immediately and the project can proceed without further delay or the need to expend large sums of tax payer dollars to prosecute this Eminent Domain action in court.

We have lived in Town for over 50 years and raised our family here. We operated a business here for 30 of those years and provided jobs for many of your children. We do not have the where with all to pursue a lengthy legal battle with the Town over an issue like this. All we can do is ask you to put yourself in our place and imagine losing a meaningful portion of your property that you had hoped to use and enjoy in your retirement through an Eminent Domain action as proposed by the Town tonight. We must simply place ourselves and our future in the hands of those here tonight and hope you will not grant the Town approval to pursue this Eminent Domain action.

If this is done and the Easement is relocated, we promise that the moment we receive the modified Easement Agreement we will sign it and we can all put this unfortunate situation behind us.

Finally, we feel the Town's decision to pursue the route of Eminent Domain before exhausting all other reasonable solutions to any problem like this can be a slippery slope and sets a dangerous precedent for future similar actions by the Town.

We, therefore, reiterate our hope that those present here tonight do not approve the proposed Eminent Domain Action and instead encourage the Town to either change the wording in the Easement to guarantee our ability to place permanent structures within the Easement Area or, preferably, to relocate the Easement 12.5 feet to the west as requested.

