

SECOND TAXING DISTRICT  
Appeals Committee  
November 24, 2009

Present: Mary E. Burgess Chairperson  
Maria A. Borges-Lopez  
Mary Mann

Also Present: John M. Hiscock General Manager  
Candace Pampoukidis District Clerk  
Douglas Peoples Appellant

Call to Order

Mary E. Burgess called the meeting of the Second Taxing District Appeals Committee to order at 6:47 p.m. on Tuesday, November 24, 2009. The meeting was held at South Norwalk Electric Works, One State Street, South Norwalk, Connecticut.

Appeal of SNEW Water Rules and Regulations / Article 13 – Main Extensions

Commissioner Burgess: “I will call the meeting of the Second Taxing District Appeals Committee to order, Tuesday, November 24, 2009 at 6:47 p.m.”

Mr. Hiscock spread a map out on the table of the area in question for reference]

Mr. Hiscock: “Okay, you have your Appeals Committee board book in blue. There’s a series of documents inside of the booklet of correspondence and information related to the situation. This is a fairly simple appeal as I understand it. It’s to appeal Article 13 of the Rules and Regulations which basically says in order for a parcel to be served with City water, it must have a water main across the full front footage. Mr. Peoples, you may want to come up here, and bring a chair. It’s too hard for you to deal with from back there. [Mr. Peoples approached the meeting table] Basically on the map, so that you understand exactly where we are, this is the lot in question. The city water main, the Second Taxing District water main, ends in this area. It serves this house right here. It’s an old house. It’s been around for a very long. It comes up the street. I believe Mr. Peoples’ is requesting to extend a water service from this point, up to the lot and in; and the Department’s rule would be to extend the water main to this point, and bring a service straight in, perpendicular to the house. That would be the rule. And I believe that that’s an existing house, correct?”

Mr. Peoples: “This is an existing house.”

Mr. Hiscock: “Right.”

Mr. Peoples: “This is the Donahue’s house.”

Mr. Hiscock: “That’s Donahue’s house, right.”

Mr. Peoples: “That’s Donahue’s house.”

Mr. Hiscock: “The water main ends right out...”

Mr. Peoples: “And the water main ends up there.”

Mr. Hiscock: “..right there.”

Mr. Peoples: “This is the only house there. Everything else here, as stipulated by the Parks and Recreation will not ever be developed. This is the last house that will be developed on this parcel. It used to be... this house used to be hit by water from this house over here, which was part of the whole Fodor Farm complex. This had water coming from here. When the first City maps showed, it showed a water main going from here to here, which was false. I guess it was put in there by accident or whatever, so it had a water main going all the way up here. But the water that was getting from this house to this house was coming from here to there at that point. So as the Recreation and Parks Department has indicated, that they will not develop these lots there because it’s maintained as open space, and this is the last parcel that was going to be sold, and is sold, by me, by bid, and picked up by myself. So going, in your rules and regulations, and going up to here, basically I’d be paying a lot of money for nothing; bottom line.”

Mr. Hiscock: “Our basic position is the same. The rule is firm. The water main needs to be across the full front footage. The other issue that is in the memorandum is that we are required to maintain the service from the water main all the way to the property line. We believe the long term maintenance exposure for a single service is greater than if a water main was installed in accordance with the rules and regulation.”

Mr. Peoples: “Why would that be? Why would the long...?”

Mr. Hiscock: “Could I finish [directed to Mr. Peoples]?”

Mr. Peoples: “Yes, go ahead.”

Mr. Hiscock: “Thank you. The service has a general 40 to 50 year life. A water main has an 80 to 100 year life. And that’s the reason why we believe that we would have a longer... a maintenance responsibility that would be greater if the service was installed. The issue...”

Mr. Peoples: “What is the cost of putting...?”

Mr. Hiscock: “...the other issue with respect to that is if the house were ever changed, modified, or expanded; I mean water systems last for a very long time period, and there was insufficient pressure due to the size of the service, we would be obligated under our rules to provide adequate pressure all the way to the property line, so we would be obligated under the rule to either replace the service, increase the service size, or then put a water main in at a later date, so that’s that issue, and I don’t know if that answers your question or not [directed to Mr. Peoples].”

Mr. Peoples: “Well it does, because... and a very good point that you just brought up, ‘if it was to be expanded’. By the deeds... the property that I bought the deed under, I can’t expand it. It’s under the Historical Commission, in which I can’t redo, once I get in there, redo the outside or expand it without permission of the Historical Commission. It has to maintain the same structure and same guideline. So the house won’t ever be expanded upon, because under the guidelines set forth by which I bought the property, it can’t be expanded, because it’s under the Historical Commission; that it has to be reviewed by the Historical Commission. I have to keep the same footprint. So if I expanded it, or if anyone expanded in the future, it wouldn’t keep the same footprint. Also... and the cost of bringing the main past where I’m at will be twice as much as bringing it to the point where I... to service one person in a two-bedroom house, as opposed to bringing a full main with somebody that you’re thinking is going to move in there years to come, which is not going to happen because the City has already indicated that they will not sell that property. So A, the house won’t be expanded; B, the house is... I don’t see the difference in cost in maintaining... I don’t understand the nuances of... but for the maintaining the cost on a third... on a main, versus what I’m proposing.”

Mr. Hiscock: “Simply useful life. That’s all.”

Mr. Peoples: “Okay. So there is no extension of the house. It won’t be bigger. So that’s... I guess that’s one thing in my favor. And the ability to... more water pressure, you only have... I’ve only got three... you know, it’s two bedroom, so.”

Mr. Hiscock: “And the other issue that we have some concern about, I mean you saw the letter to Parks and Rec. We received a short letter from Parks and Rec saying that there was nothing going to be developed further along on the street. We then wrote back Parks and Rec and said well are they willing to place a deed restriction on the property to indicate that.”

Commissioner Mann: “That’s right.”

Mr. Hiscock: “There was no response to that letter.”

Mr. Peoples: “Well there’s already a deed restriction on the property. There’s a deed restriction on my property.”

Mr. Hiscock: “Yes, I understand that. We’re talking about the other parcels up the street. We find it rather curious that we have a situation where we’ve got two lots shown, 10,000 square feet, both matching the zoning in the neighborhood.”

Mr. Peoples: “Well they put the deed restriction because there’s a building on that parcel that I bought.”

Mr. Hiscock: “Yes, there is on yours...”

Mr. Peoples: “So that... so that...”

Mr. Hiscock: “We have no evidence before the Commission, or the utility actually, from anybody that indicates that those could never be built on under any circumstances. City government’s a city government just like we are. You can change your mind. You can do anything at a later date. It simply takes an action of the Common Council and the process. So if they decided to develop at a later date for some reason... I don’t know what’s going to happen 10, 15, 20, 30, 40 years down the road. So that’s why we’ve taken this position. If the City is willing to place a deed restriction enforceable by the District, similar to the restriction on Ryan Park that we exercised our option on with the Mayor’s office and essentially stopped the project at Ryan Park; because of that deed restriction. If the City were willing to put that in a deed restriction enforceable by us, it might change our position, or the Commission might take that as evidence in the matter. But we truly don’t know what is going to happen in the future. It is a paper street. It goes through from one to the... one end to the other on paper. When this house was built right here in the, I think it was in the 80’s, we required a main extension; because it was on well originally, a main extension from Flax Hill Road down to the end of the lot. We... the same rule, we forced it to be done that way, with the obvious perception that eventually that street would go through. So that’s really why we’ve taken the position we have. So I want you to understand that.”

Mr. Peoples: “Well, and my position is... and knowing that those lots aren’t going to be built, why am I going to foot the bill, which is a hefty bill, for something that is never going to be done? And I’m not going to use it. Nobody is going to use it. Why am I going to foot the bill for that? That’s my position. Should I foot the bill for something that will never happen in the future; just like this person has done, because they have foot the bill for something that’s never going to happen here. They’ve already paid for something that’s not going to happen. In your eyes and, you know...”

Mr. Hiscock: “Well I’m simply saying you need present, from my position, you need to present the evidence of that.”

Mr. Peoples: “Well...”

Mr. Hiscock: “In the firm, solid, irrefutable, legal evidence which cannot be withdrawn in the future.”

Mr. Peoples: “Okay, I don’t know how City government works. I don’t know how all the inner actions work. I know that I have a deed restriction on my portion, so I understand what, you know, I cannot expand the house without... without something going on. So I have my deed restriction. So as far as my portion of the property, again, I don’t want to pay a heck of a lot of money, I’m talking about thousands, not just hundreds, but thousands of dollars, and the figures I’ve gotten is upwards of \$20,000. Alright, I don’t want to pay \$20,000 for something that is not going to happen.”

Mr. Hiscock: “Our basic position is until there is legal proof, irrefutable, irreversible, permanent, legal proof, and the only way to do that that I’m aware of is a deed restriction in the favor of the Second Taxing District preventing development of that parcel ever; you know, in perpetuity. That would satisfy that. That’s about the only thing that will.”

Commissioner Burgess: “Are you... can I ask a question? Are you comfortable with staff person from Parks and Rec saying it will never happen [directed to Mr. Peoples]? Wouldn't you be more comfortable with the City saying it can't happen?”

Mr. Peoples: “I'm comfortable with anyone that says I don't have to spend 20,000 plus dollars to build something that is not going to happen, whether that comes from the Mayor's office, whether that comes from Parks and Rec, whether it comes from this Committee, or whether it comes from the Water Department. I'm comfortable with not paying a lot of extra money for something that is not necessary, that is going to come out of my pocket to pay for something that's not ever going to happen.

Commissioner Burgess: “So you are saying just based on this... what Parks and Rec says, you're confident it will never happen?”

Mr. Peoples: “I'm confident that it will never happen, because they want to keep that space as open space, and they've indicated, and along... even before I put a bid in on this, that those were the only parcels they were going to ever sell, and they're only selling them... they sold that one down there, and this one up here, so that they can fix up this one up here and keep Fodor Farm open space.”

Commissioner Burgess: “Okay.”

Mr. Peoples: “Not to mention half of this along in here, they may be parcels, but half of this is ledge, just like my house sits on ledge. So you may have parcels there, but they are parcels sitting on ledge.”

Mr. Hiscock: “But you acknowledge there are two lots sitting there?”

Mr. Peoples: “I don't know what's sitting there. That's paper. I also acknowledge that it showed, before I purchased the house, that there was a water main going up here, but that was false. Alright, so like when you say it's on paper, yes, there are drawings on paper, but here, on paper, there was a water main going up there.”

Commissioner Borges-Lopez: “On what paper?”

Mr. Peoples: “On a layout like this there was a water main going from this point up to here.”

Commissioner Borges-Lopez: “A layout like this from...”

Mr. Peoples: “This print, yes.”

Commissioner Borges-Lopez: “...from the Water... from the Second Taxing District?”

Mr. Peoples: “From...”

Commissioner Borges-Lopez: “Or from the City of Norwalk?”

Mr. Peoples: “From the City.”

Commissioner Borges-Lopez: “Have you seen it [directed to Mr. Hiscock]?”

Mr. Hiscock: “I haven’t seen the document.”

Commissioner Borges-Lopez: “No?”

Mr. Hiscock: “And it’s certainly not our document, because we know where the water main is.”

Commissioner Borges-Lopez: “Not our document? Okay.”

Mr. Hiscock: “Not our document. Maybe it was a... I have no idea why it was shown that way. Maybe it was shown that way because they intended to put a water main there. I don’t know. I have no idea. I’m simply saying that those two lots are existing (inaudible), on a map produced by the City. There had to be a reason to produce those lots on the map.

Mr. Peoples: “How long has the... I mean, how long has the map been here... been there... been in effect?”

Mr. Hiscock: “I have no clue. It’s got a date on it. I mean I can stand up and read it if you’d like. March 17, 2008.”

Mr. Peoples: “When was the map drawn?”

Mr. Hiscock: “Well I... well, I see March 17, 2008, signed by the Surveyor, signed by the City Clerk. It refers to a series of other maps. This map, read note five, ‘This map is intended to depict the reconfiguration and consolidation of eight parcels into six parcels. All proposed parcels conform with B Residence Zone requirements with respect to area and shape. The existing dwelling structures are legally non-conforming pursuant to the CGS 8-13’, I believe.”

Mr. Peoples: “And this map was put together when they were fighting against that... the developer that wanted to come in and develop the property for condos and multiple housing plots.”

Mr. Hiscock: “Yes, I’ve seen a subdivision map from the 80’s that laid out about 40 lots on that site a long time ago. That obviously never went through.”

Commissioner Burgess: “Do you have any questions, either of you [directed to Commissioners Borges-Lopez and Mann]?”

Commissioner Borges-Lopez: “I don’t have any questions.”

Commissioner Burgess: “Commissioner Mann?”

Commissioner Mann: “No, the only question I guess that I would have is what would be the City’s opposition in giving us a deed restriction if they’re not going to build on that property, or if they’re not...?”

Mr. Hiscock: “I have no idea. I started to open the door with my letter to Mike Mocciaie, and that was it.”

Commissioner Mann: “Okay.”

Mr. Hiscock: “I did not get a response to that. I mean, but it was clear in my letter...”

Commissioner Mann: “And you’re not going to get an answer.”

Commissioner Borges-Lopez: “Yes [responding to Commissioner Mann].”

Mr. Hiscock: “...what my response was to Mr. Mocciaie.”

Commissioner Mann: “Okay.”

Mr. Hiscock: “If in fact that’s the case, and if there were restrictions that absolutely, totally prohibited building, I would have presumed, since he wrote the first letter, he would have responded with that information. But maybe he just was busy, and didn’t get a chance to. I have no idea. So I don’t know what the City’s position would be. I have no idea.”

Commissioner Burgess: “Do you have anything else to say Mr. Peoples?”

Mr. Peoples: “No, again, my position is very, very clear, and very, you know, stumped about it, that I don’t want to pay \$20,000 for... an extra \$20,000 for something that’s going to be totally unnecessary for somebody that’s not going to be... just like this person did [referring to the map], for parcels that are never going to be built. Nor should I think I should foot the bill for something that’s not going to happen for... I wouldn’t want to foot the bill if something was going to happen for somebody. I definitely don’t want to foot the bill for something that’s never going to happen for anybody. That’s basically my position.”

Commissioner Burgess: “Now what do we do now? We meet after the appeal, right?”

Commissioner Borges-Lopez: “We deliberate after the...”

Mr. Hiscock: “Deliberate and make a decision.”

Commissioner Burgess: “Now?”

Mr. Hiscock: “No.”

Commissioner Burgess: “No?”

Mr. Hiscock: “No, no, that’s your decision. Procedurally what happens, sir, is that the Appeals Committee makes a decision. The decision is reduced to writing, circulated to the Appeals Committee to make sure they agree that the writing matches what their intentions were, and then the Appeals Committee determination is placed on the next Commission meeting under the consent agenda. And if a Commissioner, there are seven... there’s one vacancy at the moment, so there’s only six. If a Commissioner requests that it be pulled from the consent agenda and discussed, that happens. If the... no one pulls it from the consent agenda, it’s passed and becomes a final decision. So procedurally, that’s how it would occur.”

Mr. Peoples: “Okay. Again, that’s all french to me. You explained it clearly. As clearly as I could understand it, but it’s all french to me.”

Commissioner Burgess: “Okay. Thank you.”

Mr. Peoples: “To me it’s just, bottom line, I don’t want to pay for something that’s ever going to be used. I appreciate your time and understanding of the situation, and for letting me put the appeal in.”

Commissioner Burgess: “Thank you.”

Mr. Peoples: “Thanks.”

Commissioner Borges-Lopez: “Have a good night.”

Mr. Hiscock: “Goodnight.”

Commissioner Burgess: “Now do we have to come out of this meeting?”

Mr. Hiscock: “Excuse me?”

Commissioner Burgess: “Do we have to come out of this meeting and then discuss this, or...?”

Mr. Hiscock: “No, well, you can discuss it at any point you want really.”

Commissioner Burgess: “Okay, well.”

Commissioner Mann: “My position would be first of all, you know, to request a request back from Mike Moccia, Director of Recreation and Parks, to see what his position is. If he can put that document in an email, then he could send us... I think the City should have an obligation to send us something official. You know, and it is their responsibility. And if not, I feel that... I know how easy it is to change restrictions, just like the property, the farm, the restrictions were changed and they sold off parcels when they were not supposed to. I don’t know if I want to necessarily risk outright taking their word for it that the rest of the parcels will not be sold. I understand that puts him in a very difficult position, and I sincerely feel for him. I guess my other question would be is there any way that... could the City assist him in some of the financial cost of doing this?”

Mr. Hiscock: “The only way that I think that they could... and you know, it would be difficult. If they misrepresented the property, and indicated on a map that the water main existed, he would have a claim for misrepresentation.”

Commissioner Borges-Lopez: “Yes, that’s what I...”

Commissioner Mann: “Which evidently he’s saying they did.”

Commissioner Borges-Lopez: “That’s what I noticed as well, because I said if he saw it. That’s why I wanted to make sure it wasn’t from us. But if he said that, you know, it was a water main, you know, then it was a misrepresented and he could go back to that. But I feel the same way with regards to the deed restrictions. I don’t think we should put the Second Taxing District in jeopardy without that deed restriction. And that’s my position on it.”

Commissioner Burgess: “That’s mine also.”

Mr. Hiscock: “I could assign somebody from Technical Services to do some limited research to try to find out what Mr. Peoples was talking about with respect to that map and the depiction of a water main on it. You know, we’re not going to spend a tremendous number of hours making his case for him...”

Commissioner Borges-Lopez: “Right.”

Mr. Hiscock: “...but I certainly don’t mind sending somebody from Technical Services over to Parks and Rec, and I don’t mind sending them to the Land Records to get copies of whatever the land records say with respect to all of this. I don’t know who we would go to, to... because, you know, you all understand that this has been an extraordinarily controversial parcel from the day it was purchased.”

Commissioner Mann: “Oh, yes.”

Commissioner Burgess: “Oh yes.”

Commissioner Borges-Lopez: “Oh yes.”

Commissioner Mann: “Oh yes.”

Mr. Hiscock: “There was a tremendous number of people that were upset about the cost...”

Commissioner Mann: “You better believe it.”

Mr. Hiscock: “...and others were upset that it wasn’t fully preserved. I mean you all understand that history. This is not a...”

Commissioner Mann: “Absolutely, that’s why I’m saying there’s no telling what possibly will happen because the trust has already been broken by the City for selling the parcels.”

Mr. Hiscock: “I don’t mind doing that research and sending a memo to the Commission based on what, or... the Appeals group, and go from there.”

Commissioner Burgess: “Well are you suggesting that this Committee doesn’t come to a decision tonight?”

Mr. Hiscock: “You certainly could do that. I mean we’ve been through this before in a previous appeal where you asked me to do some additional research, and I provided the research, then you made a final decision. So that’s not a difficult situation.”

Commissioner Burgess: “Well what do you think would be the logical way to proceed here?”

Mr. Hiscock: “Well, I...”

Commissioner Burgess: “Because I’m ready to make a decision.”

Mr. Hiscock: “Yes, but I think the only logical way to proceed is to find out if what Mr. Peoples’ said is backed up with documents in the land records. You know, normally I would have expected him to have brought that documentation, but he does not appear to be... he may be good at building a house, or renovating a house, or doing something there, but he doesn’t have the understanding of development in a way that would have made his case. He certainly should have looked at what we asked for and provided documentation, if it exists. I mean I don’t know if it’s a strategy on his part to come in this way, with limited knowledge, and just leave it to you, or... I don’t know.”

Commissioner Burgess: “Well when I said ‘Are you comfortable that Mike Mocciaie is the only one that said this’; yes, he’s comfortable. I wouldn’t be.”

Mr. Hiscock: “Well, I don’t think he understands City government very well.”

Commissioner Burgess: “I wouldn’t be comfortable.”

Commissioner Borges-Lopez: “But even if you research on that map and there’s a water main there, it’s still his responsibility to move on with it then, you know...”

Mr. Hiscock: “Yes [responding to Commissioner Borges-Lopez].”

Commissioner Borges-Lopez: “...Second Taxing District has no legal recourse on that. That’s, that’s...”

Mr. Hiscock: “No.”

Commissioner Borges-Lopez: “That’s something he has to pursue.”

Mr. Hiscock: “Address, yes.”

Commissioner Borges-Lopez: “Okay.”

Mr. Hiscock: “It just might explain his comment, that’s all it would do.”

Commissioner Borges-Lopez: “Right.”

Mr. Hiscock: “And on the other hand, I don’t know if your decision would change if we went into the land records and found out that those lots were carved out specifically to be lots. I mean I have no explanation as to why there are two building lots shown on that map that meet the zoning; 10,000 square feet, and they meet zoning exactly to the tee. Now whether they reserved those for future development so they could bring money in to develop the park better, I don’t know.”

Commissioner Burgess: “I know. We don’t know.”

Mr. Hiscock: “But there’s no reason in my opinion to show two lots.”

Commissioner Mann: “My position is, unless we get those deed restrictions from the City...”

Commissioner Burgess: “We don’t... that’s my position also [responding to Commissioner Mann].”

Commissioner Borges-Lopez: “Yes.”

Mr. Hiscock: “Okay, I will...”

Commissioner Borges-Lopez: “Unanimous then.”

Mr. Hiscock: “I’ll have staff pursue that, report back to you, and then indicate to Mr. Peoples that we did the research and this is what we found.”

Commissioner Burgess: “Okay, so our agreement is that we deny this appeal at this point and...”

Mr. Hiscock: “Why don’t you suspend judgment until we do the research...”

Commissioner Burgess: “Okay. Okay.”

Mr. Hiscock: “...and I get back to you in a memo based on the research.”

Commissioner Burgess: “Alright.”

Commissioner Borges-Lopez: “Okay.”

Commissioner Mann: “Okay.”

Mr. Hiscock: “And then you can make a determination. I think that’s procedurally the best way to go.”

Commissioner Burgess: “Okay, fine. So we can now adjourn.”

Mr. Hiscock: “You can adjourn the appeals meeting.”

Commissioner Burgess: “Now we have to... well no, we don’t have to...”

Mr. Hiscock: “Have you adjourned the appeals meeting?”

Commissioner Mann: “Oh.”

Commissioner Borges-Lopez: “Are we done?”

Commissioner Burgess: “Yes.”

Commissioner Borges-Lopez: “Motion to adjourn.”

Mr. Hiscock: “Okay, the tape was on, that’s why I wanted to make it clear that you’ve adjourned.”

Commissioner Burgess: “All in favor of adjournment?”

Commissioner Borges-Lopez: “Aye.”

Commissioner Mann: “Aye.”

Commissioner Burgess: “Aye.”

### Adjournment

The meeting adjourned at 7:15 p.m.

Attest:

Candace Pampoukidis  
District Clerk